

THIS DOCUMENT HAS A LIGHT BACKGROUND ON TRUE WATERMARKED PAPER. HOW TO VERIFY FLORIDA WATERMARK.

OFFICE of VITAL STATISTICS

5020120P004391XXXXB
IZ

CERTIFICATION OF DEATH

STATE FILE NUMBER: 2012256765

DATE ISSUED: September 18, 2012

DECEDENT INFORMATION

STATE FILE DATE: September 17, 2012

NAME: SIMON LEON BERNSTEIN

DATE OF DEATH: September 13, 2012

SEX: MALE

AGE: 076 YEARS

DATE OF BIRTH: December 2, 1935

SSN: [REDACTED]

BIRTHPLACE: FLINT, MICHIGAN

PLACE WHERE DEATH OCCURRED: INPATIENT

FACILITY NAME OR STREET ADDRESS: DELRAY MEDICAL CENTER

LOCATION OF DEATH: DELRAY BEACH, PALM BEACH COUNTY

SURVIVING SPOUSE, DECEDENT'S RESIDENCE AND HISTORY INFORMATION

MARITAL STATUS: WIDOWED

SPOUSE: NONE

RESIDENCE: 7020 LIONS HEAD LANE, BOCA RATON, FLORIDA 33496

COUNTY: PALM BEACH

OCCUPATION, INDUSTRY: SALES, LIFE INSURANCE

RACE: White Black or African American Asian Indian Chinese Filipino Native Hawaiian American Indian or Alaskan Native--Tribe: Japanese Korean Vietnamese Guamanian or Chamorro Samoan Other Pacific Isl: Other Asian: Other: Unknown

HISPANIC OR HAITIAN ORIGIN? NO, NOT OF HISPANIC/HAITIAN ORIGIN

EDUCATION: HIGH SCHOOL GRADUATE OR GED

EVER IN U.S. ARMED FORCES? NO

PARENTS AND INFORMANT INFORMATION

FATHER: THEODORE BERNSTEIN

MOTHER: NORA UNKNOWN

INFORMANT: TED STUART BERNSTEIN

RELATIONSHIP TO DECEDENT: SON

INFORMANT'S ADDRESS: 880 Berkley Street, BOCA RATON, FLORIDA 33487

PLACE OF DISPOSITION AND FUNERAL FACILITY INFORMATION

PLACE OF DISPOSITION: THE GARDENS MEMORIAL PARK
BOCA RATON, FLORIDA

METHOD OF DISPOSITION: ENTOMBMENT

FUNERAL DIRECTOR/LICENSE NUMBER: GARRETT JACOBS, F019844

FUNERAL FACILITY: BOCA RATON FUNERAL HOME F040152

19785 HAMPTON DRIVE, BOCA RATON, FLORIDA 33434

CERTIFIER INFORMATION

TYPE OF CERTIFIER: MEDICAL EXAMINER

MEDICAL EXAMINER CASE NUMBER: 121500913

TIME OF DEATH (24 hr): 0227

CERTIFIER'S NAME: MICHAEL D BELL

CERTIFIER'S LICENSE NUMBER: ME54359

NAME OF ATTENDING PHYSICIAN (if other than Certifier): NOT ENTERED

2012 OCT -2 AM 9:32
SHARON R. DECK, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH-FILED*C. Meach Grij*

THE ABOVE SIGNATURE CERTIFIES THAT THIS IS A TRUE COPY OF THE OFFICIAL RECORD ON FILE IN THIS OFFICE.

REQ: 2013124648

WARNING:

THIS DOCUMENT IS PRINTED OR PHOTOCOPIED ON SECURITY PAPER WITH WATERMARKS OF THE GREAT SEAL OF THE STATE OF FLORIDA. DO NOT ACCEPT WITHOUT VERIFYING THE PRESENCE OF THE WATERMARKS. THE DOCUMENT FACE CONTAINS A MULTICOLORED BACKGROUND, GOLD EMBOSSED SEAL, AND THERMOCHROMIC FL. THE BACK CONTAINS SPECIAL LINES WITH TEXT.



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CERTIFICATION OF VITAL RECORD



IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF

PROBATE DIVISION

SIMON L. BERNSTEIN,

File No. 5020120004391

Deceased.

IZ *XXXXSB*

2012 OCT -2 AM 9:31
SHARON R. BOCK, CLERK
PALM BEACH COUNTY FL
SOUTH CITY BRANCH FILED

LETTERS OF ADMINISTRATION

TO ALL WHOM IT MAY CONCERN

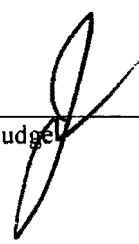
WHEREAS, Simon L. Bernstein, a resident of Palm Beach County, died on September 13, 2012, owning assets in the State of Florida, and

WHEREAS, Robert L. Spallina and Donald R. Tescher have been appointed as co-Personal Representatives of the Estate of the decedent and has performed all acts prerequisite to issuance of Letters of Administration in the estate,

NOW, THEREFORE, I, the undersigned Circuit Judge, declare Robert L. Spallina and Donald R. Tescher as duly qualified under the laws of the State of Florida to act as co-Personal Representatives of the Estate of Simon L. Bernstein, deceased, with full power to administer the estate according to law; to ask, demand, sue for, recover and receive the property of the decedent; to pay the debts of the decedent as far as the assets of the estate will permit and the law directs; and to make distribution of the estate according to law.

DONE and ORDERED in Chambers at Delray, Palm Beach County, Florida, on this 2 day of Oct, 2012.

Estate must be closed 12
months from the date of order

Circuit Judge 



IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF

PROBATE DIVISION

SIMON L. BERNSTEIN,

File No. 502012CP004391XKXSB

Deceased.

IL

SHARON R. BOON, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH-FILED

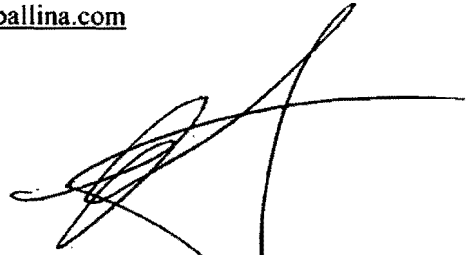
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**DESIGNATION OF EMAIL ADDRESSES
PURSUANT TO RULE 2.516**

The undersigned counsel, as attorney for Robert L. Spallina and Donald R. Tescher, hereby designates, pursuant to Florida Rule of Judicial Administration 2.516(b)(1) the following e-mail addresses for purpose of service of pleadings and other papers in this case:

Primary Email Address: rspallina@tescherspallina.com

Secondary Email Address: kmoran@tescherspallina.com



ROBERT L. SPALLINA, ESQUIRE
Florida Bar No. 0497381
Tescher & Spallina, P.A.
4855 Technology Way, Ste. 720
Boca Raton, FL 33431
561-997-7008
Primary: rspallina@tescherspallina.com
Secondary: kmoran@tescherspallina.com



IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF

PROBATE DIVISION

SIMON L. BERNSTEIN,

File No. 502012CP004391

Deceased.

IZ

XXXSB

SHARON R. BUCK, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH-FILED

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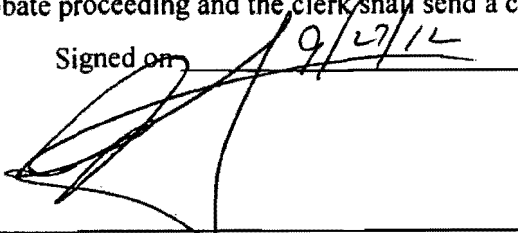
NOTICE OF TRUST

SIMON L. BERNSTEIN, a resident of Palm Beach County, Florida, who died on September 13, 2012, was the settlor of a trust entitled: SIMON L. BERNSTEIN TRUST AGREEMENT dated July 25, 2012, which is a trust described in Section 733.707(3) of the Florida Statutes, and is liable for the expenses of the administration of the decedent's estate and enforceable claims of the decedent's creditors to the extent the decedent's estate is insufficient to pay them, as provided in Section 733.607(2) of the Florida Statutes.

The name and address of the Trustees are set forth below.

The clerk shall file and index this Notice of Trust in the same manner as a caveat, unless there exists a probate proceeding for the settlor's estate in which case this Notice of Trust must be filed in the probate proceeding and the clerk shall send a copy to the personal representative.

Signed on 9/27/12, 2012.



ROBERT L. SPALLINA, Co-Trustee
7387 Wisteria Avenue
Parkland, FL 33076



DONALD R. TESCHER, Co-Trustee
2600 Whispering Oaks Lane
Delray Beach, FL 33445

Copy mailed to attorney for the Personal Representative on

CLERK OF THE CIRCUIT COURT

By: _____

MUST BE FILED IN DUPLICATE



IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL
IN RE: ESTATE OF
SIMON L. BERNSTEIN,
Deceased.

PROBATE DIVISION

File No. 502012CP004391
XXXXSB
12

SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH-FILED

2012 OCT -2 AM 9:32

**OATH OF PERSONAL REPRESENTATIVE
DESIGNATION OF RESIDENT AGENT, AND ACCEPTANCE**

STATE OF FLORIDA
COUNTY OF PALM BEACH

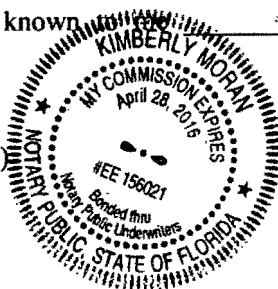
I, DONALD R. TESCHER (Affiant), state under oath that:

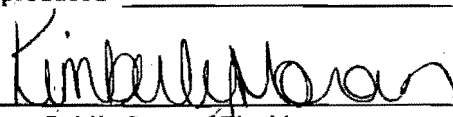
1. I have been appointed co-personal representative of the estate of SIMON L. BERNSTEIN, deceased.
2. I will faithfully administer the estate of the decedent according to law.
3. My place of residence is 2600 Whispering Oaks Lane, Delray Beach, FL 33445, and my post office address is 4855 Technology Way, Suite 720, Boca Raton, FL 33431.
4. I designate myself, a member of The Florida Bar, a resident of Broward County, Florida, whose place of residence is 2600 Whispering Oaks Lane, Delray Beach, FL 33445, and whose post office address is 4855 Technology Way, Suite 720, Boca Raton, Florida 33431, together with my partner, ROBERT L. SPALLINA, ESQ., a member of The Florida Bar, a resident of Palm Beach County, Florida, whose place of residence is 7387 Wisteria Avenue, Parkland, Florida 33076, and whose post office address is 4855 Technology Way, Suite 720, Boca Raton, Florida 33431, as agents for the service of process or notice in any action against us, either in our representative capacity, or personally, if the personal action accrued in the administration of the estate.


DONALD R. TESCHER, Affiant

Sworn to and subscribed to before me on October 1, 2012, by Affiant, who is personally known to me or who produced _____ as identification.

(Affix Notarial Seal)




Notary Public State of Florida



ACCEPTANCE

I CERTIFY that I am a permanent resident of Broward County, Florida, residing at the place indicated above. I hereby accept the foregoing designation as Resident Agent.

Signed on Oct. 1, 2012.



DONALD R. TESCHER, Resident Agent



IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL
IN RE: ESTATE OF
SIMON L. BERNSTEIN,
Deceased.

PROBATE DIVISION
File No. 502012CP004391
IL XXXXSB

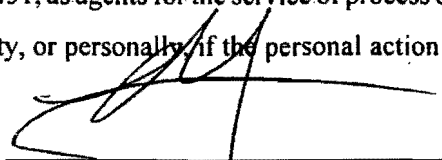
2012 OCT -2 AM 9:32
SHARON R. BOON, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH-FILED

**OATH OF PERSONAL REPRESENTATIVE
DESIGNATION OF RESIDENT AGENT, AND ACCEPTANCE**

STATE OF FLORIDA
COUNTY OF PALM BEACH

I, ROBERT L. SPALLINA (Affiant), state under oath that:

1. I have been appointed co-personal representative of the estate of SIMON L. BERNSTEIN, deceased.
2. I will faithfully administer the estate of the decedent according to law.
3. My place of residence is 7387 Wisteria Avenue, Parkland, FL 33076, and my post office address is 4855 Technology Way, Suite 720, Boca Raton, FL 33431.
4. I designate myself, a member of The Florida Bar, a resident of Broward County, Florida, whose place of residence is 7387 Wisteria Avenue, Parkland, Florida 33076, and whose post office address is 4855 Technology Way, Suite 720, Boca Raton, Florida 33431, together with my partner, DONALD R. TESCHER, ESQ., a member of The Florida Bar, a resident of Palm Beach County, Florida, whose place of residence is 2600 Whispering Oaks Lane, Delray Beach, FL 33445 and whose post office address is 4855 Technology Way, Suite 720, Boca Raton, Florida 33431, as agents for the service of process or notice in any action against us, either in our representative capacity, or personally, if the personal action accrued in the administration of the estate.

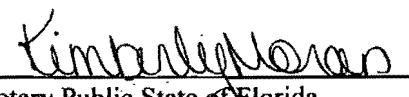


ROBERT L. SPALLINA, Affiant

Sworn to and subscribed to before me on September 28, 2012 by Affiant, who is personally known to me _____ or who produced _____ as identification.

(Affix Notarial Seal)





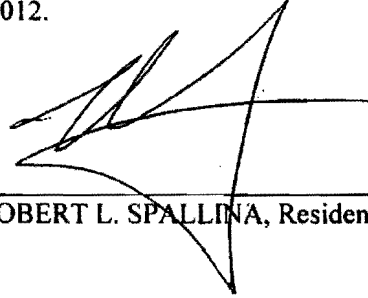
Notary Public State of Florida



ACCEPTANCE

I CERTIFY that I am a permanent resident of Broward County, Florida, residing at the place indicated above. I hereby accept the foregoing designation as Resident Agent.

Signed on 9/29, 2012.



ROBERT L. SPALLINA, Resident Agent



IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF

PROBATE DIVISION

SIMON L. BERNSTEIN,

File No. 502012CP004391
12 XXXXSB

Deceased.

2012 OCT -2 AM 9:32
SHARON R. BOON, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH-FILED

**ORDER ADMITTING WILL TO PROBATE
AND APPOINTING PERSONAL REPRESENTATIVE**


The instrument presented to this court as the Last Will of Simon L. Bernstein, deceased, having been executed in conformity with law, and made self-proved by the acknowledgment of the decedent and the affidavits of the witnesses, each made before an officer authorized to administer oaths and evidenced by the officer's certificate attached to or following the will in the form required by law, and no objection having been made to its probate, and the court finding that the decedent died on September 13, 2012, and that Robert L. Spallina and Donald R. Tescher are qualified under the laws of the State of Florida to serve as co-personal representatives, it is

ADJUDGED that the Will dated July 25, 2012, and attested by Robert L. Spallina and Kimberly Moran as subscribing and attesting witnesses, is admitted to probate according to law as the Last Will of the decedent, and it is further

ADJUDGED that Robert L. Spallina and Donald R. Tescher are appointed as co-personal representatives of the estate of the decedent, and that upon taking the prescribed oath, filing designation of resident agent and acceptance, and entering into bond in the sum of \$ 0, Letters of Administration shall be issued.

ORDERED on Oct 2 2012

Estate must be closed 12
months from the date of order



Circuit Judge

cc: Robert L. Spallina, Esquire



IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL
IN RE: ESTATE OF PROBATE DIVISION 12

SIMON L. BERNSTEIN, File No. _____
Deceased. 502012 CP00 4391 XXX SB

2012 OCT -2 AM 8:58
MARION R. BURNS, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH-FILED

PETITION FOR ADMINISTRATION
(testate Florida resident)

Petitioners, ROBERT L. SPALLINA and DONALD R. TESCHER, allege:

1. Petitioners have an interest in the above estate as the named co-personal representatives under the decedent's Will. The Petitioner's addresses are 7387 Wisteria Avenue, Parkland, FL 33076 and 2600 Whispering Oaks Lane, Delray Beach, FL 33445, respectively, and the name and office address of petitioners' attorney is set forth at the end of this Petition.

2. Decedent, SIMON L. BERNSTEIN, whose last known address was 7020 Lions Head Lane, Boca Raton, Florida 33496, whose age was 76, and whose social security number is [REDACTED], died on September 13, 2012, at his home at 7020 Lions Head Lane, Boca Raton, Florida 33496, and on the date of death decedent was domiciled in Palm Beach County, Florida.

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

NAME	ADDRESS	RELATIONSHIP	BIRTH DATE (if Minor)
Ted S. Bernstein	880 Berkeley Street Boca Raton, FL 33487	son	adult
Pamela B. Simon	950 North Michigan Ave. Suite 2603 Chicago, IL 60606	daughter	adult
Eliot Bernstein	2753 NW 34 th St. Boca Raton, FL 33434	son	adult
Jill Iantoni	2101 Magnolia Lane Highland Park, IL 60035	daughter	adult



Lisa S. Friedstein

2142 Churchill Lane
Highland Park, IL 60035

daughter adult

Robert L. Spallina and Donald R. Tescher,
co-Trustees of the Simon L. Bernstein
Amended and Restated Trust Agreement
dated July 25, 2012

4855 Technology Way,
Suite 720
Boca Raton, FL 33431

Trust

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

5. Robert L. Spallina and Donald R. Tescher, whose addresses are listed above, and who are qualified under the laws of the State of Florida to serve as co-personal representatives of the decedent's estate are entitled to preference in appointment as co-personal representatives because they are the persons designated to serve as co-personal representatives under the decedent's Will.

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

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

8. The original of the decedent's last will, dated July 25, 2012, is being filed simultaneously with this Petition with the Clerk of the Court for Palm Beach County, Florida.

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

Petitioner requests that the decedent's Will be admitted to probate and that Robert L. Spallina and Donald R. Tescher be appointed as co-personal representatives of the estate of the decedent.

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

Signed on Oct. 1, 2012.

Respectfully Submitted,
TESCHER & SPALLINA, P.A.

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

Robert L. Spallina, Petitioner

Donald R. Tescher, Petitioner



562012CP004391XXXXSB

I2

WILL OF

SIMON L. BERNSTEIN

2012 OCT -2 AM 9:32
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH-FILED

Prepared by:

Tescher & Spallina, P.A.
4855 Technology Way, Suite 720, Boca Raton, Florida 33431
(561) 997-7008
www.tescherspallina.com

LAW OFFICES

TESCHER & SPALLINA, P.A.

WILL OF

SIMON L. BERNSTEIN

I, SIMON L. BERNSTEIN, of Palm Beach County, Florida, hereby revoke all my prior Wills and Codicils and make this Will. I am a widower, but in the event that I marry subsequent to the execution of this Will, I specifically make no provision for my spouse. My children are TED S. BERNSTEIN, PAMELA B. SIMON, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN.

ARTICLE I. TANGIBLE PERSONAL PROPERTY

I give such items of my tangible personal property to such persons as I may designate in a separate written memorandum prepared for this purpose. I give to my children who survive me, divided among them as they agree, or if they fail to agree, divided among them by my Personal Representatives in as nearly equal shares as practical my personal effects, jewelry, collections, household furnishings and equipment, automobiles and all other non-business tangible personal property other than cash, not effectively disposed of by such memorandum, and if no child of mine survives me, this property shall pass with the residue of my estate.

ARTICLE II. EXERCISE OF POWER OF APPOINTMENT

Under Subparagraph E.1. of Article II. of the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008, (the "*Shirley Trust*"), I was granted a special power of appointment upon my death to direct the disposition of the remaining assets of the Marital Trust and the Family Trust established under the Shirley Trust. Pursuant to the power granted to me under the Shirley Trust, upon my death, I hereby direct the then serving Trustees of the Marital Trust and the Family Trust to divide the remaining trust assets into equal shares for my then living grandchildren and distribute said shares to the then serving Trustees of their respective trusts established under Subparagraph II.B. of my Existing Trust, as referenced below, and administered pursuant to Subparagraph II.C. thereunder.

ARTICLE III. RESIDUE OF MY ESTATE

I give all the residue of my estate, including my homestead, to the Trustee then serving under my revocable Trust Agreement dated May 20, 2008, as amended and restated from time to time and on even date herewith (the "*Existing Trust*"), as Trustee without bond, but I do not exercise any powers of appointment held by me except as provided in Article II., above, and in the later paragraph titled "Death Costs." The residue shall be added to and become a part of the Existing Trust, and shall be held under

LAST WILL
OF SIMON L. BERNSTEIN

LAW OFFICES
TESCHER & SPALLINA, P.A.



the provisions of said Agreement in effect at my death, or if this is not permitted by applicable law or the Existing Trust is not then in existence, under the provisions of said Agreement as existing today. If necessary to give effect to this gift, but not otherwise, said Agreement as existing today is incorporated herein by reference.

ARTICLE IV. PERSONAL REPRESENTATIVES

1. **Appointment and Bond.** I appoint ROBERT L. SPALLINA and DONALD R. TESCHER to serve together as my co-Personal Representatives, or either of them alone as Personal Representative if either of them is unable to serve (the "*fiduciary*"). Each fiduciary shall serve without bond and have all of the powers, privileges and immunities granted to my fiduciary by this Will or by law, provided, however, that my fiduciary shall exercise all powers in a fiduciary capacity.

2. **Powers of Personal Representatives.** My fiduciary may exercise its powers without court approval. No one dealing with my fiduciary need inquire into its authority or its application of property. My fiduciary shall have the following powers:

a. **Investments.** To sell or exchange at public or private sale and on credit or otherwise, with or without security, and to lease for any term or perpetually, any property, real and personal, at any time forming a part of my probate estate (the "*estate*"); to grant and exercise options to buy or sell; to invest or reinvest in real or personal property of every kind, description and location; and to receive and retain any such property whether originally a part of the estate, or subsequently acquired, even if a fiduciary is personally interested in such property, and without liability for any decline in the value thereof; all without limitation by any statutes or judicial decisions, whenever enacted or announced, regulating investments or requiring diversification of investments.

b. **Distributions or Divisions.** To distribute directly to any beneficiary who is then entitled to distribution under the Existing Trust; to make any division or distribution pro rata or non-pro rata, in cash or in kind; and to allocate undivided interests in property and dissimilar property (without regard to its tax basis) to different shares, and to make any distribution to a minor or any other incapacitated person directly to such person, to his or her legal representative, to any person responsible for or assuming his or her care, or in the case of a minor to an adult person or an eligible institution (including a fiduciary) selected by my fiduciary as custodian for such minor under the Uniform Transfers to Minors Act or similar provision of law. The receipt of such payee is a complete release to the fiduciary.

c. **Management.** To manage, develop, improve, partition or change the character of or abandon an asset or interest in property at any time; and to make ordinary and extraordinary repairs, replacements, alterations and improvements, structural or otherwise.

d. **Borrowing.** To borrow money from anyone on commercially reasonable terms, including a fiduciary, beneficiaries and other persons who may have a direct or indirect interest in the



estate; and to mortgage, margin, encumber and pledge real and personal property of the estate as security for the payment thereof, without incurring any personal liability thereon and to do so for a term within or extending beyond the terms of the estate and to renew, modify or extend existing borrowing on similar or different terms and with the same or different security without incurring any personal liability; and such borrowing from my fiduciary may be with or without interest, and may be secured with a lien on the estate assets or any beneficiary's interest in said assets.

e. Lending. To extend, modify or waive the terms of any obligation, bond or mortgage at any time forming a part of the estate and to foreclose any such mortgage; accept a conveyance of encumbered property, and take title to the property securing it by deed in lieu of foreclosure or otherwise and to satisfy or not satisfy the indebtedness securing said property; to protect or redeem any such property from forfeiture for nonpayment of taxes or other lien; generally, to exercise as to such bond, obligation or mortgage all powers that an absolute owner might exercise; and to loan funds to beneficiaries at commercially reasonable rates, terms and conditions.

f. Abandonment of Property. To abandon any property or asset when it is valueless or so encumbered or in such condition that it is of no benefit to the estate. To abstain from the payment of taxes, liens, rents, assessments, or repairs on such property and/or permit such property to be lost by tax sale, foreclosure or other proceeding or by conveyance for nominal or no consideration to anyone including a charity or by escheat to a state; all without personal liability incurred therefor.

g. Real Property Matters. To subdivide, develop or partition real estate; to dedicate the same to public use; to make or obtain the location of any plats; to adjust boundaries; to adjust differences in valuations on exchange or partition by giving or receiving consideration; and, to grant easements with or without consideration as they may determine; and to demolish any building, structures, walls and improvements, or to erect new buildings, structures, walls and improvements and to insure against fire and other risks.

h. Claims. To enforce, compromise, adjust, arbitrate, release or otherwise settle or pay any claims or demands by or against the estate.

i. Business Entities. To deal with any business entity or enterprise even if a fiduciary is or may be a fiduciary of or own interests in said business entity or enterprise, whether operated in the form of a corporation, partnership, business trust, limited liability company, joint venture, sole proprietorship, or other form (all of which business entities and enterprises are referred to herein as "**Business Entities**"). I vest the fiduciary with the following powers and authority in regard to Business Entities:

i. To retain and continue to operate a Business Entity for such period as the fiduciary deems advisable;

ii. To control, direct and manage the Business Entities. In this connection, the fiduciary, in its sole discretion, shall determine the manner and extent of its active participation in the



operation and may delegate all or any part of its power to supervise and operate to such person or persons as the fiduciary may select, including any associate, partner, officer or employee of the Business Entity;

iii. To hire and discharge officers and employees, fix their compensation and define their duties; and similarly to employ, compensate and discharge agents, attorneys, consultants, accountants, and such other representatives as the fiduciary may deem appropriate; including the right to employ any beneficiary or fiduciary in any of the foregoing capacities;

iv. To invest funds in the Business Entities, to pledge other assets of the estate or a trust as security for loans made to the Business Entities, and to lend funds from my estate or a trust to the Business Entities;

v. To organize one or more Business Entities under the laws of this or any other state or country and to transfer thereto all or any part of the Business Entities or other property of my estate or a trust, and to receive in exchange such stocks, bonds, partnership and member interests, and such other securities or interests as the fiduciary may deem advisable;

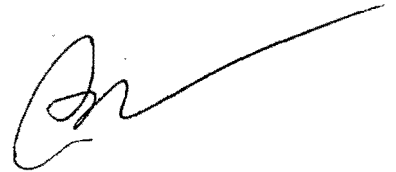
vi. To treat Business Entities as separate from my estate or a trust. In a fiduciary's accounting to any beneficiary, the fiduciary shall only be required to report the earnings and condition of the Business Entities in accordance with standard business accounting practice;

vii. To retain in Business Entities such net earnings for working capital and other purposes of the Business Entities as the fiduciary may deem advisable in conformity with sound business practice;

viii. To sell or liquidate all or any part of the Business Entities at such time and price and upon such terms and conditions (including credit) as the fiduciary may determine. My fiduciary is specifically authorised and empowered to make such sale to any person, including any partner, officer, or employee of the Business Entities, a fiduciary, or to any beneficiary; and

ix. To guaranty the obligations of the Business Entities, or pledge assets of the estate or a trust to secure such a guaranty.

j. Life Insurance. With respect to any life insurance policies constituting an asset of the estate to pay premiums; to apply dividends in reduction of such premiums; to borrow against the cash values thereof; to convert such policies into other forms of insurance including paid-up insurance; to exercise any settlement options provided in any such policies; to receive the proceeds of any policy upon its maturity and to administer such proceeds as a part of the principal of the estate or trust; and in general, to exercise all other options, benefits, rights and privileges under such policies; provided, however, no fiduciary other than a sole fiduciary may exercise any incidents of ownership with respect to policies of insurance insuring the fiduciary's own life.



k. Reimbursement. To reimburse itself from the estate for all reasonable expenses incurred in the administration thereof.

l. Voting. To vote and give proxies, with power of substitution to vote, stocks, bonds and other securities, or not to vote a security.

m. Ancillary Administration. To appoint or nominate, and replace with or without cause, any persons or corporations, including itself, as ancillary administrators to administer property in other jurisdictions, with the same powers, privileges and immunities as my fiduciary and without bond.

n. Tax Elections. To file tax returns, and to exercise all tax-related elections and options at their discretion, without compensating adjustments or reimbursements between any accounts or any beneficiaries.

3. Survivorship. A beneficiary is not deemed to survive me unless he or she survives me by five days.

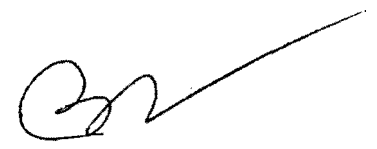
4. Death Costs. My fiduciary shall pay (a) from the residuary estate my debts which are allowed as claims against my estate, (b) from the residuary estate my funeral expenses without regard to legal limitations, (c) from the residuary estate the expenses of administering my estate and (d) from the residuary estate other than the portion of the residuary estate qualifying for the marital deduction under the laws then in effect, without apportionment, all estate, inheritance and succession taxes (excluding generation-skipping taxes other than with respect to direct skips), and interest and penalties thereon, due because of my death and attributable to all property whether passing under this Will or otherwise and not required by the terms of the Existing Trust to be paid out of said trust. However, such taxes, penalties and interest payable out of my residuary estate shall not include taxes, penalties and interest attributable to (i) property over which I have a power of appointment granted to me by another person, (ii) qualified terminable interest property held in a trust of which I was the income beneficiary at the time of my death (other than qualified terminable interest property held in a trust for which an election was made under Code Section 2652(a)(3)), and (iii) life insurance proceeds on policies insuring my life which proceeds are not payable to my probate estate. My fiduciary shall not be reimbursed for any such payment from any person or property. However, my fiduciary in its discretion may direct that part or all of said death costs shall be paid by my Trustee as provided in the Existing Trust, and shall give such direction to the extent necessary so that the gifts made in Article I of this Will and the gifts made in any codicil hereto shall not be reduced by said death costs. If the amount of the above-described taxes, and interest and penalties arising by reason of my death (without regard to where payable from under the terms of this paragraph or applicable law) is increased because of the power of appointment granted to me under Subparagraph II.E.1. of the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008, I hereby appoint to my probate estate from the property subject to such power (to the extent allowable under such power) the amount of such increase (calculating such increase at the highest applicable marginal rates) and exercise such power to this extent only, and notwithstanding the other provisions of this paragraph further direct my fiduciary to make payment of such increase in taxes,

LAST WILL
OF SIMON L. BERNSTEIN

-5-

LAW OFFICES

TESCHER & SPALLINA, P.A.



interest and penalties to the appropriate taxing authorities from the appointed property or the proceeds thereof. Any trustee holding such appointive property may pay to my fiduciary the amount which my fiduciary certifies as due under this paragraph and is not responsible for the correctness or application of amounts so paid.

5. **Reimbursement for Debts and Expenses.** My fiduciary shall promptly reimburse my friends and members of my family who have disbursed their own funds for the payment of any debts, funeral expenses or costs of administration of my estate.

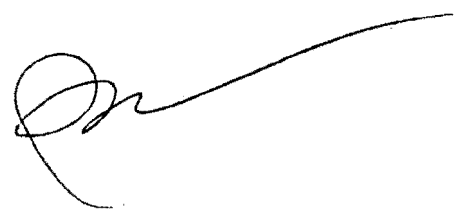
6. **Expenses of Handling Tangible Personal Property.** All expenses incurred by my fiduciary during the settlement of my estate in appraising, storing, packing, shipping, delivering or insuring an article of tangible personal property passing under this Will shall be charged as an expense of administering my estate.

7. **Dealing with Estate.** Each fiduciary may act under this Will even if interested in my estate in an individual capacity, as a fiduciary of another estate or trust (including any trust identified in this Will or created under the Existing Trust) or in any other capacity. Each fiduciary may in good faith buy from, sell to, lend funds to or otherwise deal with my estate.

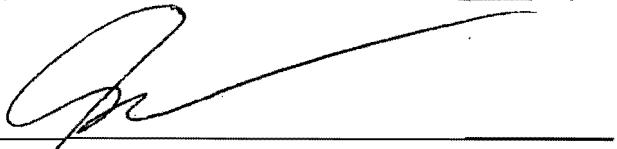
8. **Spouse.** The term "*spouse*" herein means, as to a designated individual, the person to whom that individual is from time to time married.

9. **Other Beneficiary Designations.** Except as otherwise explicitly and with particularity provided herein, (a) no provision of this Will shall revoke or modify any beneficiary designation of mine made by me and not revoked by me prior to my death under any individual retirement account, other retirement plan or account, or annuity or insurance contract, (b) I hereby reaffirm any such beneficiary designation such that any assets held in such account, plan, or contract shall pass in accordance with such designation, and (c) regardless of anything herein to the contrary, any of such assets which would otherwise pass pursuant to this Will due to the beneficiary designation not having met the requirements for a valid testamentary disposition under applicable law or otherwise shall be paid as a gift made hereunder to the persons and in the manner provided in such designation which is incorporated herein by this reference.

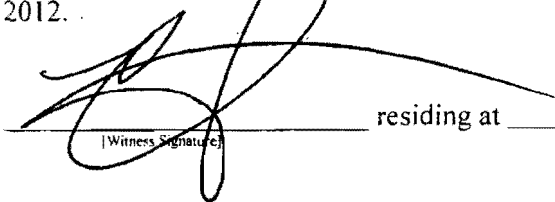
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I have published and signed this instrument as my Will at Boca Raton, Florida, on the 24 day of July, 2012.


SIMON L. BERNSTEIN

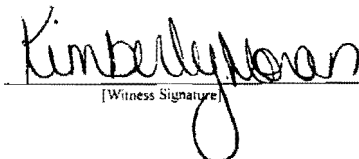
This instrument, consisting of this page numbered 7 and the preceding typewritten pages, was signed, sealed, published and declared by the Testator to be the Testator's Will in our presence, and at the Testator's request and in the Testator's presence, and in the presence of each other, we have subscribed our names as witnesses at Boca Raton, Florida on this 27 day of July, 2012.


[Witness Signature]

residing at

ROBERT L. SPALLINA
7387 WISTERIA AVENUE
PARKLAND, FL 33076

[Witness Address]


[Witness Signature]

residing at

Kimberly Moran
6362 Las Flores Drive
Boca Raton, FL 33433

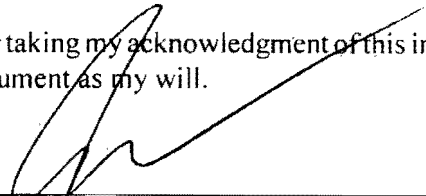
[Witness Address]

State Of Florida

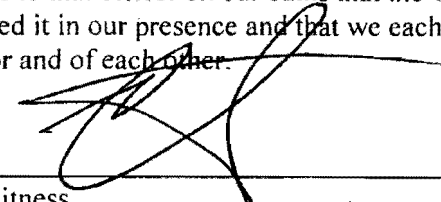
SS.

County Of Palm Beach

I, SIMON L. BERNSTEIN, declare to the officer taking my acknowledgment of this instrument, and to the subscribing witnesses, that I signed this instrument as my will.

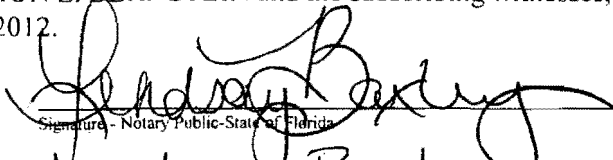

SIMON L. BERNSTEIN, Testator

We, Robert L. Spallina and Kimberly Moran, have been sworn by the officer signing below, and declare to that officer on our oaths that the Testator declared the instrument to be the Testator's will and signed it in our presence and that we each signed the instrument as a witness in the presence of the Testator and of each other.


Witness

Kimberly Moran
Witness

Acknowledged and subscribed before me, by the Testator, SIMON L. BERNSTEIN, who is personally known to me or who has produced _____ (state type of identification) as identification, and sworn to and subscribed before me by the witnesses, Robert L. Spallina, who is personally known to me or who has produced _____ (state type of identification) as identification, and Kimberly Moran, who is personally known to me or who has produced _____ (state type of identification) as identification, and subscribed by me in the presence of SIMON L. BERNSTEIN and the subscribing witnesses, all on this 25 day of July, 2012.


Signature - Notary Public - State of Florida
Lindsay Baxley
Print, type or stamp name of Notary Public

[Seal with Commission Expiration Date]

NOTARY PUBLIC-STATE OF FLORIDA
Lindsay Baxley
Commission # EE092282
Expires: MAY 10, 2015
BONDED THRU ATLANTIC BONDING CO., INC.

LAST WILL
OF SIMON L. BERNSTEIN

EXHIBIT
502012CP004591XXXX53

I, SIMON L. BERNSTEIN, of the County of Palm Beach, State of Florida, do hereby make, publish and declare my Last Will and Testament, hereby revoking all prior Wills, Testaments and Codicils at any time made by me.

2012 OCT 10 PM 1:44
SHARON R. COOK, CLERK
CLERK OF THE COUNTY OF PALM BEACH
SOUTH CITY BRANCH-FILED

FIRST: I direct that all my just debts and funeral and administration expenses be paid as soon after my death as may be practicable.

SECOND: I hereby direct that, pursuant to Florida Statutes §732.515, or the comparable provision in effect at the time of my death, my personal and household effects, including jewelry, works of art and automobiles, if any, be distributed in accordance with a separate written statement executed by me. In the event there shall be more than one such written statement, the statement bearing the last date shall be controlling. If no such written statement is found and properly identified by my Personal Representatives within thirty days after my Personal Representatives are appointed, it shall be conclusively presumed that no such writing exists. In the event there shall be no such written statement (or to the extent such written statement does not effectively dispose of all of my personal and household effects, including jewelry, works of art and automobiles, if any), I give and bequeath all (or the balance) of my personal and household effects, if any, to my wife, SHIRLEY BERNSTEIN, if she survives me, or, if she predeceases me, to such of my children, TED STUART BERNSTEIN, PAMELA BETH SIMON, ELIOT BERNSTEIN, JILL IANTONI and LISA SUE FRIEDSTEIN, as shall survive me, in shares as nearly equal as they shall agree upon, or, failing agreement, said personal and household effects shall be sold and the proceeds therefrom added to and disposed of as part of my residuary estate.

THIRD: If my wife, SHIRLEY BERNSTEIN, survives me, I



give and bequeath to my Trustees a "credit equivalent amount" (as defined below) to hold in separate trust to pay so much of the income therefrom and such sums out of the principal thereof (even to the extent of the whole thereof) to such of my wife and my descendants, living from time to time, equally or unequally, and to any one or more of them to the exclusion of the others, as my Trustees, in their absolute discretion, deem necessary or advisable; provided, however, that no such payment shall be made to my wife from the principal of the trust under this Article THIRD until the principal of her trust, if any, under Article FOURTH of this Will shall first have been exhausted. Any balance of the income shall be accumulated and added to principal annually.

Upon the death of my wife, the then principal of the trust shall pass to such one or more of my descendants in such shares, equal or unequal, and subject to such lawful trusts, terms and conditions as my wife shall by Will appoint. To the extent that said power of appointment is not effectively exercised, said principal shall be divided into as many equal shares as may be necessary to provide one for each of my then living grandchildren and one for each of my grandchildren who is then dead but who leaves descendants who are then living (such descendants to take in portions, per stirpes, the share set aside for them), and each such share or portion shall be distributed absolutely, except that any share or portion so set aside for a grandchild or more remote descendant of mine who has not then attained the age of thirty shall be disposed of as provided in Article SIXTH of this Will.

The "credit equivalent amount" shall be (a) the maximum amount which could comprise my taxable estate for Federal estate tax purposes without resulting in any Federal estate tax, after taking into account the applicable credit amount as defined in

Section 2010(c) of the Code, but no other credits allowable against such tax, reduced by (b) the aggregate of:

(1) the value (as finally determined for Federal estate tax purposes) of all property (including interests in property) includable in my estate for Federal estate tax purposes which passes under other provisions of this Will or otherwise than under this Will and with respect to which no marital deduction or charitable deduction is finally allowed in determining said tax, and

(2) the amount of my adjusted taxable gifts within the meaning of Section 2001(b) of the Code.

The trust under this Article THIRD shall be known as the "Simon L. Bernstein Credit Equivalent Trust."

FOURTH: I give and bequeath to my Trustees an amount equal to my "Unused GST Exemption" (as defined below) to hold in separate trust to pay the income therefrom in quarterly or more frequent installments to my wife, SHIRLEY BERNSTEIN, during her life.

I authorize and empower my Trustees, from time to time, to pay to my wife such sums out of the principal of her trust (even to the extent of the whole thereof) as my Trustees, in their absolute discretion, deem in her best interests; provided, however, that no such payment shall be made to my wife from the principal of her trust under this Article FOURTH until the principal of her trust, if any, under subdivision (a) of Article FIFTH of this Will shall first have been exhausted.

Upon the death of my wife, the then principal of the trust shall pass to such of one or more of my descendants in such shares, equal or unequal, and subject to such lawful trusts, terms and conditions as my wife shall by Will appoint. To the extent that said power of appointment shall not be effectively exercised, or upon my death if my wife predeceases me, said principal shall be divided into as many equal shares as may be necessary to provide one for each of my then living grandchildren

and one for each of my grandchildren who is then dead but who leaves descendants who are then living (such descendants to take in portions, per stirpes, the share set aside for them), and each such share or portion shall be distributed absolutely, except that any share or portion so set aside for a grandchild or more remote descendant of mine who has not then attained the age of thirty shall be disposed of as provided in Article SIXTH of this Will.

I direct that all estate and inheritance taxes of whatever kind imposed by reason of the inclusion of the trust under this Article in my wife's estate for such tax purposes shall (absent a contrary provision in my wife's Will) be charged, without right of reimbursement, against the principal of the trust for the benefit of my wife under subdivision (a) of Article FIFTH of this Will.

My "Unused GST Exemption" shall be an amount equal to the maximum GST exemption allowable to me pursuant to Section 2631 of the Code, reduced by the aggregate amount of my GST Exemption which has been allocated or deemed allocated by me or which shall be allocated by my Personal Representatives with respect to property transferred by me either under the provisions of this Will or otherwise than under this Will.

The trust under this Article FOURTH shall be known as the "Simon L. Bernstein Exempt Marital Trust."

FIFTH: All the rest, residue and remainder of my estate, real, personal or otherwise and wheresoever situate, including any lapsed legacy or bequest, hereinafter called my residuary estate, shall be disposed of as follows:

(a) If my wife, SHIRLEY BERNSTEIN, survives me, my residuary estate shall be held by my Trustees in separate trust to pay the income therefrom in quarterly or more frequent installments to my wife during her life.

I authorize and empower my Trustees, from time to time, to pay to my wife such sums out of the principal of her trust (even to the extent of the whole thereof) as my Trustees, in their absolute discretion, deem in her best interests.

Upon the death of my wife, the then principal of her trust shall pass to such one or more of my descendants, in such shares, equal or unequal, and subject to such lawful trusts, terms and conditions as my wife shall by Will appoint. To the extent that said power of appointment is not effectively exercised, said principal shall be divided into shares, per stirpes, for such of my children TED STUART BERNSTEIN, ELIOT BERNSTEIN, JILL IANTONI and LISA SUE FRIEDSTEIN as are then living and for the then living descendants of such of them as are then dead, and each such share shall be distributed absolutely, except that any share so set aside for a grandchild or more remote descendant of mine who has not then attained the age of thirty shall be disposed of as provided in Article SEVENTH of this Will.

The trust for my wife under this subdivision (a) shall be known as the "Simon L. Bernstein Non-Exempt Marital Trust.

(b) If my wife predeceases me, my residuary estate shall be divided into shares, per stirpes, for such of my children TED STUART BERNSTEIN, ELIOT BERNSTEIN, JILL IANTONI and LISA SUE FRIEDSTEIN as survive me and for the descendants who survive me of such of them as may predecease me, and each such share shall be distributed absolutely, except that any share so set aside for a grandchild or more remote descendant of mine who has not then attained the age of thirty shall be disposed of as provided in Article SEVENTH of this Will.

SIXTH: All shares, portions or parts above or below set aside for a grandchild or more remote descendant of mine and directed to be disposed of as provided in this Article SIXTH

shall be combined and held by my Trustees in separate trust to apply so much of the income therefrom for the health, education, maintenance or support of the beneficiary as my Trustees, in their absolute discretion, deem necessary or advisable, accumulating any balance of the income at least annually and adding the same to principal until the beneficiary attains the age of twenty-one; thereafter, the income shall be paid to the beneficiary in convenient installments.

I authorize and empower my Trustees, from time to time, to pay to the beneficiary such sums out of the principal of his or her trust (even to the extent of the whole thereof) as my Trustees deem that the beneficiary needs for his or her health, education, maintenance or support.

Upon the beneficiary's attaining the age of twenty-five, one-half of the then principal of his or her trust shall be distributed to the beneficiary absolutely, and upon the beneficiary's attaining the age of thirty, the balance of the principal of his or her trust shall be distributed to the beneficiary absolutely.

In the event of and upon the death of the beneficiary during the continuance of his or her trust, the then principal thereof shall be divided into portions or parts, per stirpes, for his or her then living descendants, or, in default thereof, for the then living descendants of the beneficiary's nearest ancestor who was a grandchild or more remote descendant of mine and who has descendants then living, or, in default thereof, shall be divided into as many equal portions or parts as may be necessary to provide one for each of my then living grandchildren, and one for each of them who is then dead but who leaves descendants who are then living (such descendants to take in parts, per stirpes, the share set aside for them), and each such portion or part shall be distributed absolutely, except that any portion or part

so set aside for a grandchild or more remote descendant of mine who is then the beneficiary of a trust under this Article SIXTH shall be added to the principal of said trust and disposed of as a part thereof, subject to subsequent, but not prior, mandatory distributions of principal, and any portion or part so set aside for a grandchild or more remote descendant of mine who has not then attained the age of thirty and who is not then the beneficiary of a trust under this Article SIXTH shall be disposed of as provided in this Article SIXTH.

SEVENTH: Each share or portion above or below set aside for a grandchild or more remote descendant of mine and directed to be disposed of as provided in this Article SEVENTH shall be held by my Trustees in separate trust to apply so much of the income therefrom for the health, education, maintenance or support of the beneficiary as my Trustees, in their absolute discretion, deem necessary or advisable, accumulating any balance of the income at least annually and adding the same to principal until the beneficiary attains the age of twenty-one; thereafter, the income shall be paid to the beneficiary in convenient installments.

I authorize and empower my Trustees, from time to time, to pay to the beneficiary such sums out of the principal of his or her trust (even to the extent of the whole thereof) as my Trustees deem that the beneficiary needs for his or her health, education, maintenance or support.

Upon the beneficiary's attaining the age of twenty-five, one-half of the then principal of his or her trust shall be distributed to the beneficiary absolutely, and upon the beneficiary's attaining the age of thirty, the balance of the principal of his or her trust shall be distributed to the beneficiary absolutely.

In the event of and upon the death of the beneficiary

during the continuance of his or her trust, the then principal thereof shall be divided into portions, per stirpes, for his or her then living descendants, or, in default thereof, for the then living descendants of the beneficiary's nearest ancestor who was a descendant of mine and who has descendants then living, or, in default thereof, for my then living descendants, and each such portion shall be distributed absolutely, except that any portion so set aside for a grandchild or more remote descendant of mine who is then the beneficiary of a trust under this Article SEVENTH shall be added to the principal of said trust and disposed of as a part thereof, subject to subsequent, but not prior, mandatory distributions of principal, and any portion so set aside for a grandchild or more remote descendant of mine who has not then attained the age of thirty and who is not then the beneficiary of a trust under this Article SEVENTH shall be disposed of as provided in this Article SEVENTH.

EIGHTH: I nominate and appoint my wife, SHIRLEY BERNSTEIN, as my Personal Representative. If my wife fails to qualify or ceases to be qualified, I nominate and appoint in her place the following individuals who shall be entitled to qualify, singly and in the order named: ALBERT W. GORTZ; LISA SUE FRIEDSTEIN; PAMELA BETH SIMON.

With respect to any trust created under Article THIRD, Article FOURTH or subdivision (a) of Article FIFTH of this Will, I nominate and appoint my wife, my daughter LISA SUE FRIEDSTEIN, and my daughter PAMELA BETH SIMON as Trustees hereunder.

With respect to any trust created under Article SIXTH or Article SEVENTH of this Will, I nominate and appoint my wife, SHIRLEY BERNSTEIN, and my daughter PAMELA BETH SIMON as Trustees. If my either my wife or PAMELA BETH SIMON fails to qualify or ceases to be qualified, I nominate and appoint in her place the following individuals who shall be entitled to qualify, singly

and in the order named: LISA SUE FRIEDSTEIN; JILL IANTONI.

My Personal Representatives and Trustees at any time qualified hereunder are authorized and empowered to designate a person or persons or a bank or trust company to act with them and, subject to the foregoing, a sole surviving Personal Representative or Trustee at any time qualified hereunder is authorized and empowered to designate a person or persons or a bank or trust company to act with or to succeed him or her; provided, however, that JEANNIE BERNSTEIN shall never be designated as or serve as a Personal Representative or as a Trustee of any trust created hereunder.

At all times at least one Trustee of any trust created hereunder shall not have an interest in the income or principal of such trust.

I direct that no bond or other security shall be required of any Personal Representative or Trustee named herein or designated as herein provided for any reason whatsoever.

NINTH: I hereby grant to my Personal Representatives and Trustees, in addition to the general powers conferred upon them by law, the following discretionary powers:

(a) To distribute my estate and set up the trusts herein at one time or at different times as soon after my death as they may deem practicable, whether before or after the expiration of any statutory period.

(b) To charge or credit to principal or income or to apportion between them, in such manner as they deem advisable, any ordinary or extraordinary expenses and any extraordinary, wasting or liquidating dividends and any dividends payable in the stock of the corporation declaring the dividend or payable in the stock of another corporation and so-called "capital gains dividends" declared by investment companies or investment trusts; to determine if and to what extent they shall amortize any premium paid by them on bonds or other obligations for the payment of money; upon the death of an income beneficiary, or any other termination of a trust herein, any accrued income (including dividends theretofore declared but not yet payable) shall be paid to the persons entitled to receive the income when it becomes payable, but any undistributed income which my Personal Representatives or Trustees are authorized in their discretion to accumulate shall be added to principal.

(c) To set apart out of the income of the trusts

herein (or out of the income of corporations of which the trusts own securities) reserves for such purposes including, without limitation, depreciation, depletion, obsolescence and other contingencies, and in such amounts as they, in their absolute discretion, shall deem advisable.

(d) To claim expenses chargeable against principal as estate tax or income tax deductions as they deem advisable and to determine if and to what extent any adjustment in favor of principal required by law shall be made.

(e) To make any payment or distribution (required or authorized under this Will) either wholly or partly in kind at market value at date of distribution; to cause any share to be composed of cash, property or undivided fractional interests in property different in kind from any other share and without regard, among such shares, to whether the property distributed has an equivalent basis for income tax purposes.

(f) To alter, repair, improve, demolish, manage, partition, mortgage, lease for any period (including a period in excess of any fixed by statute), exchange, grant options to lease or to buy, and sell or dispose of, at public or private sale and upon such conditions and such terms as to cash and credit as they deem advisable, any property held by them hereunder; said leases may extend beyond the duration of the trusts herein.

(g) To borrow such sums as they deem advisable for the proper administration of my estate and the trusts hereunder and to give security therefor.

(h) To continue, settle or discontinue any business or partnership in which I may be interested.

(i) To continue to hold any property, real, personal or otherwise, including, but not limited to, stocks, bonds or other securities, domestic or foreign, in the form in which it shall be at my death or when received by them hereunder (without regard to any rule of law that may require them to decide whether or not to retain such property) or as the form thereof may be changed pursuant to the provisions of the other subdivisions of this Article of my Will, so long as they, in their absolute discretion, deem it advisable.

(j) To invest and reinvest in any property, including, but not limited to, stocks, bonds or other securities or so-called derivative investments, domestic or foreign, options to sell or to purchase such securities or so-called derivative investments (whether or not then held hereunder), shares or interests in mutual funds, investment companies, investment trusts or common trust funds of a bank or trust company, currencies, precious metals, oil and gas properties or other natural resources and commodities, or interests in, rights to or options to sell or to purchase any of the foregoing (whether or not then held hereunder), improved or unimproved real property or tangible personal property or life insurance, endowment, annuity or similar contracts (including such contracts insuring the then income beneficiary of any trust hereunder) that they may, in their absolute discretion, deem advisable and without regard to any duty to diversify or, except with respect to any trust for the benefit of my spouse that qualifies for the marital deduction under either Federal or state law, to make such property productive of income, and in any manner, including by direct purchase, entry into a joint venture, creation of or purchase of

an interest in any form of partnership or corporation or through any other form of participation or ownership.

(k) To employ any person, firm, corporation, bank or trust company for advice with respect to investment policy, but my Personal Representatives or Trustees may, in their absolute discretion, follow or refrain from following any recommendations so obtained, and said recommendations shall not in any way limit the discretionary power and authority herein conferred upon, and not otherwise delegated by, them with respect to investments; to designate a corporation, partnership or other firm, authorized so to act, as custodian, and to employ attorneys, accountants and bookkeepers; and to charge the fees and expenses of the foregoing to my estate or any trust hereunder.

(l) To retain possession, in their absolute discretion, of any property payable absolutely to an infant, and to invest and reinvest the same, to collect the income therefrom, and, after deducting all proper expenses, to apply the income and principal to the use of said infant (and in the case of tangible personal property to permit the infant to have the custody and use of all or part of it from time to time), with all the powers, rights and compensation of Trustees hereunder, provided, however, that nothing herein contained shall be construed to prevent or postpone the vesting of said property in said infant or to suspend the alienability of said property.

(m) In determining the amounts applicable to the use of an infant, to consider or disregard the ability of the parent or parents of said infant to support said infant; and to make payment of any amount, applicable to the use of or payable to an infant, (1) to the guardian (whether qualified in my domicile or any other jurisdiction) of the person or property of such infant, or (2) to the parent or parents of such infant (whether or not legally appointed his or her guardian(s)), or (3) to the extent permitted by law, to a Custodian for such infant under a Uniform Gifts to Minors Act or a Uniform Transfers to Minors Act, or (4) to apply the same for his or her benefit; the receipt of such guardian, parent or Custodian or the evidence of the application of such amount shall be a full discharge to my Personal Representatives and Trustees for such payment; provided, however, that with respect to any such payments to or for the benefit of my grandchildren ALEXANDRA BERNSTEIN, ERIC BERNSTEIN and MICHAEL BERNSTEIN, no such payment shall be made to JEANNIE BERNSTEIN in any capacity as such grandchild's parent, guardian or Custodian.

(n) Severally to authorize, by instrument in writing, any person or corporation, including any co-fiduciary, bank or trust company, to act in the place of said Personal Representative or Trustee with respect to specified transactions, to sign a particular check or checks, or to execute any other specifically stated instruments in the name of said Personal Representative or Trustee.

(o) To remove any property held by them hereunder to or from my domicile or any other jurisdiction.

(p) To organize or participate in the organization of corporations, and to transfer to them any part or all of the property held by them hereunder in exchange for securities thereof.

(q) To exercise or perform every power, authority or duty, including discretionary powers, by the concurrence and in

the names of a majority of the Personal Representatives or Trustees qualified to participate, with the same effect as if all had joined therein; but by unanimous vote of the Personal Representatives or Trustees they may determine the number (one or more) who may give instructions to custodians, sign checks or have access to safe deposit boxes.

(r) To hold the principal or part of the principal of any of the trusts herein in one or more joint funds in which the separate trusts shall have undivided interests.

(s) To file such gift tax and income tax returns jointly with my spouse as they deem advisable.

(t) To compromise, settle, subordinate, arbitrate, extend, renew, modify, waive or extend the statute of limitations with respect to, or release, in whole or in part, any claim held by or against my estate or the trusts herein, or any mortgage or other security held by them or held against any property held by them hereunder.

(u) To participate in and consent to any corporate reorganization, dissolution, liquidation, merger, consolidation, sale or lease, or in and to any other change in any corporation or in its financial structure, and to become a depositor with any protective, reorganization or similar committee, and to make any necessary payments incident to the foregoing; to exercise or to sell any conversion, subscription or similar rights; and in general to exercise in respect to any securities the unrestricted rights of a personal owner, including voting in person and granting proxies, discretionary, general or otherwise.

(v) To the extent permitted by law, to register any property held by them hereunder in their names as Personal Representatives or Trustees or in the names of nominees, or to take and keep the same unregistered, in bearer form or otherwise in such condition as to pass by delivery.

(w) To lend such sums out of the income (other than of any trust for the benefit of my spouse that qualifies for the marital deduction under either Federal or state law) or principal of the trusts hereunder and upon such terms and conditions as they deem advisable; provided, however, that adequate security be obtained from, and reasonable interest be charged to, the borrower.

(x) To guarantee loans made to any beneficiary hereunder.

(y) To trade on margin (but only with the approval of my spouse in the case of any trust that qualifies for the marital deduction under either Federal or state law) and, for such purpose, to maintain and operate a margin account with any broker and to pledge any property held hereunder with such broker for loans and advances made to them. In connection with the foregoing, my Personal Representatives and Trustees are authorized and empowered to hold title in and to property in bearer, nominee or other form, without disclosure of any trust, so that title may pass by delivery.

TENTH: (a) All the powers granted to my Personal Representatives and Trustees hereunder may be exercised after the termination of the trusts hereunder in connection with the proper

administration and distribution thereof.

(b) Notwithstanding any provision in this Will to the contrary, any power (including discretionary powers) granted to my Personal Representatives and Trustees hereunder shall be absolutely void to the extent that the right to exercise or the exercise thereof would in any way cause my estate to lose all or part of the tax benefit afforded my estate by the marital deduction provisions under either Federal or state laws; without limiting the foregoing, with respect to the trusts for my spouse under Articles FOURTH and FIFTH of this Will, (1) subdivisions (a), (b), (c) and (p) of the preceding Article of this Will shall not apply and (2) my spouse may direct the Trustees, from time to time, to sell any property held as part of the principal, if it produces little or no income, and to invest the proceeds of sale in property that produces sufficient income to assure that such trust will qualify for the marital deduction.

(c) If any person beneficially interested hereunder shall die in the course of or as a direct result of the same disaster, accident or calamity as shall cause my death or the death of the life beneficiary upon whose death said person's interest is to take effect or under such circumstances that it cannot be readily determined whether I or said person, or the life beneficiary or said person, as the case may be, died first, then, for the purposes of this Will, said person shall be deemed to have died before me or before said life beneficiary, and my estate shall pass in such manner as would occur hereunder if said person had predeceased me or said life beneficiary, as the case may be.

(d) I direct that my Personal Representative(s) shall exercise the right, under Section 2207A(a)(1) of the Code and under any similar provision of any state law, to recover from the persons receiving any property referred to in said provisions (including the Trustees of any trust other than the pre-residuary trust under Article FOURTH of my spouse's Will) the amount of estate and inheritance taxes (and any interest and penalties relating thereto) paid by my estate attributable to such property. Subject to the direction in the preceding sentence, all estate and inheritance taxes of whatever kind imposed by reason of my death upon the property disposed of in this Will and upon any other property, including insurance but not including the pre-residuary trust under Article FOURTH of my spouse's Will (the taxes on which are to be paid out of the residuary trust thereunder), otherwise disposed of and subject to the imposition of said taxes, shall be charged, without right of reimbursement, (1) if my spouse survives me, against the property disposed of in Article THIRD of this Will, or, to the extent that said property is insufficient, against my residuary estate, or, (2) if my spouse predeceases me, against my residuary estate.

For the foregoing purposes, estate and inheritance taxes shall include any generation-skipping transfer tax on a direct skip taking effect at my death (other than a direct skip from a trust not created by me), but no other generation-skipping transfer tax.

(e) Any income or principal payable to a beneficiary hereunder may, in the discretion of my Personal Representatives and Trustees, be applied by them for the benefit of said beneficiary.

(f) All testamentary powers of appointment granted in

this Will shall be exercisable by specific reference to this Will and, except as provided in subdivision (p) herein, shall not be exercisable in favor of the donee of the power or the donee's estate or creditors of the donee or of the donee's estate.

(g) Any person may renounce, in whole or in part, any provision in his or her favor hereunder and, in such event, the property covered by said provision, to the extent renounced, shall be disposed of as though said person had predeceased me, and if said property is to be held in trust, to the extent renounced, said property shall become free of the trust for said person (and of any power of appointment said person may have with respect thereto) and shall be disposed of as though said person had predeceased me. I do not intend by the foregoing to suggest that any particular person should so renounce.

(h) Any Personal Representative or Trustee who is an income beneficiary of a trust hereunder shall not be qualified to participate in the exercise of any power to make discretionary distributions to himself or herself or to make allocations, in his or her own favor, of receipts or expenses as between principal and income of such trust; nor shall any Personal Representative or Trustee participate in the exercise of a discretionary power to pay or apply income or principal to or for the benefit of a beneficiary whom said Personal Representative or Trustee (in his or her individual capacity) is then legally obligated to support; all said powers shall be exercisable by the other Personal Representative(s) or Trustee(s).

(i) With respect to any Personal Representative or Trustee who is interested, in his or her individual capacity, in any firm or corporation in which my estate or any trust hereunder may have an interest, I direct that he or she may deal freely with said firm or corporation in his or her individual capacity, notwithstanding that there may be a conflict with his or her fiduciary capacity hereunder, but I direct that if one or more of my Personal Representatives or Trustees has no such personal interest, then as to all matters pertaining to said firm or corporation involving such conflict of interest the decision of my estate and of said trust shall be made by said disinterested Personal Representative(s) or Trustee(s).

(j) A person from time to time qualified as Personal Representative or Trustee hereunder shall not be disqualified from purchasing assets of my estate, provided (1) said purchaser shall not participate as Personal Representative or Trustee in the decisions of the Personal Representatives or Trustees as to the price, conditions and terms of the sale, all of which decisions shall be made by the other Personal Representative(s) or Trustee(s); and (2) in fixing said price, conditions and terms said other Personal Representative(s) or Trustee(s) shall in all respects treat said purchaser in the same manner as though he or she were a third party, not qualified as Personal Representative or Trustee.

(k) My Personal Representatives and Trustees may purchase assets from or sell assets to other estates or trusts not created hereunder, notwithstanding that one or more of my said Personal Representatives and Trustees are fiduciaries of or beneficially interested in said estates or trusts; provided, however, that if one or more of my Personal Representatives or Trustees has no such interest, then as to all such matters the decision of my estate or of the trusts hereunder shall be made by said disinterested Personal Representative(s) or Trustee(s).

(l) My Personal Representatives and Trustees may exercise any rights or options with respect to any policy of life insurance held by them, whether granted in said policy or allowed by the insurer, including, but not limited to, surrendering, converting (into paid up or extended term insurance) or borrowing upon said policy; applying dividends against premiums or to purchase paid up additions; and exercising options with respect to surrender or payment of death proceeds.

(m) In any judicial proceeding involving my estate or any trust hereunder and in any non-judicial settlement of the account of a Personal Representative or Trustee hereunder, the interest of a person under disability may be represented by a party to such proceeding or settlement who is not under disability and who has the same interest.

(n) I direct that any administration expenses or debts charged to principal and not claimed and allowed as estate tax deductions shall be charged, (1) if my spouse survives me, against the property disposed of in Article THIRD of this Will, or, to the extent that said property is insufficient, against my residuary estate, or, (2) if my spouse predeceases me, against my residuary estate.

(o) I direct that all charges incurred by my Personal Representatives in storing, packing, shipping, delivering and insuring any property passing under the provisions of this Will, whether such property is specifically bequeathed or otherwise, shall be paid by my Personal Representatives as expenses of administering my estate.

(p) Notwithstanding the provisions of Article SEVENTH of this Will, if (1) pursuant thereto, upon the death of the beneficiary of a trust thereunder, any trust property would be set aside for a person who is assigned to a generation younger than that of the beneficiary under Section 2651 of the Code and if (2) said property would be subject to a generation-skipping transfer tax on the death of the beneficiary, but would not be subject to said tax to the extent that said property is includable in the beneficiary's estate for Federal estate tax purposes, then and in that event said property shall instead pass in such manner, including to his or her estate, if he or she shall so appoint, as the beneficiary shall by Will appoint with the unanimous prior written consent of all of the then qualified Trustees of said trust, except those whose required concurrence would prevent said power of appointment from being a "general power of appointment" within the meaning of Section 2041(b)(1) of the Code. Only if and to the extent that said power of appointment is not effectively exercised shall said property be disposed of as provided in said Article SEVENTH.

(q) Wherever in this Will property is directed to be added to or combined with an existing trust for a descendant of mine hereunder, my Personal Representatives and Trustees shall not combine property with different generation-skipping transfer tax inclusion ratios, as defined in Section 2642(a) of the Code, but shall add such property to the trust for such descendant hereunder which has the same generation-skipping transfer tax inclusion ratio as defined in Section 2642(a) of the Code as such property, or, if necessary, such property shall be held in a separate trust for such descendant, with said trust to have identical provisions to the existing trust for such descendant hereunder.

(r) If, at any time, there shall be a trust under the Will of my spouse, or a trust created by me or by my spouse during our lifetimes, for the same beneficiaries and subject to the same provisions as a trust under this Will (or as a trust intended to be created under this Will), my Personal Representatives and Trustees are authorized and empowered, in their absolute discretion, to transfer the principal held (or intended to be held) in trust hereunder to the Trustees of such other trust (whether or not the Trustees of such other trust or their successors are the Trustees nominated or appointed hereunder) or to combine them (unless such trusts have different generation-skipping transfer tax inclusion ratios, as defined in section 2642(a) of the Code), to form a single trust for simplicity and convenience of administration; provided, however, that if any such trusts are prevented from being combined or otherwise consolidated pursuant to the provisions of this subdivision because any such trust has a different maximum period of time that property held in such trust could remain held in such trust (the "perpetuities period"), the Trustees shall be permitted to combine or otherwise consolidate such trusts pursuant to the provisions of this subdivision with the resulting trust assigned the lesser of the perpetuities periods of the original trusts.

(s) I authorize and empower my Personal Representatives to allocate the GST Exemption allowable to me pursuant to Section 2631 of the Code, to the extent that it shall not have been allocated (or deemed allocated) by me during my lifetime, in such manner as they, in their absolute discretion, shall determine.

(t) In no event shall any trust hereunder continue longer than the maximum term allowable under Florida law (or any other state that may govern the provisions of my Will) in effect at the time of my death, and any trust then still in effect hereunder shall thereupon terminate and the then principal thereof shall be distributed absolutely to the beneficiary thereof.

(u) Every Personal Representative and Trustee hereunder, original and substitute, shall be chargeable only with said fiduciary's own respective receipts or acts, and shall not be liable for any loss or damage occurring hereunder without said fiduciary's willful default or deliberate wrongdoing, unless such loss or damage be occasioned by a violation of an express provision of this Will, and shall not be liable to my estate or any person beneficially interested hereunder for any loss or depreciation which may arise from any investment retained or made in accordance with the provisions of this Will or which may be occasioned by the exercise of any discretion authorized herein, whether such investment be continued or made in accordance with or in disregard of recommendations obtained as above provided.

(v) Wherever the context permits, the words "Personal Representatives" or "Trustees" shall be deemed to include "their survivor or survivors, successor or successors."

(w) To the extent permitted by law, none of the beneficiaries hereunder shall have the power to convey, anticipate, assign, encumber or in any way dispose of any part of the income or principal of their respective trust funds, nor shall said principal or income be in any way or in any amount answerable or chargeable with their duties, obligations, judgments or claims however arising, nor shall said principal or income be

taken or reached by any legal or equitable process in satisfaction thereof, it being my intent, so far as the law allows, to make said trusts what are commonly known as "spendthrift trusts."

(x) In determining whether or not to exercise any discretionary power to pay income or principal of my estate or any trust hereunder, my Personal Representatives or Trustees may, but shall not be required to, (1) with respect to the trusts created under Article THIRD, Article FOURTH, and subdivision (a) of Article FIFTH of this Will, take into account any other resources available to the beneficiary under consideration; (2) take into account any effect the exercise thereof may have on the respective tax liabilities of my estate or any trust hereunder and the beneficiary under consideration; and (3) consider and accept as correct any statement concerning these matters made by the beneficiary under consideration or on behalf of such beneficiary.

(y) I waive compliance by my Trustees with any law now or hereafter in effect requiring qualification, registration or accounting by my Trustees to any Court.

(z) Wherever reference is made in this Will to the "Code" it shall mean the Internal Revenue Code of 1986, as amended, and, if to any specific provision, it shall include any comparable provision of any subsequently enacted revenue law of the United States in effect from time to time.

ELEVENTH: The term "descendants" as used in this Will shall specifically exclude my daughter PAMELA BETH SIMON and her

descendants. Except as provided in Article SECOND of this Will, I have not made any provisions herein for PAMELA BETH SIMON or any of her descendants not out of lack of love or affection but because they have been adequately provided for.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 15 day of August, Two Thousand.



(L.S.)

The foregoing instrument, consisting of this and seventeen preceding typewritten pages, was signed, sealed, published and declared by SIMON L. BERNSTEIN, the Testator, to be his Last Will and Testament, in our presence, and we, at his request and in his presence and in the presence of each other, have hereunto subscribed our names as witnesses, this 15th day of August, Two Thousand at 2255 Glades Road, Boca Raton, Florida.

George A. Krieger residing at 1133 SW 20th Street

Boca Raton, FL

Thott O. Olt residing at 2415 NW 32nd St.

Boca Raton, FL

STATE OF FLORIDA)
 : SS.:
COUNTY OF PALM BEACH)

We, SIMON L. BERNSTEIN, *George D. Karibjanian* and *Robert Jacobowitz*, the Testator and the witnesses respectively, whose names are signed to the attached or foregoing instrument, were sworn, and declared to the undersigned officer that the Testator, in the presence of the witnesses, signed the instrument as his Last Will and that each of the witnesses, in the presence of the Testator and in the presence of each other, signed the Will as a witness.

[Signature]

Testator

George D. Karibjanian

Witness

[Signature]

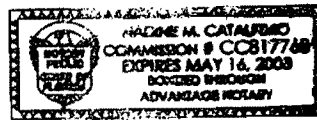
Witness

Subscribed and sworn to before me by SIMON L. BERNSTEIN, the Testator, and by *George D. Karibjanian* and *Robert Jacobowitz*, the witnesses, on *August 15*, 2000, all of whom personally appeared before me. SIMON L. BERNSTEIN is ~~personally known to me~~ or has produced _____ as identification. *George D. Karibjanian* is ~~personally known to me~~ or has produced _____ as identification. *Robert Jacobowitz* is ~~personally known to me~~ or has produced _____ as identification.

[Signature]

Notary Public (Affix Seal)

My commission expires:
My commission number is:



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

IN RE:

Case No. 502012CP004391-~~SB~~^{XXXXSB}

ESTATE OF SIMON
BERNSTEIN,
Deceased.

Division: IZ

2012 NOV -6 PM 2:07
SILVANO R. GONZALEZ, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH-FILES

STATEMENT OF CLAIM BY WILLIAM E. STANSBURY

The undersigned hereby presents for filing against the above estate this Statement of Claim and alleges:

1. The basis for the claim is the action pending in Palm Beach County, Florida, *Stansbury v. Bernstein, et. al*, Case No. 502012CA 013933XXXX MB (the "Pending Action"). A true and correct copy of the Complaint filed by claimant that initiated the Pending Action is attached hereto as Exhibit "A" and is hereby incorporated by reference herein (the "Complaint").

2. The name and address of the claimant are William E. Stansbury, 6920 Caviro Lane, Boynton Beach, Florida 33437, and the name and address of the claimant's attorney is set forth below.

3. The amount of the claim is in excess of \$2.5 million dollars, which the Claimant is entitled to recover under the claims set forth in the Complaint, which amount the Claimant believes is now due.

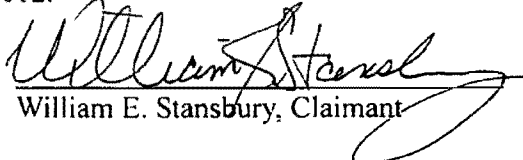
4. The claim is contingent or unliquidated and uncertain to the extent that the Claimant's claim is dependent on the outcome of the Pending Action. The specific amount of Claimant's claim will be determined in Pending Action and the Claimant expects to recover in excess of \$2.5 million dollars in damages, as well as, but not limited to, treble damages, pre-judgment and post-judgment interest, and costs.

5. The claim is not secured.

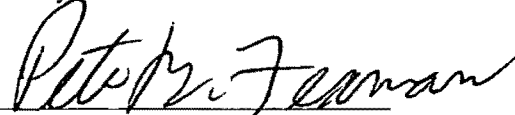
[Signature page follows this page]

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 November 6, 2012.

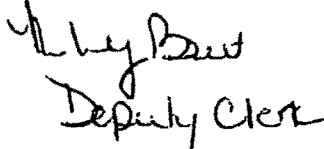

William E. Stansbury, Claimant

Attorneys for Claimant



Peter M. Feaman, Esq.
Florida Bar No.: 260347
PETER M. FEAMAN, P.A.
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Copy mailed to attorney for Personal
Representative on 11-7
2012.


Deputy Clerk

MUST BE FILED IN DUPLICATE

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

WILLIAM E. STANSBURY,
Plaintiff,

vs.

Case No.

50 2012 CA013 933XXXX

TED S. BERNSTEIN;
SIMON BERNSTEIN;
LIC HOLDINGS, INC.; and
ARBITRAGE INTERNATIONAL
MANAGEMENT, L.L.C., f/k/a
ARBITRAGE INTERNATIONAL
HOLDINGS, L.L.C.,
Defendants.

AA
COPY
RECEIVED FOR FILING
JUL 30 2012
SHARON R. BOCK
CLERK & COMPTROLLER
CIRCUIT CIVIL DIVISION

COMPLAINT
And JURY DEMAND

WILLIAM STANSBURY (PLAINTIFF"), by and through his undersigned co-counsel,
hereby demanding trial by jury of all issues so triable, hereby sues the Defendants, and says

1. This is an action for money damages in excess of \$15,000, and for equitable relief.
2. Plaintiff is *sui juris*, and a resident of Palm Beach County, Florida.
3. Defendants TED S. BERNSTEIN ("TED BERNSTEIN"), and SIMON BERNSTEIN are both *sui juris*, and are both residents of Palm Beach County, Florida.
4. The corporate Defendants, LIC HOLDINGS, INC.; and ARBITRAGE INTERNATIONAL MANAGEMENT, L.L.C., f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, L.L.C., are entities organized and existing under the laws of the State of Florida, all do business in the State of Florida and all have their principal offices in the State of Florida, and in Palm Beach County, Florida.
5. Defendants SIMON BERNSTEIN and TED BERNSTEIN (collectively "Defendants

BERNSTEIN") are, respectively, one another's father and son. They both own and control all of the corporate Defendants, and work closely together with respect thereto. In all matters involved herein, they worked closely together and were virtually one another's alter egos.

7 The acts and incidents giving rise to these causes of action occurred in Palm Beach County, Florida.

Background

8. Plaintiff has worked in the insurance field virtually all his adult life, and by 2003 had become well-known and highly regarded by major insurance companies, their principals, and by others throughout the insurance industry, at all levels thereof, as well as by professionals, including attorneys, CPAs, financial advisors, wealth managers and others who were involved in serving, or otherwise dealing with, insurers and insurance brokers.

9. SIMON BERNSTEIN dealt at high levels of the insurance industry, and specialized in developing and marketing insurance concepts suitable for persons of high net worth to incorporate in their wealth management and estate planning.

10. TED BERNSTEIN was actively involved in selling life insurance products in conjunction with attorneys, CPAs and other professionals, to be incorporated into clients' financial planning.

11. In 2003, TED BERNSTEIN approached Plaintiff, urging Plaintiff to spearhead the marketing of a unique insurance concept ("the said concept"), newly developed by a prominent law firm, which was designed for use in the financial and estate planning of wealthy individuals.

12. TED BERNSTEIN told Plaintiff that he knew of Plaintiff's knowledgeability, and reputation in the insurance and related industries and professions, and that Plaintiff was skilled

at, and accustomed to, speaking and marketing insurance products to, large groups of professionals, and that he realized that Plaintiff, because of his knowledgeability, reputation and abilities, would be ideal to market this concept nationwide, through prominent and experienced professionals..

13. SIMON BERNSTEIN proposed that Plaintiff work as an independent contractor for the Corporate Defendants, marketing the product to the above-described. He offered Plaintiff an arrangement whereby Plaintiff would receive twenty percent (20%) of all net retained amounts of commissions received from insurance companies and general agents' overrides (hereinafter, "commissions") which chose to issue policies of the type to be marketed, for use in the said financial and estate planning, and all other sales by the companies. Plaintiff would receive no other salary remuneration, but would have his travel and marketing expenses advanced or reimbursed. In time, when Plaintiff agreed to become an employee rather than an independent contractor, he agreed to a salary of the equivalent of 15% of commissions received on all products.

14. After reviewing the concept and considering the terms of the arrangement offered by SIMON BERNSTEIN, Plaintiff agreed with BERNSTEIN to accept the proposal described in preceding paragraph 13, and all the parties proceeded to act in accordance therewith.

15. Thereafter, Plaintiff worked with diligence and skill, traveling throughout the United States, generating ever increasing sales, and generating very large commissions for Defendants and for Plaintiff, who received the agreed salary equal to 15% thereof. By 2006, the parties hereto began receiving checks, not only for commissions on new policies sold, but also renewal commissions. Initially, the Plaintiff and Defendants BERNSTEIN, and one secretary, comprised the entire workforce. At the height of the sales campaign, Defendants' staff for serving the

business generated by Plaintiff consisted of more than 40 individuals.

16. In 2005, the Plaintiff was paid his commissions in the form of two IRS forms 1099, from National Services Association, and from Defendant ARBITRAGE INTERNATIONAL MARKETING, INC. for his services as an independent contractor.

17. In 2006, Plaintiff received his agreed salary as an employee, reflected in two IRS forms W-2., One W-2 was from ARBITRAGE INTERNATIONAL MARKETING, INC., and the other was from ARBITRAGE INTERNATIONAL HOLDINGS, INC., which later became Defendant ARBITRAGE INTERNATIONAL MANAGEMENT, INC.

18. Also in 2006, SIMON BERNSTEIN told Plaintiff that Plaintiff, was being rewarded for the explosive growth of business, through receiving a 10% interest in LIC.

19. In 2007, Plaintiff received his agreed salary as an employee, which salary was reflected in an IRS Form W-2.

20. With the economic downturn in 2008, Defendants looked for ways to withhold from Plaintiff compensation to which he was entitled, and to deceive him into believing that the money which would have been paid to both Defendants as well as to Plaintiff as compensation, was instead being held in the company's coffers.

21. In order to hide from Plaintiff the real fact that Defendants were paying to Defendants BERNSTEIN the full earnings received as commissions, and thereby depriving Plaintiff of the 15% thereof to which he was entitled, they knew they had to terminate Plaintiff's function of calculating each person's entitlement to payment out of commissions received. Therefore, in early 2008, SIMON BERNSTEIN told Plaintiff that the Defendants BERNSTEIN felt that Plaintiff was spending too much time on making the said calculations, and that Plaintiff's time would be better spent in building the business. SIMON BERNSTEIN told

Plaintiff that he and TED BERNSTEIN had decided to pay themselves and Plaintiff identical salaries of not less than \$1,000,000 each for 2008, and to distribute any profits beyond the total thus paid to the three owners, the Defendants BERNSTEIN and Plaintiff, according to their respective percentages of ownership, Plaintiff's share being 10%. Plaintiff, having thus far believed he was receiving whatever compensation he was entitled to, and having no reason to realize that this was a ruse to keep him in the dark as to the true state of affairs, readily acceded to his being relieved of the bookkeeping duties regarding calculating the disposition of moneys received.

22. Through misrepresentations made from 2008 through the date of filing of this Complaint, Defendants knowingly made false statements to Plaintiff to hide their scheme to withhold from Plaintiff's money to which he was entitled. For example, at times they claimed that money being received was not being paid as salary or distributions to either of Defendants BERNSTEIN but was being withheld and placed in company accounts, for eventual distribution. As Plaintiff and Defendants could afford to wait until year's end to be paid their distributions, and as Defendants BERNSTEIN assured Plaintiff that the payment arrangement would apply to all three equally, Plaintiff did not question the truthfulness of their representations..

23. In furtherance of their scheme to deprive Plaintiff of salary he had earned and to which he was entitled, Defendants intercepted mail addressed to Plaintiff, removed therefrom commission checks representing full commissions, deposited the same to their own accounts or otherwise converted the funds,, and willfully withhold from Plaintiff his salary. Defendants BERNSTEIN also opened Plaintiff's mail containing checks payable to him which were unrelated to Defendants' business.

24. In 2011, the Defendants BERNSTEIN decided to deceive Plaintiff into giving up

his 10% share in the business. Although he had never seen a stock certificate, Plaintiff had in fact been given K-1 statements reflecting his salary, which appeared to approximate 10% of the net profits or losses of LIC, after salary was paid. TED BERNSTEIN told Plaintiff that their accountants had discovered a taxable event which could cause all the owners of the company to have to pay taxes, and that they thought it would be unfair for Plaintiff to have to pay 10% of that tax, so TED BERNSTEIN promised that if Plaintiff would sign a paper ceding his 10% interest, TED BERNSTEIN would simply hold it and it would not become operative unless the tax liability came to exist. Plaintiff was assured that nothing would happen with the stock ownership until Plaintiff and the Defendants BERNSTEIN discussed the situation further after the Holiday Season.

25. Because of the misrepresentations, willful concealments of material facts, duplicity and deceit practiced by Defendants upon Plaintiff as described in preceding paragraphs 20 through 24, Plaintiff was reasonably of the belief that Defendants had complied, or intended to comply, with their material obligations to Plaintiff under the contract between them, and therefore was prevented from knowing, for a period of years, that these causes of action existed. The acts of Defendants in making false statements and withholding material information continues from its inception to the date of the filing hereof.

I. ACCOUNTING
(Against LIC and ARBITRAGE, for Accounting
as to Withholding of Money Due Plaintiff)

26. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive.

27. The relationship between Plaintiff and the Defendants, particularly as affected by

Defendants' acts described in preceding paragraphs 20 through 25, inclusive, created a situation where Defendants had sole access to, receipts generated by Plaintiff's efforts, and to books and records reflecting said receipts and the other information from which can be calculated all moneys due to Plaintiff under his arrangement with Defendants.

28, The period of time during which Plaintiff has been deprived of moneys due him spans approximately four and a half years, the numerosity of the sources of receipts by Defendants of moneys from which the amounts due Plaintiff may be calculated, and the changes in the formula under which, and manner in which, Plaintiff was to be paid, all involve extensive and complicated accounts, and Plaintiff's remedy at law could not be as full, adequate and expeditious as it is in equity.

WHEREFORE, Plaintiff prays for an adjudication of Plaintiff's right to a full and complete accounting from Defendants, and for such orders of Court as will require the Defendants to provide Plaintiff with all records and copies of documents, dated from the date in 2003 when Plaintiff first began his efforts to generate sales of the concept described in paragraph 11 above to the present, as will reveal his right to, and the amount of, all amounts: (a) received as commissions on said concepts or any other commissions as to which Plaintiff was entitled to a share; (b) due to Plaintiff, whether paid or not; (c) paid to Plaintiff, whether for commissions, salary, distributions, expenses or any other reason; (d) paid to each of the Defendants out of moneys received as commissions; (e) deposits of any and all moneys received as commissions by any Defendants to any accounts, including the name of the entity whose account was involved, the number(s) of each such account; the address of the branch or other facility through which any Defendant dealt with such entity; (f) calculations as to moneys paid, to be paid, or not to be paid to Plaintiff, together with such other and further relief as the Court may deem just

and appropriate.

II. ACCOUNTING
(Against TED S. BERNSTEIN and SIMON BERNSTEIN, for Accounting
as to Money Due to Plaintiff Which Said Defendants Converted)

29. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive.

30. The relationship between Plaintiff and the Defendants, particularly as affected by Defendants' acts described in preceding paragraphs 20 through 25, inclusive, created a situation where Defendants had sole access to, receipts generated by Plaintiff's efforts, and to books and records reflecting said receipts and the other information from which can be calculated all moneys due to Plaintiff under his arrangement with Defendants.

31. The period of time during which Plaintiff has been deprived of moneys due him spans approximately four and a half years, the numerosity of the sources of receipts by Defendants of moneys from which the amounts due Plaintiff may be calculated, and the changes in the formula under which, and manner in which, Plaintiff was to be paid, all involve extensive and complicated accounts, and Plaintiff's remedy at law could not be as full, adequate and expeditious as it is in equity.

WHEREFORE, Plaintiff prays for an adjudication of Plaintiff's right to a full and complete accounting from Defendants, and for such orders of Court as will require the Defendants to provide Plaintiff with all records and copies of documents, dated from the date in 2003 when Plaintiff first began his efforts to generate sales of the concept described in paragraph 11 above to the present, as will reveal his right to, and the amount of, all amounts: (a) received as commissions on said concepts or any other commissions as to which Plaintiff was entitled to a

share; (b) due to Plaintiff, whether paid or not; (c) paid to Plaintiff, whether for commissions, salary, distributions, expenses or any other reason; (d) paid to each of the Defendants out of moneys received as said commissions; (e) deposits of any and all moneys received as commissions by any Defendants to any accounts, including the name of the entity whose account was involved, the number(s) of each such account; the address of the branch or other facility through which any Defendant dealt with such entity; (f) calculations as to moneys paid , to be paid, or not to be paid to Plaintiff, together with such other and further relief as the Court may deem just and appropriate.

III. BREACH OF ORAL CONTRACT
(Against All the Defendants)

32. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive.

33. The arrangement between Plaintiff and Defendants as described in paragraphs 11 and 13 above, and as modified by the parties as further described above, constituted a contract between them.

34. An express term of that contract involved the commitment of Defendants to calculate, and to pay to Plaintiff, fully and timely, all sums due to him under the parties' contract, whether as commissions, salary, distributions, expenses or any other reason

35. The parties initially performed the duties required of them under said contract.

36. However, as described above in paragraphs 20 through 25, inclusive, Defendants willfully and maliciously agreed to breach their contract with Plaintiff by withholding from Plaintiff moneys due him under the contract.

37. Defendants did withhold such moneys due Plaintiff.

38. The withholding of such moneys constituted a material breach of the contract between Plaintiff and Defendants.

39. There is therefore due to Plaintiff from Defendants all amounts due under said contract, together with prejudgment and post-judgment interest on said amounts.

WHEREFORE, Plaintiff prays for judgment against Plaintiffs, jointly and severally, for the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts, together with such other and further relief as the Court may deem just and appropriate.

IV. BREACH OF IMPLIED COVENANT OF GOOD FAITH and FAIR DEALING

40. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive, and paragraphs 33 through 38, inclusive.

41. The said contract, as a matter of law, contained an implied covenant of good faith and fair dealing, obligating the parties to honor every express term of the agreement..

42. Among the express terms of the oral contract between the parties were (a) that Plaintiff would be constantly apprised, either through being permitted to calculate all amounts due the Defendants out of commissions, or through being advised of all receipts of commissions and the disposition thereof, or the amounts due to Plaintiff for any reason under the terms of the contract; and (b) that Plaintiff would be fully and promptly paid all such amounts due him.

43. Through their actions as described in preceding paragraphs 20 through 25, inclusive, the Defendants willfully breached the said express of the contract.

WHEREFORE, Plaintiff prays for judgment against Plaintiffs, jointly and severally, for

the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts, together with such other and further relief as the Court may deem just and appropriate.

V. BREACH OF FIDUCIARY DUTY

41. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive.

42. Plaintiff reposed full confidence in the defendants BERNSTEIN, and trusted them and relied on them to be as good as their word and to deal honestly with him, for a variety of reasons. Plaintiff knew of SIMON BERNSTEIN as a major figure in the insurance industry, prior to their becoming parties to the agreement involved herein. Moreover, Plaintiff and the Defendants BERNSTEIN had formed a social relationship which had grown into what Plaintiff regarded as friendship. Moreover, as the initial situation under their contractual relationship had Plaintiff receiving all information as to commissions received and calculating the amount of money due to Plaintiff and the Defendants BERNSTEIN, as mentioned in preceding paragraphs 21 and 22, and also because Plaintiff was told he had been given a minority shareholder interest in LIC, Plaintiff reasonably felt that the Defendants would deal with Plaintiff honestly and fairly, and that the Defendants had no intention of hiding from Plaintiff any information as to the amounts due Plaintiff or as to the Defendants' intention of paying said amounts to Plaintiff

43. Moreover, when Defendants proposed to Plaintiff that Plaintiffs cease being the one to calculate moneys due the parties out of commissions received, the Plaintiff trusted Defendants to make proper, accurate and complete calculations, as Plaintiff had done, and to pay Plaintiff accordingly.

44. Furthermore, when Defendants BERNSTEIN made statements to Plaintiff as to why payments due him were not being paid, as described, for example, in preceding paragraphs 22 through 25, inclusive, and 42, he trusted Defendants to be telling Plaintiff the truth,

45. As a result of the foregoing, a fiduciary relationship existed between Defendants BERNSTEIN and Plaintiff, and there existed in Plaintiff complete confidence and trust in the said Defendants, of which confidence and trust said Defendants were well aware.

46. Defendants BERNSTEIN accepted the trust which Plaintiff reasonably placed in them.

47. Through Defendants' willful misrepresentations and withholding of material information as to their intentions and the purposes for which Plaintiff's payments were not being paid, and through their diversion from Plaintiff of amounts which should have been paid to him, Defendants abused and betrayed Plaintiff's trust and confidence in them, to Plaintiff's great detriment, in that he has been deprived of the said amounts due him, the precise amount of which cannot be calculated without access to Defendants' books and records, and a full accounting by them.

WHEREFORE, Plaintiff prays for judgment against Plaintiffs, jointly and severally, for the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts, together with such other and further relief as the Court may deem just and appropriate.

VI. CIVIL THEFT
Against All Defendants

48. This is an action for Civil Theft under Chapter 772, Florida Statutes, more

specifically §772.11, Fla.Stats.

49. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive.

50. All funds which Defendants' records will reveal are due to Plaintiff but which have been deposited to any of the Defendants' accounts or which have been received by any Defendant or diverted by any Defendant to any recipient but Plaintiff are the specific funds to which this Count relates.

51. By refusing to pay to Plaintiff funds due him under their agreement, and by paying said sums to themselves or to others, Defendants have been guilty of criminal theft by conversion, which has been and continues to be performed by Defendants with the criminal intent of stealing his money and depriving him of the possession and use thereof.

52. Written demand for payment of all amounts due Plaintiff has been made to Defendants, more than 30 days preceding the filing of this Complaint, to no avail.

WHEREFORE, Plaintiff prays for judgment against Plaintiffs, jointly and severally, for three times the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts, and such other remedies as may be awarded Plaintiff under other Counts herein, together with such other and further relief as the Court may deem just and appropriate, together with such other and further relief as the Court may deem just and appropriate.

VII. FRAUD
(Against All Defendants)

53. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated

herein, preceding paragraphs 1 through 24, inclusive.

54. Defendants, with the intent to defraud Plaintiff by preventing his receipt of moneys due him from Defendants as commissions, salary, distributions, expenses, and otherwise, made false statements to him and withheld material information from him, all as specifically set forth in preceding paragraphs 20 through 24 above.

55. At the time said statements were made, Defendants knew that they were material and false, and that Plaintiff would rely thereon. At the time said material information was withheld from Plaintiffs, Defendants knew that the information being withheld was material, and that the withholding of the information would cause Plaintiff to rely on the absence of said information

56. Defendants intended for Plaintiff to rely on said false statements of material fact and to rely on the absence of the material facts which were withheld.

57. Plaintiff did rely on the false statements and the withholding of material information, and was damaged thereby. Through the loss the possession and use of moneys due him but withheld by Defendants under their scheme to defraud him of said money.

58. The behavior of Defendants in deceiving Plaintiff and in abusing the trust they had engendered in Plaintiff, as set forth in preceding paragraphs 42 through 47, which are incorporated herein by reference as if expressly restated herein, was in willful and conscious disregard of his rights, and was of such a concerted, premeditated, and outrageous nature as to go beyond the bounds of decency, and constituted rampant fraud.

WHEREFORE, Plaintiff prays for judgment against Plaintiffs, jointly and severally, for the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts, together with such other and further relief as the Court may deem just and appropriate.

VIII. EQUITABLE LIEN

59. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive, and paragraphs 54 through 58, inclusive.

60. The bank accounts into which any of the commissions received by Defendants as to which Plaintiff was to receive a share of commissions received, and the operating accounts and other accounts of the corporate Defendants into which said commission checks were deposited were intended by Defendants and by Plaintiff to be the source out of which Plaintiff would be paid, and they therefore were intended to be, and therefore should be, charged by this Court with the obligation of being the source of all amounts Plaintiff was and is to be paid, including amounts not yet paid.

61. Any and all other accounts into which were deposited said commissions or any part thereof, out of which Plaintiff was to be paid, should, out of general considerations of right and justice as applied to the relations of the parties and the circumstances of their dealings, be charged with the obligation of paying Plaintiff.

WHEREFORE, Plaintiff prays for judgment against Plaintiffs, jointly and severally, for the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts. Plaintiff further prays for the Court to declare and establish an equitable lien in favor of Plaintiff on all the accounts described in preceding paragraphs 60 and 61, and for all other accounts into which said commissions have been or will be wholly or partly diverted, and on all assets of Defendants or third parties which have been purchased wholly or partly with the

diversion of said funds due Plaintiff. Plaintiff further prays for such other and further relief as the Court may deem just and appropriate.

IX. CONTRACT IMPLIED IN LAW

62. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 25, inclusive.

63. By keeping the moneys due Plaintiff, Defendants have been unjustly enriched.

64. By agreeing to permit Defendants to receive, possess and control the paperwork revealing commissions received, and by agreeing that Defendants would assume the function of calculating amounts due the parties, Plaintiff conferred on Defendants the benefit of controlling the disposition of the funds received, including those due Plaintiff. The Defendants, having induced Plaintiff to confer said benefit, knew of the benefit and accepted and retained the benefit and abused it to defraud the Plaintiff.

65. The Circumstances are such that it would be inequitable for the Defendants to retain the benefit of the possession and use of funds due Plaintiff

WHEREFORE, Plaintiff prays for judgment that there exists a contract implied in law with the terms against Defendants described above, and for judgment against all Defendants, jointly and severally, for the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts, together with such other and further relief as the Court may deem just and appropriate.

X. CONSTRUCTIVE TRUST

66. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive.

67. The bank accounts into which any of the commissions received by Defendants as to which Plaintiff was to receive a share of commissions received, and the operating accounts and other accounts of the corporate Defendants into which said commission checks were deposited were intended by Defendants and by Plaintiff to be the source out of which Plaintiff would be paid, and they therefore were intended to be, and therefore should be, charged by this Court with the obligation of being the source of all amounts Plaintiff was and is to be paid, including amounts not yet paid.

68. Any and all other accounts into which were deposited said commissions or any part thereof, out of which Plaintiff was to be paid, should, out of general considerations of right and justice as applied to the relations of the parties and the circumstances of their dealings, be charged with the obligation of paying Plaintiff.

.WHEREFORE, Plaintiff prays for judgment against Plaintiffs, jointly and severally, for the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts. Plaintiff further prays for the Court to declare and establish a constructive trust in favor of Plaintiff on all the accounts described in preceding paragraphs 60 and 61, and for all other accounts into which said commissions have been or will be wholly or partly diverted, and on all assets of Defendants or third parties which have been purchased wholly or partly with the diversion of said funds due Plaintiff. Plaintiff further prays for such other and further relief as the Court may deem just and appropriate.

XI. INDEMNIFICATION

69. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive.

70. When Defendants entered the arrangement with Plaintiff described in preceding paragraph 13, SIMON BERNSTEIN, acting for himself and on behalf of the corporate Defendants and TED BERNSTEIN, and for their collective and shared benefit, told Plaintiff that it would be better for the simplicity of administration, if Plaintiff would arrange for all commissions, paid by insurance companies for sales of the said product by the Defendant companies, to be paid in the name of Plaintiff, even though Plaintiff would ultimately receive only 15% thereof.

71. Plaintiff, believing the representation that this was being requested solely to simplify bookkeeping and administration, agreed to receive all commissions in his own name, even though the bulk of each commission would become the property of the various Defendants.

72. At the time Defendants, through SIMON BERNSTEIN, represented to Plaintiff that the reason for their request that Plaintiff receive all commissions solely in his own name was for administrative simplicity, they knew that they had an ulterior motive in making this request. Their said motive was that, in the event any insurance company which had paid a commission for sale of the said product were to request a full refund of the commission on the ground that the insurance client or the broker had falsified the application for the policy, Defendants intended to disclaim liability therefor, and to avoid personal and corporate responsibility for any requests for refund of commissions paid, even though they collectively have received 85% of each such commission.

73. Plaintiff, acting in good faith, did not realize that Defendants were concealing this motive, or that such was their motive, and he reasonably relied on their representations as to the reason for the request, to his detriment.

74. As a direct and proximate result of the Defendants' representations, Plaintiff will have nominal full liability for refund of any commissions thus sought to be refunded as described in preceding paragraph 72. Such liability creates the certainty that requests for refunds will be made solely to Plaintiff, even though Defendants received 85% of the commissions.. Such disproportionate and unfair liability has been caused by the willful misrepresentation by Defendants.

75. Plaintiff was without fault in reasonably relying on the said representations.

76. Defendants were solely at fault in creating the said liability.

77. There was a special relationship between Plaintiff and the Defendants, because Plaintiff was acting as the nominal agent for Defendants in receiving in his name 100% of the commissions, making him vicariously liable for the refund of the 85% of commissions which were retained by Defendants for their own benefit.

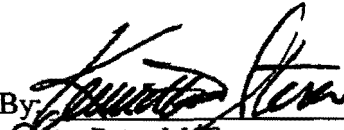
78. Moreover, Defendants had ceased to pay Plaintiff any commissions. Instead, as an employee he was now receiving a salary. To reflect Plaintiff's successful generation of Defendants' business, Defendants made Plaintiff's salary approximate 15% of the amount of commissions received. Nonetheless, as Plaintiff was not receiving any share of commissions *per se*, he should not have his indemnification limited to 85%, but rather it should be to the full 100% of all commissions being refunded.

WHEREFORE, Plaintiff prays for a Judgment in his favor, and against all Defendants, Adjudicating them under an obligation to defend, hold harmless and indemnify Plaintiff from

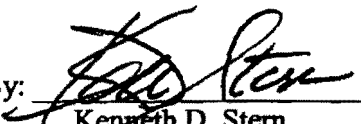
and against refund claims for said commissions, to the extent of 100% thereof, and for such other and further relief as the Court shall deem just and appropriate.

July 30, 2012

Peter M. Feaman, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel: 561-734-5552 Fax: 561-734-5554
pfeaman@feamanlaw.com

By: 
Peter M. Feaman
Fla. Bar No. 260347

Kenneth D. Stern, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel: 561-740-1413 Fax: 561-734-5554
kdstern@gmail.com

By: 
Kenneth D. Stern
Fla. Bar No. 0244929

STATE OF FL

COUNTY OF PALM BEACH

Court File No. 502012CP004391XXXXSB

In Re: Estate of
SIMON L BERNSTEIN

WRITTEN STATEMENT OF CLAIM

TO THE PERSONAL REPRESENTATIVE OF THE ABOVE NAMED ESTATE:

Claimant Wells Fargo Bank, N.A. states;

1. Claimant's Address: Attn: Specialty 1 HOME CAMPUS, MAC# X2303-023, Des Moines, IA 50328;
2. Claimant claims that the estate is indebted or will become indebted in the amount of \$523,019.85 plus any interest accrued after the date of this claim and any fees and/or costs accrued after the date of this claim that are required to secure the recovery of the original claim amount);
3. That the nature of the claim is Home Equity Line of Credit Account Number ending in 190001;
4. That the claim arose prior to the death of the decedent on or about 6/8/2004, or the claim arose at or after the death of the decedent, on or about 9/13/2012;
5. That claim is secured by 7020 LIONS HEAD LANE, BOCA RATON, FL 33496;
6. That claim was or will be due and payable as per terms of contract.
7. That if the claim is contingent or un-liquidated, the nature if the uncertainty is as follows:

2012 NOV -9 PM 2:51
 FILED
 SHARON R. BOCCA, CLERK
 PALM BEACH COUNTY, FL
 CIRCUIT PROBATE 2

Dated Thursday, October 25, 2012

Wells Fargo Bank, N.A.

Debra Borrall

Debra Borrall, Vice President Loan Documentation

Wells Fargo Servicing Center
 1 Home Campus
 Des Moines, IA 50328-0001
 MAC # X2303-023
 866-401-7737

Note: Claim may be presented to Personal Representative or filed with Court Administrator.

Copy Mailed to Attorney
 on **NOV 16 2012**
 Clerk of Circuit Civil
 By: *Elizabeth Burton*

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF PROBATE DIVISION

SIMON BERNSTEIN, File No.: 50 2012 CP 004391 IZ XXXX SB
Deceased.

2012 NOV 21 PM 1:23
SHARON L. BUCK, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH-FILED

**NOTICE OF FILING
PROOF OF PUBLICATION
OF NOTICE TO CREDITORS**

ROBERT L. SPALLINA and DONALD R. TESCHER, as co-Personal Representatives of the Estate of Simon Bernstein, deceased, by and through the undersigned attorney, files herewith the Proof of Publication of the Notice to Creditors with reference to the above-styled Estate.

Dated this 20th day of November, 2012.

Respectfully Submitted,

TESCHER & SPALLINA, P.A.

By: 

ROBERT L. SPALLINA, ESQUIRE
Florida Bar No. 0497381
Attorney for Personal Representative
Florida Bar No. 121086
4855 Technology Way, Ste. 720
Boca Raton, FL 33431
561-997-7008
Primary: rspallina@tescherspallina.com
Secondary: kmoran@tescherspallina.com

2012 NOV 21 PM 1:23

SHARON R. BOYD, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH-FILED

PALM BEACH DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and
Legal Holidays
West Palm Beach, Palm Beach County, Florida

STATE OF FLORIDA COUNTY OF PALM BEACH:

Before the undersigned authority personally appeared N. LYONS, who on oath says that he or she is the LEGAL CLERK, Legal Notices of the Palm Beach Daily Business Review *t/k/a* Palm Beach Review, a newspaper published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

502012CP004391XXXXSB
NOTICE TO CREDITORS
IN RE: ESTATE OF SIMON L. BERNSTEIN, DECEASED

in the CIRCUIT Court,
was published in said newspaper in the issues of

10/16/2012 10/23/2012

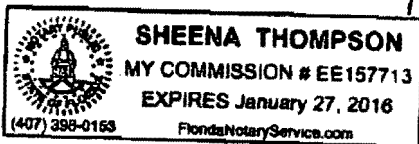
Affiant further says that the said Palm Beach Daily Business Review is a newspaper published at Palm Beach, in said Palm Beach County, Florida and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, and has been entered as second class mail matter at the post office in West Palm Beach in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me this

23 day of OCTOBER, A.D. 2012

(SEAL)

N. LYONS personally known to me



NOTICE TO CREDITORS
IN THE CIRCUIT COURT FOR
PALM BEACH COUNTY, FL
PROBATE DIVISION
File No. 502012CP004391-
XXXXSB

IN RE: ESTATE OF
SIMON L. BERNSTEIN,
Deceased.

The administration of the estate of SIMON L. BERNSTEIN, deceased, whose date of death was September 13, 2012, File Number 502012CP-004391XXXXSB, is pending in the Circuit Court for Palm Beach County, Florida, Probate Division, the address of which is Palm Beach South County Courthouse, 200 W. Atlantic Avenue, Attn: Probate Division, Room 170, Delray Beach, FL 33444. The names of the personal representative and the personal representative's attorney and his address are set forth below.

All creditors of the decedent and other persons having claims or demands against decedent's estate on whom a copy of this notice has been served must file their claims with this Court WITHIN THE LATER OF THREE (3) MONTHS AFTER THE FIRST PUBLICATION OF THIS NOTICE OR THIRTY (30) DAYS AFTER THE TIME OF SERVICE OF A COPY OF THIS NOTICE ON THEM.

All other creditors of the decedent and other persons having claims or demands against decedent's estate must file their claims with this court WITHIN THREE (3) MONTHS AFTER THE DATE OF THE FIRST PUBLICATION OF THIS NOTICE.

ALL CLAIMS NOT SO FILED WILL BE FOREVER BARRED.

NOTWITHSTANDING THE TIME PERIOD SET FORTH ABOVE, ANY CLAIM FILED TWO (2) YEARS OR MORE AFTER THE DECEDENT'S DATE OF DEATH IS BARRED.

The date of first publication of this Notice is October 16, 2012.

Personal Representative:

ROBERT L. SPALLINA

7387 Wisteria Avenue
Parkland, FL 33076

DONALD R. TESCHER

2600 Whispering Oaks Lane
Delray Beach, FL 33445

Attorney for Personal Representative:

ROBERT L. SPALLINA, ESQUIRE

Florida Bar No: 0497381

TESCHER & SPALLINA, P.A.

4855 Technology Way, Ste. 720
Boca Raton, FL 33431

561-997-7008

Primary:

rspallina@tescherspallina.com

Secondary:

kmoran@tescherspallina.com

10/16-23 12-7-74/1964019P

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL
IN RE: ESTATE OF PROBATE DIVISION
SIMON L. BERNSTEIN, File No. 502012CP004391IZXXXXSB
Deceased.

NOTICE TO CREDITORS

The administration of the estate of SIMON L. BERNSTEIN, deceased, whose date of death was September 13, 2012, File Number 502012CP004391IZXXXXSB, is pending in the Circuit Court for Palm Beach County, Florida, Probate Division, the address of which is Palm Beach South County Courthouse, 200 W. Atlantic Avenue, Attn: Probate Division, Room 170, Delray Beach, FL 33444. The names of the personal representative and the personal representative's attorney and his address are set forth below.

All creditors of the decedent and other persons having claims or demands against decedent's estate on whom a copy of this notice has been served must file their claims with this Court WITHIN THE LATER OF THREE (3) MONTHS AFTER THE FIRST PUBLICATION OF THIS NOTICE OR THIRTY (30) DAYS AFTER THE TIME OF SERVICE OF A COPY OF THIS NOTICE ON THEM.

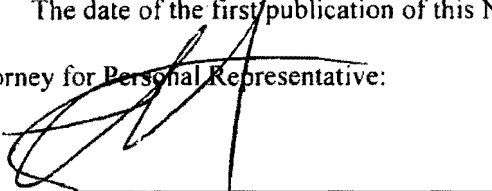
All other creditors of the decedent and other persons having claims or demands against decedent's estate must file their claims with this court WITHIN THREE (3) MONTHS AFTER THE DATE OF THE FIRST PUBLICATION OF THIS NOTICE.

ALL CLAIMS NOT SO FILED WILL BE FOREVER BARRED.

NOTWITHSTANDING THE TIME PERIOD SET FORTH ABOVE, ANY CLAIM FILED TWO (2) YEARS OR MORE AFTER THE DECEDENT'S DATE OF DEATH IS BARRED.

The date of the first publication of this Notice is October 16, 2012.

Attorney for Personal Representative:


ROBERT L. SPALLINA, ESQUIRE
Florida Bar No. 0497381
Tescher & Spallina, P.A.
4855 Technology Way, Ste. 720
Boca Raton, FL 33431
561-997-7008
Primary: rspallina@tescherspallina.com
Secondary: kmoran@tescherspallina.com

Personal Representative:

ROBERT L. SPALLINA
7387 Wisteria Avenue
Parkland, FL 33076
DONALD R. TESCHER
2600 Whispering Oaks Lane
Delray Beach, FL 33445

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF PROBATE DIVISION

SIMON BERNSTEIN, File No.: 502012CP004391 IZ XXXX SB
Deceased.

2012 NOV 21 PM 1:24
SHANDI L. TESCHER, CLERK
PALM BEACH COUNTY, FL
SOUTH COURT HOUSE-FILED

**NOTICE OF FILING
PROOF OF PUBLICATION
OF NOTICE OF ADMINISTRATION**

ROBERT L. SPALLINA and DONALD R. TESCHER, as co-Personal Representatives of the Estate of Simon Bernstein, deceased, by and through the undersigned attorney, files herewith the Proof of Publication of the Notice of Administration with reference to the above-styled Estate.

Dated this 20th day of November, 2012.

Respectfully Submitted,

TESCHER & SPALLINA, P.A.

By: 

ROBERT L. SPALLINA, ESQUIRE
Florida Bar No. 0497381
Attorney for Personal Representative
Florida Bar No. 121086
4855 Technology Way, Ste. 720
Boca Raton, FL 33431
561-997-7008
Primary: rspallina@tescherspallina.com
Secondary: kmoran@tescherspallina.com

PALM BEACH DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and
Legal Holidays
West Palm Beach, Palm Beach County, Florida

STATE OF FLORIDA COUNTY OF PALM BEACH:

Before the undersigned authority personally appeared N. LYONS, who on oath says that he or she is the LEGAL CLERK, Legal Notices of the Palm Beach Daily Business Review f/k/a Palm Beach Review, a newspaper published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

502012CP004391XXXXSB
NOTICE OF ADMINISTRATION
IN RE: ESTATE OF SIMON L. BERNSTEIN, DECEASED

in the CIRCUIT Court,
was published in said newspaper in the issues of

10/16/2012 10/23/2012

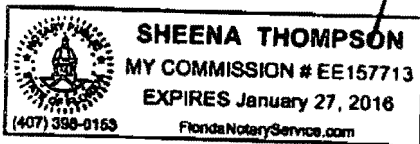
Affiant further says that the said Palm Beach Daily Business Review is a newspaper published at Palm Beach, in said Palm Beach County, Florida and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, and has been entered as second class mail matter at the post office in West Palm Beach in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me this

23 day of OCTOBER A.D. 2012

(SEAL)

N. LYONS personally known to me



NOTICE OF ADMINISTRATION

IN THE CIRCUIT COURT FOR
PALM BEACH COUNTY, FL
PROBATE DIVISION

File No. 502012CP004391-
XXXXSB

IN RE: ESTATE OF
SIMON L. BERNSTEIN,
Deceased.

The administration of the estate of SIMON L. BERNSTEIN, deceased, File Number 502012CP-004391XXXXSB is pending in the Circuit Court for Palm Beach County, Florida, Probate Division, the address of which is Palm Beach South County Courthouse, 200 W. Atlantic Avenue, Delray Beach, Florida 33444. The decedent's Will, which is dated July 25, 2012, has been admitted to probate. The name and address of the personal representative and the personal representative's attorney are set forth below.

A beneficiary of a Will or Codicil described above is not required to have an attorney or to file and document in order to receive the inheritance provided in that Will or Codicil.

Any interested person on whom a copy of this Notice of Administration is served who challenges the validity of the Will and/or Codicil, qualifications of the personal representative, venue, or jurisdiction of the court, is required to file any objection with the court following the form and procedure provided in the Florida Probate Rules WITHIN THE TIME REQUIRED BY LAW, which is on or before the date that is three (3) months after the date of service of a copy of the Notice of Administration on that person, or those objections are forever barred.

A petition for determination of exempt property is required to be filed by or on behalf of any person entitled to exempt property under Section 732.402 of the Florida Probate Code WITHIN THE TIME REQUIRED BY LAW, which is on or before the later of the date that is four (4) months after the date of service of a copy of the Notice of Administration on that person or the date that is forty (40) days after the date of termination of any proceeding involving the construction, admission to probate, or validity of the Will and/or Codicil or involving any other matter affecting any part of the exempt property, or the right of the personal to exempt property is deemed to have been waived.

Any election to take an elective share must be filed WITHIN THE TIME REQUIRED BY LAW, which is on or before the earlier of the date that is six (6) months after the date of service of a copy of the Notice of Administration on the surviving spouse, or an attorney in fact

or a guardian of the property of the surviving spouse, or the date that is two (2) years after the date of the decedent's death.

Co-Personal Representatives:

ROBERT L. SPALLINA
7387 Wisteria Ave.

Parkland, FL 33076

DONALD R. TESCHER
2600 Whispering Oaks Lane
Delray Beach, FL 33445

Attorney for Personal

Representative:

ROBERT L. SPALLINA, ESQUIRE
Florida Bar No. 497381

TESCHER & SPALLINA, P.A.
4855 Technology Way, Ste. 720
Boca Raton, FL 33431

561-997-7008

Primary:

rspallina@tescherspallina.com

Secondary:

kmoran@tescherspallina.com

10/16-23

12-7-73/1964015P

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF

PROBATE DIVISION

SIMON L. BERNSTEIN,

File No. 502012CP004341
IZ XXXXSB

Deceased.

NOTICE OF ADMINISTRATION

The administration of the estate of SIMON L. BERNSTEIN, deceased, File Number 502012CP004341 IZ is pending in the Circuit Court for Palm Beach County, Florida, Probate Division, the address of which is Palm Beach South County Courthouse, 200 W. Atlantic Avenue, Delray Beach, Florida 33444. The decedent's Will, which is dated July 25, 2012, has been admitted to probate. The name and address of the personal representative and of the personal representative's attorney are set forth below. XXXX 2

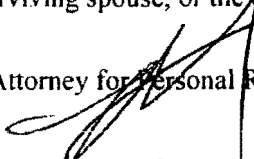
A beneficiary of a Will or Codicil described above is not required to have an attorney or to file and document in order to receive the inheritance provided in that Will or Codicil.

Any interested person on whom a copy of this Notice of Administration is served who challenges the validity of the Will and/or Codicil, qualifications of the personal representative, venue, or jurisdiction of the court, is required to file any objection with the court following the form and procedure provided in the Florida Probate Rules **WITHIN THE TIME REQUIRED BY LAW**, which is on or before the date that is three (3) months after the date of service of a copy of the Notice of Administration on that person, or those objections are forever barred.

A petition for determination of exempt property is required to be filed by or on behalf of any person entitled to exempt property under Section 732.402 of the Florida Probate Code **WITHIN THE TIME REQUIRED BY LAW**, which is on or before the later of the date that is four (4) months after the date of service of a copy of the Notice of Administration on that person or the date that is forty (40) days after the date of termination of any proceeding involving the construction, admission to probate, or validity of the Will and/or Codicil or involving any other matter affecting any part of the exempt property, or the right of the personal to exempt property is deemed to have been waived.

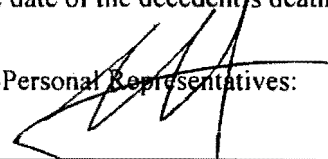
Any election to take an elective share must be filed **WITHIN THE TIME REQUIRED BY LAW**, which is on or before the earlier of the date that is six (6) months after the date of service of a copy of the Notice of Administration on the surviving spouse, or an attorney in fact or a guardian of the property of the surviving spouse, or the date that is two (2) years after the date of the decedent's death.

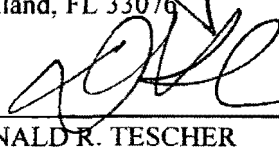
Attorney for Personal Representative:



ROBERT L. SPALLINA, ESQUIRE
Florida Bar No. 497381
Tescher & Spallina, P.A.
4855 Technology Way, Ste. 720
Boca Raton, FL 33431
561-997-7008
Primary: rspallina@tescherspallina.com
Secondary: kmoran@tescherspallina.com

Co-Personal Representatives:



ROBERT L. SPALLINA
7387 Wisteria Ave.
Parkland, FL 33076


DONALD R. TESCHER
2600 Whispering Oaks Lane
Delray Beach, FL 33445

STATE OF FLORIDA

OFFICE of VITAL STATISTICS

CERTIFIED COPY

502011C P000653XXXXSB

5:48 PM
PALM BEACH
SOUTH COUNTY HEALTH

2011 FEB 10 AM 9:14

TYPE IN PERMANENT BLACK INK LOCAL FILE NO 600-12823 FLORIDA CERTIFICATE OF DEATH

1. DECEDENT'S NAME (First, Middle, Last, Suffix) Shirley Bernstein 2. SEX Female

3. DATE OF BIRTH (Month, Day, Year) June 29, 1939 4a. AGE-Last Birthday (Years) 71 4b. UNDER 1 YEAR Months Days Hours Minutes 4c. UNDER 1 DAY 4d. UNDER 1 DAY 5. DATE OF DEATH (Month, Day, Year) December 8, 2010

7. BIRTHPLACE (City and State or Foreign Country) Chicago, Illinois 8. COUNTY OF DEATH Palm Beach

9. PLACE OF DEATH (Check only one) HOSPITAL: Inpatient Emergency Room/Outpatient Dead on Arrival
NON-HOSPITAL: Hospice Facility Nursing Home/Long Term Care Facility Decedent's Home Other (Specify)

10. FACILITY NAME (If not in section 9, give street address) Boca Raton Regional Hospital 11a. CITY, TOWN, OR LOCATION OF DEATH Boca Raton 11b. INSIDE CITY LIMITS Yes No

12. MARITAL STATUS (Specify) Married Married, but Separated Widowed Divorced Never Married 13. SURVIVING SPOUSE'S NAME (If wife, give maiden name) Simon Bernstein

14a. RESIDENCE - STATE Florida 14b. COUNTY Palm Beach 14c. CITY, TOWN, OR LOCATION Boca Raton

14d. STREET ADDRESS 7020 Lions Head Lane 14e. APT. NO. 14f. ZIP CODE 33496 14g. INSIDE CITY LIMITS? Yes No

15a. DECEDENT'S USUAL OCCUPATION (Indicate type of work done during most of working life. Do not use "Retired") Homemaker 15b. KIND OF BUSINESS/INDUSTRY Own Home

16. DECEDENT'S RACE (Specify the race/ethnicity to indicate what decedent considered himself/herself to be. More than one race may be specified.)
 White Black or African American American Indian or Alaskan Native (Specify tribe)
 Asian Indian Chinese Filipino Japanese Korean Vietnamese Other Asian (Specify)
 Hispanic or Latino Cuban or Chicano Mexican Other Pacific Isl. (Specify) Other (Specify)

17. DECEDENT OF HISPANIC OR LATIAN ORIGIN? (Specify if decedent was of Hispanic or Mexican Origin) Yes (If Yes, specify) No Mexican Puerto Rican Cuban Central/South American Other Hispanic (Specify) Hawaiian

18. DECEDENT'S EDUCATION (Specify the decedent's highest degree or level of school completed at time of death.)
 8th or less High school but no diploma High school diploma or GED College but no degree College degree (Specify) Associate Bachelor's Master's Doctorate 19. WAS DECEDENT EVER IN U.S. ARMED FORCES? Yes No

20. FATHER'S NAME (First, Middle, Last, Suffix) Ennio Thomas 21. MOTHER'S NAME (First, Middle, Maiden Surname) Fae Povitsky

22a. INFORMANT'S NAME Simon Bernstein 22b. RELATIONSHIP TO DECEDENT Husband 22c. INFORMANT'S MAILING - STATE Florida

23a. CITY OR TOWN Boca Raton 23b. STREET ADDRESS 7020 Lions Head Lane 23c. ZIP CODE 33496

24. PLACE OF DISPOSITION (Name of cemetery, crematory, or other place) Gardens Memorial Park 25a. LOCATION - STATE Florida 25b. LOCATION - CITY OR TOWN Boca Raton

26a. METHOD OF DISPOSITION: Burial Entombment Cremation Donation Removal from State Other (Specify)

26b. IF CREMATION, DONATION OR BURIAL AT SEA, WAS MEDICAL EXAMINER APPROVAL GRANTED? Yes No 27a. LICENSE NUMBER (of Licensee) P019844 27b. SIGNATURE (EOD) OF MEDICAL SERVICE LICENSEE OR REGISTRAR (AS SUCH) *[Signature]*

28. NAME OF FUNERAL FACILITY Boca Raton Funeral Home 29a. FACILITY'S MAILING - STATE Florida

29b. CITY OR TOWN Boca Raton 29c. STREET ADDRESS 9050 Kimberly Blvd. #65 29d. ZIP CODE 33434

30. CERTIFIER: Certifying Physician - To the best of my knowledge, death occurred at the time, date and place, and due to the cause(s) and manner stated.
 Medical Examiner - On the basis of examination, and/or investigation, in my opinion, death occurred at the time, date and place, due to the cause(s) and manner stated.
31a. (Signature and Title of Certifier) Kenneth Homer MD 31b. DATE SIGNED (month/day/year) 12-16-2010 31c. TIME OF DEATH (24 hr.) 1519 31d. MEDICAL EXAMINER'S CASE NUMBER

32a. LICENSE NUMBER (of Certifier) ME007305 32b. CERTIFIER'S NAME KENNETH HOMER MD 32c. NAME OF ATTENDING PHYSICIAN (if other than Certifier)

33a. CERTIFIER'S - STATE Florida 33b. CITY OR TOWN Fort Lauderdale 33c. STREET ADDRESS 5601 N. Dixie Hwy. # 412 33d. ZIP CODE 33334

34. SUBREGISTRAR - Signature and Date [Signature] 35. DATE FILED BY REGISTRAR (MO., DAY, YR.) DEC 17 2010

VOID IF ALTERED OR ERASED

VOID IF ALTERED OR ERASED

Pearlie Brown
DEC 20 2010



WARNING:

THIS DOCUMENT IS PRINTED OR PHOTOCOPIED ON SECURITY PAPER WITH A WATERMARK OF THE GREAT SEAL OF THE STATE OF FLORIDA. DO NOT ACCEPT WITHOUT VERIFYING THE PRESENCE OF THE WATERMARK. THE DOCUMENT FACE CONTAINS A MULTI-COLORED BACKGROUND AND GOLD EMBOSSED SEAL. THE BACK CONTAINS SPECIAL LINES WITH TEXT AND SEALS IN THERMOCHROMIC INK.



DH FORM 1947 (08/04)

37418227

CERTIFICATION OF VITAL RECORD



* 3 7 4 1 8 2 2 7 *

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF

PROBATE DIVISION

SHIRLEY BERNSTEIN,

File No. 502011 CP000653XXXJB

Deceased.

LETTERS OF ADMINISTRATION

2011 FEB 10 AM 8:14
CLERK OF COURT
PALM BEACH COUNTY
SOUTH CITY BRANCH

TO ALL WHOM IT MAY CONCERN

WHEREAS, Shirley Bernstein, a resident of Palm Beach County, died on December 8, 2010, owning assets in the State of Florida, and

WHEREAS, Simon L. Bernstein has been appointed as Personal Representative of the Estate of the decedent and has performed all acts prerequisite to issuance of Letters of Administration in the estate,

NOW, THEREFORE, I, the undersigned Circuit Judge, declare Simon L. Bernstein as duly qualified under the laws of the State of Florida to act as Personal Representative of the Estate of Shirley Bernstein, deceased, with full power to administer the estate according to law; to ask, demand, sue for, recover and receive the property of the decedent; to pay the debts of the decedent as far as the assets of the estate will permit and the law directs; and to make distribution of the estate according to law.

DONE and ORDERED in Chambers at Delray, Palm Beach County, Florida, on this 10 day of

Feb, 2011.

"Estate must be closed 12 Months from the date of order"



Circuit Judge



IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF

PROBATE DIVISION

SHIRLEY BERNSTEIN,

File No. 502011CP000653XXXX

Deceased.

NOTICE OF TRUST

2011 FEB 10 AM 9:14
SHIRLEY BERNSTEIN
PALM BEACH COUNTY
SOUTH CIRCUIT

SHIRLEY BERNSTEIN, a resident of Palm Beach County, Florida, who died on December 8, 2010, was the settlor of a trust entitled: SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008, which is a trust described in Section 733.707(3) of the Florida Statutes, and is liable for the expenses of the administration of the decedent's estate and enforceable claims of the decedent's creditors to the extent the decedent's estate is insufficient to pay them, as provided in Section 733.607(2) of the Florida Statutes.

The name and address of the Trustees are set forth below.

The clerk shall file and index this Notice of Trust in the same manner as a caveat, unless there exists a probate proceeding for the settlor's estate in which case this Notice of Trust must be filed in the probate proceeding and the clerk shall send a copy to the personal representative.

Signed on FEB 9, 2011.

SIMON L. BERNSTEIN, Trustee
7020 Lions Head Lane
Boca Raton, FL 33496

Copy mailed to attorney for the Personal Representative on

FEB 10, 2011
CLERK OF THE CIRCUIT COURT

By:



FILED IN DUPLICATE



IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL
IN RE: ESTATE OF
SHIRLEY BERNSTEIN,
Deceased.

PROBATE DIVISION

File No. 502011CP0000531765P

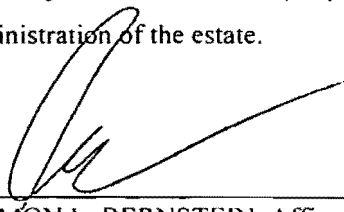
2011 FEB 10 AM 9:14
SHIRLEY BERNSTEIN
PALM BEACH COUNTY
SOUTH DIXIE

**OATH OF PERSONAL REPRESENTATIVE
DESIGNATION OF RESIDENT AGENT, AND ACCEPTANCE**

STATE OF FLORIDA
COUNTY OF PALM BEACH

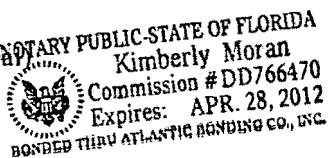
I, SIMON L. BERNSTEIN (Affiant), state under oath that:

1. I have been appointed personal representative of the estate of SHIRLEY BERNSTEIN, deceased.
2. I will faithfully administer the estate of the decedent according to law.
3. My place of residence is 7020 Lions Head Lane, Boca Raton, FL 33496, and my post office address is the same.
4. I hereby designate Robert L. Spallina, Esquire, who is a member of The Florida Bar, a resident of Broward County, Florida, whose place of residence is 7387 Wisteria Avenue, Parkland, Florida 33076, and whose post office address is 4855 Technology Way, Suite 720, Boca Raton, Florida 33431, as my agent for the service of process or notice in any action against me, either in my representative capacity, or personally, if the personal action accrued in the administration of the estate.


SIMON L. BERNSTEIN, Affiant

Sworn to and subscribed to before me on February 9, 2011, by Affiant, who is personally known to me _____ or who produced _____ as identification.

(Affix Notarial Seal)



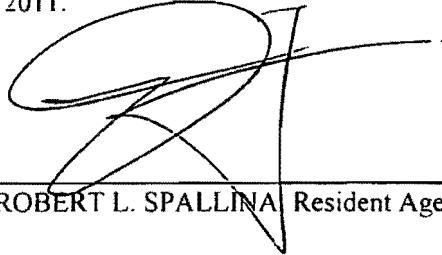

Notary Public State of Florida



ACCEPTANCE

I CERTIFY that I am a permanent resident of Broward County, Florida, residing at the place indicated above. I hereby accept the foregoing designation as Resident Agent.

Signed on 2/9, 2011.



ROBERT L. SPALLINA Resident Agent



IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL
IN RE: ESTATE OF PROBATE DIVISION
SHIRLEY BERNSTEIN, File No. 502011CP0000531
Deceased.

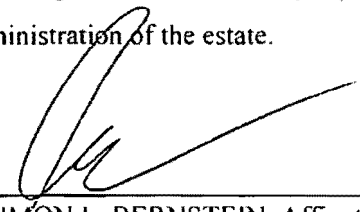
2011 FEB 10 AM 9:14
SHIRLEY BERNSTEIN
PALM BEACH COUNTY
SOUTH DIXIE

**OATH OF PERSONAL REPRESENTATIVE
DESIGNATION OF RESIDENT AGENT, AND ACCEPTANCE**

STATE OF FLORIDA
COUNTY OF PALM BEACH

I, SIMON L. BERNSTEIN (Affiant), state under oath that:

1. I have been appointed personal representative of the estate of SHIRLEY BERNSTEIN, deceased.
2. I will faithfully administer the estate of the decedent according to law.
3. My place of residence is 7020 Lions Head Lane, Boca Raton, FL 33496, and my post office address is the same.
4. I hereby designate Robert L. Spallina, Esquire, who is a member of The Florida Bar, a resident of Broward County, Florida, whose place of residence is 7387 Wisteria Avenue, Parkland, Florida 33076, and whose post office address is 4855 Technology Way, Suite 720, Boca Raton, Florida 33431, as my agent for the service of process or notice in any action against me, either in my representative capacity, or personally, if the personal action accrued in the administration of the estate.

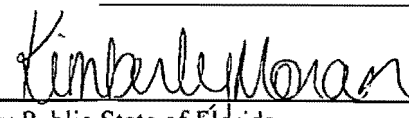


SIMON L. BERNSTEIN, Affiant

Sworn to and subscribed to before me on February 9, 2011, by Affiant, who is personally known to me _____ or who produced _____ as identification.

(Affix Notarial Seal)

NOTARY PUBLIC-STATE OF FLORIDA
Kimberly Moran
Commission #DD766470
Expires: APR. 28, 2012
BONDED THRU ATLANTIC BONDING CO., INC.



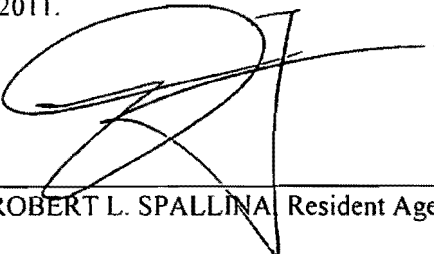
Notary Public State of Florida



ACCEPTANCE

I CERTIFY that I am a permanent resident of Broward County, Florida, residing at the place indicated above. I hereby accept the foregoing designation as Resident Agent.

Signed on 2/9, 2011.



ROBERT L. SPALLINA Resident Agent



IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF

PROBATE DIVISION

SHIRLEY BERNSTEIN,

File No. 5D2011CP000053XXXX

Deceased.

2011 FEB 10 AM 9:14
SHARON
PALM BEACH
SOUTH CTY

**ORDER ADMITTING WILL TO PROBATE
AND APPOINTING PERSONAL REPRESENTATIVE**

The instrument presented to this court as the Last Will of Shirley Bernstein, deceased, having been executed in conformity with law, and made self-proved by the acknowledgment of the decedent and the affidavits of the witnesses, each made before an officer authorized to administer oaths and evidenced by the officer's certificate attached to or following the will in the form required by law, and no objection having been made to its probate, and the court finding that the decedent died on December 8, 2010, and that Simon L. Bernstein is qualified under the laws of the State of Florida to serve as personal representative, it is

ADJUDGED that the Will dated May 20, 2008, and attested by Robert L. Spallina and Diana Banks as subscribing and attesting witnesses, is admitted to probate according to law as the Last Will of the decedent, and it is further

ADJUDGED that Simon L. Bernstein is appointed as personal representative of the estate of the decedent, and that upon taking the prescribed oath, filing designation of resident agent and acceptance, and entering into bond in the sum of \$ -0-, Letters of Administration shall be issued.

ORDERED on 2/10/11

"Estate must be closed 12
Months from the date of order"



Circuit Judge

cc: Robert L. Spallina, Esquire



IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF PROBATE DIVISION

SHIRLEY BERNSTEIN, File No. 502011 CP 00065 3XXXXSB
Deceased.

PETITION FOR ADMINISTRATION
(testate Florida resident)

2011 FEB 10 AM 8:50
SHIRLEY BERNSTEIN
PALM BEACH COUNTY

Petitioner, SIMON L. BERNSTEIN, alleges:

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

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

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

NAME	ADDRESS	RELATIONSHIP	BIRTH DATE (if Minor)
Simon L. Bernstein	7020 Lions Head Lane Boca Raton, FL 33496	husband	adult
Ted S. Bernstein	880 Berkeley Street Boca Raton, FL 33487	son	adult
Pamela B. Simon	950 North Michigan Avenue, Suite 2603 Chicago, IL 60606	daughter	adult
Eliot Bernstein	2753 NW 34 th St. Boca Raton, FL 33434	son	adult



Jill Iantoni	2101 Magnolia Lane Highland Park, IL 60035	daughter	adult
Lisa S. Friedstein	2142 Churchill Lane highland Park, IL 60035	daughter	adult

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

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

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

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

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

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

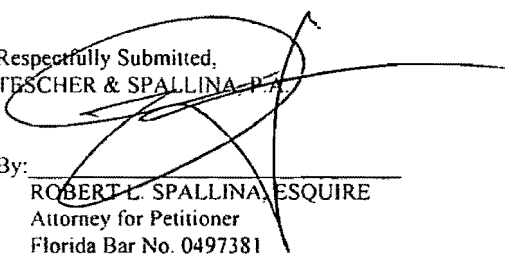
Petitioner requests that the decedent's Will be admitted to probate and that Simon L. Bernstein be appointed as personal representative of the estate of the decedent.

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

Signed on Feb 9, 2011.


SIMON L. BERNSTEIN, Petitioner

Respectfully Submitted,
TESCHER & SPALLINA, P.A.

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

\\NW7DATA\users\Bernstein, Shirley\Probate\Administration Pet.pdf



502011CP000653 XXXXSB

**WILL OF
SHIRLEY BERNSTEIN**

2011 FEB 10 AM 9:14
SEARCHED
PALM BEACH COUNTY
SOUTH CITY

Prepared by:

Tescher & Spallina, P.A.
2101 Corporate Blvd., Suite 107, Boca Raton, Florida 33431
(561) 998-7847
www.tescherlaw.com

TESCHER & SPALLINA, P.A.

WILL OF

SHIRLEY BERNSTEIN

I, SHIRLEY BERNSTEIN, of Palm Beach County, Florida, hereby revoke all my prior Wills and Codicils and make this Will. My spouse is SIMON L. BERNSTEIN ("*SIMON*"). My children are TED S. BERNSTEIN ("*TED*"), PAMELA B. SIMON, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN.

ARTICLE I. TANGIBLE PERSONAL PROPERTY

I give such items of my tangible personal property to such persons as I may designate in a separate written memorandum prepared for this purpose. I give to SIMON, if SIMON survives me, my personal effects, jewelry, collections, household furnishings and equipment, automobiles and all other non-business tangible personal property other than cash, not effectively disposed of by such memorandum, and if SIMON does not survive me, I give this property to my children who survive me, divided among them as they agree, or if they fail to agree, divided among them by my Personal Representatives in as nearly equal shares as practical, and if neither SIMON nor any child of mine survives me, this property shall pass with the residue of my estate.

ARTICLE II. RESIDENCES

I give to SIMON, if SIMON survives me, my entire interest in any real property used by us as a permanent or seasonal residence, subject to any mortgage or other lien. If SIMON does not survive me, such interest shall pass with the residue of my estate.

ARTICLE III. RESIDUE OF MY ESTATE

I give all the residue of my estate to the Trustee then serving under my revocable Trust Agreement dated today, as may be amended and restated from time to time (the "*Existing Trust*"), as Trustee without bond, but I do not exercise any powers of appointment held by me except as provided in the later paragraph titled "Death Costs." The residue shall be added to and become a part of the Existing Trust, and shall be held under the provisions of said Agreement in effect at my death, or if this is not permitted by applicable law or the Existing Trust is not then in existence, under the provisions of said Agreement as existing today. If necessary to give effect to this gift, but not otherwise, said Agreement as existing today is incorporated herein by reference.

LAST WILL
OF SHIRLEY BERNSTEIN

Shirley BERNSTEIN

TESCHER & SPALLINA, P.A.



ARTICLE IV. PERSONAL REPRESENTATIVES

1. **Appointment and Bond.** I appoint SIMON and TED, one at a time and successively in that order, as my Personal Representative (the "*fiduciary*"). Each fiduciary shall serve without bond and have all of the powers, privileges and immunities granted to my fiduciary by this Will or by law, provided, however, that my fiduciary shall exercise all powers in a fiduciary capacity.

2. **Powers of Personal Representatives.** My fiduciary may exercise its powers without court approval. No one dealing with my fiduciary need inquire into its authority or its application of property. My fiduciary shall have the following powers:

a. **Investments.** To sell or exchange at public or private sale and on credit or otherwise, with or without security, and to lease for any term or perpetually, any property, real and personal, at any time forming a part of my probate estate (the "*estate*"); to grant and exercise options to buy or sell; to invest or reinvest in real or personal property of every kind, description and location; and to receive and retain any such property whether originally a part of the estate, or subsequently acquired, even if a fiduciary is personally interested in such property, and without liability for any decline in the value thereof; all without limitation by any statutes or judicial decisions, whenever enacted or announced, regulating investments or requiring diversification of investments.

b. **Distributions or Divisions.** To distribute directly to any beneficiary who is then entitled to distribution under the Existing Trust; to make any division or distribution pro rata or non-pro rata, in cash or in kind; and to allocate undivided interests in property and dissimilar property (without regard to its tax basis) to different shares, and to make any distribution to a minor or any other incapacitated person directly to such person, to his or her legal representative, to any person responsible for or assuming his or her care, or in the case of a minor to an adult person or an eligible institution (including a fiduciary) selected by my fiduciary as custodian for such minor under the Uniform Transfers to Minors Act or similar provision of law. The receipt of such payee is a complete release to the fiduciary.

c. **Management.** To manage, develop, improve, partition or change the character of or abandon an asset or interest in property at any time; and to make ordinary and extraordinary repairs, replacements, alterations and improvements, structural or otherwise.

d. **Borrowing.** To borrow money from anyone on commercially reasonable terms, including a fiduciary, beneficiaries and other persons who may have a direct or indirect interest in the estate; and to mortgage, margin, encumber and pledge real and personal property of the estate as security for the payment thereof, without incurring any personal liability thereon and to do so for a term within or extending beyond the terms of the estate and to renew, modify or extend existing borrowing on similar or different terms and with the same or different security without incurring any personal liability; and such borrowing from my fiduciary may be with or without interest, and may be secured with a lien on the estate assets or any beneficiary's interest in said assets.

e. Lending. To extend, modify or waive the terms of any obligation, bond or mortgage at any time forming a part of the estate and to foreclose any such mortgage; accept a conveyance of encumbered property, and take title to the property securing it by deed in lieu of foreclosure or otherwise and to satisfy or not satisfy the indebtedness securing said property; to protect or redeem any such property from forfeiture for nonpayment of taxes or other lien; generally, to exercise as to such bond, obligation or mortgage all powers that an absolute owner might exercise; and to loan funds to beneficiaries at commercially reasonable rates, terms and conditions.

f. Abandonment of Property. To abandon any property or asset when it is valueless or so encumbered or in such condition that it is of no benefit to the estate. To abstain from the payment of taxes, liens, rents, assessments, or repairs on such property and/or permit such property to be lost by tax sale, foreclosure or other proceeding or by conveyance for nominal or no consideration to anyone including a charity or by escheat to a state; all without personal liability incurred therefor.

g. Real Property Matters. To subdivide, develop or partition real estate; to dedicate the same to public use; to make or obtain the location of any plats; to adjust boundaries; to adjust differences in valuations on exchange or partition by giving or receiving consideration; and, to grant easements with or without consideration as they may determine; and to demolish any building, structures, walls and improvements, or to erect new buildings, structures, walls and improvements and to insure against fire and other risks.

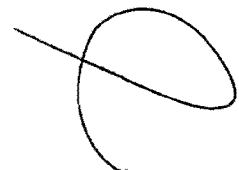
h. Claims. To enforce, compromise, adjust, arbitrate, release or otherwise settle or pay any claims or demands by or against the estate.

i. Business Entities. To deal with any business entity or enterprise even if a fiduciary is or may be a fiduciary of or own interests in said business entity or enterprise, whether operated in the form of a corporation, partnership, business trust, limited liability company, joint venture, sole proprietorship, or other form (all of which business entities and enterprises are referred to herein as "**Business Entities**"). I vest the fiduciary with the following powers and authority in regard to Business Entities:

i. To retain and continue to operate a Business Entity for such period as the fiduciary deems advisable;

ii. To control, direct and manage the Business Entities. In this connection, the fiduciary, in its sole discretion, shall determine the manner and extent of its active participation in the operation and may delegate all or any part of its power to supervise and operate to such person or persons as the fiduciary may select, including any associate, partner, officer or employee of the Business Entity;

iii. To hire and discharge officers and employees, fix their compensation and define their duties; and similarly to employ, compensate and discharge agents, attorneys, consultants, accountants, and such other representatives as the fiduciary may deem appropriate; including the right



to employ any beneficiary or fiduciary in any of the foregoing capacities;

iv. To invest funds in the Business Entities, to pledge other assets of the estate or a trust as security for loans made to the Business Entities, and to lend funds from my estate or a trust to the Business Entities;

v. To organize one or more Business Entities under the laws of this or any other state or country and to transfer thereto all or any part of the Business Entities or other property of my estate or a trust, and to receive in exchange such stocks, bonds, partnership and member interests, and such other securities or interests as the fiduciary may deem advisable;

vi. To treat Business Entities as separate from my estate or a trust. In a fiduciary's accounting to any beneficiary, the fiduciary shall only be required to report the earnings and condition of the Business Entities in accordance with standard business accounting practice;

vii. To retain in Business Entities such net earnings for working capital and other purposes of the Business Entities as the fiduciary may deem advisable in conformity with sound business practice;

viii. To sell or liquidate all or any part of the Business Entities at such time and price and upon such terms and conditions (including credit) as the fiduciary may determine. My fiduciary is specifically authorized and empowered to make such sale to any person, including any partner, officer, or employee of the Business Entities, a fiduciary, or to any beneficiary; and

ix. To guaranty the obligations of the Business Entities, or pledge assets of the estate or a trust to secure such a guaranty.

j. Life Insurance. With respect to any life insurance policies constituting an asset of the estate to pay premiums; to apply dividends in reduction of such premiums; to borrow against the cash values thereof; to convert such policies into other forms of insurance including paid-up insurance; to exercise any settlement options provided in any such policies; to receive the proceeds of any policy upon its maturity and to administer such proceeds as a part of the principal of the estate or trust; and in general, to exercise all other options, benefits, rights and privileges under such policies; provided, however, no fiduciary other than a sole fiduciary may exercise any incidents of ownership with respect to policies of insurance insuring the fiduciary's own life.

k. Reimbursement. To reimburse itself from the estate for all reasonable expenses incurred in the administration thereof.

l. Voting. To vote and give proxies, with power of substitution to vote, stocks, bonds and other securities, or not to vote a security.

m. Ancillary Administration. To appoint or nominate, and replace with or without



cause, any persons or corporations, including itself, as ancillary administrators to administer property in other jurisdictions, with the same powers, privileges and immunities as my fiduciary and without bond.

n. **Tax Elections.** To file tax returns, and to exercise all tax-related elections and options at their discretion, without compensating adjustments or reimbursements between any accounts or any beneficiaries.


3. **Survivorship.** A beneficiary is not deemed to survive me unless he or she survives me by five days.

4. **Death Costs.** My fiduciary shall pay (a) from the residuary estate my debts which are allowed as claims against my estate, (b) from the residuary estate my funeral expenses without regard to legal limitations, (c) from the residuary estate the expenses of administering my estate and (d) from the residuary estate other than the portion of the residuary estate qualifying for the marital deduction under the laws then in effect, without apportionment, all estate, inheritance and succession taxes (excluding generation-skipping taxes other than with respect to direct skips), and interest and penalties thereon, due because of my death and attributable to all property whether passing under this Will or otherwise and not required by the terms of the Existing Trust to be paid out of said trust. However, such taxes, penalties and interest payable out of my residuary estate shall not include taxes, penalties and interest attributable to (i) property over which I have a power of appointment granted to me by another person, (ii) qualified terminable interest property held in a trust of which I was the income beneficiary at the time of my death (other than qualified terminable interest property held in a trust for which an election was made under Code Section 2652(a)(3)), and (iii) life insurance proceeds on policies insuring my life which proceeds are not payable to my probate estate. My fiduciary shall not be reimbursed for any such payment from any person or property. However, my fiduciary in its discretion may direct that part or all of said death costs shall be paid by my Trustee as provided in the Existing Trust, and shall give such direction to the extent necessary so that the gifts made in Articles I and II of this Will and the gifts made in any codicil hereto shall not be reduced by said death costs.

5. **Reimbursement for Debts and Expenses.** My fiduciary shall promptly reimburse my friends and members of my family who have disbursed their own funds for the payment of any debts, funeral expenses or costs of administration of my estate.

6. **Expenses of Handling Tangible Personal Property.** All expenses incurred by my fiduciary during the settlement of my estate in appraising, storing, packing, shipping, delivering or insuring an article of tangible personal property passing under this Will shall be charged as an expense of administering my estate.

7. **Dealing with Estate.** Each fiduciary may act under this Will even if interested in my estate in an individual capacity, as a fiduciary of another estate or trust (including any trust identified in this Will or created under the Existing Trust) or in any other capacity. Each fiduciary may in good faith buy from, sell to, lend funds to or otherwise deal with my estate.



8. **Spouse.** The term "*spouse*" herein means, as to a designated individual, the person to whom that individual is from time to time married.

9. **Other Beneficiary Designations.** Except as otherwise explicitly and with particularity provided herein, (a) no provision of this Will shall revoke or modify any beneficiary designation of mine made by me and not revoked by me prior to my death under any individual retirement account, other retirement plan or account, or annuity or insurance contract, (b) I hereby reaffirm any such beneficiary designation such that any assets held in such account, plan, or contract shall pass in accordance with such designation, and (c) regardless of anything herein to the contrary, any of such assets which would otherwise pass pursuant to this Will due to the beneficiary designation not having met the requirements for a valid testamentary disposition under applicable law or otherwise shall be paid as a gift made hereunder to the persons and in the manner provided in such designation which is incorporated herein by this reference.

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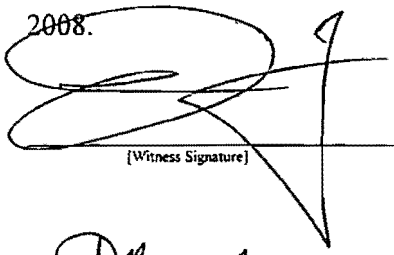
A large, handwritten mark resembling a stylized letter 'P' or a similar symbol, located in the lower right quadrant of the page.

I have published and signed this instrument as my Will at Boca Raton, Florida, on the 20 day of MAY, 2008.



SHIRLEY BERNSTEIN


This instrument, consisting of this page numbered 7 and the preceding typewritten pages, was signed, sealed, published and declared by the Testatrix to be the Testatrix's Will in our presence, and at the Testatrix's request and in the Testatrix's presence, and in the presence of each other, we have subscribed our names as witnesses at Boca Raton, Florida on this 20 day of MAY, 2008.



[Witness Signature] residing at 7357 Wisconsin Ave

[Witness Address] Panorama, FL 33076

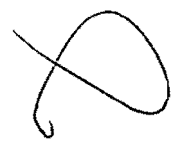
[Witness Address]



[Witness Signature] residing at 23415 Boca Trace Dr

[Witness Address] Boca Raton, FL 33433

[Witness Address]



State Of Florida

SS.

County Of Palm Beach

I, SHIRLEY BERNSTEIN, declare to the officer taking my acknowledgment of this instrument, and to the subscribing witnesses, that I signed this instrument as my will.



SHIRLEY BERNSTEIN, Testatrix

We, Robert L. Spallina and Diana Banks,

have been sworn by the officer signing below, and declare to that officer on our oaths that the Testatrix declared the instrument to be the Testatrix's will and signed it in our presence and that we each signed the instrument as a witness in the presence of the Testatrix and of each other.

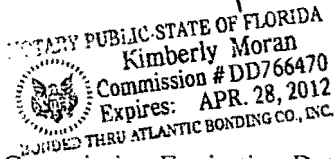


Witness

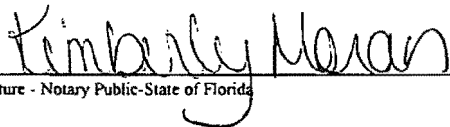


Witness

Acknowledged and subscribed before me, by the Testatrix, SHIRLEY BERNSTEIN, who is personally known to me or who has produced _____ (state type of identification) as identification, and sworn to and subscribed before me by the witnesses, Robert L. Spallina, who is personally known to me or who has produced _____ (state type of identification) as identification, and Diana Banks, who is personally known to me or who has produced _____ (state type of identification) as identification, and subscribed by me in the presence of SHIRLEY BERNSTEIN and the subscribing witnesses, all on this 20 day of May, 2008.



[Seal with Commission Expiration Date]



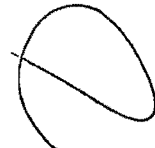
Signature - Notary Public-State of Florida

Print, type or stamp name of Notary Public

F:\WPDATA\dm\Bernstein, Shirley & Simon\2008 Estate Planning\Will of Shirley Bernstein.wpd [08 15:36:41 5 19]

LAST WILL
OF SHIRLEY BERNSTEIN

TESCHER & SPALLINA, P.A.



IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF PROBATE DIVISION

SHIRLEY BERNSTEIN, File No.: 502011CP000653XXXX SB
Deceased.

**NOTICE OF FILING
PROOF OF PUBLICATION
OF NOTICE TO CREDITORS**

2011 APR -6 AM 11:44
SHARON R. BCCM, CLERK
PALM BEACH COUNTY, FL
SOUTH CTY BRANCH - FILED

SIMON L. BERNSTEIN, as Personal Representative of the Estate of Shirley Bernstein, deceased,
by and through the undersigned attorney, files herewith the Proof of Publication of the Notice to Creditors
with reference to the above-styled Estate.

Dated this 5th day of April, 2011.

Respectfully Submitted,

TESCHER & SPALLINA, P.A.

By: 

ROBERT L. SPALLINA, ESQUIRE
Florida Bar No. 0497381
Attorney for Personal Representative
Florida Bar No. 121086
4855 Technology Way, Ste. 720
Boca Raton, FL 33431
561-997-7008

PALM BEACH DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and
Legal Holidays
West Palm Beach, Palm Beach County, Florida

STATE OF FLORIDA
COUNTY OF PALM BEACH:

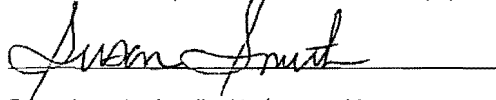
Before the undersigned authority personally appeared SUSAN SMITH, who on oath says that he or she is the LEGAL CLERK, Legal Notices of the Palm Beach Daily Business Review f/k/a Palm Beach Review, a newspaper published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

502011CP000653XXXXSB
NOTICE TO CREDITORS
IN RE: ESTATE OF SHIRLEY BERNSTEIN, DECEASED

in the CIRCUIT Court,
was published in said newspaper in the issues of

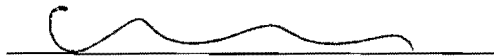
03/18/2011 03/25/2011

Affiant further says that the said Palm Beach Daily Business Review is a newspaper published at Palm Beach, in said Palm Beach County, Florida and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, and has been entered as second class matter at the post office in West Palm Beach in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.



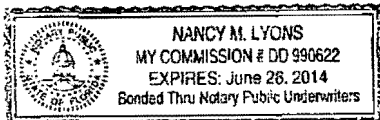
Sworn to and subscribed before me this

25 day of MARCH, A.D. 2011



(SEAL)

SUSAN SMITH personally known to me



NOTICE TO CREDITORS

IN THE CIRCUIT COURT FOR
PALM BEACH COUNTY, FL
PROBATE DIVISION

File No. 502011CP000653
XXXXSB

IN RE: ESTATE OF
SHIRLEY BERNSTEIN,
Deceased.

The administration of the estate of SHIRLEY BERNSTEIN, deceased, whose date of death was December 8, 2010, File Number 502011CP000653XXXXSB, is pending in the Circuit Court for Palm Beach County, Florida, Probate Division, the address of which is Palm Beach South County Courthouse, 200 W. Atlantic Avenue, Attn: Probate Division, Room 170, Delray Beach, FL 33444. The names of the personal representative and the personal representative's attorney and his address are set forth below.

All creditors of the decedent and other persons having claims or demands against decedent's estate on whom a copy of this notice has been served must file their claims with this Court WITHIN THE LATER OF THREE (3) MONTHS AFTER THE FIRST PUBLICATION OF THIS NOTICE OR THIRTY (30) DAYS AFTER THE TIME OF SERVICE OF A COPY OF THIS NOTICE ON THEM.

All other creditors of the decedent and other persons having claims or demands against decedent's estate must file their claims with this court WITHIN THREE (3) MONTHS AFTER THE DATE OF THE FIRST PUBLICATION OF THIS NOTICE.

ALL CLAIMS NOT SO FILED WILL BE FOREVER BARRED, NOTWITHSTANDING THE TIME PERIOD SET FORTH ABOVE, ANY CLAIM FILED TWO (2) YEARS OR MORE AFTER THE DECEDENT'S DATE OF DEATH IS BARRED.

The date of the first publication of this Notice is March 18, 2011.

Personal Representative:

SIMON L. BERNSTEIN
7020 Lions Head Lane
Boca Raton, FL 33496

Attorney for Personal
Representative:

ROBERT L. SPALLINA, ESQUIRE

Florida Bar No. 0497381

TESCHER & SPALLINA, P.A.

4855 Technology Way, Ste. 720

Boca Raton, FL 33431

561-997-7008

3/18-25

11-7-89/1665871P

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

NOTICE TO CREDITORS

The administration of the estate of SHIRLEY BERNSTEIN, deceased, whose date of death was December 8, 2010, File Number 502011CP000653XXXXSB, is pending in the Circuit Court for Palm Beach County, Florida, Probate Division, the address of which is Palm Beach South County Courthouse, 200 W. Atlantic Avenue, Attn: Probate Division, Room 170, Delray Beach, FL 33444. The names of the personal representative and the personal representative's attorney and his address are set forth below.

All creditors of the decedent and other persons having claims or demands against decedent's estate on whom a copy of this notice has been served must file their claims with this Court WITHIN THE LATER OF THREE (3) MONTHS AFTER THE FIRST PUBLICATION OF THIS NOTICE OR THIRTY (30) DAYS AFTER THE TIME OF SERVICE OF A COPY OF THIS NOTICE ON THEM.

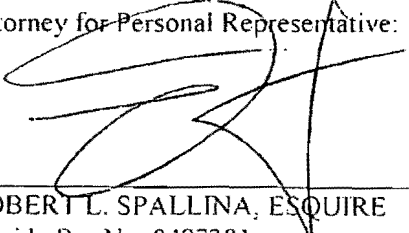
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ALL CLAIMS NOT SO FILED WILL BE FOREVER BARRED.

NOTWITHSTANDING THE TIME PERIOD SET FORTH ABOVE, ANY CLAIM FILED TWO (2) YEARS OR MORE AFTER THE DECEDENT'S DATE OF DEATH IS BARRED.

The date of the first publication of this Notice is March 18, 2011.

Attorney for Personal Representative:


ROBERT L. SPALLINA, ESQUIRE
Florida Bar No. 0497381
Tescher & Spallina, P.A.
4855 Technology Way, Ste. 720
Boca Raton, FL 33431
561-997-7008

Personal Representative:

SIMON L. BERNSTEIN
7020 Lions Head Lane
Boca Raton, FL 33496



IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF PROBATE DIVISION

SHIRLEY BERNSTEIN, File No.: 502011CP000653XXXX SB
Deceased.

**NOTICE OF FILING
PROOF OF PUBLICATION
OF NOTICE OF ADMINISTRATION**

2011 APR -6 AM 11:45
SHARON R. BOON, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH - FILED

SIMON L. BERNSTEIN, as Personal Representative of the Estate of Shirley Bernstein, deceased, by and through the undersigned attorney, files herewith the Proof of Publication of the Notice of Administration with reference to the above-styled Estate.

Dated this 5th day of April, 2011.

Respectfully Submitted,

TESCHER & SPALLINA, P.A.

By: 

ROBERT L. SPALLINA, ESQUIRE
Florida Bar No. 0497381
Attorney for Personal Representative
Florida Bar No. 121086
4855 Technology Way, Ste. 720
Boca Raton, FL 33431
561-997-7008

PALM BEACH DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and
Legal Holidays
West Palm Beach, Palm Beach County, Florida

STATE OF FLORIDA
COUNTY OF PALM BEACH:

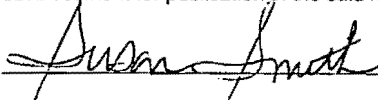
Before the undersigned authority personally appeared SUSAN SMITH, who on oath says that he or she is the LEGAL CLERK, Legal Notices of the Palm Beach Daily Business Review i/k/a Palm Beach Review, a newspaper published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

502011CP000653XXXXSB
NOTICE OF ADMINISTRATION
IN RE: ESTATE OF SHIRLEY BERNSTEIN, DECEASED

in the CIRCUIT Court,
was published in said newspaper in the issues of

03/18/2011 03/25/2011

Affiant further says that the said Palm Beach Daily Business Review is a newspaper published at Palm Beach, in said Palm Beach County, Florida and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, and has been entered as second class mail matter at the post office in West Palm Beach in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.



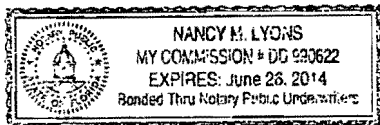
Sworn to and subscribed before me this

25 day of MARCH, A.D. 2011



(SEAL)

SUSAN SMITH personally known to me



NOTICE OF ADMINISTRATION

IN THE CIRCUIT COURT FOR PALM
BEACH COUNTY, FL
PROBATE DIVISION

File No. 502011CP000653-
XXXXSB

IN RE: ESTATE OF
SHIRLEY BERNSTEIN,
Deceased.

The administration of the estate of SHIRLEY BERNSTEIN, deceased, File Number 502011CP000653XXXXSB, is pending in the Circuit Court for Palm Beach County, Florida, Probate Division, the address of which is Palm Beach South County Courthouse, 200 W. Atlantic Avenue, Delray Beach, Florida 33444. The decedent's Will, which is dated May 20, 2008, has been admitted to probate. The name and address of the personal representative and of the personal representative's attorney are set forth below.

A beneficiary of a Will or Codicil described above is not required to have an attorney or to file and document in order to receive the inheritance provided in that Will or Codicil.

Any interested person on whom a copy of this Notice of Administration is served who challenges the validity of the Will and/or Codicil, qualifications of the personal representative, venue, or jurisdiction of the court, is required to file any objection with the court following the form and procedure provided in the Florida Probate Rules WITHIN THE TIME REQUIRED BY LAW, which is on or before the date that is three (3) months after the date of service of a copy of the Notice of Administration on that person, or those objections are forever barred.

A petition for determination of exempt property is required to be filed by or on behalf of any person entitled to exempt property under Section 732.402 of the Florida Probate Code WITHIN THE TIME REQUIRED BY LAW, which is on or before the later of the date that is four (4) months after the date of service of a copy of the Notice of Administration on that person or the date that is forty (40) days after the date of termination of any proceeding involving the construction, admission to probate, or validity of the Will and/or Codicil or involving any other matter affecting any part of the exempt property, or the right of the personal to exempt property is deemed to have been waived.

Any election to take an elective share must be filed WITHIN THE TIME REQUIRED BY LAW, which is on or before the earlier of the date that is six (6) months after the date of service of a copy of the Notice of Administration on the surviving spouse, or an attorney in fact or a guardian of the property of the surviving spouse, or the date that is two (2) years after the date of the decedent's death.

Personal Representative:
SIMON L. BERNSTEIN
7020 Lions Head Lane
Boca Raton, FL 33496
Attorney for Personal Representative:
ROBERT L. SPALLINA, ESQUIRE
Florida Bar No. 497381
TESCHER & SPALLINA, P.A.
4855 Technology Way, Ste. 720
Boca Raton, FL 33431
561-997-7008
3/18-25 11-7-88/1665869P

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF

PROBATE DIVISION

SHIRLEY BERNSTEIN,

File No. 502011CP000653XXXXSB

Deceased.

2011 APR -6 AM 11:44
SHARON R. BOON, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH - FILED

NOTICE OF ADMINISTRATION

The administration of the estate of SHIRLEY BERNSTEIN, deceased, File Number 502011CP000653XXXXSB is pending in the Circuit Court for Palm Beach County, Florida, Probate Division, the address of which is Palm Beach South County Courthouse, 200 W. Atlantic Avenue, Delray Beach, Florida 33444. The decedent's Will, which is dated May 20, 2008, has been admitted to probate. The name and address of the personal representative and of the personal representative's attorney are set forth below.

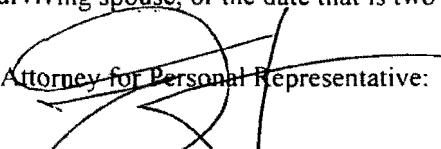
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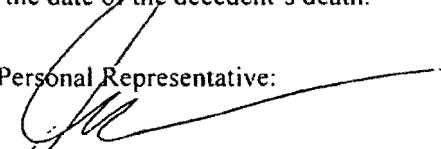
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Any election to take an elective share must be filed WITHIN THE TIME REQUIRED BY LAW, which is on or before the earlier of the date that is six (6) months after the date of service of a copy of the Notice of Administration on the surviving spouse, or an attorney in fact or a guardian of the property of the surviving spouse, or the date that is two (2) years after the date of the decedent's death.

Attorney for Personal Representative:


ROBERT L. SPALLINA, ESQUIRE
Florida Bar No. 49738
Tescher & Spallina, P.A.
4855 Technology Way, Ste. 720
Boca Raton, FL 33431
561-997-7008

Personal Representative:


SIMON L. BERNSTEIN
7020 Lions Head Lane
Boca Raton, FL 33496

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF

PROBATE DIVISION

SHIRLEY BERNSTEIN

File No. 502011CP000653XXXXSB

Deceased.

2011 APR 25 PM 2:02
SHARON R. BROWN, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH-FILED

**NOTICE OF FILING
PROOF OF SERVICE OF
NOTICE TO CREDITORS UPON THE AGENCY FOR
HEALTH CARE ADMINISTRATION**

I CERTIFY THAT ON April 5, 2011, a copy of the attached Notice to Creditors was mailed by United States certified mail, return receipt requested, postage prepaid, or was delivered in a manner permitted by Fla. Prob. R. 5.040(a), to:

Agency For Health Care Administration
c/o FL TPL Recovery Unit
P.O. Box 12188
Tallahassee, FL 32317

Signed receipt or other evidence that delivery was made to, or refused by, the addressee or the addressee's agent are attached.

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 22, 2011.

Respectfully Submitted,

TESCHER & SPALLINA, P.A.

By:

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

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

NOTICE TO CREDITORS

The administration of the estate of SHIRLEY BERNSTEIN, deceased, whose date of death was December 8, 2010, File Number 502011CP000653XXXXSB, is pending in the Circuit Court for Palm Beach County, Florida, Probate Division, the address of which is Palm Beach South County Courthouse, 200 W. Atlantic Avenue, Attn: Probate Division, Room 170, Delray Beach, FL 33444. The names of the personal representative and the personal representative's attorney and his address are set forth below.

All creditors of the decedent and other persons having claims or demands against decedent's estate on whom a copy of this notice has been served must file their claims with this Court WITHIN THE LATER OF THREE (3) MONTHS AFTER THE FIRST PUBLICATION OF THIS NOTICE OR THIRTY (30) DAYS AFTER THE TIME OF SERVICE OF A COPY OF THIS NOTICE ON THEM.

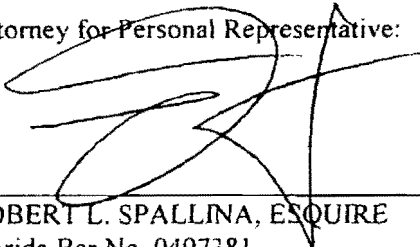
All other creditors of the decedent and other persons having claims or demands against decedent's estate must file their claims with this court WITHIN THREE (3) MONTHS AFTER THE DATE OF THE FIRST PUBLICATION OF THIS NOTICE.

ALL CLAIMS NOT SO FILED WILL BE FOREVER BARRED.

NOTWITHSTANDING THE TIME PERIOD SET FORTH ABOVE, ANY CLAIM FILED TWO (2) YEARS OR MORE AFTER THE DECEDENT'S DATE OF DEATH IS BARRED.

The date of the first publication of this Notice is March 18, 2011.

Attorney for Personal Representative:


ROBERT L. SPALLINA, ESQUIRE
Florida Bar No. 0497381
Tescher & Spallina, P.A.
4855 Technology Way, Ste. 720
Boca Raton, FL 33431
561-997-7008

Personal Representative:

SIMON L. BERNSTEIN
7020 Lions Head Lane
Boca Raton, FL 33496

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Agency for Healthcare Admin
c/o FL TPL Recovery Unit
P.O. Box 12188
Tallahassee FL 32317

Bernstein - Ntc to Creditors

2. Article Number

(Transfer from service label)

7008 1140 0002 1555 1378

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Rec'd by AGC Agent
 Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

- Certified Mail Express Mail
- Registered Return Receipt for Merchandise
- Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF PROBATE DIVISION

SHIRLEY BERNSTEIN,

File No. 502011CP000653XXXXSB

Deceased.

PROOF OF SERVICE OF NOTICE OF ADMINISTRATION

2011 AUG -1 AM 8:48
SHARON R. UCCO, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH - FILED

I CERTIFY that on April 5, 2011, a copy of the attached Notice of Administration was mailed by United States registered or certified mail, return receipt requested, postage prepaid, to the entities on the attachment hereto.

SIGNED receipts or other evidence that delivery was made to, or refused by, each addressee or the address's agent are attached.

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 7/21, 2011.

TESCHER & SPALLINA, P.A.

By: 

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



IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF

PROBATE DIVISION

SHIRLEY BERNSTEIN,

File No. 502011CP000653XXXSB

Deceased.

NOTICE OF ADMINISTRATION

The administration of the estate of SHIRLEY BERNSTEIN, deceased, File Number 502011CP000653XXXSB is pending in the Circuit Court for Palm Beach County, Florida, Probate Division, the address of which is Palm Beach South County Courthouse, 200 W. Atlantic Avenue, Delray Beach, Florida 33444. The decedent's Will, which is dated May 20, 2008, has been admitted to probate. The name and address of the personal representative and of the personal representative's attorney are set forth below.

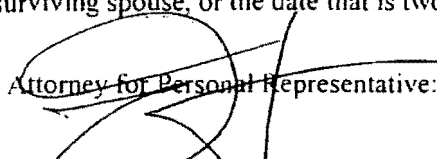
A beneficiary of a Will or Codicil described above is not required to have an attorney or to file and document in order to receive the inheritance provided in that Will or Codicil.

Any interested person on whom a copy of this Notice of Administration is served who challenges the validity of the Will and/or Codicil, qualifications of the personal representative, venue, or jurisdiction of the court, is required to file any objection with the court following the form and procedure provided in the Florida Probate Rules **WITHIN THE TIME REQUIRED BY LAW**, which is on or before the date that is three (3) months after the date of service of a copy of the Notice of Administration on that person, or those objections are forever barred.

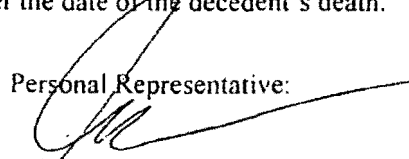
A petition for determination of exempt property is required to be filed by or on behalf of any person entitled to exempt property under Section 732.402 of the Florida Probate Code **WITHIN THE TIME REQUIRED BY LAW**, which is on or before the later of the date that is four (4) months after the date of service of a copy of the Notice of Administration on that person or the date that is forty (40) days after the date of termination of any proceeding involving the construction, admission to probate, or validity of the Will and/or Codicil or involving any other matter affecting any part of the exempt property, or the right of the personal to exempt property is deemed to have been waived.

Any election to take an elective share must be filed **WITHIN THE TIME REQUIRED BY LAW**, which is on or before the earlier of the date that is six (6) months after the date of service of a copy of the Notice of Administration on the surviving spouse, or an attorney in fact or a guardian of the property of the surviving spouse, or the date that is two (2) years after the date of the decedent's death.

Attorney for Personal Representative:


ROBERT L. SPALLINA, ESQUIRE
Florida Bar No. 49738
Tescher & Spallina, P.A.
4855 Technology Way, Ste. 720
Boca Raton, FL 33431
561-997-7008

Personal Representative:


SIMON L. BERNSTEIN
7020 Lions Head Lane
Boca Raton, FL 33496

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Simon Bernstein
7020 Lions Head Lane
Boca Raton, FL 33496

Bernstein - Ntc of Admin

2. Article Number

(Transfer from service label)

7008 1140 0002 1555 1422

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

 Agent Addressee

B. Received by (Printed Name)

S. Bernstein

C. Date of Delivery

4-6-11

D. Is delivery address different from item 1? YesIf YES, enter delivery address below: No

3. Service Type

 Certified Mail Express Mail Registered Return Receipt for Merchandise Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

 Yes**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Ted Bernstein
880 Berkeley Street
Boca Raton, FL 33487

Bernstein - Ntc of Admin

2. Article Number

(Transfer from service label)

7007 2560 0002 7982 3990

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

 Agent Addressee

B. Received by (Printed Name)

C. Date of Delivery

4/6

D. Is delivery address different from item 1? YesIf YES, enter delivery address below: No

3. Service Type

 Certified Mail Express Mail Registered Return Receipt for Merchandise Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

 Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 Pamela B. Simon
 950 North Michigan Avenue
 Suite 2603
 Chicago, IL 60606

Bernstein - Ntc of Admin

2. Article Number (Transfer from service label) 7008 1140 0002 1555 1415

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent Addressee
 X Ben Lawson
 B. Received by (Printed Name) C. Date of Delivery
 Ben Lawson 4-8-11

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Registered Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 Eliot Bernstein
 2753 NW 34th Street
 Boca Raton, FL 33434

Bernstein - Ntc of Admin

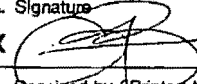
2. Article Number (Transfer from service label) 7008 1140 0002 1555 1408

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent Addressee
 X 
 B. Received by (Printed Name) C. Date of Delivery
 Eliot Bernstein 4/6/11

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Lisa S. Friedstein
2142 Churchill Lane
Highland Park, IL 60035

Bernstein - Ntc of Admin

2. Article Number

(Transfer from service label)

7008 1140 0002 1555 1385

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *[Handwritten Signature]* Agent Addressee

B. Received by (Printed Name)

LISA FRIEDSTEIN

C. Date of Delivery

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

APR 08 2011

3. Service Type

- Certified Mail Express Mail
- Registered Return Receipt for Merchandise
- Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

LAW OFFICES
TESCHER & SPALLINA

BOCA VILLAGE CORPORATE CENTER I
4855 TECHNOLOGY WAY, SUITE 720
BOCA RATON, FLORIDA 33431

CERTIFIED MAIL



7008 1140 0002 1555 1392

UNITED STATES POSTAL SERVICE
163 2897 05.540 PB8678131
07 32 BOCA RATON FL 33431
APR 05 11

NAME *CD* Jill Jantoni
1st Notice *APR 7 2011* 101 Magnolia Lane
2nd Notice *4-16* Highland Park, IL 60035
Return *4/8* " " " " " "

NIXIE 600 SE 1 00 04/27/11

RETURN TO SENDER
UNCLAIMED
UNABLE TO FORWARD

BC: 33431335195 *0375-01494-05-41

60035+4215
33431@3351



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

2011 OCT -6 PM 1:50
SHARON A. BOON, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH-FILED

**PROOF OF SERVICE OF INVENTORY
UPON FLORIDA DEPARTMENT OF REVENUE**

PROOF OF SERVICE OF INVENTORY

I CERTIFY that on September 8, 2011, a copy of the Inventory of the above estate was mailed
by U.S. certified mail, postage prepaid, return receipt requested, to the following:

Florida Department of Revenue
5050 W. Tennessee St., Bldg. K
Tallahassee, FL 32399-0100

SIGNED receipts or other evidence that delivery was made to, or refused by, each addressee or
the address's agent are attached.

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 October 4, 2011.

Respectfully Submitted,

TESCHER & SPALLINA, P.A.

By: 

ROBERT L. SPALLINA, ESQUIRE

Florida Bar No. 497381

4855 Technology Way, Ste. 720

Boca Raton, FL 33431

561-997-7008

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and return address on the reverse so that we can return the card to you.
- Attach this card to the back of the mail piece, or on the front if space permits.

TASHA THOMAS

1. Article Addressed to:
Florida Dept. of Revenue
5050 W. Tennessee St.
Bldg. K.
Tallahassee, FL 32399-0100

Bernstein - Inventory

2. Article Number (Transfer from service label) **7006 3450 0001 2704 1004**

COMPLETE THIS SECTION ON DELIVERY

A. Signature  Agent
Addresssee

Postage and Fees by (Printed Name) **\$ 00.00** Delivery
02 4M
0004257368 SEP 14 2011

MAILED FROM ZIP CODE 32308
If YES, enter delivery address below: No

3. Service Type
- Certified Mail Express Mail
 - Registered Return Receipt for Merchandise
 - Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FLORIDA
IN RE: ESTATE OF PROBATE DIVISION
SHIRLEY BERNSTEIN, FILE NO.: 502011000653CPXXXSB
Deceased. DIVISION:

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

STATEMENT REGARDING CREDITORS

The undersigned, SIMON BERNSTEIN, as personal representative of the estate of Shirley Bernstein, deceased, alleges:

1. A Notice to Creditors in the estate of the decedent has been published as required by law, with the first publication occurring on March 18, 2011.
2. Diligent search has been made to ascertain the names and location or mailing addresses of all creditors of the decedent and of all other persons having claims or demands against the estate.
3. The names and, if known, the addresses of all creditors and other persons ascertained to have claims or demands against the estate and who have not filed a timely claim, or who have not had their claim included in a Personal Representative's Proof of Claim filed in this proceeding, are:

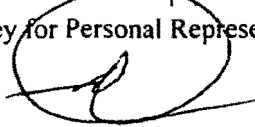
None

4. A copy of the Notice of Administration was served on each of the persons named on the attached schedule (if any) within three months after the first publication of the Notice of Administration, except as otherwise indicated on that schedule.

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.

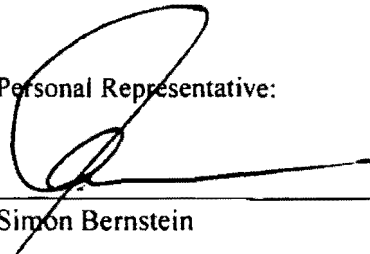
Signed on April 9, 2012.

Attorney for Personal Representative:



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

Personal Representative:


Simon Bernstein



Affidavit of No Florida Estate Tax Due
(for decedents dying on or after January 1, 2000)

DR-312
N. 01/00

2012 OCT 24 PM 1:31
SHARON H. STURM, CLERK
PALM BEACH COUNTY, FL
SOUTH COUNTY CLERK'S OFFICE

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL
IN RE: Estate of File No. 502011000653XXSB
Shirley Bernstein, Deceased. Probate Division

(this space available for case style of estate probate proceeding)

(for official use only)

STATE OF FLORIDA
COUNTY OF PALM BEACH

I, the undersigned, SIMON BERNSTEIN, do hereby state:
(print name of personal representative)

- I am the Personal Representative as defined in s. 198.01 or s. 731.201, Florida Statutes (F.S.), as the case may be, of the Estate of SHIRLEY BERNSTEIN.
(print name of decedent)
- The decedent referenced above, whose Social Security Number is [REDACTED], died on 12 / 08 / 2010 and was domiciled, as defined in s. 198.015, F.S., at the time of death in the state of Florida.
(date of death)

On date of death, the decedent was (check one): a U.S. citizen not a U.S. citizen

- A federal estate tax return (federal Form 706 or 706-NA) is not required to be filed for the Estate.
- The Estate does not owe Florida estate tax pursuant to Chapter 198, F.S.
- I acknowledge personal liability for distribution in whole or in part of any of the Estate by having obtained release of such property from the lien of the Florida estate tax.

Under penalties of perjury, I declare that I have read this Affidavit and that the facts stated are true.

Executed this 9th day of April, 2012.

Signature: [Signature]

Print Name: SIMON BERNSTEIN

Mailing Address: 7020 Lions Head Lane, Boca R. to., FL, 33496 Telephone: _____

STATE OF Florida
COUNTY OF Palm Beach

Sworn to (or affirmed) and subscribed before me by Simon Bernstein
on this 9th day of April, 2012.

Personally known
Or Produced Identification _____
Type of Identification Produced _____

Signature of Notary: [Signature]

NOTARY PUBLIC-STATE OF FLORIDA
Diana Banks
Commission # DD770917
BONDED THRU ATLANTIC BONDING CO., INC.

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

2012 OCT 24 PM 1:31
 SHARON A. BURNETT, CLERK
 PALM BEACH COUNTY, FL
 SOUTH CITY SUITE 309H-FILED

PETITION FOR DISCHARGE
(full waiver)

Petitioner, SIMON BERNSTEIN, as personal representative of the above estate, alleges:

1. The decedent, Shirley Bernstein, a resident of Palm Beach County, died on December 8, 2010, and Letters of Administration were issued to petitioner on February 10, 2011.
2. Petitioner has fully administered this estate by making payment, settlement, or other disposition of all claims and debts that were presented, and by paying or making provision for the payment of all taxes and expenses of administration.
3. Petitioner has filed all required estate tax returns with the Internal Revenue Service and with the Department of Revenue of the State of Florida, and has obtained and filed, or file herewith, evidence of the satisfaction of this estate's obligations for both federal and Florida estate taxes, if any.
4. The only persons, other than petitioner, having an interest in this proceeding, and their respective addresses are:

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



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

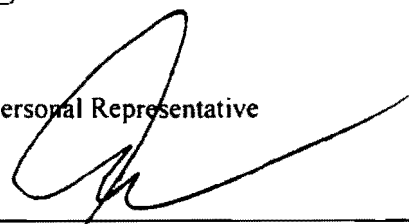
Petitioner requests that an order be entered discharging petitioner as personal representative of this estate and releasing the surety on any bond which petitioner may have posted in this proceeding from any liability on it.



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

\\WPDATA\c\stata\Bernstein, Shirley\Findings\Closing Findings\Discharge Pet.wpd



Report : CZRPRBC
Instance : JISPROD

CLERK OF THE CIRCUIT COURT
PALM BEACH COUNTY
PROBATE CHECKLIST

Date : 15-Feb-2012
Time : 9:45:17AM

Page 1 of 2

2011CP000653

SHIRLEY BERNSTEIN

Per Rep BERNSTEIN, SIMON L.
7020 LIONS HEAD LANE
BOCA RATON, FL 33496

Attorney SPALLINA, ROBERT L.
4855 TECHNOLOGY WAY
SUITE 720
BOCA RATON, FL 33496

2012 OCT 24 PM 1:31
SHARON W. BROWN, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY CENTER, 1001-FILED

NOTE : ***** INDICATES NO DOCKET NUMBER ENTRY - DOCUMENT NOT FILED

Docket #	Date Filed	Description
2	10-Feb-2011	A. DEATH CERT PROBATE DECEDENT
*****		B. DEATH CERTIFICATE
7	10-Feb-2011	C. LETTERS OF ADMINISTRATION
10	25-Apr-2011	D. PROOF OF SRV NOT TO CREDITORS UPON THE AGENCY FOR HEALTH CARE ADMIN. & NOTICE OF FILING
*****		E. WAIVER OF NOTICE OF ADMINISTRATION
*****		F. PROOF OF PUBLICATION
12	09-Sep-2011	G. INVENTORY - ESTATE
*****		H. PR. AFFIDAVIT STMT RE CREDITORS SRCH FOR & NOT OF ADMIN
*****		I. CLAIMS FILED
*****		J. CLAIMS SATISFIED
*****		K. OBJECTION TO CLAIM
*****		L. NOTICE OF CIVIL ACTION
*****		M. ORDER STRIKING / DISMISSING CLAIM
*****		N. WITHDRAWAL OF CLAIM
*****		O. FEDERAL ESTATE TAX CLOSING LETTER
<i>Only one of the two following Documents (Items P or Q) need be filed.</i>		
*****		P. FEDERAL ESTATE NON TAX CERTIFICATE
*****		Q. FINAL CERTIFICATE
*****		R. PETITION FOR DISCHARGE FILED
*****		S. REPORT OF DISTRIBUTION
*****		T. NOTICE FOR FINAL ACTING AND PETITION FOR DISCHARGE
*****		U. FINAL ACCOUNTING FILED
*****		V. OBJECTION TO FINAL ACCOUNTING
*****		W. WAIVER / SERVICE / CONSENT / RECEIPT
*****		X. RECEIPT OF BENEFICIARY

Report : CZRPRBC
Instance : JISPROD

CLERK OF THE CIRCUIT COURT
PALM BEACH COUNTY
PROBATE CHECKLIST

Date : 15-Feb-2012
Time : 9:45:17AM

Page 2 of 2

2011CP000653 - continued

Docket #	Date Filed	Description
----------	------------	-------------

Whose signature



I HEREBY ATTEST TO THE FILING OF ALL REQUIRED DOCUMENTS FOR THE ABOVE NAMED ESTATE.

SIGNATURE

*** end of report czrprbc ***

Report : CZRPRBC
Instance : JISPROD

CLERK OF THE CIRCUIT COURT
PALM BEACH COUNTY
PROBATE CHECKLIST

Date : 15-Feb-2012
Time : 9:45:17AM

Page 1 of 2

2011CP000653

SHIRLEY BERNSTEIN

Per Rep BERNSTEIN, SIMON L.
7020 LIONS HEAD LANE
BOCA RATON, FL 33496

Attorney SPALLINA, ROBERT L.
4855 TECHNOLOGY WAY
SUITE 720
BOCA RATON, FL 33496

2012 OCT 24 PM 1:31
SHARON K. GIBSON, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY CENTER, CHIEF-FILED

NOTE : ***** INDICATES NO DOCKET NUMBER ENTRY - DOCUMENT NOT FILED

Docket #	Date Filed	Description
2	10-Feb-2011	A. DEATH CERT PROBATE DECEDENT
*****		B. DEATH CERTIFICATE
7	10-Feb-2011	C. LETTERS OF ADMINISTRATION
10	25-Apr-2011	D. PROOF OF SRV NOT TO CREDITORS UPON THE AGENCY FOR HEALTH CARE ADMIN. & NOTICE OF FILING
*****		E. WAIVER OF NOTICE OF ADMINISTRATION
*****		F. PROOF OF PUBLICATION
12	09-Sep-2011	G. INVENTORY - ESTATE
*****		H. PR. AFFIDAVIT STMT RE CREDITORS SRCH FOR & NOT OF ADMIN
*****		I. CLAIMS FILED
*****		J. CLAIMS SATISFIED
*****		K. OBJECTION TO CLAIM
*****		L. NOTICE OF CIVIL ACTION
*****		M. ORDER STRIKING / DISMISSING CLAIM
*****		N. WITHDRAWAL OF CLAIM
*****		O. FEDERAL ESTATE TAX CLOSING LETTER

Only one of the two following Documents (Items P or Q) need be filed.

*****	P. FEDERAL ESTATE NON TAX CERTIFICATE
*****	Q. FINAL CERTIFICATE
*****	R. PETITION FOR DISCHARGE FILED
*****	S. REPORT OF DISTRIBUTION
*****	T. NOTICE FOR FINAL ACTING AND PETITION FOR DISCHARGE
*****	U. FINAL ACCOUNTING FILED
*****	V. OBJECTION TO FINAL ACCOUNTING
*****	W. WAIVER / SERVICE / CONSENT / RECEIPT
*****	X. RECEIPT OF BENEFICIARY

Report : CZRPRBC
Instance : JISPROD

CLERK OF THE CIRCUIT COURT
PALM BEACH COUNTY
PROBATE CHECKLIST


Date : 15-Feb-2012
Time : 9:45:17AM

Page 2 of 2

2011CP000653 - continued

Docket #	Date Filed	Description
----------	------------	-------------

I HEREBY ATTEST TO THE FILING OF ALL REQUIRED DOCUMENTS FOR THE ABOVE NAMED ESTATE.



SIGNATURE

*** end of report czrprbc ***

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 R. HOGAN, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH-FILED

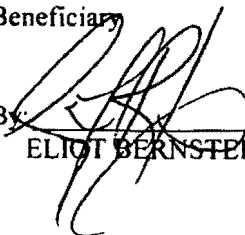
**WAIVER OF ACCOUNTING AND PORTIONS OF PETITION
FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR
DISCHARGE; AND RECEIPT OF BENEFICIARY AND
CONSENT TO DISCHARGE**

The undersigned, 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

**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. HARRIS, CLERK
PALM BEACH COUNTY, FL
SOUTH DIXIE COUNTY COURTHOUSE
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;
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- (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

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

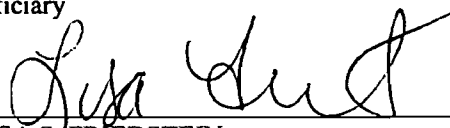
2012 OCT 24 PM 1:31
SHARON A. ... CLERK
PALM BEACH COUNTY, FL
SOUTH CITY ... FILED

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, Lisa S. Friedstein, whose address is 2142 Churchill 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;
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- (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 August 21, 2012.

Beneficiary
By: 
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

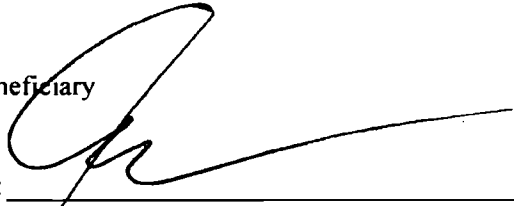
2012 OCT 24 PM 1:31
SHARON H. B. OF CLERMONT
PALM BEACH COUNTY-FILED
SOUTH CITY SQUARE

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, 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. 502011CP000653XXXXSB
SHIRLEY BERNSTEIN, Probate Division
Deceased. Division

2012 OCT 24 PM 1:31
SHARON K. BROWN, CLERK
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;
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- (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

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 ESTATE
PALM BEACH COUNTY FILED
SOUTH CLAY

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;
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- (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

MEMORANDUM

DATE: November 5, 2012

TO: Robert L. Spallina, Esq.

FROM: Astride Limouzin Case Manager, on behalf of -
This office does not provide legal advice
For procedural inquiries Tel. #561-274-1424

| X| JUDGE MARTIN H. COLIN Division - 1Y
| JUDGE JAMES L. MARTZ Division - 1Z
| JUDGE ROSEMARIE SCHER Division - 1X

CASE NUMBER: 50 2011CP000653XXXXSB Estate of Shirley Bernstein
MATTER: Documents being returned Order of discharge

- ___ Death certificate (**CERTIFIED COPY**) not submitted. F.S. §731.103, Probate Rule 5.205 & Probate Rule 5.171
- ___ Received bill for funeral expenses required (*Must be paid in full*).
- ___ Proof of will or codicil is required; it is not self-proved. Please review F.S. §732.502; 733.201; P.R. 5.210 & P.R. 5.230.
- ___ Order admitting will/ codicil/ and or appointing personal representative is either missing or incorrect. FS§733.201, R.5.210 & 5.235
- ___ Petition and order designating a restricted depository, and acceptance is required FS §69.031 & FS §744.351(6).
- ___ Oath of Personal Representative, of Guardian or Administrator Ad Litem and designation of resident agent was not submitted or incorrect. Resident agent must sign the acceptance. (Rule 5.110, 5.120 and 5.320 committee notes).
- ___ Proof of publication not submitted. Rule 5.241.
- ___ Statement regarding creditors not submitted. Probate Rule 5.241 (d).
- ___ Inventory not submitted. Probate Rule 5.340.
- ___ All claims must be satisfied, struck, or dismissed.
- ___ Final certificate of estate tax or affidavit of non-tax is not submitted. FS §198.26 & 193.28
- ___ All Beneficiaries must join in the petition or they must receive formal notice on the petition. FS §735.203 & Probate Rule 5.530(b).
- XX** Receipts for assets from all of the specific beneficiaries were not notarized.
- ___ Receipt of final accounting, service of petition for discharge and/or waiver from all residuary beneficiaries or qualified trust beneficiaries are required. See. R. 5.400. Attorney fees see FS §733.6171(6), 731.302, 731.303(1)(b) and Probate Rule 5.180(b). Committee notes (one person serving in two (2) fiduciary capacities may not waive or consent to the persons acts without the approval of those who the person represents).
- ___ Proof of service of the Objection to the Claims. FS §733.705(2), Probate Rule. 5.496 & Probate Rule 5.040.
- ___ Proof of Service of the Notice to Creditors to the Agency for Health Care Administration. FS §733.2121(d) & Probate Rule 5.241 (a).
- ___ For Lost/Destroyed Wills/Codicils please comply with FS § 733.207, 733.201(2) & Probate Rule 5.510
- ___ An 8:45 a.m. motion calendar hearing (limited to 5 mins) with notice to all interested parties is required. Notice must be at least five (5) business days (Tue, Wed and Thurs). Please verify suspension dates. Files must be order via the internet at <http://15thcircuit.co.palm-beach.fl.us/web/guest/cadmin>.
- ___ OTHER:

SHIRLEY R. BOCK, CLERK
PALM BEACH COUNTY, FL
COUNTY CLERK'S OFFICE
BRANCH-FILED
NOV 5 2012
12:00 - 6 AM
10:18

**PLEASE RETURN A COPY OF THIS MEMORANDUM AND PROPOSE ORDERS WHEN REPLYING;
ADDRESS TO THE CLERK AND COMPTROLLER, 200 W ATLANTIC AVENUE, DELRAY BEACH, FL 33444**

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

2012 NOV 19 PM 2:29

SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
SOUTH CTY 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, 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;
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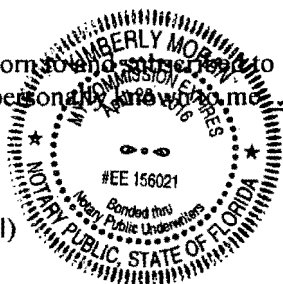
Signed on October 1, 2012.

Beneficiary

By: Jill Iantoni
JILL IANTONI

Sworn to and subscribed to before me on October 1, 2012, by JILL IANTONI, who is personally known to me or who produced _____ as identification.

(Affix Notarial Seal)



Kimberly Moran
Notary Public State of Florida

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

2012 NOV 19 PM 2:29

SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
SOUTH CTY BRANCH-FILED

**WAIVER OF ACCOUNTING AND PORTIONS OF PETITION
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CONSENT TO DISCHARGE**

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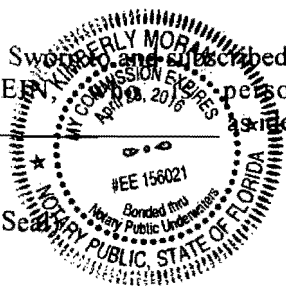
Signed on August 21, 2012.

Beneficiary

By: Lisa Friedstein
LISA S. FRIEDSTEIN

S. FRIEDSTEIN, Kimberly Moran, Notary Public, State of Florida, Commission Expires April 23, 2016
Subscribed to before me on August 21, 2012, by LISA S. FRIEDSTEIN, personally known to me or who produced as identification.

(Affix Notarial Seal)



Kimberly Moran
Notary Public State of Florida

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

2012 NOV-19 PM 2:29
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
SOUTH CTY BRANCH-FILED

**WAIVER OF ACCOUNTING AND PORTIONS OF PETITION
FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR
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- (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: [Signature]
ELIOT BERNSTEIN

Sworn to and subscribed before me on May 15, 2012, by ELLIOT BERNSTEIN, who is personally known to me or who produced _____ as identification.

(Affix Notarial Seal)



Kimberly Norman
Notary Public State of Florida

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


2012 NOV 19 PM 2:29
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
SOUTH CTY BRANCH-FILED

**WAIVER OF ACCOUNTING AND PORTIONS OF PETITION
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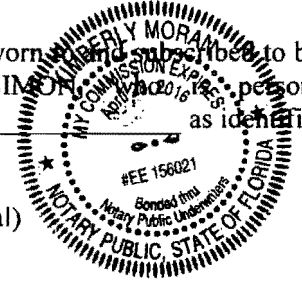
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- (h) Consents to the entry of an order discharging the personal representative without notice, hearing or waiting period and without further accounting.

Signed on 8/8, 2012.

Beneficiary
By: 
PAMELA B. SIMON

Sworn to and subscribed to before me on August 8, 2012, by PAMELA B. SIMON, personally known to me or who produced as identification.

(Affix Notarial Seal)



Notary Public State of Florida

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

2012 NOV 19 PM 2:29
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH-FILED

**WAIVER OF ACCOUNTING AND PORTIONS OF PETITION
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CONSENT TO DISCHARGE**

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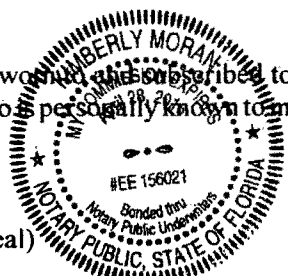
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- (h) Consents to the entry of an order discharging the personal representative without notice, hearing or waiting period and without further accounting.

Signed on 8/1/12, 2012.

Beneficiary
By *Ted Bernstein*
TED BERNSTEIN

Sworn and subscribed to before me on August 1 2012, 2012, by TED BERNSTEIN, who is personally known to me or who produced _____ as identification.

(Affix Notarial Seal)



Kimberly Moran
Notary Public State of Florida

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

2012 NOV 19 PM 2:29

SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
SOUTH CTY 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, 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.

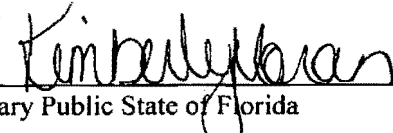
Beneficiary

By: 
SIMON L. BERNSTEIN

Sworn to and subscribed before me on April 9, 2012 by SIMON BERNSTEIN, who is personally known to me or who produced _____ as identification.

(Affix Notarial Seal)




Notary Public State of Florida

LAW OFFICES
TESCHER & SPALLINA, P.A.

BOCA VILLAGE CORPORATE CENTER I
4855 TECHNOLOGY WAY, SUITE 720
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SUPPORT STAFF
DIANE DUSTIN
KIMBERLY MORAN
SUANN TESCHER

January 11, 2013

VIA FEDERAL EXPRESS

Christine P. Yates, Esq.
Tripp Scott
110 Southeast Sixth Street
Fifteenth Floor
Fort Lauderdale, FL 33301

Re: Estates of Shirley Bernstein and Simon L. Bernstein

Dear Ms. Yates:

In response to the items in your letter dated December 21, 2013, we are enclosing the following documents and responses:

1. Simon L. Bernstein Amended and Restated Trust Agreement dated July 25, 2012. We do not have an accounting for the trust at this time.
2. Shirley Bernstein Trust Agreement dated May 20, 2008 together with a copy of the First Amendment to Shirley Bernstein Trust Agreement dated November 18, 2008. We do not have an accounting for the trust at this time, however, it's primary assets are the two homes.
3. Operating Agreement for Bernstein Family Realty, LLC dated June 30, 2008.
4. Agreement of Limited Partnership of Bernstein Family Investments, LLLP dated May 20, 2008 and the Operating Agreement of Bernstein Holdings, LLC dated May 20, 2008.
5. We have not yet filed any objections to any claims filed in the Estate, but will be able to provide copies when we get to this point in the probate procedure.
6. There is no Exempt Property Petition filed in the Estate.
7. We are not in possession of personal property inventories for either Simon or Shirley.
8. As discussed previously.
9. The Limited Power of Appointment was exercised under Si's Will, a copy of which you already have.
10. A copy of the Inventory for the Estate of Shirley Bernstein.
11. We will provide you with a copy of the Inventory for the Estate of Simon Bernstein once it is complete.
12. We are not in possession of any documents related to LIC Holdings.
13. A copy of the recorded Second Mortgage for Eliot Bernstein's home, together with the Promissory Note in the amount of \$365,000.00. Please note that Walter Sahm holds a

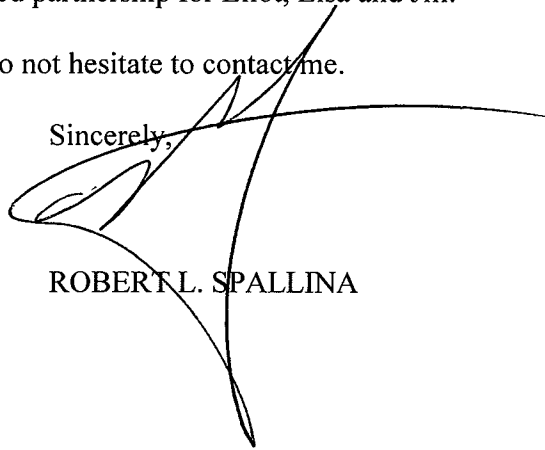
Christine P. Yates, Esq.
January 11, 2013
Page 2

first position mortgage on the property, a copy of which we do not have, and is anxious about getting paid as a result of Si's death. Please call me to discuss this.

14. The children's trusts were never funded, other than the one (1%) percent interest in the general partner of the limited partnership for Eliot, Lisa and Jill.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert L. Spallina", written over the word "Sincerely,". The signature is stylized and extends across the line.

ROBERT L. SPALLINA

Enclosures

SIMON L. BERNSTEIN
AMENDED AND RESTATED TRUST AGREEMENT

Prepared by:

Tescher & Spallina, P.A.
4855 Technology Way, Suite 720, Boca Raton, Florida 33431
(561) 997-7008
www.tescherspallina.com

LAW OFFICES
TESCHER & SPALLINA, P.A.

SIMON L. BERNSTEIN

AMENDED AND RESTATED TRUST AGREEMENT

This Amended and Restated Trust Agreement is dated this 26 day of July, 2012, and is between SIMON L. BERNSTEIN, of Palm Beach County, Florida referred to in the first person, as settlor, and SIMON L. BERNSTEIN, of Palm Beach County, Florida and SIMON L. BERNSTEIN'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 May 20, 2008, I created and funded the SIMON L. BERNSTEIN TRUST AGREEMENT (the "*Trust Agreement*," which reference includes any subsequent amendments of said trust agreement);

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

NOW, THEREFORE, I hereby amend and restate the Trust Agreement in its entirety and the Trustee accepts and agrees to perform its duties and obligations in accordance with the following amended provisions. Notwithstanding any deficiencies in execution or other issues in regard to whether any prior version of this Trust Agreement was a valid and binding agreement or otherwise created an effective trust, this amended and restated agreement shall constitute a valid, binding and effective trust agreement and shall amend and succeed all prior versions described above or otherwise predating this amended and restated Trust Agreement.

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.

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 is proper for my Welfare. Any income not so paid shall be added to principal.

SIMON L. BERNSTEIN
AMENDED AND RESTATED TRUST AGREEMENT

LAW OFFICES
TESCHER & SPALLINA, P.A.



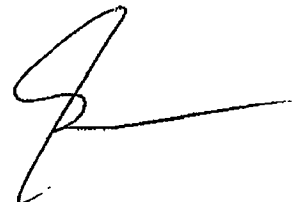
C. **Upon My Death.** Upon my death the Trustee shall collect and add to the trust all amounts due to the trust under any insurance policy on my life or under any death benefit plan and all property added to the trust by my Will or otherwise. After paying or providing for the payment from the augmented trust of all current charges and any amounts payable under the later paragraph captioned "Death Costs," the Trustee shall hold the trust according to the following provisions.

ARTICLE II. AFTER MY DEATH

A. **Disposition of Tangible Personal Property.** If any non-business tangible personal property other than cash (including, but not limited to, my personal effects, jewelry, collections, household furnishings, and equipment, and automobiles) is held in the trust at the time of my death, such items shall be promptly distributed by the Trustee of the trust to such person or persons, including my estate, as to the item or items or proportion specified, as I may appoint, and to the extent that any such items are not disposed of by such appointment, such items shall be disposed of by the Trustee of the trust in exactly the same manner as such items would have been disposed of under the terms and provisions of my Will (including any Codicil thereto, or what the Trustee in good faith believes to be such Will and Codicil) had such items been included in my probate estate. Any such items which are not effectively disposed of pursuant to the preceding sentence shall pass with the other trust assets.

B. **Disposition of Trust Upon My Death.** Upon my death, the remaining assets in this trust shall be divided among and held in separate Trusts for my then living grandchildren. Each of my grandchildren for whom a separate trust is held hereunder shall hereinafter be referred to as a "*beneficiary*" with the separate Trusts to be administered as provided in Subparagraph II.C.

C. **Trusts for Beneficiaries.** The Trustee shall pay to the beneficiary and the beneficiary's children, such amounts of the net income and principal of such beneficiary's trust as is proper for the Welfare of such individuals. Any income not so paid shall be added to principal each year. After a beneficiary has reached any one or more of the following birthdays, the beneficiary may withdraw the principal of his or her separate trust at any time or times, not to exceed in the aggregate 1/3 in value after the beneficiary's 25th birthday, 1/2 in value (after deducting any amount previously subject to withdrawal but not actually withdrawn) after the beneficiary's 30th birthday, and the balance after the beneficiary's 35th birthday, provided that the withdrawal powers described in this sentence shall not apply to any grandchild of mine as beneficiary of a separate trust. The value of each trust shall be its value as of the first exercise of each withdrawal right, plus the value of any subsequent addition as of the date of addition. The right of withdrawal shall be a privilege which may be exercised only voluntarily and shall not include an involuntary exercise. If a beneficiary dies with assets remaining in his or her separate trust, upon the beneficiary's death the beneficiary may appoint his or her trust to or for the benefit of one or more of any of my lineal descendants (excluding from said class, however, such beneficiary and such beneficiary's creditors, estate, and creditors of such beneficiary's estate). Any part of his or her trust such beneficiary does not effectively appoint shall upon his or her death be divided among and held in separate Trusts for the following persons:



1. for his or her lineal descendants then living, *per stirpes*; or
2. if he or she leaves no lineal descendant then living, *per stirpes* for the lineal descendants then living of his or her nearest ancestor (among me and my lineal descendants) with a lineal descendant then living.

A trust for a lineal descendant of mine shall be held under this paragraph, or if a trust is then so held, shall be added to such trust.

D. Termination of Small Trust. If at any time after my death in the opinion of the Trustee a separate trust holds assets of a value of less than \$50,000.00 and is too small to justify the expense of its retention, and termination of such trust is in the best interests of its current income beneficiary, the Trustee in its discretion may terminate such trust and pay it to said beneficiary.

E. Contingent Gift. If at any time property of these Trusts is not disposed of under the other provisions of this Agreement, it shall be paid, as a gift made hereunder, to such persons and in such shares as such property would be distributed if I had then owned such property and had then died solvent, unmarried and intestate domiciled in the State of Florida, according to the laws of inheritance of the State of Florida then in effect.

F. Protective Provision. No beneficiary of any trust herein created shall have any right or power to anticipate, transfer, pledge, sell, alienate, assign or encumber in any way his or her interest in the income or principal of such trust. Furthermore, no creditor shall have the right to attach, lien, seize or levy upon the interest of a beneficiary in this trust (other than myself) and such interest shall not be liable for or subject to the debts, liabilities or obligations of any such beneficiary or any claims against such beneficiary (whether voluntarily or involuntarily created), and the Trustee shall pay directly to or for the use or benefit of such beneficiary all income and principal to which such beneficiary is entitled, notwithstanding that such beneficiary has executed a pledge, assignment, encumbrance or in any other manner alienated or transferred his or her beneficial interest in the trust to another. This paragraph shall not preclude the effective exercise of any power of appointment granted herein or the exercise of any disclaimer.

G. Maximum Duration. Regardless of anything in this Agreement to the contrary, no trust interest herein created shall continue beyond three hundred sixty (360) years after the date of creation of this Agreement, nor shall any power of appointment be exercised in such manner so as to delay vesting of any trust beyond such period. Immediately prior to the expiration of such period, all such trusts then in existence shall terminate, and the assets thereof shall be distributed outright and in fee to then beneficiaries of the current income and in the proportions in which such persons are the beneficiaries, and if such proportions cannot be ascertained, then equally among such beneficiaries.

ARTICLE III. GENERAL



A. **Disability**. Subject to the following Subparagraph captioned "Subchapter S Stock," while any beneficiary is Disabled, the Trustee shall pay to him or her only such portion of the income to which he or she is otherwise entitled as is proper for his or her Welfare, and any income not so paid shall be added to the principal from which derived. While any beneficiary is Disabled, income or principal payable to him or her may, in the discretion of the Trustee, be paid directly to him or her, without the intervention of a guardian, directly to his or her creditors or others for his or her sole benefit or to an adult person or an eligible institution (including the Trustee) selected by the Trustee as custodian for a minor beneficiary under the Uniform Transfers to Minors Act or similar law. The receipt of such payee is a complete release to the Trustee.

B. **Timing of Income Distributions**. The Trustee shall make required payments of income at least quarterly.

C. **Substance Abuse**.

1. **In General**. If the Trustee reasonably believes that a beneficiary (other than myself) of any trust:

a. routinely or frequently uses or consumes any illegal substance so as to be physically or psychologically dependent upon that substance, or

b. is clinically dependent upon the use or consumption of alcohol or any other legal drug or chemical substance that is not prescribed by a board certified medical doctor or psychiatrist in a current program of treatment supervised by such doctor or psychiatrist,

and if the Trustee reasonably believes that as a result the beneficiary is unable to care for himself or herself, or is unable to manage his or her financial affairs, all mandatory distributions (including distributions upon termination of the trust) to the beneficiary, all of the beneficiary's withdrawal rights, and all of the beneficiary's rights to participate in decisions concerning the removal and appointment of Trustees will be suspended. In that event, the following provisions of this Subparagraph III.C will apply.

2. **Testing**. The Trustee may request the beneficiary to submit to one or more examinations (including laboratory tests of bodily fluids) determined to be appropriate by a board certified medical doctor and to consent to full disclosure to the Trustee of the results of all such examinations. The Trustee shall maintain strict confidentiality of those results and shall not disclose those results to any person other than the beneficiary without the prior written permission of the beneficiary. The Trustee may totally or partially suspend all distributions otherwise required or permitted to be made to that beneficiary until the beneficiary consents to the examination and disclosure to the Trustee.

3. **Treatment**. If, in the opinion of the examining doctor, the examination indicates current or recent use of a drug or substance as described above, the examining doctor will determine an appropriate method of treatment for the beneficiary (for example, counseling or treatment on an



in-patient basis in a rehabilitation facility) that is acceptable to the Trustee. If the beneficiary consents to the treatment, the Trustee shall pay the costs of treatment directly to the provider of those services from the distributions suspended under this Subparagraph III.C.

4. Resumption of Distributions. The Trustee may resume other distributions to the beneficiary (and the beneficiary's other suspended rights will be restored) when, in the case of use or consumption of an illegal substance, examinations indicate no such use for 12 months and, in all cases, when the Trustee in its discretion determines that the beneficiary is able to care for himself or herself and is able to manage his or her financial affairs.

5. Disposition of Suspended Amounts. When other distributions to the beneficiary are resumed, the remaining balance, if any, of distributions that were suspended may be distributed to the beneficiary at that time. If the beneficiary dies before distribution of those suspended amounts, the Trustee shall distribute the balance of the suspended amounts to the persons who would be the alternate takers of that beneficiary's share (or takers through the exercise of a power of appointment) as otherwise provided in this Trust Agreement.

6. Exoneration. No Trustee (or any doctor retained by the Trustee) will be responsible or liable to anyone for a beneficiary's actions or welfare. The Trustee has no duty to inquire whether a beneficiary uses drugs or other substances as described in this Subparagraph III.C. The Trustee (and any doctor retained by the Trustee) is to be indemnified from the trust estate and held harmless from any liability of any nature in exercising its judgment and authority under this Subparagraph III.C, including any failure to request a beneficiary to submit to medical examination, and including a decision to distribute suspended amounts to a beneficiary.

7. Tax Savings Provision. Despite the provisions of this Subparagraph III.C, the Trustee cannot suspend any mandatory distributions or withdrawal rights that are required for that trust to become or remain a Qualified Subchapter S Trust (unless the Trustee elects for the trust to be an Electing Small Business Trust), or to qualify for any federal transfer tax exemption, deduction, or exclusion allowable with respect to that trust.

D. Income on Death of Beneficiary. Subject to the later paragraph captioned "Subchapter S Stock," and except as otherwise explicitly provided herein, upon the death of any beneficiary, all accrued or undistributed income of such deceased beneficiary's trust shall pass with the principal of his or her trust but shall remain income for trust accounting purposes.

E. Definitions. In this Agreement,

1. Children, Lineal Descendants. The terms "*child*," "*children*," "*grandchild*," "*grandchildren*" and "*lineal descendant*" mean only persons whose relationship to the ancestor designated is created entirely by or through (a) legitimate births occurring during the marriage of the joint biological parents to each other, (b) children born of female lineal descendants, and (c) children and their lineal descendants arising from surrogate births and/or third party donors when (i) the child is



raised from or near the time of birth by a married couple (other than a same sex married couple) through the pendency of such marriage, (ii) one of such couple is the designated ancestor, and (iii) to the best knowledge of the Trustee both members of such couple participated in the decision to have such child. No such child or lineal descendant loses his or her status as such through adoption by another person. Notwithstanding the foregoing, for all purposes of this Trust and the dispositions made hereunder, my children, TED S. BERNSTEIN, PAMELA B. SIMON, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN, shall be deemed to have predeceased me as I have adequately provided for them during my lifetime.

2. Code. "Code" means the Internal Revenue Code of 1986, as amended, and in referring to any particular provision of the Code, includes a reference to any equivalent or successor provision of a successor federal tax law.

3. Disabled. "Disabled" or being under "Disability" means, as to any applicable individual: (1) being under the age of 21 years, (2) having been adjudicated by a court of competent jurisdiction as mentally or physically incompetent or unable to manage his or her own property or personal affairs (or a substantially similar finding under applicable state or national law), or (3) being unable to properly manage his or her personal or financial affairs, or a trust estate hereunder as to a Trustee hereunder, because of a mental or physical impairment (whether temporary or permanent in nature). A written certificate executed by an individual's attending physician or attending psychiatrist confirming that person's impairment will be sufficient evidence of Disability under item (3) above, and all persons may rely conclusively on such a certificate.

4. Education. The term "education" herein means vocational, primary, secondary, preparatory, theological, college and professional education, including post-graduate courses of study, at educational institutions or elsewhere, and expenses relating directly thereto, including tuition, books and supplies, room and board, and travel from and to home during school vacations. It is intended that the Trustee liberally construe and interpret references to "education," so that the beneficiaries entitled to distributions hereunder for education obtain the best possible education commensurate with their abilities and desires.

5. Needs and Welfare Distributions. Payments to be made for a person's "Needs" means payments necessary for such person's health (including lifetime residential or nursing home care), education, maintenance and support. Payments to be made for a person's "Welfare" means discretionary payments by the Trustee, from time to time, for such person's Needs and also for such person's advancement in life (including assistance in the purchase of a home or establishment or development of any business or professional enterprise which the Trustee believes to be reasonably sound), happiness and general well-being. However, the Trustee, based upon information reasonably available to it, shall make such payments for a person's Needs or Welfare only to the extent such person's income, and funds available from others obligated to supply funds for such purposes (including, without limitation, pursuant to child support orders and agreements), are insufficient in its opinion for such purposes, and shall take into account such person's accustomed manner of living, age, health, marital status and any other factor it considers important. Income or principal to be paid for a person's Needs or Welfare may be paid to

such individual or applied by the Trustee directly for the benefit of such person. The Trustee may make a distribution or application authorized for a person's Needs or Welfare even if such distribution or application substantially depletes or exhausts such person's trust, without any duty upon the Trustee to retain it for future use or for other persons who might otherwise benefit from such trust.

6. Per Stirpes. In a division "*per stirpes*" each generation shall be represented and counted whether or not it has a living member.

7. Related or Subordinate Party. A "*Related or Subordinate Party*" to a trust describes a beneficiary of the subject trust or a related or subordinate party to a beneficiary of the trust as the terms "related or subordinate party" are defined under Code Section 672(c).

8. Spouse. A person's "*spouse*" includes only a spouse then married to and living as husband and wife with him or her, or a spouse who was married to and living as husband and wife with him or her at his or her death. The following rules apply to each person who is a beneficiary or a permissible appointee under this Trust Agreement and who is married to a descendant of mine. Such a person will cease to be a beneficiary and will be excluded from the class of permissible appointees upon:

a. the legal termination of the marriage to my descendant (whether before or after my death), or

b. the death of my descendant if a dissolution of marriage proceeding was pending when he or she died.

The trust will be administered as if that person had died upon the happening of the terminating event described above.

9. Gender, Number. Where appropriate, words of any gender include all genders and the singular and plural are interchangeable.

F. Powers of Appointment. Property subject to a power of appointment shall be paid to, or retained by the Trustee or paid to any trustee under any will or trust agreement for the benefit of, such one or more permissible appointees, in such amounts and proportions, granting such interests, powers and powers of appointment, and upon such conditions including spendthrift provisions as the holder of such power (i) in the case of a power exercisable upon the death of such holder, appoints in his or her will or in a trust agreement revocable by him or her until his or her death, or (ii) in the case of a power exercisable during the life of such holder, appoints in a written instrument signed by such holder, two witnesses and a notary public, but in either case only if such will, trust agreement, or instrument specifically refers to such power.

G. Limitations on Powers of Trustee. Regardless of anything herein to the contrary, no Trustee shall make or participate in making any distribution of income or principal of a trust to or for the benefit of a beneficiary which would directly or indirectly discharge any legal obligation of such



Trustee or a donor of such trust (as an individual, and other than myself as donor) to support such beneficiary; and no Trustee (other than myself) shall make or participate in making any discretionary distribution of income or principal to or for the benefit of himself or herself other than for his or her Needs, including by reason of a determination to terminate a trust described herein. For example, if a Trustee (other than myself) has the power to distribute income or principal to himself or herself for his or her own Welfare, such Trustee (the "restricted Trustee") shall only have the power to make or participate in making a distribution of income or principal to the restricted Trustee for the restricted Trustee's Needs, although any co-Trustee who is not also a restricted Trustee may make or participate in making a distribution of income or principal to the restricted Trustee for such restricted Trustee's Welfare without the participation or consent of said restricted Trustee.

H. Presumption of Survivorship. If any person shall be required to survive another person in order to take any interest under this Agreement, the former person shall be deemed to have predeceased the latter person, if such persons die under circumstances which make it difficult or impracticable to determine which one died first.

I. Governing Law. This Agreement is governed by the law of the State of Florida.

J. Other Beneficiary Designations. Except as otherwise explicitly and with particularity provided herein, (a) no provision of this trust shall revoke or modify any beneficiary designation of mine made by me and not revoked by me prior to my death under any individual retirement account, other retirement plan or account, or annuity or insurance contract, (b) I hereby reaffirm any such beneficiary designation such that any assets held in such account, plan, or contract shall pass in accordance with such designation, and (c) regardless of anything herein to the contrary, any of such assets which would otherwise pass pursuant to this trust due to the beneficiary designation not having met the requirements for a valid testamentary disposition under applicable law or otherwise shall be paid as a gift made hereunder to the persons and in the manner provided in such designation which is incorporated herein by this reference.

K. Release of Medical Information.

1. **Disability of Beneficiary.** Upon the written request of a Trustee (with or without the concurrence of co-Trustees) issued to any current income or principal beneficiary (including discretionary beneficiaries and myself if a beneficiary) for whom a determination of Disability is relevant to the administration of a trust hereunder and for whom a Trustee (with or without the concurrence of co-Trustees) desires to make such a determination, such beneficiary shall issue to all Trustees (who shall be identified thereon both by name to the extent known and by class description) a valid authorization under the Health Insurance Portability and Accountability Act of 1996 and any other applicable or successor law authorizing all health care providers and all medical sources of such requested beneficiary to release protected health information of the requested beneficiary to all Trustees that is relevant to the determination of the Disability of the requested beneficiary as Disability is defined hereunder. The period of each such valid authorization shall be for six months (or the earlier death of the requested



beneficiary). If such beneficiary (or his or her legal representative if such beneficiary is a minor or legally disabled) refuses within thirty days of receipt of the request to provide a valid authorization, or at any time revokes an authorization within its term, the Trustee shall treat such beneficiary as Disabled hereunder until such valid authorization is delivered.

2. Disability of Trustee. Upon the request to a Trustee that is an individual by (a) a co-Trustee, or if none, (b) the person or entity next designated to serve as a successor Trustee not under legal incapacity, or if none, (c) any adult current income or principal beneficiary not under legal incapacity, or in any event and at any time (d) a court of competent jurisdiction, such Trustee shall issue to such person and all persons, courts of competent jurisdiction, and entities (who shall be identified thereon both by name to the extent known and by class description), with authority hereunder to determine such requested Trustee's Disability, a valid authorization under the Health Insurance Portability and Accountability Act of 1996 and any other applicable or successor law authorizing all health care providers and all medical sources of such requested Trustee to release protected health information of the requested Trustee to such persons, courts and entities, that is relevant to the determination of the Disability of the requested Trustee as Disability is defined hereunder. The period of each such valid authorization shall be for six months (or the earlier death or resignation of the requested Trustee). If such requested Trustee refuses within thirty days of receipt of the request to deliver a valid authorization, or at any time revokes an authorization within its term, such requested Trustee shall thereupon be treated as having resigned as Trustee hereunder.


3. Ability to Amend or Revoke. The foregoing provisions of this paragraph shall not constitute a restriction on myself to amend or revoke the terms of this trust instrument under paragraph I.A hereof, provided I otherwise have legal capacity to do so.

4. Authorization to Issue Certificate. All required authorizations under this paragraph shall include the power of a physician or psychiatrist to issue a written certificate to the appropriate persons or entities as provided in Subparagraph III.E.3 hereof.

ARTICLE IV. FIDUCIARIES

A. Powers of the Trustee. During my life except while I am Disabled, the Trustee shall exercise all powers provided by law and the following powers, other than the power to retain assets, only with my written approval. While I am Disabled and after my death, the Trustee shall exercise said powers without approval, provided that the Trustee shall exercise all powers in a fiduciary capacity.

1. Investments. To sell or exchange at public or private sale and on credit or otherwise, with or without security, and to lease for any term or perpetually, any property, real and personal, at any time forming a part of the trust estate (the "*estate*"); to grant and exercise options to buy or sell; to invest or reinvest in real or personal property of every kind, description and location; and to receive and retain any such property whether originally a part of any trust herein created or subsequently acquired, even if the Trustee is personally interested in such property, and without liability for any



decline in the value thereof; all without limitation by any statutes or judicial decisions whenever enacted or announced, regulating investments or requiring diversification of investments, it being my intention to give the broadest investment powers and discretion to the Trustee. Any bank, trust company, or other corporate trustee serving hereunder as Trustee is authorized to invest in its own common trust funds.

2. Special Investments. The Trustee is expressly authorized (but not directed) to retain, make, hold, and dispose of investments not regarded as traditional for trusts, including interests or investments in privately held business and investment entities and enterprises, including without limitation stock in closely held corporations, limited partnership interests, joint venture interests, mutual funds, business trust interests, and limited liability company membership interests, notwithstanding (a) any applicable prudent investor rule or variation thereof, (b) common law or statutory diversification requirements (it being my intent that no such duty to diversify shall exist) (c) a lack of current cash flow therefrom, (d) the presence of any risk or speculative elements as compared to other available investments (it being my intent that the Trustee have sole and absolute discretion in determining what constitutes acceptable risk and what constitutes proper investment strategy), (e) lack of a reasonable rate of return, (f) risks to the preservation of principal, (g) violation of a Trustee's duty of impartiality as to different beneficiaries (it being my intent that no such duty exists for this purpose), and (h) similar limitations on investment under this Agreement or under law pertaining to investments that may or should be made by a Trustee (including without limitation the provisions of Fla.Stats. §518.11 and successor provisions thereto that would characterize such investments as forbidden, imprudent, improper or unlawful). The Trustee shall not be responsible to any trust created hereunder or the beneficiaries thereof for any loss resulting from any such authorized investment, including without limitation loss engendered by the higher risk element of that particular entity, investment, or enterprise, the failure to invest in more conservative investments, the failure to diversify trust assets, the prudent investor rule or variant thereof. Notwithstanding any provisions for distributions to beneficiaries hereunder, if the Trustee determines that the future potential investment return from any illiquid or closely held investment asset warrants the retention of that investment asset or that sufficient value could not be obtained from the sale or other disposition of an illiquid or closely held investment asset, the Trustee is authorized to retain that asset and if necessary reduce the distributions to beneficiaries due to lack of sufficient liquid or marketable assets. However, the preceding provisions of this Subparagraph shall not be exercised in a manner as to jeopardize the availability of the estate tax marital deduction for assets passing to or held in the a trust for my surviving spouse or that would otherwise qualify for the estate tax marital deduction but for such provisions, shall not override any express powers hereunder of my surviving spouse to demand conversion of unproductive property to productive property, or reduce any income distributions otherwise required hereunder for a trust held for the benefit of my surviving spouse or a "qualified subchapter S trust" as that term is defined in Code Section 1361(d)(3).

3. Distributions. To make any division or distribution pro rata or non-pro rata, in cash or in kind, and to allocate undivided interests in property and dissimilar property (without regard to its tax basis) to different shares.



4. Management. To manage, develop, improve, partition or change the character of an asset or interest in property at any time; and to make ordinary and extraordinary repairs, replacements, alterations and improvements, structural or otherwise.

5. Borrowing. To borrow money from anyone on commercially reasonable terms, including entities owned in whole or in part by the trust, a Trustee, beneficiaries and other persons who may have a direct or indirect interest in a Trust; and to mortgage, margin, encumber and pledge real and personal property of a trust as security for the payment thereof, without incurring any personal liability thereon and to do so for a term within or extending beyond the terms of the trust and to renew, modify or extend existing borrowing on similar or different terms and with the same or different security without incurring any personal liability; and such borrowing from a Trustee may be with or without interest, and may be secured with a lien on trust assets.

6. Lending. To extend, modify or waive the terms of any obligation, bond or mortgage at any time forming a part of a trust and to foreclose any such mortgage; accept a conveyance of encumbered property, and take title to the property securing it by deed in lieu of foreclosure or otherwise and to satisfy or not satisfy the indebtedness securing said property; to protect or redeem any such property from forfeiture for nonpayment of taxes or other lien; generally, to exercise as to such bond, obligation or mortgage all powers that an absolute owner might exercise; and to loan funds to beneficiaries at commercially reasonable rates, terms and conditions.

7. Abandonment of Property. To abandon any property or asset when it is valueless or so encumbered or in such condition that it is of no benefit to a trust. To abstain from the payment of taxes, liens, rents, assessments, or repairs on such property and/or permit such property to be lost by tax sale, foreclosure or other proceeding or by conveyance for nominal or no consideration to anyone including a charity or by escheat to a state; all without personal liability incurred therefor.

8. Real Property Matters. To subdivide, develop or partition real estate; to purchase or sell real property and to enter into contracts to do the same; to dedicate the same to public use; to make or obtain the location of any plats; to adjust boundaries; to adjust differences in valuations on exchange or partition by giving or receiving consideration; and, to grant easements with or without consideration as the fiduciaries may determine; and to demolish any building, structures, walls and improvements, or to erect new buildings, structures, walls and improvements and to insure against fire and other risks; and to protect and conserve, or to lease, or to encumber, or otherwise to manage and dispose of real property to the extent such power is not otherwise granted herein or otherwise restricted herein.

9. Claims. To enforce, compromise, adjust, arbitrate, release or otherwise settle or pay any claims or demands by or against a trust.

10. Business Entities. To deal with any business entity or enterprise even if a Trustee is or may be a fiduciary of or own interests in said business entity or enterprise, whether operated in the form of a corporation, partnership, business trust, limited liability company, joint venture, sole



proprietorship, or other form (all of which business entities and enterprises are referred to herein as "**Business Entities**"). I vest the Trustee with the following powers and authority in regard to Business Entities:

a. To retain and continue to operate a Business Entity for such period as the Trustee deems advisable;

b. To control, direct and manage the Business Entities. In this connection, the Trustee, in its sole discretion, shall determine the manner and extent of its active participation in the operation and may delegate all or any part of its power to supervise and operate to such person or persons as the Trustee may select, including any associate, partner, officer or employee of the Business Entity;

c. To hire and discharge officers and employees, fix their compensation and define their duties; and similarly to employ, compensate and discharge agents, attorneys, consultants, accountants, and such other representatives as the Trustee may deem appropriate; including the right to employ any beneficiary or fiduciary in any of the foregoing capacities;

d. To invest funds in the Business Entities, to pledge other assets of a trust as security for loans made to the Business Entities, and to lend funds from a trust to the Business Entities;

e. To organize one or more Business Entities under the laws of this or any other state or country and to transfer thereto all or any part of the Business Entities or other property of a trust, and to receive in exchange such stocks, bonds, partnership and member interests, and such other securities or interests as the Trustee may deem advisable;

f. To treat Business Entities as separate from a trust. In a Trustee's accounting to any beneficiary, the Trustee shall only be required to report the earnings and condition of the Business Entities in accordance with standard business accounting practice;

g. To retain in Business Entities such net earnings for working capital and other purposes of the Business Entities as the Trustee may deem advisable in conformity with sound business practice;

h. To sell or liquidate all or any part of the Business Entities at such time and price and upon such terms and conditions (including credit) as the Trustee may determine. My Trustee is specifically authorized and empowered to make such sale to any person, including any partner, officer, or employee of the Business Entities, a fiduciary, or to any beneficiary; and

i. To guaranty the obligations of the Business Entities, or pledge assets of a trust to secure such a guaranty.



11. Principal and Income. To allocate items of income or expense between income and principal as permitted or provided by the laws of the State of Florida but without limiting the availability of the estate tax marital deduction, provided, unless otherwise provided in this instrument, the Trustee shall establish out of income and credit to principal reasonable reserves for depreciation, obsolescence and depletion, determined to be equitable and fair in accordance with some recognized reasonable and preferably uncomplicated trust accounting principle and; provided, further that the Trustee shall not be required to provide a rate of return on unproductive property unless otherwise provided in this instrument.

12. Life Insurance. With respect to any life insurance policies constituting an asset of a trust, to pay premiums; to apply dividends in reduction of such premiums; to borrow against the cash values thereof; to convert such policies into other forms of insurance, including paid-up insurance; to exercise any settlement options provided in any such policies; to receive the proceeds of any policy upon its maturity and to administer such proceeds as a part of the principal of the Trust; and in general, to exercise all other options, benefits, rights and privileges under such policies.

13. Continuing Power. To continue to have or exercise, after the termination of a trust, in whole or in part, and until final distribution thereof, all title, power, discretions, rights and duties conferred or imposed upon the Trustee by law or by this Agreement or during the existence of the trust.

14. Exoneration. To provide for the exoneration of the Trustee from any personal liability on account of any arrangement or contract entered into in a fiduciary capacity.

15. Agreements. To comply with, amend, modify or rescind any agreement made during my lifetime, including those regarding the disposition, management or continuation of any closely held unincorporated business, corporation, partnership or joint venture, and including the power to complete contracts to purchase and sell real estate.

16. Voting. To vote and give proxies, with power of substitution to vote, stocks, bonds and other securities, or not to vote a security.

17. Combination of Shares. To hold the several shares of a trust or several Trusts as a common fund, dividing the income proportionately among them, to assign undivided interests to the several shares or Trusts, and to make joint investments of the funds belonging to them. For such purposes and insofar as may be practicable, the Trustee, to the extent that division of the trust estate is directed hereby, may administer the trust estate physically undivided until actual division thereof becomes necessary to make distributions. The Trustee may hold, manage, invest and account for whole or fractional trust shares as a single estate, making the division thereof by appropriate entries in the books of account only, and may allocate to each whole or fractional trust share its proportionate part of all receipts and expenses; provided, however, this carrying of several Trusts as a single estate shall not defer the vesting in possession of any whole or fractional share of a trust for the beneficiaries thereof at the times specified herein.



18. Reimbursement. To reimburse itself from a trust for reasonable expenses incurred in the administration thereof.

19. Reliance Upon Communication. To rely, in acting under a trust, upon any letter, notice, certificate, report, statement, document or other paper, or upon any telephone, telegraph, cable, wireless or radio message, if believed by the Trustee to be genuine, and to be signed, sealed, acknowledged, presented, sent, delivered or given by or on behalf of the proper person, firm or corporation, without incurring liability for any action or inaction based thereon.

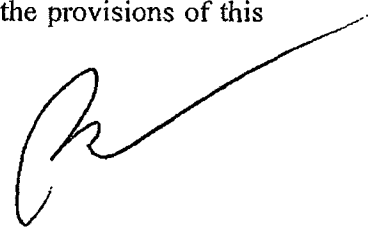
20. Assumptions. To assume, in the absence of written notice to the contrary from the person or persons concerned, that a fact or an event, by reason of which an interest or estate under a trust shall commence or terminate, does not exist or has not occurred, without incurring liability for any action or inaction based upon such assumption.

21. Service as Custodian. To serve as successor custodian for any beneficiary of any gifts that I may have made under any Transfer to Minors Act, if at the time of my death no custodian is named in the instrument creating the gift.

22. Removal of Assets. The Trustee may remove from the domiciliary state during the entire duration of a trust or for such lesser period as it may deem advisable, any cash, securities or other property at any time in its hands whether principal or not, and to take and keep the same outside the domiciliary state and at such place or places within or outside the borders of the United States as it may determine, without in any event being chargeable for any loss or depreciation to the trust which may result therefrom.

23. Change of Situs. The situs and/or applicable law of any trust created hereunder may be transferred to such other place as the Trustee may deem to be for the best interests of the trust estate. In so doing, the Trustee may resign and appoint a successor Trustee, but may remove such successor Trustee so appointed and appoint others. Each successor Trustee may delegate any and all fiduciary powers, discretionary and ministerial, to the appointing Trustee as its agent.

24. Fiduciary Outside Domiciliary State. In the event the Trustee shall not be able and willing to act as Trustee with respect to any property located outside the domiciliary state, the Trustee, without order of court, may appoint another individual or corporation (including any employee or agent of any appointing Trustee) to act as Trustee with respect to such property. Such appointed Trustee shall have all of the powers and discretions with respect to such property as are herein given to the appointing Trustee with respect to the remaining trust assets. The appointing Trustee may remove such appointed Trustee and appoint another upon ten (10) days notice in writing. All income from such property, and if such property is sold, exchanged or otherwise disposed of, the proceeds thereof, shall be remitted to the appointing Trustee, to be held and administered by it as Trustee hereunder. Such appointed Trustee may employ the appointing Trustee as agent in the administration of such property. No surety shall be required on the bond of the Trustee or agent acting under the provisions of this



paragraph. No periodic court accounting shall be required of such appointed Trustee, it being my intention to excuse any statutory accounting which may ordinarily be required.

25. Additions. To receive and accept additions to the Trusts in cash or in kind from donors, executors, administrators, Trustee or attorneys in fact, including additions of my property by the Trustee or others as my attorneys in fact.

26. Title and Possession. To have title to and possession of all real or personal property held in the Trusts, and to register or hold title to such property in its own name or in the name of its nominee, without disclosing its fiduciary capacity, or in bearer form.

27. Dealing with Estates. To use principal of the Trusts to make loans to my estate, with or without interest, and to make purchases from my estate.

28. Agents. To employ persons, including attorneys, auditors, investment advisers, and agents, even if they are the Trustee or associated with the Trustee, to advise or assist the Trustee in the performance of its administrative duties and to pay compensation and costs incurred in connection with such employment from the assets of the Trust; to act without independent investigation upon their recommendations; and, instead of acting personally, to employ one or more agents to perform any act of administration, whether or not discretionary.

29. Tax Elections. To file tax returns, and to exercise all tax-related elections and options at its discretion, without compensating adjustments or reimbursements between any of the Trusts or any of the trust accounts or any beneficiaries.

B. Resignation. A Trustee may resign with or without cause, by giving no less than 30 days advance written notice, specifying the effective date of such resignation, to its successor Trustee and to the persons required and in the manner provided under Fla.Stats. §§736.0705(1)(a) and 736.0109. As to any required recipient, deficiencies in fulfilling the foregoing resignation requirements may be waived in a writing signed by such recipient. Upon the resignation of a Trustee, such Trustee shall be entitled to reimbursement from the trust for all reasonable expenses incurred in the settlement of accounts and in the transfer of assets to his or her successor.

C. Appointment of Successor Trustee.

1. Appointment. Upon a Trustee's resignation, or if a Trustee becomes Disabled or for any reason ceases to serve as Trustee, I may appoint any person or persons as successor Trustee, and in default of such appointment by me, ROBERT L. SPALLINA and DONALD R. TESCHER shall serve together as successor co-Trustees, or either of them alone as Trustee if either of them is unable to serve. Notwithstanding the foregoing, if a named Trustee is not a U.S. citizen or resident at the time of commencement of his term as Trustee, such Trustee should give due consideration to declining to serve to avoid potential adverse U.S. income tax consequences by reason of the characterization of a trust



hereunder as a foreign trust under the Code, but shall not be construed to have any duty to so decline if such Trustee desires to serve.

2. Specific Trusts. Notwithstanding the preceding provisions of this Subparagraph IV.C., subsequent to my death I specifically appoint the following person or persons as Trustee of the following Trusts under the following described circumstances provided that the foregoing appointments shall apply when and to the extent that no effective appointment is made below:

a. Trustee of Separate Trusts for My Grandchildren. Each grandchild of mine shall serve as co-Trustee with the immediate parent of such grandchild which parent is also a child of mine as to all separate trusts under which such grandchild is the sole current mandatory or discretionary income beneficiary upon attaining the age of twenty-five (25) years, and shall serve as sole Trustee of such trusts upon attaining the age of thirty-five (35) years. While serving alone as Trustee, a grandchild of mine may designate a co-Trustee that is not a Related or Subordinate Party to serve with such grandchild and such grandchild may remove and/or replace such co-Trustee with another that is not a Related or Subordinate Party from time to time.

b. Trustee of Separate Trusts for My Lineal Descendants Other Than My Grandchildren. In regard to a separate trust held for a lineal descendant of mine other than a grandchild of mine which lineal descendant is the sole current mandatory or discretionary income beneficiary, each such lineal descendant shall serve as co-Trustee, or sole Trustee if the preceding described Trustees cease or are unable to serve or to continue to serve, of his or her separate trust upon attaining age twenty-five (25) years. While serving alone as Trustee, a lineal descendant of mine other than a grandchild of mine may designate a co-Trustee to serve with such lineal descendant and such lineal descendant may remove and/or replace such co-Trustee with another from time to time.

3. Successor Trustees Not Provided For. Whenever a successor Trustee or co-Trustee is required and no successor or other functioning mechanism for succession is provided for under the terms of this Trust Agreement, the last serving Trustee or the last person or entity designated to serve as Trustee of the applicable trust may appoint his or her successor, and if none is so appointed, the following persons shall appoint a successor Trustee (who may be one of the persons making the appointment):

- a. The remaining Trustees, if any; otherwise,
- b. A majority of the permissible current mandatory or discretionary income beneficiaries, including the natural or legal guardians of any beneficiaries who are Disabled.

A successor Trustee appointed under this subparagraph shall not be a Related or Subordinate Party of the trust. The appointment will be by a written document executed by such person in the presence of two witnesses and acknowledged before a notary public delivered to the appointed Trustee and to me if I am living and not Disabled or in a valid last Will. Notwithstanding the foregoing, a designation under this Subparagraph of a successor trustee to a corporate or entity trustee shall be limited to a corporate or



entity trustee authorized to serve as such under Florida law with assets under trust management of no less than one billion dollars.

4. Power to Remove Trustee. Subsequent to my death, the age 35 or older permissible current mandatory or discretionary income beneficiaries from time to time of any trust established hereunder shall have the power to unanimously remove a Trustee of such trust at any time with or without cause, other than a named Trustee or successor Trustee designated hereunder, or a Trustee appointed by me during my lifetime or under my Will or otherwise at the time of my death, with the successor Trustee to be determined in accordance with the foregoing provisions.

D. Method of Appointment of Trustee. Any such appointment of a successor Trustee by a person shall be made in a written instrument executed by such person in the presence of two witnesses and acknowledged before a notary public which is delivered to such appointed Trustee during the lifetime of the person making such appointment, or any such appointment of a successor Trustee by a person may be made under the last Will of such person.

E. Limitations on Removal and Replacement Power. Any power to remove and/or replace a trustee hereunder that is granted to an individual (including such power when reserved to me) is personal to that individual and may not be exercised by a guardian, power of attorney holder, or other legal representative or agent.

F. Successor Fiduciaries. No Trustee is responsible for, nor has any duty to inquire into, the administration, acts or omissions of any executor, administrator, Personal Representative, or trustee or attorney-in-fact adding property to these Trusts, or of any predecessor Trustee. Each successor Trustee has all the powers, privileges, immunities, rights and title (without the execution of any instrument of transfer or any other act by any retiring Trustee) and all the duties of all predecessors.

G. Liability and Indemnification of Trustee.

1. Liability in General. No individual Trustee (that is, a Trustee that is not a corporation or other entity) shall be liable for any of his or her actions or failures to act as Trustee, even if the individual Trustee is found by a court to have been negligent or in breach of fiduciary duty, except for liability caused by his or her actions or failures to act done in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries. Each Trustee that is a corporation or other entity will be liable for its actions or failures to act that are negligent or that breach its fiduciary duty, without contribution by any individual Trustee.

2. Indemnification of Trustee. Except in regard to liabilities imposed on a Trustee under Subparagraph IV.G.1, each Trustee shall be held harmless and indemnified from the assets of the trust for any liability, damages, attorney's fees, expenses, and costs incurred as a result of its service as Trustee. A Trustee who ceases to serve for any reason will be entitled to receive reasonable security from the assets of the trust to protect it from liability, and may enforce these provisions for indemnification against the current Trustee or against any assets held in the trust, or if the former Trustee is an individual

and not a corporation or other entity, against any beneficiary to the extent of distributions received by that beneficiary. This indemnification right extends to the estate, personal representatives, legal successors and assigns of a Trustee.

3. Indemnification of Trustee - Additional Provisions. I recognize that if a beneficiary accuses a Trustee of wrongdoing or breach of fiduciary duty, the Trustee may have a conflict of interest that ordinarily would prevent it from paying legal fees and costs from the trust estate to defend itself. I do not want to put a financial burden on any individual named to serve as a Trustee. Just as important, I do not want an individual who has been selected to serve as a Trustee to be reluctant to accept the position, or while serving to be intimidated in the performance of the Trustee's duties because of the threats of lawsuits that might force the Trustee to pay fees and costs from the Trustee's personal resources. For this reason, I deliberately and intentionally waive any such conflict of interest with respect to any individual serving as Trustee so that he or she can hire counsel to defend himself or herself against allegations of wrongdoing or if sued for any reason (whether by a beneficiary or by someone else) and pay all fees and costs for his or her defense from the trust estate until the dispute is resolved. I understand and agree that a court may award, disallow or allocate fees and costs in whole or in part after the dispute is resolved, as provided by law. The Trustee will account for all such fees and costs paid by it as provided by law. This provision shall not apply to any Trustee that is a corporation or other entity.

H. Compensation, Bond. Each Trustee is entitled to be paid reasonable compensation for services rendered in the administration of the trust. Reasonable compensation for a non-individual Trustee will be its published fee schedule in effect when its services are rendered unless otherwise agreed in writing, and except as follows. Any fees paid to a non-individual Trustee for making principal distributions, for termination of the trust, and upon termination of its services must be based solely on the value of its services rendered, not on the value of the trust principal. During my lifetime the Trustee's fees are to be charged wholly against income (to the extent sufficient), unless directed otherwise by me in writing. Each Trustee shall serve without bond.

I. Maintenance of Records. The Trustee shall maintain accurate accounts and records. It shall render annual statements of the receipts and disbursements of income and principal of a trust upon the written request of any adult vested beneficiary of such trust or the guardian of the person of any vested beneficiary and the approval of such beneficiary shall be binding upon all persons then or thereafter interested in such trust as to the matters and transactions shown on such statement. The Trustee may at any time apply for a judicial settlement of any account. No Trustee shall be required to file any statutory or other periodic accountings of the administration of a trust.

J. Interested Trustee. The Trustee may act under this Agreement even if interested in these Trusts in an individual capacity, as a fiduciary of another trust or estate (including my estate) or in any other capacity. The Trustee may in good faith enter into a sale, encumbrance, or other transaction involving the investment or management of trust property for the Trustee's own personal account or which is otherwise affected by a conflict between the Trustee's fiduciary and personal interests, without liability and without being voidable by a beneficiary. The Trustee is specifically authorized to make loans to, to receive loans from, or to sell, purchase or exchange assets in a transaction with (i) the



Trustee's spouse, (ii) the Trustee's children or grandchildren, siblings, parents, or spouses of such persons, (iii) an officer, director, employee, agent, or attorney of the Trustee, or (iv) a corporation, partnership, limited liability company, or other business entity in which the Trustee has a financial interest, provided that in any transaction the trusts hereunder receive fair and adequate consideration in money or money's worth. The Trustee may renounce any interest or expectancy of a trust in, or an opportunity to participate in, specified business opportunities or specified classes or categories of business opportunities that are presented to the Trustee. Such renunciation shall not prohibit the Trustee from participating in the Trustee's individual capacity in such opportunity or expectancy.

K. Third Parties. No one dealing with the Trustee need inquire into its authority or its application of property.

L. Merger of Trusts. If the Trustee is also trustee of a trust established by myself or another person by will or trust agreement, the beneficiaries to whom income and principal may then be paid and then operative terms of which are substantially the same as those of a trust held under this Agreement, the Trustee in its discretion may merge either such trust into the other trust. The Trustee, in exercising its discretion, shall consider economy of administration, convenience to the beneficiaries, tax consequences and any other factor it considers important. If it is later necessary to reestablish the merged trust as separate trusts, it shall be divided proportionately to the value of each trust at the time of merger.

M. Multiple Trustees. If two Trustees are serving at any time, any power or discretion of the Trustees may be exercised only by their joint agreement. Either Trustee may delegate to the other Trustee the authority to act on behalf of both Trustees and to exercise any power held by the Trustees. If more than two Trustees are serving at any time, and unless unanimous agreement is specifically required by the terms of this Trust Agreement, any power or discretion of the Trustees may be exercised only by a majority. The Trustees may delegate to any one or more of themselves the authority to act on behalf of all the Trustees and to exercise any power held by the Trustees. Trustees who consent to the delegation of authority to other Trustees will be liable for the consequences of the actions of those other Trustees as if the consenting Trustees had joined the other Trustees in performing those actions. A dissenting Trustee who did not consent to the delegation of authority to another Trustee and who has not joined in the exercise of a power or discretion cannot be held liable for the consequences of the exercise. A dissenting Trustee who joins only at the direction of the majority will not be liable for the consequences of the exercise if the dissent is expressed in writing delivered to any of the other Trustees before the exercise of that power or discretion.

ARTICLE V. ADDITIONAL TAX AND RELATED MATTERS

A. GST Trusts. I direct (a) that the Trustee shall divide any trust to which there is allocated any GST exemption into two separate Trusts (each subject to the provisions hereof) so that the generation-skipping tax inclusion ratio of one such trust is zero, (b) any property exempt from generation-skipping taxation shall be divided as otherwise provided herein and held for the same persons



designated in Trusts separate from any property then also so divided which is not exempt from generation-skipping taxation, and (c) if upon the death of a beneficiary a taxable termination would otherwise occur with respect to any property held in trust for him or her with an inclusion ratio greater than zero, such beneficiary shall have with respect only to such property a power to appoint such fractional share thereof which if included in such beneficiary's gross estate for federal estate tax purposes (without allowing any deduction with respect to such share) would not be taxed at the highest federal estate tax rate and such fractional share of such property shall be distributed to such persons including only such beneficiary's estate, spouse, and issue, as such beneficiary may appoint, and any part of a trust such beneficiary does not effectively appoint shall be treated as otherwise provided for disposition upon his or her death, provided, if upon his or her death two or more Trusts for his or her benefit are directed to be divided among and held or distributed for the same persons and the generation-skipping tax inclusion ratio of any such trust is zero, the amount of any other such Trust to which there is allocated any of such beneficiary's GST exemption shall be added to the Trusts with generation-skipping tax inclusion ratios of zero in equal shares. For purposes of funding any pecuniary payment to which there is allocated any GST exemption, such payment shall be satisfied with cash or property which fairly represents appreciation and depreciation (occurring between the valuation date and the date of distribution) in all of the assets from which such distribution could be made, and any pecuniary payment made before a residual transfer of property to which any GST exemption is allocated shall be satisfied with cash or property which fairly represents appreciation and depreciation (occurring between the valuation date and the date of distribution) in all of the assets from which such pecuniary payment could be satisfied and shall be allocated a pro rata share of income earned by all such assets between the valuation date and the date of payment. Except as otherwise expressly provided herein, the valuation date with respect to any property shall be the date as of which its value is determined for federal estate tax purposes with respect to the transferor thereof, and subject to the foregoing, property distributed in kind in satisfaction of any pecuniary payment shall be selected on the basis of the value of such property on the valuation date. All terms used in this paragraph which are defined or explained in Chapter 13 of the Code or the regulations thereunder shall have the same meaning when used herein. I request (but do not require) that if two or more Trusts are held hereunder for any person, no principal be paid to such person from the Trusts with the lower inclusion ratios for generation-skipping tax purposes unless the trust with the highest inclusion ratio has been exhausted by use, consumption, distribution or otherwise or is not reasonably available. The Trustee is authorized and directed to comply with the provisions of the Treasury Regulations interpreting the generation skipping tax provisions of the Code in severing or combining any trust, creating or combining separate trust shares, allocating GST exemption, or otherwise, as necessary to best accomplish the foregoing allocations, inclusion ratios, combinations, and divisions, including, without limitation, the payment of "appropriate interest" as determined by the Trustee as that term is applied and used in said Regulations.

B. Individual Retirement Accounts. In the event that this trust or any trust created under this Agreement is the beneficiary of an Individual retirement account established and maintained under Code Section 408 or a qualified pension, profit sharing or stock bonus plan established and maintained under Code Section 401 (referred to in this paragraph as "IRA"), the following provisions shall apply to such trust:



1. I intend that the beneficiaries of such trust shall be beneficiaries within the meaning of Code Section 401(a)(9) and the Treasury Regulations thereunder. All provisions of such trust shall be construed consistent with such intent. Accordingly, the following provisions shall apply to such trust:

a. No benefits from any IRA may be used or applied for the payment of any debts, taxes or other claims against my estate as set forth in the later paragraph captioned "Taxes", unless other assets of this trust are not available for such payment.

b. In the event that a beneficiary of any trust created under this Agreement has a testamentary general power of appointment or a limited power of appointment over all or any portion of any trust established under this Agreement, and if such trust is the beneficiary of any benefits from any IRA, the beneficiary shall not appoint any part of such trust to a charitable organization or to a lineal descendant of mine (or a spouse of a lineal descendant of mine) who is older than the beneficiary whose life expectancy is being used to calculate distributions from such IRA.

2. The Trustee shall deliver a copy of this Agreement to the custodian of any IRA of which this trust or any trust created under this Agreement is the named beneficiary within the time period prescribed Code Section 401(a)(9) and the Treasury Regulations thereunder, along with such additional items required thereunder. If the custodian of the IRA changes after a copy of this Agreement has been provided pursuant to the preceding sentence, the Trustee shall immediately provide a copy of this Agreement to the new custodian. The Trustee shall request each custodian to complete a receipt of the Agreement and shall attach such receipt to this Agreement. The Trustee shall provide a copy of each amendment of this Agreement to the custodian and shall obtain a receipt of such amendment.

C. Gift Transfers Made From Trust During My Lifetime. I direct that all gift transfers made from the trust during my lifetime be treated for all purposes as if the gift property had been first withdrawn by (or distributed to) me and then transferred by me to the donees involved. Thus, in each instance, even where title to the gift property is transferred directly from the name of the trust (or its nominee) into the name of the donee, such transfer shall be treated for all purposes as first a withdrawal by (or distribution of the property to) me followed by a gift transfer of the property to the donee by me as donor, the Trustee making the actual transfer in my behalf acting as my attorney in fact, this paragraph being, to that extent, a power of attorney from me to the Trustee to make such transfer, which power of attorney shall not be affected by my Disability, incompetence, or incapacity.

D. Gifts. If I am Disabled, I authorize the Trustee to make gifts from trust property during my lifetime for estate planning purposes, or to distribute amounts to my legally appointed guardian or to my attorney-in-fact for those purposes, subject to the following limitations:

1. **Recipients.** The gifts may be made only to my lineal descendants or to trusts primarily for their benefit, and in aggregate annual amounts to any one such recipient that do not exceed the exclusion amount provided for under Code Section 2503(b).



2. Trustee Limited. When a person eligible to receive gifts is serving as Trustee, the aggregate of all gifts to that person during the calendar year allowable under the preceding subparagraph 1. shall thereafter not exceed the greater of Five Thousand Dollars (\$5,000), or five percent (5%) of the aggregate value of the trust estate. However, gifts completed prior to a recipient's commencing to serve as Trustee shall not be affected by this limitation.

3. Charitable Pledges. The Trustee may pay any charitable pledges I made while I was not Disabled (even if not yet due).

E. Death Costs. If upon my death the Trustee hold any United States bonds which may be redeemed at par in payment of federal estate tax, the Trustee shall pay the federal estate tax due because of my death up to the amount of the par value of such bonds and interest accrued thereon at the time of payment. The Trustee shall also pay from the trust all of my following death costs, but if there is an acting executor, administrator or Personal Representative of my estate my Trustee shall pay only such amounts of such costs as such executor, administrator or Personal Representative directs:

1. my debts which are allowed as claims against my estate,
2. my funeral expenses without regard to legal limitations,
3. the expenses of administering my estate,
4. the balance of the estate, inheritance and other death taxes (excluding generation-skipping transfer taxes unless arising from direct skips), and interest and penalties thereon, due because of my death with respect to all property whether or not passing under my Will or this Agreement (other than property over which I have a power of appointment granted to me by another person, and qualified terminable interest property which is not held in a trust that was subject to an election under Code Section 2652(a)(3) at or about the time of its funding) and life insurance proceeds on policies insuring my life which proceeds are not held under this trust or my probate estate at or by reason of my death), and
5. any gifts made in my Will or any Codicil thereto.

The Trustee may make any such payment either to my executor, administrator or Personal Representative or directly to the proper party. The Trustee shall not be reimbursed for any such payment, and is not responsible for the correctness or application of the amounts so paid at the direction of my executor, administrator, or Personal Representative. The Trustee shall not pay any of such death costs with any asset which would not otherwise be included in my gross estate for federal or state estate or inheritance tax purposes, or with any asset which otherwise cannot be so used, such as property received under a limited power of appointment which prohibits such use. Further, no payment of any such death costs shall be charged against or paid from the tangible personal property disposed of pursuant to the prior paragraph captioned "Disposition of Tangible Personal Property."

F. Subchapter S Stock. Regardless of anything herein to the contrary, in the event that after my death the principal of a trust includes stock in a corporation for which there is a valid election to be treated under the provisions of Subchapter S of the Code, the income beneficiary of such a trust is a U.S. citizen or U.S. resident for federal income tax purposes, and such trust is not an "electing small business trust" under Code Section 1361(e)(1) in regard to that corporation, the Trustee shall (a) hold such stock as a substantially separate and independent share of such trust within the meaning of Code Section 663(c), which share shall otherwise be subject to all of the terms of this Agreement, (b) distribute all of the income of such share to the one income beneficiary thereof in annual or more frequent installments, (c) upon such beneficiary's death, pay all accrued or undistributed income of such share to the beneficiary's estate, (d) distribute principal from such share during the lifetime of the income beneficiary only to such beneficiary, notwithstanding any powers of appointment granted to any person including the income beneficiary, and (e) otherwise administer such share in a manner that qualifies it as a "qualified Subchapter S trust" as that term is defined in Code Section 1361(d)(3), and shall otherwise manage and administer such share as provided under this Agreement to the extent not inconsistent with the foregoing provisions of this paragraph.

G. Residence as Homestead. I reserve the right to reside upon any real property placed in this trust as my permanent residence during my life, it being the intent of this provision to retain for myself the requisite beneficial interest and possessory right in and to such real property to comply with Section 196.041 of the Florida Statutes such that said beneficial interest and possessory right constitute in all respects "equitable title to real estate" as that term is used in Section 6, Article VII of the Constitution of the State of Florida. Notwithstanding anything contained in this trust to the contrary, for purposes of the homestead exemption under the laws of the State of Florida, my interest in any real property in which I reside pursuant to the provisions of this trust shall be deemed to be an interest in real property and not personalty and shall be deemed my homestead.

[remainder of page intentionally left blank]



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

SETTLOR and TRUSTEE:

[Handwritten signature of Simon L. Bernstein]

SIMON L. BERNSTEIN

This instrument was signed by SIMON L. BERNSTEIN in our presence, and at the request of and in the presence of SIMON L. BERNSTEIN and each other, we subscribe our names as witnesses on this 21 day of July, 2012:

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

[Handwritten signature of Kimberly Moran]
Print Name: Kimberly Moran
Address: 6362 Las Flores Drive
Boca Raton, FL 33433

STATE OF FLORIDA
COUNTY OF PALM BEACH

SS.

The foregoing instrument was acknowledged before me this 25 day of July, 2012, by SIMON L. BERNSTEIN.

[Handwritten signature of Lindsay Baxley]
Signature - Notary Public - State of Florida
Lindsay Baxley
Print, type or stamp name of Notary Public

[Seal with Commission Expiration Date]
NOTARY PUBLIC-STATE OF FLORIDA
Lindsay Baxley
Commission # EE092282
Expires: MAY 10, 2015
BONDED THRU ATLANTIC BONDING CO., INC.

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

SHIRLEY BERNSTEIN

TRUST AGREEMENT

Prepared by:

Tescher & Spallina, P.A.
2101 Corporate Blvd., Suite 107, Boca Raton, Florida 33431
(561) 998-7847
www.tescherlaw.com

TESCHER & SPALLINA, P.A.

SHIRLEY BERNSTEIN

TRUST AGREEMENT

This Trust Agreement is dated this 20 day of MAY, 2008, and is between SHIRLEY BERNSTEIN, of Palm Beach County, Florida referred to in the first person, as settlor, and SHIRLEY BERNSTEIN, of Palm Beach County, and SHIRLEY BERNSTEIN'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). Said Trustee acknowledges receipt of the property described in the Attachment to this Agreement, and agrees to hold said property and all additions, in trust, as provided in this Agreement.

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 is proper for my Welfare, and also may in its discretion pay to my spouse such amounts of said net income and principal as is proper for his Welfare. Any income not so paid shall be added to principal.

C. **Gifts.** If I am Disabled, I authorize the Trustee to make gifts from trust property during my lifetime for estate planning purposes, or to distribute amounts to my legally appointed guardian or to my attorney-in-fact for those purposes, subject to the following limitations:

1. **Recipients.** The gifts may be made only to my spouse and my lineal descendants or to trusts primarily for their benefit, and in aggregate annual amounts to any one such recipient that do not exceed the exclusion amount provided for under Code Section 2503(b).

2. **Trustee Limited.** When a person eligible to receive gifts is serving as Trustee, the aggregate of all gifts to that person during the calendar year allowable under the preceding subparagraph 1. shall thereafter not exceed the greater of Five Thousand Dollars (\$5,000), or five percent

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(5%) of the aggregate value of the trust estate. However, gifts completed prior to a recipient's commencing to serve as Trustee shall not be affected by this limitation.

3. Charitable Pledges. The Trustee may pay any charitable pledges I made while I was not Disabled (even if not yet due).

D. Upon My Death. Upon my death the Trustee shall collect and add to the trust all amounts due to the trust under any insurance policy on my life or under any death benefit plan and all property added to the trust by my Will or otherwise. After paying or providing for the payment from the augmented trust of all current charges and any amounts payable under the later paragraph captioned "Death Costs," the Trustee shall hold the trust according to the following provisions.

ARTICLE II. AFTER MY DEATH

A. Disposition of Tangible Personal Property. If any non-business tangible personal property other than cash (including, but not limited to, my personal effects, jewelry, collections, household furnishings, and equipment, and automobiles) is held in the trust at the time of my death, such items shall be promptly distributed by the Trustee of the trust to such person or persons, including my estate, as to the item or items or proportion specified, as I may appoint, and to the extent that any such items are not disposed of by such appointment, such items shall be disposed of by the Trustee of the trust in exactly the same manner as such items would have been disposed of under the terms and provisions of my Will (including any Codicil thereto, or what the Trustee in good faith believes to be such Will and Codicil) had such items been included in my probate estate. Any such items which are not effectively disposed of pursuant to the preceding sentence shall pass with the other trust assets.

B. Specific Cash Devise. The Trustee shall set aside in a separate trust the sum of Two Hundred Thousand (\$200,000.00) Dollars for MATTHEW LOGAN, and said separate trust shall be administered as provided in Subparagraph II.F below. If MATTHEW LOGAN does not survive me this devise shall lapse.

C. Marital Deduction Gift. If my spouse survives me:

1. Family Trust. The Trustee shall hold as a separate "*Family Trust*" (i) all property of the trust estate as to which a federal estate tax marital deduction would not be allowed if it were distributed outright to my spouse, and (ii) after giving effect to (i), the largest pecuniary amount which will not result in or increase any federal or state death tax otherwise payable by reason of my death. In determining the pecuniary amount the Trustee shall assume that none of this Family Trust qualifies for a federal estate tax deduction, and shall assume that all of the Marital Trust hereinafter established (including any part thereof disclaimed by my spouse) qualifies for the federal estate tax marital deduction. I recognize that the pecuniary amount may be reduced by certain state death taxes and administration expenses which are not deducted for federal estate tax purposes.

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2. Marital Trust. The balance of the trust remaining after the establishment of the Family Trust shall be held as a separate "*Marital Trust*."

3. Disclaimer. Any part of the Marital Trust my spouse disclaims shall be added to the Family Trust. My spouse shall not be deemed to have predeceased me for purposes of such addition. I suggest that my spouse or my spouse's fiduciaries consider an appropriate partial disclaimer to minimize the death taxes due upon both of our deaths.

If my spouse does not survive me, the entire trust shall be held as the Family Trust without regard to the provisions of Subparagraph II.B.1 describing or limiting which assets shall be held thereunder.

D. During Spouse's Life. Commencing with the date of my death the Trustee shall,

1. Marital Trust. Pay to my spouse from the Marital Trust, the net income, and such amounts of principal as is proper for my spouse's Welfare; and

2. Family Trust. Pay to my spouse from the Family Trust, the net income, and such amounts of principal as is proper for my spouse's Welfare. I request (but do not require) that no principal be paid to my spouse from the Family Trust for my spouse's Welfare unless the Marital Trust has been exhausted by use, consumption, distribution, or otherwise or is not reasonably available.

E. Disposition of Trusts Upon Death of Survivor of My Spouse and Me. Upon the death of the survivor of my spouse and me,

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;

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 among and held in separate Trusts for my lineal descendants then living, *per stirpes*. Any assets allocated under this Subparagraph II.D. to my children (as that term is defined under this Trust), shall be distributed to the then serving Trustees of each of their respective Family Trusts, established by my spouse as grantor on even date herewith (the "*Family Trusts*" which term includes any successor trust thereto), to be held and administered as provided under said Trusts. The provisions of the Family Trusts are incorporated herein by reference, and if any of the Family Trusts are not then in existence and it is necessary to accomplish the foregoing dispositions, the current Trustee of this Trust is directed to take such action to establish or reconstitute such applicable trust(s), or if the Trustee is unable to do so, said assets shall be held in separate trusts for such lineal descendants and administered as provided in Subparagraph II.E. below. Each of my lineal descendants for whom a separate Trust is held hereunder shall hereinafter be referred to as a "*beneficiary*," with their separate trusts to be administered as provided in Subparagraph II.E. below.

F. Trusts for Beneficiaries. The Trustee shall pay to a beneficiary the net income of such beneficiary's trust. The Trustee shall pay to the beneficiary and the beneficiary's children, such amounts of the principal of such beneficiary's trust as is proper for the Welfare of such individuals. After a beneficiary has reached any one or more of the following birthdays, the beneficiary may withdraw the principal of his or her separate trust at any time or times, not to exceed in the aggregate 1/3 in value after the beneficiary's 25th birthday, 1/2 in value (after deducting any amount previously subject to withdrawal but not actually withdrawn) after the beneficiary's 30th birthday, and the balance after the beneficiary's 35th birthday, provided that the withdrawal powers described in this sentence shall not apply to any child of mine as beneficiary of a separate trust. The value of each trust shall be its value as of the first exercise of each withdrawal right, plus the value of any subsequent addition as of the date of addition. The right of withdrawal shall be a privilege which may be exercised only voluntarily and shall not include an involuntary exercise. If a beneficiary dies with assets remaining in his or her separate trust, upon the beneficiary's death the beneficiary may appoint his or her trust to or for the benefit of one or more of my lineal descendants and their spouses (excluding from said class, however, such beneficiary and such beneficiary's creditors, estate, and creditors of such beneficiary's estate). Any part of his or her trust such beneficiary does not effectively appoint shall upon his or her death be divided among and held in separate Trusts for the following persons:

1. for his or her lineal descendants then living, *per stirpes*; or
2. if he or she leaves no lineal descendant then living, *per stirpes* for the lineal descendants then living of his or her nearest ancestor (among me and my lineal descendants) with a lineal descendant then living who is also a lineal descendant of my spouse.

A trust for a lineal descendant of mine shall be held under this paragraph, or if a trust is then so held, shall be added to such trust.

G. Termination of Small Trust. If at any time after the death of the survivor of my spouse and me in the opinion of the Trustee a separate trust holds assets of a value of less than \$50,000.00 and is too small to justify the expense of its retention, and termination of such trust is in the best interests of its current income beneficiary, the Trustee in its discretion may terminate such trust and pay it to said beneficiary.

H. Contingent Gift. If at any time property of a trust held under this Agreement is not disposed of under the other provisions of this Agreement, it shall be paid, as a gift made hereunder, to such persons and in such shares as such property would be distributed if my spouse and I had each then owned one-half of such property and had each then died solvent, unmarried and intestate domiciled in the State of Florida, according to the laws of inheritance of the State of Florida then in effect.

I. Protective Provision. No beneficiary of any trust herein created shall have any right or power to anticipate, transfer, pledge, sell, alienate, assign or encumber in any way his or her interest in the income or principal of such trust. Furthermore, no creditor shall have the right to attach, lien, seize or levy upon the interest of a beneficiary in this trust (other than myself) and such interest shall not be

liable for or subject to the debts, liabilities or obligations of any such beneficiary or any claims against such beneficiary (whether voluntarily or involuntarily created), and the Trustee shall pay directly to or for the use or benefit of such beneficiary all income and principal to which such beneficiary is entitled, notwithstanding that such beneficiary has executed a pledge, assignment, encumbrance or in any other manner alienated or transferred his or her beneficial interest in the trust to another. This paragraph shall not preclude the effective exercise of any power of appointment granted herein or the exercise of any disclaimer.

J. Maximum Duration. Regardless of anything in this Agreement to the contrary, no trust interest herein created shall continue beyond three hundred sixty (360) years as provided in F.S. § 689.225(2)(a)(2), nor shall any power of appointment be exercised in such manner so as to delay vesting of any trust beyond such period. Immediately prior to the expiration of such period, all such trusts then in existence shall terminate, and the assets thereof shall be distributed outright and in fee to then beneficiaries of the current income and in the proportions in which such persons are the beneficiaries, and if such proportions cannot be ascertained, then equally among such beneficiaries.

K. Florida Homestead Possessory Rights. Notwithstanding anything herein to the contrary, if any portion of any Florida improved residential real estate (excluding commercial multi-unit rental property) is an asset of the Marital Trust, my spouse shall have the exclusive and continuous present right to full use, occupancy and possession of such real estate for life. It is my intention that my spouse's interest in such property shall constitute a "beneficial interest for life" and "equitable title to real estate" as contemplated by Section 196.041(2) of Florida Statutes, as amended from time to time or any corresponding provision of law.

ARTICLE III. GENERAL

A. Disability. Subject to the following Subparagraph captioned "Subchapter S Stock," while any beneficiary (other than my spouse as beneficiary of the Marital Trust) is Disabled, the Trustee shall pay to him or her only such portion of the income to which he or she is otherwise entitled as is proper for his or her Welfare, and any income not so paid shall be added to the principal from which derived. While any beneficiary is Disabled, income or principal payable to him or her may, in the discretion of the Trustee, be paid directly to him or her, without the intervention of a guardian, directly to his or her creditors or others for his or her sole benefit or to an adult person or an eligible institution (including the Trustee) selected by the Trustee as custodian for a minor beneficiary under the Uniform Transfers to Minors Act or similar law. The receipt of such payee is a complete release to the Trustee.

B. Timing of Income Distributions. The Trustee shall make required payments of income at least quarterly.

C. Substance Abuse.



1. In General. If the Trustee reasonably believes that a beneficiary (other than myself) of any trust:

a. routinely or frequently uses or consumes any illegal substance so as to be physically or psychologically dependent upon that substance, or

b. is clinically dependent upon the use or consumption of alcohol or any other legal drug or chemical substance that is not prescribed by a board certified medical doctor or psychiatrist in a current program of treatment supervised by such doctor or psychiatrist,

and if the Trustee reasonably believes that as a result the beneficiary is unable to care for himself or herself, or is unable to manage his or her financial affairs, all mandatory distributions (including distributions upon termination of the trust) to the beneficiary, all of the beneficiary's withdrawal rights, and all of the beneficiary's rights to participate in decisions concerning the removal and appointment of Trustees will be suspended (excluding, however, mandatory income rights under the Marital Trust). In that event, the following provisions of this Subparagraph III.C will apply.

2. Testing. The Trustee may request the beneficiary to submit to one or more examinations (including laboratory tests of bodily fluids) determined to be appropriate by a board certified medical doctor and to consent to full disclosure to the Trustee of the results of all such examinations. The Trustee shall maintain strict confidentiality of those results and shall not disclose those results to any person other than the beneficiary without the prior written permission of the beneficiary. The Trustee may totally or partially suspend all distributions otherwise required or permitted to be made to that beneficiary until the beneficiary consents to the examination and disclosure to the Trustee.

3. Treatment. If, in the opinion of the examining doctor, the examination indicates current or recent use of a drug or substance as described above, the examining doctor will determine an appropriate method of treatment for the beneficiary (for example, counseling or treatment on an in-patient basis in a rehabilitation facility) that is acceptable to the Trustee. If the beneficiary consents to the treatment, the Trustee shall pay the costs of treatment directly to the provider of those services from the distributions suspended under this Subparagraph III.C.

4. Resumption of Distributions. The Trustee may resume other distributions to the beneficiary (and the beneficiary's other suspended rights will be restored) when, in the case of use or consumption of an illegal substance, examinations indicate no such use for 12 months and, in all cases, when the Trustee in its discretion determines that the beneficiary is able to care for himself or herself and is able to manage his or her financial affairs.

5. Disposition of Suspended Amounts. When other distributions to the beneficiary are resumed, the remaining balance, if any, of distributions that were suspended may be distributed to the beneficiary at that time. If the beneficiary dies before distribution of those suspended amounts, the Trustee shall distribute the balance of the suspended amounts to the persons who would be the alternate

takers of that beneficiary's share (or takers through the exercise of a power of appointment) as otherwise provided in this Trust Agreement.

6. Exoneration. No Trustee (or any doctor retained by the Trustee) will be responsible or liable to anyone for a beneficiary's actions or welfare. The Trustee has no duty to inquire whether a beneficiary uses drugs or other substances as described in this Subparagraph III.C. The Trustee (and any doctor retained by the Trustee) is to be indemnified from the trust estate and held harmless from any liability of any nature in exercising its judgment and authority under this Subparagraph III.C., including any failure to request a beneficiary to submit to medical examination, and including a decision to distribute suspended amounts to a beneficiary.

7. Tax Savings Provision. Despite the provisions of this Subparagraph III.C., the Trustee cannot suspend any mandatory distributions or withdrawal rights that are required for that trust to become or remain a Qualified Subchapter S Trust (unless the Trustee elects for the trust to be an Electing Small Business Trust), or to qualify for any federal transfer tax exemption, deduction, or exclusion allowable with respect to that trust.

D. Income on Death of Beneficiary. Subject to the later paragraph captioned "Subchapter S Stock," and except as otherwise explicitly provided herein, upon the death of any beneficiary, all accrued or undistributed income of such deceased beneficiary's trust shall pass with the principal of his or her trust but shall remain income for trust accounting purposes.

E. Definitions. In this Agreement,

1. Children, Lineal Descendants. The terms "*child*," "*children*" and "*lineal descendant*" mean only persons whose relationship to the ancestor designated is created entirely by or through (a) legitimate births occurring during the marriage of the joint biological parents to each other, (b) children and their lineal descendants arising from surrogate births and/or third party donors when (i) the child is raised from or near the time of birth by a married couple (other than a same sex married couple) through the pendency of such marriage, (ii) one of such couple is the designated ancestor, and (iii) to the best knowledge of the Trustee both members of such couple participated in the decision to have such child, and (c) lawful adoptions of minors under the age of twelve years. No such child or lineal descendant loses his or her status as such through adoption by another person. Notwithstanding the foregoing, as I have adequately provided for them during my lifetime, for purposes of the dispositions made under this Trust, my children, TED S. BERNSTEIN ("*TED*") and PAMELA B. SIMON ("*PAM*"), and their respective lineal descendants shall be deemed to have predeceased the survivor of my spouse and me, provided, however, if my children, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN, and their lineal descendants all predecease the survivor of my spouse and me, then TED and PAM, and their respective lineal descendants shall not be deemed to have predeceased me and shall be eligible beneficiaries for purposes of the dispositions made hereunder.

2. Code. "**Code**" means the Internal Revenue Code of 1986, as amended, and in referring to any particular provision of the Code, includes a reference to any equivalent or successor provision of a successor federal tax law.

3. Disabled. "**Disabled**" or being under "**Disability**" means, as to any applicable individual: (1) being under the age of 21 years, (2) having been adjudicated by a court of competent jurisdiction as mentally or physically incompetent or unable to manage his or her own property or personal affairs (or a substantially similar finding under applicable state or national law), or (3) being unable to properly manage his or her personal or financial affairs, or a trust estate hereunder as to a Trustee hereunder, because of a mental or physical impairment (whether temporary or permanent in nature). A written certificate executed by an individual's attending physician or attending psychiatrist confirming that person's impairment will be sufficient evidence of Disability under item (3) above, and all persons may rely conclusively on such a certificate.

4. Education. The term "**education**" herein means vocational, primary, secondary, preparatory, theological, college and professional education, including post-graduate courses of study, at educational institutions or elsewhere, and expenses relating directly thereto, including tuition, books and supplies, room and board, and travel from and to home during school vacations. It is intended that the Trustee liberally construe and interpret references to "education," so that the beneficiaries entitled to distributions hereunder for education obtain the best possible education commensurate with their abilities and desires.

5. My Spouse. "**My spouse**" is SIMON L. BERNSTEIN ("**SIMON**").

6. Needs and Welfare Distributions. Payments to be made for a person's "**Needs**" means payments for such person's support, health (including lifetime residential or nursing home care), maintenance and education. Payments to be made for a person's "**Welfare**" means payments for such person's Needs, and as the Trustee determines in its sole discretion also for such person's advancement in life (including assistance in the purchase of a home or establishment or development of any business or professional enterprise which the Trustee believes to be reasonably sound), happiness and general well-being. However, the Trustee, based upon information reasonably available to it, shall make such payments for a person's Needs or Welfare only to the extent such person's income, and funds available from others obligated to supply funds for such purposes (including, without limitation, pursuant to child support orders and agreements), are insufficient in its opinion for such purposes, and shall take into account such person's accustomed manner of living, age, health, marital status and any other factor it considers important. Income or principal to be paid for a person's Needs or Welfare may be paid to such individual or applied by the Trustee directly for the benefit of such person. The Trustee may make a distribution or application authorized for a person's Needs or Welfare even if such distribution or application substantially depletes or exhausts such person's trust, without any duty upon the Trustee to retain it for future use or for other persons who might otherwise benefit from such trust.

7. Per Stirpes. In a division "**per stirpes**" each generation shall be represented and counted whether or not it has a living member.

~~8. Beneficiary Related to Subordinate Party. A "Related or Subordinate Party" to a trust describes a beneficiary of the subject trust or a related or subordinate party to a beneficiary of the trust as the terms "related or subordinate party" are defined under Code Section 672(c).~~

9. Spouse. A person's "*spouse*" includes only a spouse then married to and living as husband and wife with him or her, or a spouse who was married to and living as husband and wife with him or her at his or her death. The following rules apply to each person who is a beneficiary or a permissible appointee under this Trust Agreement and who is married to a descendant of mine. Such a person will cease to be a beneficiary and will be excluded from the class of permissible appointees upon:

- a. the legal termination of the marriage to my descendant (whether before or after my death), or
- b. the death of my descendant if a dissolution of marriage proceeding was pending when he or she died.

10. Gender, Number. Where appropriate, words of any gender include all genders and the singular and plural are interchangeable.

F. Powers of Appointment. Property subject to a power of appointment shall be paid to, or retained by the Trustee or paid to any trustee under any will or trust agreement for the benefit of, such one or more permissible appointees, in such amounts and proportions, granting such interests, powers and powers of appointment, and upon such conditions including spendthrift provisions as the holder of such power (i) in the case of a power exercisable upon the death of such holder, appoints in his or her will or in a trust agreement revocable by him or her until his or her death, or (ii) in the case of a power exercisable during the life of such holder, appoints in a written instrument signed by such holder, two witnesses and a notary public, but in either case only if such will, trust agreement, or instrument specifically refers to such power.

G. Limitations on Powers of Trustee. Regardless of anything herein to the contrary, no Trustee shall make or participate in making any distribution of income or principal of a trust to or for the benefit of a beneficiary which would directly or indirectly discharge any legal obligation of such Trustee or a donor of such trust (as an individual, and other than myself as donor) to support such beneficiary; and no Trustee (other than myself and other than my spouse as Trustee of the Marital Trust) shall make or participate in making any discretionary distribution of income or principal to or for the benefit of himself or herself other than for his or her Needs, including by reason of a determination to terminate a trust described herein. For example, if a Trustee (other than myself and other than my spouse as Trustee of the Marital Trust) has the power to distribute income or principal to himself or herself for his or her own Welfare, such Trustee (the "restricted Trustee") shall only have the power to make or participate in making a distribution of income or principal to the restricted Trustee for the restricted Trustee's Needs, although any co-Trustee who is not also a restricted Trustee may make or participate in making a distribution of income or principal to the restricted Trustee for such restricted Trustee's Welfare without the participation or consent of said restricted Trustee.

H. Presumption of Survivorship. If my spouse and I die under circumstances which make it difficult or impracticable to determine which one of us survived the other, I direct that my spouse shall be deemed to have survived me for purposes of this Agreement (except in regard to any property passing hereunder that became part of this trust solely by reason of passage to my probate estate or this trust from the probate estate of or a revocable trust established by my spouse in which case the opposite presumption shall apply), notwithstanding any provisions of law which provide for a contrary presumption. If any person other than my spouse shall be required to survive another person in order to take any interest under this Agreement, the former person shall be deemed to have predeceased the latter person, if such persons die under circumstances which make it difficult or impracticable to determine which one died first.

I. Governing Law. This Agreement is governed by the law of the State of Florida.

J. Other Beneficiary Designations. Except as otherwise explicitly and with particularity provided herein, (a) no provision of this trust shall revoke or modify any beneficiary designation of mine made by me and not revoked by me prior to my death under any individual retirement account, other retirement plan or account, or annuity or insurance contract, (b) I hereby reaffirm any such beneficiary designation such that any assets held in such account, plan, or contract shall pass in accordance with such designation, and (c) regardless of anything herein to the contrary, any of such assets which would otherwise pass pursuant to this trust due to the beneficiary designation not having met the requirements for a valid testamentary disposition under applicable law or otherwise shall be paid as a gift made hereunder to the persons and in the manner provided in such designation which is incorporated herein by this reference.

K. Mandatory Notice Required by Florida Law. The trustee of a trust may have duties and responsibilities in addition to those described in the instrument creating the trust. If you have questions, you should obtain legal advice.

L. Release of Medical Information.

1. **Disability of Beneficiary.** Upon the written request of a Trustee (with or without the concurrence of co-Trustees) issued to any current income or principal beneficiary (including discretionary beneficiaries) for whom a determination of Disability is relevant to the administration of a trust hereunder and for whom a Trustee (with or without the concurrence of co-Trustees) desires to make such a determination, such beneficiary shall issue to all Trustees (who shall be identified thereon both by name to the extent known and by class description) a valid authorization under the Health Insurance Portability and Accountability Act of 1996 and any other applicable or successor law authorizing all health care providers and all medical sources of such requested beneficiary to release protected health information of the requested beneficiary to all Trustees that is relevant to the determination of the Disability of the requested beneficiary as Disability is defined hereunder. The period of each such valid authorization shall be for six months (or the earlier death of the requested beneficiary). If such beneficiary (or his or her legal representative if such beneficiary is a minor or legally disabled) refuses within thirty days of receipt of the request to provide a valid authorization, or

at any time revokes an authorization within its term, the Trustee shall treat such beneficiary as Disabled hereunder until such valid authorization is delivered.

2. Disability of Trustee. Upon the request to a Trustee that is an individual by (a) a co-Trustee, or if none, (b) the person or entity next designated to serve as a successor Trustee not under legal incapacity, or if none, (c) any adult current income or principal beneficiary not under legal incapacity, or in any event and at any time (d) a court of competent jurisdiction, such Trustee shall issue to such person and all persons, courts of competent jurisdiction, and entities (who shall be identified thereon both by name to the extent known and by class description), with authority hereunder to determine such requested Trustee's Disability, a valid authorization under the Health Insurance Portability and Accountability Act of 1996 and any other applicable or successor law authorizing all health care providers and all medical sources of such requested Trustee to release protected health information of the requested Trustee to such persons, courts and entities, that is relevant to the determination of the Disability of the requested Trustee as Disability is defined hereunder. The period of each such valid authorization shall be for six months (or the earlier death or resignation of the requested Trustee). If such requested Trustee refuses within thirty days of receipt of the request to deliver a valid authorization, or at any time revokes an authorization within its term, such requested Trustee shall thereupon be treated as having resigned as Trustee hereunder.

3. Authorization to Issue Certificate. All required authorizations under this paragraph shall include the power of a physician or psychiatrist to issue a written certificate to the appropriate persons or entities as provided in Subparagraph III.E.3 hereof.

ARTICLE IV. FIDUCIARIES

A. Powers of the Trustee. During my life except while I am Disabled, the Trustee shall exercise all powers provided by law and the following powers, other than the power to retain assets, only with my written approval. While I am Disabled and after my death, the Trustee shall exercise said powers without approval, provided that the Trustee shall exercise all powers in a fiduciary capacity.

1. Investments. To sell or exchange at public or private sale and on credit or otherwise, with or without security, and to lease for any term or perpetually, any property, real and personal, at any time forming a part of the trust estate (the "*estate*"); to grant and exercise options to buy or sell; to invest or reinvest in real or personal property of every kind, description and location; and to receive and retain any such property whether originally a part of any trust herein created or subsequently acquired, even if the Trustee is personally interested in such property, and without liability for any decline in the value thereof; all without limitation by any statutes or judicial decisions whenever enacted or announced, regulating investments or requiring diversification of investments, it being my intention to give the broadest investment powers and discretion to the Trustee. Any bank, trust company, or other corporate trustee serving hereunder as Trustee is authorized to invest in its own common trust funds.

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2. Special Investments. The Trustee is expressly authorized (but not directed) to retain, make, hold, and dispose of investments not regarded as traditional for trusts, including interests or investments in privately held business and investment entities and enterprises, including without limitation stock in closely held corporations, limited partnership interests, joint venture interests, mutual funds, business trust interests, and limited liability company membership interests, notwithstanding (a) any applicable prudent investor rule or variation thereof, (b) common law or statutory diversification requirements (it being my intent that no such duty to diversify shall exist) (c) a lack of current cash flow therefrom, (d) the presence of any risk or speculative elements as compared to other available investments (it being my intent that the Trustee have sole and absolute discretion in determining what constitutes acceptable risk and what constitutes proper investment strategy), (e) lack of a reasonable rate of return, (f) risks to the preservation of principal, (g) violation of a Trustee's duty of impartiality as to different beneficiaries (it being my intent that no such duty exists for this purpose), and (h) similar limitations on investment under this Agreement or under law pertaining to investments that may or should be made by a Trustee (including without limitation the provisions of Fla.Stats. §518.11 and successor provisions thereto that would characterize such investments as forbidden, imprudent, improper or unlawful). The Trustee shall not be responsible to any trust created hereunder or the beneficiaries thereof for any loss resulting from any such authorized investment, including without limitation loss engendered by the higher risk element of that particular entity, investment, or enterprise, the failure to invest in more conservative investments, the failure to diversify trust assets, the prudent investor rule or variant thereof. Notwithstanding any provisions for distributions to beneficiaries hereunder, if the Trustee determines that the future potential investment return from any illiquid or closely held investment asset warrants the retention of that investment asset or that sufficient value could not be obtained from the sale or other disposition of an illiquid or closely held investment asset, the Trustee is authorized to retain that asset and if necessary reduce the distributions to beneficiaries due to lack of sufficient liquid or marketable assets. However, the preceding provisions of this Subparagraph shall not be exercised in a manner as to jeopardize the availability of the estate tax marital deduction for assets passing to or held in the a trust for my surviving spouse or that would otherwise qualify for the estate tax marital deduction but for such provisions, shall not override any express powers hereunder of my surviving spouse to demand conversion of unproductive property to productive property, or reduce any income distributions otherwise required hereunder for a trust held for the benefit of my surviving spouse or a "qualified subchapter S trust" as that term is defined in Code Section 1361(d)(3).

3. Distributions. To make any division or distribution pro rata or non-pro rata, in cash or in kind, and to allocate undivided interests in property and dissimilar property (without regard to its tax basis) to different shares.

4. Management. To manage, develop, improve, partition or change the character of an asset or interest in property at any time; and to make ordinary and extraordinary repairs, replacements, alterations and improvements, structural or otherwise.

5. Borrowing. To borrow money from anyone on commercially reasonable terms, including entities owned in whole or in part by the trust, a Trustee, beneficiaries and other persons who may have a direct or indirect interest in a Trust; and to mortgage, margin, encumber and pledge real and

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personal property of a trust as security for the payment thereof, without incurring any personal liability thereon and to do so for a term within or extending beyond the terms of the trust and to renew, modify or extend existing borrowing on similar or different terms and with the same or different security without incurring any personal liability; and such borrowing from a Trustee may be with or without interest, and may be secured with a lien on trust assets.

6. Lending. To extend, modify or waive the terms of any obligation, bond or mortgage at any time forming a part of a trust and to foreclose any such mortgage; accept a conveyance of encumbered property, and take title to the property securing it by deed in lieu of foreclosure or otherwise and to satisfy or not satisfy the indebtedness securing said property; to protect or redeem any such property from forfeiture for nonpayment of taxes or other lien; generally, to exercise as to such bond, obligation or mortgage all powers that an absolute owner might exercise; and to loan funds to beneficiaries at commercially reasonable rates, terms and conditions.

7. Abandonment of Property. To abandon any property or asset when it is valueless or so encumbered or in such condition that it is of no benefit to a trust. To abstain from the payment of taxes, liens, rents, assessments, or repairs on such property and/or permit such property to be lost by tax sale, foreclosure or other proceeding or by conveyance for nominal or no consideration to anyone including a charity or by escheat to a state; all without personal liability incurred therefor.

8. Real Property Matters. To subdivide, develop or partition real estate; to purchase or sell real property and to enter into contracts to do the same; to dedicate the same to public use; to make or obtain the location of any plats; to adjust boundaries; to adjust differences in valuations on exchange or partition by giving or receiving consideration; and, to grant easements with or without consideration as the fiduciaries may determine; and to demolish any building, structures, walls and improvements, or to erect new buildings, structures, walls and improvements and to insure against fire and other risks; and to protect and conserve, or to lease, or to encumber, or otherwise to manage and dispose of real property to the extent such power is not otherwise granted herein or otherwise restricted herein.

9. Claims. To enforce, compromise, adjust, arbitrate, release or otherwise settle or pay any claims or demands by or against a trust.

10. Business Entities. To deal with any business entity or enterprise even if a Trustee is or may be a fiduciary of or own interests in said business entity or enterprise, whether operated in the form of a corporation, partnership, business trust, limited liability company, joint venture, sole proprietorship, or other form (all of which business entities and enterprises are referred to herein as "**Business Entities**"). I vest the Trustee with the following powers and authority in regard to Business Entities:

a. To retain and continue to operate a Business Entity for such period as the Trustee deems advisable;

b. To control, direct and manage the Business Entities. In this connection, the Trustee, in its sole discretion, shall determine the manner and extent of its active participation in the operation and may delegate all or any part of its power to supervise and operate to such person or persons as the Trustee may select, including any associate, partner, officer or employee of the Business Entity;

c. To hire and discharge officers and employees, fix their compensation and define their duties; and similarly to employ, compensate and discharge agents, attorneys, consultants, accountants, and such other representatives as the Trustee may deem appropriate; including the right to employ any beneficiary or fiduciary in any of the foregoing capacities;

d. To invest funds in the Business Entities, to pledge other assets of a trust as security for loans made to the Business Entities, and to lend funds from a trust to the Business Entities;

e. To organize one or more Business Entities under the laws of this or any other state or country and to transfer thereto all or any part of the Business Entities or other property of a trust, and to receive in exchange such stocks, bonds, partnership and member interests, and such other securities or interests as the Trustee may deem advisable;

f. To treat Business Entities as separate from a trust. In a Trustee's accounting to any beneficiary, the Trustee shall only be required to report the earnings and condition of the Business Entities in accordance with standard business accounting practice;

g. To retain in Business Entities such net earnings for working capital and other purposes of the Business Entities as the Trustee may deem advisable in conformity with sound business practice;

h. To sell or liquidate all or any part of the Business Entities at such time and price and upon such terms and conditions (including credit) as the Trustee may determine. My Trustee is specifically authorized and empowered to make such sale to any person, including any partner, officer, or employee of the Business Entities, a fiduciary, or to any beneficiary; and

i. To guaranty the obligations of the Business Entities, or pledge assets of a trust to secure such a guaranty.

11. Principal and Income. To allocate items of income or expense between income and principal as permitted or provided by the laws of the State of Florida but without limiting the availability of the estate tax marital deduction, provided that the Trustee shall not be required to provide a rate of return on unproductive property unless otherwise provided in this instrument.

12. Life Insurance. With respect to any life insurance policies constituting an asset of a trust, to pay premiums; to apply dividends in reduction of such premiums; to borrow against the cash values thereof; to convert such policies into other forms of insurance, including paid-up insurance; to

exercise any settlement options provided in any such policies; to receive the proceeds of any policy upon its maturity and to administer such proceeds as a part of the principal of the Trust; and in general, to exercise all other options, benefits, rights and privileges under such policies.

13. Continuing Power. To continue to have or exercise, after the termination of a trust, in whole or in part, and until final distribution thereof, all title, power, discretions, rights and duties conferred or imposed upon the Trustee by law or by this Agreement or during the existence of the trust.

14. Exoneration. To provide for the exoneration of the Trustee from any personal liability on account of any arrangement or contract entered into in a fiduciary capacity.

15. Agreements. To comply with, amend, modify or rescind any agreement made during my lifetime, including those regarding the disposition, management or continuation of any closely held unincorporated business, corporation, partnership or joint venture, and including the power to complete contracts to purchase and sell real estate.

16. Voting. To vote and give proxies, with power of substitution to vote, stocks, bonds and other securities, or not to vote a security.

17. Combination of Shares. To hold the several shares of a trust or several Trusts as a common fund, dividing the income proportionately among them, to assign undivided interests to the several shares or Trusts, and to make joint investments of the funds belonging to them. For such purposes and insofar as may be practicable, the Trustee, to the extent that division of the trust estate is directed hereby, may administer the trust estate physically undivided until actual division thereof becomes necessary to make distributions. The Trustee may hold, manage, invest and account for whole or fractional trust shares as a single estate, making the division thereof by appropriate entries in the books of account only, and may allocate to each whole or fractional trust share its proportionate part of all receipts and expenses; provided, however, this carrying of several Trusts as a single estate shall not defer the vesting in possession of any whole or fractional share of a trust for the beneficiaries thereof at the times specified herein.

18. Reimbursement. To reimburse itself from a trust for reasonable expenses incurred in the administration thereof.

19. Reliance Upon Communication. To rely, in acting under a trust, upon any letter, notice, certificate, report, statement, document or other paper, or upon any telephone, telegraph, cable, wireless or radio message, if believed by the Trustee to be genuine, and to be signed, sealed, acknowledged, presented, sent, delivered or given by or on behalf of the proper person, firm or corporation, without incurring liability for any action or inaction based thereon.

20. Assumptions. To assume, in the absence of written notice to the contrary from the person or persons concerned, that a fact or an event, by reason of which an interest or estate under

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a trust shall commence or terminate, does not exist or has not occurred, without incurring liability for any action or inaction based upon such assumption.

21. Service as Custodian. To serve as successor custodian for any beneficiary of any gifts that I may have made under any Transfer to Minors Act, if at the time of my death no custodian is named in the instrument creating the gift.

22. Removal of Assets. The Trustee may remove from the domiciliary state during the entire duration of a trust or for such lesser period as it may deem advisable, any cash, securities or other property at any time in its hands whether principal or not, and to take and keep the same outside the domiciliary state and at such place or places within or outside the borders of the United States as it may determine, without in any event being chargeable for any loss or depreciation to the trust which may result therefrom.

23. Change of Situs. The situs and/or applicable law of any trust created hereunder may be transferred to such other place as the Trustee may deem to be for the best interests of the trust estate. In so doing, the Trustee may resign and appoint a successor Trustee, but may remove such successor Trustee so appointed and appoint others. Each successor Trustee may delegate any and all fiduciary powers, discretionary and ministerial, to the appointing Trustee as its agent.

24. Fiduciary Outside Domiciliary State. In the event the Trustee shall not be able and willing to act as Trustee with respect to any property located outside the domiciliary state, the Trustee, without order of court, may appoint another individual or corporation (including any employee or agent of any appointing Trustee) to act as Trustee with respect to such property. Such appointed Trustee shall have all of the powers and discretions with respect to such property as are herein given to the appointing Trustee with respect to the remaining trust assets. The appointing Trustee may remove such appointed Trustee and appoint another upon ten (10) days notice in writing. All income from such property, and if such property is sold, exchanged or otherwise disposed of, the proceeds thereof, shall be remitted to the appointing Trustee, to be held and administered by it as Trustee hereunder. Such appointed Trustee may employ the appointing Trustee as agent in the administration of such property. No surety shall be required on the bond of the Trustee or agent acting under the provisions of this paragraph. No periodic court accounting shall be required of such appointed Trustee, it being my intention to excuse any statutory accounting which may ordinarily be required.

25. Selection of Assets for Marital Trust. The Trustee shall have sole discretion to determine which assets shall be allocated to the Marital Trust; provided, if possible no assets or the proceeds of any assets which do not qualify for the federal estate tax marital deduction shall be allocated to the Marital Trust. To the extent that other assets qualifying for the marital deduction are available, the Trustee shall not allocate to the Marital Trust any assets with respect to which a credit for foreign taxes paid is allowable under the Code, nor any policy of insurance on the life of my spouse. Any allocation of assets among the Family Trust and the Marital Trust shall, with respect to each such trust, be comprised of assets having an aggregate market value at the time of such allocation fairly representative of the net appreciation or depreciation in the value of the property available for such

allocation between the date of valuation for federal estate tax purposes and the date or dates of said allocation and selection.

26. Additions. To receive and accept additions to the Trusts in cash or in kind from donors, executors, administrators, Trustee or attorneys in fact, including additions of my property by the Trustee or others as my attorneys in fact.

27. Title and Possession. To have title to and possession of all real or personal property held in the Trusts, and to register or hold title to such property in its own name or in the name of its nominee, without disclosing its fiduciary capacity, or in bearer form.

28. Dealing with Estates. To use principal of the Trusts to make loans to my estate, with or without interest, and to make purchases from my estate or my spouse's estate.

29. Agents. To employ persons, including attorneys, auditors, investment advisers, and agents, even if they are the Trustee or associated with the Trustee, to advise or assist the Trustee in the performance of its administrative duties and to pay compensation and costs incurred in connection with such employment from the assets of the Trust; to act without independent investigation upon their recommendations; and, instead of acting personally, to employ one or more agents to perform any act of administration, whether or not discretionary.

30. Tax Elections. To file tax returns, and to exercise all tax-related elections and options at its discretion, without compensating adjustments or reimbursements between any of the Trusts or any of the trust accounts or any beneficiaries.

B. Resignation. A Trustee may resign with or without cause, by giving no less than 30 days advance written notice, specifying the effective date of such resignation, to its successor Trustee and to the persons required and in the manner provided under Fla.Stats. §§736.0705(1)(a) and 736.0109. As to any required recipient, deficiencies in fulfilling the foregoing resignation requirements may be waived in a writing signed by such recipient. Upon the resignation of a Trustee, such Trustee shall be entitled to reimbursement from the trust for all reasonable expenses incurred in the settlement of accounts and in the transfer of assets to his or her successor.

C. Appointment of Successor Trustee

1. Appointment. Upon a Trustee's resignation, or if a Trustee becomes Disabled or for any reason ceases to serve as Trustee, I may appoint any person or persons as successor Trustee, and in default of such appointment by me, SIMON and TED, one at a time and successively in that order, shall serve as successor Trustee. Notwithstanding the foregoing, if a named Trustee is not a U.S. citizen or resident at the time of commencement of his term as Trustee, such Trustee should give due consideration to declining to serve to avoid potential adverse U.S. income tax consequences by reason of the characterization of a trust hereunder as a foreign trust under the Code, but shall not be construed to have any duty to so decline if such Trustee desires to serve.

2. Specific Trusts. Notwithstanding the preceding provisions of this Subparagraph IV.C, subsequent to my death I specifically appoint the following person or persons as Trustee of the following Trusts under the following described circumstances:

a. Trustee of the Marital Trust. SIMON and TED, one at a time and successively in that order, shall serve as Trustee of the Marital Trust. While serving as Trustee, my spouse may designate a co-Trustee to serve with my spouse and my spouse may remove and/or replace such co-Trustee from time to time.

b. Trustee of the Family Trust. SIMON and TED, one at a time and successively in that order, shall serve as Trustee of the Family Trust. While serving as Trustee, my spouse may designate a co-Trustee that is not a Related or Subordinate Party to serve with my spouse and my spouse may remove and/or replace such co-Trustee with another that is not a Related or Subordinate Party from time to time.

c. Trustee of Separate Trusts for My Children. Each child of mine shall serve as sole Trustee of his or her separate trust. While serving alone as Trustee, a child of mine may designate a co-Trustee that is not a Related or Subordinate Party to serve with such child and such child may remove and/or replace such co-Trustee with another that is not a Related or Subordinate Party from time to time.

d. Trustee of Separate Trusts for My Lineal Descendants Other Than My Children. In regard to a separate trust held for a lineal descendant of mine other than a child of mine which lineal descendant is the sole current mandatory or discretionary income beneficiary, each such lineal descendant shall serve as co-Trustee, or sole Trustee if the preceding described Trustees cease or are unable to serve or to continue to serve, of his or her separate trust upon reaching age twenty-five (25) years.

e. Trustee of Separate Trust for MATTHEW LOGAN. In regard to a separate trust held MATTHEW LOGAN, his mother, DEBORAH BERNSTEIN ("**DEBORAH**"), shall serve as Trustee until MATTHEW attains age 25 years, at which time he shall serve as a co-Trustee with DEBORAH of such separate trust.

3. Successor Trustees Not Provided For. Whenever a successor Trustee or co-Trustee is required and no successor or other functioning mechanism for succession is provided for under the terms of this Trust Agreement, the last serving Trustee or the last person or entity designated to serve as Trustee of the applicable trust may appoint his or her successor, and if none is so appointed, the following persons shall appoint a successor Trustee (who may be one of the persons making the appointment):

a. The remaining Trustees, if any; otherwise,

b. A majority of the permissible current mandatory or discretionary income beneficiaries, including the natural or legal guardians of any beneficiaries who are Disabled.

A successor Trustee appointed under this subparagraph shall not be a Related or Subordinate Party of the trust. The appointment will be by a written document executed by such person in the presence of two witnesses and acknowledged before a notary public delivered to the appointed Trustee and to me if I am living and not Disabled or in a valid last Will. Notwithstanding the foregoing, a designation under this Subparagraph of a successor trustee to a corporate or entity trustee shall be limited to a corporate or entity trustee authorized to serve as such under Florida law with assets under trust management of no less than one billion dollars.

4. Power to Remove Trustee. Subsequent to my death, the age 25 or older permissible current mandatory or discretionary income beneficiaries from time to time of any trust established hereunder shall have the power to unanimously remove a Trustee of such trust at any time with or without cause, with the successor Trustee to be determined in accordance with the foregoing provisions.

D. Method of Appointment of Trustee. Any such appointment of a successor Trustee by a person shall be made in a written instrument executed by such person in the presence of two witnesses and acknowledged before a notary public which is delivered to such appointed Trustee during the lifetime of the person making such appointment, or any such appointment of a successor Trustee by a person may be made under the last Will of such person.

E. Limitations on Removal and Replacement Power. Any power to remove and/or replace a trustee hereunder that is granted to an individual (including such power when reserved to me) is personal to that individual and may not be exercised by a guardian, power of attorney holder, or other legal representative or agent.

F. Successor Fiduciaries. No Trustee is responsible for, nor has any duty to inquire into, the administration, acts or omissions of any executor, administrator, Personal Representative, or trustee or attorney-in-fact adding property to these Trusts, or of any predecessor Trustee. Each successor Trustee has all the powers, privileges, immunities, rights and title (without the execution of any instrument of transfer or any other act by any retiring Trustee) and all the duties of all predecessors.

G. Liability and Indemnification of Trustee.

1. Liability in General. No individual Trustee (that is, a Trustee that is not a corporation or other entity) shall be liable for any of his or her actions or failures to act as Trustee, even if the individual Trustee is found by a court to have been negligent or in breach of fiduciary duty, except for liability caused by his or her actions or failures to act done in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries. Each Trustee that is a corporation or other entity will be liable for its actions or failures to act that are negligent or that breach its fiduciary duty, without contribution by any individual Trustee.

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2. Indemnification of Trustee: Except in regard to liabilities imposed on a Trustee under Subparagraph IV.G.1, each Trustee shall be held harmless and indemnified from the assets of the trust for any liability, damages, attorney's fees, expenses, and costs incurred as a result of its service as Trustee. A Trustee who ceases to serve for any reason will be entitled to receive reasonable security from the assets of the trust to protect it from liability, and may enforce these provisions for indemnification against the current Trustee or against any assets held in the trust, or if the former Trustee is an individual and not a corporation or other entity, against any beneficiary to the extent of distributions received by that beneficiary. This indemnification right extends to the estate, personal representatives, legal successors and assigns of a Trustee.

3. Indemnification of Trustee - Additional Provisions. I recognize that if a beneficiary accuses a Trustee of wrongdoing or breach of fiduciary duty, the Trustee may have a conflict of interest that ordinarily would prevent it from paying legal fees and costs from the trust estate to defend itself. I do not want to put a financial burden on any individual named to serve as a Trustee. Just as important, I do not want an individual who has been selected to serve as a Trustee to be reluctant to accept the position, or while serving to be intimidated in the performance of the Trustee's duties because of the threats of lawsuits that might force the Trustee to pay fees and costs from the Trustee's personal resources. For this reason, I deliberately and intentionally waive any such conflict of interest with respect to any individual serving as Trustee so that he or she can hire counsel to defend himself or herself against allegations of wrongdoing or if sued for any reason (whether by a beneficiary or by someone else) and pay all fees and costs for his or her defense from the trust estate until the dispute is resolved. I understand and agree that a court may award, disallow or allocate fees and costs in whole or in part after the dispute is resolved, as provided by law. The Trustee will account for all such fees and costs paid by it as provided by law. This provision shall not apply to any Trustee that is a corporation or other entity.

H. Compensation, Bond. Each Trustee is entitled to be paid reasonable compensation for services rendered in the administration of the trust. Reasonable compensation for a non-individual Trustee will be its published fee schedule in effect when its services are rendered unless otherwise agreed in writing, and except as follows. Any fees paid to a non-individual Trustee for making principal distributions, for termination of the trust, and upon termination of its services must be based solely on the value of its services rendered, not on the value of the trust principal. During my lifetime the Trustee's fees are to be charged wholly against income (to the extent sufficient), unless directed otherwise by me in writing. Each Trustee shall serve without bond.

I. Maintenance of Records. The Trustee shall maintain accurate accounts and records. It shall render annual statements of the receipts and disbursements of income and principal of a trust upon the written request of any adult vested beneficiary of such trust or the guardian of the person of any vested beneficiary and the approval of such beneficiary shall be binding upon all persons then or thereafter interested in such trust as to the matters and transactions shown on such statement. The Trustee may at any time apply for a judicial settlement of any account. No Trustee shall be required to file any statutory or other periodic accountings of the administration of a trust.

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J. Interested Trustee. The Trustee may act under this Agreement even if interested in these Trusts in an individual capacity, as a fiduciary of another trust or estate (including my estate) or in any other capacity. The Trustee may in good faith enter into a sale, encumbrance, or other transaction involving the investment or management of trust property for the Trustee's own personal account or which is otherwise affected by a conflict between the Trustee's fiduciary and personal interests, without liability and without being voidable by a beneficiary. The Trustee is specifically authorized to make loans to, to receive loans from, or to sell, purchase or exchange assets in a transaction with (i) the Trustee's spouse, (ii) the Trustee's children or grandchildren, siblings, parents, or spouses of such persons, (iii) an officer, director, employee, agent, or attorney of the Trustee, or (iv) a corporation, partnership, limited liability company, or other business entity in which the Trustee has a financial interest, provided that in any transaction the trusts hereunder receive fair and adequate consideration in money or money's worth. The Trustee may renounce any interest or expectancy of a trust in, or an opportunity to participate in, specified business opportunities or specified classes or categories of business opportunities that are presented to the Trustee. Such renunciation shall not prohibit the Trustee from participating in the Trustee's individual capacity in such opportunity or expectancy.

K. Third Parties. No one dealing with the Trustee need inquire into its authority or its application of property.

L. Merger of Trusts. If the Trustee is also trustee of a trust established by myself or another person by will or trust agreement, the beneficiaries to whom income and principal may then be paid and then operative terms of which are substantially the same as those of a trust held under this Agreement, the Trustee in its discretion may merge either such trust into the other trust. The Trustee, in exercising its discretion, shall consider economy of administration, convenience to the beneficiaries, tax consequences and any other factor it considers important. If it is later necessary to reestablish the merged trust as separate trusts, it shall be divided proportionately to the value of each trust at the time of merger.

M. Multiple Trustees. If two Trustees are serving at any time, any power or discretion of the Trustees may be exercised only by their joint agreement. Either Trustee may delegate to the other Trustee the authority to act on behalf of both Trustees and to exercise any power held by the Trustees. If more than two Trustees are serving at any time, and unless unanimous agreement is specifically required by the terms of this Trust Agreement, any power or discretion of the Trustees may be exercised only by a majority. The Trustees may delegate to any one or more of themselves the authority to act on behalf of all the Trustees and to exercise any power held by the Trustees. Trustees who consent to the delegation of authority to other Trustees will be liable for the consequences of the actions of those other Trustees as if the consenting Trustees had joined the other Trustees in performing those actions. A dissenting Trustee who did not consent to the delegation of authority to another Trustee and who has not joined in the exercise of a power or discretion cannot be held liable for the consequences of the exercise. A dissenting Trustee who joins only at the direction of the majority will not be liable for the consequences of the exercise if the dissent is expressed in writing delivered to any of the other Trustees before the exercise of that power or discretion.

ARTICLE V. ADDITIONAL TAX AND RELATED MATTERS

A. GST Trusts.

1. Family Trust. I direct (a) that the Trustee shall divide any trust other than the Marital Trust to which there is allocated any GST exemption into two separate Trusts (each subject to the provisions of this Trust Agreement relating to the trust that is being divided) so that the generation-skipping tax inclusion ratio of one such trust is zero.

2. Marital Trust. I direct that, if possible, (a) the Trustee shall divide the Marital Trust into two separate Marital Trusts (each subject to the provisions hereof concerning the Marital Trust) so that through allocation of my GST exemption remaining unallocated at my death and not otherwise allocated to transfers occurring at or by reason of my death (including allocations to the Family Trust), if any, the generation-skipping tax inclusion ratio of one such Marital Trust is zero (the GST Marital Trust), (b) my Personal Representative to exercise the election provided by Code Section 2652(a)(3) as to the GST Marital Trust, and (c) that upon the death of my spouse the total amount recoverable by my spouse's estate from the property of the Marital Trusts under Code Section 2207A shall first be recoverable in full from the non-GST Marital Trust to the extent thereof.

3. Misc. I direct that (a) upon the death of the survivor of me and my spouse, any property then directed to be paid or distributed which constitutes a direct skip shall be paid first from property then exempt from generation-skipping taxation (by reason of the allocation of any GST exemption) to the extent thereof, (b) property exempt from generation-skipping taxation (by reason of the allocation of any GST exemption) and not directed to be paid or distributed in a manner which constitutes a direct skip shall be divided and distributed as otherwise provided herein and held for the same persons designated in Trusts separate from any property then also so divided which is not exempt from generation-skipping taxation, and (c) if upon the death of a beneficiary a taxable termination would otherwise occur with respect to any property held in trust for him or her with an inclusion ratio greater than zero, such beneficiary shall have with respect only to such property a power to appoint such fractional share thereof which if included in such beneficiary's gross estate for federal estate tax purposes (without allowing any deduction with respect to such share) would not be taxed at the highest federal estate tax rate and such fractional share of such property shall be distributed to such persons including only such beneficiary's estate, spouse, and lineal descendants, in such estates, interests, and proportions as such beneficiary may, by a will specifically referring to this general power appoint, and any part of a trust such beneficiary does not effectively appoint shall be treated as otherwise provided for disposition upon his or her death, provided, if upon his or her death two or more Trusts for his or her benefit are directed to be divided among and held or distributed for the same persons and the generation-skipping tax inclusion ratio of any such trust is zero, the amount of any other such trust to which there is allocated any of such beneficiary's GST exemption shall be added to the Trusts with generation-skipping tax inclusion ratios of zero in equal shares. I request (but do not require) that if two or more Trusts are held hereunder for any person, no principal be paid to such person from the Trusts with the lower inclusion ratios for generation-skipping tax purposes unless the trust with the highest inclusion ratio has been exhausted by use, consumption, distribution, or otherwise or is not reasonably available.

Notwithstanding any other provision of this Trust Agreement, for purposes of funding any pecuniary payment or trust division to which there is allocated any GST exemption, such payment or trust division allocation shall be satisfied with cash or property which fairly represents appreciation and depreciation (occurring between the valuation date and the date of distribution) in all of the assets from which such distribution or allocation could be made, and any pecuniary payment made before a residual transfer of property to which any GST exemption is allocated shall be satisfied with cash or property which fairly represents appreciation and depreciation (occurring between the valuation date and the date of distribution) in all of the assets from which such pecuniary payment could be satisfied and shall be allocated a pro rata share of income earned by all such assets between the valuation date and the date of payment. In regard to the division or severance of a trust hereunder, including the Marital Trust, such division or severance shall be made in a manner that all resulting trusts are recognized for purposes of Chapter 13 of the Code, including without limitation complying with the requirements of Treas.Reg. §26.2654-1(b). Except as otherwise expressly provided herein, the valuation date with respect to any property shall be the date as of which its value is determined for federal estate tax purposes with respect to the transferor thereof, and subject to the foregoing, property distributed in kind in satisfaction of any pecuniary payment shall be selected on the basis of the value of such property on the valuation date. All terms used in this Article which are defined or explained in Chapter 13 of the Code or the regulations thereunder shall have the same meaning when used herein. The Trustee is authorized and directed to comply with the provisions of the Treasury Regulations interpreting the generation skipping tax provisions of the Code in severing or combining any trust, creating or combining separate trust shares, allocating GST exemption, or otherwise, as necessary to best accomplish the foregoing allocations, inclusion ratios, combinations, and divisions, including, without limitation, the payment of "appropriate interest" as determined by the Trustee as that term is applied and used in said Regulations.

B. Individual Retirement Accounts. In the event that this trust or any trust created under this Agreement is the beneficiary of an Individual retirement account established and maintained under Code Section 408 or a qualified pension, profit sharing or stock bonus plan established and maintained under Code Section 401 (referred to in this paragraph as "IRA"), the following provisions shall apply to such trust:

1. I intend that the beneficiaries of such trust shall be beneficiaries within the meaning of Code Section 401(a)(9) and the Treasury Regulations thereunder. All provisions of such trust shall be construed consistent with such intent. Accordingly, the following provisions shall apply to such trust:

a. No benefits from any IRA may be used or applied for the payment of any debts, taxes or other claims against my estate as set forth in the later paragraph captioned "Taxes", unless other assets of this trust are not available for such payment.

b. In the event that a beneficiary of any trust created under this Agreement has a testamentary general power of appointment or a limited power of appointment over all or any portion of any trust established under this Agreement, and if such trust is the beneficiary of any benefits from any IRA, the beneficiary shall not appoint any part of such trust to a charitable organization or to

a lineal descendant of mine (or a spouse of a lineal descendant of mine) who is older than the beneficiary whose life expectancy is being used to calculate distributions from such IRA.

2. The Trustee shall deliver a copy of this Agreement to the custodian of any IRA of which this trust or any trust created under this Agreement is the named beneficiary within the time period prescribed Code Section 401(a)(9) and the Treasury Regulations thereunder, along with such additional items required thereunder. If the custodian of the IRA changes after a copy of this Agreement has been provided pursuant to the preceding sentence, the Trustee shall immediately provide a copy of this Agreement to the new custodian. The Trustee shall request each custodian to complete a receipt of the Agreement and shall attach such receipt to this Agreement. The Trustee shall provide a copy of each amendment of this Agreement to the custodian and shall obtain a receipt of such amendment.

C. **Gift Transfers Made From Trust During My Lifetime.** I direct that all gift transfers made from the trust during my lifetime be treated for all purposes as if the gift property had been first withdrawn by (or distributed to) me and then transferred by me to the donees involved. Thus, in each instance, even where title to the gift property is transferred directly from the name of the trust (or its nominee) into the name of the donee, such transfer shall be treated for all purposes as first a withdrawal by (or distribution of the property to) me followed by a gift transfer of the property to the donee by me as donor, the Trustee making the actual transfer in my behalf acting as my attorney in fact, this paragraph being, to that extent, a power of attorney from me to the Trustee to make such transfer, which power of attorney shall not be affected by my Disability, incompetence, or incapacity.

D. **Death Costs.** If upon my death the Trustee hold any United States bonds which may be redeemed at par in payment of federal estate tax, the Trustee shall pay the federal estate tax due because of my death up to the amount of the par value of such bonds and interest accrued thereon at the time of payment. The Trustee shall also pay from the trust all of my following death costs, but if there is an acting executor, administrator or Personal Representative of my estate my Trustee shall pay only such amounts of such costs as such executor, administrator or Personal Representative directs:

1. my debts which are allowed as claims against my estate,
2. my funeral expenses without regard to legal limitations,
3. the expenses of administering my estate,
4. the balance of the estate, inheritance and other death taxes (excluding generation-skipping transfer taxes unless arising from direct skips), and interest and penalties thereon, due because of my death with respect to all property whether or not passing under my Will or this Agreement (other than property over which I have a power of appointment granted to me by another person, and qualified terminable interest property which is not held in a trust that was subject to an election under Code Section 2652(a)(3) at or about the time of its funding) and life insurance proceeds on policies insuring my life which proceeds are not held under this trust or my probate estate at or by reason of my death), and

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5. any gifts made in my Will or any Codicil thereto.

The Trustee may make any such payment either to my executor, administrator or Personal Representative or directly to the proper party. The Trustee shall not be reimbursed for any such payment, and is not responsible for the correctness or application of the amounts so paid at the direction of my executor, administrator, or Personal Representative. The Trustee shall not pay any of such death costs with any asset which would not otherwise be included in my gross estate for federal or state estate or inheritance tax purposes, or with any asset which otherwise cannot be so used, such as property received under a limited power of appointment which prohibits such use. Further, no payment of any such death costs shall be charged against or paid from the property disposed of pursuant to the prior paragraphs captioned "Disposition of Tangible Personal Property", "Specific Cash Devise" nor from the Marital Trust.

E. Marital Trust. I intend the maximum obtainable reduction of federal estate tax due by reason of my death by use of the federal estate tax marital deduction, and qualification of all property of the Marital Trust for the marital deduction. This Agreement shall be construed and all powers shall be exercised consistent with such intent. For example, the Trustee shall not allocate any receipt to principal or any disbursement to income if such allocation understates the net income of the Marital Trust under Florida law; and upon the written demand of my spouse, the Trustee shall convert unproductive or underproductive property of said trust into productive property within a reasonable time notwithstanding any other provision hereunder. The foregoing notwithstanding, if my spouse survives me but dies within six months after my death, the Marital Trust provided in Subparagraph II, B will be reduced to that amount, if any, required to obtain for my estate an estate tax marital deduction resulting in the lowest combined estate taxes in my estate and my spouse's estate, on the assumption that my spouse died after me on the date of my death, that my spouse's estate is valued on the same date and in the same manner as my estate is valued for federal estate tax purposes, and that elections in my spouse's estate were made that would be consistent with minimizing taxes. The purpose of this provision is to equalize, insofar as possible, our estates for federal estate tax purposes, based on the above assumptions.

F. Subchapter S Stock. Regardless of anything herein to the contrary, in the event that after my death the principal of a trust includes stock in a corporation for which there is a valid election to be treated under the provisions of Subchapter S of the Code, the income beneficiary of such a trust is a U.S. citizen or U.S. resident for federal income tax purposes, and such trust is not an "electing small business trust" under Code Section 1361(e)(1) in regard to that corporation, the Trustee shall (a) hold such stock as a substantially separate and independent share of such trust within the meaning of Code Section 663(c), which share shall otherwise be subject to all of the terms of this Agreement, (b) distribute all of the income of such share to the one income beneficiary thereof in annual or more frequent installments, (c) upon such beneficiary's death, pay all accrued or undistributed income of such share to the beneficiary's estate, (d) distribute principal from such share during the lifetime of the income beneficiary only to such beneficiary, notwithstanding any powers of appointment granted to any person including the income beneficiary, and (e) otherwise administer such share in a manner that qualifies it as a "qualified Subchapter S trust" as that term is defined in Code Section 1361(d)(3), and shall otherwise

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manage and administer such share as provided under this Agreement to the extent not inconsistent with the foregoing provisions of this paragraph.

G. Residence as Homestead. Regardless of anything herein to the contrary, while any residential real property located in Florida is owned by a trust, I, or my spouse if I am not then living and such trust is the Marital Trust, shall have the right to use, possess and occupy such residence as a personal residence so that such right shall constitute a possessory right in such real property within the meaning of Florida Statute Section 196.041.

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ATTACHMENT

The following property has been delivered in trust under this Agreement:

One Dollar (\$1.00) Cash

During my life, the Trustee has no duty to maintain, invest, review, insure, account for, or any other responsibility with respect to trust property other than income producing property, or any duty to pay premiums on life insurance payable to the trust, and shall receive no fee for its services as Trustee based on any trust property other than income producing property.



SHIRLEY BERNSTEIN, Settlor and Trustee

**FIRST AMENDMENT TO
SHIRLEY BERNSTEIN TRUST AGREEMENT**

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

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

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

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

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

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

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

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[remainder of page intentionally left blank]

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

SETTLOR and TRUSTEE:

[Signature]
SHIRLEY BERNSTEIN

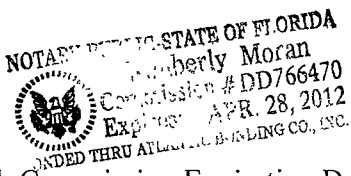
This instrument was signed by SHIRLEY BERNSTEIN in our presence, and at the request of and in the presence of SHIRLEY BERNSTEIN and each other, we subscribe our names as witnesses on this 18 day of Nov, 2008:

[Signature]
Print Name: ROBERT L. SPALLINA
Address: 7387 WISTERIA AVENUE
PARKLAND, FL 33076

[Signature]
Print Name: Rachel Walker
Address: 100 Plaza Real South
apt 308
Boca Raton, FL 33432

STATE OF FLORIDA
SS.
COUNTY OF PALM BEACH

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



[Seal with Commission Expiration Date]

[Signature]
Signature - Notary Public-State of Florida

Print, type or stamp name of Notary Public

Personally Known or Produced Identification _____
Type of Identification Produced _____

N:\WPDATA\drt\Bernstein, Shirley & Simon\2008 Estate Planning\First Amendment to Shirley Bernstein Trust Agreement wpd [11 09 26 18 08]

LIMITED LIABILITY COMPANY

OPERATING AGREEMENT

of

BERNSTEIN FAMILY REALTY, LLC

a Florida limited liability company

**OPERATING AGREEMENT OF
BERNSTEIN FAMILY REALTY, LLC**

This Limited Liability Company Agreement (the "Agreement") is made and entered into as of the ____ day of June, 2008, by and among BERNSTEIN FAMILY REALTY, LLC, a Florida limited liability company (the "Company"); STANFORD TRUST COMPANY, Trustee of the DANIEL BERNSTEIN IRREVOCABLE TRUST dated September 7, 2006, STANFORD TRUST COMPANY, Trustee of the JAKE BERNSTEIN IRREVOCABLE TRUST dated September 7, 2006, and STANFORD TRUST COMPANY, Trustee of the JOSHUA Z. BERNSTEIN IRREVOCABLE TRUST dated September 7, 2006, and any subsequent transferee as the Members ("Members"). The Members are herein sometimes referred to individually as a "Member" and collectively as "Members."

WITNESSETH:

WHEREAS, Articles of Organization for *BERNSTEIN FAMILY REALTY, LLC* (the "Company") were filed with the Florida Department of State on June 2, 2008.

WHEREAS, the Members desire to reduce their agreements to writing, to set forth the rights and obligations of the Members and the Manager.

NOW, THEREFORE, the Members and the Company hereby agree as follows:

ARTICLE I

DEFINITIONS

The following terms used in this Agreement shall have the following meanings:

(a) "*Act*" shall mean the Florida Limited Liability Company Act at F.S § 608.401, *et seq* and all amendments to the Act.

(b) "*Articles of Organization*" shall mean the Articles of Organization of *BERNSTEIN FAMILY REALTY, LLC*, as filed with the Department of State of Florida on June 2, 2008, and as may be amended from time to time.

(c) "*Capital Contribution*" shall mean any contribution to the capital of the Company in cash or the fair market value of property by a Member whenever made, net of any liabilities secured by such contributed property.

(d) "*Capital Account*" as of any given date shall mean the Capital Contribution to the Company by a Member as adjusted up to such date pursuant to Article VIII.

(e) "*Code*" shall mean the Internal Revenue Code of 1986 or corresponding provisions of subsequent superseding federal revenue laws.

(f) **"Company"** shall refer to **BERNSTEIN FAMILY REALTY, LLC**, a limited liability company formed under the laws of the State of Florida.

(g) **"Distributable Cash"** shall mean all cash, revenues and funds received by the Company from Company operations, less the sum of the following to the extent paid or set aside by the Company: (i) all principal and interest payments on indebtedness of the Company and all other sums paid to lenders; (ii) all cash expenditures incurred in the normal operation of the Company's business; and (iii) such Reserves as the Managers deem reasonably necessary for the proper operation of the Company's business.

(h) **"Entity"** shall mean any general partnership, limited liability partnership, limited partnership, limited liability limited partnerships, limited liability company, corporation, joint venture, trust, business trust, cooperative, association, foreign trust or foreign business organization.

(i) **"Gifting Member"** shall mean any Member who gifts, bequeaths or otherwise transfers for no consideration (by operation of law or otherwise, except with respect to bankruptcy) all or any part of its Membership Interest.

(j) **"Initial Capital Contribution"** shall mean the initial contribution to the capital of the Company pursuant to this Agreement.

(k) **"Interest"** shall mean "Percentage Interest" unless otherwise specifically agreed or in the case of special allocations.

(l) **"Majority Interest"** shall mean the Interests of Members, which in the aggregate exceed 50% of all Interests.

(m) **"Manager"** shall mean one or more managers designated as such pursuant to this Agreement or by subsequent vote of the Members. References to the Manager in the singular or as him, her, it, itself, or other like references shall also, where the context so requires, be deemed to include the plural or the masculine or feminine reference, as the case may be. Any Person may be named a Manager pursuant to this Agreement

(n) **"Member"** shall mean each of the parties who executes a counterpart of this Agreement as a Member and each of the parties who may hereafter become Members. To the extent a Manager has purchased a Membership Interest in the Company, he will have all the rights of a Member with respect to such Membership Interest, and the term "Member" as used herein shall include a Manager to the extent he has purchased such Membership Interest in the Company. If a Person is a Member immediately prior to the purchase or other acquisition by such Person of an Transferee Interest, such Person shall have all the rights of a Member with respect to such purchased or otherwise acquired Membership Interest or Transferee Interest, as the case may be.

(o) **"Membership Interest"** shall mean a Member's entire interest in the Company including such Member's Transferee Interest and, the right to participate in the management of the business and affairs of the Company, including the right to vote on, consent to, or otherwise participate in any decision or action of or by the Members granted pursuant to this Agreement and the Act.

(p) “*Net Income*” and “*Net Losses*” shall mean the income, gain, loss, deductions and credits of the Company in the aggregate or separately stated, as appropriate, determined in accordance with sound accounting principles employed under the cash method of accounting at the close of each fiscal year on the Company’s tax return filed for federal income tax purposes.

(q) “*Operating Agreement*” (or “*Agreement*”) shall mean this Operating Agreement of ***BERNSTEIN FAMILY REALTY, LLC***, as originally executed and as amended from time to time.

(r) “*Percentage Interest*” shall mean, for any Member, the percentage interest that the Capital Account of the Member bears to the total Capital Accounts of all of the Members of the Company, as set forth at Section 9.1 herein, and Exhibit A, as may be changed from time to time by the unanimous vote of the Members.

(s) “*Person*” shall mean any individual or Entity, and the heirs, executors, administrators, legal representatives, successors, and assigns of such “*Person*” where the context so permits.

(t) “*Reserves*” shall mean funds set aside or amounts allocated to reserves which shall be maintained in amounts reasonably deemed sufficient by the Managers for working capital and to pay taxes, insurance, debt service or other costs or expenses incident to the ownership or operation of the Company’s business.

(u) “*Selling Member*” shall mean any Member or Transferee which sells, assigns, pledges, hypothecates or otherwise transfers for consideration all or any portion of its Membership Interest or Transferee Interest.

(v) “*Transferee*” shall be person who has not been admitted by the Company as a Member Partner, but, by virtue of a Transfer of an Interest in the Company to said person, said person is entitled to a pro rata share of one or more of the Company’s items of income, losses, credits, and distributions of the Company’s assets pursuant to this Agreement and the Act, but said person shall not have, and is not entitled to any right to participate in the management or affairs of the Company, including, the right to vote on, consent to or otherwise participate in any decision of the Members or Manager.

(w) “*Transferring Member*” shall collectively mean a Selling Member and a Gifting Member.

(x) “*Treasury Regulations*” shall include proposed, temporary and final regulations promulgated under the Code.

ARTICLE II

FORMATION OF COMPANY

2.1 *Organization.*

BERNSTEIN FAMILY REALTY, LLC, has been organized as a Florida limited liability company by executing and delivering the Articles of Organization to the Florida Department of State in accordance with and pursuant to the Act.

2.2 Name.

The name of the Company is **BERNSTEIN FAMILY REALTY, LLC**, and all business of the Company shall be conducted under that name unless a majority of the Members agree to the filing and use of a fictitious name.

2.3 Principal Place of Business.

The initial principal place of business of the Company shall be 950 Peninsula Corporate Circle, Suite 3010, Boca Raton, Florida 33431. The Company may locate its places of business and registered office at any other place or places as the Manager may deem advisable.

2.4 Registered Office and Registered Agent.

The Company's initial registered office shall be at the office of its registered agent in Florida, and the name of its initial registered agent shall be Donald R. Tescher, 2101 Corporate Blvd., Suite 107, Boca Raton, Florida, 33431. The registered office and registered agent may be changed by filing the address of the new registered office and/or the name of the new registered agent with the Florida Department of State pursuant to the Act.

2.5 Term.

The term of the Company has filed Articles of Organization with the Florida Department of State, and shall have perpetual existence, unless the Company is earlier dissolved in accordance with either the provisions of this Agreement or the Act.

ARTICLE III

BUSINESS OF COMPANY

The business of the Company shall be to engage in management of investments, and closely-held business or real estate ventures, and such lawful activities as are reasonably necessary or useful to the furtherance of the forgoing purpose (the "Business").

ARTICLE IV

NAMES AND ADDRESSES OF MEMBERS

The names and addresses of the Members are listed on Exhibit A attached hereto and incorporated herein, as amended from time to time.

ARTICLE V

RIGHTS AND DUTIES OF MANAGERS

5.1 Management.

5.1.1 General. The business and affairs of the Company shall be managed by its Managers. The Managers shall direct, manage, and control the business of the Company. Except for situations in which the approval of the Members is expressly required by this Agreement or by nonwaivable provisions of the Act, the Managers shall have exclusive, sole, full and complete authority, power and discretion to manage and control the business, affairs and properties of the Company, to make all decisions regarding those matters, and to perform any and all other acts or activities customary or incident to the management of the Company's business. At any time when there is more than one Manager, any one Manager may take any action permitted to be taken by the Managers, unless the approval of more than one of the Managers is expressly required pursuant to this Agreement or the Act. The Managers may create a Board of Directors, and may also appoint individuals with or without titles, including the titles of General Manager, Executive Director, President, Vice President, Treasurer, Secretary, and Assistant Secretary, to act on behalf of the Company with such power and authority as the Managers or Board of Directors may delegate to any such Person.

5.1.2 Initial Managers/Designation of Managers/Voting. The Members agree that the initial Manager of the Company is SIMON BERNSTEIN. Unless otherwise specifically agreed herein, business decisions of the Company shall be made by said Manager. The Members shall vote their Interests such that only the aforementioned person is Manager of the Company for so long as he is alive and not mentally disabled or incompetent. After proper notice, in the event of death or mental disability or incompetence of the Manager, the Members shall vote on and elect a new Manager.

5.2 Certain Powers of Managers.

Without limiting the generality of Section 5.01, the Manager (or, if more than one Manager, then the Managers) shall have power and authority, on behalf of the Company to do the following:

(a) To acquire or lease property from any Person as the Managers may determine, whether or not such Person is directly or indirectly affiliated or connected with any Manager or Member;

(b) To borrow money for the Company from banks, other lending institutions, the Managers, Members, or affiliates of the Managers or Members on such terms as the Managers deem appropriate, and in connection therewith, to hypothecate, encumber and grant security interests in the assets of the Company to secure repayment of the borrowed sums. No debt shall be contracted or liability incurred by or on behalf of the Company except by the Managers, or to the extent permitted under the Act, by agents or employees of the Company expressly authorized to contract such debt or incur such liability by the Managers;

(c) To purchase liability and other insurance to protect the Company's property and business;

(d) To hold and own Company real and personal properties in the name of the Company;

(e) To invest Company funds in time deposits, short-term governmental obligations, commercial paper or other investments;

(f) To sell or otherwise dispose of all or substantially all of the assets of the Company as part of a single transaction or plan as long as such disposition is not in violation of or a cause of a default under any other agreement to which the Company may be bound;

(g) To execute on behalf of the Company all instruments and documents, including, without limitation, checks; drafts; notes and other negotiable instruments; mortgages or deeds of trust; security agreements; financing statements; documents providing for the acquisition, mortgage or disposition of the Company's property; assignments, bills of sale; leases; and any other instruments or documents necessary to the business of the Company;

(h) To employ accountants, legal counsel, managing agents or other experts to perform services for the Company;

(i) To enter into any and all other agreements on behalf of the Company, in such forms as the Managers may approve; and

(j) To do and perform all other acts as may be necessary or appropriate to the conduct of the Company's business.

Unless authorized to do so by this Agreement or by the Manager of the Company, no attorney-in-fact, employee or other agent of the Company shall have any power or authority to bind the Company in any way, to pledge its credit or to render it liable for any purpose. No Member shall have any power or authority to bind the Company unless the Member has been authorized by the Manager to act as an agent of the Company in accordance with the previous sentence.

5.3 *Liability for Certain Acts.*

Each Manager shall perform his duties as Manager in good faith, in a manner he or she reasonably believes to be in the best interests of the Company, and with such care as an ordinarily prudent person in a like position would use under similar circumstances. A Manager shall not be liable to the Company or to any Member for any loss or damage sustained by the Company or any Member, unless the loss or damage shall have been the result of fraud, deceit, gross negligence, willful misconduct, unlawful acts, or a wrongful taking by the Manager.

5.4 *No Exclusive Duty to Company.*

A Member or Manager shall not be required to manage the Company as his or her sole and exclusive function and may have other business interests and engage in activities in addition to those relating to the Company. Neither the Company nor any Member shall have any right, by virtue of this Agreement, to share or participate in such other investments or activities of a Manager or to the income or proceeds derived therefrom.

5.5 *Bank Accounts.*

The Manager may from time to time open bank accounts in, the name of the Company, and the Manager shall be the sole signatory thereon, unless Members owning a Majority Interest determine otherwise.

5.6 Indemnity of the Managers, Employees and Other Agents.

The Company shall, to the maximum extent permitted under the Act, indemnify and make advances for expenses to Managers, its employees, and other agents.

5.7 Resignation.

Any Manager of the Company may resign at any time by giving written notice to the Members of the Company. The resignation of any Manager shall take effect upon receipt of notice thereof or at such later date specified in such notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. The resignation of a Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of a Member.

5.8 Removal.

A Manager shall not be subject to removal by vote of the Members except, if at all, pursuant to the provisions of this Agreement, as it may be amended by agreement of all of the Members.

5.9 Vacancies.

To the extent not expressly provided for in Section 5.1.2 "Voting Agreement of Members," and only to said extent, if any: Any vacancy occurring for any reason in the number of Managers of the Company may be filled by the affirmative vote of Members holding a majority of the Percentage Interests present at an election at a meeting of Members called for that purpose or by the Members' unanimous written consent. A Manager elected to fill a vacancy shall be elected for the unexpired term of their predecessor in office and shall hold office until the expiration of such term and until their successor shall be elected and qualified or until the Manager's earlier death, resignation or removal. A Manager chosen to fill a position resulting from an increase in the number of Managers shall hold office until his successor shall be elected and qualified, or until his earlier death, resignation or removal.

5.10 Salaries.

Each Manager shall receive annual compensation (the "Management Fee") if such compensation is agreed to by a majority of the Percentage Interest of the Members in writing, and shall be entitled to reimbursement of reasonable and necessary expenses advanced on behalf of the Company.

ARTICLE VI

RIGHTS AND OBLIGATIONS OF MEMBERS

6.1 Limitation of Liability.

Each Member's liability to the Company shall be limited as set forth in this Agreement, the Act and other applicable law.

6.2 ***Company Liability.*** A Member will not be personally liable for any debts, obligations, liabilities or losses of the Company, whether arising in contract, tort, or otherwise, solely by reason of being a Member, beyond his respective Capital Contributions or any obligation of the Member under Sections 8.1 and 8.2 hereunder, except as provided in Section 6.7 or as otherwise required by law.

6.3 ***List of Members.***

Upon the written request of any Member, the Managers shall provide a list showing all of the names, addresses and Membership Interests and Transferee Interests in the Company.

6.4 ***Approval of Sale of All Assets.*** The Managers shall have the right, to approve the sale, exchange or other disposition of all, or substantially all, of the Company's assets which is to occur as part of a single transaction or plan.

6.5 ***Company Books.***

The Managers shall maintain and preserve, during the term of the Company, the accounts, books, and other relevant Company documents described in Section 9.9. Upon reasonable written request, each Member and Transferee shall have the right, at any time during ordinary business hours, as reasonably determined by the Manager, to inspect and copy, at the requesting Member's or Transferee's expense, the Company documents required to be maintained under Section 608.4101 of the Act, and such other documents which the Managers, in their reasonable discretion, deem appropriate.

6.6 ***Priority and Return of Capital.***

Except as may be expressly provided in Article IX, no Member or Transferee shall have priority over any other Member or Transferee, either as to the return of Capital Contributions or as to Net Profits, Net Losses or distributions; provided that this Section shall not apply to loans which a Member has made to the Company.

6.7 ***Liability of a Member to the Company.***

A Member who receives a distribution or return in whole or in part of its contribution is liable to the Company only to the extent provided by the Act.

ARTICLE VII

MEETINGS OF MANAGERS AND MEMBERS

7.1 ***Meetings.***

Meetings of the Managers, for any purpose or purposes, may be called by any Manager. Meetings of the Members for any purpose or purposes, may be called by any Members holding at least 51% of the Percentage Interests of the Members.

7.2 ***Place of Meetings.***

The Managers may designate any location within the U.S., either within or outside the State of Florida, as the place of meeting for any meeting of the Members. If no designation is made, or if a special meeting be otherwise called, the place of meeting shall be the principal place of business of the Company.

7.3 Notice of Meetings.

Except as provided in Section 7.04, written notice stating the place, day and hour of the meeting and the purpose or purposes for which the meeting is called shall be delivered not less than five (5) nor more than thirty (30) days before the date of the meeting, either personally or by mail, by or at the direction of the Managers or Member or Members calling the meeting, to each Member or Manager entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered two (2) calendar days after being deposited in the United States mail, certified mail return receipt requested, addressed to the Member or to the Manager at its address as it appears on the books of the Company, with postage therein prepaid. Notice may also be given by telegram, teletype or facsimile, or other form of electronic communication. Managers and Members may participate in and hold meetings whereby all conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other. Participation by communications equipment shall constitute presence at the meeting, unless a Member or Manager is participating in the meeting for the express purpose of objecting to the transaction of any business on the ground the meeting is not lawfully called or convened.

7.4 Meeting of All Members and Meetings of All Managers. If all of the Members or all of the Managers shall meet at any time and place, and consent to the holding of a meeting at such time and place, such meeting shall be valid without call or notice, and at such meeting lawful action may be taken.

7.5 Record Date.

For the purpose of determining Members entitled to notice of or to vote at any meeting of Members or any adjournment thereof, or Members entitled to receive payment of any distribution, or in order to make a determination of Members for any other purpose, the date on which notice of the meeting is mailed or the date on which the resolution declared such distribution is adopted, as the case may be, shall be the record date for such determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Section, such determination shall apply to any adjournment thereof.

7.6 Quorum.

Members holding at least fifty percent (50%) of all Percentage Interests, represented in person or by proxy, shall constitute a quorum at any meeting of Members, and if there is more than one Manager then serving, then a majority of the number of the then-serving Managers shall constitute a quorum at a meeting of the Managers, who shall be represented in person, and shall constitute a quorum at any meeting.

7.7 Manner of Acting.

If a quorum is present, the affirmative vote of a majority of all of the Members represented at the meeting, who must hold a majority Percentage Interest in the Company, shall be the act of the Members, unless the vote of a greater or lesser proportion or number is otherwise required by the Act, or by this Agreement. Unless otherwise expressly provided herein or required under applicable law, only Members who have a Membership Interest may vote or consent upon any matter and their vote or consent, as the case may be, shall be counted in the determination of whether the matter was approved by the Members.

7.8 Proxies.

At all meetings of Members, a Member may vote in person or by proxy executed in writing by the Member or by a duly authorized attorney-in-fact. Such proxy shall be filed with the Managers of the Company before or at the time of the meeting. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy. Managers shall not be able to vote by Proxies.

7.9 Action by Members Without a Meeting.

Action required or permitted to be taken at a meeting of Members may be taken without a meeting if the action is evidenced by one or more written consents describing the action taken, signed by each Member entitled to vote and delivered to the Managers of the Company for inclusion in the minutes or for filing with the Company records. Action taken under this Section is effective when all Members entitled to vote have signed the consent, unless the consent specifies a different effective date.

7.10 Waiver of Notice.

When any notice is required to be given to any Member, a waiver thereof in writing signed by the person entitled to such notice, whether before, at, or after the time stated therein, shall be equivalent to the giving of such notice.

ARTICLE VIII

CONTRIBUTIONS TO THE COMPANY AND CAPITAL ACCOUNTS

8.1 Members' Initial Capital Contributions.

Each Member shall contribute such amount as is set forth on the books and records of the Company. No interest shall accrue on any Capital Contribution and the Member shall not have the right to withdraw or be repaid any Capital Contribution except as provided in this Agreement.

8.2 Additional Contributions.

A Member may, but shall not be obligated to, make such additional Capital Contributions as shall be determined by the Managers. Such additional Capital Contributions shall be reflected in the Account of the Contributing Member and shall not be a part of any other Member's Capital Account absent written agreement of the Members. After the making of any such determination, the Managers

shall give written notice to each Member of the amount of required additional contribution, if any, and each Member may deliver to the Company its pro rata share thereof (in proportion to the *respective* Percentage Interest of the Member on the date such notice is given) no later than thirty (30) days following the date such notice is given. None of the terms, covenants, obligations or rights contained in this Section 8.2 is or shall be deemed to be for the benefit of any person or entity other than the Members and the Company, and no such third person shall under any circumstances have any right to compel any actions or payments by the Managers and/or the Members.

8.3 *Capital Accounts.*

(a) A separate Capital Account will be maintained for each Member. Each Member's Capital Account will be increased by (1) the amount of money contributed by such Member to the Company; (2) the fair market value of property contributed by such Member to the Company (net of liabilities secured by such contributed property that the Company is considered to assume or take subject to under Code Section 752); (3) allocations to such Member of Net Profits and Net Losses; and (4) allocations to such Member of income described in Code Section 705(a)(1)(B). Each Member's Capital Account will be decreased by (1) the amount of money distributed to such Member by the Company; (2) the fair market value of property distributed to such Member by the Company (net of liabilities secured by such distributed property that such Member is considered to assume or take subject to under Code Section 752); (3) allocations to such Member of expenditures described in Code Section 705(a)(2)(B); and (4) allocations to the account of such Member of Company loss and deduction as set forth in such Regulations, taking into account adjustments to reflect book value.

(b) In the event of a permitted sale or exchange of a Membership Interest or a Transferee Interest in the Company, the Capital Account of the transferor shall become the Capital Account of the Transferee to the extent it relates to the transferred Membership Interest or Transferee Interest in accordance with Section 1.704-1(b) (2) (iv) of the Treasury Regulations.

(c) The manner in which Capital Accounts are to be maintained pursuant to this Section 8.3 is intended to comply with the requirements of Code Section 704(b) and the Treasury Regulations promulgated thereunder. If the Company determines that the manner in which Capital Accounts are to be maintained pursuant to the preceding provisions of this Section 8.3 should be modified in order to comply with Code Section 704(b) and the Treasury Regulations, then notwithstanding anything to the contrary contained in the preceding provisions of this Section 8.3, the method in which Capital Accounts are maintained shall be so modified; provided, however, that any change in the manner of maintaining Capital Accounts shall not materially alter the economic agreement between or among the Members as set forth in this Agreement.

(d) Except as otherwise required in the Act (and subject to Sections 8.1 and 8.2), no Member or Transferee shall have any liability to restore all or any portion of a deficit balance in such Member's or Transferee's Capital Account.

8.4 *Withdrawal or Reduction of Members' Contributions to Capital.*

(a) A Member or Transferee Interest Holder shall not receive out of the Company's property any part of its Capital Contribution until all liabilities of the Company, except liabilities to

Members on account of their Capital Contributions, have been paid or there remains property of the Company sufficient to pay them.

(b) A Member or Transferee Interest Holder, irrespective of the nature of its Capital Contribution, has only the right to demand and receive cash in return for its Capital Contribution.

(c) Notwithstanding anything to the contrary in this Agreement, a Member may withdraw from the Company only at the time or upon the occurrence of an event specified in this Agreement or in the Articles of Organization. No such event is specified in either the Articles of Organization or in this Agreement at the date hereof. A Member which violates the withdrawal prohibition in this Section shall be liable for breach of this Agreement and shall become a Transferee. A withdrawing Member shall not have a right to receive the fair value of receive the withdrawing member's Interest in the Company as of the date of the resignation but rather, shall have only such rights as a Transferee would have to receive distributions as are made by the Company in the discretion of the Managers.

ARTICLE IX

ALLOCATIONS, INCOME TAX, DISTRIBUTIONS, ELECTIONS AND REPORTS

9.1 *Allocations of Income and Losses from Operations.*

The Net Income and Net Losses of the Company for each fiscal year, and each Member or Transferee's share of Cash Flow, will be allocated in accordance with the Percentage Interests schedule set forth in Exhibit A attached hereto, and, except as provided therein, the Percentage Interests of Members shall be proportionate to the amount of their Capital Accounts as determined hereinabove.

9.2 *Special Tax Provisions As to Extraordinary Allocations, if Any, to Capital*

Allocations of Net Income and Net Losses other than those set forth above shall be made based upon the determinations of the tax accountants and attorneys employed by the Company, giving regard to the intention expressed hereinabove and otherwise herein, with respect to special or priority allocations if any, and with regard to federal partnership tax and capital accounting principles described in Section 8.3 hereinabove.

9.3 *Distributions.*

Within the discretion of the Managers as to amounts, if any, and as to timing, the Managers may distribute Cash Flow to the Members, in accordance with their Percentage Interests .

9.4 *Limitation upon Distributions.*

(a) No distributions or return of contributions shall be made and paid if, after the distribution or return of distribution is made either

- (1) the Company would be insolvent; or

(2) the net assets of the Company would be less than zero.

(b) The Managers may base a determination that a distribution or return of contribution may be made under Section 9.4(a) in good faith reliance upon a balance sheet and profit and loss statement of the Company represented to be correct by the person having charge of its books of account or certified by an independent public or certified public accountant or firm of accountants to fairly reflect the financial condition of the Company.

9.5 Tax Accounting Principles.

The income and losses of the Company shall be determined in accordance with sound tax accounting principles applied on a consistent basis using generally accepted tax accounting principles as applied consistent with the Code.

9.6 Interest on and Return of Capital Contributions.

No Member shall be entitled to interest on its Capital Contribution or to a return of its Capital Contribution, except as otherwise provided in this Agreement.

9.7 Loans to Company.

Nothing in this Agreement shall prevent any Member from making secured or unsecured loans to the Company by agreement with the Company, provided that such loans are arms-length transactions, containing terms customary in the lending industry at the time such loans were made.

9.8 Accounting Period.

The Company's accounting period shall be the calendar year ("Fiscal Year").

9.9 Records, Audits and Reports.

At the expense of the Company, the Managers shall maintain records and accounts of the operations and expenditures of the Company. At a minimum, the Company shall keep at its principal place of business the following records:

(a) A current list of the full name and last known address of each Member and Transferee setting forth the amount of cash each Member and Transferee has contributed, a description and statement of the agreed value of the other property or services, each Member and Transferee has contributed or has agreed to contribute in the future, and the date on which each became a Member or Transferee, and their respective Percentage Interest in the Company;

(b) A copy of the Articles of Organization of the Company and all amendments thereto together with executed copies of any powers of attorney pursuant to which any amendment has been executed;

(c) Copies of the Company's federal, state, and local income tax returns and reports, if any, for the three most recent years;

(d) Copies of the Company's currently effective written Agreement, all amendments thereto, and copies of any financial statements of the Company for the three most recent years;

(e) Notices of and minutes of every Member and Managers meeting,

(f) Any written consents obtained from Members for actions taken by Members without a meeting; and

(g) Unless contained in the Articles of Organization or the Agreement, a writing prepared by the Managers setting out the following:

(1) The times at which or events on the happening of which any additional contributions agreed to be made by each Member and Transferee are to be made.

(2) Any right of a Member or Transferee to receive distributions of include a return on all or any part of the Member or Transferee's contributions.

(3) Any power of a Member or Transferee to grant the right to become an assignee of any part of the Member's or Transferee's interest, and the terms and condition of the power.

9.10 *Returns and Other Elections.*

The Managers shall cause the preparation and timely filing of tax returns required to be filed by the Company pursuant to the Code and all other tax returns deemed necessary and required in each jurisdiction in which the Company does business. Copies of such returns, and pertinent information therefrom, shall be furnished to the Members within a reasonable time after the end of the Company's fiscal year upon the Members' written request. All elections permitted to be made by the Company under federal or state laws shall be made by the Managers in their sole discretion. It is the intention of the Members that the Company shall be taxed as a "Partnership" for federal, state, and local income tax purposes.

9.11 *Tax Matters Partner.*

SIMON BERNSTEIN is designated the "Tax Matters Partner" (as defined in Code Section 6231), and is authorized and required to represent the Company (at the Company's expense), either directly, or through accounting or tax representatives, in connection with all examinations for the Company's affairs by tax authorities, including, without limitation administrative and judicial proceedings, and to expend Company funds for professional services and costs associated therewith. The Members agree to cooperate with each other and to do or refrain from doing any and all things reasonably required to conduct such proceedings.

ARTICLE X

TRANSFERABILITY

10.1 *General.*

10.1.1. **Transferees Not Members, Generally.** Except as otherwise set forth in Section 10.1.2, or with the consent of all of the Members, neither a Member nor a Transferee shall have the right, as to all or any part of its Membership Interest or Transferee Interest to:

- (a) sell, assign, pledge, hypothecate, transfer, exchange or otherwise transfer for consideration (collectively, “sell” or, as context requires “selling”); or
- (b) gift, bequeath or otherwise transfer for no consideration (whether or not by operation of law, except in the case of bankruptcy) (collectively, “gift”).

Absent the written consent of all Members to the contrary or otherwise provided by law, the Interest of the Transferee shall be a Non-Voting Interest.

10.1.2 **Transferees Who are Lineal Descendants of a Member.** Any Transferees who are lineal descendants of both SHIRLEY BERNSTEIN and SIMON BERNSTEIN, either directly, or indirectly, as beneficiaries of a Trust, or other entity beneficially owned solely for or by that Member (including, but not limited to a revocable trust established by a Member for the sole lifetime benefit of the Member or the Member’s descendants) shall be Members upon their written agreement to be bound by the terms of this Agreement and shall be subject to the voting agreements described in Article V, hereinabove.

10.2 **Right of First Refusal.**

(a) If a Selling Member desires to sell all or any portion of its Membership Interest in the Company to a third party purchaser, the Selling Member shall obtain from such third party purchaser a bona fide written offer to purchase such Interest, stating the terms and conditions upon which the purchase is to be made and the consideration offered; provided, however, the offer shall include a “tag along” or “take along” provision, pursuant to which, all Members have the right to sell a pro-rata portion (determined in accordance with the Percentage Interests of all of the Members) of their Interests to the third party. The Selling Member or Transferee shall give written notification to the remaining Members, by certified mail or personal delivery, of its intention to so transfer such Interest, furnishing to the remaining Members a copy of the written offer to purchase such Interest.

(b) Each of the remaining Members, on a basis pro rata to their Percentage Interests or on a basis pro rata to the Percentage Interests of those remaining Members exercising their rights of first refusal, shall have the right to exercise a right of first refusal to purchase all (but not less than all) of the Interest proposed to be purchased by the third party and sold by the Selling Member and the “tag along Members” upon the same terms and conditions as stated in the aforesaid written offer to purchase by giving written notification to the Selling Member and the “tag along Members”, by certified mail or personal delivery, of the intention to do so within thirty (30) days after receiving written notice from the Selling Member. Subject to the following paragraph, the failure of the remaining Members to so notify the Selling Member and the “tag along Members” of their desire to exercise this right of first refusal within said thirty (30) day period shall result in the termination of the right of the first refusal and the Selling Member and the “tag along Members” shall be entitled to consummate the sale of its Interest in the Company to such third party purchaser, provided that the sale shall be consummated within sixty (60) days following the expiration of the aforesaid thirty (30) day period. In the event the remaining

Members (or any one or more of the remaining Members) give written notice to the Selling Member and the “tag along Members” of their desire to exercise this right of first refusal and to purchase all of the Interests of the Selling Member and the “tag along Members” offered upon the same terms and conditions as are stated in the aforesaid written offer to purchase, the remaining Members shall have the right to designate the time, date and place of closing, provided that the date of closing shall be within sixty (60) days after written notification to the Selling Member of the remaining Member or Members’ election to exercise their right of the first refusal. In the event that two (2) or more Members give written notice of their desire to exercise their right of first refusal, absent an agreement between all the Members so exercising such right, each such Member exercising their right of first refusal shall be entitled to purchase that percentage of the selling Member’s share according to the proportion that their Percentage Interests bears to the total Percentage Interests exercising such right of first refusal. The Members shall communicate with each other during the pendency of any offer made in accordance with the terms of this Section 10.2 in order to effectuate the intent of this Section.

(c) As a condition to the Company recognizing the effectiveness of either the sale or gift of an Interest in the Company (including, in both cases, a Transferee Interest), the remaining Members may require the Selling Member, Gifting Member and/or the proposed purchaser, donee or successor-in-interest, as the case may be, to execute, acknowledge and deliver to the remaining Members such instruments of transfer, assignment and assumption and such other certificates, representations and documents, and to perform all such other acts which the remaining Members’ may deem necessary or desirable to:

- (1) verify the purchase, gift or transfer, as the case may be;
- (2) confirm that the person desiring, to acquire an Interest in the Company, or to be admitted as a Member, has accepted, assumed and agreed to be subject and bound by all of the terms, obligations and conditions of the Agreement (whether such Person is to be admitted as a new Member or as a Transferee);
- (3) maintain the status of the Company as a partnership for federal tax purposes; and
- (4) assure compliance with any applicable state and federal laws including securities laws and regulations.

(d) Any sale or gift of a Membership Interest or Transferee Interest in compliance with this Article X shall be deemed effective upon the last day of the calendar month in which all the terms and conditions hereof relating thereto have been satisfied. The admission of a Member in compliance with this Article X shall be deemed effective as of the last day of the calendar month in which the remaining Members’ consent thereto was given. The Selling Member hereby indemnifies the Company and the remaining Members against any and all loss, damage, or expense (including, without limitation, tax liabilities or loss of tax benefits) arising directly or indirectly as a result of any transfer or purported transfer in violation of this Article X.

10.3 *Permitted Transfer to Descendants & Spouse/Mandatory Offer at Death.*

10.3.1 No Mandatory Offer At Death. If a Member's Interest is Transferred to a lineal descendant of the Member or Member's spouse, to a Trust or other entity beneficially owned solely for or by that Member, that Member's spouse, or the lineal descendant of that Member or Member's spouse, the Transferee shall not be required to sell or offer to sell his or her Interest, shall be eligible to become a Member pursuant to Sections 10.1.1 and 10.1.2 above, and shall be subject to the voting agreements described in Article V, above. If Members of the Company are trusts for the lifetime benefit of the lineal descendants of a Member either directly or indirectly, then the successors in interest to the Interests in the Company pursuant to the terms of such trusts shall be considered as Members hereof (regardless of indirect ownership as trust beneficiaries) as long as the beneficial interests are owned by the lineal descendants of the Member or their spouses, and said persons shall be subject to the voting agreements described in Article V, above.

10.3.2 Mandatory Offer At Death. Except with transfers described in 10.3.1., above, the death of any Member or Transferee who owns an Interest shall constitute an offer by the Member's Estate, Trust, or other legal successor in interest, to sell all of the Member's Interest to the Company (the "Offer") at its fair market value (determined as of the date of death). The Company shall have one hundred eighty (180) days in which to accept the Offer at an agreed price, which acceptance shall be made by delivery of written notice thereof to the legal representative of the estate of the Member or Transferee, by certified mail or personal delivery, within said one hundred eighty (180) day period. If the Company does not elect to purchase the Interest within said one hundred eighty (180) day period, the remaining Members shall have the right, but are not required to, purchase the remaining part, or all, as the case may be, of the Interest at its fair market value (as determined herein) determined as of the date of death, in proportion to their existing Interests. Such right to purchase shall be exercised by delivery of written notice thereof, by certified mail or personal delivery, during the thirty (30) days immediately after the one hundred eighty (180) day period (the "30 Day Period"). If any such Member does not desire to purchase his/her or its full proportionate part of the Interest offered for sale, but the remaining Members desire to purchase all of the Interest offered for sale, said Members shall then have the right to purchase said Interest proportionally in accordance with their respective Interests and the Members shall communicate with each other during the 30 Day Period in order to effectuate the intent of this Section 10.3. Except as provided in Section 10.1.2 and 10.1.3, to the extent that any part, or all, of an Interest is not purchased under the provisions of this Section 10.3, the deceased's Member's Interest shall become a Transferee's Interest, if not owned beneficially or directly by another Member hereof. The purchase price shall be as agreed by the parties, and, unless otherwise agreed, shall be paid in cash at the closing, which shall occur no later than thirty (30) days after the end of the 30 Day Period. For purposes of this Agreement, the "fair market value" of an Interest is equal to its Percentage Interest multiplied by the value of the Company (as agreed by the parties). If the value of the Company is not agreed to by the parties, then for purposes of this Agreement "fair market value" of a Member's Interest shall be determined without reduction for minority, lack of marketability or other entity/Company level discounts, based upon a reasonable appraisal procedure to determine the fair market value of the Company's assets. The appraisal procedure shall be agreed upon by the Member and Company. If the parties cannot agree to an appraisal procedure, then an MAI appraiser shall be selected by the Personal Representative of the deceased Member's estate, and if the Company does not agree as to that appraiser, then the Company shall select its own appraiser and each MAI appraiser then shall select a third MAI appraiser and the average of all three (3) appraisals shall be the fair market value of the Interest. As set

forth hereinabove, fair market value” of a Member’s Interest shall be determined without reduction for minority, lack of marketability or other entity/Company level discounts.

10.4 Transferee Not Member in Absence of Unanimous Consent.

(a) Except as provided in Section 10.1.2 and 10.1.3, if all of the remaining Members do not approve by unanimous written consent of the proposed, sale or gift of the Transferring Member’s Membership Interest to a transferee or donee which is not a Member immediately prior to the sale or gift, then the proposed transferee or donee shall have no right to participate in the management of the business and affairs of the Company or to become a Member. The transferee or donee shall be merely a Transferee entitled solely to economic rights to profits, losses and distributions and shall have no voting rights under this Agreement or in matters relating to the Company and its business; provided, however, any sale of a Transferee’s interest in the Company should be subject to Section 10.2. No transfer of a Member’s Interest in the Company (including any transfer of the Transferee Interest or any other transfer which has not been approved by unanimous written consent of the Members) shall be effective unless and until written notice (including the name and address of the proposed transferee or donee and the date of such transfer) has been provided to the Company and the nontransferring Member(s).

(b) Upon and contemporaneously with any sale or gift of a Transferring Member’s Interest in the Company which does not at the same time transfer the balance of the rights associated with the Transferee Interest transferred by the Transferring Member (including, without limitation, the rights of the Transferring Member to participate in the management of the business and affairs of the Company), all remaining rights and interest which were owned by the Transferring Member immediately prior to such sale or gift or which were associated with the transferred Interest shall immediately lapse until the remaining Members, by unanimous written consent, reinstate such rights to the Transferee who did not previously obtain the unanimous written consent, reinstating such rights to a successor or transferee of such Transferee.

ARTICLE XI

ADDITIONAL MEMBERS

From the date of the formation of the Company, any Person or Entity acceptable to the Members by their unanimous vote thereof may become a Member in this Company for such consideration as the Members by their unanimous votes shall determine, subject to the terms and conditions of this Agreement. No new Members shall be entitled to any retroactive allocation of profits losses, income or expense deductions incurred by the Company. The Manager(s) may, at their option, at the time a Member is admitted, close the Company books (as though the Company’s tax year has ended) or make pro rata allocations of income, loss, and expense deductions to a new Member for that portion of the Company’s tax year in which a Member was admitted in accordance with the provisions of Code Section 706(d) and the Treasury Regulations promulgated thereunder.

ARTICLE XII

DISSOLUTION AND TERMINATION

12.1 *Dissolution.*

(a) The Company shall be dissolved upon the occurrence of any of the following events:

- (i) by the unanimous written consent of all Members; or
- (ii) the sale, transfer or assignment of substantially all of the assets of the Company; or
- (iii) as otherwise required by law.

12.2 *Winding Up, Liquidation and Distribution of Assets.*

(a) Upon dissolution, an accounting shall be made by the Company's independent accountant of the accounts of the Company and of the Company's assets, liabilities and operations, from the date of the last previous accounting until the date of dissolution. The Managers shall immediately proceed to wind up the affairs of the Company.

(b) If the Company is dissolved and its affairs are to be wound up, the Managers shall:

(1) Sell or otherwise liquidate all of the Company's assets as promptly as practicable (except to the extent the Managers may determine to distribute any assets to the Members in kind),

(2) Allocate any profit or loss resulting from such sales to the Member's and Transferees' Capital Accounts in accordance with Article IX hereof.

(3) Discharge all liabilities of the Company, including liabilities to Members and Transferees who are creditors, to the extent other-wise permitted by law, other than liabilities to Members and Transferees for Distributions, and establish such Reserves as may be reasonably necessary to provide for contingent liabilities of the Company (for purposes of determining the Capital Accounts of the Members and Transferees, the amounts of such Reserves shall be deemed to be an expense of the Company),

(4) Distribute the remaining assets in the following order:

(i) If any assets of the Company are to be distributed in kind, the net fair market value of such assets as of the date of dissolution shall be determined by independent appraisal or by agreement of all of the Members. Such assets shall be deemed to have been sold as of the date of dissolution for their fair market value, and

the Capital Accounts of the Members and Transferees shall be adjusted pursuant to the provisions of Article IX and Section 8.3 of this Agreement to reflect such deemed sale.

(ii) To the Members and Transferees, pro rata, in accordance with the positive balance (if any) of each Member's and Transferee's Capital Account (as determined after taking into account all Capital Account adjustments for the Company's taxable year during, which the liquidation occurs) shall be distributed to the Members and Transferee either in cash or in kind, as determined by the Managers, with any assets distributed in kind being valued for: this purpose at their fair market value as determined pursuant to Section 12.2(b)(i).

(iii) Thereafter, to the Members and Transferee's pro rata, in accordance with their respective Percentage Interests.

(c) Notwithstanding anything to the contrary in this Agreement, upon a liquidation within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Treasury Regulations, if any Member has a Deficit Capital Account (after giving effect to all contributions, distributions, allocations and other Capital Account adjustments for all taxable years, including the year during which such liquidation occurs), such Member shall have no obligation to make any Capital Contribution, and the negative balance of such Member's Capital Account shall not be considered a debt owed by such Member to the Company or to any other Person for any purpose whatsoever.

(d) Upon completion of the winding up, liquidation and distribution of the assets, the Company shall be deemed terminated.

(e) The Manager(s) shall comply with all requirements of applicable law pertaining to the winding up of the affairs of the Company and the final distribution of its assets.

12.3 *Articles of Dissolution.*

When all debts, liabilities and obligations of the Company have been paid and discharged or adequate provisions have been made therefor and all of the remaining property and assets of the Company have been distributed among its members in accordance with their respective rights and interests, a Articles of Dissolution of the Company shall be filed with the Florida Department of State.

12.4 *Effect of Filing Articles of Dissolution.*

Upon the filing of Articles of Dissolution with the Florida Department of State, and upon issuance of the Certificate of Dissolution by the Department of the State, the existence of the Company shall cease, except for the purpose of suits, of the proceedings and appropriate action as provided in the Act. The Managers shall have authority to distribute any Company property discovered after dissolution, convey real estate and take such other action as may be necessary on behalf of and in the name of the Company.

12.5 *Return of Contribution Nonrecourse to Other Members.*

Except as provided by law or as expressly provided in this Agreement, upon dissolution, each Member and Transferee shall look solely to the assets of the Company for the return of its Capital Contribution. If the Company property remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return the cash contribution of one or more Members or Transferees, such Member(s) or Transferee(s) shall have no recourse against any other Member or Transferee, except as otherwise provided by law.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

13.1 *Notices.*

Any notice, demand, or communication required or permitted to be given by any provision of this Agreement shall be deemed to have been sufficiently given or served for all purposes if delivered personally or by express mail or courier service (with receipt acknowledged) to the party or to an executive officer of the party to whom the same is directed, if telecopied (with receipt acknowledged) to the party or an executive officer of the party to whom the same is directed or, if sent by registered or certified mail, postage and charges prepaid, addressed to the Member's and/or Company's address, as appropriate, which is set forth in this Agreement. Except as otherwise provided herein any such notice shall be deemed to be given two (2) business days after the date on which the same was deposited in the United States mail, addressed and sent as aforesaid, if sent by mail or upon confirmation of receipt if delivered by telecopier, personal delivery or courier service.

13.2 *Books of Account and Records.*

Proper and complete records and books of account shall be kept or shall be caused to be kept by the Managers in which shall be entered fully and accurately all transactions relating to the Company's business in such detail and completeness as is customary and usual for businesses of the type engaged in by the Company. Such books and records shall be maintained as provided in Section 9.9. The books and records shall at all times be maintained at the principal place of business of the Company. Additionally, the Managers shall promptly distribute to all Members, copies of the Company's financial statements on an annual basis.

13.3 *Application of Florida Law.*

This Agreement and its interpretation shall be governed exclusively by its terms and by the laws of the State of Florida, and specifically the Act.

13.4 *Waiver of Action for Partition.*

Each Member and Transferee irrevocably waives during the term of the Company any right that it may have to maintain any action for partition with respect to the property of the Company.

13.5 *Amendments.*

This Agreement may not be amended except in writing by the affirmative vote of a majority of the Members of the Company which vote must include the affirmative vote of the Manager. Any amendment changing either the Percentage Interests of the Members or any provision within Article V requires the unanimous vote of the Members.

13.6 *Execution of Additional Instruments.*

Each Member hereby agrees to execute such other and further statements of interest and holdings, designations and other instruments necessary to comply with an laws, rules or regulations.

13.7 *Construction.*

Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

13.8 *Headings.*

The headings in this Agreement are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this Agreement or any provision thereof

13.9 *Waivers.*

The failure of any party to seek redress for default of or to insist upon the strict performance of any covenant of condition of this Agreement shall not prevent a subsequent act, which would have originally constituted a default, from having the effect of an original default.

13.10 *Rights and Remedies Cumulative.*

The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to use any other remedy. Said rights and remedies are given in addition to any other legal rights that parties may have.

13.11 *Severability.*

If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

13.12 *Heirs, Successors and Assigns.*

Each and all of the covenants, terms, provisions and agreement herein contained shall be binding upon and inure to the benefit of the parties hereto and, to the extent permitted by this Agreement, their respective heirs, legal representatives, successors and assigns.

13.13 *Creditors.*

None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Company.

13.14 *Counterparts.*

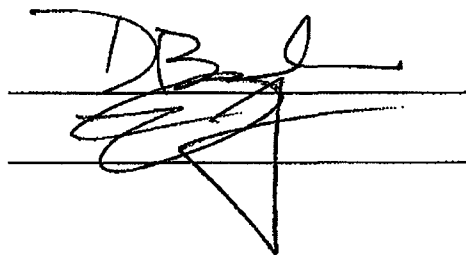
This Agreement may be executed in counterparts, each of shall be deemed an original but all of which shall constitute one and the same instrument.


13.15 *Conflict of Interest Waiver.* The Members and the Company acknowledge that the law firm of TESCHER & SPALLINA, P.A. has represented the Company in connection with the drafting of this Agreement and the formation and structuring of the Company, and that said law firm also represents one or more of the Managers and Trustees. The Company and its Members acknowledge that they have been advised that there are material income tax consequences and economic ramifications from being a Member in the Company, that they fully understand the tax consequences and economic ramifications of a Member's investment in the Company, and that they have been encouraged to consult with separate and independent counsel to advise them on Company and Member issues including this Agreement and the formation of the Company. The Company and the Members hereby waive any conflicts of interest with respect to the foregoing law firm's representation of the Company and the afore described Members and owners of interests in entity Members, in connection with the services set forth in this Section.

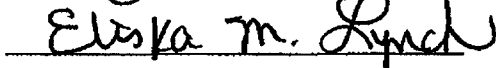
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IN WITNESS WHEREOF, the parties hereto have caused their signatures to be set forth below on the day and year first above written.

Witnesses:

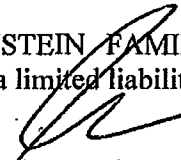






COMPANY:

BERNSTEIN FAMILY REALTY, LLC, a Florida limited liability company

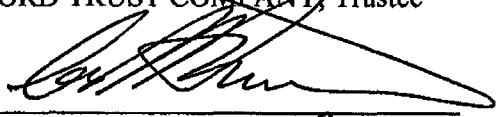
By: 

SIMON BERNSTEIN, Manager

MEMBERS:

DANIEL BERNSTEIN IRREVOCABLE TRUST dated September 7, 2006

STANFORD TRUST COMPANY, Trustee


By: 

LOUIS B. FOURNIER, PRESIDENT
Name Title

JAKE BERNSTEIN IRREVOCABLE TRUST
dated September 7, 2006

STANFORD TRUST COMPANY, Trustee

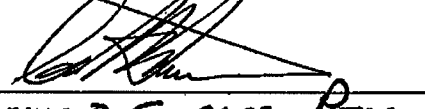
Raven Bass
Eliska M. Lynch

By: 
LOUIS B. FOURNIER, PRESIDENT
Name Title

JOSHUA Z. BERNSTEIN IRREVOCABLE
TRUST dated September 7, 2006

STANFORD TRUST COMPANY, Trustee

Raven Bass
Eliska M. Lynch

By: 
LOUIS B. FOURNIER, PRESIDENT
Name Title

BERNSTEIN FAMILY REALTY, LLC
OPERATING AGREEMENT

EXHIBIT A

<u>Member(s)</u>	<u>Percentage Interest*</u>	<u>Capital Contributions</u>
DANIEL BERNSTEIN IRREVOCABLE TRUST dated September 7, 2006	33.34%	\$33.34
JAKE BERNSTEIN IRREVOCABLE TRUST dated September 7, 2006	33.33%	\$33.33
JOSHUA Z. BERNSTEIN IRREVOCABLE TRUST dated September 7, 2006	33.33%	\$33.33

The addresses of all of the Members is 950 Peninsula Corporate Circle, Suite 3010, Boca Raton, Florida 33487.

*proportionate to capital accounts of Members

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**AGREEMENT OF LIMITED PARTNERSHIP OF
BERNSTEIN FAMILY INVESTMENTS, LLLP**

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**AGREEMENT OF LIMITED PARTNERSHIP OF
BERNSTEIN FAMILY INVESTMENTS, LLLP**

This is an Agreement of Limited Partnership ("Agreement") dated this 20 day of May, 2008, by and between BERNSTEIN HOLDINGS, LLC, a Florida limited liability company (the "General Partner"); and SIMON L. BERNSTEIN, Trustee of the SIMON L. BERNSTEIN TRUST AGREEMENT dated May 20, 2008 and SHIRLEY BERNSTEIN, Trustee of the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008, together with any individual, partnership, corporation, trust, estate or other entity subsequently admitted as Limited Partners, referred to as the "Limited Partners," and individually as a "Limited Partner". The General Partner and the Limited Partners are herein sometimes referred to individually as a "Partner" and collectively as "Partners."

The parties agree as follows:

1. Formation. BERNSTEIN FAMILY INVESTMENTS, LLLP, a limited partnership under the Revised Uniform Limited Partnership Act of Florida ("Act"), became effective on February 15, 2008, the date of filing of the Certificate of Limited Partnership with the Florida Secretary of State by the General Partner. Except as otherwise provided in this Agreement, the Act shall govern the rights and liabilities of the Partners. The limited partnership has elected to be a Florida limited liability limited partnership.

2. Name. The name of the Partnership is BERNSTEIN FAMILY INVESTMENTS, LLLP. The General Partner may, in its discretion, change the name of the Partnership and adopt such trade or fictitious names as it may deem appropriate.

3. Definitions. In this Agreement, the following terms have the following meanings unless the context otherwise requires:

3.1 "Act" means the Revised Uniform Limited Partnership Act of Florida, as amended from time to time.

3.2 "Adjusted Capital Account Deficit" means, with respect to any Partner, the deficit balance, if any, in such Partner's Capital Account as of the end of the relevant fiscal year, after giving effect to the following adjustments:

3.2.1 Credit to such Capital Account any amounts which such Partner is obligated to restore (pursuant to the terms of such Partner's promissory note or otherwise) or is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

3.2.2 Debit to such Capital Account the items described in Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), and 1.704-1(b)(2)(ii)(d)(6) of the Regulations.

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

3.3 "Aggregate Capital Contribution" means the net fair market value of all contributions made to the capital of the Partnership by a Partner pursuant to Section 7.

3.4 "Agreement" means this Agreement of Limited Partnership, as it may be amended from time to time.

3.5 "Capital Account" means, with respect to any Partner, the Capital Account maintained for such Partner in accordance with the following provisions:

3.5.1 To each Partner's Capital Account there shall be credited such Partner's Capital Contributions, such Partner's distributive share of Profits and any items in the nature of income or gain which are specially allocated pursuant to Section 9.3 or Section 9.4 hereof, and the amount of any Partnership liabilities assumed by such Partner or which are secured by any Partnership Property distributed to such Partner.

3.5.2 To each Partner's Capital Account there shall be debited the amount of cash and the Gross Asset Value of any Partnership Property distributed to such Partner pursuant to any provision of this Agreement, such Partner's distributive share of Losses and any items in the nature of expenses or losses which are specially allocated pursuant to Section 9.3 or Section 9.4 hereof, and the amount of any liabilities of such Partner assumed by the Partnership or which are secured by any property contributed by such Partner to the Partnership.

3.5.3 In the event all or a portion of an Interest in the Partnership is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the transferred Interest.

3.5.4 In determining the amount of any liability for purposes of Sections 3.5.1, and 3.5.2 hereof, there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with such Regulations. In the event the General Partner shall determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto (including, without limitation, debits or credits relating to liabilities that are secured by contributed or distributed property or that are assumed by the Partnership, the General Partner, or Partners), are computed in order to comply with such Regulations, the General Partner may make such modification, provided that it is not likely to have a material effect on the amounts distributable to a Partner pursuant to Section 10.3 hereof upon the dissolution of the Partnership. The General Partner also

shall (i) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Partners and the amount of Partnership capital reflected on the Partnership's balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv)(g), and (ii) make any appropriate modifications in the event unanticipated events (for example, the acquisition by the Partnership of oil or gas properties) might otherwise cause this Agreement not to comply with Regulations Section 1.704-1(b).

3.6 "Capital Contributions" means, with respect to a Partner, the amount of money and the initial Gross Asset Value of any property (other than money) contributed to the Partnership with respect to the Partnership Interest held by such Partner. The principal amount of a promissory note which is not readily traded on an established securities market and which is contributed to the Partnership by the maker of the note (or a person related to the maker of the note within the meaning of Regulations Section 1.704-1(b)(2)(ii)(c)) shall not be included in the Capital Account of any Partner until the Partnership makes a taxable disposition of the note or until (and to the extent) principal payments are made on the note, all in accordance with Regulations Section 1.704-1(b)(2)(iv)(d)(2).

3.7 "Certificate" means the certificate of limited partnership required by the Act to be filed with the Department of State of Florida, as it may be amended from time to time.

3.8 "Code" means the Internal Revenue Code of 1986, as amended, or subsequent revenue laws.

3.9 "Depreciation" means, for each Fiscal Year, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable with respect to an asset for such Fiscal Year, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such Fiscal Year, Depreciation shall be an amount which bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such Fiscal Year bears to such beginning adjusted tax basis; provided, however, that if the adjusted basis for federal income tax purposes of an asset at the beginning of such Fiscal Year is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the General Partner.

3.10 "Event of Withdrawal" means an event described as such in Fla.Stats. §620.1603, or successor provision thereto.

3.11 "Fiscal Year" means (i) the period commencing on the effective date of this Agreement and ending on the last day of the Partnership's taxable year, (ii) any subsequent twelve (12) month period commencing on day after the last day of the partnership's taxable year and ending on the last day of the partnership's taxable year, or (iii) any portion of the period described in clause (ii) for which the Partnership is required to allocate Profits, Losses, and other items of Partnership income, gain, loss, or deduction pursuant to Section 9 hereof.

3.12 "General Partner" means BERNSTEIN HOLDINGS, LLC, and its successors as provided herein.

3.13 "Gross Asset Value" means, with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

3.13.1 The initial Gross Asset Value of any asset contributed by a Partner to the Partnership shall be the gross fair market value of such asset, as determined by the contributing Partner and the General Partner, provided that, if the contributing Partner is a General Partner, the determination of the fair market value of a contributed asset shall be determined by appraisal;

3.13.2 The Gross Asset Values of all Partnership assets shall be adjusted to equal their respective gross fair market values, as determined by the General Partner, as of the following times: (a) the acquisition of an additional Interest in the Partnership by any new or existing Partner in exchange for more than a *de minimis* Capital Contribution; (b) the distribution by the Partnership to a General Partner or Partner of more than a *de minimis* amount of Partnership Property as consideration for an Interest in the Partnership; and (c) the liquidation of the Partnership within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g): provided, however, that the adjustments pursuant to clauses (a) and (b) above shall be made only if the General Partner reasonably determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the General Partner and Partners in the Partnership;

3.13.3 The Gross Asset Value of any Partnership asset distributed to a Partner shall be adjusted to equal the gross fair market value of such asset on the date of distribution as determined by the distributee and the General Partner, provided that, if the distributee is a General Partner, the determination of the fair market value of the distributed asset shall be determined by appraisal; and

3.13.4 The Gross Asset Values of Partnership assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(m) and Sections 3.26.6 and 9.3.7 hereof; provided, however, that Gross Asset Values shall not be adjusted pursuant to this Section 3.13.4 to the extent the General Partner determines that an adjustment pursuant to Section 3.13.2 hereof is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this Section 3.13.4.

If the Gross Asset Value of an asset has been determined or adjusted pursuant to Section 3.13.1, Section 3.13.2, or Section 3.13.4 hereof, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits and Losses.

3.14 "Involuntary Transfer" means any involuntary sale, transfer, encumbrance or other disposition, by or in which any Partner or assignee of a Partnership Interest shall be deprived or divested of any right, title or interest in or to any Partnership Interest, or portion thereof, to any Person or governmental entity other than a Partner, including, without limitation, (i) any sale in connection with the execution of a judgment pursuant to court order, (ii) a transfer or sale in connection with a bankruptcy or a transfer or sale by a receiver, (iii) any transfer to a judgment creditor pursuant to court

order, (iv) any transfer in connection with a reorganization, insolvency or similar proceeding, (v) any transfer to a public officer or agency pursuant to any abandoned property or escheat law, or (vi) any transfer to the spouse or former spouse of a Partner or assignee of a Partnership Interest as the result of or incident to any dissolution of marriage, marital separation, or similar event (notwithstanding such transfer is pursuant to a marital or property settlement agreement).

3.15 "Limited Partners" means those Persons identified on the Signature Pages of this Agreement as limited partners and all other Persons who shall be admitted to the Partnership as Substitute Limited Partners as provided in this Agreement and no other Person.

3.16 "Net Cash From Operations" means the gross cash proceeds from Partnership operations (including sales and dispositions in the ordinary course of business) less the portion thereof used to pay or establish reserves for all Partnership expenses, debt payments, capital improvements, replacements, and contingencies, all as determined by the General Partner. "Net Cash From Operations" shall not be reduced by depreciation, amortization, cost recovery deductions, or similar allowances, but shall be increased by any reductions of reserves previously established pursuant to the first sentence of this Section 3.16 and Section 3.17 hereof. Net Cash from Operations shall include income-type items derived from Partnership investment assets (e.g., dividends, interest, and partnership operating distributions).

3.17 "Net Cash From Sales or Refinancings" means the net cash proceeds from all sales and other dispositions (other than in the ordinary course of business) and all refinancings of Property, from any insurance payments or damage recoveries, other than under policies commonly referred to as a rent insurance paid to the Partnership in respect of its capital assets, and from any exercise by a governmental authority of any right of eminent domain, condemnation or similar right or power with respect to the capital assets of the Partnership, less any portion thereof used to establish reserves, all as determined by the General Partner. "Net Cash From Sales or Refinancings" shall include all principal and interest payments with respect to any note or other obligation received by the Partnership in connection with sales and other dispositions (other than in the ordinary course of business) of Partnership Property.

3.18 "Partner Nonrecourse Debt" has the meaning set forth in Section 1.704-2(b)(4) of the Regulations.

3.19 "Partner Nonrecourse Debt Minimum Gain" means an amount, with respect to each Partner Nonrecourse Debt, equal to the Partnership Minimum Gain that would result if such Partner Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Section 1.704-2(i)(3) of the Regulations.

3.20 "Partner Nonrecourse Deductions" has the meaning set forth in Sections 1.704-2(i)(1) and 1.704-2(i)(2) of the Regulations.

3.21 "Partners" means collectively the General Partner and all Limited Partners.

3.22 "Partnership" means BERNSTEIN FAMILY INVESTMENTS, LLLP.

3.23 "Partnership Interest" means a Partner's percentage interest in the profits, losses, and property of the Partnership, which percentage is to be determined in accordance with the relative contributions to the capital of the Partnership as made by the Partner and the other Partners from time to time.

3.24 "Partnership Minimum Gain" has the meaning set forth in Sections 1.704-2(b)(2) and 1.704-2(d).

3.25 "Person" means an individual, corporation, partnership, association, trust, estate or any other entity.

3.26 "Profits" and "Losses" means, for each Fiscal Year, an amount equal to the Partnership's taxable income or loss for such year or period, determined in accordance with Code Section 703(a)(for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

3.26.1 Any income of the Partnership that is exempt from federal income tax and not otherwise taken into account in computing Profits and Losses pursuant to this Section 3.26 shall be added to such taxable income or loss;

3.26.2 Any expenditures of the Partnership described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses pursuant to this Section 3.26 shall be subtracted from such taxable income or loss;

3.26.3 In the event the Gross Asset Value of any Partnership asset is adjusted pursuant to Section 3.13.2 or Section 3.13.3 hereof, the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset for purposes of computing Profits or Losses;

3.26.4 Gain or loss resulting from any disposition of Partnership Property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its Gross Asset Value;

3.26.5 In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such fiscal year or other period, computed in accordance with Section 3.9 hereof;

3.26.6 To the extent an adjustment to the adjusted tax basis of any Partnership asset pursuant to Code Section 734(b) or Code Section 743(b) is required pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Partner's Interest in the Partnership, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss

(if the adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for purposes of computing Profits or Losses;

3.26.7 Notwithstanding any other provision of this Section 3.26, any items which are specially allocated pursuant to Section 9.3 or Section 9.4 hereof shall not be taken into account in computing Profits or Losses.

The amounts of the items of Partnership income, gain, loss, or deduction available to be specially allocated pursuant to Sections 9.3 or Section 9.4 hereof shall be determined by applying rules analogous to those set forth in Sections 3.26.1 through 3.26.6 above.

3.27 "Property" means the property described in Exhibit "A", and such other property as the Partners shall agree to submit to Partnership ownership.

3.28 "Regulatory Allocations" has the meaning set forth in Section 9.4 hereof.

3.29 "Special Limited Partners" has the meaning set forth in Section 16.5.2.

3.30 "Substitute Limited Partners" means Persons who have acquired Partnership Interests from Limited Partners and who have been substituted for such Limited Partners as provided in this Agreement. Solely for purposes of determining those Persons who are entitled to distributions and allocations under Sections 9 and 10, "Substitute Limited Partners" means Persons who have acquired Partnership Interests from Limited Partners and Special Limited Partners and their assignees, whether or not such Persons have been substituted as provided herein.

3.31 "Transfer" means the mortgage, pledge, hypothecation, transfer, gift, bequest, sale, assignment or other disposition of any part or all or any Partnership Interest including a general partnership interest in the Partnership, whether voluntarily, by operation of law or otherwise.

4. Principal Place of Business and Recordkeeping Office and Agent for Service of Process. The principal place of business and recordkeeping of the Partnership is at BERNSTEIN FAMILY INVESTMENTS, LLLP, 950 Peninsula Corporate Circle, Suite 310, Boca Raton, Florida 33487, or at such other location as the General Partner, in its discretion, may determine. DONALD R. TESCHER shall act as agent for service of process on the Partnership.

5. Term. The Partnership shall continue until December 31, 2058, unless sooner terminated as provided in Section 18.

6. Business and Purposes. The purpose and business of the Partnership shall be the ownership, investment, management and control of the Property and other investment properties (including, without limitation, investments in real property, loans, business enterprises, marketable securities, either directly or through interests in corporations, limited partnerships, limited liability companies, and other entities), to provide a means for the BERNSTEIN family to own investment property and preserve its assets, and

to conduct such other activities as may be necessary or appropriate to promote such business and purposes, it being agreed that each of the foregoing is an ordinary part of the Partnership's business. In addition to the foregoing, or as part thereof, the Partnership shall accomplish among other things the following: (a) maintain control over BERNSTEIN family assets contributed to it, (b) consolidate fractional interests in BERNSTEIN family assets, (c) seek to increase BERNSTEIN family wealth, (d) establish a method by which gifts can be made without fractionalizing BERNSTEIN family assets, (e) provide protection to BERNSTEIN family assets from future claims against members of the families, (f) facilitate the administration and reduce the costs associated with the disability or probate of the estate of members of the BERNSTEIN family, (g) provide a mechanism to resolve BERNSTEIN family disputes, and (h) if applicable, hold restricted securities until such securities become unrestricted and free of underwriting limitations of the Securities and Exchange Commission. The Partnership shall not engage in any other business without the prior consent of Limited Partners owning (in the aggregate) at least eighty (80%) percent of the limited partnership Interests owned by the Limited Partners.

7. Capital Contributions and Capital Accounts.

7.1 Contribution of General Partners. The General Partner shall, as soon as practicable after the execution of this Agreement, contribute to the Partnership the cash and property set forth on Schedule "A" attached hereto and made a part hereof. The value of said capital contribution shall be allocated to the capital account of the General Partner. In addition, the General Partner shall contribute its efforts as managing partner.

7.2 Contribution of Limited Partners. The Limited Partners shall contribute to the Partnership the cash and property set forth on Schedule "A" attached hereto and made a part hereof. The value of each such contribution shall be allocated to the respective capital accounts of the Limited Partners as reflected on Schedule "A."

7.3 Withdrawal of Capital. Except as specifically provided in this Agreement, no Partner shall be entitled to withdraw any part of his capital account or to receive any distribution from the Partnership, and no Partner shall be required to make any additional capital contribution to the Partnership.

7.4 Partner's Loans. Loans by any Partner to the Partnership shall not be considered contributions to the capital of the Partnership and shall not increase the capital account of the lending Partner.

7.5 Interest on Capital Contribution. No interest shall be paid on any capital contributed to the Partnership.

8. Compensation and Expenses of General Partner.

8.1 Compensation and Reimbursement. The Partnership shall pay to the General Partner or its affiliates reasonable fees as compensation for services and reimbursement for sums advanced. The Partnership is authorized to enter into business agreements, contracts, and other transactions with the

General Partner or its affiliates and is authorized to pay fees, commissions or other consideration to the General Partner, or its affiliates on an arms length basis, including without limitation, real estate brokerage commissions, development fees, insurance premiums, rent, property management fees, leasing commissions and mortgage brokerage fees.

8.2 Expenses. The General Partner may charge the Partnership for any reasonable expenses actually incurred by it in connection with the Partnership's business and all allocable portions of expenses incurred in connection with both Partnership and other activities, such allocation to be determined on any equitable basis selected by the General Partner consistent with generally accepted accounting principles. Such expenses shall include, but are not limited to, payment of fees and expenses to attorneys, accountants, property managers and property management companies and other consultants.

9. Allocations of Profit and Loss, Cash Distributions.

9.1 Allocations of Profits. After giving effect to the special allocations set forth in Sections 9.3 and 9.4 hereof, Profits for any Fiscal Year shall be allocated in the following order and priority:

9.1.1 First, to the Partners in an amount equal and in proportion to the excess, if any, of the cumulative Losses allocated to the Partners pursuant to Section 9.2.2 hereof for the current and all prior Fiscal Years, reduced by the cumulative Profits allocated to the Partners pursuant to this Section 9.1.1 hereof for the current and all prior Fiscal Years;

9.1.2 The balance, if any, pro-rata to the Partners or in proportion to their Partnership Interests.

9.2 Allocation of Losses. After giving effect to the special allocations set forth in Sections 9.3 and 9.4, Losses for any Fiscal Year shall be allocated as set forth in Section 9.2.1 below, subject to the limitations in Section 9.2.2 below.

9.2.1 To the Partners in proportion to their Partnership Interests.

9.2.2 The Losses allocated pursuant to Section 9.2.1 hereof shall not exceed the maximum amount of Losses that can be so allocated without causing any Partner who is not a General Partner to have an Adjusted Capital Account Deficit at the end of any Fiscal Year. In the event some but not all of the Partners who are not General Partners would have Adjusted Capital Account Deficits as a consequence of an allocation of Losses pursuant to Section 9.2.1, the limitation set forth in this Section 9.2.2 shall be applied on a Partner by Partner basis so as to allocate the maximum permissible Losses to each Partner who is not a General Partner under Section 1.704-1(b)(2)(ii)(d) of the Regulations. All Losses in excess of the limitation previously set forth in this Section 9.2.2 shall be allocated to the General Partner.

9.3 Special Allocations. The following special allocations shall be made in the following order:

9.3.1 Minimum Gain Chargeback. Except as otherwise provided in Section 1.704-2(f) of the Regulations, notwithstanding any other provision of this Section 9, if there is a net decrease in Partnership Minimum Gain during any Partnership Fiscal Year, each Partner shall be specially allocated items of Partnership income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Partner's share of the net decrease in Partnership Minimum Gain, determined in accordance with Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Partner pursuant thereto. The items to be so allocated shall be determined in accordance with Sections 1.704-2(f)(6) and 1.704-2(j)(2) of the Regulations. This Section 9.3.1 is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(f) of the Regulations and shall be interpreted consistently therewith.

9.3.2 Partner Minimum Gain Chargeback. Except as otherwise provided in Section 1.704-2(i)(4) of the Regulations, notwithstanding any other provision of this Section 9, if there is a net decrease in Partner Nonrecourse Debt Minimum Gain attributable to a Partner Nonrecourse Debt during any Partnership Fiscal Year, each Partner who has a share of the Partner Nonrecourse Debt Minimum Gain attributable to such Partner Nonrecourse Debt, determined in accordance with Section 1.704-2(i)(5) of the Regulations, shall be specially allocated items of Partnership income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Partner's share of the net decrease in Partner Nonrecourse Debt Minimum Gain attributable to such Partner Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Partner pursuant thereto. The items to be so allocated shall be determined in accordance with Sections 1.704-2(i)(4) and 1.704-2(j)(2) of the Regulations. This Section 9.3.2 is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(i)(4) of the Regulations and shall be interpreted consistently therewith.

9.3.3 Qualified Income Offset. In the event any Partner who is not a General Partner unexpectedly receives any adjustments, allocations, or distributions described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), Regulations Section 1.7041(b)(2)(ii)(d)(5), or Regulations Section 1.704-1(b)(2)(ii)(d)(6), items of Partnership income and gain shall be specially allocated to each such Partner in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of such Partner as quickly as possible, provided that an allocation pursuant to this Section 9.3.3 shall be made if and only to the extent that such Partner would have an Adjusted Capital Account Deficit after all other allocations provided for in this Section 9 have been tentatively made as if this Section 9.3.3 were not in the Agreement.

9.3.4 Gross Income Allocation. In the event any Partner who is not a General Partner has a deficit Capital Account at the end of any Partnership Fiscal Year which is in excess of the sum of (i) the amount such Partner is obligated to restore (pursuant to the terms of such Partner's promissory note or otherwise), and (ii) the amount such Partner is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), each such Partner shall be specially allocated items of Partnership income and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this Section 9.3.4 shall be made if and only to the extent

that such Partner would have a deficit Capital Account in excess of such sum after all other allocations provided for in this Section 9 have been tentatively made as if this Section 9.3.4 and Section 9.3.3 hereof were not in the Agreement.

9.3.5 Nonrecourse Deductions. Nonrecourse Deductions for any Fiscal Year shall be specially allocated to the Limited Partners.

9.3.6 Partner Nonrecourse Deductions. Any Partner Nonrecourse Deductions for any Fiscal Year shall be specially allocated to the General Partner or Partner who bears the economic risk of loss with respect to the Partner Nonrecourse Debt to which such Partner Nonrecourse Deductions are attributable in accordance with Regulations Section 1.704-2(i)(1).

9.3.7 Section 754 Adjustment. To the extent an adjustment to the adjusted tax basis of any Partnership asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(2) or Regulations Section 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a distribution to a General Partner or Partner in complete liquidation of his Interest in the Partnership, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the General Partner and the Partners in accordance with their Interests in the Partnership in the event that Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies, or to the Partners to whom such distribution was made in the event that Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.

9.3.8 Allocations Relating to Taxable Issuance of Partnership Interests. Any income, gain, loss, or deduction realized as a direct or indirect result of the issuance of an Interest in the Partnership by the Partnership to a Partner (the "Issuance Items") shall be allocated among the Partners so that, to the extent possible, the net amount of such Issuance Items, together with all other allocations under this Agreement to each Partner, shall be equal to the net amount that would have been allocated to each such Partner if the Issuance Items had not been realized.

9.4 Curative Allocations. The allocations set forth in Sections 9.2.2, 9.3.1, 9.3.2, 9.3.3, 9.3.4, 9.3.5, 9.3.6 and 9.3.7 hereof (the "Regulatory Allocations") are intended to comply with certain requirements of the Regulations. It is the intent of the Partners that, to the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of Partnership income, gain, loss, or deduction pursuant to this Section 9.4. Therefore, notwithstanding any other provision of this Section 9 (other than the Regulatory Allocations), the General Partner shall make such offsetting special allocations of Partnership income, gain, loss, or deduction in whatever manner it determines appropriate so that, after such offsetting allocations are made, each Partner's Capital Account balance is, to the extent possible, equal to the Capital Account balance such General Partner or Partner would have had if the Regulatory Allocations were not part of the Agreement and all Partnership items were allocated pursuant to Sections 9.1, 9.2.1, 9.3.8, and 9.5. In exercising its discretion under this Section 9.4, the General Partner shall take into account future Regulatory Allocations under Sections 9.3.1 and 9.3.2 that, although not yet made, are likely to offset other Regulatory Allocations previously made under Sections 9.3.5 and 9.3.6.

9.5 Other Allocation Rules.

9.5.1 Generally, unless otherwise explicitly provided, all Profits and Losses allocated to the Partners shall be allocated among them in proportion to the Partnership Interest held by each. In the event additional Limited Partners are admitted to the Partnership on different dates during any Fiscal Year, the Profits (or Losses) allocated to the Partners for each such Fiscal Year shall be allocated among the Partners in proportion to the Partnership Interest each holds from time to time during such Fiscal Year in accordance with Code Section 706, using any convention permitted by law and selected by the General Partner.

9.5.2 The Partners are aware of the income tax consequences of the allocations made by this Section 9 and hereby agree to be bound by the provisions of this Section 9 in reporting their shares of Partnership income and loss for income tax purposes.

9.5.3 Solely for purposes of determining a General Partner's or Partner's proportionate share of the "excess nonrecourse liabilities" of the Partnership within the meaning of Regulations Section 1.752-3(a)(3), the Partner's Interests in Partnership profits are as follows: Limited Partners one hundred percent (100%) (in proportion to their Partnership Interests).

9.5.4 To the extent permitted by Sections 1.704-2(h)(3) of the Regulations, the General Partner shall endeavor to treat distributions of Net Cash From Operations or Net Cash From Sales or Refinancings as having been made from the proceeds of a Nonrecourse Liability or a Partner Nonrecourse Debt only to the extent that such distributions would cause or increase an Adjusted Capital Account Deficit for any Partner who is not a General Partner.

9.6 Tax Allocations: Code Section 704(c). In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss, and deduction with respect to any property contributed to the capital of the Partnership shall, solely for tax purposes, be allocated among the General Partner and Partners so as to take account of any variation between the adjusted basis of such property to the Partnership for federal income tax purposes and its initial Gross Asset Value (computed in accordance with Section 3.13.1 hereof). In the event the Gross Asset Value of any Partnership asset is adjusted pursuant to Section 3.13.2 hereof, subsequent allocations of income, gain, loss, and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder. Any elections or other decisions relating to such allocations shall be made by the General Partner in any manner that reasonably reflects the purpose and intention of this Agreement. Allocations pursuant to this Section 9.6 are solely for purposes of federal, state, and local taxes and shall not affect, or in any way be taken into account in computing, any Partner's Capital Account or share of Profits, Losses, other items, or distributions pursuant to any provision of this Agreement.

10. Distributions.

10.1 Net Cash From Operations. Except as otherwise provided in Section 10.3 hereof, Net Cash From Operations not needed in the General Partner's determination for the reasonable needs of the Partnership business, shall be distributed to the Partners in proportion to their respective Partnership Interests.

To the extent such cash is comprised in whole or in part of nonrental income-type items derived from Partnership passive investment assets (*e.g.*, dividends, interest, and partnership operating distributions), reinvestments of such proceeds in other investment assets shall constitute expenditures for the reasonable needs of the business in the determination of the General Partner.

10.2 Net Cash From Sales or Refinancings. Except as otherwise provided in Section 10.3 hereof, Net Cash From Sales or Refinancings not needed in the General Partner's determination for the reasonable needs of the Partnership business, shall be distributed in the following order and priority:

10.2.1 First, proportionally to the Partners until their aggregate Capital Account balances are reduced to zero; and

10.2.2 thereafter, to the Partners in proportion to their Partnership Interests.

To the extent such cash is comprised in whole or in part of cash from the sale of Partnership non-real property passive investment assets (*e.g.*, marketable securities), reinvestments of such proceeds in other investment assets shall constitute expenditures for the reasonable needs of the business in the determination of the General Partner.

10.3 Liquidating Distributions. Notwithstanding the distribution provisions, liquidating distributions of the partnership, including all distributions made pursuant to a liquidation described in Regulations Section 1.704-1(b)(2)(ii)(g), shall be distributed as follows:

10.3.1 First, to the payment and discharge of all of the Partnership's debts and liabilities to creditors other than the General Partners;

10.3.2 Second, to the payment and discharge of all of the Partnership's debts and liabilities to General Partners; and

10.3.3 The balance, if any, proportionally to the Partners until their aggregate Capital Account balances are reduced to zero; and

10.3.4 thereafter, to the Partners in proportion to their Partnership Interests.

The foregoing liquidating distributions are intended to be made in compliance with Regulations Section 1.704-1(b)(2)(ii)(b)(2) and subsequent to a revaluation of Partnership property and corresponding adjustment of Capital Accounts under Treas.Reg. §1.704-1(b)(2)(iv)(f). If any General Partner's Capital Account has a deficit balance (after giving effect to all contributions, distributions, and allocations for all Fiscal Years, including the Fiscal Year during which such liquidation occurs), such General Partner

shall contribute to the capital of the Partnership the amount necessary to restore such deficit balance to zero in compliance with Regulations Section 1.704-1(b)(2)(ii)(b)(3). If any Limited Partner who is not a General Partner has a deficit balance in his Capital Account (after giving effect to all contributions, distributions, and allocations for all Fiscal Years, including the Fiscal Year during which such liquidation occurs), such Limited Partner shall have no obligation to make any contribution to the capital of the Partnership with respect to such deficit, and such deficit shall not be considered a debt owed to the Partnership or to any other Person for any purpose whatsoever. In the discretion of the General Partner, a pro rata portion of the distributions that would otherwise be made to the General Partner and Limited Partners pursuant to this subsection may be (a) distributed to a trust established for the benefit of the General Partner and Limited Partners for the purposes of liquidating Partnership assets, collecting amounts owed to the Partnership, and paying any contingent or unforeseen liabilities or obligations of the Partnership or of the General Partner arising out of or in connection with the Partnership. The assets of any such trust shall be distributed to the General Partner and Limited Partners from time to time, in the reasonable discretion of the General Partner, in the same proportions as the amount distributed to such trust by the Partnership would otherwise have been distributed to the General Partner and Limited Partners pursuant to this Subsection 10.3; or (b) withheld to provide a reasonable reserve for Partnership liabilities (contingent or otherwise) and to reflect the unrealized portion of any installment obligations owed to the Partnership, provided that such withheld amounts shall be distributed to the Partners as soon as practicable.

10.4 Division Among Partners. Except as otherwise provided above, all distributions to the Partners pursuant to this Section 10 shall be divided among them in proportion to the Partnership Interest held by each.

10.5 Amounts Withheld. All amounts withheld pursuant to the Code or any provision of any state or local tax law with respect to any payment, distribution, or allocation to the Partnership, the General Partner, or the Partners shall be treated as amounts distributed to the General Partner and the Partners pursuant to this Section 10 for all purposes under this Agreement. The General Partner is authorized to withhold from distributions, or with respect to allocations, to the General Partner and Partners and to pay over to any federal, state, or local government any amounts required to be so withheld pursuant to the Code or any provisions of any other federal, state, or local law and shall allocate such amounts to the General Partner and Partners with respect to which such amount was withheld.

10.6 Special Tax Elections. At the written request of any Partner the Partnership shall make an election pursuant to Section 754 of the Code upon a distribution of property described in Code Section 734 or a transfer described in Code Section 743 of a Partnership Interest in accordance with this Agreement. Each Partner shall, upon request, supply the General Partner with the information necessary to make such election.

10.7 General Elections and Limitations. The General Partner is authorized, in its sole discretion, to make any other elections required or permitted with respect to Federal or state taxes in any Partnership tax return; provided, however, no election shall be made by either the Partnership or the Partners to be excluded from the application of the provisions of Subchapter K, Chapter I of Subtitle A of the Code or from any similar provisions of any state tax laws.

10.8 Distribution in Kind. If any assets of the Partnership are distributed in kind, such assets shall be distributed to the Partners entitled to participate in the distribution as tenants-in-common in the same proportions as such Partners would have been entitled to cash distributions.

10.9 Rights of Partners to Property. No Partner shall have the right to withdraw or reduce his capital contribution to the Partnership except as a result of the dissolution of the Partnership or as otherwise provided by law. No Partner shall be entitled to demand and receive property other than cash in return for his capital contribution to the Partnership, and, to the maximum extent permissible under applicable law, each Partner hereby waives all right to partition the Partnership Property.

10.10 Priorities of Limited Partners. No Limited Partner shall have any priority over any other Limited Partner as to the return of his contribution to the capital of the Partnership or as to compensation by way of income.

10.11 Minimum Interest of General Partner. Notwithstanding the allocations contained in these Sections 9 and 10, it is the intent of this Agreement that in no event shall the General Partner be allocated less than 1% of Profits, Losses, Net Cash from Operations or Net Cash From Sales or Refinancings allocated to the Partners.

11. Rights, Duties and Powers of the General Partner and Limited Partners.

11.1 Management. The General Partner shall be solely responsible for the management of and shall use its best efforts to manage and control the Partnership business with all rights and powers generally conferred by law or necessary, advisable or consistent with such responsibility.

11.2 Rights. In addition to any other rights and powers which it may possess, the General Partner shall have all specific rights and powers required or appropriate to the management of the Partnership business which, by way of illustration, but not by way of limitation, shall include the right and power:

11.2.1 To evaluate, select, negotiate for, acquire, purchase, operate, hold, trade, sell, exchange, convey or lease the Partnership Property, and any real property which is or may become a part of the Partnership property, as well as personal or other property connected with it, and except as may be limited by this Agreement to acquire or grant options for the purchase or sale of or sell the Partnership property from or to any Person, including, without limitation, the General Partner for such price, cash or otherwise, and upon such terms as the General Partner in its sole discretion deems to be in the best interests of the Partnership.

11.2.2 To manage, develop, improve, maintain and service Partnership properties; to form corporations or acquire shares of stock in corporations to carry out any of the purposes of the Partnership and to acquire title to property in the name of such corporations and to guarantee or otherwise secure the obligations of such corporations in furtherance of Partnership purposes.

11.2.3 To borrow and lend money and, if security is required for a borrowing, to mortgage or subject to any other security device any portion of the property of the Partnership, to execute replacements of any mortgage or other security device, and to prepay, in whole or in part, refinance, increase, modify and consolidate such indebtedness as determined in their discretion to be in the best interest of the Partnership.

11.2.4 To place of record, title to, or the right to use, Partnership assets in the name or names of a nominee or nominees, including, but not limited to, the General Partner, or a land trustee, for any purpose convenient or beneficial to the Partnership.

11.2.5 To acquire and to enter into any contract of liability and other insurance which the General Partner deems necessary and proper for the protection of the Partners and Partnership, for the conservation of its assets or for any purpose convenient or beneficial to the Partnership.

11.2.6 To employ from time to time persons, firms or corporations for the operation and management of the Partnership business, including, but not limited to, attorneys, accountants, advisors, administrators, property managers and personnel, managing and supervising agents, construction, maintenance and repair contractors, independent contractors furnishing full service components, architects, land planners, financial consultants, engineers, insurance brokers, real estate brokers and loan brokers on such terms and for such compensation as the General Partner may determine. The General Partner is hereby specifically authorized in its sole discretion to employ the General Partner as provided in, and subject to, the provisions of this Agreement. Compensation connected with any such employment shall be an expense of the Partnership.

11.2.7 To make elections under the tax laws of the United States or any state as to the treatment of Partnership income, gain, loss, deduction and credit, and as to all other relevant matters.

11.2.8 To determine the Profits, Losses, Net Cash from Operations and Net Cash From Sales or Refinancings of the Partnership for any period and from any transaction.

11.2.9 To transfer all or part of the real or personal property belonging to the Partnership to one or more general or limited partnerships or corporations in exchange for partnership interests or shares of stock which the Partnership may hold or distribute among the Partners in accordance with their respective Interests in the Partnership.

11.2.10 To perform any and all other acts or activities customary or incidental to the Partnership purposes and businesses.

11.2.11 Adjust Partner Capital Account balances to reflect a revaluation of Partnership property on the books of the Partnership in accordance with and as permitted by the provisions of Treas.Reg. §1.704-1(b)(2)(iv)(f).

11.3 Certain Limitations. The General Partner shall have all of the rights and powers and be subject to all of the restrictions and liabilities of a partner in a partnership without limited partners,

except that without the written consent of all of the Limited Partners as provided in this Agreement, or as otherwise provided by law, the General Partner shall not have authority to do any of the following:

11.3.1 Any act in contravention of the Certificate or this Agreement.

11.3.2 Confess a judgment against the Partnership.

11.3.3 Possess Partnership property, or assign the rights of the Partnership in specific Partnership property, for other than a Partnership purpose.

11.3.4 Admit a Person as a General Partner, except as otherwise provided in this Agreement.

11.3.5 Admit a Person as a Limited Partner, except as otherwise provided in this Agreement.

11.3.6 Require any Limited Partner to make any contribution to the capital of the Partnership not provided in Section 7.

11.4 Other Interests. Any of the Partners and any affiliates of the Partners, or any shareholder or any other Person holding a legal or beneficial interest in an entity which is a Partner or an affiliate of the General Partner, may engage in or possess an interest in other business ventures which may be competitive with the business of, or which may transact business with, the Partnership. Neither the Partnership nor the Partners shall have any right by virtue of this Agreement in and to such independent ventures or to the income or profits derived from them.

11.5 Agreement Beyond the Partnership Term. Agreements entered into by the Partnership, including, but not limited to, security agreements, mortgages and leases, may extend for terms in excess of the term of the Partnership.

11.6 General Partner as Limited Partner. The General Partner or its affiliates may acquire and own Interests as Limited Partners, in addition to its Interest as General Partner. In addition, the General Partner may become a Limited Partner in accordance with the provisions of Section 16.5.2.

11.7 Time Devoted to Partnership Business. The General Partner shall devote only such time to the business of the Partnership as it, in its sole discretion, shall deem to be necessary to manage and supervise the Partnership business.

11.8 General Partner's Liability. The General Partner shall not be liable for the return of any portion of the Aggregate Capital Contributions of the Limited Partners.

11.9 Exculpation and Indemnification of General Partner. No General Partner shall be liable, responsible or accountable in damages or otherwise to the Partnership or any other Partner for

any act performed or failure to act by it unless such act or failure to act is attributable to willful misconduct or gross negligence. The Partnership shall indemnify and hold harmless the General Partner from and against any and all loss, damage, liability, cost or expense, including reasonable attorneys' fees, arising out of any act or failure to act by the General Partner if such act or failure to act is in good faith within the scope of this Agreement and is not attributable to willful misconduct or gross negligence. The General Partner shall indemnify and hold harmless the Partnership and the Partners for any loss, damage, liability, cost or expense (including reasonable attorneys' fees) arising out of any act or failure to act by the General Partner, where such act or failure to act is attributable to willful misconduct or gross negligence.

11.10 Tax Matters Partner. BERNSTEIN HOLDINGS, LLC, shall be the Tax Matters Partner; provided, however, if it is no longer General Partner then it shall be a successor appointed by Limited Partners owning in the aggregate 51% of the Limited Partnership Interests. The Tax Matters Partner shall notify all Partners as to the beginning of any administrative proceedings at the Partnership level with respect to Partnership items and shall further notify the Partners as to any final Partnership administrative adjustment resulting from any such proceeding. The Tax Matters Partner shall be entitled to reimbursement for all costs and expenses incurred in connection with its services to the Partnership as Tax Matters Partner, and shall be indemnified and held harmless by the Partners with respect to such services, except with respect to willful misconduct or gross negligence.

11.11 Powers of Limited Partners. The Limited Partners shall take no part in or interfere in any manner with the conduct or control of the Partnership business and shall have no right or authority to act for or to bind the Partnership. The Partnership may engage Limited Partners or persons associated with them for specific purposes and may otherwise deal with such Limited Partners on terms and for compensation to be agreed upon by any such Limited Partner and the Partnership. The exercise of any of the rights and powers of the Limited Partners pursuant to the terms of this Agreement shall not be deemed taking part in the day-to-day affairs of the Partnership or the exercise of control over Partnership affairs.

11.12 Liability of Limited Partners. A Limited Partner shall not be bound by, or personally liable for, any of the debts, contracts, liabilities, or other obligations of the Partnership or the General Partner, or for any losses of the Partnership in excess of their required capital contribution, and the liability of each Limited Partner shall be limited solely to the amount of his contribution to the capital of the Partnership required by the provisions of Section 7. Notwithstanding any of the foregoing to the contrary, and only to the extent otherwise required by applicable law, a Partner receiving a distribution in part or full return of his aggregate Capital Contribution shall be liable to the Partnership for any sum, not in excess of such amount returned plus interest, necessary to discharge the liabilities of the Partnership to creditors who extended credit or whose claims arose before such distribution, excluding liabilities of the Partnership represented by debt, the repayment of which is secured solely by the Partnership Property.

12. Loans to the Partnership. From time to time any Partner, including the General Partner, upon the request of the General Partner, may make optional loans to the Partnership or advance money on its

behalf. Such loans and advances may be in the form of direct loans, payment of sums payable by the Partnership, payments of guarantees of Partnership indebtedness or otherwise. Loans and advances under this Section shall be accounted for as loans and not as capital contributions to the Partnership. All sums loaned or advanced, together with interest on such sums, shall be deemed an obligation of indebtedness from the Partnership to the lending Partner, and such loan or advance shall bear interest at a reasonable rate agreed to by the Partnership and the lending Partner.

13. Books, Records, Reports, Bank Accounts and Tax Elections.

13.1 Books of Account. At all times during the existence of the Partnership, the General Partner shall keep, or cause to be kept, full and true books of account of the Partnership in accordance with generally accepted accounting principles. The books shall be maintained on such method of accounting, accrual or cash, as the General Partner determines in its discretion to be in the best interests of the Partnership. The books of the Partnership, together with a certified copy of the Certificate, shall be maintained at the principal place of business of the Partnership. During reasonable business hours the Limited Partners and their authorized representatives may inspect and copy the Partnership's books of account.

13.2 Financial Statements. At least annually, unaudited financial statements and an annual report of the business of the Partnership shall be prepared at the direction of the General Partner. If a Partner wishes to obtain an audited financial statement, he may cause it to be prepared, but he shall pay all fees and expenses for its preparation.

13.3 Tax Returns. In addition to the financial statement and annual report, the General Partner shall cause income tax returns for the Partnership to be prepared and filed with the appropriate authorities and the General Partner shall also cause such reports as may be required by regulatory agencies to be prepared, filed and distributed as required.

13.4 Dissemination. The General Partner shall distribute annual reports of the business of the Partnership, financial statements and income tax information to the Limited Partners as soon as is practicable after the close of each fiscal year of the Partnership.

13.5 Fiscal Year. The Partnership tax year shall be the calendar year, unless a General Partner elects another fiscal year and obtains the approval of the Internal Revenue Service to such year.

13.6 Bank Accounts. All funds of the Partnership shall be deposited in the Partnership name in such bank account or accounts as may be designated by the General Partner. Withdrawals from any such bank account or accounts shall be made upon such signature or signatures as the General Partner may designate.

14. Transfer of Limited Partnership Interest.

14.1 Method of Transfer. No Transfer of all or part of a Limited Partner's Interest may be effected except as permitted in this Section 14, and then only if a counterpart of the instrument of Transfer, executed and acknowledged by the parties to the Transfer is delivered to the Partnership. A permitted Transfer shall be effective as of the date specified in the instruments of Transfer. This Partnership is formed by those who know and trust one another, who have surrendered certain management rights (in exchange for limited liability in the case of a Limited Partner), or who have assumed management responsibility and risk (in the case of a General Partner) based upon their relationship and trust. Capital is material to the business and investment objectives of the Partnership and its federal tax status. An unauthorized Transfer of a Limited Partner's Interest could create a substantial hardship to the Partnership, jeopardize its capital base, and adversely affect its tax structure. The restrictions on Transfers set forth in this Section are not intended as a penalty, but as a method to protect and preserve existing relationships based upon trust and the Partnership's capital and its financial ability to continue.

14.2 Transfers by Limited Partners. Except as expressly provided herein, no Limited Partner may Transfer any part or all of his Interest. Notwithstanding the foregoing and without being subject to the right of first refusal provisions of Section 14.3, a Partner may Transfer all or any part of his Interest to (i) another Partner, (ii) a lineal descendant of both SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN, (iii) a trust of which a majority in interest of the beneficiaries are Partners and/or lineal descendants of both SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN; or (iv) to another partnership or corporation provided that a majority of the voting stock of the corporation or the general partnership interest in the case of a limited partnership or the interest in capital in a general partnership are owned and controlled by SIMON L. BERNSTEIN and/or lineal descendants of SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN.

14.3 Right of First Refusal. Notwithstanding the above restrictions on Transfer of Interest, a Limited Partner may Transfer all or any part of his Interest, other than by gift or devise, pursuant to a Bona Fide offer as defined in Section 14.3.2, and in such instance the Partnership shall have a right of first refusal to purchase any Interest which any Limited Partner may wish to Transfer, on the terms and subject to the conditions set forth in Section 14.3.1 through 14.3.3:

14.3.1 In the event that any Limited Partner receives a Bona Fide Offer, as herein defined, from a third party (the "Proposed Assignee") to purchase all or any portion of his Interest and he is willing to accept such Bona Fide offer, that Limited Partner (the "Offeror-Limited Partner") shall promptly send written notice (the "Notice") to the General Partner, offering to sell his Interest to the Partnership at the same price and upon the same terms and conditions that are contained in the Bona Fide Offer. The Notice shall contain a true and complete copy of the Bona Fide Offer, the price, the portion of the Interest to be sold, and all terms and conditions and the name and addresses, both home and office, and businesses or other occupations of the Proposed Assignee.

14.3.2 As used in this Agreement, "Bona Fide Offer" means an offer in writing, signed by the Proposed Assignee, who must be a Person financially capable of carrying out the terms of the Bona Fide Offer, in a form legally enforceable against the Proposed Assignee.

14.3.3 Whenever an Offeror-Limited Partner gives the Partnership notice of a Bona Fide Offer to purchase his Interest, the following procedure shall be complied with:

14.3.3.1 For a period of ten days from its receipt of the Notice, the Partnership shall have the option to notify the Offeror-Limited Partner that it intends to purchase the Interest.

14.3.3.2 If the Partnership does not give the Offeror-Limited Partner notice within the prescribed time period that it will purchase the Interest covered by the Bona Fide Offer, the Offeror-Limited Partner shall have the right to accept the Bona Fide Offer and sell the Interest subject to the provisions and restrictions of this Agreement, but only in strict accordance with all of the terms of the Bona Fide Offer and only if the sale is fully consummated within 45 days after the mailing of the Notice. If the Interest is not sold to the Proposed Assignee pursuant to the Bona Fide Offer within that 45 day period, then, before disposing of the Interest the Offeror-Limited Partner shall again be obligated to reoffer the Interest to the Partnership pursuant to the terms of this Section.

14.3.3.3 If the Partnership exercises its option to purchase the Interest a closing shall be held within 15 days after the Partnership gives notice of its election to exercise the option to purchase. The closing shall be on the basis of the terms and other provisions of the Bona Fide Offer.

14.4 Rights of Transferees. No transferee of the Interest of any Limited Partner, including transferees described in Sections 14.2 or 14.3, shall have the right to become a Substitute Limited Partner, unless:

14.4.1 His transferor has stated such intention in the instrument of assignment.

14.4.2 The transferee has executed an instrument reasonably satisfactory to the General Partner accepting and adopting the terms and provisions of this Agreement.

14.4.3 The transferor or transferee pays to the Partnership any reasonable expenses in connection with the admission of the transferee as a Limited Partner.

14.4.4 The transferor and transferee furnish the Partnership with the transferee's tax identification number, sufficient information to determine the transferee's initial tax basis in the Interest transferred, and any other information reasonably necessary to permit the Partnership to file all required federal and state tax returns and other legally required information statements or returns. Without limiting the generality of the foregoing, the Partnership shall not be required to make any distribution otherwise provided for in this Agreement with respect to any transferred Partnership Interest (without regard to whether the transferee is admitted as a Substitute Limited Partner) until it has received such information.

14.4.5 In the case of an assignee or transferee who is not otherwise a Partner, the General Partner, in its sole, absolute and unfettered discretion, consents to such person becoming a

Substitute Limited Partner, including assignees of Partnership Interests whose interest arises by reason of the death of a Partner.

The assignor of a Limited Partnership Interest shall not act for or on behalf of the assignee of the Limited Partnership Interest who does not become a Substitute Limited Partner, and until an assignee of a Limited Partnership Interest is admitted as a Substitute Limited Partner, both the Partnership and the Partners shall be entitled, but not required, to treat the transferor of the Partnership Interest as the absolute owner thereof in all respects. An assignee of a Limited Partnership Interest who does not become a Substitute Limited Partner, unless otherwise a Partner, does not become a Partner and is not entitled to exercise the rights of a Partner.

14.5 General Partner's Acquisition of Limited Partner Interest. If a General Partner should acquire any Limited Partner Interest, that General Partner with respect to that Interest shall become a Limited Partner and enjoy all of the rights and be subject to all of the obligations and duties of a Limited Partner to the extent of such Interest.

14.6 Income/Loss Allocations Upon Transfer. Unless otherwise agreed between the transferor and the transferee, upon the Transfer of an Interest the Profits and Losses attributable to the Interest transferred shall be allocated between the transferor and the transferee as of the date set forth in the instrument of Transfer, and such allocation shall be based upon the number of days during the applicable fiscal year of the Partnership that the Interest transferred was held by each of them, without regard to the results of Partnership activities during the period in which each was the holder. All distributions with respect to such Interest shall be made only to the holder of record of the Interest on the date of distribution.

15. Death, Incompetency, Bankruptcy or Dissolution of a Limited Partner.

15.1 Individual Limited Partner. Upon the death, adjudication of bankruptcy, insolvency or legal incompetency of an individual Limited Partner, his personal representative shall have all the rights of a Limited Partner for the purposes of settling or managing his estate and such power as the decedent, bankrupt or incompetent possessed to constitute a successor as an assignee of his Interest in the Partnership and to join with such assignee in making application to the General Partner to have such assignee become a Substitute Limited Partner.

15.2 Other Limited Partners. Upon the adjudication of bankruptcy, insolvency, dissolution or other cessation to exist as a legal entity of a Limited Partner not an individual, the authorized representative of such entity shall have all of the rights of a Limited Partner for the purpose of effecting the orderly winding up and dissolution of the business of such entity and such power as such entity possessed to constitute a successor as an assignee of its Interest in the Partnership and to join with such assignee in making application to the General Partner to have such assignee become a Substitute Limited Partner.

16. Resignation, Removal and Election of a General Partner; Assignment; Transfer.

16.1 Substitution for a General Partner. The General Partner may not admit any Person as a substitute General Partner.

16.2 Resignation of a General Partner. A General Partner may resign as such by delivering thirty (30) days advance written notice of its resignation to all Partners.

16.3 Removal of a General Partner. A General Partner shall be removed and cease to be a General Partner of the Partnership:

16.3.1 If (a) the General Partner being removed is in default of a material provision of this Agreement and (b) has not cured such default within 30 days after written notice of such fact is given to the General Partner sought to be removed and to all other Partners by Limited Partners owning at least 75% of the Interests owned by the Limited Partners. Written notice pursuant to this section shall set forth the day upon which the removal is to become effective if the default is not cured. However, the removal of a General Partner shall not take effect unless and until that General Partner is released from all liability by all lenders who have made loans to the Partnership, including loans made to the General Partner, on behalf of the Partnership. Such release shall be evidenced by written instruments executed by the lenders and any releases of liability shall extend to such General Partner in his capacity as such and individually. The removal of a General Partner shall be effective on the later of the date set forth in the notice or the date of delivery of the releases to the General Partner.

16.3.2 The occurrence of an Event of Withdrawal.

16.4 Liability of General Partner After Resignation or Removal. If a General Partner resigns or is removed in accordance with the provisions of this Agreement, his liability as a General Partner shall cease upon resignation or removal as provided in the Act, and the Partnership shall promptly take all actions reasonably necessary under the Act to cause such cessation of liability. The Partnership shall indemnify the General Partner with respect to any such liability. However, claims, demands, liabilities, costs and damages held against or incurred by the General Partner in violation of the terms of this Agreement shall be held as an offset against the General Partner's Interest.

16.5 Interest of a General Partner After Resignation or Removal.

16.5.1 The resignation or removal of a General Partner shall not affect its rights as the owner of any Limited Partnership Interest.

16.5.2 Subject to the provisions of Section 16.5.3, upon the resignation or removal of a General Partner, the Interest which he had as a General Partner in Profits and Losses and distributions of Net Cash from Operations and Net Cash From Sales or Refinancings shall be retained by him and be converted into a "Special Limited Partner's" Interest and the Partnership shall take all actions necessary to admit such General Partner as a Special Limited Partner with respect to such converted Interest. Such conversion shall not, however, result in the General Partner becoming a Substituted Limited Partner with respect to such Interest. As a Special Limited Partner, the former General Partner shall be sent copies

of all notices, reports and other information furnished to Limited Partners by the General Partner or the Partnership.

16.5.3 Upon the resignation or removal of:

16.5.3.1 A General Partner leaving the Partnership with one or more General Partners whose total Interest in the Profits and Losses of the Partnership would be less than 1%, the Interest of the resigned or removed General Partner in such portion of the Partnership's Profits and Losses which is necessary to bring the total Interest of the remaining General Partners in the Profits and Losses of the Partnership up to 1% shall be automatically transferred to the remaining General Partner without any payment.

16.5.3.2 One or more General Partners leaving the Partnership without a General Partner and the election of a successor General Partner pursuant to Section 16.6, the rights and interest in 1% of the Partnership's Profits and Losses of the last General Partner who has resigned or been removed, shall be sold to and purchased by his successor as of the date of such resignation or removal at such price as shall be agreed upon between them; provided, however, that if no such agreement is reached within 30 days of the election of a successor then such price shall be determined by arbitration in the State of Florida under the rules of the American Arbitration Association. Within 60 days after the determination of such price it shall be paid in cash together with interest at the then prevailing short-term applicable federal rate under Internal Revenue Code Section 1274. The cost of arbitration shall be paid equally by the successor and the departing General Partner. If any sums payable under this Section to the resigned or removed General Partner are not paid to him when due, then such sums shall be paid to him by the Partnership.

16.6 Election of a Substitute General Partner. If there is only one General Partner and he resigns, or is removed in accordance with this Agreement, and if, pursuant to Section 18.1.2, the Limited Partners unanimously elect to continue the business of the Partnership, then a substitute General Partner shall be elected by an Eighty (80%) percent vote of the Limited Partners, and he shall take all actions necessary to continue the business of the Partnership. Notwithstanding the foregoing, if in the written opinion of counsel for the Partnership it is more likely than not that all Limited Partners must agree on a substitute General Partner to avoid a dissolution under the Act, then in lieu of the foregoing Eighty (80%) percent vote, all Limited Partners shall agree to the election of each substitute General Partner. Such election shall be accomplished in the following manner: Any one or more of the Limited Partners shall, promptly after the election to continue, nominate a person or entity for election as the substitute General Partner. Such nominee shall not become the General Partner unless elected by a vote of Eighty (80%) percent (or, One Hundred (100%) percent, as provided above) of the Interests owned by the Limited Partners. In the event that such nominee is not elected, then any one or more of the Limited Partners shall as soon as practicable nominate another substitute General Partner and such procedure shall continue until a substitute General Partner is elected or the Partnership is dissolved pursuant to Section 18.1.

16.7 Transfer of Interest of a General Partner. No General Partner may transfer, assign, encumber or otherwise dispose of his Interest as a General Partner in the Partnership except as provided for in this Section 16. All General Partners' Interests in the Partnership pursuant to Section 9 transferred pursuant to Section 16, including for this purpose, but not limited to, conversions to a Special Limited Partner's Interest, are included in the allocations to and distributive shares of the Partners in Section 9 as a Partner's Interest and shall be allocated and distributed to the transferees of such Interest.

17. Involuntary Transfers of Partnership Interests. In the event of any Involuntary Transfer, which for this purpose shall include a charging order, by any Partner or assignee of any Partnership Interest, the following procedures shall apply:

17.1 The Partner or assignee deprived or divested of any Partnership Interest by the Involuntary Transfer (the "Transferor") promptly shall give written notice of such Involuntary Transfer in reasonable detail to the Partnership and all Partners other than the Transferor, and the Person(s) who take or propose to take any interest in such Partnership Interest (for purposes of this Section 17, such Person(s) are referred to hereinafter as the "Transferee" and such Partnership Interest referred to hereinafter as the "Subject Partnership Interest") as a result of such Involuntary Transfer shall hold such interest subject to the rights of the Partnership as set forth in this Section 17.

17.2 Upon receipt of the notice referred to in the preceding subparagraph or upon discovery by the General Partner of such Involuntary Transfer by the General Partner, the Partnership shall have the irrevocable option, exercisable at the sole discretion of the General Partner, but not the obligation, for a period of sixty (60) days following receipt of such notice or such discovery, to purchase all or any part of the Subject Partnership Interest, pursuant to the terms set forth in this Section 17. All exercises of such option shall be in writing, shall specify the portion of the Subject Partnership Interest to be purchased, and shall be effective upon receipt thereof by the Transferee.

17.3 The closing for any such sale of the Subject Partnership Interest to the Partnership shall be held at the offices of the Partnership no later than forty-five (45) days after the receipt by the Transferee of the notice exercising the Partnership's irrevocable option to purchase such Subject Partnership Interest. The purchase price of any Subject Partnership Interest purchased pursuant to this Section 17 shall be the fair market value of the Subject Partnership Interest, taking into account all potential discounts for lack of control, lack of marketability and other relevant valuation factors that would be applicable to a sale of the Subject Partnership Interest to a party unrelated and unaffiliated with any existing Partner or assignee, as determined by a reasonably qualified appraiser selected by the Partnership.

17.4 The valuation date for the determination of the purchase price shall be the first day of the month following the month in which notice is given pursuant to Section 17.2 above.

17.5 The purchase price shall be paid by the Partnership by making and delivering to the Transferor or the Transferee, as the case may be, of an unsecured ten (10) year nonrecourse promissory note. Interest on such note shall be payable at the long-term applicable federal rate under Internal

Revenue Code Section 1274. The first installment will be due and payable on the first day of the calendar year following the closing, and subsequent annual installments, with accrued interest, will be due and payable on the first day of each succeeding calendar year until the entire amount of the obligation is paid. The Partnership shall have the right to prepay all or any part of the note at any time without penalty.

17.6 If the Partnership does not exercise its option to purchase all or part of the Subject Partnership Interest under this Section 17, the remaining Partners within the same sixty day exercise period shall have the right but not the obligation to purchase as set forth in this Section 17 in proportion to their Partnership Interests in the manner so set forth. However, to the extent that one or more of the Partners declines to exercise such Partner's right, the remaining Partners shall be offered the right but not the obligation, on a pro-rata basis, to purchase the remaining portion of the Subject Partnership Interest. Such Partners may provide written notice of exercise prior to the expiration of the period notwithstanding that the Partnership may still exercise its option, and such notice may provide that the portion sought to be purchased is the maximum portion available to be purchased by such Partner, with such notice to be effective only if and to the extent that the Partnership does not preempt such Partner by exercising its option.

17.7 In the event the Partnership and the Partners do not purchase all of the Subject Partnership Interest involved in an Involuntary Transfer, the Transferee shall become an assignee of the Subject Partnership Interest, except as admitted as a Substitute Limited Partner in accordance with the terms of this Agreement, provided, however, if a third party obtains a charging order, its rights shall be limited accordingly.

17.8 For purposes of this Section 17, the term "Partner or Assignee" shall include the beneficiaries of a trust that is a Partner or assignee of a Partnership Interest, and the term "Partnership Interest" shall include the beneficial interests of the beneficiaries of a trust that is a Partner or assignee of a Partnership Interest.

17.9 Neither the Transferee of an Involuntary Transfer nor the Transferor will have the right to vote on Partnership matters during the period when the option to purchase granted under this Section 17 may be exercised nor during the period subsequent to exercise and prior to the closing thereunder, and in regard to such voting and any particular voting threshold percentages described in this Agreement such Partnership Interest shall be deemed not to exist.

18. Dissolution and Winding up of Partnership.

18.1 Dissolution of Partnership. The Partnership shall be dissolved upon the first to occur of any of the following events:

18.1.1 December 31, 2058.

18.1.2 The happening of an Event of Withdrawal of a General Partner authorized hereunder to carry on the business of the Partnership, unless

18.1.2.1 at the time there is at least one other General Partner authorized hereunder to carry on the business of the Partnership and such General Partner does carry on the business of the Partnership; or

18.1.2.2 within ninety (90) days of the Event of Withdrawal, (a) all of the then Partners agree in writing to continue the business of the Partnership and to elect one or more additional General Partners under the procedures of Section 16.6, and (b) one or more additional General Partners are elected under the procedures of Section 16.6.

18.1.3 The Partnership becoming insolvent or bankrupt.

18.1.4 The unanimous vote to dissolve of all Partners.

18.2 Winding Up of Partnership. Upon the dissolution of the Partnership pursuant to Section 18.1, the General Partner, or if there is no General Partner, a substitute General Partner elected by vote of 51% of the Interests owned by the Limited Partners, shall take full account of the Partnership's assets and liabilities and the assets shall be liquidated as promptly as is consistent with obtaining their fair value, and the proceeds of such liquidation therefor shall be applied and distributed as provided in Section 10.3.

18.3 Survival of Obligations. Except as otherwise provided in this Agreement, no dissolution of the Partnership shall relieve, release or discharge any Partner or any of his successors, assigns, heirs or legal representatives, from any previous breach or default of, or any obligation previously incurred or accrued under, any provision of this Agreement, and any and all such liabilities, claims, demands or causes of action arising from any such breaches, defaults and obligations shall survive such dissolution and termination.

18.4 Termination. Upon compliance with Section 18.2, the General Partner shall file or cause to be filed a certificate of cancellation of the Certificate and the Partnership shall then be terminated.

19. Amendment of the Certificate and Agreement.

19.1 When Required. This Agreement and the Certificate shall be amended by the General Partner without any additional consent of the Limited Partners when required by law whenever:

19.1.1 There is a change in the name of the Partnership or the amount or character of the contribution of any Partner including, but not limited to, withdrawal or reduction, pursuant to this Agreement.

19.1.2 A person ceases to be, is substituted as, or becomes a General or Limited Partner.

19.1.3 There is a false or erroneous statement in the Certificate, provided the amendment does not adversely affect the interest of the Limited Partners and the General Partner has obtained an opinion of its counsel to that effect.

19.1.4 In the opinion of counsel for the Partnership, it is necessary or appropriate to satisfy a requirement of the Code with respect to partnerships, provided such amendments do not adversely affect the interests of the Limited Partners, and the General Partner has obtained an opinion of its counsel to that effect, and any amendment in this regard shall have retroactive effect to the date of this Agreement.

19.2 Limitation. Except as provided in Section 19.1, amendments shall only be made with the approval of Limited Partners as provided in Section 19.3. No amendment shall be made under Section 19 which would adversely affect the federal income tax treatment to be afforded Partners or adversely affect the liabilities of the Limited Partners or change the method of the allocation of Profits and Losses or preferences or distributive shares without full disclosure to the Partners and unless all of the Partners consent to such amendment.

19.3 Consent of Limited Partners. The General Partner shall obtain the written consent or approval or vote of Limited Partners owning in the aggregate at least Eighty (80%) percent of the Limited Partnership Interests with respect to any amendment other than an amendment allowed or permitted by Sections 19.1 and 19.2.

20. Conflict of Interest Waiver. The Partners and the Partnership acknowledge that the law firm of Tescher & Spallina, P.A. has represented the Partnership in connection with the drafting of this Agreement and the formation and structuring of the Partnership, and that said law firm also represents one or more of the Partners and owners of interests in entity Partners both in context of this Partnership and other matters (namely, SIMON L. BERNSTEIN, SHIRLEY BERNSTEIN, SHIRLEY BERNSTEIN FAMILY FOUNDATION, INC., and BERNSTEIN HOLDINGS, LLC). The Partnership and the Partners acknowledge that they have been advised that there are material income tax consequences and economic ramifications from being a Partner in the Partnership, that they fully understand the tax consequences and economic ramifications of a Partner's investment in the Partnership, and that they have been encouraged to consult with separate and independent counsel to advise them on Partnership and Partner issues including this Agreement and the formation of the Partnership. The Partnership and the Partners hereby waive any conflicts of interest with respect to the foregoing law firm's representation of the Partnership and the afore described Partners and owners of interests in entity Partners, in connection with the services set forth in this Section.

21. Miscellaneous.

21.1 Notices. Any notices, payments, demand, offer or communication required or permitted to be given by any provision of this Agreement shall be deemed to have been delivered and given for all purposes (a) if the same is delivered personally, or (b) whether or not the same is actually received, if sent by registered or certified mail, postage and charges prepaid, addressed as follows:

21.1.1 If to a General Partner, at BERNSTEIN HOLDINGS, LLC, 950 Peninsula Corporate Circle, Suite 310, Boca Raton, Florida 33487, or such other address as the General Partner may from time to time specify by written notice to the other Partners.

21.1.2 If to a Limited Partner, at BERNSTEIN FAMILY INVESTMENTS, LLLP, 950 Peninsula Corporate Circle, Suite 310, Boca Raton, Florida 33487, or to such other address as such Partner may from time to time specify by written notice to the General Partner, which other address shall be noted by the General Partner on the records of the Partnership.

21.1.3 If to any other Person, at the address of such person as shown by the Partnership's records.

21.2 Captions. Captions contained in this Agreement are for reference purposes only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any of its provisions.

21.3 Severability. Every provision of this Agreement is severable. If any term or provision is held to be illegal or invalid for any reason, such illegality or invalidity shall not affect the validity of the remainder of this Agreement or any other provision.

21.4 Right to Rely Upon the Authority of the General Partner. No person dealing with a General Partner shall be required to determine his authority to make any commitment or undertaking on behalf of the Partnership, nor to determine any fact or circumstance bearing upon the existence of his authority. In addition, no purchaser of any asset owned by the Partnership shall be required to determine the sole and exclusive authority of the General Partner to sign and deliver on behalf of the Partnership any such instrument of transfer, or to see to the application or distribution of revenues or proceeds paid or credited to the Partnership, unless such purchasers shall have received written notice from the Partnership affecting the same.

21.5 Litigation. The General Partner shall prosecute, defend and settle such actions at law or in equity as they may deem in their sole and absolute discretion to be necessary to enforce or protect the interest of the Partnership. The Partnership and the General Partner shall respond to any final decree, judgment or decision of a court of competent jurisdiction or board or authority having jurisdiction in the matter.

21.6 Applicable Law. The laws of the State of Florida shall govern the validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the parties.

21.7 Counterpart Execution. This Agreement may be executed in any number of counterparts with the same effect as if all parties had signed the same document. All counterparts shall be construed together and shall constitute but one Agreement.

21.8 Binding Effect. Each and every covenant, term, provision and agreement contained in this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the respective parties.

21.9 Right to Rely Upon Authority of Person Signing Agreement. In the event that a Limited Partner is an estate, a trust with or without disclosed beneficiaries, partnership, limited partnership, joint venture, corporation, or any entity other than a natural person, the Partnership and the General Partner shall (a) not be required to determine the authority of the Person signing this Agreement or any amendment to make any commitment or undertaking on behalf of such entity, nor to determine any fact or circumstance bearing upon the existence of his authority; (b) not be required to see to the application or distribution of revenues or proceeds paid or credited to the Person signing the Agreement or any amendment on behalf of such entity; (c) be entitled to rely upon the authority of the Person signing this Agreement or any amendment with respect to voting of the Partnership Interests of such entity and with respect to the giving of consent on behalf of such entity or any other Person in connection with any matter for which consent is permissible or required under this Agreement; and (d) be entitled to rely upon the authority of any general partner, joint venturer, co-or successor trustee or president, vice president, or other officer, as the case may be of any such entity the same as though such Person were the Person originally executing this Agreement or any amendment on behalf of such entity.

21.10 Rights of Nonrecourse Creditors. A creditor who makes a nonrecourse loan to the Partnership shall not have or acquire, at any time as a result of making any loan or advance, any direct or indirect interest in the profits, capital, or property of the Partnership other than, if applicable, as a secured creditor.


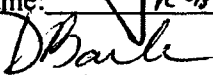
21.11 Number and Gender. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders.



21.12 Entire Agreement. This Agreement constitutes the entire Agreement of the parties with respect to matters set forth in this Agreement and supersedes any prior understanding or agreement, oral or written, with respect thereto.

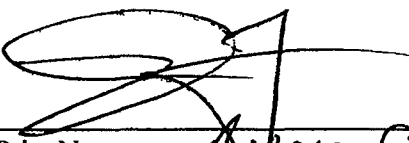
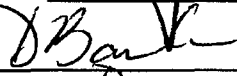
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IN WITNESS WHEREOF, this Agreement of Limited Partnership has been executed as of the date set forth in the preamble.

Witnessed by (as to all):


Print Name: Robert Spelling

Print Name: Diana Banks


Print Name: Robert Spelling

Print Name: Diana Banks


Print Name: Robert Spelling

Print Name: Diana Banks

GENERAL PARTNER:

BERNSTEIN HOLDINGS, LLC, a Florida limited liability company


By: 
SIMON L. BERNSTEIN, Manager

LIMITED PARTNERS:

SIMON L. BERNSTEIN TRUST AGREEMENT dated May 20, 2008

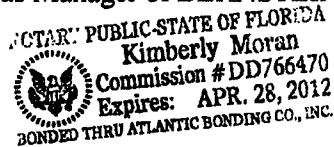
By: 
SIMON L. BERNSTEIN, Trustee

SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008

By: 
SHIRLEY BERNSTEIN, Trustee

STATE OF FLORIDA :
 : SS.
COUNTY OF PALM BEACH:

The foregoing instrument was acknowledged before me this 20 day of May, 2008, by SIMON L. BERNSTEIN, Trustee of the SIMON L. BERNSTEIN TRUST AGREEMENT dated May 20, 2008, and as Manager of BERNSTEIN HOLDINGS, LLC.



Kimberly Moran
Signature - Notary Public

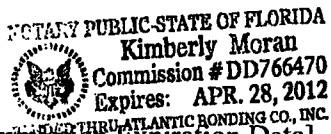
[Seal with Commission Expiration Date]

Print, type or stamp name of Notary Public

Personally Known or Produced Identification _____
Type of Identification Produced _____

STATE OF FLORIDA :
 : SS.
COUNTY OF PALM BEACH:

The foregoing instrument was acknowledged before me this 20 day of May, 2008, by SHIRLEY BERNSTEIN, Trustee of the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008.



Kimberly Moran
Signature - Notary Public

[Seal with Commission Expiration Date]

Print, type or stamp name of Notary Public

Personally Known or Produced Identification _____
Type of Identification Produced _____

F:\WPDATA\drt\Bernstein, Shirley & Simon\Bernstein Family Investments, LLLP\Bernstein Investments, LLLP Partnership Agreement.wpd

SCHEDULE "A"

<u>Name:</u>	<u>% Interest</u>	<u>Cash</u>
<u>General Partner:</u>		
BERNSTEIN HOLDINGS, LLC	<u>1 %</u>	<u>\$10.00</u>
<u>Limited Partners:</u>		
SIMON L BERNSTEIN, Trustee of the SIMON L. BERNSTEIN TRUST AGREEMENT dated May 20, 2008	<u>49.5 %</u>	<u>\$495.00</u>
SHIRLEY BERNSTEIN, Trustee of the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008	<u>49.5 %</u>	<u>\$495.00</u>

NOTE: The foregoing valuations and percentage interests are subject to adjustment based on variations in value of contributed property from the values scheduled here and the actual fair market value of such contributed property on the date of transfer to the Partnership.

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL
IN RE: ESTATE OF PROBATE DIVISION
SHIRLEY BERNSTEIN File No. 502011CP000653XXXX SB
Deceased.

INVENTORY

The undersigned personal representative of the estate of SHIRLEY BERNSTEIN, deceased, who died on December 8, 2010, and whose social security number is XXX-XX-9749, submits this inventory of all the property of the estate, that has come into the hands, possession, control, or knowledge of these personal representatives:

REAL ESTATE IN FLORIDA – Exempt (Protected) Homestead:

Description

NONE

REAL ESTATE IN FLORIDA – Non-Exempt Homestead:

Description

Estimated Fair Market Value

NONE

(Whether homestead property is exempt from the claims of creditors, whether it is properly devised and whether it is a probate asset may have to be determined by appropriate proceedings.)

OTHER REAL ESTATE IN FLORIDA:

Description

Estimated Fair Market Value

NONE

\$

Total Real Estate in Florida – Except Exempt (Protected) Homestead

\$



Estate of Shirley Bernstein
File No. 502011CP000653XXXX SB
INVENTORY

PERSONAL PROPERTY WHEREVER LOCATED:

<u>Description</u>	<u>Estimated Fair Market Value</u>
Furniture, furnishings, household goods and personal effects	\$ <u>25,000.00 (est.)</u>
TOTAL OF ALL PERSONAL PROPERTY AND FLORIDA REAL ESTATES	\$ <u>25,000.00</u>

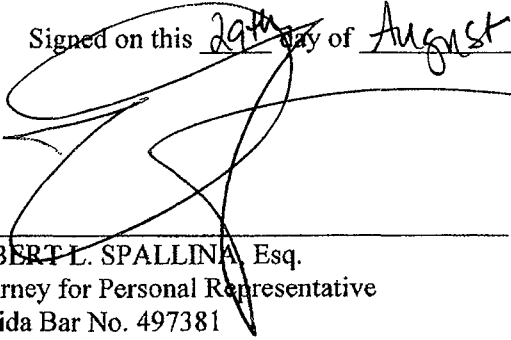
All real estate located outside the State of Florida owned by the decedent of which the personal representative is aware, if any, is described on a schedule attached hereto. [If none, so indicate]

NONE


NOTICE: Each residuary beneficiary in a testate estate or heir in an intestate estate has the right to request a written explanation of how the inventory value of any asset was determined, including whether the personal representative obtained an independent appraisal for that asset and from whom the appraisal was obtained. Any other beneficiary may request this information regarding all assets distributed to or proposed to be distributed to that beneficiary.

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 this 29th day of August, 2011.



ROBERT L. SPALLINA, Esq.
Attorney for Personal Representative
Florida Bar No. 497381
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Telephone: (561) 997-7008



SIMON BERNSTEIN, Personal Representative



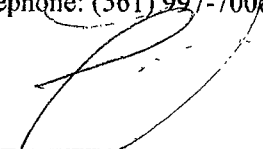
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Inventory was furnished by U.S. certified mail to:

Florida Department of Revenue
5050 W. Tennessee St., Bldg. K
Tallahassee, FL 32399-0100

on this 8 day of SEP, 2011.

TESCHER & SPALLINA, P.A.
Attorneys for the Personal Representative
of the Estate of Shirley Bernstein
4855 Technology Way, Suite 720
Boca Raton, Florida 33431
Telephone: (561) 997-7008

BY: 
ROBERT L. SPALLINA, ESQ.
Florida Bar No. 497381



LIMITED LIABILITY COMPANY

OPERATING AGREEMENT

of

BERNSTEIN HOLDINGS, LLC

a Florida limited liability company

**OPERATING AGREEMENT OF
BERNSTEIN HOLDINGS, LLC**

This Limited Liability Company Agreement (the "Agreement") is made and entered into as of the 20 day of May, 2008, by and among BERNSTEIN HOLDINGS, LLC (the "Company"); and SIMON L. BERNSTEIN, Trustee of the SIMON L. BERNSTEIN TRUST AGREEMENT dated May 20, 2008, SHIRLEY BERNSTEIN, Trustee of the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008, SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN, Co-Trustees and ROBERT L. SPALLINA, Independent Trustee of the ELIOT BERNSTEIN FAMILY TRUST dated May 20, 2008, SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN, Co-Trustees, and ROBERT L. SPALLINA, Independent Trustee of the JILL IANTONI FAMILY TRUST dated May 20, 2008, and SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN, Co-Trustees, and ROBERT L. SPALLINA, Independent Trustee of the LISA S. FRIEDSTEIN FAMILY TRUST dated May 20, 2008, and any subsequent transferee as the Members ("Members"). The Members are herein sometimes referred to individually as a "Member" and collectively as "Members."

WITNESSETH:

WHEREAS, Articles of Organization for **BERNSTEIN HOLDINGS, LLC** were filed with the Florida Department of State on February 6, 2008.

WHEREAS, the Members desire to reduce their agreements to writing, to set forth the rights and obligations of the Members and the Manager.

NOW, THEREFORE, the Members and the Company hereby agree as follows:

ARTICLE I

DEFINITIONS

The following terms used in this Agreement shall have the following meanings:

(a) "**Act**" shall mean the Florida Limited Liability Company Act at F.S § 608.401, *et seq* and all amendments to the Act.

(b) "**Articles of Organization**" shall mean the Articles of Organization of **BERNSTEIN HOLDINGS, LLC**, as filed with the Department of State of Florida on February 6, 2008, and as may be amended from time to time.

(c) "**Capital Contribution**" shall mean any contribution to the capital of the Company in cash or the fair market value of property by a Member whenever made, net of any liabilities secured by such contributed property.

(d) “**Capital Account**” as of any given date shall mean the Capital Contribution to the Company by a Member as adjusted up to such date pursuant to Article VIII.

(e) “**Code**” shall mean the Internal Revenue Code of 1986 or corresponding provisions of subsequent superseding federal revenue laws.

(f) “**Company**” shall refer to **BERNSTEIN HOLDINGS, LLC**, a limited liability company formed under the laws of the State of Florida.

(g) “**Distributable Cash**” shall mean all cash, revenues and funds received by the Company from Company operations, less the sum of the following to the extent paid or set aside by the Company: (i) all principal and interest payments on indebtedness of the Company and all other sums paid to lenders; (ii) all cash expenditures incurred in the normal operation of the Company’s business; and (iii) such Reserves as the Managers deem reasonably necessary for the proper operation of the Company’s business.

(h) “**Entity**” shall mean any general partnership, limited liability partnership, limited partnership, limited liability limited partnerships, limited liability company, corporation, joint venture, trust, business trust, cooperative, association, foreign trust or foreign business organization.

(i) “**Gifted Member**” shall mean any Member who gifts, bequeaths or otherwise transfers for no consideration (by operation of law or otherwise, except with respect to bankruptcy) all or any part of its Membership Interest.

(j) “**Initial Capital Contribution**” shall mean the initial contribution to the capital of the Company pursuant to this Agreement.

(k) “**Interest**” shall mean “Percentage Interest” unless otherwise specifically agreed or in the case of special allocations.

(l) “**Majority Interest**” shall mean the Interests of Members, which in the aggregate exceed 50% of all Interests.

(m) “**Manager**” shall mean one or more managers designated as such pursuant to this Agreement or by subsequent vote of the Members. References to the Manager in the singular or as him, her, it, itself, or other like references shall also, where the context so requires, be deemed to include the plural or the masculine or feminine reference, as the case may be. Any Person may be named a Manager pursuant to this Agreement

(n) “**Member**” shall mean each of the parties who executes a counterpart of this Agreement as a Member and each of the parties who may hereafter become Members. To the extent a Manager has purchased a Membership Interest in the Company, he will have all the rights of a Member with respect to such Membership Interest, and the term “Member” as used herein shall include a Manager to the extent he has purchased such Membership Interest in the Company. If a Person is a Member immediately prior to the purchase or other acquisition by such Person of an Transferee Interest, such Person shall

have all the rights of a Member with respect to such purchased or otherwise acquired Membership Interest or Transferee Interest, as the case may be.

(o) “**Membership Interest**” shall mean a Member’s entire interest in the Company including such Member’s Transferee Interest and, the right to participate in the management of the business and affairs of the Company, including the right to vote on, consent to, or otherwise participate in any decision or action of or by the Members granted pursuant to this Agreement and the Act.

(p) “**Net Income**” and “**Net Losses**” shall mean the income, gain, loss, deductions and credits of the Company in the aggregate or separately stated, as appropriate, determined in accordance with sound accounting principles employed under the cash method of accounting at the close of each fiscal year on the Company’s tax return filed for federal income tax purposes.

(q) “**Operating Agreement**” (or “**Agreement**”) shall mean this Operating Agreement of **BERNSTEIN HOLDINGS, LLC**, as originally executed and as amended from time to time.

(r) “**Percentage Interest**” shall mean, for any Member, the percentage interest that the Capital Account of the Member bears to the total Capital Accounts of all of the Members of the Company, as set forth at Section 9.1 herein, and Exhibit A, as may be changed from time to time by the unanimous vote of the Members.

(s) “**Person**” shall mean any individual or Entity, and the heirs, executors, administrators, legal representatives, successors, and assigns of such “Person” where the context so permits.

(t) “**Reserves**” shall mean funds set aside or amounts allocated to reserves which shall be maintained in amounts reasonably deemed sufficient by the Managers for working capital and to pay taxes, insurance, debt service or other costs or expenses incident to the ownership or operation of the Company’s business.

(u) “**Selling Member**” shall mean any Member or Transferee which sells, assigns, pledges, hypothecates or otherwise transfers for consideration all or any portion of its Membership Interest or Transferee Interest.

(v) “**Transferee**” shall be person who has not been admitted by the Company as a Member Partner, but, by virtue of a Transfer of an Interest in the Company to said person, said person is entitled to a pro rata share of one or more of the Company’s items of income, losses, credits, and distributions of the Company’s assets pursuant to this Agreement and the Act, but said person shall not have, and is not entitled to any right to participate in the management or affairs of the Company, including, the right to vote on, consent to or otherwise participate in any decision of the Members or Manager.

(w) “**Transferring Member**” shall collectively mean a Selling Member and a Gifting Member.

(x) “**Treasury Regulations**” shall include proposed, temporary and final regulations promulgated under the Code.

ARTICLE II
FORMATION OF COMPANY

2.1 *Organization.*

BERNSTEIN HOLDINGS, LLC, has been organized as a Florida limited liability company by executing and delivering the Articles of Organization to the Florida Department of State in accordance with and pursuant to the Act.

2.2 *Name.*

The name of the Company is *BERNSTEIN HOLDINGS, LLC*, and all business of the Company shall be conducted under that name unless a majority of the Members agree to the filing and use of a fictitious name.

2.3 *Principal Place of Business.*

The initial principal place of business of the Company shall be 950 Peninsula Corporate Circle, Suite 310, Boca Raton, Florida 33487. The Company may locate its places of business and registered office at any other place or places as the Manager may deem advisable.

2.4 *Registered Office and Registered Agent.*

The Company's initial registered office shall be at the office of its registered agent in Florida, and the name of its initial registered agent shall be Donald R. Tescher, Esq. 2101 Corporate Blvd., Suite 107, Boca Raton, Florida, 33431. The registered office and registered agent may be changed by filing the address of the new registered office and/or the name of the new registered agent with the Florida Department of State pursuant to the Act.

2.5 *Term.*

The term of the Company has filed Articles of Organization with the Florida Department of State, and shall have perpetual existence, unless the Company is earlier dissolved in accordance with either the provisions of this Agreement or the Act.

ARTICLE III
BUSINESS OF COMPANY

The business of the Company shall be to engage in management of investments, and closely-held business or real estate ventures, and such lawful activities as are reasonably necessary or useful to the furtherance of the forgoing purpose (the "Business").

ARTICLE IV
NAMES AND ADDRESSES OF MEMBERS

The names of the Members are listed on Exhibit A attached hereto and incorporated herein, and the addresses of the members are 950 Peninsula Corporate Circle, Suite 310, Boca Raton, Florida 33487, as amended from time to time.

ARTICLE V

RIGHTS AND DUTIES OF MANAGERS

5.1 *Management.*

5.1.1 *General.* The business and affairs of the Company shall be managed by its Managers. The Managers shall direct, manage, and control the business of the Company. Except for situations in which the approval of the Members is expressly required by this Agreement or by nonwaivable provisions of the Act, the Managers shall have exclusive, sole, full and complete authority, power and discretion to manage and control the business, affairs and properties of the Company, to make all decisions regarding those matters, and to perform any and all other acts or activities customary or incident to the management of the Company's business. At any time when there is more than one Manager, any one Manager may take any action permitted to be taken by the Managers, unless the approval of more than one of the Managers is expressly required pursuant to this Agreement or the Act. The Managers may create a Board of Directors, and may also appoint individuals with or without titles, including the titles of General Manager, Executive Director, President, Vice President, Treasurer, Secretary, and Assistant Secretary, to act on behalf of the Company with such power and authority as the Managers or Board of Directors may delegate to any such Person.

5.1.2 *Initial Managers/Designation of Managers/Voting.* The Members agree that the initial Manager of the Company is SIMON L. BERNSTEIN. Unless otherwise specifically agreed herein, business decisions of the Company shall be made by said Manager. The Members shall vote their Interests such that only the aforementioned person is Manager of the Company. In all events, an individual shall be a Manager only while she or he is a Member who owns voting Interests (and is not a mere Transferee), either directly or indirectly. After proper notice, in the event of death or mental disability or incompetence of the Manager, the Members shall vote on and elect a new Manager.

5.2 *Certain Powers of Managers.*

Without limiting the generality of Section 5.01, the Manager (or, if more than one Manager, then the Managers) shall have power and authority, on behalf of the Company to do the following:

(a) To acquire or lease property from any Person as the Managers may determine, whether or not such Person is directly or indirectly affiliated or connected with any Manager or Member;

(b) To borrow money for the Company from banks, other lending institutions, the Managers, Members, or affiliates of the Managers or Members on such terms as the Managers deem appropriate, and in connection therewith, to hypothecate, encumber and grant security interests in the assets of the Company to secure repayment of the borrowed sums. No debt shall be contracted or liability incurred by or on behalf of the Company except by the Managers, or to the extent permitted under the Act, by agents or employees of the Company expressly authorized to contract such debt or incur such liability by the Managers;

- (c) To purchase liability and other insurance to protect the Company's property and business;
- (d) To hold and own Company real and personal properties in the name of the Company;
- (e) To invest Company funds in time deposits, short-term governmental obligations, commercial paper or other investments;
- (f) To sell or otherwise dispose of all or substantially all of the assets of the Company as part of a single transaction or plan as long as such disposition is not in violation of or a cause of a default under any other agreement to which the Company may be bound;
- (g) To execute on behalf of the Company all instruments and documents, including, without limitation, checks; drafts; notes and other negotiable instruments; mortgages or deeds of trust; security agreements; financing statements; documents providing for the acquisition, mortgage or disposition of the Company's property; assignments, bills of sale; leases; and any other instruments or documents necessary to the business of the Company;
- (h) To employ accountants, legal counsel, managing agents or other experts to perform services for the Company;
- (i) To enter into any and all other agreements on behalf of the Company, in such forms as the Managers may approve; and
- (j) To do and perform all other acts as may be necessary or appropriate to the conduct of the Company's business.

Unless authorized to do so by this Agreement or by the Manager of the Company, no attorney-in-fact, employee or other agent of the Company shall have any power or authority to bind the Company in any way, to pledge its credit or to render it liable for any purpose. No Member shall have any power or authority to bind the Company unless the Member has been authorized by the Manager to act as an agent of the Company in accordance with the previous sentence.

5.3 *Liability for Certain Acts.*

Each Manager shall perform his duties as Manager in good faith, in a manner he or she reasonably believes to be in the best interests of the Company, and with such care as an ordinarily prudent person in a like position would use under similar circumstances. A Manager shall not be liable to the Company or to any Member for any loss or damage sustained by the Company or any Member, unless the loss or damage shall have been the result of fraud, deceit, gross negligence, willful misconduct, unlawful acts, or a wrongful taking by the Manager.

5.4 *No Exclusive Duty to Company.*

A Member or Manager shall not be required to manage the Company as his or her sole and exclusive function and may have other business interests and engage in activities in addition to those relating to the Company. Neither the Company nor any Member shall have any right, by virtue of this

Agreement, to share or participate in such other investments or activities of a Manager or to the income or proceeds derived therefrom.

5.5 *Bank Accounts.*

The Manager may from time to time open bank accounts in, the name of the Company, and the Manager shall be the sole signatory thereon, unless Members owning a Majority Interest determine otherwise.

5.6 *Indemnity of the Managers, Employees and Other Agents.*

The Company shall, to the maximum extent permitted under the Act, indemnify and make advances for expenses to Managers, its employees, and other agents.

5.7 *Resignation.*

Any Manager of the Company may resign at any time by giving written notice to the Members of the Company. The resignation of any Manager shall take effect upon receipt of notice thereof or at such later date specified in such notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. The resignation of a Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of a Member.

5.8 *Removal.*

A Manager shall not be subject to removal by vote of the Members except, if at all, pursuant to the provisions of this Agreement, as it may be amended by agreement of all of the Members.

5.9 *Vacancies.*

To the extent not expressly provided for in Section 5.1.2 "Voting Agreement of Members," and only to said extent, if any: Any vacancy occurring for any reason in the number of Managers of the Company may be filled by the affirmative vote of Members holding a majority of the Percentage Interests present at an election at a meeting of Members called for that purpose or by the Members' unanimous written consent. A Manager elected to fill a vacancy shall be elected for the unexpired term of their predecessor in office and shall hold office until the expiration of such term and until their successor shall be elected and qualified or until the Manager's earlier death, resignation or removal. A Manager chosen to fill a position resulting from an increase in the number of Managers shall hold office until his successor shall be elected and qualified, or until his earlier death, resignation or removal.

5.10 *Salaries.*

Each Manager shall receive annual compensation (the "Management Fee") if such compensation is agreed to by a majority of the Percentage Interest of the Members in writing, and shall be entitled to reimbursement of reasonable and necessary expenses advanced on behalf of the Company.

ARTICLE VI

RIGHTS AND OBLIGATIONS OF MEMBERS

6.1 *Limitation of Liability.*

Each Member's liability to the Company shall be limited as set forth in this Agreement, the Act and other applicable law.

6.2 *Company Liability.* A Member will not be personally liable for any debts, obligations, liabilities or losses of the Company, whether arising in contract, tort, or otherwise, solely by reason of being a Member, beyond his respective Capital Contributions or any obligation of the Member under Sections 8.1 and 8.2 hereunder, except as provided in Section 6.7 or as otherwise required by law.

6.3 *List of Members.*

Upon the written request of any Member, the Managers shall provide a list showing all of the names, addresses and Membership Interests and Transferee Interests in the Company.

6.4 *Approval of Sale of All Assets.* The Managers shall have the right, to approve the sale, exchange or other disposition of all, or substantially all, of the Company's assets which is to occur as part of a single transaction or plan.

6.5 *Company Books.*

The Managers shall maintain and preserve, during the term of the Company, the accounts, books, and other relevant Company documents described in Section 9.9. Upon reasonable written request, each Member and Transferee shall have the right, at any time during ordinary business hours, as reasonably determined by the Manager, to inspect and copy, at the requesting Member's or Transferee's expense, the Company documents required to be maintained under Section 608.4101 of the Act, and such other documents which the Managers, in their reasonable discretion, deem appropriate.

6.6 *Priority and Return of Capital.*

Except as may be expressly provided in Article IX, no Member or Transferee shall have priority over any other Member or Transferee, either as to the return of Capital Contributions or as to Net Profits, Net Losses or distributions; provided that this Section shall not apply to loans which a Member has made to the Company.

6.7 *Liability of a Member to the Company.*

A Member who receives a distribution or return in whole or in part of its contribution is liable to the Company only to the extent provided by the Act.

ARTICLE VII

MEETINGS OF MANAGERS AND MEMBERS

7.1 *Meetings.*

Meetings of the Managers, for any purpose or purposes, may be called by any Manager. Meetings of the Members for any purpose or purposes, may be called by any Members holding at least 51% of the Percentage Interests of the Members.

7.2 *Place of Meetings.*

The Managers may designate any location within the U.S., either within or outside the State of Florida, as the place of meeting for any meeting of the Members. If no designation is made, or if a special meeting be otherwise called, the place of meeting shall be the principal place of business of the Company.

7.3 *Notice of Meetings.*

Except as provided in Section 7.04, written notice stating the place, day and hour of the meeting and the purpose or purposes for which the meeting is called shall be delivered not less than five (5) nor more than thirty (30) days before the date of the meeting, either personally or by mail, by or at the direction of the Managers or Member or Members calling the meeting, to each Member or Manager entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered two (2) calendar days after being deposited in the United States mail, certified mail return receipt requested, addressed to the Member or to the Manager at its address as it appears on the books of the Company, with postage therein prepaid. Notice may also be given by telegram, teletype or facsimile, or other form of electronic communication. Managers and Members may participate in and hold meetings whereby all conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other. Participation by communications equipment shall constitute presence as the meeting, unless a Member or Manager is participating in the meeting for the express purpose of objecting to the transaction of any business on the ground the meeting is not lawfully called or convened.

7.4 *Meeting of All Members and Meetings of All Managers.* If all of the Members or all of the Managers shall meet at any time and place, and consent to the holding of a meeting at such time and place, such meeting shall be valid without call or notice, and at such meeting lawful action may be taken.

7.5 *Record Date.*

For the purpose of determining Members entitled to notice of or to vote at any meeting of Members or any adjournment thereof, or Members entitled to receive payment of any distribution, or in order to make a determination of Members for any other purpose, the date on which notice of the meeting is mailed or the date on which the resolution declared such distribution is adopted, as the case may be, shall be the record date for such determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Section, such determination shall apply to any adjournment thereof.

7.6 *Quorum.*

Members holding at least fifty percent (50%) of all Percentage Interests, represented in person or by proxy, shall constitute a quorum at any meeting of Members, and if there is more than one Manager then serving, then a majority of the number of the then-serving Managers shall constitute a

quorum at a meeting of the Managers, who shall be represented in person, and shall constitute a quorum at any meeting.

7.7 *Manner of Acting.*

If a quorum is present, the affirmative vote of a majority of all of the Members represented at the meeting, who must hold a majority Percentage Interest in the Company, shall be the act of the Members, unless the vote of a greater or lesser proportion or number is otherwise required by the Act, or by this Agreement. Unless otherwise expressly provided herein or required under applicable law, only Members who have a Membership Interest may vote or consent upon any matter and their vote or consent, as the case may be, shall be counted in the determination of whether the matter was approved by the Members.

7.8 *Proxies.*

At all meetings of Members, a Member may vote in person or by proxy executed in writing by the Member or by a duly authorized attorney-in-fact. Such proxy shall be filed with the Managers of the Company before or at the time of the meeting. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy. Managers shall not be able to vote by Proxies.

7.9 *Action by Members Without a Meeting.*

Action required or permitted to be taken at a meeting of Members may be taken without a meeting if the action is evidenced by one or more written consents describing the action taken, signed by each Member entitled to vote and delivered to the Managers of the Company for inclusion in the minutes or for filing with the Company records. Action taken under this Section is effective when all Members entitled to vote have signed the consent, unless the consent specifies a different effective date.

7.10 *Waiver of Notice.*

When any notice is required to be given to any Member, a waiver thereof in writing signed by the person entitled to such notice, whether before, at, or after the time stated therein, shall be equivalent to the giving of such notice.

ARTICLE VIII

CONTRIBUTIONS TO THE COMPANY AND CAPITAL ACCOUNTS

8.1 *Members' Initial Capital Contributions.*

Each Member shall contribute such amount as is set forth on the books and records of the Company. No interest shall accrue on any Capital Contribution and the Member shall not have the right to withdraw or be repaid any Capital Contribution except as provided in this Agreement.

8.2 *Additional Contributions.*

A Member may, but shall not be obligated to, make such additional Capital Contributions as shall be determined by the Managers. Such additional Capital Contributions shall be reflected in the Account of the Contributing Member and shall not be a part of any other Member's Capital Account absent written agreement of the Members. After the making of any such determination, the Managers shall give written notice to each Member of the amount of required additional contribution, if any, and each Member may deliver to the Company its pro rata share thereof (in proportion to the *respective* Percentage Interest of the Member on the date such notice is given) no later than thirty (30) days following the date such notice is given. None of the terms, covenants, obligations or rights contained in this Section 8.2 is or shall be deemed to be for the benefit of any person or entity other than the Members and the Company, and no such third person shall under any circumstances have any right to compel any actions or payments by the Managers and/or the Members.

8.3 *Capital Accounts.*

(a) A separate Capital Account will be maintained for each Member. Each Member's Capital Account will be increased by (1) the amount of money contributed by such Member to the Company; (2) the fair market value of property contributed by such Member to the Company (net of liabilities secured by such contributed property that the Company is considered to assume or take subject to under Code Section 752); (3) allocations to such Member of Net Profits and Net Losses; and (4) allocations to such Member of income described in Code Section 705(a)(1)(B). Each Member's Capital Account will be decreased by (1) the amount of money distributed to such Member by the Company; (2) the fair market value of property distributed to such Member by the Company (net of liabilities secured by such distributed property that such Member is considered to assume or take subject to under Code Section 752); (3) allocations to such Member of expenditures described in Code Section 705(a)(2)(B); and (4) allocations to the account of such Member of Company loss and deduction as set forth in such Regulations, taking into account adjustments to reflect book value.

(b) In the event of a permitted sale or exchange of a Membership Interest or a Transferee Interest in the Company, the Capital Account of the transferor shall become the Capital Account of the Transferee to the extent it relates to the transferred Membership Interest or Transferee Interest in accordance with Section 1.704-1(b) (2) (iv) of the Treasury Regulations.

(c) The manner in which Capital Accounts are to be maintained pursuant to this Section 8.3 is intended to comply with the requirements of Code Section 704(b) and the Treasury Regulations promulgated thereunder. If the Company determines that the manner in which Capital Accounts are to be maintained pursuant to the preceding provisions of this Section 8.3 should be modified in order to comply with Code Section 704(b) and the Treasury Regulations, then notwithstanding anything to the contrary contained in the preceding provisions of this Section 8.3, the method in which Capital Accounts are maintained shall be so modified; provided, however, that any change in the manner of maintaining Capital Accounts shall not materially alter the economic agreement between or among the Members as set forth in this Agreement.

(d) Except as otherwise required in the Act (and subject to Sections 8.1 and 8.2), no Member or Transferee shall have any liability to restore all or any portion of a deficit balance in such Member's or Transferee's Capital Account.

8.4 *Withdrawal or Reduction of Members' Contributions to Capital.*

(a) A Member or Transferee Interest Holder shall not receive out of the Company's property any part of its Capital Contribution until all liabilities of the Company, except liabilities to Members on account of their Capital Contributions, have been paid or there remains property of the Company sufficient to pay them.

(b) A Member or Transferee Interest Holder, irrespective of the nature of its Capital Contribution, has only the right to demand and receive cash in return for its Capital Contribution.

(c) Notwithstanding anything to the contrary in this Agreement, a Member may withdraw from the Company only at the time or upon the occurrence of an event specified in this Agreement or in the Articles of Organization. No such event is specified in either the Articles of Organization or in this Agreement at the date hereof. A Member which violates the withdrawal prohibition in this Section shall be liable for breach of this Agreement and shall become a Transferee. A withdrawing Member shall not have a right to receive the fair value of receive the withdrawing member's Interest in the Company as of the date of the resignation but rather, shall have only such rights as a Transferee would have to receive distributions as are made by the Company in the discretion of the Managers.

ARTICLE IX

**ALLOCATIONS, INCOME TAX, DISTRIBUTIONS, ELECTIONS
AND REPORTS**

9.1 *Allocations of Income and Losses from Operations.*

The Net Income and Net Losses of the Company for each fiscal year, and each Member or Transferee's share of Cash Flow, will be allocated in accordance with the Percentage Interests schedule set forth in Exhibit A attached hereto, and, except as provided therein, the Percentage Interests of Members shall be proportionate to the amount of their Capital Accounts as determined hereinabove.

9.2 *Special Tax Provisions As to Extraordinary Allocations, if Any, to Capital*

Allocations of Net Income and Net Losses other than those set forth above shall be made based upon the determinations of the tax accountants and attorneys employed by the Company, giving regard to the intention expressed hereinabove and otherwise herein, with respect to special or priority allocations if any, and with regard to federal partnership tax and capital accounting principles described in Section 8.3 hereinabove.

9.3 *Distributions.*

Within the discretion of the Managers as to amounts, if any, and as to timing, the Managers may distribute Cash Flow to the Members, in accordance with their Percentage Interests .

9.4 *Limitation upon Distributions.*

(a) No distributions or return of contributions shall be made and paid if, after the distribution or return of distribution is made either

- (1) the Company would be insolvent; or
- (2) the net assets of the Company would be less than zero.

(b) The Managers may base a determination that a distribution or return of contribution may be made under Section 9.4(a) in good faith reliance upon a balance sheet and profit and loss statement of the Company represented to be correct by the person having charge of its books of account or certified by an independent public or certified public accountant or firm of accountants to fairly reflect the financial condition of the Company.

9.5 *Tax Accounting Principles.*

The income and losses of the Company shall be determined in accordance with sound tax accounting principles applied on a consistent basis using generally accepted tax accounting principles as applied consistent with the Code.

9.6 *Interest on and Return of Capital Contributions.*

No Member shall be entitled to interest on its Capital Contribution or to a return of its Capital Contribution, except as otherwise provided in this Agreement.

9.7 *Loans to Company.*

Nothing in this Agreement shall prevent any Member from making secured or unsecured loans to the Company by agreement with the Company, provided that such loans are arms-length transactions, containing terms customary in the lending industry at the time such loans were made.

9.8 *Accounting Period.*

The Company's accounting period shall be the calendar year ("Fiscal Year").

9.9 *Records, Audits and Reports.*

At the expense of the Company, the Managers shall maintain records and accounts of the operations and expenditures of the Company. At a minimum, the Company shall keep at its principal place of business the following records:

(a) A current list of the full name and last known address of each Member and Transferee setting forth the amount of cash each Member and Transferee has contributed, a description and statement of the agreed value of the other property or services, each Member and Transferee has contributed or has agreed to contribute in the future, and the date on which each became a Member or Transferee, and their respective Percentage Interest in the Company;

(b) A copy of the Articles of Organization of the Company and all amendments thereto together with executed copies of any powers of attorney pursuant to which any amendment has been executed;

(c) Copies of the Company's federal, state, and local income tax returns and reports, if any, for the three most recent years;

(d) Copies of the Company's currently effective written Agreement, all amendments thereto, and copies of any financial statements of the Company for the three most recent years;

(e) Notices of and minutes of every Member and Managers meeting,

(f) Any written consents obtained from Members for actions taken by Members without a meeting; and

(g) Unless contained in the Articles of Organization or the Agreement, a writing prepared by the Managers setting out the following:

(1) The times at which or events on the happening of which any additional contributions agreed to be made by each Member and Transferee are to be made.

(2) Any right of a Member or Transferee to receive distributions of include a return on all or any part of the Member or Transferee's contributions.

(3) Any power of a Member or Transferee to grant the right to become an assignee of any part of the Member's or Transferee's interest, and the terms and condition of the power.

9.10 *Returns and Other Elections.*

The Managers shall cause the preparation and timely filing of tax returns required to be filed by the Company pursuant to the Code and all other tax returns deemed necessary and required in each jurisdiction in which the Company does business. Copies of such returns, and pertinent information therefrom, shall be furnished to the Members within a reasonable time after the end of the Company's fiscal year upon the Members' written request. All elections permitted to be made by the Company under federal or state laws shall be made by the Managers in their sole discretion. It is the intention of the Members that the Company shall be taxed as a "Partnership" for federal, state, and local income tax purposes.

9.11 *Tax Matters Partner.*

SIMON L. BERNSTEIN is designated the "Tax Matters Partner" (as defined in Code Section 6231), and is authorized and required to represent the Company (at the Company's expense), either directly, or through accounting or tax representatives, in connection with all examinations for the Company's affairs by tax authorities, including, without limitation administrative and judicial proceedings, and to expend Company funds for professional services and costs associated therewith. The

Members agree to cooperate with each other and to do or refrain from doing any and all things reasonably required to conduct such proceedings.

ARTICLE X

TRANSFERABILITY

10.1 *General.*

10.1.1. *Transferees Not Members, Generally.* Except as otherwise set forth in Section 10.1.2, or with the consent of all of the Members, neither a Member nor a Transferee shall have the right, as to all or any part of its Membership Interest or Transferee Interest to:

(a) sell, assign, pledge, hypothecate, transfer, exchange or otherwise transfer for consideration (collectively, “sell” or, as context requires “selling”); or

(b) gift, bequeath or otherwise transfer for no consideration (whether or not by operation of law, except in the case of bankruptcy) (collectively, “gift”).

Absent the written consent of all Members to the contrary or otherwise provided by law, the Interest of the Transferee shall be a Non-Voting Interest.

10.1.2 *Transferees Who are Lineal Descendants of a Member.* Any Transferees who are lineal descendants of both SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN, either directly, or indirectly, as beneficiaries of a Trust, or other entity beneficially owned solely for or by that Member (including, but not limited to a revocable trust established by a Member for the sole lifetime benefit of the Member or the Member’s descendants) shall be Members upon their written agreement to be bound by the terms of this Agreement and shall be subject to the voting agreements described in Article V, hereinabove.

10.2 *Right of First Refusal.*

(a) If a Selling Member desires to sell all or any portion of its Membership Interest in the Company to a third party purchaser, the Selling Member shall obtain from such third party purchaser a bona fide written offer to purchase such Interest, stating the terms and conditions upon which the purchase is to be made and the consideration offered; provided, however, the offer shall include a “tag along” or “take along” provision, pursuant to which, all Members have the right to sell a pro-rata portion (determined in accordance with the Percentage Interests of all of the Members) of their Interests to the third party. The Selling Member or Transferee shall give written notification to the remaining Members, by certified mail or personal delivery, of its intention to so transfer such Interest, furnishing to the remaining Members a copy of the written offer to purchase such Interest.

(b) Each of the remaining Members, on a basis pro rata to their Percentage Interests or on a basis pro rata to the Percentage Interests of those remaining Members exercising their rights of first refusal, shall have the right to exercise a right of first refusal to purchase all (but not less than all) of the Interest proposed to be purchased by the third party and sold by the Selling Member and the “tag along Members” upon the same terms and conditions as stated in the aforesaid written offer to purchase

by giving written notification to the Selling Member and the “tag along Members”, by certified mail or personal delivery, of the intention to do so within thirty (30) days after receiving written notice from the Selling Member. Subject to the following paragraph, the failure of the remaining Members to so notify the Selling Member and the “tag along Members” of their desire to exercise this right of first refusal within said thirty (30) day period shall result in the termination of the right of the first refusal and the Selling Member and the “tag along Members” shall be entitled to consummate the sale of its Interest in the Company to such third party purchaser, provided that the sale shall be consummated within sixty (60) days following the expiration of the aforesaid thirty (30) day period. In the event the remaining Members (or any one or more of the remaining Members) give written notice to the Selling Member and the “tag along Members” of their desire to exercise this right of first refusal and to purchase all of the Interests of the Selling Member and the “tag along Members” offered upon the same terms and conditions as are stated in the aforesaid written offer to purchase, the remaining Members shall have the right to designate the time, date and place of closing, provided that the date of closing shall be within sixty (60) days after written notification to the Selling Member of the remaining Member or Members’ election to exercise their right of the first refusal. In the event that two (2) or more Members give written notice of their desire to exercise their right of first refusal, absent an agreement between all the Members so exercising such right, each such Member exercising their right of first refusal shall be entitled to purchase that percentage of the selling Member’s share according to the proportion that their Percentage Interests bears to the total Percentage Interests exercising such right of first refusal. The Members shall communicate with each other during the pendency of any offer made in accordance with the terms of this Section 10.2 in order to effectuate the intent of this Section.

(c) As a condition to the Company recognizing the effectiveness of either the sale or gift of an Interest in the Company (including, in both cases, a Transferee Interest), the remaining Members may require the Selling Member, Gifting Member and/or the proposed purchaser, donee or successor-in-interest, as the case may be, to execute, acknowledge and deliver to the remaining Members such instruments of transfer, assignment and assumption and such other certificates, representations and documents, and to perform all such other acts which the remaining Members’ may deem necessary or desirable to:

- (1) verify the purchase, gift or transfer, as the case may be;
- (2) confirm that the person desiring, to acquire an Interest in the Company, or to be admitted as a Member, has accepted, assumed and agreed to be subject and bound by all of the terms, obligations and conditions of the Agreement (whether such Person is to be admitted as a new Member or as a Transferee);
- (3) maintain the status of the Company as a partnership for federal tax purposes; and
- (4) assure compliance with any applicable state and federal laws including securities laws and regulations.

(d) Any sale or gift of a Membership Interest or Transferee Interest in compliance with this Article X shall be deemed effective upon the last day of the calendar month in which all the terms and conditions hereof relating thereto have been satisfied. The admission of a Member in compliance with this Article X shall be deemed effective as of the last day of the calendar month in

which the remaining Members' consent thereto was given. The Selling Member hereby indemnifies the Company and the remaining Members against any and all loss, damage, or expense (including, without limitation, tax liabilities or loss of tax benefits) arising directly or indirectly as a result of any transfer or purported transfer in violation of this Article X.

10.3 *Permitted Transfer to Descendants/Mandatory Offer at Death.*

10.3.1 *No Mandatory Offer At Death.* If a Member's Interest is Transferred to a lineal descendant of the Member, to a Trust or other entity beneficially owned solely for or by that Member or the lineal descendant of that Member, the Transferee shall not be required to sell or offer to sell his or her Interest, shall be eligible to become a Member pursuant to Sections 10.1.1 and 10.1.2 above, and shall be subject to the voting agreements described in Article V, above. If Members of the Company are trusts for the lifetime benefit of the lineal descendants of a Member either directly or indirectly, then the successors in interest to the Interests in the Company pursuant to the terms of such trusts shall be considered as Members hereof (regardless of indirect ownership as trust beneficiaries) as long as the beneficial interests are owned by the lineal descendants of the Member, and said persons shall be subject to the voting agreements described in Article V, above.

10.3.2 *Mandatory Offer At Death.* Except with transfers described in 10.3.1., above, the death of any Member or Transferee who owns an Interest shall constitute an offer by the Member's Estate, Trust, or other legal successor in interest, to sell all of the Member's Interest to the Company (the "Offer") at its fair market value (determined as of the date of death). The Company shall have one hundred eighty (180) days in which to accept the Offer at an agreed price, which acceptance shall be made by delivery of written notice thereof to the legal representative of the estate of the Member or Transferee, by certified mail or personal delivery, within said one hundred eighty (180) day period. If the Company does not elect to purchase the Interest within said one hundred eighty (180) day period, the remaining Members shall have the right, but are not required to, purchase the remaining part, or all, as the case may be, of the Interest at its fair market value (as determined herein) determined as of the date of death, in proportion to their existing Interests. Such right to purchase shall be exercised by delivery of written notice thereof, by certified mail or personal delivery, during the thirty (30) days immediately after the one hundred eighty (180) day period (the "30 Day Period"). If any such Member does not desire to purchase his/her or its full proportionate part of the Interest offered for sale, but the remaining Members desire to purchase all of the Interest offered for sale, said Members shall then have the right to purchase said Interest proportionally in accordance with their respective Interests and the Members shall communicate with each other during the 30 Day Period in order to effectuate the intent of this Section 10.3. Except as provided in Section 10.1.2 and 10.1.3, to the extent that any part, or all, of an Interest is not purchased under the provisions of this Section 10.3, the deceased's Member's Interest shall become a Transferee's Interest, if not owned beneficially or directly by another Member hereof. The purchase price shall be as agreed by the parties, and, unless otherwise agreed, shall be paid in cash at the closing, which shall occur no later than thirty (30) days after the end of the 30 Day Period. For purposes of this Agreement, the "fair market value" of an Interest is equal to its Percentage Interest multiplied by the value of the Company (as agreed by the parties). If the value of the Company is not agreed to by the parties, then for purposes of this Agreement "fair market value" of a Member's Interest shall be determined without reduction for minority, lack of marketability or other entity/Company level discounts, based upon a reasonable appraisal procedure to determine the fair market value of the Company's assets. The appraisal procedure shall be agreed upon by the Member and Company. If the

parties cannot agree to an appraisal procedure, then an MAI appraiser shall be selected by the Personal Representative of the deceased Member's estate, and if the Company does not agree as to that appraiser, then the Company shall select its own appraiser and each MAI appraiser then shall select a third MAI appraiser and the average of all three (3) appraisals shall be the fair market value of the Interest. As set forth hereinabove, fair market value" of a Member's Interest shall be determined without reduction for minority, lack of marketability or other entity/Company level discounts.

10.4 *Transferee Not Member in Absence of Unanimous Consent.*

(a) Except as provided in Section 10.1.2 and 10.1.3, if all of the remaining Members do not approve by unanimous written consent of the proposed, sale or gift of the Transferring Member's Membership Interest to a transferee or donee which is not a Member immediately prior to the sale or gift, then the proposed transferee or donee shall have no right to participate in the management of the business and affairs of the Company or to become a Member. The transferee or donee shall be merely a Transferee entitled solely to economic rights to profits, losses and distributions and shall have no voting rights under this Agreement or in matters relating to the Company and its business; provided, however, any sale of a Transferee's interest in the Company should be subject to Section 10.2. No transfer of a Member's Interest in the Company (including any transfer of the Transferee Interest or any other transfer which has not been approved by unanimous written consent of the Members) shall be effective unless and until written notice (including the name and address of the proposed transferee or donee and the date of such transfer) has been provided to the Company and the nontransferring Member(s).

(b) Upon and contemporaneously with any sale or gift of a Transferring Member's Interest in the Company which does not at the same time transfer the balance of the rights associated with the Transferee Interest transferred by the Transferring Member (including, without limitation, the rights of the Transferring Member to participate in the management of the business and affairs of the Company), all remaining rights and interest which were owned by the Transferring Member immediately prior to such sale or gift or which were associated with the transferred Interest shall immediately lapse until the remaining Members, by unanimous written consent, reinstate such rights to the Transferee who did not previously obtain the unanimous written consent, reinstating such rights to a successor or transferee of such Transferee.

ARTICLE XI

ADDITIONAL MEMBERS

From the date of the formation of the Company, any Person or Entity acceptable to the Members by their unanimous vote thereof may become a Member in this Company for such consideration as the Members by their unanimous votes shall determine, subject to the terms and conditions of this Agreement. No new Members shall be entitled to any retroactive allocation of profits losses, income or expense deductions incurred by the Company. The Manager(s) may, at their option, at the time a Member is admitted, close the Company books (as though the Company's tax year has ended) or make pro rata allocations of income, loss, and expense deductions to a new Member for that portion of the Company's tax year in which a Member was admitted in accordance with the provisions of Code Section 706(d) and the Treasury Regulations promulgated thereunder.

ARTICLE XII

DISSOLUTION AND TERMINATION

12.1 *Dissolution.*

(a) The Company shall be dissolved upon the occurrence of any of the following events:

- (i) by the unanimous written consent of all Members; or
- (ii) the sale, transfer or assignment of substantially all of the assets of the Company; or
- (iii) as otherwise required by law.

12.2 *Winding Up, Liquidation and Distribution of Assets.*

(a) Upon dissolution, an accounting shall be made by the Company's independent accountant of the accounts of the Company and of the Company's assets, liabilities and operations, from the date of the last previous accounting until the date of dissolution. The Managers shall immediately proceed to wind up the affairs of the Company.

(b) If the Company is dissolved and its affairs are to be wound up, the Managers shall:

(1) Sell or otherwise liquidate all of the Company's assets as promptly as practicable (except to the extent the Managers may determine to distribute any assets to the Members in kind),

(2) Allocate any profit or loss resulting from such sales to the Member's and Transferees' Capital Accounts in accordance with Article IX hereof.

(3) Discharge all liabilities of the Company, including liabilities to Members and Transferees who are creditors, to the extent other-wise permitted by law, other than liabilities to Members and Transferees for Distributions, and establish such Reserves as may be reasonably necessary to provide for contingent liabilities of the Company (for purposes of determining the Capital Accounts of the Members and Transferees, the amounts of such Reserves shall be deemed to be an expense of the Company),

(4) Distribute the remaining assets in the following order:

(i) If any assets of the Company are to be distributed in kind, the net fair market value of such assets as of the date of dissolution shall be determined by independent appraisal or by agreement of all of the Members. Such assets shall be deemed to have been sold as of the date of dissolution for their fair market value, and

the Capital Accounts of the Members and Transferees shall be adjusted pursuant to the provisions of Article IX and Section 8.3 of this Agreement to reflect such deemed sale.

(ii) To the Members and Transferees, pro rata, in accordance with the positive balance (if any) of each Member's and Transferee's Capital Account (as determined after taking into account all Capital Account adjustments for the Company's taxable year during, which the liquidation occurs) shall be distributed to the Members and Transferee either in cash or in kind, as determined by the Managers, with any assets distributed in kind being valued for: this purpose at their fair market value as determined pursuant to Section 12.2(b)(i).

(iii) Thereafter, to the Members and Transferee's pro rata, in accordance with their respective Percentage Interests.

(c) Notwithstanding anything to the contrary in this Agreement, upon a liquidation within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Treasury Regulations, if any Member has a Deficit Capital Account (after giving effect to all contributions, distributions, allocations and other Capital Account adjustments for all taxable years, including the year during which such liquidation occurs), such Member shall have no obligation to make any Capital Contribution, and the negative balance of such Member's Capital Account shall not be considered a debt owed by such Member to the Company or to any other Person for any purpose whatsoever.

(d) Upon completion of the winding up, liquidation and distribution of the assets, the Company shall be deemed terminated.

(e) The Manager(s) shall comply with all requirements of applicable law pertaining to the winding up of the affairs of the Company and the final distribution of its assets.

12.3 *Articles of Dissolution.*

When all debts, liabilities and obligations of the Company have been paid and discharged or adequate provisions have been made therefor and all of the remaining property and assets of the Company have been distributed among its members in accordance with their respective rights and interests, a Articles of Dissolution of the Company shall be filed with the Florida Department of State.

12.4 *Effect of Filing Articles of Dissolution.*

Upon the filing of Articles of Dissolution with the Florida Department of State, and upon issuance of the Certificate of Dissolution by the Department of the State, the existence of the Company shall cease, except for the purpose of suits, of the proceedings and appropriate action as provided in the Act. The Managers shall have authority to distribute any Company property discovered after dissolution, convey real estate and take such other action as may be necessary on behalf of and in the name of the Company.

12.5 *Return of Contribution Nonrecourse to Other Members.*

Except as provided by law or as expressly provided in this Agreement, upon dissolution, each Member and Transferee shall look solely to the assets of the Company for the return of its Capital Contribution. If the Company property remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return the cash contribution of one or more Members or Transferees, such Member(s) or Transferee(s) shall have no recourse against any other Member or Transferee, except as otherwise provided by law.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

13.1 *Notices.*

Any notice, demand, or communication required or permitted to be given by any provision of this Agreement shall be deemed to have been sufficiently given or served for all purposes if delivered personally or by express mail or courier service (with receipt acknowledged) to the party or to an executive officer of the party to whom the same is directed, if telecopied (with receipt acknowledged) to the party or an executive officer of the party to whom the same is directed or, if sent by registered or certified mail, postage and charges prepaid, addressed to the Member's and/or Company's address, as appropriate, which is set forth in this Agreement. Except as otherwise provided herein any such notice shall be deemed to be given two (2) business days after the date on which the same was deposited in the United States mail, addressed and sent as aforesaid, if sent by mail or upon confirmation of receipt if delivered by telecopier, personal delivery or courier service.

13.2 *Books of Account and Records.*

Proper and complete records and books of account shall be kept or shall be caused to be kept by the Managers in which shall be entered fully and accurately all transactions relating to the Company's business in such detail and completeness as is customary and usual for businesses of the type engaged in by the Company. Such books and records shall be maintained as provided in Section 9.9. The books and records shall at all times be maintained at the principal place of business of the Company. Additionally, the Managers shall promptly distribute to all Members, copies of the Company's financial statements on an annual basis.

13.3 *Application of Florida Law.*

This Agreement and its interpretation shall be governed exclusively by its terms and by the laws of the State of Florida, and specifically the Act.

13.4 *Waiver of Action for Partition.*

Each Member and Transferee irrevocably waives during the term of the Company any right that it may have to maintain any action for partition with respect to the property of the Company.

13.5 *Amendments.*

This Agreement may not be amended except in writing by the affirmative vote of a majority of the Members of the Company which vote must include the affirmative vote of the Manager. Any amendment changing either the Percentage Interests of the Members or any provision within Article V requires the unanimous vote of the Members.

13.6 *Execution of Additional Instruments.*

Each Member hereby agrees to execute such other and further statements of interest and holdings, designations and other instruments necessary to comply with an laws, rules or regulations.

13.7 *Construction.*

Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

13.8 *Headings.*

The headings in this Agreement are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this Agreement or any provision thereof

13.9 *Waivers.*

The failure of any party to seek redress for default of or to insist upon the strict performance of any covenant of condition of this Agreement shall not prevent a subsequent act, which would have originally constituted a default, from having the effect of an original default.

13.10 *Rights and Remedies Cumulative.*

The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to use any other remedy. Said rights and remedies are given in addition to any other legal rights that parties may have.

13.11 *Severability.*

If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

13.12 *Heirs, Successors and Assigns.*

Each and all of the covenants, terms, provisions and agreement herein contained shall be binding upon and inure to the benefit of the parties hereto and, to the extent permitted by this Agreement, their respective heirs, legal representatives, successors and assigns.

13.13 *Creditors.*

None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Company.

13.14 **Counterparts.**

This Agreement may be executed in counterparts, each of shall be deemed an original but all of which shall constitute one and the same instrument.


13.15 **Conflict of Interest Waiver.** The Members and the Company acknowledge that the law firm of Tescher & Spallina, P.A. has represented the Company in connection with the drafting of this Agreement and the formation and structuring of the Company, and that said law firm also represents one or more of the Members (namely, SIMON L. BERNSTEIN, SHIRLEY BERNSTEIN, SHIRLEY BERNSTEIN FAMILY FOUNDATION, INC., and BERNSTEIN FAMILY INVESTMENTS, LLLP). The Company and its Members acknowledge that they have been advised that there are material income tax consequences and economic ramifications from being a Member in the Company, that they fully understand the tax consequences and economic ramifications of a Member's investment in the Company, and that they have been encouraged to consult with separate and independent counsel to advise them on Company and Member issues including this Agreement and the formation of the Company. The Company and the Members hereby waive any conflicts of interest with respect to the foregoing law firm's representation of the Company and the afore described Members and owners of interests in entity Members, in connection with the services set forth in this Section.

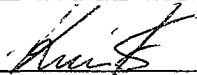
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IN WITNESS WHEREOF, the parties hereto have caused their signatures, or the signatures of their duly authorized representatives, to be set forth below on the day and year first above written.

Witnesses:

MEMBERS:




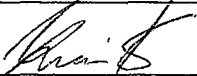


SIMON L. BERNSTEIN TRUST
AGREEMENT dated May 20, 2008


By: 

SIMON L. BERNSTEIN, Trustee





SHIRLEY BERNSTEIN TRUST
AGREEMENT dated May 20, 2008

By: 

SHIRLEY BERNSTEIN, Trustee

ELIOT BERNSTEIN FAMILY TRUST dated
May 20, 2008

DPaul
Kui B
DPaul
Kui B
DPaul
Kui B

By: [Signature]
SIMON L. BERNSTEIN, Co-Trustee

By: [Signature]
SHIRLEY BERNSTEIN, Co-Trustee

By: [Signature]
ROBERT L. SPALLINA, Independent Trustee

JILL IANTONI FAMILY TRUST dated May
20, 2008

DPaul
Kui B
DPaul
Kui B
DPaul
Kui B

By: [Signature]
SIMON L. BERNSTEIN, Co-Trustee

By: [Signature]
SHIRLEY BERNSTEIN, Co-Trustee

By: [Signature]
ROBERT L. SPALLINA, Independent Trustee

LISA S. FRIEDSTEIN FAMILY TRUST dated
May 20, 2008

DPaul
Kui B
DPaul
Kui B
DPaul
Kui B


By: [Signature]
SIMON L. BERNSTEIN, Co-Trustee


By: [Signature]
SHIRLEY BERNSTEIN, Co-Trustee

By: [Signature]
ROBERT L. SPALLINA, Independent Trustee

COMPANY:

BERNSTEIN HOLDINGS, LLC, a Florida
limited liability company





By: _____


SIMON L. BERNSTEIN, Manager

F:\WPDATA\dr\Bernstein, Shirley & Simon\Bernstein Family Investments, LLLP\Bernstein Holdings, LLC\Bernstein Holdings, LLC Operating Agreement wpd

**BERNSTEIN HOLDINGS, LLC
LIMITED LIABILITY COMPANY
OPERATING AGREEMENT**

EXHIBIT A

<u>Member(s)</u>	<u>Percentage Interest*</u>	<u>Capital Contributions</u>
SIMON L. BERNSTEIN, Trustee of the SIMON L. BERNSTEIN TRUST AGREEMENT u/t/d May 20, 2008	48.5%	\$48.50
SHIRLEY BERNSTEIN, Trustee of the SHIRLEY BERNSTEIN TRUST AGREEMENT u/t/d May 20, 2008	48.5%	\$48.50
SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN, Co-Trustees ROBERT L. SPALLINA, Independent Trustee of the ELIOT BERNSTEIN Family Trust dated May 20, 2008	1%	\$1.00
SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN, Co-Trustees ROBERT L. SPALLINA, Independent Trustee of the JILL IANTONI Family Trust dated May 20, 2008	1%	\$1.00
SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN, Co-Trustees ROBERT L. SPALLINA, Independent Trustee of the LISA S. FRIEDSTEIN Family Trust dated May 20, 2008	1%	\$1.00

*proportionate to capital accounts of Members

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL
IN RE: ESTATE OF PROBATE DIVISION
SHIRLEY BERNSTEIN File No. 502011CP000653XXXX SB
Deceased.

INVENTORY

The undersigned personal representative of the estate of SHIRLEY BERNSTEIN, deceased, who died on December 8, 2010, and whose social security number is XXX-XX-9749, submits this inventory of all the property of the estate, that has come into the hands, possession, control, or knowledge of these personal representatives:

REAL ESTATE IN FLORIDA – Exempt (Protected) Homestead:

Description

NONE

REAL ESTATE IN FLORIDA -- Non-Exempt Homestead:

Description

Estimated Fair Market Value

NONE

(Whether homestead property is exempt from the claims of creditors, whether it is properly devised and whether it is a probate asset may have to be determined by appropriate proceedings.)

OTHER REAL ESTATE IN FLORIDA:

Description

Estimated Fair Market Value

NONE

\$

Total Real Estate in Florida – Except Exempt (Protected) Homestead

\$



Estate of Shirley Bernstein
File No. 502011CP000653XXXX SB
INVENTORY

PERSONAL PROPERTY WHEREVER LOCATED:

<u>Description</u>	<u>Estimated Fair Market Value</u>
Furniture, furnishings, household goods and personal effects	\$ <u>25,000.00 (est.)</u>
TOTAL OF ALL PERSONAL PROPERTY AND FLORIDA REAL ESTATES \$ <u>25,000.00</u>	

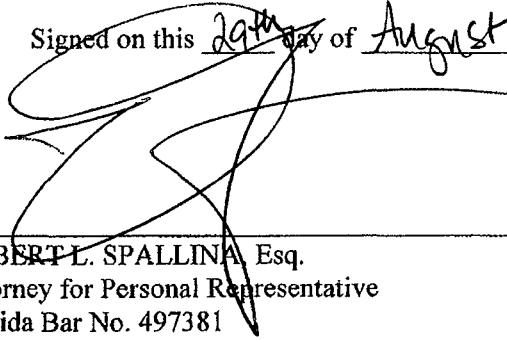
All real estate located outside the State of Florida owned by the decedent of which the personal representative is aware, if any, is described on a schedule attached hereto. [If none, so indicate]


NONE

NOTICE: Each residuary beneficiary in a testate estate or heir in an intestate estate has the right to request a written explanation of how the inventory value of any asset was determined, including whether the personal representative obtained an independent appraisal for that asset and from whom the appraisal was obtained. Any other beneficiary may request this information regarding all assets distributed to or proposed to be distributed to that beneficiary.

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 this 29th day of August, 2011.


ROBERT L. SPALLINA, Esq.
Attorney for Personal Representative
Florida Bar No. 497381
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Telephone: (561) 997-7008


SIMON BERNSTEIN, Personal Representative



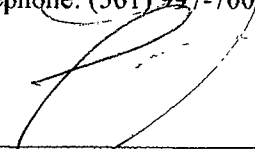
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Inventory was furnished by U.S. certified mail to:

Florida Department of Revenue
5050 W. Tennessee St., Bldg. K
Tallahassee, FL 32399-0100

on this 8 day of SEP, 2011.

TESCHER & SPALLINA, P.A.
Attorneys for the Personal Representative
of the Estate of Shirley Bernstein
4855 Technology Way, Suite 720
Boca Raton, Florida 33431
Telephone: (561) 997-7008

BY: 
ROBERT L. SPALLINA, ESQ.
Florida Bar No. 497381



CFN 20080327651
CR BK 22841 PG 1818
RECORDED 09/04/2008 14:10:25
Palm Beach County, Florida
AMT 365,000.00
Deed Doc 1,277.50
Sharon R. Rock, CLERK & COMPTROLLER
Pgs 1818 - 1820; (3pgs)

This Instrument prepared by:

Robert L. Spallina, Esq.
Tescher & Spallina, P.A.
2101 Corporate Boulevard, Suite 107
Boca Raton, FL 33431
(561) 998-7847

THIS IS A BALLOON MORTGAGE AND THE FINAL PRINCIPAL PAYMENT OR THE PRINCIPAL BALANCE DUE UPON MATURITY IS \$365,000.00, TOGETHER WITH ACCRUED INTEREST, IF ANY, AND ALL ADVANCEMENTS MADE BY THE MORTGAGEE UNDER THE TERMS OF THIS SECOND MORTGAGE.

SECOND MORTGAGE

THIS SECOND MORTGAGE is made and executed the 8th day of July, 2008, by SIMON L. BERNSTEIN, whose address is 7020 Lions Head Lane, Boca Raton, Florida 33496, hereinafter referred to as the "Mortgagee" (which term shall include the Mortgagee's heirs, successors and assigns), to BERNSTEIN FAMILY REALTY, LLC, a Florida limited liability company whose post office address is 950 Peninsula Corporate Circle, Suite 3010, Boca Raton, Florida 33487, hereinafter referred to as the "Mortgagor" (which term shall include the Mortgagor's heirs, successors and assigns).

WITNESSETH, for good and valuable considerations, and in consideration of the aggregate sum in that certain promissory note of even date herewith (hereinafter referred to as the "Note"), Mortgagor does hereby grant, bargain, sell, alien, remise, release, convey and confirm unto Mortgagee, in fee simple, that certain property of which Mortgagor is now seized and possessed situate in Palm Beach County, State of Florida, legally described as follows, including all improvements now or hereafter placed thereon, which property and improvements are hereinafter referred to collectively as the "Property":

Lot 68, Block G, BOCA MADERA UNIT 2, according to the Plat thereof, recorded in Plat Book 32, Pages 59 and 60, of the Public Records of Palm Beach County, Florida.

TO HAVE AND TO HOLD the Property, together with the tenements, hereditaments and appurtenances thereof, unto Mortgagee in fee simple.

AND Mortgagor hereby covenants with Mortgagee that Mortgagor is indefeasibly seized of the Property in fee simple, that Mortgagor has full power and lawful right to convey the Property to Mortgagee in fee simple, that it shall be lawful for Mortgagee at all times peaceably and quietly to enter upon, hold, occupy and enjoy the Property, that the Property is free from all encumbrances, that Mortgagor will make such further assurance to perfect the fee simple title to the Property in Mortgagee as may reasonably be required, and that Mortgagor hereby fully warrants the title to the Property and will defend the same against the lawful claims of all persons whomsoever.

PROVIDED ALWAYS, that if Mortgagor shall pay unto Mortgagee the Note, of which the following in words and figures is a true copy:

See Attached Exhibit "A"

and shall perform, comply with and abide by all of the conditions and covenants of the Note and of this Second Mortgage, then this Second Mortgage and the estate thereby created shall cease and be null and void.

AND Mortgagor hereby covenants and agrees as follows:

1. To pay all the principal and interest and other sums of money payable under the Note and this Second Mortgage, or either of them, promptly on the days the same severally become due and any other Note or Second Mortgage securing the property described herein.

2. To pay all the taxes, assessments, levies, liabilities, obligations, and encumbrances of every nature on the Property, and if the same be not promptly paid, Mortgagee may at any time pay the same without waiving or affecting the option to foreclose or any right hereunder, and every payment so made shall bear interest from the date thereof at the rate of eighteen (18%) percent per annum. Mortgagor shall pay the annual real estate taxes no later than November 30th of each year and shall send Mortgagee proof of payment no later than December 31st of said year.

3. To pay all and singular the costs, charges and expenses, including reasonable attorney's fees, incurred or paid at any time by Mortgagee because of the failure on the part of Mortgagor to perform each and every covenant of the Note and this Second Mortgage, or either of them, and every such payment shall bear interest from the date of payment by Mortgagee at the rate of eighteen (18%) percent per annum.

4. To keep the Property insured in a sum not less than the greater of (a) \$365,000 or (b) the maximum insurable value of the improvements thereon, in a company or companies to be approved by Mortgagee, which policy or policies shall be held by and shall be payable to Mortgagee, and in the event any sum of money becomes payable under such policy or policies, Mortgagee shall have the option to receive and apply the same on account of the indebtedness hereby secured or to permit the Mortgagor to receive and use it or any part thereof for other purposes, without thereby waiving or impairing any equity, lien or right under or by virtue of this Second Mortgage, and may place and pay for such insurance or any part thereof without waiving or affecting the option to foreclose or any right hereunder, and each and every such payment shall bear interest from the date of payment by Mortgagee at the rate of ten (10%) percent per annum.

5. To permit, commit or suffer no waste, impairment or deterioration of the Property or any part thereof.

6. To perform, comply with, and abide by each and every condition and covenant set forth in the Note and in this Second Mortgage.

7. If any of said sums of money herein referred to be not promptly and fully paid within ten (10) days after the same severally become due and payable, or if each and every one of the conditions

and covenants of the Note and this Second Mortgage, or either of them, are not fully performed, the aggregate sum due under the Note shall become due and payable forthwith or thereafter at the option of the Mortgagee, as fully and completely as if the said aggregate sum of \$365,000 were originally stipulated to be paid on such day, anything in the Note or this Second Mortgage to the contrary notwithstanding. In addition to the above provisions, any payments made more than fifteen (15) days after their due date shall be subject to an automatic late charge of ten (10%) percent of the amount of said payment.

8. If all or any part of the described property or any legal or equitable interest therein is sold, transferred or encumbered by Mortgagor, excluding a transfer by devise, descent or by operation of law upon the death of Mortgagor, Mortgagee may, at Mortgagee's sole option, declare all the sums secured by this Second Mortgage to be immediately due and payable.

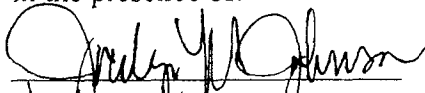
9. In the event Mortgagee finds it necessary to bring suit against Mortgagor due to an alleged default by Mortgagor hereunder, and Mortgagee prevails in said litigation, Mortgagee shall be entitled to recover from Mortgagor any and all costs and reasonable attorney's fees incurred by Mortgagee in said litigation.

IN WITNESS WHEREOF, the Mortgagor has caused these presents to be executed in its name, by its proper officers thereunto duly authorized, the day and year first above written.

Signed, Sealed & Delivered

BERNSTEIN FAMILY REALTY, LLC a Florida limited liability company


in the presence of:



Jocelyn Johnson
(Print Name)

By: 

SIMON L. BERNSTEIN, Manager

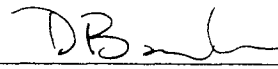


Juliana Goldman
(Print Name)

STATE OF FLORIDA)
)
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this 04th day of July, 2008, by SIMON L. BERNSTEIN, Manager for BERNSTEIN FAMILY REALTY, LLC.

NOTARY PUBLIC-STATE OF FLORIDA
Diana Banks
Commission # DD770917
Expires: MAY 11, 2012
BONDED THRU ATLANTIC BONDING CO, INC.



Signature of Notary Public

(Print, type or Stamp Commissioned Name of Notary Public)
Personally Known or Produced Identification _____
Type of Identification Produced _____

PROMISSORY NOTE

\$365,000.00

Effective as of July 1, 2008
Ashville, North Carolina

For value received, the undersigned promises to pay to the order of SIMON L. BERNSTEIN the principal sum of Three Hundred Sixty Five Thousand (\$365,000.00) Dollars, together with all interest thereon from the date hereof, to be paid in lawful money of the United States of America. Interest payments under this Note shall be calculated using the long-term Applicable Federal Rate for July 2008 of four and 55/100 (4.55%) percent, compounded semi-annually, and payable on each anniversary of this Note. Interest payments shall commence one year from the date hereof and shall be paid annually on the same date each year thereafter. The entire principal balance, and all accrued but unpaid interest, shall be due on the earlier of fifteen (15) years from the date hereof, or the death of SIMON L. BERNSTEIN.

This Note may be prepaid in whole or in part at anytime without penalty; provided that any partial prepayment shall be applied first to accrued interest and then to principal. This Note is secured by a Second Mortgage of even date herewith. Upon a default in the payment of this Note of principal and/or interest or in the performance of any of the terms of said Mortgage, and if such default shall remain uncured for thirty (30) days after written notice thereof has been given to Maker, then, at the option of the holder, the entire principal sum remaining unpaid, together with accrued interest, shall become immediately due and payable without further notice. This Note, while in default, shall accrue interest at the highest lawful rate of interest permitted by law. This Note shall be governed by the laws of the State of Florida.

All makers, endorsers, and/or guarantors now or hereafter becoming parties hereto jointly and severally waive presentment, demand, protest, notices of nonpayment, dishonor, and protest and all notices of every kind, and jointly and severally agree that in the event of default in the payment of any principal or interest due hereunder, which shall continue for a period of fifteen (15) days, or upon the occurrence of any other event deemed a default hereunder or any instrument or document securing the payment of this Note, the unpaid indebtedness, together with all accrued interest, shall thereupon, at the option of the holder, become immediately due and payable.

All makers, endorsers and/or guarantors now or hereafter becoming parties hereto jointly and severally agree, if this Note becomes in default and is placed in the hands of an attorney for collection, to pay the costs of collection, including reasonable attorneys' and accountants' fees, and similar costs in the event of appellate review, whether by appeal, certiorari, or other appellate remedies.

No single or partial exercise of any power hereunder shall preclude other or further exercises thereof or the exercise of any other power. No delay or omission on the part of the holder hereof in exercising any right hereunder shall operate as a waiver of such right or of any right under this Note. The release of any party liable for this Note shall not operate to release any other party liable hereon.

IN WITNESS WHEREOF, the undersigned has caused these presents to be signed at Ashville, North Carolina, effective as of the day and year first above written.

BERNSTEIN FAMILY REALTY, LLC, a Florida
limited liability company

By: 
SIMON BERNSTEIN, Manager

AFFIDAVIT OF OUT-OF STATE EXECUTION AND DELIVERY


STATE OF FLORIDA

COUNTY OF PALM BEACH

Before me this day personally appeared SIMON L. BERNSTEIN ("Affiant"), Manager of BERNSTEIN FAMILY REALTY, LLC, a Florida limited liability company (the "Company"), who being first duly sworn by me, deposes and says:

1. That Affiant is the Manager of the Company;
2. That on July 3, 2008, Affiant, on behalf of the Company, executed in the State of North Carolina that certain promissory note payable to SIMON L. BERNSTEIN in the original principal amount of Three Hundred Sixty Five Thousand (\$365,000.00) Dollars (the "Promissory Note"); and
3. That Affiant delivered the Promissory Note directly to SIMON L. BERNSTEIN at Ashville, North Carolina for delivery and acceptance.

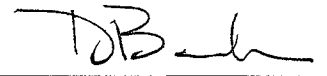
FURTHER AFFIANT SAYETH NOT.



 SIMON L. BERNSTEIN

The foregoing instrument was acknowledged before me this 8th day of July, 2008, by SIMON L. BERNSTEIN, Manager of the Company.

NOTARY PUBLIC-STATE OF FLORIDA
 Diana Banks
 Commission #DD770917
 Expires: MAY 11, 2012
 BONDED THRU ATLANTIC BONDING CO., INC.



 Signature - Notary Public

[Seal with Commission Expiration Date]

Diana Banks

 Print, type or stamp name of Notary Public

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

Report : CZREZDK
Instance : JISPROD

CLERK OF THE CIRCUIT COURT
PALM BEACH COUNTY
Docket Print from Easyview

Date : 26-Dec-2012
Time : 4:25:46PM

Page 1 of 3

Case ID : 2012CP004391 - SIMON L BERNSTEIN

UCN : 502012CP004391XXXXSB

Case Filed : 02-Oct-2012

Status : PE - PENDING

Case Type	Court	Location	Division	Jury
FO - FORMAL ADMINISTRATION	CP	SB	IZ	
Type	Party Name	Represented by		
JUDGE	MARTZ, JUDGE JAMES L.			
DECEDENT	BERNSTEIN, SIMON L.			
PERSONAL REPRESENT.	SPALLINA, ROBERT L.	SPALLINA, ROBERT L.		
PERSONAL REPRESENT.	TESCHER, DONALD R.	SPALLINA, ROBERT L.		

Filing Date	Docket No	Pages	Docket Description	Docket Code	Docket Text	Book No	Page No
02-Oct-2012			ADDITIONAL COMMENTS	00000			
02-Oct-2012			CPFF/FO-PP-PR-GA	500FF			
02-Oct-2012			PENDING	PE			
02-Oct-2012			RECEIPT FOR PAYMENT	RCPT	A Payment of -\$419.00 was made on receipt SBCV168422.		
02-Oct-2012	1	2	PETITION FOR ADMINISTRATION	PADM			
02-Oct-2012	2	1	DEATH CERT PROBATE DECEDENT	DCPD			
02-Oct-2012	3	9	WILL	WILL		025507	01559
02-Oct-2012	4	1	NOTICE OF TRUST	NOTR			
02-Oct-2012	5	1	NOTICE OF EMAIL DESIGNATION	NOED			
02-Oct-2012	6	1	ORDER ADMITTING WILL	OAWP			
02-Oct-2012	7	2	OATH	OATH	OF PERSONAL REPRESENTATIVE		
02-Oct-2012	8	2	OATH	OATH	OF PERSONAL REPRESENTATIVE		
02-Oct-2012	9	1	LETTERS OF ADMINISTRATION	LADM		025507	01570

Report : CZREZDK
Instance : JISPROD

CLERK OF THE CIRCUIT COURT
PALM BEACH COUNTY
Docket Print from Easyview

Date : 26-Dec-2012
Time : 4:25:46PM

Page 2 of 3

Case ID : 2012CP004391 - SIMON L BERNSTEIN

UCN : 502012CP004391XXXXSB

Case Filed : 02-Oct-2012

Status : PE - PENDING

<u>Filing Date</u>	<u>Docket No</u>	<u>Pages</u>	<u>Docket Description</u>	<u>Docket Code</u>	<u>Docket Text</u>	<u>Book No</u>	<u>Page No</u>
10-Oct-2012	10	19	WILL	WILL	"EXHIBIT" DTD--08/15/00		
06-Nov-2012	11	22	STATEMENT OF CLAIM	SCLM	F/B WILLIAM E. STANSBURY. ATTY. NOTIFIED		
09-Nov-2012	12	1	STATEMENT OF CLAIM	SCLM	WELLS FARGO BANK, N.A.		
21-Nov-2012	13	3	PROOF OF PUBLICATION	PPUB	NOTICE OF FILING OF NOTICE OF ADMIN		
21-Nov-2012	14	3	PROOF OF PUBLICATION	PPUB	NOTICE OF FILING OF NOTICE TO CREDITORS		
14-Dec-2012	15	1	PETITION TO EXTEND TIME	PEET	TO FILE INVENTORY F/B ROBERT L. SPALLINA & DONALD R. TESCHER		

Report : CZREZDK
Instance : JISPROD

CLERK OF THE CIRCUIT COURT
PALM BEACH COUNTY
Docket Print from Easyview

Date : 26-Dec-2012
Time : 4:25:46PM

Page 3 of 3

Case ID : 2012CP004391 - SIMON L BERNSTEIN

UCN : 502012CP004391XXXXSB
Case Filed : 02-Oct-2012

Status : PE - PENDING

Docket Entries : 19

Last Activity :

*** end of report czezdk ***

(czezdk) Revised : 28-Jul-2003



STATE OF FLORIDA • PALM BEACH COUNTY
I hereby certify that the
foregoing is a true copy
of the record in my office.

THIS 26 DAY OF Dec, 2012
SHARON R. BOCK
CLERK & COMPTROLLER

By [Signature]
DEPUTY CLERK

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF

PROBATE DIVISION ~~12~~

SIMON BERNSTEIN,

File No. 502012 CP 004391 ~~12-XXXX-SB~~

Deceased.

PETITION FOR EXTENSION OF TIME TO FILE INVENTORY

2012 DEC 14 PM 1:29
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH-FILED

PETITIONERS, Robert L. Spallina and Donald R. Tescher, as co-personal representatives of the Estate of Simon L. Bernstein, deceased, through undersigned counsel, files this Petition for Extension of Time to File Inventory, as grounds therefor would state as follows:

1. Petitioners were appointed co-personal representatives of the Estate of Simon L. Bernstein through Letters of Administration entered October 2, 2012.
2. In accordance with Florida law, the Inventory of the estate is due on or before December 2, 2012.
3. The estate has been delayed in receiving valuation information necessary to complete the Inventory.

WHEREFORE, Petitioner requests an extension of time of sixty (60) days to file the Inventory in this cause.

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 the 13th day of December, 2012.

Respectfully Submitted,
TESCHER & SPALLINA, P.A.

By: _____

ROBERT L. SPALLINA, ESQUIRE
Florida Bar No. 0497381
4855 Technology Way, Suite 720
Boca Raton, FL 33431
561-997-7008
Primary: rspallina@tescherspallina.com



MEMORANDUM

DATE: November 5, 2012

TO: Robert L. Spallina, Esq.

FROM: Astride Limouzin Case Manager, on behalf of -
This office does not provide legal advice
For procedural inquiries Tel. #561-274-1424

[X] JUDGE MARTIN H. COLIN Division - IY
[] JUDGE JAMES L. MARTZ Division - IZ
[] JUDGE ROSEMARIE SCHER Division - IX

CASE NUMBER: 50 2011CP000653XXXXSB

Estate of Shirley Bernstein

MATTER: Documents being returned

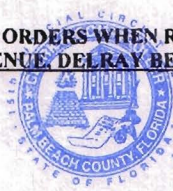
Order of discharge

- ___ Death certificate (**CERTIFIED COPY**) not submitted. F.S. §731.103, Probate Rule 5.205 & Probate Rule 5.171
- ___ Received bill for funeral expenses required (*Must be paid in full*).
- ___ Proof of will or codicil is required; it is not self-proved. Please review F.S. §732.502; 733.201; P.R. 5.210 & P.R. 5.230.
- ___ Order admitting will/ codicil/ and or appointing personal representative is either missing or incorrect. FS§733.201, R.5.210 & 5.235
- ___ Petition and order designating a restricted depository, and acceptance is required FS §69.031 & FS §744.351(6).
- ___ Oath of Personal Representative, of Guardian or Administrator Ad Litem and designation of resident agent was not submitted or incorrect. Resident agent must sign the acceptance. (Rule 5.110, 5.120 and 5.320 committee notes).
- ___ Proof of publication not submitted. Rule 5.241.
- ___ Statement regarding creditors not submitted. Probate Rule 5.241 (d).
- ___ Inventory not submitted. Probate Rule 5.340.
- ___ All claims must be satisfied, struck, or dismissed.
- ___ Final certificate of estate tax or affidavit of non-tax is not submitted. FS §198.26 & 193.28
- ___ All Beneficiaries must join in the petition or they must receive formal notice on the petition. FS §735.203 & Probate Rule 5.530(b).
- XX** Receipts for assets from all of the specific beneficiaries were not notarized.
- ___ Receipt of final accounting, service of petition for discharge and/or waiver from all residuary beneficiaries or qualified trust beneficiaries are required. See. R. 5.400. Attorney fees see FS §733.6171(6), 731.302, 731.303(1)(b) and Probate Rule 5.180(b). Committee notes (one person serving in two (2) fiduciary capacities may not waive or consent to the persons acts without the approval of those who the person represents).
- ___ Proof of service of the Objection to the Claims. FS §733.705(2), Probate Rule. 5.496 & Probate Rule 5.040.
- ___ Proof of Service of the Notice to Creditors to the Agency for Health Care Administration. FS §733.2121(d) & Probate Rule 5.241 (a).
- ___ For Lost/Destroyed Wills/Codicils please comply with FS § 733.207, 733.201(2) & Probate Rule 5.510
- ___ An 8:45 a.m. motion calendar hearing (limited to 5 mins) with notice to all interested parties is required. Notice must be at least five (5) business days (Tue, Wed and Thurs). Please verify suspension dates. Files must be order via the internet at <http://15thcircuit.co.palm-beach.fl.us/web/guest/cadmin>.

SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH-FILED
NOV 12 2012 6 AM 10:18

OTHER:

PLEASE RETURN A COPY OF THIS MEMORANDUM AND PROPOSE ORDERS WHEN REPLYING;
ADDRESS TO THE CLERK AND COMPTROLLER, 200 W ATLANTIC AVENUE, DELRAY BEACH, FL 33444



reby certify that the foregoing is a true copy of the record in my office.
THIS 26 DAY OF Dec, 2012
SHARON R. BOCK
CLERK & COMPTROLLER
By _____
DEPUTY CLERK

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 R. BOCK, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BARRACK-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



STATE OF FLORIDA - PALM BEACH COUNTY

I hereby certify that the foregoing is a true copy of the record in my office.

THIS 26 DAY OF Dec, 2012

SHARON R. BOCK
CLERK & COMPTROLLER

By

DEPUTY CLERK

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 R. BOCK, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY Bldg. - 1ST FLOOR - 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, 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




STATE OF FLORIDA - PALM BEACH COUNTY

I hereby certify that the foregoing is a true copy of the record in my office.

THIS 26 DAY OF Dec, 20 12

SHARON R. BOCK
CLERK & COMPTROLLER

By:


DEPUTY CLERK

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

2012 NOV 19 PM 2:29
SHARON R. BOCK, CLERK
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, 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

STATE OF FLORIDA - PALM BEACH COUNTY
THIS 26 DAY OF Dec, 2012

I hereby certify that the foregoing is a true copy of the record in my office.

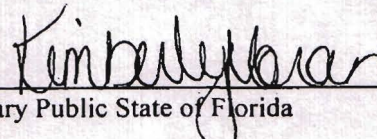
SHARON R. BOCK
CLERK & COMPTROLLER

By: 
DEPUTY CLERK

Sworn to and subscribed before me on April 9, 2012, by SIMON BERNSTEIN, who is personally known to me or who produced _____ as identification.

(Affix Notarial Seal)




Notary Public State of Florida

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

2012 NOV-19 PM 2:29
SHARON R. BOCK, CLERK
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, 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: [Signature]
ELIOT BERNSTEIN

COURT OF FLORIDA - PALM BEACH COUNTY
I hereby certify that the foregoing is a true copy of the record in my office.
THIS 26 DAY OF Dec, 2012
SHARON R. BOCK
CLERK & COMPTROLLER
By: [Signature]
DEPUTY CLERK

Sworn to and subscribed before me on May 15, 2012, by ELLIOT BERNSTEIN, who is personally known to me or who produced _____ as identification.

(Affix Notarial Seal)



Kimberly Moran
Notary Public State of Florida



Your payment has been successfully processed.
South County Civil Receipt Number:7299938
12/26/2012 04:32 PM

Palm Beach County Clerk & Comptroller, 200 W. Atlantic Ave., Delray Beach, FL, 33444

Case Nbr./Description: copies
Name On Card: CANDICE BERNSTEIN
Credit Card Number: *****9892
Card Type: VISA
Item Amount: \$21.00
Service Fee: \$0.74
Total Charge: \$21.74

South County Civil

There is a non-refundable 3.5% fee per transaction to provide this service.

This service fee is charged by MyFloridaCounty.com.

Your Credit Card Statement will display the vendor name of MyFloridaCounty.com for billing details.

For Information on refunds or for general inquiries, please call customer support on (877) 326 8689.

OFFICE of VITAL STATISTICS

CERTIFICATION OF DEATH

STATE FILE NUMBER: 2012256765

DATE ISSUED: January 15, 2013

DECEDENT INFORMATION

STATE FILE DATE: September 17, 2012

NAME: SIMON LEON BERNSTEIN

DATE OF DEATH: September 13, 2012

SEX: MALE

SSN: 371-32-5211

AGE: 076 YEARS

DATE OF BIRTH: December 2, 1935

BIRTHPLACE: FLINT, MICHIGAN

PLACE OF DEATH: INPATIENT

FACILITY NAME OR STREET ADDRESS: DELRAY MEDICAL CENTER

LOCATION OF DEATH: DELRAY BEACH, PALM BEACH COUNTY

SURVIVING SPOUSE, DECEDENT'S RESIDENCE AND HISTORY INFORMATION

MARITAL STATUS: WIDOWED

SPOUSE: NONE

RESIDENCE: 7020 LIONS HEAD LANE, BOCA RATON, FLORIDA 33496

COUNTY: PALM BEACH

OCCUPATION, INDUSTRY: SALES, LIFE INSURANCE

RACE: White Black or African American Asian Indian Chinese Filipino Native Hawaiian Japanese Korean American Indian or Alaskan Native--Tribe: Vietnamese Other Asian: Guamanian or Chamorro Samoan Other Pacific Isl: Other: Unknown

HISPANIC OR HAITIAN ORIGIN? NO, NOT OF HISPANIC/HAITIAN ORIGIN

EDUCATION: HIGH SCHOOL GRADUATE OR GED EVER IN U.S. ARMED FORCES? NO

PARENTS AND INFORMANT INFORMATION

FATHER: THEODORE BERNSTEIN

MOTHER: NORA UNKNOWN

INFORMANT: TED STUART BERNSTEIN

RELATIONSHIP TO DECEDENT: SON

INFORMANT'S ADDRESS: 880 Berkley Street, BOCA RATON, FLORIDA 33487

PLACE OF DISPOSITION AND FUNERAL FACILITY INFORMATION

PLACE OF DISPOSITION: THE GARDENS MEMORIAL PARK
BOCA RATON, FLORIDA

METHOD OF DISPOSITION: ENTOMBMENT

FUNERAL DIRECTOR/LICENSE NUMBER: GARRETT JACOBS, F019844

FUNERAL FACILITY: BOCA RATON FUNERAL HOME F040152
19785 HAMPTON DRIVE, BOCA RATON, FLORIDA 33434

CERTIFIER INFORMATION

TYPE OF CERTIFIER: MEDICAL EXAMINER

MEDICAL EXAMINER CASE NUMBER: 121500913

TIME OF DEATH (24 hr): 0227

CERTIFIER'S NAME: MICHAEL D BELL

CERTIFIER'S LICENSE NUMBER: ME54359

NAME OF ATTENDING PHYSICIAN (If other than Certifier): NOT APPLICABLE

CAUSE OF DEATH AND INJURY INFORMATION

PROBABLE MANNER OF DEATH: NATURAL

CAUSE OF DEATH - PART I - and Approximate Interval: Onset to Death:

a MYOCARDIAL INFARCT

b SEVERE CORONARY ATHEROSCLEROSIS

c

d

PART II - Other significant conditions contributing to death but not resulting in the underlying cause given in PART I:

BRONCHOPNEUMONIA, CIRRHOSIS

AUTOPSY PERFORMED? YES

AUTOPSY FINDINGS AVAILABLE TO COMPLETE CAUSE OF DEATH? YES

DATE OF SURGERY:

DID TOBACCO USE CONTRIBUTE TO DEATH? NO

REASON FOR SURGERY:

IF FEMALE, WAS SHE PREGNANT WITHIN THE PAST YEAR?

NOT APPLICABLE

DATE OF INJURY: NOT APPLICABLE

TIME OF INJURY (24 hr):

INJURY AT WORK?

LOCATION OF INJURY:

DESCRIBE HOW INJURY OCCURRED:

PLACE OF INJURY:

IF TRANSPORTATION INJURY, Status of Decedent:

Type of Vehicle:



, State Registrar

REQ: 2013438447

THE ABOVE SIGNATURE CERTIFIES THAT THIS IS A TRUE AND CORRECT COPY OF THE OFFICIAL RECORD ON FILE IN THIS OFFICE.

WARNING:

THIS DOCUMENT IS PRINTED OR PHOTOCOPIED ON SECURITY PAPER WITH WATERMARKS OF THE GREAT SEAL OF THE STATE OF FLORIDA. DO NOT ACCEPT WITHOUT VERIFYING THE PRESENCE OF THE WATERMARKS. THE DOCUMENT FACE CONTAINS A MULTICOLORED BACKGROUND, GOLD EMBOSSED SEAL, AND THERMOCHROMIC FL. THE BACK CONTAINS SPECIAL LINES WITH TEXT. THIS DOCUMENT WILL NOT PRODUCE A COLOR COPY.



* 3 8 8 3 1 9 9 2 *

DH FORM 1947 (11/11)

CERTIFICATION OF VITAL RECORD



VOID IF ALTERED OR ERASED

VOID IF ALTERED OR ERASED





Christine P. Yates
Direct Dial: 954.760.4916
Email: cty@trippscott.com

November 9, 2012

Via E-Mail and U.S. Mail

Robert L. Spallina, Esq.
Tescher & Spallina, P.A.
4855 Technology Way
Suite 720
Boca Raton, FL 33431

Re: Estates of Shirley Bernstein and Simon Leon Bernstein

Dear Mr. Spallina:

Our firm represents Mr. and Mrs. Bernstein, individually, as natural guardians of Joshua, Jacob, and Daniel Bernstein, and as Trustees of any trusts created for Joshua, Jacob and Daniel Bernstein by Simon and/or Shirley Bernstein. In order to assist us in this matter, please provide us with copies of the following:

1. Copies of all estate planning documents including all Wills and Trusts for Shirley Bernstein and Simon Leon Bernstein that our client was a beneficiary, whether qualified or contingent;
2. Copies of all estate planning documents including all Wills and Trusts that our client's children, Joshua, Jacob and/or Daniel, are named as beneficiary, whether qualified or contingent;
3. Copies of all documents executed in May and June 2012 regarding the Last Will and Testament of Shirley Bernstein;
4. Estate Accounting for Shirley Bernstein;
5. Estate Accounting for Simon Bernstein;
6. Trust Accountings for any Trusts that our client, his spouse, or his children are a beneficiary, whether qualified or contingent;
7. Copies of any claims filed in the Estate of Shirley Bernstein and Simon Bernstein;
8. Copy of the Inventory filed in the Estate of Shirley Bernstein;
9. Copy of the Inventory filed in the Estate of Simon Bernstein, or if none, please provide the approximate date you expect the Inventory will be prepared and filed with the Probate Court;
10. Allocation of the tangible personal property of Shirley and Simon Bernstein. Specifically, is the jewelry being divided among the ten grandchildren?;
11. Appraisals of tangible personal property, specifically the jewelry, artwork and collectibles;
12. All documents relating to the life insurance policies owned by Shirley and/or Simon, insuring Shirley and/or Simon's life, or for the benefit of Shirley and/or Simon Bernstein;
13. Please provide documentation concerning the allocation and division of all companies owned by Simon and/or Shirley at the time of their deaths and copies of any partnership,

659917v2 995508.0001

110 Southeast Sixth Street, Fifteenth Floor • Fort Lauderdale, Florida 33301

Post Office Box 14245 • Fort Lauderdale, Florida 33302

Tel 954.525.7500 • Fax 954.761.8475 • www.trippscott.com

Fort Lauderdale • Tallahassee

Robert L. Spallina, Esq.
November 9, 2012
Page 2 of 2

- operating, or stockholders agreements;
14. Please provide a status of the ongoing litigation involving Stanford;
 15. Please provide a status of the Iliewit company stock. Were the issues with Gerald Lewin resolved?;
 16. Please provide a status of the funding of Telenet Company and Candice's employment with Telenet; and
 17. Please provide any information you have with regards to the college funds created by Simon or Shirley Bernstein for the benefit of Joshua, Jacob and/or Daniel.

Thank you for your attention to this matter. Should you have any questions, please feel free to contact my office.

Very truly yours,



Christine P. Yates
For the Firm

CPY/jcj

cc: Eliot Bernstein
Marc Garber

Christine P. Yates
Direct Dial: 954.760.4916
Email: cty@trippscott.com



December 21, 2012

Via E-Mail and U.S. Mail

Robert L. Spallina, Esq.
Tescher & Spallina, P.A.
4855 Technology Way - Suite 720
Boca Raton, FL 33431

Re: Estates of Shirley Bernstein and Simon Leon Bernstein

Dear Mr. Spallina:

As you are aware, my firm represents Mr. and Mrs. Bernstein. We would appreciate receiving copies of the following information and documents in this matter:

1. A copy of Simon Bernstein's Trust and accounting;
2. A copy of Shirley Bernstein's Trust and accounting;
3. A copy of Bernstein Family LLC's Trust;
4. A copy of Bernstein Holdings and Family Corporation;
5. Objections to claims filed in Estate of Simon Bernstein;
6. Exempt Property Petition filed;
7. Personal Property Inventory for Estate of Simon and Shirley Bernstein;
8. Please provide a status of the ongoing litigation involving the Estate Substitution in Stanford – Case status and attorney handling;
9. Limited Power of Appointment executed by Simon;
10. Inventory for Shirley Bernstein;
11. Inventory for Simon Bernstein; and
12. LIC Holdings corporate Documents;
13. Mortgage documents relating to Eliot's home, and documents pertaining to first mortgage;
14. Accounting of each child's Trust.

Thank you for your attention to this matter. Should you have any questions, please feel free to contact my office.

Very truly yours,

A handwritten signature in black ink, appearing to read "Christine P. Yates".

Christine P. Yates
For the Firm

CPY/iah

cc: Eliot Bernstein
Marc Garber

665356v1 995508.0001 110 Southeast Sixth Street, Fifteenth Floor • Fort Lauderdale, Florida 33301
Post Office Box 14245 • Fort Lauderdale, Florida 33302
Tel 954.525.7500 • Fax 954.761.8475 • www.trippscott.com

Fort Lauderdale • Tallahassee

LAW OFFICES OF
JOHN A. HERRERA, M.ACC., J.D., LL.M., CPA
BOARD CERTIFIED TAX ATTORNEY
2501 SOUTH OCEAN BOULEVARD, SUITE 107
BOCA RATON, FLORIDA 33432

LICENSED TO
PRACTICE LAW IN
FLORIDA, CALIFORNIA
& COLORADO

VOICE: (561) 392-4626
FAX: (561) 392-9889
WATS: (888) 445-3656
E: jherrera@ix.netcom.com

BY FACSIMILE: (530) 529-4110

August 15, 2007

Eliot Bernstein
39 Little Avenue
Red Bluff, CA 96080-3519

Re: Advancement of Inheritance
Our file number 1522-2.0

Dear Mr. Bernstein:

I have been retained by your parents to assist them in their estate planning. You parents have asked me to contact you regarding a possible plan to advance you a portion of the inheritance that you may ultimately receive upon their deaths.

The plan would work as follows:

1. Your parents would each month pay the health insurance premiums for you, your wife Candice and your three children.
2. In addition, your parents want to make gifts to provide your family with a monthly cash flow. The annual amount of these gifts would be \$100,000 per year less the amount that they pay in health insurance premiums for your family. This amount would be distributed evenly over the year in monthly distributions by me.
3. The health insurance premiums and the monthly payments will reduce dollar-for-dollar the amount that you will ultimately inherit when your parents die.

While your parents may decide to alter or discontinue this plan at any time, they wanted me to make sure that you understand that they will discontinue making the above health insurance premiums and the monthly payments if you harass or threaten to sue or initiate litigation with anyone in your family at any time. However, you may counter claim if you are sued by them.

Additional Offices in West Palm Beach & Boca Raton

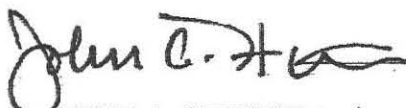
Eliot Bernstein
August 15, 2007
Page 2

Your parents also want to have the opportunity to visit with their grandchildren at least four times a year. Your parents will either come to California or gladly pay all transportation costs for your children to come to another destination. You and Candice are more than welcome to join your children for these family visits.

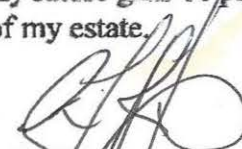
My purpose in writing to you is to confirm in advance that your parents' plan is acceptable to you and to make sure that you understand that the payment of your health insurance premiums and other distributions will reduce any amounts that you may receive later. If you find these terms acceptable, please sign and date below and return one copy of this letter to me in the enclosed self addressed envelope.

I look forward to hearing from you. Please call me if you have any questions.


Sincerely,


JOHN A. HERRERA

I, Eliot Bernstein, understand the above terms and conditions of my parents' proposed gift plan and find them acceptable. While I understand that it is my parents' present intention to continue this plan indefinitely, I also understand that they may at any time discontinue or alter this plan for any reason. If I die, I ask that any future gifts be paid to my wife Candice Bernstein rather than to the executor or administrator of my estate.


ELIOT BERNSTEIN
August 15, 2007

I, Candice Bernstein, understand the above terms and conditions of my husband's parents' proposed gift plan and find them acceptable. While I understand that it is my husband's parents' present intention to continue this plan indefinitely, I also understand that they may at any time discontinue or alter this plan for any reason.


CANDICE BERNSTEIN
August __, 2007

LAW OFFICES OF
JOHN A. HERRERA, M.ACC., J.D., LL.M., CPA
BOARD CERTIFIED TAX ATTORNEY
2501 SOUTH OCEAN BOULEVARD, SUITE 107
BOCA RATON, FLORIDA 33432

LICENSED TO
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& COLORADO

VOICE: (561) 392-4626
FAX: (561) 392-9889
WATS: (888) 445-3656
E: jherrera@ix.netcom.com

BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED

August 15, 2007

Eliot Bernstein
39 Little Avenue
Red Bluff, CA 96080-3519

Re: Advancement of Inheritance
Our file number 1522-2.0

Dear Mr. Bernstein:

I have been retained by your parents to assist them in their estate planning. You parents have asked me to contact you regarding a possible plan to advance you a portion of the inheritance that you may ultimately receive upon their deaths.

The plan would work as follows:

1. Your parents would each month pay the health insurance premiums for you, your wife Candice and your three children.
2. In addition, your parents want to make gifts to provide your family with a monthly cash flow. The annual amount of these gifts would be \$100,000 per year less the amount that they pay in health insurance premiums for your family. This amount would be distributed evenly over the year in monthly distributions by me.
3. The health insurance premiums and the monthly payments will reduce dollar-for-dollar the amount that you will ultimately inherit when your parents die.

While your parents may decide to alter or discontinue this plan at any time, they wanted me to make sure that you understand that they will discontinue making the above health insurance premiums and the monthly payments if you harass or threaten to sue or litigate with anyone in your family at any time.

Your parents also want to have the opportunity to visit with their grandchildren at least

Additional Offices in West Palm Beach & Boca Raton

BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED

August 15, 2007

Eliot Bernstein
39 Little Avenue
Red Bluff, CA 96080-3519

Re: Advancement of Inheritance
Our file number 1522-2.0

Dear Mr. Bernstein:

I have been retained by your parents to assist them in their estate planning. Your parents have asked me to contact you regarding a possible plan to advance you a portion of the inheritance that you may ultimately receive upon their deaths.

The plan would work as follows:

1. Your parents would each month pay the health insurance premiums for you, your wife Candice and your three children.
2. In addition, your parents want to make gifts to provide your family with a monthly cash flow. The annual amount of these gifts would be \$100,000 per year less the amount that they pay in health insurance premiums for your family. This amount would be distributed evenly over the year in monthly distributions.
3. The health insurance premiums and the monthly payments will reduce dollar-for-dollar the amount that you will ultimately inherit when your parents die.

While your parents may decide to alter or discontinue this plan at any time, they wanted me to make sure that you understand that they will discontinue making the above health insurance premiums and the monthly payments if you harass or threaten to sue or litigate with anyone in your family at any time.

Eliot Bernstein
August 15, 2007
Page 2

Your parents also want to have the opportunity to visit with their grandchildren at least four times a year. Your parents will either come to California or gladly pay all transportation costs for your children to come to Florida. You and Candice are more than welcome to join your children for these family visits.

My purpose in writing to you is to confirm in advance that your parents' plan is acceptable to you and to make sure that you understand that the payment of your health insurance premiums and other distributions will reduce any amounts that you may receive later. If you find these terms acceptable, please sign and date below and return one copy of this letter to me in the enclosed self addressed envelope.

I look forward to hearing from you. Please call me if you have any questions.

Sincerely,

JOHN A. HERRERA

I, Eliot Bernstein, understand the above terms and conditions of my parents' proposed gift plan and find them acceptable. While I understand that it is my parents' present intention to continue this plan indefinitely, I also understand that they may at any time discontinue or alter this plan for any reason.

ELIOT BERNSTEIN
August ____, 2007

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FLORIDA

IN RE: ESTATE OF
SIMON BERNSTEIN

PROBATE DIVISION
File Number 502012CP004391XXXXSB

Deceased. Division PROBATE

STATEMENT OF CLAIM BY WEST ASSET MANAGEMENT, INC. for AMERICAN EXPRESS

The undersigned hereby presents for filing against the above estate this statement of claim and alleges:

1. The basis for the claim is Account #

2. The social security or tax identification number of the claimant is

the name and address of the claimant are WEST ASSET MANAGEMENT, INC. for AMERICAN EXPRESS, 7171 MERCY RD, PO BOX 6183, OMAHA, NE 68106-0183 and the name and address of the claimant's attorney, if any, are as set forth below.

3. The amount of the claim is \$ 34,215.15 which amount is now due, or, if not due, will become due on

4. The claim (is) (is not) contingent or unliquidated. If contingent or unliquidated, the nature of the uncertainty is The claim is not contingent or unliquidated.

5. The claim (is) (is not) secured. If secured, the security consists of
The claim is () secured (X) not secured.

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 January 07, 2013

Kem D DeWitt

Claimant

Attorney for Claimant

Copy mailed to attorney for the Personal Representative on 01-07-2013

7171 MERCY RD.
PO BOX 6183
OMAHA, NE 68106-0183
(address)

CLERK OF THE CIRCUIT COURT

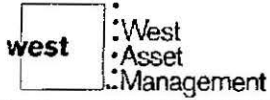
Telephone: 1-800-878-3317

By: *Susan Hoell*

MUST BE FILED IN DUPLICATE

[Print or Type Names Under All Signature Lines]

FILED
CLERK OF THE CIRCUIT COURT
PALM BEACH COUNTY, FLORIDA
JAN 10 PM 2:07



7171 Mercy Road PO Box 6183 Omaha, NE 68106-0183 1-800-878-3317

01-04-2013

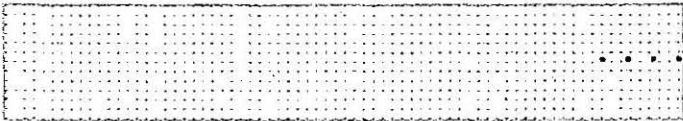
Reference: Enclosed claim by West Asset Management, Inc. for

Client Name	AMERICAN EXPRESS
Client Account Number	██████████
Balance Owning	\$34,215.15



Regarding

Decedent's Name	SIMON BERNSTEIN
Estate/Docket Number	502012CP004391XXXXSB
Date of Death	09-13-2012
Social Security Number	



IN THE CIRCUIT COURT FOR PALM MEACH COUNTY, FL

IN RE: ESTATE OF

SIMON L. BERNSTEIN

Deceased.

PROBATE DIVISION

File No.

502012CP004391IZXXXXSB

2013 JAN 16 PM 1:38

SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
SOUTH CTY BRANCH-FILED

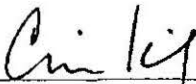
STATEMENT OF CLAIM BY CBIZ GOLDSTEIN LEWIN

The undersigned hereby presents for filing against the above estate this statement of claim and alleges:

1. The basis for the claim is Professional Fees for services rendered.
2. The name and address of the claimant are CBIZ Goldstein Lewin, 1675 N. Military Trail, 5th Floor, Boca Raton, FL 33486 and the name and address of the claimant's attorney, if any, are as set forth below.
3. The amount of the claim is \$1,886.94 which amount is now due.
4. The claim is not contingent or unliquidated.
5. The claim is not secured.

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 January 15, 2013.



Claimant

Copy mailed to attorney for Personal Representative on 1/19, 2013.

CLERK OF THE CIRCUIT COURT

BY: 

MUST BE FILED IN DUPLICATE

**CBIZ Goldstein Lewin &
MHM Goldstein Lewin Division**

PO Box 953152
St. Louis, MO 63195-3152
Ph: 561-994-5050 F: 561-241-0071

Estate of Simon Bernstein
c/o Tescher & Spallina, P.A.
Attn: Robert Spallina
4855 Technology Way, Suite 720
Boca Raton, FL 33431

Statement Date 1/11/2013
Client No. 4001350.0

	Date	Description	Charge	Credit	Balance
		Balance Forward			0.00
92850	11/23/2011	Invoice	5,666.64		5,666.64
	1/30/2012	Payment		3,000.00	2,666.64
	8/31/2012	Credit Memo		779.70	1,886.94
102222	11/12/2012	Invoice	2,861.25		4,748.19
	12/26/2012	Payment		2,861.25	1,886.94
		Current Balance		\$	1,886.94

0 - 30	31 - 60	61 - 90	91 - 120	Over 120	Balance
0.00	0.00	0.00	0.00	1,886.94	\$ 1,886.94

**To ensure proper credit, please reflect invoice number on check, make check payable to:
CBIZ MHM LLC (Boca GL) and remit payment to: PO Box 953152, St. Louis, MO 63195-3152.**

Payments received are posted through January 11, 2013



CBIZ Goldstein Lewin

Simon Bernstein
7020 Lions Head Lane
Boca Raton, FL 33496

Invoice No. 92850
Date 11/23/2011
Client No. 4001350.0
Total Amount Due \$ 5,666.64

TO INSURE PROPER CREDIT, PLEASE WRITE INVOICE NUMBER ON CHECK
AND DETACH THIS STUB AND RETURN WITH YOUR PAYMENT

Professional Services Rendered Through October 31, 2011

Accumulation of information and preparation of 1099's for the year ended December 31, 2010.

Accumulation and analysis of information and preparation of U.S. Individual Income Tax Return (Form 1040) for 2010.

Handling of ongoing IRS outstanding tax for the year ended December 31, 2008.

Print 2008 and 2009 K-1s per client's request.

Prepare Amended 2008 Tax Return per IRS 1045 denial letter.	\$ 7,083.30
Less: Client Courtesy	(1,416.66)
	<u>\$ 5,666.64</u>

0 - 30	31 - 60	61 - 90	91 - 120	Over 120	Balance
5,666.64	0.00	0.00	0.00	0.00	5,666.64

Invoice Due Upon Receipt
Payments Received Are Posted Through Above Invoice Date

Client Name: Simon Bernstein
Invoice No.: 92850

Client No: 4001350
Invoice Date: 11/23/2011

Make check payable to: CBIZ MHM LLC (Boca GL)
Remit payment to: PO Box 953152, St. Louis, MO 63195-3152
Ph: 561.994.5050 □ F: 561.241.0071 □ www.cbizgl.com

A finance charge of 1.5% per month will be added to any unpaid balance over 60 days from invoice date.

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

WILLIAM E. STANSBURY, an individual,

Plaintiff,

v.

CASE NO.: 50 2012CA013933 XXXX(NB)
(AA)

TED S. BERNSTEIN, an individual,
SIMON L. BERNSTEIN, an individual,
LIC HOLDINGS, INC., a Florida
Corporation, **ARBITRAGE**
INTERNATIONAL MARKETING, LLC, a
Florida Corporation f/k/a **ARBITRAGE**
INTERNATIONAL HOLDINGS, LLC.,

Defendants.

FILED
12 SEP 10 PM 2:33
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CIVIL 6

MOTION FOR ENLARGEMENT OF TIME

Defendants, **TED S. BERNSTEIN** ("Ted"), **SIMON L. BERNSTEIN** ("Si"), **LIC HOLDINGS, INC.** ("LIC") and **ARBITRAGE INTERNATIONAL MARKETING, LLC**, f/k/a **ARBITRAGE INTERNATIONAL HOLDINGS, LLC** ("Arbitrage") (Ted, Si, LIC and Arbitrage are, collectively, the "Defendants"), pursuant to Fla. R. Civ. P. 1.090(b), move for an enlargement of time to respond to Plaintiff, **WILLIAM E. STANSBURY**'s, complaint, and in support state:

1. On July 31, 2012, Plaintiff served Defendants with his eleven count complaint.
2. On August 20, 2012, shortly after the undersigned's retention as counsel for the Defendants, the undersigned contacted Plaintiff's counsel to request an enlargement of time to respond to the complaint up through and including Wednesday, September 19, 2012.

Unfortunately, Plaintiff's counsel was only authorized by Plaintiff to agree to an enlargement of time up through and including September 7, 2012.

3. Due to other pressing matters and the intervening holiday, the undersigned has been unable to properly devote the time necessary to investigate Plaintiff's allegations, evaluate all potential defenses and claims and formulate a response to the complaint. Accordingly, Defendants seek an enlargement of time, through and including Monday, September 24, 2012, to serve Defendants' response to the complaint.

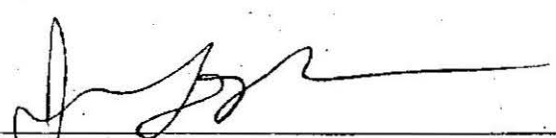
4. This motion is not made for the purpose of delay, or any other improper purpose, and no prejudice will be caused to Plaintiff by the granting of this motion.

5. The undersigned has consulted with Plaintiff's counsel. Unfortunately, Plaintiff refuses to consent to the relief requested herein.

WHEREFORE, Defendants respectfully request entry of an order enlarging the time for the Defendants to serve their response to the complaint through and including Monday, September 24, 2012 and granting such other and further relief this Court deems just and appropriate.

Dated this 7th day of September, 2012.

GREENBERG TRAUIG, P.A.
401 E. Las Olas Blvd., Suite 200
Telephone: (954) 765-0500
Facsimile: (954) 765-1477



Jon L. Swergold
Florida Bar No. 0108510
swergoldj@gtlaw.com

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the has been sent via e-mail and U.S. Mail to: Peter M. Feaman, Esq.(pfeaman@feamanlaw.com), Kenneth D. Stern, Esq. (kdstern@gmail.com), 3615 W. Boynton Beach Blvd., Boynton Beach, FL 33436 on this 7th day of September, 2012.



JONATHAN SWERGOLD

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF

File No. 502011CP000653XXXX SB

SHIRLEY BERNSTEIN,

Probate Division

Deceased.


13 JAN -3 PM 3:57
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
SOUTH CTY BRANCH-FILED

ORDER OF DISCHARGE

On the Petition for Discharge of SIMON BERNSTEIN, as personal representative of the Estate of Shirley Bernstein, deceased, the court finding that the estate has been fully administered and properly distributed, that claims of creditors have been paid or otherwise disposed of, that the tax imposed by Chapter 198 of the Florida Statutes, if any, has been paid, and that the personal representative should be discharged, it therefore is

ADJUDGED that the personal representative is discharged, and the surety on the personal representative's bond, if any, is released from further liability.

ORDERED on 1/3, ~~2012~~ ²⁰¹³



Circuit Judge

cc: Robert L. Spallina, Esquire



FINAL DISPOSITION FORM

THIS FORM IS REQUIRED FOR THE USE OF THE CLERK OF COURT FOR THE PURPOSE OF REPORTING JUDICIAL WORKLOAD DATA PURSUANT TO FLORIDA STATUTE 25.075.

CIRCUIT PROBATE/GUARDIANSHIP COURT
JUDGE MARTIN H. COLIN

IN RE: ESTATE OF

CASE NO. 502011CP000653XXXXSB
DIVISION: IV

SHIRLEY BERNSTEIN

II. MEANS OF FINAL DISPOSITION (PLACE AN "X" IN ONE BOX ONLY)

- Dismissed Before Hearing
- Dismissed After Hearing
- Disposed By Default
- Disposed By Judge
- Disposed By Non-Jury Trial
- Disposed By Jury Trial
- Other:

13 JAN -3 PM 3:57
SHARON R. BOCK, CLERK
PALM BEACH COUNTY FILED
SOUTH CITY BRANCH

DATE: JANUARY 3, 2013.


MARTIN H. COLIN
CIRCUIT COURT JUDGE

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF PROBATE DIVISION

SIMON BERNSTEIN, File No. 50 2012 CP 004391 ~~IZ XXXX SB~~ ~~IZ XXXX SB~~

Deceased.

ORDER EXTENDING TIME TO FILE INVENTORY

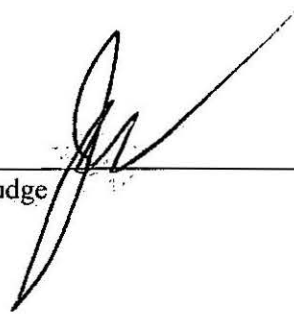
13 JAN 14 PM 3:05
SNARON J. BOCK, CLERK
PALM BEACH COUNTY
SOUTH COUNTY BRANCH
FILED

THIS CAUSE, having come before the Court upon the Petition of Robert L. Spallina and Donald R. Tescher, as co-personal representatives of the Estate of Simon Bernstein, deceased, for an extension of time to file the Inventory of the estate, and the Court having reviewed the Petition and being otherwise duly advised in the premises it is hereby

ADJUDGED that an extension of time is granted up until 60 days in which to file the Inventory in this cause.

DONE AND ORDERED in Chambers at Delray Beach, Palm Beach County, Florida, this 14 day of January, 2012.

Circuit Judge



cc: Robert L. Spallina, Esquire

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STAMPED ENVELOPES/COPIES
NOT PROVIDED COURT



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

CASE NO: 502012CA013 933XXXXMB AA

WILLIAM E. STANSBURY,

Plaintiff,

vs.

TED S. BERNSTEIN, SIMON
BERNSTEIN, LIC HOLDINGS, INC., and
ARBITRAGE INTERNATIONAL
MANAGEMENT, L.L.C., f/k/a
ARBITRAGE INTERNATIONAL
HOLDINGS, L.L.C.,

Defendants.

SUGGESTION OF DEATH

FILED
12 SEP 20 PM 2:43
SHARON M. BOCH, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CIVIL 6

Defendants, TED S. BERNSTEIN, LIC HOLDINGS, INC., and ARBITRAGE INTERNATIONAL MANAGEMENT, L.L.C., f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, L.L.C., pursuant to Fla. R. Civ. P. 1.260(a), hereby give notice of the death of Defendant, Simon Bernstein. Mr. Bernstein died on September 13, 2012.

Dated this 19 day of September 2012.

GREENBERG TRAUIG, P.A.
401 East Las Olas Boulevard, Suite 2000
Fort Lauderdale, Florida 33301
Telephone: (954) 765-0500
Facsimile: (954) 765-1477

By:


JON L. SWERGOLD, ESQ.

Florida Bar No. 0108510

swergoldj@gtlaw.com

KRISTINA L. ARNSDORFF, ESQ.

Florida Bar No. 0040596

arnsdorffk@gtlaw.com

Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via e-mail to: pfeaman@feamanlaw.com and kdstern@gmail.com, **Peter M. Feaman, Esq., Kenneth D. Stern, Esq.**, 3615 W. Boynton Beach Blvd., Boynton Beach, FL 33436, on this 19th day of September 2012.


JON L SWERGOLD

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

WILLIAM E. STANSBURY, an individual,

Plaintiff,

CASE NO.: 50 2012CA013933 XXXX(NB)
(AA)

v.

TED S. BERNSTEIN, an individual,
SIMON L. BERNSTEIN, an individual,
LIC HOLDINGS, INC., a Florida
Corporation, **ARBITRAGE**
INTERNATIONAL MARKETING, LLC, a
Florida Corporation f/k/a **ARBITRAGE**
INTERNATIONAL HOLDINGS, LLC.,

Defendants.

FILED
12 SEP 25 PM 2:56
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CIVIL 6

SECOND MOTION FOR ENLARGEMENT OF TIME

Defendants, **TED S. BERNSTEIN** ("Ted"), **LIC HOLDINGS, INC.** ("LIC") and **ARBITRAGE INTERNATIONAL MARKETING, LLC**, f/k/a **ARBITRAGE INTERNATIONAL HOLDINGS, LLC** ("AIM") (Ted, LIC and Arbitrage are, collectively, the "Defendants"), pursuant to Fla. R. Civ. P. 1.090(b), move for an additional brief enlargement of time to respond to Plaintiff, **WILLIAM E. STANSBURY**'s, complaint, and in support state:

1. On July 31, 2012, Plaintiff served Defendants with his eleven count complaint.
2. On September 7, 2012, the Defendants filed a motion for an enlargement of time to respond to the complaint through and including Monday, September 24, 2012.

3. On September 19, the Defendants filed a suggestion of death for Defendant Simon Bernstein ("Simon"), who passed away on September 13, 2012.¹ As reflected in the complaint, Simon and Ted were father and son, respectively. The unexpected and sudden passing of Simon has given rise to a myriad of family and business issues for Ted, LIC and AIM. These matters, as well as the Jewish holidays have precluded the undersigned from effectively communicating with the Defendants.

4. Accordingly, the undersigned has been unable to properly complete the necessary investigation of Plaintiff's allegations, evaluate all potential defenses and claims and finalize a response to the complaint. Accordingly, Defendants seek a brief one week enlargement of time, through and including Monday, October 1, 2012, to serve Defendants' response to the complaint.

5. This motion is not made for the purpose of delay, or any other improper purpose, and no prejudice will be caused to Plaintiff by the granting of this motion.

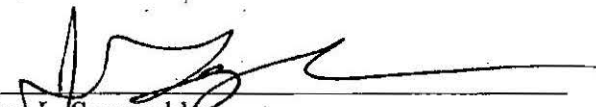
6. The undersigned contacted Plaintiff's counsel to request his consent to the relief sought herein. However, Plaintiff's counsel was unavailable at the time and has not returned the undersigned's call.

¹ The undersigned law firm was retained by Simon prior to his passing and would have filed the instant motion on behalf of Simon had he not passed away. However, the undersigned has not been retained by Simon's estate as of the filing of this motion. In any event, Simon's death has the effect of an abatement and precludes the entry of a default against Simon's estate Floyd v. Wallace, 339 So.2d 653, 654-55 (Fla. 1976).

WHEREFORE, Defendants respectfully request entry of an order enlarging the time for the Defendants to serve their response to the complaint through and including Monday, October 1, 2012 and granting such other and further relief this Court deems just and appropriate.

Dated this 24th day of September, 2012.

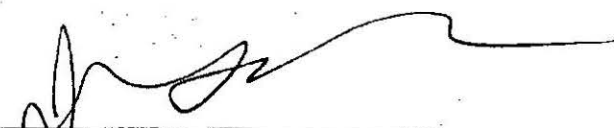
GREENBERG TRAUIG, P.A.
401 E. Las Olas Blvd., Suite 200
Telephone: (954) 765-0500
Facsimile: (954) 765-1477



Jon L. Swergold
Florida Bar No. 0108510
swergoldj@gtlaw.com

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the has been sent via e-mail and U.S. Mail to: Peter M. Feaman, Esq.(pfeaman@feamanlaw.com), Kenneth D. Stern, Esq. (kdstern@gmail.com), 3615 W. Boynton Beach Blvd., Boynton Beach, FL 33436 on this 24th day of September, 2012.



JON L. SWERGOLD

FILED

12 OCT -3 PH 2:00

SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CIVIL 6

WILLIAM E. STANSBURY,

Plaintiff,

vs.

TED S. BERNSTEIN, SIMON
BERNSTEIN, LIC HOLDINGS, INC., and
ARBITRAGE INTERNATIONAL
MANAGEMENT, L.L.C., f/k/a
ARBITRAGE INTERNATIONAL
HOLDINGS, L.L.C.,

Defendants.

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

CASE NO: 502012CA013 933XXXXMB AA

**MOTION TO DISMISS OR, IN THE
ALTERNATIVE, MOTION FOR MORE
DEFINITE STATEMENT**

Defendants, TED S. BERNSTEIN ("Ted"), LIC HOLDINGS, INC. ("LIC"), and ARBITRAGE INTERNATIONAL MANAGEMENT, L.L.C., f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, L.L.C. ("AIM")¹, by and through their undersigned counsel, and pursuant to Florida Rule of Civil Procedure 1.140(b) and (e), hereby move to dismiss the Complaint filed by Plaintiff, William E. Stansbury ("Plaintiff" or "Stansbury"), for failure to state a cause of action, or, in the alternative, for a more definite statement, and for an award of attorneys' fees, and in support state:

I. INTRODUCTION

1. On July 30, 2012, Plaintiff filed his eleven (11) count Complaint against Defendants arising out of at least two (2) purported oral contracts allegedly entered into between

¹ On September 19, 2012, Defendants Ted, LIC and AIM, pursuant to Fla. R. Civ. P. 1.260(a), served a Suggestion of Death for Defendant, Simon Bernstein ("Simon"). The undersigned law firm was retained by Simon prior to his passing and would have filed the instant motion on behalf of Simon had he not passed away. However, the undersigned has not been retained by Simon's estate as of the filing of this motion. In any event, Simon's death has the effect of an abatement and precludes the entry of a default against Simon's estate. *Floyd v. Wallace*, 339 So. 2d 653, 654-55 (Fla. 1976).

FTL108,918,112 4

Plaintiff and LIC and/or AIM. Plaintiff's Complaint should be dismissed in its entirety because each count fails to allege a cause of action and the Complaint improperly lumps together all four (4) Defendants, in essence alleging that "everyone did everything" -- notwithstanding Plaintiff's own admissions that the alleged oral contracts were entered into by the "Corporate Defendants" (defined in the Complaint as LIC and AIM, collectively)², not the individual Defendants.

2. Further, Plaintiff's Complaint is confusing and is riddled with a multitude of ambiguities, as well as vague and contradictory allegations that make responding to the Complaint virtually impossible. Accordingly, Plaintiff's Complaint should be dismissed in its entirety, or, in the alternative, Plaintiff should be required to file a more definite statement as to any count not dismissed.

II. PLAINTIFF'S ALLEGATIONS

3. Plaintiff alleges, *inter alia*, that in 2003, Ted approached Plaintiff regarding "spearhead[ing] the marketing of an unique insurance concept . . . developed by a prominent law firm . . . designed for use in the financial and estate planning of wealthy individuals." Complaint at ¶ 11.

4. Sometime thereafter, Plaintiff alleges he worked as an independent contractor for the Corporate Defendants, receiving a portion of net retained commissions received by the Corporate Defendants from insurance companies and that the commissions were paid to him in 2005 in the form of two (2) 1099's. *See* Complaint at ¶¶ 13 and 16.

5. Plaintiff alleges that, in 2006, he became an "employee" and verbally agreed to a "salary of the equivalent of 15% of commissions received on all products." Complaint at ¶¶ 13 and 17.

² *See* Complaint at ¶¶ 4, 13 and 16-17. Indeed, as currently pled, it is unclear from the complaint whether Stansbury is alleging he had oral contracts with both AIM and LIC and that each oral contract was amended in "early 2008".

6. Plaintiff admits that in 2006 he “received his agreed salary as an employee” and was paid by AIM. Complaint at ¶ 17.

7. Plaintiff further admits that he “received his agreed salary as an employee” in 2007. Complaint at ¶ 18.

8. Plaintiff alleges that in “early 2008” he agreed to forgo his 15% of net retained commissions salary in exchange for a \$1,000,000 salary and a pro rata (10%) distribution of any profits going forward. See Complaint at ¶¶ 21 and 22.

9. Notwithstanding the allegations of paragraph 19, that Stansbury received his agreed salary as an employee in 2007, Plaintiff alleges that as of the filing of the complaint on July 30, 2012, he has been “deprived of moneys [sic] due him . . . [for] approximately four and a half years.” Complaint at ¶ 22.

III. MOTION TO DISMISS

A. Counts I (Accounting), II (Accounting), III ((Breach of Oral Contract), IV (Breach of Implied Covenant of Good Faith and Fair Dealing), V (Breach of Fiduciary Duty), VII (Fraud), VIII (Equitable Lien), IX (Contract Implied in Law) and X Constructive Trust) of the Complaint are Barred by the Applicable Statute of Limitations and Should be Dismissed

10. Counts I (Accounting), II (Accounting), III (Breach of Oral Contract), IV (Breach of Implied Covenant of Good Faith and Fair Dealing), V (Breach of Fiduciary Duty), VII (Fraud), VIII (Equitable Lien), IX (Contract Implied in Law), and X (Constructive Trust) are barred in whole or in part by the applicable 4-year statute of limitations set forth in Fla. Stat. § 95.11(3).

11. Accepting Plaintiff’s allegations as true for purposes of this Motion only, Plaintiff’s various causes of actions accrued in “early 2008” when Plaintiff’s alleged oral contract with LIC and/or AIM was modified from an agreement to receive a salary of 15% in net

retained commissions to a \$1,000,000 salary and a pro rata (10%) distribution of any profits going forward. Plaintiff concedes that he was paid his alleged agreed-upon commissions in 2005, 2006 and 2007. See Complaint at ¶¶ 13 and 16-18. Therefore, Plaintiff's alleged causes of actions can only be based upon the purported breach of the alleged modified oral contract(s) in 2008.

12. While Plaintiff's Complaint fails to specifically identify the precise date the breach of the alleged oral contract(s) occurred, it appears, based on Plaintiff's allegations, that the purported breach would have occurred in "early 2008". See Complaint at ¶¶ 22 and 28 (Plaintiff alleges that he has been "deprived of moneys [sic] due him . . . [for] approximately *four and a half years.*") (emphasis added).

13. Consequently, the statute of limitations expired on Plaintiff's various causes of action to the extent based upon claims accruing prior to July 31, 2008. Plaintiff, however, did not file his Complaint until July 30, 2012. Therefore, Counts I, II, III, IV, V, VI, VIII, IX and X should be dismissed as being barred by the statute of limitations.

B. Counts II (Accounting), III (Breach of Oral Contract) IV (Breach of Implied Covenant of Good Faith and Fair Dealing) and Count IX (Contract Implied in Law) Should Also be Dismissed Because Plaintiff Has Not Alleged Sufficient Facts to Assert Claims Against Ted in His Individual Capacity

14. Plaintiff's Complaint fails to specify how or why Ted is personally liable for the payment of an alleged obligation of either LIC and/or AIM to Plaintiff. Indeed, Plaintiff admits that he was an employee of the Corporate Defendants, he was paid by AIM and entered into the alleged oral contract(s), and subsequent modified oral contract(s), with LIC and/or AIM.

15. Plaintiff's theory upon which he attempts to sue Ted is unclear at best. Indeed, Plaintiff never alleges Ted was a party to the alleged oral contract(s) or that he agreed to be

personally responsible for payment to Plaintiff. The Defendants and the Court should not be required to guess as to this fundamental matter, which is conspicuously absent from the Complaint.

16. In order to impose personal liability against Ted for breach of an oral contract(s) with the Corporate Defendants, breach of the implied covenant of good faith and fair dealing relating to the alleged oral contract(s), for an individual accounting, and a contract implied in law, Plaintiff must affirmatively allege that Ted acted in some capacity other than as a mere officer of the Corporate Defendants. *See Superior Garlic International v. E&A Produce Corp.*, 913 So. 2d 645 (Fla. 3d DCA 2005) (claim against president of company was improper where there was no evidence that president acted in a personal capacity rather than as an officer).

17. Additionally, Plaintiff does not allege, nor can he, that any consideration flowed to Ted, individually. Without any consideration, there can be no enforceable contract. *St. Joe Corp. v. McIver*, 875 So. 2d 375 (Fla. 2004) (an oral contract is subject to the basic requirements of contract law, such as offer, acceptance, consideration and sufficient specification of essential terms).

18. Because there is no set of facts under which Plaintiff can state a cause of action against Ted, individually, Count II (Accounting), Count III (Breach of Oral Contract), Count IV (Breach of the Implied Covenant of Good Faith & Fair Dealing) and Count IX (Contract Implied in Law) should be dismissed as to Ted.

C. Counts I (Accounting Against LIC and AIM) and Count II (Accounting Against T. Bernstein and S. Bernstein) Should Also Be Dismissed Because Plaintiff's Allegations Are Inherently Contradictory and Plaintiff Fails to State a Cause of Action

19. In Counts I and II, Plaintiff seeks an accounting, dating back to 2003, against the Corporate Defendants and the individual Defendants, respectively. Aside from the fact that Plaintiff's Complaint is devoid of any allegations that Ted was a party to the alleged oral contract(s) between Plaintiff and one or both of the Corporate Defendants, or any other allegations under which Ted could be held individually liable for breach of the alleged oral contract(s) and a corresponding accounting, Plaintiff admits in paragraphs 16-19 -- which are expressly incorporated by reference into Count I -- that Plaintiff was properly paid through 2007.

20. Further, Plaintiff asserts in paragraph 28 of Count I and paragraph 31 of Count II that he is purportedly owed payment for "four and a half years" under an alleged oral contract. These allegations are both inconsistent with Plaintiff's demand for an accounting in both Counts I and II dating back to 2003 and are vague. See WHEREFORE clauses following ¶¶ 28 and 31. Accordingly, Counts I and II should be dismissed. See *Peacock v. General Motors Acceptance Corp.*, 432 So. 2d 142, 146 (Fla. 1st DCA 1983) ("contradictory allegations within a single count neutralize each other and render the count insufficient on its face", even where they are "incorporated in that count" from a prior count of the complaint).

21. Additionally, Counts I and II should be dismissed because Plaintiff's Complaint fails to allege the requisite elements for an accounting. To state a cause of action for an accounting, Plaintiff must allege that (1) the Plaintiff and Defendants shared a fiduciary relationship or entered a complex transaction and (2) a remedy at law is inadequate. See *Bankers Trust Realty Inc. v. Kluge*, 672 So. 2d 897, 898 (Fla. 3d DCA 1996). Here, although Plaintiff has

inartfully and in confusing fashion alleged that the accounting required to assess what he is purportedly owed under the oral contract(s) is complex, that is irrelevant as the underlying transaction must be complex, which, even accepting Plaintiff's allegations, it is not. See Complaint ¶¶ 28 and 31. Moreover, Plaintiff's allegation that his "remedy at law could not be as full, adequate and expeditious as it is in equity" does not meet the second element required under *Kluge*. Plaintiff's failure to clearly plead and allege ultimate facts for either element warrants dismissal of Counts I and II.

D. Count IV (Breach of Implied Covenant of Good Faith and Fair Dealing) Should Be Dismissed Because It Fails to State a Claim and is Duplicative of Count III (Breach of Oral Contract)

22. "[A] claim for breach of the implied covenant of good faith and fair dealing cannot be maintained under Florida law absent an allegation that an express term of the contract has been breached. A duty of good faith must relate to the performance of an *express* term of the contract and is not an abstract and independent term of a contract which may be asserted as a source of breach . . ." *Insurance Concepts and Design, Inc. v. Healthplan Services, Inc.*, 785 So. 2d 1232, 1234 -1235 (Fla. 4th DCA 2001) (emphasis added).

23. "The duty of good faith does not attach until the Plaintiff can establish a [specific] term of the contract that [the defendant] was obligated to perform. *Id.*; see *Onuss Ortak Nokta Uluslararası Haberleşme Sistem Servis Bilgisayar Yazılım Danışmanlık Ve Dis Ticaret v. Terminal Exch., LLC*, No. 09-80720, 2010 U.S. Dist. LEXIS 22216, at *9 (S.D. Fla. Mar. 10, 2010) (applying Florida law) ("The breach of implied covenant of good faith and fair dealing is not an independent cause of action but attaches to the performance of a *specific* contractual obligation.") (emphasis added). Citing then New Hampshire Supreme Court Justice Souter, the

court in *Cox v. CSX Intermodal, Inc.*, 732 So. 2d 1092 (Fla. 1st DCA 1999) explained the proper circumstances for applying the implied obligation of good faith and fair dealing.

[U]nder an agreement that appears by word or silence to invest one party with a degree of discretion in performance sufficient to deprive another party of a substantial portion of the agreement's value, the parties' intent to be bound by an enforceable contract raises an implied obligation of good faith to observe reasonable limits in exercising that discretion, consistent with the parties purpose or purposes in contracting.

Id. at 1097. The *Cox* Court concluded "where the terms of the contract afford a party substantial discretion to promote that party's self-interest, the duty to act in good faith nevertheless limits that party's ability to act capriciously to contravene the reasonable contractual expectations of the other party." *Id.* at 1097-98.

24. In Count IV of the Complaint, Plaintiff fails to allege an express term of the contract for which Defendants³ purportedly breached their implied covenant of good faith and fair dealing. Instead, Plaintiff generally alleges the terms of the alleged oral contract(s) and then concludes the Count by summarily stating: "Defendants willfully breached the said express [terms] of the contract."

25. It is insufficient, however, for Plaintiff to conclusorily allege that Defendants breached the terms of the contract. Plaintiff must pinpoint the express term of the contract upon which the purported cause of action relates. Accordingly, Count IV of the Complaint should be dismissed on this ground alone.

26. Count IV should also be dismissed as duplicative of Count III (Breach of Oral Contract). Florida law provides that "a breach of the implied covenant of good faith and fair

³ While Plaintiff's Complaint fails to identify which of the four (4) Defendants Plaintiff is suing in Count IV and prays for judgment against "Plaintiffs" in the WHEREFORE clause to Count IV, Plaintiff's breach of implied covenant of good faith and fair dealing claim is subject to dismissal against Ted individually for the reasons set forth in III.B. *supra*.

dealing cannot be advanced when the allegations underlying that claim are duplicative of the allegations supporting the breach of contract claim.” *Omuss*, at *10 (S.D. Fla. Mar. 10, 2010); *see Enola Contr. Servs. v. URS Group, Inc.*, No. 5:08cv2-RS-EMT, 2008 U.S. Dist. LEXIS 33441, at *18 (N.D. Fla. Apr. 23, 2008) (applying Florida law) (dismissing with prejudice breach of good faith and fair dealing claim where such claim was “indistinguishable from” and “subsumed within” the breach of contract claim); *see also* *Shibata v. Lim*, 133 F. Supp. 2d 1311, 1321-1322 (M.D. Fla. 2000) (applying Florida law) (dismissing breach of implied covenant of good faith and fair dealing claim because there was “no difference between the factual underpinnings of [the] breach of contract claim and [the] claim for breach of the implied covenant”).

27. Here, Plaintiff’s Breach of Implied Covenant of Good Faith and Fair Dealing alleges that “Defendants willfully breached the [following] said express [terms] of the contract”: “that Plaintiff would be constantly apprised, either through being permitted to calculate all amounts due the Defendants [sic] out of commissions, or through being advised of all receipts of commissions and the disposition thereof, or the amounts due to Plaintiff for any reason under the terms of the contract; and (b) that Plaintiff would be fully and promptly paid all such amounts due him.” Complaint at ¶¶ 42-43.⁴

28. These allegations, however, are nearly identical to the allegations supporting Plaintiff’s breach of oral contract claim in Count III. *See, e.g.*, Count III at ¶ 34 (“An express term of that contract involved the commitment of Defendants to calculate, and to pay to Plaintiff,

⁴ Plaintiff alleges that as of early 2008, his salary was no longer equal to 15 per cent of commissions, but instead consisted of a base salary of \$1 million plus his proportionate interest in any profits. Complaint at ¶ 21. Inasmuch as the statute of limitations for a breach of implied covenant of good faith and fair dealing is 4 years, the conduct supporting the claim must have occurred within the 4 year period. Here, Plaintiff’s allegations in Count IV as to the alleged breach by the Defendants (calculating commissions and keeping Plaintiff informed of all receipts) cannot give rise to a breach of the implied covenant of good faith and fair dealing as by his own admission, Plaintiff was no longer being compensated based upon a calculation of commissions as of July 31, 2008 -- 4 years prior to the filing of the Complaint. Accordingly, Count IV should be dismissed.

fully and timely, all sums due to him under the parties' contract, whether as commissions, salary, distributions, expenses or any other reason.") and ¶ 36 ("[] Defendants willfully and maliciously agreed to breach their contract with Plaintiff by withholding from Plaintiff moneys due him under the contract."). Such allegations already form the basis of Plaintiff's breach of oral contract claim in Count II and, therefore, cannot support a separate cause of action for breach of good faith and fair dealing. Consequently, Count IV of Plaintiff's Complaint should be dismissed.

E. Count V (Breach of Fiduciary Duty), Count VI (Civil Theft) and Count VII (Fraud) Are Barred by the Economic Loss Rule

29. "The economic loss rule is a judicially created doctrine that sets forth the circumstances under which a tort action is prohibited if the only damages suffered are economic losses." *Indemnity Ins. Co. of N. Am. v. Am. Aviation, Inc.*, 891 So. 2d 532, 536 (Fla. 2004); *U.S. Fire Ins. Co. v. J.S.U.B., Inc.*, 979 So. 2d 871 (Fla. 2007) (noting that "the economic loss doctrine determines what cause of action is available to recover economic losses-tort or contract").

30. Specifically, the economic loss doctrine applies where "the parties are in contractual privity and one party seeks to recover damages in tort *for matters arising from the contract.*" *Indemnity Ins. Co. of N. Am.*, 891 So. 2d at 536 (emphasis added). The purpose of the doctrine is to "protect the integrity of contract," and to prevent contract law from "drown[ing] in a sea of tort." *Id.* at 537-38, 544.

31. The doctrine is designed to "prevent parties to a contract from circumventing the allocation of losses set forth in the contract by bringing an action for economic loss in tort." *Id.* at 536. In other words, "[n]o cause of action in tort can arise from a breach of a duty *existing by*

virtue of a contract.” Weimar v. Yacht Club Point Estates, Inc., 223 So. 2d 100, 103 (Fla. 4th DCA 1969) (emphasis added). The economic loss rule provides that “without some conduct resulting in personal injury or property damage, there can be no independent tort flowing from a contractual breach which would justify a tort claim solely for economic losses.” *HTP, Ltd. v. Lineas Aereas Costarricenses, S.A.*, 685 So. 2d 1238, 1239 (Fla. 1996).

32. Simply stated, “a cause of action for breach of fiduciary duty will not lie where the claim of breach is dependent upon the existence of a contractual relationship between the parties.” *Detwiler v. Bank of Central Florida*, 736 So. 2d 757, 759 (Fla. 5th DCA 1999).

33. Count V (Breach of Fiduciary Duty) and Count VII (Fraud) of Plaintiff’s Complaint are barred by the economic loss rule because Plaintiff cites *the exact same allegations of fact in support of his breach of oral contract claim.*

34. Specifically, Plaintiff alleges in Count V that he “trusted Defendants to make proper, accurate and complete calculations, as Plaintiff had done, and to pay Plaintiff accordingly.” Complaint at ¶ 43.⁵ In Count VII at paragraph 58, Plaintiff incorporates the same allegations asserted in his breach of fiduciary duty claim into his fraud claim. Nearly identical allegations are cited in support of Plaintiff’s breach of oral contract claim. *See* Complaint at ¶¶ 34-36. Thus, Plaintiff’s breach of fiduciary duty and fraud claims arise out of the *same conduct* that constitutes the purported breach the alleged oral contract. As such, Counts V and VII are barred by the economic loss rule and should be dismissed.

35. Moreover, “[m]isrepresentations relating to the breaching party’s performance of a contract do not give rise to an independent cause of action in tort, because such misrepresentations are interwoven and indistinct from the heart of the contractual agreement.”

⁵ The numbered paragraphs of Count V of the Complaint are improperly numbered and contain paragraph numbers that are duplicative of the numbered paragraphs of Count IV.

Hotels of Key Largo, Inc. v. RHI Hotels, Inc., 694 So. 2d 74 (Fla. 3d DCA 1997) (Hotel franchisee's claim of fraud against franchisor barred by economic loss doctrine where defendant alleged to have failed to perform contract). Here, Plaintiff's fraud claim clearly relates to the purported failure of the Defendants to perform the alleged contract. See Complaint at ¶¶54-58. Indeed, as noted above, Plaintiff's prayer for his fraud claim reveals that this claim is really a breach of contract claim in sheep's clothing, providing "WHEREFORE, Plaintiff prays for judgment . . . for the full amount of moneys due to Plaintiff under the terms of their contract, . . ."

36. Finally, the economic loss rule applies to statutory causes of action, which are characterized as statutory torts. *Sarkis v. Pafford Oil Co., Inc.*, 697 So. 2d 524, 527 (Fla. 1st DCA 1997) (Civil theft claim barred by economic loss rule). See also *Gambolati v. Sarkisian*, 622 So. 2d 47 (Fla. 4th DCA 1993) and *Gilman Yacht Sales v. First National Bank of Chicago*, 600 So. 2d 1131 (Fla. 4th DCA 1992). Accordingly, Plaintiff's civil theft claim is barred by the economic loss rule and must be dismissed.

F. Counts V (Breach of Fiduciary Duty) and VII (Fraud) Should be Dismissed Because Plaintiff's Alleged Damages, if Any, Result from the Breach of a Purported Contract Rather than From Fraud

37. Additionally, the damages Plaintiff seeks in Counts V and VII are contractual damages -- "the full amount of moneys due to Plaintiff under the terms of their contract." See WHEREFORE clause following paragraph 47 of the Complaint and WHEREFORE clause following paragraph 58. "[N]o cause of action for fraud exists unless there is damage *due to fraud* that is separate from damages that may result from any subsequent contractual breach." *La Pesca Grande Charters, Inc. v. Moran*, 704 So. 2d 710 (Fla. 5th DCA 1998) (emphasis in

original). Here, at most, any damage to Plaintiff, which Defendants deny, stems from the purported breach of the alleged contract. Accordingly, Counts V and VII should be dismissed.

G. Count V (Breach of Fiduciary Duty) Should Be Dismissed Because Plaintiff Has Failed to State a Cause of Action

38. Although Count V fails to specify which of the four (4) Defendants Plaintiff is suing for breach of fiduciary duty and demands judgment against "Plaintiffs" -- all of which is further evidence of the highly confusing, vague and ambiguous nature of Plaintiff's Complaint -- Count V should also be dismissed because it fails to state a cause of action for breach of fiduciary duty.

39. To state a claim for breach of fiduciary duty, Plaintiff must plead, and allege ultimate supporting facts demonstrating, the following elements: (1) Plaintiff and Defendants share a relationship whereby: (a) Plaintiff reposes trust and confidence in Defendants, and (b) Defendants undertake such trust and assume a duty to advise, counsel and/or protect Plaintiff; (2) Defendants breach their duties to Plaintiff; and (3) Plaintiff suffers damages. *Taylor Woodrow Homes Florida, Inc. v. 4/46-A Corp.*, 850 So. 2d 536, 540-541 (Fla. 5th DCA 2003).

40. To the extent Plaintiff is asserting Count V against the Corporate Defendants, Plaintiff has wholly failed to allege any of the requisite elements for a breach of fiduciary duty claim and, therefore, Count V should be dismissed as against AIM and LIC. Moreover, an employer does not owe a general fiduciary duty to its employees. *See, e.g., Eden v. St. Luke's-Roosevelt Hosp. Ctr.*, 96 AD.3d 614 (N.Y. App. Div. 2012) ("Neither an agreement by an employer to share profits with an employee as compensation for the latter's services nor a contract 'of mere hiring and providing for compensation in a particular manner supposedly

tending to induce greater energy and faithfulness on the part of the employee' creates a fiduciary relationship between the employer and employee.") (internal citations omitted).

41. To the extent Plaintiff seeks to assert Count V against Ted, Plaintiff's Complaint fails to allege how Ted, a minority shareholder of the Corporate Defendants, owed any duty to Plaintiff. Plaintiff cannot plead a viable fiduciary relationship by merely alleging a bestowal of trust and confidence in Ted. "A party must allege some degree of dependency on one side and some degree of undertaking on the other side to advise, counsel, and *protect the weaker party*." *Watkins v. NCNB Nat'l Bank of Fla., N.A.*, 622 So. 2d 1063, 1065 (Fla. 3d DCA 1993) (emphasis added).

42. Plaintiff does not -- and cannot allege -- that he was the "weaker party" in his relationship with Ted because Plaintiff admits that he was a sophisticated, knowledgeable and highly regarded business person in the insurance industry. See Complaint at ¶ 8. The only affiliation between Plaintiff and Ted, besides being in an alleged "social relationship",⁶ was that of business associates, which is in and of itself insufficient to support a fiduciary duty claim. See *Orlinsky v. Patraha*, 971 So. 2d 796, 800 (Fla. 3d DCA 2007) ("the only relation between Orlinsky and Patraha, besides being brothers-in-law, was that of business associates. Patraha has not cited any case where a general fiduciary duty has been found in the context of two business associates.").

43. Here, because Ted did not owe a fiduciary duty to Plaintiff, Count V of Plaintiff's Complaint must be dismissed.

⁶ Complaint at Count V, ¶ 42.

H. Count VI (Civil Theft) Should Be Dismissed Because Plaintiff Has Failed to State a Cause of Action

44. In Florida, civil theft is a statutory form of conversion. *Sarkis v. Pafford Oil Co.*, 697 So. 2d 524, 528 (1st DCA 1997). In order to state a claim for civil theft, a complaint must allege that the defendant knowingly obtained or used, or endeavored to obtain or to use the plaintiff's property with the intent to temporarily or permanently deprive the plaintiff of a right to property or a benefit from the property; or the defendant appropriated the plaintiff's property for use by the defendant or another person who does not have a right to use the property. See *Palmer v. Gotta Have It Golf Collectibles, Inc.*, 106 F. Supp. 2d 1289, 1303 (S.D. Fla. 2000) (interpreting Florida's civil theft statute). "Further, it is necessary to show not only that defendant obtained or endeavored to obtain the plaintiff's property, but that he did so with felonious intent to commit theft." *Id.* (internal quotations omitted).

45. The Fourth District Court of Appeal has held that where the property at issue is also the subject of a contract -- as is the case here -- there must be an intricate sophisticated scheme of deceit and theft to maintain a separate count for civil theft. *Gersh v. Coffman*, 769 So. 2d 407, 409 (Fla. 4th DCA 2000). Plaintiff's complaint is devoid of any allegations detailing or even suggesting a "sophisticated scheme of deceit and theft". Accordingly, Count VI should be dismissed.

46. Further, in order to maintain a claim for civil theft, the property that is alleged to have been converted must consist of specific money capable of identification. *Belford Trucking Co. v. Zagar*, 243 So. 2d 646, 648 (Fla. 4th DCA 1970). Additionally, "[a] debt which may be discharged by the payment of money in general cannot form the basis for conversion." *Gambolati v. Sarkisian* 622 So. 2d 47, 50 (Fla. 4th DCA 1993). Here, Plaintiff alleges generally

that he did not receive certain compensation rather than an entitlement to *specific* dollars capable of identification. Indeed, in the Complaint, Plaintiff admits he received his salary for 2007. See Complaint at ¶ 18. Thus, the only other period within the five year statute of limitations, per Florida Statute § 772.11, would be in 2008 -- the period in which he claims he had a contract to be paid a salary of \$1 million plus his proportionate interest in any profits. See Complaint at ¶ 21. By its very terms, the alleged contract does not relate to *specific* funds capable of identification as required under Florida law to state a viable claim for civil theft. *Mazza v. Rose Media Group, Inc.*, 937 So. 2d 307, 310 (Fla. 4th DCA 2006). Accordingly, Count VI should be dismissed.⁷

I. Count VII (Fraud) Must be Dismissed Because Plaintiff Fails to Properly Plead the Required Elements to State a Claim for Fraud

47. To state a claim for fraud, a pleader must allege “[a] false representation of a material fact, made with knowledge of its falsity, to a person ignorant thereof, with intention that it shall be acted upon, followed by reliance upon and by action thereon amounting to *substantial change of position*, is a fraud of which the law will take cognizance.” *Biscayne Boulevard Properties, Inc. v. Graham*, 65 So. 2d 858 (Fla. 1953) (emphasis added). “For fraud and deceit to be actionable, there must have been a false representation of a material fact made for the purpose of inducing *another to change position, which change in position was occasioned by reliance on the false representation* to the damage of the one to whom the representation was made.” *Goodman v. Strassburg*, 139 So. 2d 163 (Fla. 3d DCA 1962)(emphasis added). Here, although Plaintiff alleges he relied upon “false statements and the withholding of material

⁷ Inasmuch as Plaintiff’s civil theft claim is nothing more than a breach of contract claim, Plaintiff’s civil theft claim is not viable. As such, Defendants are entitled, as a matter of law, to their attorneys’ fees under Florida Statutes § 772.11 and § 812.035(7).

information”, he fails to allege that he has changed his position in any way. *See* Complaint at ¶ 57. As a result, Count VII should be dismissed.

48. Further, Count VII should be dismissed for the additional reason that Plaintiff has failed to plead fraud with particularity, as required by Fla. R. Civ. P. 1.120(b). “The factual basis for a claim of fraud must be pled with particularity and must specifically identify misrepresentations or omissions of fact, as well as time, place or manner in which they were made.” *Cedars Healthcare Group, Ltd. v. Mehta*, 16 So. 3d 914, 917 (Fla. 3d DCA 2009).

49. Here, Plaintiff fails to allege with particularity the who, what, when and how underlying his purported fraud claim. Instead, Plaintiff lumps all four (4) Defendants together and summarily alleges that Defendants “made false statements to him and withheld information from him.” *See* Complaint at ¶ 54. There is no allegation with any particularity as to the substance of any false statement(s) or the time frame or the context in which any alleged statement(s) were made or omitted when there was a duty to speak.

50. Plaintiff’s vague allegations regarding purported false statements and withheld information falls short of the heightened fraud pleading requirements under Rule 1.120(b) and is insufficient to support a claim for fraud.

J. Count VIII (Equitable Lien) and Count X (Constructive Trust) Should Be Dismissed For Failure to State a Cause of Action

51. In paragraphs 60 and 61 of Count VIII and paragraph 67 of Count X, Plaintiff alleges he was entitled to a share of “commissions received by Defendants.” However, in paragraph 21, as reincorporated in Count VIII by paragraph 59 and paragraph 66 in Count X, Plaintiff alleges his compensation changed in “early 2008” and he was no longer entitled to a

share of any commissions.⁸ Thus, Counts VIII and X are internally inconsistent, rendering Counts VIII and X subject to dismissal. See *Peacock v. General Motors Acceptance Corp.*, 432 So. 2d 142, 146 (Fla. 1st DCA 1983) (“contradictory allegations within a single count neutralize each other and render the count insufficient on its face”, even where they are “incorporated in that count” from a prior count of the complaint).

52. Even assuming Plaintiff’s allegations were not inconsistent and self-defeating, Plaintiff has failed to properly plead the elements required for the imposition of an equitable lien. Under Florida law, “the basis of equitable liens may be estoppel or unjust enrichment.” *Golden v. Woodward*, 15 So.3d 664 (Fla. 1st DCA 2009). In Count VIII, Plaintiff appears to be proceeding under a theory of unjust enrichment, however, Plaintiff has failed to properly plead the elements of an unjust enrichment claim to support an equitable lien claim.⁹ Instead, Plaintiff merely alleges an equitable lien should be imposed “out of general considerations of right and justice as applied to the relations of the parties and the circumstances of their dealings.” See Complaint at ¶ 61.

53. Further, Plaintiff has failed to properly state a claim for the imposition of a constructive trust.¹⁰ A constructive trust may be imposed only where there is a wrongful taking of the property of another. *Finkelstein v. Southeast Bank, N.A.*, 490 So. 2d 976, 984 (Fla. 4th DCA 1986). To establish a claim for the imposition of a constructive trust, a plaintiff must

⁸ As discussed above, the statute of limitations prevents Plaintiff from seeking an equitable lien over commissions purportedly due and payable to him prior to “early 2008”, when his compensation allegedly changed.

⁹ The elements of a claim for unjust enrichment are: “(1) plaintiff has conferred a benefit on the defendant, who has knowledge thereof; (2) defendant voluntarily accepts and retains the benefit conferred; and (3) the circumstances are such that it would be inequitable for the defendant to retain the benefit without paying the value thereof to the plaintiff.” *Hillman Const. Corp. V. Wainer*, 636 So. 2d 576, 577 (Fla. 4th DCA 1994).

¹⁰ Plaintiff’s allegations in Count VIII (Equitable Lien) and IX Constructive Trust are virtually indistinguishable. While Plaintiff’s Complaint fails to identify which of the four (4) Defendants Plaintiff is suing in Counts VIII and X and prays for judgment against “Plaintiffs” in the WHEREFORE clause to both counts, Plaintiff’s Equitable Lien and Constructive Trust claims are subject to dismissal at least against Defendant Ted, individually, for the reasons set forth in III.B. *supra*.

prove: “(1) a promise, express or implied; (2) a transfer of the property and reliance thereon; (3) a confidential relationship; and (4) unjust enrichment.” *Abreu v. Amaro*, 534 So. 2d 771, 772 (Fla. 3d DCA 1988).

54. Here, Plaintiff was never the legal holder of the property for which he seeks to have the Court impose a constructive trust, thereby subjecting Count X to dismissal. At most, Plaintiff was entitled to a percentage of the commissions, well prior to his compensation allegedly changing in “early 2008” and the running of the statute of limitations. See Complaint at ¶ 21. Plaintiff’s allegations admit that Plaintiff never owned the commissions he now claims he is entitled to have a constructive trust placed over.¹¹ Thus, Plaintiff’s claim for imposition of a constructive trust should be dismissed.

55. Moreover, to obtain a constructive trust, the *res* over which the trust is sought must be specifically identifiable property. *Trend Setter Villas of Deercreek v. Villas on the Green, Inc.*, 569 So. 2d 766, 768 (Fla. 4th DCA 1990). Here, Plaintiff alleges generally that he did not receive certain compensation rather than an entitlement to *specific* dollars capable of identification. Plaintiff’s allegations admit that he was entitled to payment generally, rather than to receive specific dollars. Thus, Plaintiff cannot state a viable claim for the imposition of a constructive trust. Accordingly, Count X should be dismissed.

K. Counts VIII (Equitable Lien) and IX (Contract Implied in Law) Should be Dismissed for Failure to State a Cause of Action

56. In pleading an unjust enrichment claim, where an express contract exists, a claim for unjust enrichment will fail.¹² Similarly, where an express contract exists, a claim for an

¹¹ Once again, it is insufficient for Plaintiff to broadly lump the Defendants together as he does throughout Count X. Plaintiff fails to allege to which of the Defendants he purportedly transferred any property.

¹² Among the elements required for pleading a claim for unjust enrichment is that the plaintiff “conferred a benefit upon the defendant, who has knowledge thereof.” *Hillman* 636 So. 2d at 577. Here, Plaintiff broadly alleges he

equitable lien premised upon allegations of unjust enrichment must also fail. *Diamond "S" Development Corp. v. Mercantile Bank*, 989 So. 2d 696 (Fla. 1st DCA 2008). Here, paragraph 59 of Count VIII reincorporates the allegations of paragraph 21, which allege an express contract. Similarly, paragraph 62 of Count IX reincorporates the allegations of paragraph 21.¹³ Thus, Plaintiff's Counts VIII and IX must be dismissed.

L. Count XI (Indemnification) Should Be Dismissed As Premature and For Failure to State a Cause of Action

57. In Count X, Plaintiff seeks indemnification from Defendants from *potential future claims* by insurance companies which may seek a refund of commissions allegedly paid to Plaintiff. Although it is unclear as to whether Count XI is a claim for common law indemnification or statutory indemnification, Count XI is premature under either theory of recovery and, therefore, should be dismissed.

58. "In order for a common law indemnity claim to stand, a two-pronged test must be satisfied: (1) the indemnitee must be faultless and (2) the indemnitee's liability must be solely vicarious for the wrongdoing of another." *Zeiger Crane Rentals, Inc. v. Double A Indus., Inc.*, 16 So. 3d 907, 911 (Fla. 4th DCA 2009) (citing *Gen. Portland Land Dev. Co. v. Stevens*, 395 So. 2d 1296, 1299 (Fla. 4th DCA 1981)). A common law indemnity claim is *premature* if a judgment has not been entered. *Mellish Enters., Inc. v. Weatherford Int'l, Inc.*, 678 So. 2d 913,

conferred upon Defendants the benefit of "possessing and controlling the paperwork revealing commissions received and by agreeing that Defendants would assume the function of calculating amounts due the parties...." However, in paragraph 62, Plaintiff incorporates paragraph 6 into Count IX. Paragraph 6 alleges, in relevant part, that Ted and Simon "both own and control all of the corporate Defendants." Taking this allegation regarding the ownership and control of the Corporate Defendants as true for the purposes of this motion, as the shareholder/managing members of the Corporate Defendants, Ted (and Simon) were undoubtedly entitled to "possess and control the paperwork of the Corporate Defendants" and to "calculat[e] the amounts due the parties." Plaintiff's suggestion that he somehow broadly conferred a benefit upon *all* the Defendants, particularly Ted, turns the rights and benefits of corporate ownership on its head and ignores corporate law. Accordingly, because Plaintiff has not conferred a benefit upon the Defendants, collectively, or individually, Count IX should be dismissed.

¹³ While Plaintiff seeks judgment against all of the Defendants in Count IX, Plaintiff's Contract Implied In Law claim is subject to dismissal against Ted individually for the reasons set forth in III.B. *supra*.

914 (Fla. 4th DCA. 1996) ("The entry of a judgment provides the prerequisite for an indemnification action, not payment of the judgment.") (citing *Flagship Nat'l Bank v. Gray Distrib. Sys., Inc.*, 485 So. 2d 1336, 1342 (Fla. 3d DCA 1986)).

59. Here, assuming that Count XI is a common law indemnification claim, the claim is premature and subject to dismissal because a judgment has not been entered against Plaintiff, nor has Plaintiff made such an allegation.

60. Similarly, statutory indemnification, which is governed by Section 607.0850(3), Florida Statutes, states:

To the extent that a director, officer, employee, or agent of a corporation has ***been successful on the merits or otherwise in defense of any proceeding*** referred to in subsection (1) or subsection (2), or in defense of any claim, issue, or matter therein, ***he or she shall be indemnified against expenses actually and reasonably incurred by him or her in connection therewith.***

(emphasis added).

61. Plaintiff is currently not "a party to any proceeding" as required in subsections (1) and (2) of the statute, nor is Plaintiff currently defending a proceeding which may result in indemnification under subsection (3). Accordingly, Count XI should be dismissed as premature.

62. Further, with respect to Defendant Ted, Plaintiff has failed to allege how Ted could be personally liable to indemnify Plaintiff. Plaintiff does not allege that he entered into any contract or agreement whereby Ted agreed to indemnify and hold Plaintiff harmless. Moreover, to the extent Count XI is a claim for statutory indemnification, such a claim would not cover Defendant Ted, a mere shareholder/officer of the Corporate Defendants.

IV. ALTERNATIVE MOTION FOR MORE DEFINITE STATEMENT

63. In the event the Court is not inclined to grant any portion of Defendants' Motion to Dismiss, Defendants Ted, LIC and AIM move for a more definite statement.

64. Florida R. Civ. P. 1.140(e) provides that "[i]f a pleading . . . is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, that party may move for a more definite statement before interposing a responsive pleading." *See also Conklin v. Bpyd*, 189 So. 2d 401, 403 (Fla. 1st DCA 1996) (holding that the "function of a motion for a more definite statement is to require that a vague, indefinite or ambiguous pleading be so amended so as to enable the party required to respond thereto, to intelligently discern the issues to be litigated and to properly frame its answer or reply.").

65. As set forth above, Plaintiff's Complaint is so vague, confusing, contradictory and meandering that it is virtually impossible to prepare a response to the allegations.

66. Among other things, Plaintiff lumps all four (4) Defendants -- which are separate and distinct individuals and legal entities -- together in his allegations, essentially alleging that everyone did everything. This type of pleading makes it virtually impossible for each of the Defendants to frame an appropriate response. Plaintiff's improper grouping of all of the Defendants in this action fails to distinguish each Defendant's particular conduct, fails to put each Defendant on adequate notice of the claims asserted against them and thereby fails to meet basic pleading requirements.

67. Moreover, Plaintiff fails to allege the which of the Corporate Defendants were parties to the purported oral contract(s) which serve the basis for Plaintiff's suit. In fact, it is unclear from the Complaint whether Plaintiff contends that multiple alleged oral contracts were


entered into. Plaintiff also fails to outline the material terms of the alleged oral contract(s) and fails to allege when the purported breach(es) occurred.

68. At the very least, Plaintiff should be required to provide a more definite statement of his allegations against each specific Defendant and a more definite statement regarding the parties and terms of the alleged oral contract(s) upon which this action is purportedly based.

WHEREFORE, Defendants, TED S. BERNSTEIN, LIC HOLDINGS, INC., and ARBITRAGE INTERNATIONAL MANAGEMENT, L.L.C., f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, L.L.C., respectfully request entry of an Order: (i) granting this Motion and dismissing Plaintiff's Complaint in its entirety; (ii) awarding Defendants' their reasonable attorneys' fees and costs pursuant to Fla. Stat. §§ 772.11 and 812.035(7); (iii) or, in the alternative, requiring Plaintiff file a more definite statement as to any count not dismissed, and (iv) for such other relief as this Court deems just and proper.

Dated this 1st day of October, 2012.

GREENBERG TRAUIG, P.A.
401 East Las Olas Boulevard, Suite 2000
Fort Lauderdale, Florida 33301
Telephone: (954) 765-0500
Facsimile: (954) 765-1477

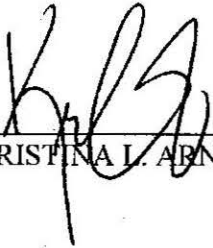
By: 
JON L. SWERGOLD
Florida Bar No. 0108510
swergoldj@gtlaw.com

✓ **KRISTINA L. ARNSDORFF**
Florida Bar No. 0040596
arnsdorffk@gtlaw.com

Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via e-mail upon: **Peter M. Feaman, Esq.** and **Kenneth D. Stern, Esq.**, pfeaman@feamanlaw.com, kdstern@gmail.com, 3615 W. Boynton Beach Blvd., Boynton Beach, FL 33436, on this 1st day of October, 2012.



KRISTINA L. ARNSDORFF

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

WILLIAM E. STANSBURY,

CASE NO. 502012CA013 933XXXXMB AA

Plaintiff,

vs.

TED S. BERNSTEIN, SIMON
BERNSTEIN, LIC HOLDINGS, INC., and
ARBITRAGE INTERNATIONAL
MANAGEMENT, L.L.C., f/k/a
ARBITRAGE INTERNATIONAL
HOLDINGS, L.L.C.,

Defendants.

NOTICE OF TAKING DEPOSITION

DUCES TECUM

FILED
12 OCT 16 PM 1:22
SHARON R. SOOK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CIVIL 4

TO: **RECORDS CUSTODIAN
PETER M. FEAMAN, P.A
3615 BOYNTON BEACH BLVD.
BOYNTON BEACH, FL 33436**

PLEASE TAKE NOTICE that at the date, time, and place specified below, the Defendants will take the following deposition:

Deponent	Date and Time	Location
Peter M. Feaman, Esquire	October 19, 2012 @ 10:00 a.m.	Greenberg Traurig, P.A. 5100 Town Center Circle Suite 400 Boca Raton, FL 33486

upon oral examination, before a Notary Public in and for the State of Florida, or any other officer duly authorized to administer oaths by the laws of the state. The deposition will continue from hour to hour and from day to day until completed. The deposition is being taken for the purpose of discovery, for use at trial, or both of the foregoing, or such other purposes as are permitted under the applicable and governing rules.

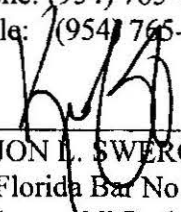
NOTICE TO DISABLED PERSONS

In accordance with the Americans with Disabilities Act, all persons who are disabled and who need special accommodations to participate in this proceeding should contact the attorney whose name appears on this Notice not later than five (5) business days prior to the proceeding.

Respectfully submitted,

GREENBERG TRAUIG, P.A.
Attorneys for Defendants
401 East Las Olas Boulevard, Suite 2000
Fort Lauderdale, Florida 33301-4223
Telephone: (954) 765 -0500
Facsimile: (954) 765-1477

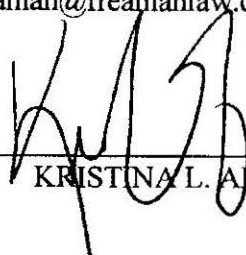
By:



JON L. SWERGOLD
Florida Bar No. 108510
swergoldj@gtlaw.com
✓ KRISTINA L. ARNSDORFF
Florida Bar No. 40596
arnsdorffk@gtlaw.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent by electronic mail and U.S. Mail to Peter M. Freaman, P.A., Peter M. Freaman, Esquire, 3615 Boynton Beach Blvd., Boynton Beach, FL 33436, pfreaman@freamanlaw.com this 12th day of October, 2012.



KRISTINA L. ARNSDORFF

FTL108.937,731v1 141289.010100

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

CASE NO: 502012CA013 933XXXXMB AA

WILLIAM E. STANSBURY,

Plaintiff,

vs.

TED S. BERNSTEIN, SIMON BERNSTEIN,
LIC HOLDINGS, INC., and ARBITRAGE
INTERNATIONAL MANAGEMENT, L.L.C.,
f/k/a ARBITRAGE INTERNATIONAL
HOLDINGS, L.L.C.,

Defendants.

**SUBPOENA DUCES TECUM
FOR DEPOSITION**

FILED
12 OCT 16 PM 1:22
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CIVIL 4

THE STATE OF FLORIDA:

To: **RECORDS CUSTODIAN
PETER M. FEAMAN, P.A
3615 BOYNTON BEACH BLVD.
BOYNTON BEACH, FL 33436**

YOU ARE HEREBY COMMANDED to appear before a person authorized by law to take deposition at the law offices of Greenberg Traurig, P.A., 5100 Town Center Circle, Suite 400, Boca Raton, Florida 33486 on **October 19, 2012 at 10:00 a.m.**, and to have with you at said time and place any and all documents identified on SCHEDULE A attached to this subpoena which are in your possession, custody or control. All of the documents described in Schedule "A" which are in your possession, custody or control must be preserved and not destroyed. These items will be inspected and may be copied at that time. You will not be required to surrender the original items.

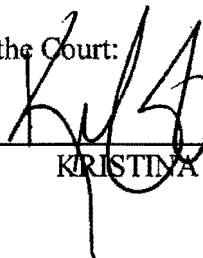
If you fail to comply with this Subpoena, you may be in contempt of Court.

You are subpoenaed by the attorney whose name appears on this subpoena and unless excused from this subpoena by the attorney or the Court, you shall respond to this subpoena as directed.

****IMPORTANT:** IF YOU WITHHOLD ANY INFORMATION THAT IS REQUESTED IN THIS SUBPOENA BY CLAIMING THAT IT IS PRIVILEGED OR SUBJECT TO PROTECTION AS TRIAL PREPARATION MATERIAL, THEN PURSUANT TO Fla. R. Civ. P. 1.280(b)(5), YOU SHALL MAKE THE CLAIM OF PRIVILEGE EXPRESSLY AND DESCRIBE THE NATURE OF THE DOCUMENT, COMMUNICATIONS, OR THINGS NOT PRODUCED OR DISCLOSED IN A MANNER THAT, WITHOUT REVEALING INFORMATION ITSELF PRIVILEGED OR PROTECTED, WILL ENABLE THE UNDERSIGNED TO ASSESS THE APPLICABILITY OF THE PRIVILEGE OR PROTECTION. IF YOU FAIL TO PRODUCE AND PROVIDE THE REQUIRED PRIVILEGE LOG, YOU MAY BE IN CONTEMPT OF COURT.

DATED ON this 12th day of October, 2012.

For the Court:



KRISTINA ARNSDORFF

JON L. SWERGOLD
Florida Bar No. 0108510
KRISTINA L. ARNSDORFF
Florida Bar No. 0040596
GREENBERG TRAUIG, P.A.
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Telephone: (954) 765-0500
Facsimile: (954) 765-1477

NOTICE TO DISABLED PERSONS

In accordance with the Americans with Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this proceeding because of that disability should contact the attorney whose name appears on this Notice not later than five (5) business days prior to the proceeding.

FTL108.932.674v1 141289.010100

SCHEDULE "A"

I. INSTRUCTIONS

1. You shall specify which documents are produced in response to each of the numbered paragraphs. If any document herein requested was formerly in your possession, custody, or control and is no longer in your possession or has been lost or destroyed, you are requested to submit in lieu of each document a written statement that:

- a. describes in detail the nature of the document and its contents;
- b. identifies the person who prepared or authored the document and, if applicable, the person to whom the document was sent;
- c. specifies the date on which the document was prepared or transmitted or both; and
- d. specifies, if possible, the date on which the document left your possession, or was lost or destroyed, and if destroyed, the conditions of or reasons for such destruction and the persons requesting and performing the destruction.

2. If you object to fully identifying a document or oral communication because of a privilege, you must nevertheless provide the following information, unless divulging the information would disclose the privileged information:

- a. the nature of the privilege claimed (including work product);
- b. if the privilege being asserted is in connection with a claim or privilege governed by state law, the state law privilege rule being invoked;
- c. the date of the document or oral communication;
- d. if a document: its type (correspondence, memorandum, facsimile, etc.), custodian, location and such other information sufficient to identify the document for a subpoena duces tecum or a document request, including where appropriate the author, addressee and, if not apparent, the relationship between the author and addressee;
- e. if an oral communication: the place where it was made, the names of the persons present while it was made and, if not apparent, the relationship of the persons present to the declarant; and
- f. the general subject matter of the document or oral communication.

3. The singular form of a noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronoun, and vice versa. The masculine form of a noun or pronoun shall be considered to include within its meaning the feminine form of the noun or pronoun, and vice versa.

4. Regardless of the tense employed, all verbs shall be read as applying to the past, present and future as is necessary to make any paragraph more, rather than less, inclusive.

II. DEFINITIONS

1. "You," or "your" shall refer to PETER M. FEAMAN, P.A., its representatives, agents, affiliates, attorneys, officers, employees and all persons acting or purporting to act on its behalf.

2. "Stansbury" shall refer to WILLIAM ("BILL") STANSBURY and his representatives, agents, affiliates, attorneys, employees and all persons acting or purporting to act on his behalf.

3. "Communication" shall mean any oral or written statement, dialogue, colloquialism, discussion, conversation, agreement, or other transfer of thoughts or ideas between persons by any means.

4. "Document" or "documents" as used herein shall mean the original and any copy, regardless of its origin and location, of all writings of any kind whatsoever including, but not limited to, all abstracts, accounting journals, accounting ledgers, advertisements, affidavits, agendas, agreements or proposed agreements, analyses, appointment books, appraisals, articles of incorporation, balance sheets, bank checks, bank deposit or withdrawal slips, bank creditor debit memoranda, bank statements, blueprints, books, books of account, budgets, bulletins, bylaws, canceled checks, charts, checks, codes, communications, communications with government bodies, computer data or printouts, conferences, contracts, correspondence, electronic mail, data processing cards, data sheets, desk calendars, details, diagrams, diaries, disks or data compilations from which information can be obtained or translated, drafts, drawings, electromagnetic tapes, files, films, financial calculations, financial projections, financial statements, graphs, handwritten notes or comments however produced or reproduced, indexes, insertions, instructions, internal accounting records, interoffice communications, invoices, ledgers, letters, lists, logbooks, manuals, memoranda, microfilm, minutes of meetings, motion pictures, newspaper or magazine articles, networks, nonconforming copies which contain deletions, notations or records of meetings, notes, notices of wire transfer of funds, outlines, pamphlets, papers, passbooks, periodicals, photocopies, photographs, pictures, plans, preliminary drafts, press releases, proposals, publications, punch cards, raw and refined data, receipts, recommendations, records, records of conferences or conversations or meetings, records of payment, reports, resolutions, results of investigations, schedules, schematics, sepias, shipping papers, slides, specifications, speeches, statements of account, studies, summaries, surveys, tape recordings, tax returns, telegrams, telephone logs and records, telephone and other conversations or communications, teletypes, telexes, transcripts, transcripts of tape recordings, video tapes, voice records, vouchers, work papers, worksheets, written notations, and any and all other papers similar to any of the foregoing. Any document containing thereon or attached thereto any alterations, comments, notes or other material not included in the copies or originals or referred to in the preceding definition shall be deemed a separate document within said definition. Any document shall include all exhibits, schedules or other writings affected by or referenced in any such document or other writings necessary to complete the information contained therein or make it not misleading.

5. "And" and "or" as used herein are terms of inclusion and not of exclusion, and shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the request for production of documents any document or information that might otherwise be construed to be outside its scope.

6. "Any" means one or more.

7. "Describe," "discuss," "analyze," "describing," "discussion," or "analyzing," mean any document that, in whole or in part, characterizes, delineates, explicates, deliberates, evaluates, appraises, assesses or provides a general explanation of the specified subject.

8. "Person" means the plural as well as the singular and shall include any association, company, firm, governmental agency or body, institute, joint venture, natural person, partnership, sole proprietorship, or other legal entity, whether privately or publicly owned or controlled, for-profit or not-for-profit, or partially or fully government owned or controlled.

9. "Reflecting," "relating to," or "referring to" means expressly stated in, mentioned, described, making reference to or cross-reflecting to, naming, quoting or summarizing statements made by, attached or otherwise physically connected to, or printed in or on any Document, or otherwise containing information which discloses the identity or location of the Persons or items referenced to in the Requests.

10. "All" means "any" and "all."

III. DOCUMENTS TO BE PRODUCED

1. Copies of all checks provided to you by Stansbury drawn by any insurance company as referenced in Peter Feaman's letter of June 20, 2012, a copy of which is attached hereto.
2. Any and all trust account records created and/or maintained by you reflecting deposits and/or withdrawals made by you of any insurance company checks provided to you by Stansbury.
3. Any and all documents reflecting checks received by Stansbury drawn by any insurance company that have not been deposited by you into your trust account.
4. All trust account banking records reflecting any deposits and/or withdrawals made by you of any insurance company checks provided to you by Stansbury.
5. All communications of any kind whatsoever between and among Stansbury and Phoenix Life Insurance Company.
6. All communications of any kind whatsoever between and among Stansbury and TransAmerica Life Insurance Company
7. All communications of any kind whatsoever between and among Stansbury and any life insurance company relating to the payment of commissions.
8. All communications of any kind whatsoever between and among Stansbury and any life insurance company where "Stansbury is listed as the qualifying agent" and who Stansbury has informed that "all future renewal commissions paid to him personally be sent to Mr. Stansbury at his home address," as referenced in Peter Feaman's June 20, 2012 letter, a copy of which is attached hereto.

The Law Offices
of
PETER M. FEAMAN, P.A.
Strategic Counsel. Proven Advocate.™



Main Office:
3615 Boynton Beach Blvd.
Boynton Beach, FL 33436

Branch Office:
7900 Glades Road
Boca Raton, FL 33434

Peter M. Feaman, Esq.
Nancy E. Guffey, Esq.
Of Counsel

Telephone: (561) 734-5552
Facsimile: (561) 734-5554
pfeaman@feamanlaw.com

June 20, 2012

Via Certified Mail, Return Receipt Requested

PERSONAL and CONFIDENTIAL

Mr. Ted Bernstein, President
LIC Holdings, Inc.
950 Peninsula Corp Circle
Suite 3010
Boca Raton, FL 33487

Re: William (Bill) Stansbury

Dear Mr. Bernstein:

The undersigned represents William (Bill) Stansbury and we are writing this letter on his behalf. Mr. Stansbury received your proposed letter agreement reflecting LIC Holdings' proposal to indemnify its shareholders concerning policies sold under the Cambridge Financing Program. As a result of your proposal, Mr. Stansbury has reviewed with me in detail his dealings with you and your companies over the past 4 to 5 years.

After reviewing the facts with Mr. Stansbury, some of which will be summarized below, I was shocked that he had not consulted legal counsel until now. Be that as it may, and based upon the facts presented to us, we believe you have engaged in fraud, civil theft, breaches of fiduciary duties, and breach of contract, just to name a few. The purpose of this letter is to a). respond to your indemnity proposal and b). request that you pass this letter on to your counsel immediately in the off-chance that these very serious matters can be resolved prior to the filing of legal action. The issues can be summarized as follows:

1. The first issue concerns you and your company's failure to pay salary compensation to Mr. Stansbury. Mr. Stansbury has been making inquiries concerning this for the past 5 months, but to no avail. Mr. Stansbury's claim for unpaid salary arises from three categories:

a. Failure to pay salary based on net retained commissions.

i. Based upon reports prepared by your company for the period of 2007 through 2011, LIC Holdings, Inc. and/or Arbitrage International Holdings, n/k/a Arbitrage International Management, LLC, received \$35,384,246.00 in net retained commissions. According to Mr. Stansbury's salary arrangement, he is entitled to 15% of those net retained commissions, which amounts to \$5,307,636.90. During this time period, Mr. Stansbury's salary compensation was \$2,844,910.00. The shortfall in salary owed to Mr. Stansbury is \$2,462,726.90.

ii. There is salary compensation owed to Mr. Stansbury as a result of bridge loans in 2008. You received a \$2,000,000.00 settlement in 2010 resulting from the resolution of a lawsuit involving Global Secured Capital. Mr. Stansbury is entitled to 15% of those funds, which is \$300,000.00.

iii. In addition, you received \$507,891.00 in commissions in connection with the Biviano matter. Mr. Stansbury is entitled to 15% of those funds, which is \$76,183.65.

iv. In April of 2012, you received three commissions totaling approximately \$200,000.00 in the Levine, Wiss and Berley matters. Mr. Stansbury has been requesting payment of this for weeks, again to no avail. Mr. Stansbury is due salary compensation for these items in the amount of \$30,000.00.

Therefore, Mr. Stansbury's total claim for salary arising out of net retained commissions is approximately \$2,868,910.55.

The liability for payment of this salary is not limited to LIC Holdings, Inc. or Arbitrage International Management, LLC. This liability also flows to you individually as a result of your breaches of your fiduciary duty owed to Mr. Stansbury and utter failure to abide by corporate governance standards, which conduct is more particularly described below.

b. Mr. Stansbury is also due unpaid salary based on 15% of all renewal commissions since 2008. Mr. Stansbury's salary claim for renewal commissions cannot as yet be determined with specificity due to the fact that you and your office have been opening mail directed to Mr. Stansbury and negotiating checks made payable to him by falsifying his endorsement and depositing those checks into accounts which only you control. This conduct constitutes civil theft and breach of fiduciary duty. We believe this claim amounts to hundreds of thousands of dollars.

c. Salary compensation for 2008. Mr. Stansbury has recently learned that you and Mr. Simon Bernstein received \$8,982,124.00 in salary in 2008. By contrast, Mr. Stansbury received \$420,018.00, paid to him in January 2008, based on policies sold in 2007. He received zero (no salary compensation) for his 2008 production. It is obvious that you and Simon treated your corporations as personal ATM machines, while completely ignoring your fiduciary

responsibilities to your employee and minority shareholder, Mr. Stansbury. It further appears that after the exorbitant salaries were paid to you, you then loaned the money back to the corporation at an interest rate significantly above market rates in order to meet the cash flow needs of the various entities, again, clearly disregarding your corporate governance responsibilities.

2. Indemnification issues.

Mr. Stansbury has been served with three lawsuits from Phoenix Insurance Company and one from Mr. Wright seeking indemnification as a result of agent misconduct which was in no way attributable to the conduct of Mr. Stansbury. Although all of these matters have been settled, because he was the qualifying agent of record for other policies, he could be the subject of future litigation for refunds of commissions paid. All of these commissions were paid over to you or your companies.

The Indemnification Agreement which you sent to Mr. Stansbury is completely insufficient. You have a duty as a matter of law to indemnify Mr. Stansbury. Your offer of future indemnity is contingent upon "all" commissions that have been received by LIC's present or past shareholders be turned over to LIC. This is nothing short of extortion. Further, your second paragraph states that LIC is "presently insolvent" and has a "negative net worth." You then conclude with the sentence that with the indemnification agreement in place, LIC "may" have sufficient funds to meet its current obligations. Therefore, a simple indemnification from LIC Holdings to Mr. Stansbury is insufficient. Any such indemnification would have to be personally guaranteed by you and Mr. Simon Bernstein.

3. Unauthorized interception of U.S. Mail.

I have been given the understanding that your office has been opening mail directed to Mr. Stansbury personally. This is a federal offense and also constitutes a breach of the fiduciary duty you owe to Mr. Stansbury as an employee and minority shareholder.

There has been no accounting to Mr. Stansbury for any of the checks which may have been sent to him personally on which his signature has been forged, the checks cashed and placed out of the reach of Mr. Stansbury. In 2012, Mr. Stansbury has been receiving checks from Phoenix Life Insurance Company and TransAmerica Life Insurance Company. Mr. Stansbury has been holding these checks. They have now been remitted to the undersigned as attorney for Mr. Stansbury. This office is holding these funds in a separate interest-bearing trust account pending the resolution of this matter.

With regard to all of the other insurance companies for whom Mr. Stansbury is listed as the qualifying agent, he has now informed those companies that all future renewal commissions paid to him personally be sent to Mr. Stansbury at his home address. These funds will then be remitted to the undersigned counsel of record for Mr. Stansbury. We will place these funds in a separate interest-bearing trust account as well. Any attempts by you to contact these insurance

companies will be considered a tortious interference of his business relationship and such activity will be added as a claim in any future legal proceedings.

4. Shareholder status.

Mr. Stansbury has been a 10% shareholder of LIC Holdings, Inc., pursuant to the terms of a Shareholders Agreement. On behalf of Mr. Stansbury, demand is hereby made, pursuant to Florida Statute 607.1602, for inspection of the corporate records including the following:

I. Minutes of the Board of Directors meetings from January 1, 2008 to the present.

II. Minutes of Shareholders' meetings from January 1, 2008 to the present.

III. Records of any actions taken by the Shareholders and/or the Board of Directors without a meeting, from January 1, 2008 to the present.

IV. Accounting and financial records of LIC Holdings, Inc., Arbitrage International Management, LLC, formerly known as Arbitrage International Holdings, LLC, and all other subsidiary or affiliated companies under your control, including, without limitation, income tax returns, general ledgers, balance sheets, profit and loss statements, stock books, bank statements, loan agreements or guarantees, and any other financial books and records from January 1, 2008 to the present.

Mr. Stansbury is seeking to inspect these records in good faith and for the purpose of determining if misappropriation of corporate assets for improper purposes has previously taken or is presently taking place.

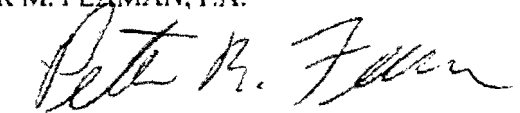
I have been made aware of a letter dated December 22, 2011 in which Mr. Stansbury purportedly "ceded" his shares of stock in LIC Holdings, Inc. back to the company. This letter was obtained under false pretenses and is not recognized by Mr. Stansbury as validly conveying his ownership interest in LIC Holdings, Inc.

Please have your legal counsel contact us within ten (10) days. Should we fail to receive a response within that time, Mr. Stansbury will take legal action to protect his rights and interests.

Very truly yours,

PETER M. FEAMAN, P.A.

By:



Peter M. Feaman

PMF/mk

cc: William Stansbury

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: 50 2012 CA 013933 MB AA

v.

TED S. BERNSTEIN; SIMON BERNSTEIN;
LIC HOLDINGS, INC.; and ARBITRAGE
INTERNATIONAL MANAGEMENT, LLC,
f/k/a ARBITRAGE INTERNATIONAL
HOLDINGS, LLC.

Defendants.

2012 OCT 26 PM 1:39
SHARON R. BOCK, CLERK
PALM BEACH COUNTY
CIRCUIT CIVIL

FILED

**OBJECTIONS TO SUBPOENA DUCES TECUM FOR DEPOSITION AND
MOTION FOR PROTECTIVE ORDER**

COMES NOW the Law Firm of Peter M. Feaman, P.A., by and through Peter M. Feaman, Esquire and Plaintiff, WILLIAM E. STANSBURY, by and through undersigned counsel, and objects to the Subpoena Duces Tecum for Deposition served on Peter M. Feaman, P.A., as follows:

General Objection

Requests for any documents should be propounded in accordance with the Florida Rules of Civil Procedure. A subpoena duces tecum upon Plaintiff's law firm is an attempt to bypass the discovery Rules of Civil Procedure. As such, Plaintiff and Peter M. Feaman, P.A. object to all items requested.

Without waiving the aforesaid objection as to all matters, Plaintiff's counsel agrees to produce those items requested in Requests #1 through #4 in the subpoena duces tecum. All other items are objected to as set forth below.

1. Peter M. Feaman, P.A. objects to Request #5, as any such documents would have come into its possession by virtue of the attorney-client relationship between it and WILLIAM E.

STANSBURY, and such documents, if any, are privileged documents supplied to it by the client in anticipation of litigation.

2. Peter M. Feaman, P.A. objects to Request #6, as any such documents would have come into its possession by virtue of the attorney-client relationship between it and WILLIAM E. STANSBURY, and such documents, if any, are privileged documents supplied to it by the client in anticipation of litigation.

3. Peter M. Feaman, P.A. objects to Request #7, as any such documents would have come into its possession by virtue of the attorney-client relationship between it and WILLIAM E. STANSBURY, and such documents, if any, are privileged documents supplied to it by the client in anticipation of litigation.

4. Peter M. Feaman, P.A. objects to Request #8, as any such documents would have come into its possession by virtue of the attorney-client relationship between it and WILLIAM E. STANSBURY, and such documents, if any, are privileged documents supplied to it by the client in anticipation of litigation.

WHEREFORE, Plaintiff WILLIAM STANSBURY and Peter M. Feaman, P.A. request this Honorable Court to enter a Protective Order as set forth herein.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail at swergoldj@gtlaw.com; arnsdorffk@gtlaw.com; steffesj@gtlaw.com; and FLService@gtlaw.com to Jon Swergold, Esq., Greenberg Traurig, P.A., 401 East Las Olas Blvd., Suite 2000, Fort Lauderdale, FL 33301 this 24TH day of OCTOBER, 2012.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel: 561-734-5552
Fax: 561-734-5554
pfeaman@feamanlaw.com

By: /s/ Peter M. Feaman
Peter M. Feaman
Florida Bar No.: 0260347

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: 50 2012 CA 013933 MB AA

v.

TED S. BERNSTEIN; SIMON BERNSTEIN;
LIC HOLDINGS, INC.; and ARBITRAGE
INTERNATIONAL MANAGEMENT, LLC,
f/k/a ARBITRAGE INTERNATIONAL
HOLDINGS, LLC.

Defendants.

FILED
2013 JAN -8 PM 4:07
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CIVIL

**RESPONSE OF PLAINTIFF WILLIAM E. STANSBURY
TO DEFENDANTS' MOTION TO DISMISS OR, IN THE
ALTERNATIVE, MOTION FOR MORE DEFINITE STATEMENT**

Plaintiff WILLIAM E. STANSBURY, through undersigned counsel, hereby responds to Defendants' Motion to Dismiss or, in the Alternative, Motion for More Definite Statement, and states:

1. **General Response**

When considering a Motion to Dismiss, the standard to be applied by the trial court is that every allegation must be accepted as true, and every inference must be drawn in favor of the Plaintiff; the pleader is only required to set forth "a short and plain statement of the ultimate facts showing that the pleader is entitled to relief." *See*, Rule 1.110(b), Fla. R.Civ. P.

The facts pled in the Complaint that support the various legal theories set forth in each Count are contained in paragraphs 8 through 25 of the Complaint. They establish that:

- Plaintiff was an employee and minority owner of LIC Holdings, Inc. (LIC); he was promised but not paid compensation that he was due for the years 2008 through 2011;

and he was denied promised profit distributions on his 10% ownership interest. *See*, paragraphs 13, 18, 20 21 and 22.

- That the officers of Defendants LIC and Arbitrage International Management (AIM), Simon and Ted Bernstein, made false and misleading representations to Plaintiff with respect to the compensation and distributions due him by falsely stating, among other things, that Defendants Bernstein as well as Plaintiff were not receiving full compensation when, in fact, Defendants Bernstein were being fully paid. *See*, paragraphs 21, 22 and 25.
- This concealment and other representations, and reliance thereon, induced Plaintiff to delay pursuing his rights until he did so by the filing of the Complaint in 2012. *See*, paragraph 25.

Plaintiff's Complaint clearly sets forth the ultimate facts supporting Plaintiff's claims against the Defendants. The Defendants' assertion that the Plaintiff's factual allegations as "confusing," "riddled with ambiguities," "vague," and "contradictory" (which they are not) is simply wrong.

2. **The Statute of Limitations Does Not Bar Plaintiff's Claims.** Defendants seek to dismiss the Counts alleging Accounting (Counts I and II), Breach of Oral Contract (Count III), Breach of Implied Covenant of Good Faith and Fair Dealing (Count IV), Breach of Fiduciary Duty (Count V), Fraud (Count VII), Equitable Lien (Count VIII), Contract Implied in Law (Count IX) and Constructive Trust (Count X) on the ground that these claims are barred by the four-year statute of limitations found in §95.11(3) Fla. Stat. (2012). Defendants contend the limitations period began to run prior to July 31, 2008 based solely on Plaintiff's allegation that Simon Bernstein made certain representations to him in "early 2008" (Complaint, Par. 21) and that Plaintiff represented that he had been deprived of his money due him for "approximately four and a half years" (Complaint, Par. 28). These statements, according to the Defendants,

somehow indicate that Plaintiff was aware of his claims prior to July 31, 2008, and thus they are now time barred.

Defendants' argument is fatally flawed for several reasons:

(a) These averments in the Complaint are clearly retrospective recollections made by Plaintiff as to the sequence of events that ultimately gave rise to his claims. They do not suggest that, at the time, Plaintiff realized, or should have realized, that any conduct by the Defendants was actionable.

(b) Defendants ignore the allegations of Paragraph 22 of the Complaint:

22. Through misrepresentations made from 2008 through the date of filing of this Complaint, Defendants knowingly made false statements to Plaintiff to hide their scheme to withhold from Plaintiff money to which he was entitled. For example, at times they claimed that money being received was not being paid as salary or distributions to either of Defendants BERNSTEIN but was being withheld and placed in a company account, for eventual distribution. **As Plaintiff and Defendants could afford to wait until year's end to be paid their distributions, and as Defendants BERNSTEIN assured Plaintiff that the payment arrangement would apply to all three equally, Plaintiff did not question the truthfulness of their representations** (emphasis added).

In light of these allegations, three things are readily apparent. First, Plaintiff has alleged that, due to the representations of the Bernstein Defendants, he was persuaded to wait until the end of the year 2008 to be paid. As a result, the statute of limitations would not begin to run, at the earliest, until sometime after January 1, 2009 when he was not paid as promised. Therefore, these claims are timely filed. Secondly, Plaintiff is alleging he was induced to his detriment into delaying action on the Defendants failure to pay him by the false and fraudulent misrepresentations of the Bernsteins. Fraudulent misrepresentations operate to toll the statute of limitations. *See, San Pedro v. San Pedro*, 910 So. 2d 426, 430 (Fla. 4th DCA 2005). Further, if there is some question as to when the applicable statute of limitations began to run in this case,

the commencement date is a fact question for the trier of fact to resolve. *See, J.A. Cantor Associates, Inc. v. Brenner*, 363 So. 2d 204 (Fla. 3d DCA 1978).

For the foregoing reasons, Defendant's Motion to Dismiss based on the statute of limitations should be denied.

3. **Allegations Against Ted Bernstein Personally for Accounting**

The allegations contained in paragraphs 11 through 25 of the Complaint clearly establish that the Bernstein Defendants and Ted Bernstein in particular, engaged in a campaign of misrepresentation and deceit with respect to their interaction and dealings with Plaintiff on compensation and ownership distribution issues. The Plaintiff admits, however, at least at this time, that the allegations against Ted Bernstein individually, as to an Accounting, as set forth in Count II, may be premature. As such, Plaintiff agrees to voluntarily dismiss that Count, without prejudice, at this time.

4. **Dismissal of Count I for an Accounting Against LIC and AIM is Not Warranted.**

The test in *Bankers Trust Realty, Inc. v. Kluger*, 672 So. 2d 897 (Fla. 3d DCA 1996), as set forth in Defendants' Motion, requires Plaintiff to allege that: 1) Plaintiff and Defendant shared a fiduciary relationship **OR** entered a complex transaction, and 2) a remedy at law is inadequate. Plaintiff contends that the parties entered into a complex transaction, and Plaintiff has alleged the existence of a fiduciary relationship (*see*, Count V). Plaintiff has also alleged that a remedy at law is inadequate (*see*, Count I, par. 28). As such, Plaintiff has met the pleading requirements of *Kluger* and has stated a cause of action for an accounting against the Corporate Defendants.

5. **Plaintiff's claim for Breach of Implied Covenant of Good Faith and Fair Dealing (Count IV) Will Be Dismissed at This Time without Prejudice**

6. **Breach of Fiduciary Duty (Count V), Civil Theft (Count VI) and Fraud (Count VII) Are Not Barred by the Economic Loss Rule**

Claims for Breach of Fiduciary Duty and Civil Theft are causes of action arising under statutory law. The alleged Breach of fiduciary duty claim made by Plaintiff against the Defendants is supported by Florida law, including the fiduciary obligations of corporate officers and directors, which are specifically set forth in Florida Statutes §607, *et seq.* Civil Theft is articulated in Florida Statutes §772.11 (Complaint, Par. 48). The Plaintiff's Complaint has clearly stated a claim under that statute. The Supreme Court of Florida has unequivocally stated that the economic loss rule cannot be used to eliminate statutory causes of action. *See, Comptech International, Inc. v. Milam Commerce Park, LTD*, 753 So. 2d 1219 (Fla. 1999). Moreover, the economic loss rule does not abolish the cause of action for breach of fiduciary duty, even if there is an underlying contract. *See, Invo Florida, Inc. v. Somerset Venturer, Inc.*, 751 So. 2d 1263 (Fla. 3d DCA 2000).

As to Plaintiff's fraud claim against Defendants, the economic loss rule does not bar tort actions where a legal duty independent of the contract itself has been violated. *HTP, Ltd. v. Lineas Aereas Costarricenses, S.A.*, 685 So. 2d 1238, 1239 (Fla. 1996). In addition to the contract claims alleged, Plaintiff has specifically alleged that the Defendants deceived him into surrendering his 10% ownership interest in LIC. The fraudulent misrepresentations and subsequent reliance by plaintiff constitute an independent claim that is not related to the contract. Therefore, the fraud claim is not barred by the economic loss rule.

7. **The Breach of Fiduciary Duty (Count V) and Fraud (Count VII) Claims Should Not Be Dismissed.**

For the reasons set forth in paragraphs 8 and 9 below, the Plaintiff's breach of fiduciary duty and fraud claims against the Defendants should clearly not be dismissed.

8. **The Breach of Fiduciary Duty Claim (Count V) States a Cause of Action.**

Florida law provides that corporate officers and directors owe a duty of loyalty and a duty of care to the corporation and its shareholders. *Cohen v. Hattaway*, 595 So.2d 105 (Fla. 5th DCA 1992). In particular, Fla. Stat. § 607.0830 provides:

- (1) A director shall discharge his or her duties as a director ...
 - (a) In good faith;
 - (b) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
 - (c) In a manner he or she reasonably believes to be in the best interests of the corporation.

These fiduciary duties are generally described as the duties of care and the duty of loyalty. See, *In re Aqua Clear Technologies, Inc.*, 361 B.R. 567, 575 (Bankr. S.D. Fla. 2007). Each of these duties is of equal and independent significance. *Id.* The duty of care requires the directors of a company to act on an informed basis. *Id.* The duty of loyalty requires the officer or director to act in good faith and in the best interests of the company. Fla. Stat. § 607.0830(1)(c); *In re Aqua Clear Technologies, Inc.*, 361 B.R. 567. A corporate officer or director breaches the duty of loyalty if that person “depart[s] from his corporate responsibility and start[s] serving himself.” *In re Aqua Clear Technologies, Inc.*, 361 B.R. at 575, citing *Intercarga Internacional de Carga, S.A. v. Harper Group, Inc.*, 659 So.2d 1208, 1210 (Fla. 3d DCA 1995). An officer or director may be held “strictly accountable and liable if corporate funds or property are wasted or mismanaged due to their inattention to their duties.” *Id.*

In this case, the Complaint specifically alleges that Simon and Ted Bernstein owned and controlled the corporate Defendants (LIC and AIM), worked closely together with respect thereto, and were one another's alter egos. (Complaint, Par. 6) As such, the Bernsteins are (or were at the time the claims arose – Simon Bernstein is now deceased) clearly both "officers and directors" of the corporate Defendants and exclusively made all decisions regarding the operations of these corporate Defendants. The Complaint also alleges that both Bernsteins made false and misleading misrepresentations to Plaintiff, an employee and minority shareholder of Defendant LIC, relating to Plaintiff's compensation and distributions on his ownership interest, and the Bernsteins falsely stated that their compensation was being withheld and maintained by the corporation, the same as Plaintiff's, when in reality they had paid themselves. (Complaint, Pars. 20, 22) It has also been alleged that the Bernsteins intercepted mail addressed to the Plaintiff and converted checks intended for Plaintiff for their own personal use or the use of the corporate Defendants. (Complaint, Par. 23) All these allegations were expressly incorporated by reference into Count V. (Complaint, Par. 41) This conduct clearly establishes a claim for breach of fiduciary duty as to the Bernsteins. As officers/directors, they failed to act in good faith and in the best interests of the company or its employee/minority shareholder, the Plaintiff, and breached their duty of loyalty when they departed from their corporate responsibilities and started serving themselves. Accordingly, Defendants' Motion to Dismiss the claim for breach of fiduciary duty should be denied.

9. **The Civil Theft Claim (Count VI) States a Cause of Action.**

As stated in Paragraph 8, above, the Complaint alleges that the Bernsteins intercepted mail addressed to the Plaintiff and converted checks intended for Plaintiff for their own personal use or the use of the corporate Defendants. (Complaint, Par. 23). All these allegations were

expressly incorporated by reference into the Civil Theft claim, Count VI (Complaint, Par. 49) and were included in the all-inclusive references contained in Par. 50. Paragraph 51 makes specific reference to the Defendants' criminal intent consistent with *Palmer v. Gotta Have It Golf Collectibles, Inc.*, 106 F. Supp.2d 1289 (S.D. Fla. 2000) a case cited and relied on by Defendants at p. 15 of Defendants' Motion. While not using the specific language "sophisticated scheme of deceit and theft," that is the gist of Plaintiff's claim as alleged in Paragraph 51 and in the Fraud claim, Count VII (Par. 58). Finally, other than the general allegation relating to the failure to pay due compensation, the allegation of specific, identifiable checks made payable to Plaintiff that were converted by the Bernstein defendants is sufficient to meet the "specific money capable of identification" requirement of *Belford Trucking Company v. Zagar*, 243 So. 2d 646, 648 (Fla. 4th DCA 1970), and cited in the Defendants' Motion at p. 15. For these reasons, the Motion to Dismiss the Civil Theft count should be denied.

10. **The Fraud Claim (Count VII) States a Cause of Action**

In order to sufficiently plead a fraud claim in Florida, the pleader must allege: a) a false representation of fact, known by the party making it to be false at the time it was made; (b) that the representation was made for the purpose of inducing another to act in reliance on it; (c) actual reliance on the representation; and (d) resulting in damage to the plaintiff. *Essex Ins. Co., Inc. v. Universal Entertainment & Skating Center, Inc.*, 665 So. 2d 360 (Fla. 5th DCA 1995). *See also, Peninsular Fla. Dist. Council of Assemblies of God v. Pan American Investment and Development Corp.*, 450 So. 2d 1231 (Fla. 4th DCA 1984).

In this case, Plaintiff's Complaint has alleged sufficient, particular facts to state a cause of action for fraud. Paragraphs 11 through 25 set out in detail the misrepresentations and falsehoods stated by the Bernstein Defendants in their interaction and business discussions with Plaintiff, all of which were incorporated by reference into the Count VII by Par. 53. Of

particular interest is Paragraph 24, which alleges how Defendants deceived Plaintiff into surrendering his 10% interest in LIC, which he did. It is also alleged that the Defendants intended for Plaintiff to rely on the false statements (or omissions of fact), that these statements or omissions were material, that Plaintiff relied on these falsehoods and was damaged thereby. See, Complaint, Pars. 47, 56, 57. Plaintiff was damaged by these false representations when he was denied his due compensation and, more importantly, when he surrendered his ownership interest in the LIC. The Motion to Dismiss as to Count VII should be denied.

11. **The Equitable Lien (Count VIII), Constructive Trust (Count X), the Contract Implied in Law (Count VIII), and the Indemnification (Count XI) Claim Will Be Dismissed At This Time Without Prejudice.**

WHEREFORE, Plaintiff requests this Honorable Court to deny Defendants' Motion to Dismiss as to Counts I, III, V, VI and VII, and such other relief as this Court deems just and proper.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail service at swergoldj@gtlaw.com; arnsdorffk@gtlaw.com; steffesi@gtlaw.com; and FLService@gtlaw.com to Jon Swergold, Esq., Greenberg Traurig, P.A., 401 East Las Olas Blvd., Suite 2000, Fort Lauderdale, FL 33301; and at kdstern@gmail.com to Kenneth D. Stern, Esq., Kenneth D. Stern, P.A., 3615 W. Boynton Beach Blvd., Boynton Beach, FL 33436 this 8th day of January, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel: 561-734-5552
Fax: 561-734-5554
pfeaman@feamanlaw.com

By: 

Peter M. Feaman

Florida Bar No.: 0260347

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: 50 2012 CA 013933 MB AA

v.

TED S. BERNSTEIN; SIMON BERNSTEIN;
LIC HOLDINGS, INC.; and ARBITRAGE
INTERNATIONAL MANAGEMENT, LLC,
f/k/a ARBITRAGE INTERNATIONAL
HOLDINGS, LLC.

Defendants.

FILED
2012 NOV 14 PM 2:44
SHARON R. BOCK, CLERK
PALM BEACH COUNTY
CIRCUIT CIVIL

MOTION FOR DISQUALIFICATION

COMES NOW WILLIAM E. STANSBURY, by and through his undersigned counsel and moves for disqualification of Defendants' counsel and states as follows:

1. Counsel for Defendants is Jon Swergold of the law firm of Greenberg Traurig, P.A., 401 East Las Olas Blvd., Suite 2000, Fort Lauderdale, Florida.
2. In a 2010 action in this Circuit, Plaintiff WILLIAM E. STANSBURY, was represented by Jon Swergold of Greenberg Traurig, P.A. in the matter of *Wright v. Helmer, et al*, Case No.: 50 2012 CA 017249 MB AN.
3. In that action, Jon Swergold represented both Mr. Stansbury, the Plaintiff in this action, and ARBITRAGE INTERNATIONAL MARKETING, INC., in matters arising out of certain insurance business transactions, some of which form the basis of the Complaint in this case.
4. Rule 4-1.9 of the Rules Regulating the Florida Bar governs conflicts of interest with former clients. The Rule provides:

"A lawyer who has formerly represented a client in a matter shall not thereafter:

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

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

5. It is undisputed that Greenberg Traurig represented Stansbury in the 2010 action of *Wright v. Helmer, et al, supra*.

6. The comment to Rule 4-1.9 provides:

"When a lawyer has been directly involved in a specific transaction, subsequent representation of other clients with materially adverse interests clearly is prohibited."

7. Any doubt as to what disclosures may have been made by Plaintiff, STANSBURY to Defendants' counsel when he represented STANSBURY must be resolved in favor of the presumption that confidential information was disclosed and therefore in favor of disqualification. *See, McPartland v. ISI Investment Services*, 890 F. Sup. 1029 (MD Fla. 1995); *Brent v. Smathers*, 529 So.2d 1267 (Fla. 3d DCA 1988); and *Metcalf v. Metcalf*, 785 So.2d 747 (Fla. 5th DCA 2001).

8. Notes to Rule 4-1.9 indicate that this Rule creates an "irrefutable presumption that confidences were disclosed." *See, Gatton v. Health Coal, Inc.*, 745 So.2d 510 (Fla. 3rd DCA 1999); and *Hopper v. Frank*, 16 F. 2d 92 (5th Cir. 1994).

9. Rule 4-1.9 also imposes upon a lawyer a duty of loyalty. Rule 4-1.7 of Rules Regulating the Florida Bar and a comment thereunder states that "common representation does not diminish the rights of each client in the lawyer-client relationship. Each has a right to loyal and diligent representation ... and the protection of Rule 4-1.9..."

WHEREFORE, Plaintiff respectfully requests this Honorable Court to grant his Motion for Disqualification of Defendants' counsel for the reasons set forth herein, and for any such other relief as this Court would deem just and proper.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail at swergoldj@gtlaw.com; arnsdorffk@gtlaw.com; steffesj@gtlaw.com; and FLService@gtlaw.com to Jon Swergold, Esq., Greenberg Traurig, P.A., 401 East Las Olas Blvd., Suite 2000, Fort Lauderdale, FL 33301 this 12TH day of NOVEMBER, 2012.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel: 561-734-5552
Fax: 561-734-5554
pfeaman@feamanlaw.com

By: /s/ Peter M. Feaman
Peter M. Feaman
Florida Bar No.: 260347

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

WILLIAM E. STANSBURY,

Plaintiff,

CASE NO: 502012CA013933 XXXX MB AA

v.

TED S. BERNSTEIN; SIMON BERNSTEIN;
LIC HOLDINGS, INC.; and ARBITRAGE
INTERNATIONAL MANAGEMENT, LLC,
f/k/a ARBITRAGE INTERNATIONAL
HOLDINGS, LLC.

Defendants.

FILED
12 NOV -9 PM 3:36
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CIVIL 6

**PLAINTIFF'S FIRST REQUEST FOR PRODUCTION
OF DOCUMENTS TO DEFENDANT LIC HOLDINGS, INC.**

Plaintiff, WILLIAM E. STANSBURY ("STANSBURY"), through undersigned counsel, pursuant to Fla. R. Civ. P. 1.350, hereby propounds the attached First Request for Production of Documents upon Defendant, LIC HOLDINGS, INC., requiring said Defendant to produce copies of the materials and items described on the attached list at, or by mailing a copy to Peter M. Feaman, P.A., 3615 W. Boynton Beach Blvd., Boynton Beach, FL 33436, on or before thirty (30) days after service of this Request for Production of Documents.

Preliminary Statement

As used in this Discovery request, the following terms will have the following meanings:

"Plaintiff," "WILLIAM STANSBURY," or "STANSBURY" means the Plaintiff, and includes any person or entity acting on his behalf.

"Defendant," "LIC HOLDINGS," "you," or "your" means Defendant, LIC HOLDINGS, INC., and includes any person or entity acting on behalf of such party, including, but not limited to, attorneys and their associates and employees, investigators, agents, employees, representatives, or others who are in possession of or who may have obtained information for or on its behalf.

"Defendants" means the Defendants to this action, to wit: TED S. BERNSTEIN, SIMON BERNSTEIN, LIC HOLDINGS, INC., and ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC, including any person or entity acting on behalf of such party or parties, including, but not limited to, attorneys and their associates and employees, investigators, agents, employees, representatives, or others who are in possession of or who may have obtained information for or on their behalf.

The terms "all records," "all documents," "all documentation," and "all communications" mean every record, document, or communication as defined herein known to you and every such record, document, or communication which can be located or discovered by reasonably diligent efforts.

The term "communication" shall mean every manner or means of disclosure, transfer or exchange, and every disclosure, transfer or exchange of information whether orally or face-to-face or by telephone, letter, mail, personal delivery, facsimile transmission, electronic mail, (e-mail) document or otherwise.

The term "document," "documents," "documentation," "record," and "records" shall mean all written, typed, printed, reported, recorded or graphic matter, and all photographic matters or sound reproduction tapes records, or other devices, however produced, reproduced, or stored, now or formerly within your actual or constructive possession, custody or control. "Document" or "documents" shall include, but are not limited to, all telegrams, telexes, cables, telephone records, telephone bills, memoranda (circulated and uncirculated), market studies, correspondence, reports, studies, compilations of data, filings, files, internal policies or rules or regulations, minutes, agenda, requests, records, charts, lists, analyses, graphs, diagrams, schematics, blueprints, specifications, worksheets, change orders, drawings, cost estimates, books, expense reports, notebooks, notes, diaries, appointment books, calendars, recordings, transcriptions, computerized data in any media, including but not limited to: discs, CD-ROMs, or e-mails; file cards, computer printouts, microfilm, microfiche, videotapes, media articles or reports, accounts, books and records, ledgers, journals and other financial records, audits, instructions, questionnaires, profit and loss statements, financial statements, annual reports, state and federal tax returns, checkbooks, canceled checks, billings, contracts or agreements or releases, and any drafts, copies, or reproductions of the foregoing; and any copy of the foregoing upon which any notations in any form have been made which do not appear on the originals; and any copy of the foregoing upon which any language, notation or comments, in any form, which appear on the original or any other copy have been deleted, highlighted, altered or edited.

The term "communication" and "communications, as used herein, shall include any utterance heard or overheard, whether in person, by telephone, radio or otherwise, statement, dialogue, discussion, conversation or agreement, as well as every document and every other mode of intentionally conveying meaning.

"Identify," "identity" or "identification," when referring to a person, shall mean that you shall state the person's (a) full name, (b) current or last known business address and telephone number, (c) current or last known residential address and telephone number, (d) current or last known employer and employer's address, (e) current or last known occupation or position title.

"Identify," "identity" or "identification," when used in reference to a document, documents, documentation, record, and/or records means to state the date, author (or originator),

title, type (or subject matter) and custodian of the document, or other sufficient description of it in order to identify it for production in this suit, and each and every word contained in that document. If any document identified is no longer in your care, custody or control, state the disposition of such document. If a privilege is claimed with respect to any document, state the nature of the privilege claimed, and identify each person who has received the documents or a copy of it. Attachment of a true, correct copy of any document to your answers to these discovery requests shall constitute sufficient identification of any document.

“Person” or “individual” means any natural person, individual, proprietorship, partnership, corporation, association, joint proprietorship, joint venture, firm, other business enterprise, governmental body, or other entity.

A communication or document “relating” to any given subject means any communication or document that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any way pertinent to that subject, including without limitation, documents concerning the preparation of other documents.

Unless otherwise stated, the documents requested shall be for the past ten (10) years.

Instructions

If any Request for Production is objected to on the grounds of privilege or otherwise, set forth fully each objection, stating the facts upon which you rely as the basis for the objection, and describe:

The nature of the document or communication not produced or disclosed;

The name and title of the author;

The name and title of each person to whom the document or communication was addressed, including all people to whom a copy was sent;

The date;

The number of pages;

A description of the subject matter sufficient, without waiving the claimed privilege or protection, to allow the requesting party to assess the applicability of the privilege or protection;

The privilege or protection claimed;

The paragraph(s) of this Request for Production to which the document or communication is responsive; and

The location of the original and each copy of the document or communication as of the date of the response to this Request for Production.

If you claim that any document requests is subject to privilege, please provide all documents responsive to the Request to the extent not privileged and comply with Instruction No. 1 as to the remainder of the Request.

If documents responsive to any of the Requests have been destroyed or discarded, identify the document as follows:

The date of the document;

The author or maker of the document;

The person to whom and from whom the document was sent;

The subject matter of the document;

The date on which the document was destroyed or discarded;

The reason for the destruction or discard; and

The person authorizing and/or carrying out said destruction or discard.

When producing the documents, please keep all documents segregated by the file in which the documents are contained and indicate the name of the file in which the documents are contained and name of the documents being produced. In the event such files or documents have been removed for the purposes of this action or other purpose, please state the name and address of the person who removed the file, the title of the file and each sub-file, if any, maintained within the file, and the present location of the file.

As used herein the singular shall include the plural, the plural shall include the singular, and the masculine, feminine and neuter shall include each of the other genders.

All documents produced shall be originals unless otherwise indicated. If your "original" is a photocopy (or other copy), then the photocopy you have should be produced as your original. You should produce the original documents in the form, order and manner in which they are maintained in your files or the files of other persons under your control. In this connection, and for purposes of illustration, documents are to be produced in the file folder and file cartons in which they have been maintained or stored, clipped, stapled, or otherwise arranged in the same form and manner as they were found. In the alternative, you should segregate all documents according to the specifications of this Request and shall organize and label each group of documents with the appropriate specifications prior to production. If any document is responsive to more than one specification of this Request, it should be labeled to reflect each specification to which it is responsive.

This Request for Production calls for production of all responsive documents in the possession, custody, or control of you, your agents, or representatives without regard to physical location of said documents. Control means in your possession, custody or control, or under your direction, and included in the possession, custody, or control of those under the direction of you and your employees, subordinates, counsel, accountant, consultant, expert, parent or affiliated corporation, and any person purporting to act on your behalf.

Please mark each document to indicate the paragraph to which the document corresponds. In the event you do not have "possession, custody or control" of any of the documents requested, state this fact, specifying the paragraph concerned. Additionally, if you do not have "possession, custody, or control" of any of the documents requested, but you know that they are in the possession or custody of other parties, give a brief description of the document(s), and the name and address of the party thought to be in possession thereof.

In producing copies of any documents, produce copies of both the front and back of each document, where the backside contains writing, printing, stamping, or notations.

DOCUMENTS TO BE PRODUCED

1. All documents, including e-mails, that show, evidence, or reflect any and all communications between you or anyone acting on your behalf related to or from the Plaintiff from January 1, 2007 to present.

2. All documents, including e-mails, that show, evidence, or reflect any and all communications between you and any of the Defendants that mention the Plaintiff, from January 1, 2007 to present.

3. All documents, including e-mails, that show, evidence, or reflect any and all communications between you and any of the Defendants that are related to the Plaintiff, from January 1, 2007 to present.

4. All documents that show, evidence, or reflect any business relationships you have or had with the Plaintiff since January 1, 2007 to the present.

5. All documents that show, evidence, or reflect any compensation, monies, or payment of any nature, made by you or any of the Defendants to the Plaintiff from January 1, 2007 to the present.

6. All documents that show, evidence, or reflect any compensation, monies, or payment of any nature, that is owed by you or any of the Defendants to the Plaintiff from January 1, 2007 to present.

7. All documents, including, but not limited to, internal memoranda, e-mails, or any other writings, related to payments by you or by any of the Defendants to any agents, employees, officers, independent contractors, or any other person or entity performing work on behalf of any of the Defendants.

8. All documents that show, evidence, or reflect any person or entity that has or has had an ownership interest in Defendant LIC HOLDINGS, INC. in the past 6 years.

9. All documents that show, evidence, or reflect any and all officers of LIC HOLDINGS, INC. in the past 6 years.
10. All records of payments made for cell phone usage from January 1, 2007 to present.
11. All records concerning medical expenses paid for any person including but not limited to Rachel Walker since January 1, 2007.
12. List of all employees and their compensation since January 1, 2007.
13. List of all participants in any Defined Benefit Pension Plan.
14. Copies of all 1099's from 2007 to present.
15. All statements concerning any profit-sharing plan, including the names of all participants.
16. Records of any and all payments to Plaintiff since January 1, 2007 to present.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail at swergoldj@gtlaw.com; arnsdorffk@gtlaw.com; steffesj@gtlaw.com; and FLService@gtlaw.com to Jon Swergold, Esq., Greenberg Traurig, P.A., 401 East Las Olas Blvd., Suite 2000, Fort Lauderdale, FL 33301 this 5th day of November, 2012.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel: 561-734-5552
Fax: 561-734-5554
pfeaman@feamanlaw.com

By: /s/ Peter M. Feaman
Peter M. Feaman
Florida Bar No.: 0260347

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

CASE NO: 502012CA013 933XXXXMB AA

WILLIAM E. STANSBURY,

Plaintiff,

vs.

TED S. BERNSTEIN, SIMON
BERNSTEIN, LIC HOLDINGS, INC., and
ARBITRAGE INTERNATIONAL
MANAGEMENT, L.L.C., f/k/a
ARBITRAGE INTERNATIONAL
HOLDINGS, L.L.C.,

Defendants.

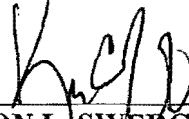
AMENDED NOTICE OF DESIGNATION
OF PRIMARY AND SECONDARY
E-MAIL ADDRESSES

FILED
13 JAN 14 PM 12:05
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
CLERK OF DISTRICT PROBATE 3

Defendants, TED S. BERNSTEIN, LIC HOLDINGS, INC., and ARBITRAGE INTERNATIONAL MANAGEMENT, L.L.C., f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, L.L.C., by and through undersigned counsel, and in accordance with Florida Rule of Civil Procedure 1.080 (as amended effective September 1, 2012) and new Florida Rule of Judicial Administration 2.516 (as enacted effective September 1, 2012), hereby designate undersigned counsel's primary and secondary electronic mail addresses in the above styled cause and respectfully requests that the copies of all orders, process, pleadings and other documents filed or served in this matter be served at the primary and secondary e-mail addresses listed below, with such service complying by new Rule 2.516(b)(1)(E). Initiating documents shall be served by hard copy in addition to e-mail service required by new Rule 2.516(b)(1)(A).

Primary: swergoldj@gtlaw.com, ciaffik@gtlaw.com
Secondary: steffesj@gtlaw.com, FLService@gtlaw.com

Respectfully submitted,



JON L. SWERGOLD
Florida Bar No. 0108510
swergoldj@gtlaw.com

✓ **KRISTINA L. CIAFFI**
Florida Bar No. 0040596
ciaffik@gtlaw.com

GREENBERG TRAUIG, P.A.
401 East Las Olas Boulevard, Suite 2000
Fort Lauderdale, Florida 33301
Telephone: (954) 765-0500
Facsimile: (954) 765-1477
Attorneys for Defendants

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing was sent via e-mail to: pfeaman@feamanlaw.com and kdstern@gmail.com, **Peter M. Feaman, Esq., Kenneth D. Stern, Esq.**, 3615 W. Boynton Beach Blvd., Boynton Beach, FL 33436, on this 11th day of January, 2013



KRISTINA L. CIAFFI

FTL 109,054,638.1 - 141289.010100

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: 50 2012 CA 013933 MB AA

v.

TED S. BERNSTEIN; SIMON BERNSTEIN;
LIC HOLDINGS, INC.; and ARBITRAGE
INTERNATIONAL MANAGEMENT, LLC,
f/k/a ARBITRAGE INTERNATIONAL
HOLDINGS, LLC.

Defendants.

FILED
2013 JAN 14 PM 4:15
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CIVIL 5

ORDER ON DEFENDANTS' MOTION FOR PROTECTIVE ORDER

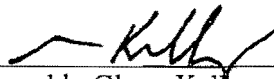
THIS CAUSE came on to be heard before this Honorable Court on Monday, January 14, 2013, upon Defendants' Motion for Protective Order and the Court having reviewed the file, heard argument of counsel and being duly advised in the premises, it is hereby

ORDERED and ADJUDGED:

1. Defendants' Motion is hereby denied.

2. Twenty days to respond.

DONE and ORDERED in Chambers, West Palm Beach, Palm Beach County, Florida on
this 14th day of January, 2013.



Honorable Glenn Kelley
Circuit Judge

Copies to:

Jon Swergold, Esq., Greenberg Traurig, P.A., 401 East Las Olas Blvd., Suite 2000, Fort
Lauderdale, FL 33301; swergoldj@gtlaw.com;

Peter M. Feaman, Esq., Peter M. Feaman, P.A., 3615 W. Boynton Beach Blvd., Boynton Beach,
FL; pfeaman@feamanlaw.com.

Copies furnished by e-mail

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: 50 2012 CA 013933 MB AA

v.

TED S. BERNSTEIN; SIMON BERNSTEIN;
LIC HOLDINGS, INC.; and ARBITRAGE
INTERNATIONAL MANAGEMENT, LLC,
f/k/a ARBITRAGE INTERNATIONAL
HOLDINGS, LLC.

Defendants.

FILED
2013 JAN 17 AM 11:24
SHARON R. BOGGS, CLERK
PALM BEACH COUNTY
CIRCUIT COURT

ORDER SETTING HEARING

The following matter has been specially set for hearing before Judge Glenn D. Kelley in
Courtroom 11A of the Palm Beach County Courthouse, 205 North Dixie Highway, West Palm
Beach, FL 33401.

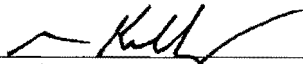
DATE: March 25, 2013

TIME: ~~9:30~~ ^{10:30} a.m. (time allotted: 30 minutes)

MATTER: MOTION FOR DISQUALIFICATION

NOTE: THIS HEARING IS SPECIALLY SET BY COURT ORDER AND CANNOT BE
CANCELLED OR RESET EXCEPT BY COURT ORDER. ALL MEMORANDA MUST
BE SUBMITTED TO JUDGE'S CHAMBERS NO LATER THAN FIVE (5) DAYS PRIOR
TO HEARING.

DONE and ORDERED in Chambers, West Palm Beach, Palm Beach County, Florida
this 16th day of January, 2013.


Honorable Glenn Kelley
Circuit Judge

Copies to:

Jon Swergold, Esq., Greenberg Traurig, P.A., 401 East Las Olas Blvd., Suite 2000, Fort
Lauderdale, FL 33301; swergoldj@gtlaw.com;
Peter M. Feaman, Esq., Peter M. Feaman, P.A., 3615 W. Boynton Beach Blvd., Boynton Beach,
FL; pfeaman@feamanlaw.com.

Copies furnished by e-mail

"If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Germaine English, Americans with Disabilities Act Coordinator, Palm Beach County Courthouse, 205 North Dixie Highway West Palm Beach, Florida 33401; telephone number (561) 355-4380 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711."

"Si usted es una persona minusválida que necesita algún acomodamiento para poder participar en este procedimiento, usted tiene derecho, sin tener gastos propios, a que se le provea cierta ayuda. Tenga la amabilidad de ponerse en contacto con Germaine English, 205 N. Dixie Highway, West Palm Beach, Florida 33401; teléfono número (561) 355-4380, por lo menos 7 días antes de la cita fijada para su comparecencia en los tribunales, o inmediatamente después de recibir esta notificación si el tiempo antes de la comparecencia que se ha programado es menos de 7 días; si usted tiene discapacitación del oído o de la voz, llame al 711."

"Si ou se yon moun ki enfim ki bezwen akomodasyon pou w ka patisipe nan pwosedè sa, ou kalifye san ou pa gen okenn lajan pou w peye, gen pwovizyon pou jwen kèk èd. Tanpri kontakte Germaine English, kòdonatè pwogram Lwa pou ameriken ki Enfim yo nan Tribinal Konte Palm Beach la ki nan 205 North Dixie Highway, West Palm Beach, Florida 33401; telefòn li se (561) 355-4380 nan 7 jou anvan dat ou gen randevou pou parèt nan tribinal la, oubyen imedyatman apre ou fin resevwa konvokasyon an si lè ou gen pou w parèt nan tribinal la mwens ke 7 jou; si ou gen pwoblèm pou w tande oubyen pale, rele 711."

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

IN RE: STANDING ORDER ON
SPECIALLY SET MOTIONS

CIVIL DIVISION "AA"

_____ /
This motion has been specially set by Court Order and cannot be canceled except by further Court Order.

It is the intent of this Court to dispose of the subject matter of the specially set motion on the date and time appearing on the order. Accordingly, counsel must either: (1) argue the motion on the date and time set for the hearing; (2) submit an agreed order disposing of the motion; or (3) show good cause why the hearing should be canceled. Any request to cancel a hearing for good cause shall be made by motion and shall be set for hearing on the Court's Uniform Motion Calendar.

All memoranda and/or case authority shall be delivered to my office and to all parties no later than five business days in advance of the hearing and no sooner than ten days prior to the hearing and should designate the date and time of the hearing which they reference.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida this 4th day of September, 2012.



JUDGE GLENN D. KELLEY
CIRCUIT COURT JUDGE

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

CASE NO. 502012CA013933XXXXMB

WILLIAM E. STANSBURY,

Division: AA-Kelley

Plaintiff,

v.

TED S. BERSTEIN;
SIMON BERNSTEIN;
LIC HOLDINGS, INC.; and
ARBITRAGE INTERNATIONAL
MANAGEMENT, L.L.C., f/k/a
ARBITRAGE INTERNATIONAL
HOLDINGS, L.L.C.

Defendants.

FILED
2012 NOV -6 PM 12:01
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CIVIL 8

MOTION FOR SUBSTITUTION OF PARTY

Plaintiff, WILLIAM E. STANSBURY ("Plaintiff"), by and through his undersigned counsel and pursuant to Rule 1.260(a) of the Florida Rules of Civil Procedure, hereby moves this Court for entry of an Order substituting the personal representative of the ESTATE OF SIMON BERNSTEIN (the "Estate") in place of SIMON BERNSTEIN (the "Decedent") as a party to this action, and in support thereof state as follows:

1. On or about July 30, 2012, Plaintiff filed the Complaint that initiated this action against the defendants named therein, including the Decedent.
2. The Decedent died on September 13, 2012. A Suggest of Death statement was served by Defendants in this action on or about September 19, 2012. The personal representative

of the Estate is now the proper party to this action, and the Decedent is no longer a proper party to this action.

WHEREFORE, Plaintiff, WILLIAM E. STANSBURY, respectfully requests (i) that this Court substitute the personal representative of the ESTATE OF SIMON BERNSTEIN in place of the Decedent as a party to this action, and (ii) such further relief as the Court deems just and equitable.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail at swergoldj@gtlaw.com; amsdorffk@gtlaw.com; steffesj@gtlaw.com; and FLService@gtlaw.com to Jon Swergold, Esq., Greenberg Traurig, P.A., 401 East Las Olas Blvd., Suite 2000, Fort Lauderdale, FL 33301 and at kdstern@gmail.com to Plaintiff's co-counsel, Kenneth D. Stern, P.A., 3615 W. Boynton Beach Blvd., Boynton Beach, FL 33436, this 5th day of November, 2012.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel: 561-734-5552
Fax: 561-734-5554
pfeaman@feamanlaw.com

By: /s/ Peter M. Feaman
Peter M. Feaman
Florida Bar No.: 0260347

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

WILLIAM E. STANSBURY,

Plaintiff,

CASE NO: 502012CA013933 XXXX MB AA

v.

TED S. BERNSTEIN; SIMON BERNSTEIN;
LIC HOLDINGS, INC.; and ARBITRAGE
INTERNATIONAL MANAGEMENT, LLC,
f/k/a ARBITRAGE INTERNATIONAL
HOLDINGS, LLC.

Defendants.

FILED
12 NOV -9 PM 3:36
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CIVIL 6

**PLAINTIFF'S FIRST REQUEST FOR PRODUCTION
OF DOCUMENTS TO DEFENDANT TED S. BERNSTEIN**

Plaintiff, WILLIAM E. STANSBURY ("STANSBURY"), through undersigned counsel, pursuant to Fla. R. Civ. P. 1.350, hereby propounds the attached First Request for Production of Documents upon Defendant, TED S. BERNSTEIN, requiring said Defendant to produce copies of the materials and items described on the attached list at, or by mailing a copy to Peter M. Feaman, P.A., 3615 W. Boynton Beach Blvd., Boynton Beach, FL 33436, on or before thirty (30) days after service of this Request for Production of Documents.

Preliminary Statement

As used in this Discovery request, the following terms will have the following meanings:

"Plaintiff," "WILLIAM STANSBURY," or "STANSBURY" means the Plaintiff, or any person or entity acting on his behalf.

"Defendant," "TED BERNSTEIN," "you," or "your" means Defendant, TED S. BERNSTEIN, and includes any person or entity acting on behalf of such party, including, but not limited to, attorneys and their associates and employees, investigators, agents, employees, representatives, or others who are in possession of or who may have obtained information for or on his behalf.

"Defendants" means the Defendants to this action, to wit: TED S. BERNSTEIN, SIMON BERNSTEIN, LIC HOLDINGS, INC., and ARBITRAGE INTERNATIONAL MANAGEMENT, LLC, f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, LLC, including any person or entity acting on behalf of such party or parties, including, but not limited to, attorneys and their associates and employees, investigators, agents, employees, representatives, or others who are in possession of or who may have obtained information for or on their behalf.

The terms "all records," "all documents," "all documentation," and "all communications" mean every record, document, or communication as defined herein known to you and every such record, document, or communication which can be located or discovered by reasonably diligent efforts.

The term "communication" shall mean every manner or means of disclosure, transfer or exchange, and every disclosure, transfer or exchange of information whether orally or face-to-face or by telephone, letter, mail, personal delivery, facsimile transmission, electronic mail, (e-mail) document or otherwise.

The term "document," "documents," "documentation," "record," and "records" shall mean all written, typed, printed, reported, recorded or graphic matter, and all photographic matters or sound reproduction tapes records, or other devices, however produced, reproduced, or stored, now or formerly within your actual or constructive possession, custody or control. "Document" or "documents" shall include, but are not limited to, all telegrams, telexes, cables, telephone records, telephone bills, memoranda (circulated and uncirculated), market studies, correspondence, reports, studies, compilations of data, filings, files, internal policies or rules or regulations, minutes, agenda, requests, records, charts, lists, analyses, graphs, diagrams, schematics, blueprints, specifications, worksheets, change orders, drawings, cost estimates, books, expense reports, notebooks, notes, diaries, appointment books, calendars, recordings, transcriptions, computerized data in any media, including but not limited to: discs, CD-ROMs, or e-mails; file cards, computer printouts, microfilm, microfiche, videotapes, media articles or reports, accounts, books and records, ledgers, journals and other financial records, audits, instructions, questionnaires, profit and loss statements, financial statements, annual reports, state and federal tax returns, checkbooks, canceled checks, billings, contracts or agreements or releases, and any drafts, copies, or reproductions of the foregoing; and any copy of the foregoing upon which any notations in any form have been made which do not appear on the originals; and any copy of the foregoing upon which any language, notation or comments, in any form, which appear on the original or any other copy have been deleted, highlighted, altered or edited.

The term "communication" and "communications, as used herein, shall include any utterance heard or overheard, whether in person, by telephone, radio or otherwise, statement, dialogue, discussion, conversation or agreement, as well as every document and every other mode of intentionally conveying meaning.

"Identify," "identity" or "identification," when referring to a person, shall mean that you shall state the person's (a) full name, (b) current or last known business address and telephone number, (c) current or last known residential address and telephone number, (d) current or last known employer and employer's address, (e) current or last known occupation or position title.

"Identify," "identity" or "identification," when used in reference to a document, documents, documentation, record, and/or records means to state the date, author (or originator),

title, type (or subject matter) and custodian of the document, or other sufficient description of it in order to identify it for production in this suit, and each and every word contained in that document. If any document identified is no longer in your care, custody or control, state the disposition of such document. If a privilege is claimed with respect to any document, state the nature of the privilege claimed, and identify each person who has received the documents or a copy of it. Attachment of a true, correct copy of any document to your answers to these discovery requests shall constitute sufficient identification of any document.

“Person” or “individual” means any natural person, individual, proprietorship, partnership, corporation, association, joint proprietorship, joint venture, firm, other business enterprise, governmental body, or other entity.

A communication or document “relating” to any given subject means any communication or document that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any way pertinent to that subject, including without limitation, documents concerning the preparation of other documents.

Unless otherwise stated, the documents requested shall be for the past ten (10) years.

Instructions

If any Request for Production is objected to on the grounds of privilege or otherwise, set forth fully each objection, stating the facts upon which you rely as the basis for the objection, and describe:

The nature of the document or communication not produced or disclosed;

The name and title of the author;

The name and title of each person to whom the document or communication was addressed, including all people to whom a copy was sent;

The date;

The number of pages;

A description of the subject matter sufficient, without waiving the claimed privilege or protection, to allow the requesting party to assess the applicability of the privilege or protection;

The privilege or protection claimed;

The paragraph(s) of this Request for Production to which the document or communication is responsive; and

The location of the original and each copy of the document or communication as of the date of the response to this Request for Production.

If you claim that any document requests is subject to privilege, please provide all documents responsive to the Request to the extent not privileged and comply with Instruction No. 1 as to the remainder of the Request.

If documents responsive to any of the Requests have been destroyed or discarded, identify the document as follows:

The date of the document;

The author or maker of the document;

The person to whom and from whom the document was sent;

The subject matter of the document;

The date on which the document was destroyed or discarded;

The reason for the destruction or discard; and

The person authorizing and/or carrying out said destruction or discard.

When producing the documents, please keep all documents segregated by the file in which the documents are contained and indicate the name of the file in which the documents are contained and name of the documents being produced. In the event such files or documents have been removed for the purposes of this action or other purpose, please state the name and address of the person who removed the file, the title of the file and each sub-file, if any, maintained within the file, and the present location of the file.

As used herein the singular shall include the plural, the plural shall include the singular, and the masculine, feminine and neuter shall include each of the other genders.

All documents produced shall be originals unless otherwise indicated. If your "original" is a photocopy (or other copy), then the photocopy you have should be produced as your original. You should produce the original documents in the form, order and manner in which they are maintained in your files or the files of other persons under your control. In this connection, and for purposes of illustration, documents are to be produced in the file folder and file cartons in which they have been maintained or stored, clipped, stapled, or otherwise arranged in the same form and manner as they were found. In the alternative, you should segregate all documents according to the specifications of this Request and shall organize and label each group of documents with the appropriate specifications prior to production. If any document is responsive to more than one specification of this Request, it should be labeled to reflect each specification to which it is responsive.

This Request for Production calls for production of all responsive documents in the possession, custody, or control of you, your agents, or representatives without regard to physical location of said documents. Control means in your possession, custody or control, or under your direction, and included in the possession, custody, or control of those under the direction of you and your employees, subordinates, counsel, accountant, consultant, expert, parent or affiliated corporation, and any person purporting to act on your behalf.

Please mark each document to indicate the paragraph to which the document corresponds. In the event you do not have "possession, custody or control" of any of the documents requested, state this fact, specifying the paragraph concerned. Additionally, if you do not have "possession, custody, or control" of any of the documents requested, but you know that they are in the possession or custody of other parties, give a brief description of the document(s), and the name and address of the party thought to be in possession thereof.

In producing copies of any documents, produce copies of both the front and back of each document, where the backside contains writing, printing, stamping, or notations.

DOCUMENTS TO BE PRODUCED

1. All documents, including e-mails, that show, evidence, or reflect any and all communications between you or anyone acting on your behalf related to or from the Plaintiff from January 1, 2007 to present.

2. All documents, including e-mails, that show, evidence, or reflect any and all communications between you and any of the Defendants that mention the Plaintiff, from January 1, 2007 to present.

3. All documents, including e-mails, that show, evidence, or reflect any and all communications between you and any of the Defendants that are related to the Plaintiff, from January 1, 2007 to present.

4. All documents that show, evidence, or reflect any business relationships you have or had with the Plaintiff since January 1, 2007 to the present.

5. All documents that show, evidence, or reflect any compensation, monies, or payment of any nature, made by you or any of the Defendants to the Plaintiff from January 1, 2007 to the present.

6. All documents that show, evidence, or reflect any compensation, monies, or payment of any nature, that is owed by you or any of the Defendants to the Plaintiff from January 1, 2007 to present.

7. All documents, including, but not limited to, internal memoranda, e-mails, or any other writings, related to payments by you or by any of the Defendants to any agents, employees, officers, independent contractors, or any other person or entity performing work on behalf of any of the Defendants.

8. All documents that show, evidence, or reflect any person or entity that has or has had an ownership interest in Defendant ARBITRAGE and/or LIC HOLDINGS, INC. in the past 6 years.
9. All documents that show, evidence, or reflect any and all officers of ARBITRAGE and/or LIC HOLDINGS, INC. in the past 6 years.
10. All records of payments made for cell phone usage from January 1, 2007 to present.
11. All records concerning medical expenses paid for any person including but not limited to Rachel Walker since January 1, 2007.
12. List of all employees and their compensation since January 1, 2007.
13. List of all participants in any Defined Benefit Pension Plan.
14. Copies of all 1099's from 2007 to present.
15. All statements concerning any profit-sharing plan, including the names of all participants.
16. Records of any and all payments to Plaintiff since January 1, 2007 to present.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail at swergoldj@gtlaw.com; arnsdorffk@gtlaw.com; steffesj@gtlaw.com; and FLService@gtlaw.com to Jon Swergold, Esq., Greenberg Traurig, P.A., 401 East Las Olas Blvd., Suite 2000, Fort Lauderdale, FL 33301 this 5th day of November, 2012.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel: 561-734-5552
Fax: 561-734-5554
pfeaman@feamanlaw.com
By: /s/ Peter M. Feaman
Peter M. Feaman
Florida Bar No.: 0260347

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

WILLIAM E. STANSBURY, an individual,

Plaintiff,

v.

CASE NO.: 50 2012CA013933 XXXX(NB)
(AA)

TED S. BERNSTEIN, an individual,
SIMON L. BERNSTEIN, an individual,
LIC HOLDINGS, INC., a Florida
Corporation, **ARBITRAGE**
INTERNATIONAL MARKETING, LLC, a
Florida Corporation f/k/a **ARBITRAGE**
INTERNATIONAL HOLDINGS, LLC.,

Defendants.

FILED
12 DEC 11 PM 2:20
SHARON A. BOCK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CIVIL 6

MOTION FOR PROTECTIVE ORDER

Defendants, **TED S. BERNSTEIN** (“Ted”), **LIC HOLDINGS, INC.** (“LIC”) and **ARBITRAGE INTERNATIONAL MARKETING, LLC**, f/k/a **ARBITRAGE INTERNATIONAL HOLDINGS, LLC** (“Arbitrage”) (Ted, LIC and Arbitrage are, collectively, the “Defendants”), pursuant to Florida Rule of Civil Procedure 1.280(c), move for entry of a protective order relative to the First Requests for Production served by Plaintiff William E. Stansbury (“Stansbury”), and in support states:

1. On July 31, 2012, Plaintiff served Defendants with his eleven count Complaint.
2. On October 1, 2012, Defendants filed their Motion to Dismiss or, in the Alternative, Motion for More Definite Statement (the “Motion to Dismiss”).
3. On November 5, 2012, Stansbury served separate Requests for Production directed to each of the Defendants (collectively, the “Discovery Requests”).

4. On November 12, 2012, just one week later, Stansbury served a Motion for Disqualification of Defendants' counsel, Jon L. Swergold, Esq. and the law firm of Greenberg Traurig, P.A. (the "DQ Motion"). Defendants intend to oppose the DQ Motion, as it is without any merit.

5. A hearing on the Motion to Dismiss is scheduled for January 14, 2012.

6. A hearing on the DQ Motion has not been scheduled.

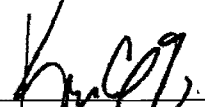
7. Florida courts have discretion in granting protective orders pending the resolution of motions to dismiss. Feigin v. Hosp. Staffing Serv., Inc., 569 So. 2d 941 (Fla. 4th DCA 1990).

8. Until the DQ Motion and the Motion to Dismiss are resolved, it would be inappropriate for the Defendants' counsel to respond to the Discovery Requests, a task that will undoubtedly take significant time and expense given the overly broad and burdensome nature of the Discovery Requests. More importantly, until Stansbury actually states a viable claim, it is unfair to require the Defendants to incur the cost of responding to the Discovery Requests.

WHEREFORE, Defendants respectfully requests entry of an Order (i) protecting Defendants from having to respond to Stansbury's Discovery Requests until thirty (30) days following the latter of (a) the Court's denial of Defendant's Motion to Dismiss or (b) Stansbury's filing of viable claims in an amended complaint, and (ii) granting such other and further relief as this Court deems just and appropriate.

Respectfully submitted,

GREENBERG TRAUIG, P.A.
401 East Las Olas Boulevard
Suite 2000
Fort Lauderdale, Florida 33301
Telephone: (954) 765-0500
Facsimile: (954) 765-1477

By: 

Jon L. Swergold
Fla. Bar No. 108510
swergoldj@gtlaw.com
Kristina L. Ciaffi
Florida Bar No. 0040596
ciaffik@gtlaw.com

Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the has been sent via e-mail and U.S. Mail to: Peter M. Feaman, Esq.(pfeaman@feamanlaw.com), Kenneth D. Stern, Esq. (kdstern@gmail.com), 3615 W. Boynton Beach Blvd., Boynton Beach, FL 33436 on this 10th day of December, 2012.



KRISTINA L. CIAFFI

FTL109,012,575 1

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

- | | |
|--|---|
| <input type="checkbox"/> 119.071(2)(c) Active criminal intelligence/active criminal investigative Information | <input type="checkbox"/> 119.071(5)(g)1 Biometric Identification Information (Fingerprints, palm prints, and footprints) |
| <input type="checkbox"/> 119.071(2)(e) Confession | <input type="checkbox"/> 119.071(2)(f) Confidential Informants |
| <input type="checkbox"/> 365.171(15) Identity of 911 caller or person requesting emergency service | <input type="checkbox"/> 316.066(5)(a) Crash reports are confidential for period of 60 days after the report is filed |
| <input type="checkbox"/> 119.071(2)(d) Surveillance techniques, procedures, and personnel; inventory of law enforcement resources, policies or plans pertaining to mobilization, deployment or tactical operations | <input type="checkbox"/> 119.071(2)(h)(1) Identity of victim of sexual battery, lewd and lascivious offense upon a person less than 16 years old, child abuse, sexual offense |
| <input type="checkbox"/> 119.071(2)(l) Assets of crime victim | <input type="checkbox"/> 985.04(1) Juvenile offender records |
| <input type="checkbox"/> 119.071(5)(a)(5) Social security numbers held by agency | <input type="checkbox"/> 119.0712(2) Personal information contained in a motor vehicle record |
| <input type="checkbox"/> 119.071(5)(b) Bank account #, debit, charge and credit card numbers held by an agency | <input type="checkbox"/> 119.071(2)(b) Criminal intelligence/investigative information from a non-Florida criminal justice agency |
| <input checked="" type="checkbox"/> 395.3025(7)(a) and/or 456.057(7)(a) Medical information | <input type="checkbox"/> 394.4615(7) Mental health information |
| <input type="checkbox"/> 943.053/943.0525 NCIC/FCIC/FBI and in-state FDLE/DOC | <input type="checkbox"/> 119.071(4)(c) Undercover personnel |
| <input type="checkbox"/> 119.07(4)(d) Extra fee if request is voluminous or requires extensive personnel, technology | <input type="checkbox"/> 119.071(4)(d)(1) Home address, telephone, soc. security #, photos of active/former LE personnel, spouses and children |

Other:

Case No:12-121312

Tracking No.: n/a

Clerk Name/ID: Hall/9205

Date: 1/31/2013

Revised 03/04/2011

01/31/2013

12:06 5618883163

CENTRALRECORDS

#2517 P. 001/004

P A L M B E A C H C O U N T Y S H E R I F F ' S O F F I C E PAGE 1
CASE NO. 12121312 OFFENSE REPORT CASE NO. 12121312
DISPOSITION: ZULU
DIVISION: ROAD PATROL

POLICE SERVICE CALL * * *
SIGNAL CODE: 68 CRIME CODE: NON CRIME CODE: PS CODE: 9568 09/13/12 THURSDAY
ZONE: C21 GRID: DEPUTY I.D.: 8826 NAME: HAUGH VINCENT ASSIST: TIME D 1155 A 1211 C 1522
OCCURRED BETWEEN DATE: 09/12/12 , 0830 HOURS AND DATE: 09/13/12 , 0100 HOURS
EXCEPTION TYPE:
INCIDENT LOCATION: 7020 LIONS HEAD LA APT. NO.:
CITY: BOCA RATON STATE: FL ZIP: 33496

NO. OFFENSES: 00 NO. OFFENDERS: UK NO. VEHICLES STOLEN: 0 NO. PREMISES ENTERED: 0
LOCATION: RESIDENCE - SINGLE FAMILY
NO. VICTIMS: 00 NO. ARRESTED: 0 FORCED ENTRY: 0

..
NAME LIST:
ROLE:

OTHER SIMON BERNSTEIN DOB: 12/02/1935
SEX: M RACE: W HT: 180 WT: 180 HR: GRAY EYE: BROWN
RESIDENTIAL ADDRESS: 7020 LIONSHEAD LA BOCA RATON FL 33496 HOME PHONE: 561 000-0000
BUSINESS PHONE: 561 000-0000
OTHER TED BERNSTEIN DOB: 08/27/1959
SEX: M RACE: W HT: 0 WT: 0 HR: UNKNOWN EYE: UNKNOWN
RESIDENTIAL ADDRESS: 12344 MELROSE WY BOCA RATON FL 33428 HOME PHONE: 561 213-2322
BUSINESS PHONE: 561 000-0000
OTHER ELLIOT I BERNSTEIN DOB: 09/30/1963
SEX: M RACE: W HT: 510 WT: 185 HR: BROWN EYE: HAZEL
RESIDENTIAL ADDRESS: 2753 NW 34TH ST BOCA RATON FL 33434 HOME PHONE: 561 886-7627
BUSINESS PHONE: 561 000-0000
OTHER RACHEL WALKER DOB: 03/05/1984
SEX: F RACE: W HT: 508 WT: 130 HR: BLOND EYE: BLUE
RESIDENTIAL ADDRESS: 99 SE MIZNER BD BOCA RATON FL 33434 HOME PHONE: 561 000-0000
BUSINESS PHONE: 561 000-0000
OTHER MARITZ UCCIO DOB: 04/23/1966
SEX: F RACE: W HT: 502 WT: 120 HR: BROWN EYE: BROWN
RESIDENTIAL ADDRESS: 7020 LYONS HEAD LA BOCA RATON FL 33496 HOME PHONE: 561 305-2999
BUSINESS PHONE: 561 000-0000
OTHER LISA FRIEDSTEIN DOB: 03/15/1967
SEX: F RACE: W HT: 501 WT: 120 HR: BROWN EYE: BROWN
RESIDENTIAL ADDRESS: 2142 CHURCHHILL LA HIGHLAND IL 60035 HOME PHONE: 847 877-4633
BUSINESS PHONE: 561 000-0000
..

.....
printed by Employee Id #: 9205 on January 31, 2013 12:03:53PM
.....

PALM BEACH COUNTY SHERIFF'S OFFICE PAGE 2
CASE NO. 12121312 OFFENSE REPORT CASE NO. 12121312
DISPOSITION: ZULU

ON 9/13/12 AT 1211 HOURS, I RESPONDED TO 7020 LYONS HEAD LANE, UNINCORPORATED BOCA RATON, FL., AND MET WITH TED BERNSTEIN AND HIS SISTER AND BROTHER, LISA FRIEDSTEIN AND ELLIOT BERNSTEIN, IN REFERENCE TO A POLICE ASSIST. TED ADVISED HIS FATHER, SIMON BERNSTEIN WAS TAKEN TO DELRAY COMMUNITY HOSPITAL AT 1000 HOURS ON 9/12/12 AND PASSED AWAY AT 0100 HOURS ON 9/13/12. HE EXPLAINED WHILE AT THE HOSPITAL HE WAS ADVISED BY SIMON'S CARETAKER, RACHEL WALKER THAT SIMON'S LIVE-IN GIRLFRIEND, MARITZA PUCCIO MIGHT HAVE PROVIDED SIMON WITH A LARGER THEN PRESCRIBED DOSE OF HIS MEDICATION AS WELL AS ONE OF HER PRESCRIBED SLEEPING PILLS, WHICH COULD OF CAUSED HIS DEATH. HE SAID HE VOICED HIS CONCERNS TO THE DOCTORS AT DELRAY COMMUNITY HOSPITAL BUT THEY ADVISED THERE DID NOT APPEAR TO BE ANY SUSPICIOUS CIRCUMSTANCES SURROUNDING SIMON'S DEATH AND THEY WOULD NOT BE CONDUCTING AN AUTOSPY. TED CONTACTED BOTH A PRIVATE COMPANY AND THE PALM BEACH COUNTY MEDICAL EXAMINER'S OFFICE REGARDING HAVING AN AUTOSPY CONDUCTED. BOTH ADVISED HE SHOULD CONTACT THE PALM BEACH COUNTY SHERIFF'S OFFICE.

AFTER SPEAKING WITH TED, I SPOKE WITH RACHEL. RACHEL STARTED BY TELLING ME THAT SIMON SUFFERED FROM SEVERAL AILMENTS TO INCLUDE, AND HE HAD APPROXIMATELY 2 YEARS AGO, WHICH WAS ONE OF SEVERAL SIMON WAS RECENTLY PLACED ON FOR THE, WHICH SHE SAID EFFECTED HIS MENTAL FACULTIES. RACHEL ADVISED WHEN SHE ARRIVED AT SIMON'S HOUSE AT 0830 HOURS ON 9/12/12, SHE FOUND SIMON LYING ON THE COUCH IN THE LIVING ROOM. HE WAS AWAKE AND BREATHING BUT HE HAD A VERY LOW HEART BEAT AND WAS UNAWARE OF HIS SURROUNDINGS. RACHEL SAID SHORTLY AFTER HER ARRIVAL MARITZA RETURNED HOME. THEY HAD A BRIEF ARGUMENT OVER WHETHER OR NOT THEY SHOULD BRING SIMON TO THE HOSPITAL AS RACHEL SAYS MARITZA DID NOT BELIEVE HE NEEDED TO GO TO THE HOSPITAL AT THIS TIME. RACHEL SAID THAT SHE FINALLY TOLD MARITZA THAT SHE WAS GOING TO TAKE HIM TO THE HOSPITAL BY HERSELF. SHE SAID SHE LEFT THE HOUSE APPROXIMATELY 1000 HOURS FOR THE HOSPITAL. RACHEL WENT ONTO TELL ME THAT MARITZA PROVIDED SIMON WITH ONE OF HER PRESCRIBED SLEEPING PILLS ON THE NIGHT OF 9/8/12. SHE ALSO SAID SIMON WAS PRESCRIBED 100 PILLS ON 9/7/12 AND SHE BELIEVE THAT MARITZA WAS PROVIDING SIMON WITH LARGER THEN PRESCRIBED DOSES OF. RACHEL TOLD ME SHE BELIEVED THERE WERE ONLY 30 PILLS LEFT IN THE BOTTLE AT THE TIME OF SIMON'S DEATH. I LATER COUNTED THE BOTTLE OF. THERE WERE 90.5 PILLS IN THE

PALM BEACH COUNTY SHERIFF'S OFFICE PAGE 3
CASE NO. 12121312 OFFENSE REPORT CASE NO. 12121312
DISPOSITION: ZULU

BOTTLE SHOWING THAT SIMON DID NOT TAKE MORE THAN PRESCRIBED.

IT SHOULD ALSO BE NOTED THAT I SPOKE WITH ELLIOT, WHO SAID HE WAS AT DINNER WITH SIMON AND MARITZA ON 9/8/12 AND OBSERVED HIS FATHER TELL MARITZA THAT HE WANTED ONE OF HER SLEEPING PILLS BECAUSE HE COULD NOT SLEEP. ELLIOT SAID THEY HAD A BRIEF ARGUMENT OVER THIS AS MARTIZA REFUSED TO ALLOW SIMON TO TAKE ONE OF HER PILLS INITIALLY. AT THIS TIME SGT. CASTELLI ARRIVED ON SCENE AND WAS ADVISED OF THE CASE.

HE MADE CONTACT WITH VCD AND THE MEDICAL EXAMINER'S OFFICE. HE WAS ADVISED TO HAVE ME CONTACT DELRAY COMMUNITY HOSPITAL TO PUT A HOLD ON SIMON'S BODY FOR [REDACTED] FROM THE MEDICAL EXAMINER'S OFFICE WHO WOULD CHECK ON THE SITUATION THE NEXT DAY. I WAS ALSO ADVISED TO EMAIL A COPY OF THE REPORT TO [REDACTED] WITH THE MEDICAL EXAMINER'S OFFICE. DELRAY COMMUNITY HOSPITAL WAS CONTACTED AND A HOLD WAS PLACED ON SIMON'S BODY AND [REDACTED] WAS EMAILED.

THIS REPORT IS FOR INFORMATION PURPOSES.

D/S HAUGH #8826

TRANS: 9/14/12 DG#4495

DICT: 9/13/12 @ 1700 HRS.

printed by Employee Id #: 9205 on January 31, 2013 12:03:53PM

Report Selection Criteria

Case ID: 502010CP003128XXXXSB
Docket Start Date:
Docket Ending Date:

Case Description

Case ID: 502010CP003128XXXXSB
Case Caption: INRE JOSHUA Z BERNSTEIN IRREVOCABLE TRUST
Division: IY - COLIN
Filing Date: Wednesday, July 07th, 2010
Court: CP - PROBATE
Location: SB - SOUTH BRANCH
Jury: N-Non Jury
Type: TR - TRUST
Status: PE - PENDING

Related Cases

No related cases were found.

Case Event Schedule

No case events were found.

Case Parties

Seq #	Assoc	Expn Date	Type	ID	Name	Aliases:	
1			IN RE	@2312344	BERNSTEIN, JOSHUA Z	none	
2			PETITIONER	@2312345	BERNSTEIN, ELIOT	none	

3		PETITIONER	@2312346	BERNSTEIN, CANDICE	Aliases: none
4	2	ATTORNEY	0497381	SPALLINA, ROBERT L	Aliases: none
5	3	ATTORNEY	0497381	SPALLINA, ROBERT L	Aliases: none
6		JUDGE	Y	COLIN, JUDGE MARTIN H	Aliases: none

Docket Entries

Docket Number	Docket Type	Book and Page No.	Attached To:
	00000 - ADDITIONAL COMMENTS		
Filing Date:	07-JUL-2010		
Filing Party:			
Disposition Amount:			
Docket Text:	none.		
	510FF - CPFF/TR		
Filing Date:	07-JUL-2010		
Filing Party:			
Disposition Amount:			
Docket Text:	none.		
	PE - PENDING		
Filing Date:	07-JUL-2010		
Filing Party:			
Disposition Amount:			
Docket Text:	none.		
	RCPT - RECEIPT FOR PAYMENT		

Filing Date:	07-JUL-2010		
Filing Party:			
Disposition Amount:			
Docket Text:	A Payment of -\$410.00 was made on receipt SBCV49660.		
1	PET - PETITION		
Filing Date:	07-JUL-2010		
Filing Party:	BERNSTEIN, CANDICE		
Disposition Amount:			
Docket Text:	TO APPOINT SUCCESSOR TRUSTEE		
2	ORD - ORDER		
Filing Date:	08-JUL-2010		
Filing Party:	COLIN, JUDGE MARTIN H		
Disposition Amount:			
Docket Text:	FINAL ORD ON PET		

Report Selection Criteria

Case ID: 502010CP003123XXXXSB
Docket Start Date:
Docket Ending Date:

Case Description

Case ID: 502010CP003123XXXXSB
Case Caption: INRE DANIEL BERNSTEIN IRREVOCABLE TRUST
Division: IY - COLIN
Filing Date: Wednesday, July 07th, 2010
Court: CP - PROBATE
Location: SB - SOUTH BRANCH
Jury: N-Non Jury
Type: TR - TRUST
Status: PE - PENDING

Related Cases

No related cases were found.

Case Event Schedule

No case events were found.

Case Parties

Seq #	Assoc	Expn Date	Type	ID	Name	Aliases:	
1			IN RE	@2312297	BERNSTEIN, DANIEL	Aliases:	none
2			PETITIONER	@2312298	BERNSTEIN, ELIOT	Aliases:	none
3			PETITIONER	@2312299	BERNSTEIN, CANDICE	Aliases:	none

4	2		ATTORNEY	0497381	SPALLINA, ROBERT L	Aliases:	none
5			JUDGE	Y	COLIN, JUDGE MARTIN H	Aliases:	none
6	3		ATTORNEY	0497381	SPALLINA, ROBERT L	Aliases:	none

Docket Entries

Docket Number	Docket Type	Book and Page No.	Attached To:
	00000 - ADDITIONAL COMMENTS		
Filing Date:	07-JUL-2010		
Filing Party:			
Disposition Amount:			
Docket Text:	none.		
	510FF - CPFF/TR		
Filing Date:	07-JUL-2010		
Filing Party:			
Disposition Amount:			
Docket Text:	none.		
	PE - PENDING		
Filing Date:	07-JUL-2010		
Filing Party:			
Disposition Amount:			
Docket Text:	none.		
	RCPT - RECEIPT FOR PAYMENT		
Filing Date:	07-JUL-2010		

Filing Party:		
Disposition Amount:		
Docket Text:		A Payment of -\$410.00 was made on receipt SBCV49660.
1	ORD - ORDER	
Filing Date:		07-JUL-2010
Filing Party:		BERNSTEIN, ELIOT
Disposition Amount:		
Docket Text:		TO APPOINT SUCCESSOR TRUSTEE
2	ORD - ORDER	
Filing Date:		07-JUL-2010
Filing Party:		COLIN, JUDGE MARTIN H
Disposition Amount:		
Docket Text:		FINAL ORD ON PET

Report Selection Criteria

Case ID: 502010CP003125XXXXSB
Docket Start Date:
Docket Ending Date:

Case Description

Case ID: 502010CP003125XXXXSB
Case Caption: INRE JAKE BERNSTEIN IRREVOCABLE TRUST
Division: IY - COLIN
Filing Date: Wednesday, July 07th, 2010
Court: CP - PROBATE
Location: SB - SOUTH BRANCH
Jury: N-Non Jury
Type: TR - TRUST
Status: PE - PENDING

Related Cases

No related cases were found.

Case Event Schedule

No case events were found.

Case Parties

Seq #	Assoc	Expn Date	Type	ID	Name	Aliases:	
1			IN RE	@2312319	BERNSTEIN, JAKE	Aliases:	none
2			PETITIONER	@2312320	BERNSTEIN, ELIOT	Aliases:	none
3			PETITIONER	@2312321	BERNSTEIN, CANDICE	Aliases:	none

4	2		ATTORNEY	0497381	SPALLINA, ROBERT L	Aliases:	none
5	3		ATTORNEY	0497381	SPALLINA, ROBERT L	Aliases:	none
6			JUDGE	Y	COLIN, JUDGE MARTIN H	Aliases:	none

Docket Entries

Docket Number	Docket Type	Book and Page No.	Attached To:
	00000 - ADDITIONAL COMMENTS		
Filing Date:	07-JUL-2010		
Filing Party:			
Disposition Amount:			
Docket Text:	none.		
	510FF - CPFF/TR		
Filing Date:	07-JUL-2010		
Filing Party:			
Disposition Amount:			
Docket Text:	none.		
	PE - PENDING		
Filing Date:	07-JUL-2010		
Filing Party:			
Disposition Amount:			
Docket Text:	none.		
	RCPT - RECEIPT FOR PAYMENT		
Filing Date:	07-JUL-2010		

Filing Party:		
Disposition Amount:		
Docket Text:		A Payment of -\$410.00 was made on receipt SBCV49660.
1	ORD - ORDER	
Filing Date:		07-JUL-2010
Filing Party:		BERNSTEIN, CANDICE
Disposition Amount:		
Docket Text:		TO APPOINT SUCCESSOR TRUSTEE
2	ORD - ORDER	
Filing Date:		08-JUL-2010
Filing Party:		COLIN, JUDGE MARTIN H
Disposition Amount:		
Docket Text:		FINAL ORD ON PET

Christopher R. Prindle

Senior Vice President
Financial Advisor

February 6, 2008

Eliot & Candice Bernstein
39 Little Avenue
Red Bluff, CA 96080

Re: Bernstein Irrevocable Trusts

Dear Eliot & Candice,

It is our pleasure to inform you that Simon & Shirley Bernstein, have recently distributed \$120,000 to the Irrevocable Trust established for your children:

Josh Bernstein Irrevocable Trust
Jacob Bernstein Irrevocable Trust
Daniel Bernstein Irrevocable Trust

Stanford Trust Company will continue to serve as trustee. We wish you a happy and healthy 2008!

Sincerely,



Christopher R. Prindle, CFA
Senior Vice President
Investments

Stanford Group Company
MEMBER NASD/SIPC

5200 Town Center Circle, 6th Floor • Boca Raton, Florida 33486 USA
561.544.8200 • 561.544.8213 Direct • 561.544.8228 Fax
cprindle@stanfordeagle.com



November 20, 2007

Jake Bernstein
7020 Lions Head Lane
Boca Raton, Florida 33496

Re: Jake Bernstein Irrevocable Trust

Dear Jake,

It is our pleasure to inform you that your grandparents, Simon & Shirley Bernstein, have established a trust for your benefit. The trust was funded with six shares of LIC Holdings, Inc. which recently distributed \$17,073.86 to your trust.

Stanford Trust Company will serve as trustee. The trustee will invest and administer the funds in accordance with the terms of the trust. We wish you a very happy and safe holiday season.

Sincerely,

A handwritten signature in black ink, appearing to read "CR Prindle".

Christopher R. Prindle, CFA
Senior Vice President
Investments

Stanford Group Company
MEMBER NASD/SIPC

5200 Town Center Circle, 6th Floor • Boca Raton, Florida 33486 USA
561.544.8200 • 877.544.8230 Toll Free • 561.544.8228 Fax
www.stanfordeagle.com



November 20, 2007

Daniel Bernstein
7020 Lions Head Lane
Boca Raton, Florida 33496

Re: Daniel Bernstein Irrevocable Trust

Dear Daniel,

It is our pleasure to inform you that your grandparents, Simon & Shirley Bernstein, have established a trust for your benefit. The trust was funded with six shares of LIC Holdings, Inc. which recently distributed \$17,073.86 to your trust.

Stanford Trust Company will serve as trustee. The trustee will invest and administer the funds in accordance with the terms of the trust. We wish you a very happy and safe holiday season.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Prindle", written over the word "Sincerely,".

Christopher R. Prindle, CFA
Senior Vice President
Investments

Stanford Group Company
MEMBER NASD/SIPC

5200 Town Center Circle, 6th Floor • Boca Raton, Florida 33486 USA
561.544.8200 • 877.544.8230 Toll Free • 561.544.8228 Fax
www.stanfordeagle.com



November 20, 2007

Joshua Z. Bernstein
7020 Lions Head Lane
Boca Raton, Florida 33496

Re: Joshua Z. Bernstein Irrevocable Trust

Dear Joshua,

It is our pleasure to inform you that your grandparents, Simon & Shirley Bernstein, have established a trust for your benefit. The trust was funded with six shares of LIC Holdings, Inc. which recently distributed \$17,073.86 to your trust.

Stanford Trust Company will serve as trustee. The trustee will invest and administer the funds in accordance with the terms of the trust. We wish you a very happy and safe holiday season.

Sincerely,

Christopher R. Prindle, CFA
Senior Vice President
Investments

Stanford Group Company
MEMBER NASD/SIPC

5200 Town Center Circle, 6th Floor • Boca Raton, Florida 33486 USA
561.544.8200 • 877.544.8230 Toll Free • 561.544.8228 Fax
www.stanfordeagle.com



CFN 20080327651
 OR BK 22841 PG 1818
 RECORDED 09/04/2008 14:10:25
 Palm Beach County, Florida
 AMT 365,000.00
 Deed Doc 1,277.50
 Sharon R. Bock, CLERK & COMPTROLLER
 Pgs 1818 - 1820; (3pgs)

This Instrument prepared by:

Robert L. Spallina, Esq.
 Tescher & Spallina, P.A.
 2101 Corporate Boulevard, Suite 107
 Boca Raton, FL 33431
 (561) 998-7847

THIS IS A BALLOON MORTGAGE AND THE FINAL PRINCIPAL PAYMENT OR THE PRINCIPAL BALANCE DUE UPON MATURITY IS \$365,000.00, TOGETHER WITH ACCRUED INTEREST, IF ANY, AND ALL ADVANCEMENTS MADE BY THE MORTGAGEE UNDER THE TERMS OF THIS SECOND MORTGAGE.

SECOND MORTGAGE

THIS SECOND MORTGAGE is made and executed the 8th day of July, 2008, by SIMON L. BERNSTEIN, whose address is 7020 Lions Head Lane, Boca Raton, Florida 33496, hereinafter referred to as the "Mortgagee"(which term shall include the Mortgagee's heirs, successors and assigns), to BERNSTEIN FAMILY REALTY, LLC, a Florida limited liability company whose post office address is 950 Peninsula Corporate Circle, Suite 3010, Boca Raton, Florida 33487, hereinafter referred to as the "Mortgagor" (which term shall include the Mortgagor's heirs, successors and assigns).

WITNESSETH, for good and valuable considerations, and in consideration of the aggregate sum in that certain promissory note of even date herewith (hereinafter referred to as the "Note"), Mortgagor does hereby grant, bargain, sell, alien, remise, release, convey and confirm unto Mortgagee, in fee simple, that certain property of which Mortgagor is now seized and possessed situate in Palm Beach County, State of Florida, legally described as follows, including all improvements now or hereafter placed thereon, which property and improvements are hereinafter referred to collectively as the "Property":

Lot 68, Block G, BOCA MADERA UNIT 2, according to the Plat thereof, recorded in Plat Book 32, Pages 59 and 60, of the Public Records of Palm Beach County, Florida.

TO HAVE AND TO HOLD the Property, together with the tenements, hereditaments and appurtenances thereof, unto Mortgagee in fee simple.

AND Mortgagor hereby covenants with Mortgagee that Mortgagor is indefeasibly seized of the Property in fee simple, that Mortgagor has full power and lawful right to convey the Property to Mortgagee in fee simple, that it shall be lawful for Mortgagee at all times peaceably and quietly to enter upon, hold, occupy and enjoy the Property, that the Property is free from all encumbrances, that Mortgagor will make such further assurance to perfect the fee simple title to the Property in Mortgagee as may reasonably be required, and that Mortgagor hereby fully warrants the title to the Property and will defend the same against the lawful claims of all persons whomsoever.

PROVIDED ALWAYS, that if Mortgagor shall pay unto Mortgagee the Note, of which the following in words and figures is a true copy:

See Attached Exhibit "A"

and shall perform, comply with and abide by all of the conditions and covenants of the Note and of this Second Mortgage, then this Second Mortgage and the estate thereby created shall cease and be null and void.

AND Mortgagor hereby covenants and agrees as follows:

1. To pay all the principal and interest and other sums of money payable under the Note and this Second Mortgage, or either of them, promptly on the days the same severally become due and any other Note or Second Mortgage securing the property described herein.

2. To pay all the taxes, assessments, levies, liabilities, obligations, and encumbrances of every nature on the Property, and if the same be not promptly paid, Mortgagee may at any time pay the same without waiving or affecting the option to foreclose or any right hereunder, and every payment so made shall bear interest from the date thereof at the rate of eighteen (18%) percent per annum. Mortgagor shall pay the annual real estate taxes no later than November 30th of each year and shall send Mortgagee proof of payment no later than December 31st of said year.

3. To pay all and singular the costs, charges and expenses, including reasonable attorney's fees, incurred or paid at any time by Mortgagee because of the failure on the part of Mortgagor to perform each and every covenant of the Note and this Second Mortgage, or either of them, and every such payment shall bear interest from the date of payment by Mortgagee at the rate of eighteen (18%) percent per annum.

4. To keep the Property insured in a sum not less than the greater of (a) \$365,000 or (b) the maximum insurable value of the improvements thereon, in a company or companies to be approved by Mortgagee, which policy or policies shall be held by and shall be payable to Mortgagee, and in the event any sum of money becomes payable under such policy or policies, Mortgagee shall have the option to receive and apply the same on account of the indebtedness hereby secured or to permit the Mortgagor to receive and use it or any part thereof for other purposes, without thereby waiving or impairing any equity, lien or right under or by virtue of this Second Mortgage, and may place and pay for such insurance or any part thereof without waiving or affecting the option to foreclose or any right hereunder, and each and every such payment shall bear interest from the date of payment by Mortgagee at the rate of ten (10%) percent per annum.

5. To permit, commit or suffer no waste, impairment or deterioration of the Property or any part thereof.

6. To perform, comply with, and abide by each and every condition and covenant set forth in the Note and in this Second Mortgage.

7. If any of said sums of money herein referred to be not promptly and fully paid within ten (10) days after the same severally become due and payable, or if each and every one of the conditions

and covenants of the Note and this Second Mortgage, or either of them, are not fully performed, the aggregate sum due under the Note shall become due and payable forthwith or thereafter at the option of the Mortgagee, as fully and completely as if the said aggregate sum of \$365,000 were originally stipulated to be paid on such day, anything in the Note or this Second Mortgage to the contrary notwithstanding. In addition to the above provisions, any payments made more than fifteen (15) days after their due date shall be subject to an automatic late charge of ten (10%) percent of the amount of said payment.

8. If all or any part of the described property or any legal or equitable interest therein is sold, transferred or encumbered by Mortgagor, excluding a transfer by devise, descent or by operation of law upon the death of Mortgagor, Mortgagee may, at Mortgagee's sole option, declare all the sums secured by this Second Mortgage to be immediately due and payable.

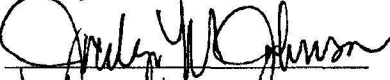
9. In the event Mortgagee finds it necessary to bring suit against Mortgagor due to an alleged default by Mortgagor hereunder, and Mortgagee prevails in said litigation, Mortgagee shall be entitled to recover from Mortgagor any and all costs and reasonable attorney's fees incurred by Mortgagee in said litigation.

IN WITNESS WHEREOF, the Mortgagor has caused these presents to be executed in its name, by its proper officers thereunto duly authorized, the day and year first above written.

Signed, Sealed & Delivered

BERNSTEIN FAMILY REALTY, LLC a Florida limited liability company

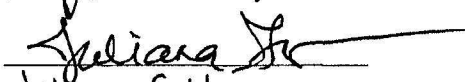
in the presence of:



Jocelyn Johnson
(Print Name)

By: 

SIMON L. BERNSTEIN, Manager




Juliana Goldman
(Print Name)

STATE OF FLORIDA)
)
COUNTY OF PALM BEACH)

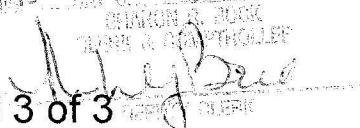
The foregoing instrument was acknowledged before me this 8th day of July, 2008, by SIMON L. BERNSTEIN, Manager for BERNSTEIN FAMILY REALTY, LLC.

NOTARY PUBLIC-STATE OF FLORIDA
Diana Banks
Commission # DD770917
Expires: MAY 11, 2012
BONDED THRU ATLANTIC BONDING CO., INC.



Signature of Notary Public

(Print, type or Stamp Commissioned Name of Notary Public)
Personally Known or Produced Identification _____
Type of Identification Produced _____

STATE OF FLORIDA - PALM BEACH COUNTY
I hereby certify that the foregoing is a true copy of the record in my office.
12th FEB 2008
BENJAMIN S. BUCK
CLERK & COMPTROLLER




CFN 20080327651
 CR BK 22841 PG 1818
 RECORDED 09/04/2008 14:10:25
 Palm Beach County, Florida
 AMT 365,000.00
 Deed Doc 1,277.50
 Sharon R. Bock, CLERK & COMPTROLLER
 Pgs 1818 - 1820; (3pgs)

This Instrument prepared by:

Robert L. Spallina, Esq.
 Tescher & Spallina, P.A.
 2101 Corporate Boulevard, Suite 107
 Boca Raton, FL 33431
 (561) 998-7847

THIS IS A BALLOON MORTGAGE AND THE FINAL PRINCIPAL PAYMENT OR THE PRINCIPAL BALANCE DUE UPON MATURITY IS \$365,000.00, TOGETHER WITH ACCRUED INTEREST, IF ANY, AND ALL ADVANCEMENTS MADE BY THE MORTGAGEE UNDER THE TERMS OF THIS SECOND MORTGAGE.

SECOND MORTGAGE

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WITNESSETH, for good and valuable considerations, and in consideration of the aggregate sum in that certain promissory note of even date herewith (hereinafter referred to as the "Note"), Mortgagor does hereby grant, bargain, sell, alien, remise, release, convey and confirm unto Mortgagee, in fee simple, that certain property of which Mortgagor is now seized and possessed situate in Palm Beach County, State of Florida, legally described as follows, including all improvements now or hereafter placed thereon, which property and improvements are hereinafter referred to collectively as the "Property":

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TO HAVE AND TO HOLD the Property, together with the tenements, hereditaments and appurtenances thereof, unto Mortgagee in fee simple.

AND Mortgagor hereby covenants with Mortgagee that Mortgagor is indefeasibly seized of the Property in fee simple, that Mortgagor has full power and lawful right to convey the Property to Mortgagee in fee simple, that it shall be lawful for Mortgagee at all times peaceably and quietly to enter upon, hold, occupy and enjoy the Property, that the Property is free from all encumbrances, that Mortgagor will make such further assurance to perfect the fee simple title to the Property in Mortgagee as may reasonably be required, and that Mortgagor hereby fully warrants the title to the Property and will defend the same against the lawful claims of all persons whomsoever.

PROVIDED ALWAYS, that if Mortgagor shall pay unto Mortgagee the Note, of which the following in words and figures is a true copy:

See Attached Exhibit "A"

and shall perform, comply with and abide by all of the conditions and covenants of the Note and of this Second Mortgage, then this Second Mortgage and the estate thereby created shall cease and be null and void.

AND Mortgagor hereby covenants and agrees as follows:

1. To pay all the principal and interest and other sums of money payable under the Note and this Second Mortgage, or either of them, promptly on the days the same severally become due and any other Note or Second Mortgage securing the property described herein.

2. To pay all the taxes, assessments, levies, liabilities, obligations, and encumbrances of every nature on the Property, and if the same be not promptly paid, Mortgagee may at any time pay the same without waiving or affecting the option to foreclose or any right hereunder, and every payment so made shall bear interest from the date thereof at the rate of eighteen (18%) percent per annum. Mortgagor shall pay the annual real estate taxes no later than November 30th of each year and shall send Mortgagee proof of payment no later than December 31st of said year.

3. To pay all and singular the costs, charges and expenses, including reasonable attorney's fees, incurred or paid at any time by Mortgagee because of the failure on the part of Mortgagor to perform each and every covenant of the Note and this Second Mortgage, or either of them, and every such payment shall bear interest from the date of payment by Mortgagee at the rate of eighteen (18%) percent per annum.

4. To keep the Property insured in a sum not less than the greater of (a) \$365,000 or (b) the maximum insurable value of the improvements thereon, in a company or companies to be approved by Mortgagee, which policy or policies shall be held by and shall be payable to Mortgagee, and in the event any sum of money becomes payable under such policy or policies, Mortgagee shall have the option to receive and apply the same on account of the indebtedness hereby secured or to permit the Mortgagor to receive and use it or any part thereof for other purposes, without thereby waiving or impairing any equity, lien or right under or by virtue of this Second Mortgage, and may place and pay for such insurance or any part thereof without waiving or affecting the option to foreclose or any right hereunder, and each and every such payment shall bear interest from the date of payment by Mortgagee at the rate of ten (10%) percent per annum.

5. To permit, commit or suffer no waste, impairment or deterioration of the Property or any part thereof.

6. To perform, comply with, and abide by each and every condition and covenant set forth in the Note and in this Second Mortgage.

7. If any of said sums of money herein referred to be not promptly and fully paid within ten (10) days after the same severally become due and payable, or if each and every one of the conditions

and covenants of the Note and this Second Mortgage, or either of them, are not fully performed, the aggregate sum due under the Note shall become due and payable forthwith or thereafter at the option of the Mortgagee, as fully and completely as if the said aggregate sum of \$365,000 were originally stipulated to be paid on such day, anything in the Note or this Second Mortgage to the contrary notwithstanding. In addition to the above provisions, any payments made more than fifteen (15) days after their due date shall be subject to an automatic late charge of ten (10%) percent of the amount of said payment.

8. If all or any part of the described property or any legal or equitable interest therein is sold, transferred or encumbered by Mortgagor, excluding a transfer by devise, descent or by operation of law upon the death of Mortgagor, Mortgagee may, at Mortgagee's sole option, declare all the sums secured by this Second Mortgage to be immediately due and payable.

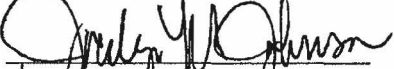
9. In the event Mortgagee finds it necessary to bring suit against Mortgagor due to an alleged default by Mortgagor hereunder, and Mortgagee prevails in said litigation, Mortgagee shall be entitled to recover from Mortgagor any and all costs and reasonable attorney's fees incurred by Mortgagee in said litigation.

IN WITNESS WHEREOF, the Mortgagor has caused these presents to be executed in its name, by its proper officers thereunto duly authorized, the day and year first above written.

Signed, Sealed & Delivered

BERNSTEIN FAMILY REALTY, LLC a Florida limited liability company


in the presence of:



Jocelyn Johnson
(Print Name)

By: 

SIMON L. BERNSTEIN, Manager

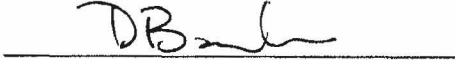


Juliana Goldman
(Print Name)

STATE OF FLORIDA)
)
COUNTY OF PALM BEACH)

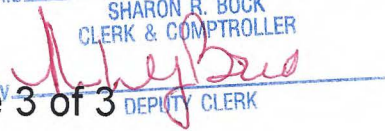
The foregoing instrument was acknowledged before me this 8th day of July, 2008, by SIMON L. BERNSTEIN, Manager for BERNSTEIN FAMILY REALTY, LLC.

NOTARY PUBLIC-STATE OF FLORIDA
Diana Banks
Commission #DD770917
Expires: MAY 11, 2012
BONDED THRU ATLANTIC BONDING CO., INC.



Signature of Notary Public

(Print, type or Stamp Commissioned Name of Notary Public)
Personally Known or Produced Identification _____
Type of Identification Produced _____

STATE OF FLORIDA - PALM BEACH COUNTY
I hereby certify that the foregoing is a true copy of the record in my office.
THIS 12th DAY OF Feb, 2013
SHARON R. BOCK
CLERK & COMPTROLLER

DEPUTY CLERK

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FLORIDA

WILLIAM E. STANSBURY,

Plaintiff,

vs.

TED S. BERNSTEIN; DONALD TESCHER
and ROBERT SPALLINA, as Co-Personal
Representatives of the ESTATE OF SIMON
L. BERNSTEIN and as Co-Trustees of the
SHIRLEY BERNSTEIN TRUST AGREEMENT
dated May 20, 2008; LIC HOLDINGS, INC.;
ARBITRAGE INTERNATIONAL
MANAGEMENT, LLC, f/k/a ARBITRAGE
INTERNATIONAL HOLDINGS, LLC;
BERNSTEIN FAMILY REALTY, LLC,

Defendants.

CIVIL DIVISION

CASE NO: 502012CA013933 MB AA

DIVISION: KELLEY

FILED
13 MAR 21 AM 11:03
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CIVIL 2

**MOTION TO DISMISS COUNTS III, V, VII AND VIII
OF THE AMENDED COMPLAINT**

COME NOW, Defendants, Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives of the Estate of Simon L. Bernstein, by and through their undersigned counsel and hereby files this their Motion to Dismiss Counts III, V, VII and VIII of the Amended Complaint pursuant to Florida Rules of Civil Procedure 1.140 and 1.130 and in support thereof state, as follows:

INTRODUCTION

1. This Motion will only address Counts III, V, VII and VIII of the Plaintiff's Amended Complaint dated February 12, 2013, as those are the only Counts with allegations

- 1 -

directed against the moving Defendants directed toward Simon L. Bernstein.

2. The Plaintiff's original Complaint dated July 30, 2012 may also be referred to herein as the "Pending Action".

I. COUNT III - BREACH OF FIDUCIARY DUTY

1. The Plaintiff's allegations in Court III are based on the premise that he was owed a fiduciary duty by Simon Bernstein as a result of being, at all material times, a shareholder of LIC Holdings. See paragraph 48 of the Amended Complaint.

3. However, the Plaintiff fails to attach any document as an Exhibit to the Amended Complaint evidencing an ownership interest of any kind in LIC Holdings.

4. Florida Rule of Civil Procedure 1.130(a) reads, as follows:

- (a) **Instruments Attached.** All bonds, notes, bills of exchange, contracts, accounts, or documents upon which action may be brought or defense made, or a copy thereof or a copy of the portions thereof material to the pleadings, shall be incorporated in or attached to the pleadings. No papers shall be unnecessarily annexed as exhibits. The pleadings shall contain no unnecessary recitals of deeds, documents, contracts, or other instruments. (emphasis added).

A copy of Florida Rule of Civil Procedure 1.130 is attached hereto as Exhibit "A" and incorporated hereto by reference.

5. As the Plaintiff has failed to attach any paper or other document to the Amended Complaint to substantiate his alleged shareholder status in LIC Holdings, a Florida Corporation there can be no cause of action against the moving Defendants for a breach of fiduciary duty.

6. As such, Count III must be dismissed for failure to state a cause of action.

II. COUNT V - CONVERSION

1. On November 6, 2012, the Plaintiff filed his Statement of Claim in the Estate of Simon Bernstein, pending in Palm Beach County, Florida. Exhibit "A" to the Statement of Claim is a copy of the Plaintiffs then pending Complaint and Jury Demand (identified as the "Pending Action") filed by the Plaintiff on July 30, 2012. A copy of the Statement of Claim (w/Exhibit "A" thereto) is attached hereto as Exhibit "B" and incorporated herein by reference.

3. Paragraph 3 of the Statement of Claim expressly states, "The amount of the Claim is in excess of 2.5 million dollars, which the Claimant is entitled to recover under the claims set forth in the Complaint..." (emphasis added).

4. As can be seen, the Pending Action does not contain a Count for Conversion.

5. Florida Statute 733.703(1) clearly states that, "no additional charge may be imposed by a Claimant who files a claim against the estate." A copy of Florida Statute 733.703 is attached hereto as Exhibit "C" and incorporated herein by reference.

6. As such, the Plaintiff cannot now bring an action for Conversion against the moving Defendants as he is limited to the claims in the Pending Action, incorporated by reference into his Statement of Claim.

7. Based on the foregoing, Count V of the Amended Complaint must be dismissed for failure to state of cause of action.

COUNT VII - EQUITABLE LIEN

1. Count VIII of the Pending Action is also titled "Equitable Lien", comprised of

paragraphs 59 through 61.

2. Paragraph 59 of the Pending Action refers to paragraphs 54 through 58, inclusive.
3. Paragraphs 54 through 58 of the Pending Action are part of Count VII, titled "Fraud", (against all Defendants).
4. While the Amended Complaint does include Count VI, titled "Fraud in the Inducement" against Ted Bernstein and LIC Holdings Inc., it does not contain a Count for Fraud against the moving Defendants.
5. As a result and to the extent Count VII of the Amended Complaint is based, in whole or in part, on an alleged Fraud, it cannot now be raised against the moving Defendants.
6. Additionally and more significantly, Count VII of the Pending Action is directed solely to "bank" or other "accounts" into which commissions were allegedly deposited.
7. However, Count VII of the Amended Complaint goes beyond such accounts and requests an equitable lien against three (3) parcels of real property located in Palm Beach County, Florida. See paragraphs 75, 76 and 77 of the Amended Complaint.
8. Florida Statute 733.703(1) clearly states that "no additional charge may be imposed by a Claimant who files a claim against the estate."
9. As such, the Plaintiff cannot now bring an action for an Equitable Lien against the referenced parcels of real property, as he is limited to the claims in the Pending Action incorporated by reference into his Statement of Claim.
10. Based on the foregoing, Count VII of the Amended Complaint must be dismissed

for failure to state a cause of action.

COUNT VIII - CONSTRUCTIVE TRUST

1. Count VIII of the Amended Complaint also refers to the same three (3) parcels of real property located in Palm Beach County, Florida which were not part of the Plaintiff's allegations in the Pending Action incorporated by reference into his Statement of Claim.

2. Count X of the Pending Action is titled "Constructive Trust", is comprised solely of paragraphs 66 through 68.

3. Paragraphs 67 and 68 refer to "bank" or "other accounts" into which commissions were deposited. There is no allegation of any kind directed to any parcel of real property.

4. Florida Statute 733.703(1) clearly states that "no additional charge may be imposed by a Claimant who files a claim against the Estate."

5. As such, the Plaintiff cannot now bring an action for a Constructive Trust against the three (3) parcels of real property referenced in Count VIII of the Amended Complaint, as he is limited to the claims in the Pending Action incorporated by reference into his Statement of Claim.

6. Based on the foregoing, Count VIII of the Amended Complaint must be dismissed for failure to state a cause of action.

GENERAL PRAYER FOR ATTORNEY'S FEES AND COSTS

Defendants, Donald R. Tescher and Robert L. Spallina, as Co-Personal Representatives of the Estate of Simon L. Bernstein, hereby requests an award of attorney's fees and costs pursuant to Florida Statutes 733.106 and 733.609 and/or Florida decisional case law, and that same be taxed against the Plaintiff.

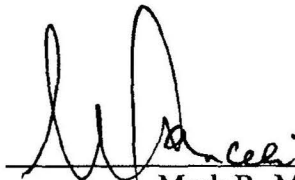
MARK R. MANCERI, P.A.
Attorney for Donald R. Tescher and Robert L.
Spallina, as Co-Personal Representatives
2929 East Commercial Blvd., Suite 702
Ft. Lauderdale, FL 33308
Telephone: (954) 491-7099
E-mail: mrmlaw@comcast.net
mrmlaw1@gmail.com

By: 

Mark R. Manceri, Esq.
Florida Bar No. 444560

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-mail to the designated address(es) and U.S. mail to all parties on the following Service List, this 18th day of March, 2013.


Mark R. Manceri, Esq.

SERVICE LIST

Peter M. Feaman, Esq.
Peter M. Feaman, P.A.
3615 West Boynton Beach Blvd.
Boynton Beach, Florida 33436

Jon Swergold, Esq.
Greenberg Traurig, P.A.
401 East Las Olas Blvd., Suite 2000
Fort Lauderdale, Florida 33301

**Rule 1.130. Attaching Copy of Cause of Action
and Exhibits**

(a) Instruments Attached. All bonds, notes, bills of exchange, contracts, accounts, or documents upon which action may be brought or defense made, or a copy thereof or a copy of the portions thereof material to the pleadings, shall be incorporated in or attached to the pleading. No papers shall be unnecessarily annexed as exhibits. The pleadings shall contain no unnecessary recitals of deeds, documents, contracts, or other instruments.

(b) Part for All Purposes. Any exhibit attached to a pleading shall be considered a part thereof for all purposes. Statements in a pleading may be adopted by reference in a different part of the same pleading, in another pleading, or in any motion.

Amended July 16, 1992, effective Jan. 1, 1993 (604 So.2d 1110).

EXHIBIT "A"

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

IN RE:

Case No. 502012CP004391-~~SB~~^{XXXXSP}

ESTATE OF SIMON
BERNSTEIN,
Deceased.

Division: IZ

COPY
SOUTH COUNTY BRANCH CLERK
ORIGINAL RECEIVED

NOV 06 2012

SHARON H. BUCK
CLERK & COMPTROLLER
PALM BEACH COUNTY

STATEMENT OF CLAIM BY WILLIAM E. STANSBURY

The undersigned hereby presents for filing against the above estate this Statement of Claim and alleges:

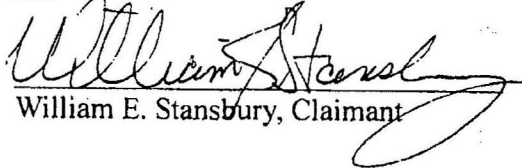
1. The basis for the claim is the action pending in Palm Beach County, Florida, *Stansbury v. Bernstein, et. al*, Case No. 502012CA 013933XXXX MB (the "Pending Action"). A true and correct copy of the Complaint filed by claimant that initiated the Pending Action is attached hereto as Exhibit "A" and is hereby incorporated by reference herein (the "Complaint").
2. The name and address of the claimant are William E. Stansbury, 6920 Caviro Lane, Boynton Beach, Florida 33437, and the name and address of the claimant's attorney is set forth below.
3. The amount of the claim is in excess of \$2.5 million dollars, which the Claimant is entitled to recover under the claims set forth in the Complaint, which amount the Claimant believes is now due.
4. The claim is contingent or unliquidated and uncertain to the extent that the Claimant's claim is dependent on the outcome of the Pending Action. The specific amount of Claimant's claim will be determined in Pending Action and the Claimant expects to recover in excess of \$2.5 million dollars in damages, as well as, but not limited to, treble damages, pre-judgment and post-judgment interest, and costs.
5. The claim is not secured.

[Signature page follows this page]

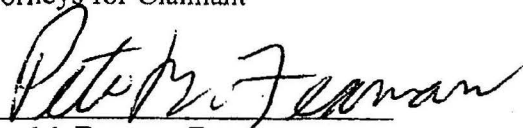
EXHIBIT "B"

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 November 6, 2012.


William E. Stansbury, Claimant

Attorneys for Claimant



Peter M. Feaman, Esq.
Florida Bar No.: 260347
PETER M. FEAMAN, P.A.
3615 West Boynton Beach Blvd.
Boynton Beach, FL 33436
Phone: (561) 734-5552
Facsimile: (561) 734-5554
Primary Electronic Mail Address:
pfeaman@feamanlaw.com

Copy mailed to attorney for Personal
Representative on 11/7
2012.

MUST BE FILED IN DUPLICATE

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

WILLIAM E. STANSBURY,
Plaintiff,

vs.

Case No.

50 2012 CA013 933 XXXXNB

TED S. BERNSTEIN;
SIMON BERNSTEIN;
LIC HOLDINGS, INC.; and
ARBITRAGE INTERNATIONAL
MANAGEMENT, L.L.C., f/k/a
ARBITRAGE INTERNATIONAL
HOLDINGS, L.L.C.,
Defendants.

COPY
RECEIVED FOR FILING

JUL 30 2012

SHARON R. BOCK
CLERK & COMPTROLLER
CIRCUIT CIVIL DIVISION

COMPLAINT
And JURY DEMAND

WILLIAM STANSBURY (PLAINTIFF"), by and through his undersigned co-counsel,
hereby demanding trial by jury of all issues so triable, hereby sues the Defendants, and says

1. This is an action for money damages in excess of \$15,000, and for equitable relief.
2. Plaintiff is *sui juris*, and a resident of Palm Beach County, Florida.
3. Defendants TED S. BERNSTEIN ("TED BERNSTEIN"), and SIMON BERNSTEIN are both *sui juris*, and are both residents of Palm Beach County, Florida.
4. The corporate Defendants, LIC HOLDINGS, INC.; and ARBITRAGE INTERNATIONAL MANAGEMENT, L.L.C., f/k/a ARBITRAGE INTERNATIONAL HOLDINGS, L.L.C., are entities organized and existing under the laws of the State of Florida, all do business in the State of Florida and all have their principal offices in the State of Florida, and in Palm Beach County, Florida.
5. Defendants SIMON BERNSTEIN and TED BERNSTEIN (collectively "Defendants

BERNSTEIN") are, respectively, one another's father and son. They both own and control all of the corporate Defendants, and work closely together with respect thereto. In all matters involved herein, they worked closely together and were virtually one another's alter egos.

7. The acts and incidents giving rise to these causes of action occurred in Palm Beach County, Florida.

Background

8. Plaintiff has worked in the insurance field virtually all his adult life, and by 2003 had become well-known and highly regarded by major insurance companies, their principals, and by others throughout the insurance industry, at all levels thereof, as well as by professionals, including attorneys, CPAs, financial advisors, wealth managers and others who were involved in serving, or otherwise dealing with, insurers and insurance brokers.

9. SIMON BERNSTEIN dealt at high levels of the insurance industry, and specialized in developing and marketing insurance concepts suitable for persons of high net worth to incorporate in their wealth management and estate planning.

10. TED BERNSTEIN was actively involved in selling life insurance products in conjunction with attorneys, CPAs and other professionals, to be incorporated into clients' financial planning.

11. In 2003, TED BERNSTEIN approached Plaintiff, urging Plaintiff to spearhead the marketing of a unique insurance concept ("the said concept"), newly developed by a prominent law firm, which was designed for use in the financial and estate planning of wealthy individuals.

12. TED BERNSTEIN told Plaintiff that he knew of Plaintiff's knowledgeability, and reputation in the insurance and related industries and professions, and that Plaintiff was skilled

at, and accustomed to, speaking and marketing insurance products to, large groups of professionals, and that he realized that Plaintiff, because of his knowledgeability, reputation and abilities, would be ideal to market this concept nationwide, through prominent and experienced professionals.

13. SIMON BERNSTEIN proposed that Plaintiff work as an independent contractor for the Corporate Defendants, marketing the product to the above-described. He offered Plaintiff an arrangement whereby Plaintiff would receive twenty percent (20%) of all net retained amounts of commissions received from insurance companies and general agents' overrides (hereinafter, "commissions") which chose to issue policies of the type to be marketed, for use in the said financial and estate planning, and all other sales by the companies. Plaintiff would receive no other salary remuneration, but would have his travel and marketing expenses advanced or reimbursed. In time, when Plaintiff agreed to become an employee rather than an independent contractor, he agreed to a salary of the equivalent of 15% of commissions received on all products.

14. After reviewing the concept and considering the terms of the arrangement offered by SIMON BERNSTEIN, Plaintiff agreed with BERNSTEIN to accept the proposal described in preceding paragraph 13, and all the parties proceeded to act in accordance therewith.

15. Thereafter, Plaintiff worked with diligence and skill, traveling throughout the United States, generating ever increasing sales, and generating very large commissions for Defendants and for Plaintiff, who received the agreed salary equal to 15% thereof. By 2006, the parties hereto began receiving checks, not only for commissions on new policies sold, but also renewal commissions. Initially, the Plaintiff and Defendants BERNSTEIN, and one secretary, comprised the entire workforce. At the height of the sales campaign, Defendants' staff for serving the

business generated by Plaintiff consisted of more than 40 individuals.

16. In 2005, the Plaintiff was paid his commissions in the form of two IRS forms 1099, from National Services Association, and from Defendant ARBITRAGE INTERNATIONAL MARKETING, INC. for his services as an independent contractor.

17. In 2006, Plaintiff received his agreed salary as an employee, reflected in two IRS forms W-2., One W-2 was from ARBITRAGE INTERNATIONAL MARKETING, INC., and the other was from ARBITRAGE INTERNATIONAL HOLDINGS, INC., which later became Defendant ARBITRAGE INTERNATIONAL MANAGEMENT, INC.

18. Also in 2006, SIMON BERNSTEIN told Plaintiff that Plaintiff, was being rewarded for the explosive growth of business, through receiving a 10% interest in LIC.

19. In 2007, Plaintiff received his agreed salary as an employee, which salary was reflected in an IRS Form W-2.

20. With the economic downturn in 2008, Defendants looked for ways to withhold from Plaintiff compensation to which he was entitled, and to deceive him into believing that the money which would have been paid to both Defendants as well as to Plaintiff as compensation, was instead being held in the company's coffers.

21. In order to hide from Plaintiff the real fact that Defendants were paying to Defendants BERNSTEIN the full earnings received as commissions, and thereby depriving Plaintiff of the 15% thereof to which he was entitled, they knew they had to terminate Plaintiff's function of calculating each person's entitlement to payment out of commissions received. Therefore, in early 2008, SIMON BERNSTEIN told Plaintiff that the Defendants BERNSTEIN felt that Plaintiff was spending too much time on making the said calculations, and that Plaintiff's time would be better spent in building the business. SIMON BERNSTEIN told

Plaintiff that he and TED BERNSTEIN had decided to pay themselves and Plaintiff identical salaries of not less than \$1,000,000 each for 2008, and to distribute any profits beyond the total thus paid to the three owners, the Defendants BERNSTEIN and Plaintiff, according to their respective percentages of ownership, Plaintiff's share being 10%. Plaintiff, having thus far believed he was receiving whatever compensation he was entitled to, and having no reason to realize that this was a ruse to keep him in the dark as to the true state of affairs, readily acceded to his being relieved of the bookkeeping duties regarding calculating the disposition of moneys received.

22. Through misrepresentations made from 2008 through the date of filing of this Complaint, Defendants knowingly made false statements to Plaintiff to hide their scheme to withhold from Plaintiff's money to which he was entitled. For example, at times they claimed that money being received was not being paid as salary or distributions to either of Defendants BERNSTEIN but was being withheld and placed in company accounts, for eventual distribution. As Plaintiff and Defendants could afford to wait until year's end to be paid their distributions, and as Defendants BERNSTEIN assured Plaintiff that the payment arrangement would apply to all three equally, Plaintiff did not question the truthfulness of their representations..

23. In furtherance of their scheme to deprive Plaintiff of salary he had earned and to which he was entitled, Defendants intercepted mail addressed to Plaintiff, removed therefrom commission checks representing full commissions, deposited the same to their own accounts or otherwise converted the funds,, and willfully withhold from Plaintiff his salary. Defendants BERNSTEIN also opened Plaintiff's mail containing checks payable to him which were unrelated to Defendants' business.

24. In 2011, the Defendants BERNSTEIN decided to deceive Plaintiff into giving up

his 10% share in the business. Although he had never seen a stock certificate, Plaintiff had in fact been given K-1 statements reflecting his salary, which appeared to approximate 10% of the net profits or losses of LIC, after salary was paid. TED BERNSTEIN told Plaintiff that their accountants had discovered a taxable event which could cause all the owners of the company to have to pay taxes, and that they thought it would be unfair for Plaintiff to have to pay 10% of that tax, so TED BERNSTEIN promised that if Plaintiff would sign a paper ceding his 10% interest, TED BERNSTEIN would simply hold it and it would not become operative unless the tax liability came to exist. Plaintiff was assured that nothing would happen with the stock ownership until Plaintiff and the Defendants BERNSTEIN discussed the situation further after the Holiday Season.

25. Because of the misrepresentations, willful concealments of material facts, duplicity and deceit practiced by Defendants upon Plaintiff as described in preceding paragraphs 20 through 24, Plaintiff was reasonably of the belief that Defendants had complied, or intended to comply, with their material obligations to Plaintiff under the contract between them, and therefore was prevented from knowing, for a period of years, that these causes of action existed. The acts of Defendants in making false statements and withholding material information continues from its inception to the date of the filing hereof.

I. ACCOUNTING
(Against LIC and ARBITRAGE, for Accounting
as to Withholding of Money Due Plaintiff)

26. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive.

27. The relationship between Plaintiff and the Defendants, particularly as affected by

Defendants' acts described in preceding paragraphs 20 through 25, inclusive, created a situation where Defendants had sole access to, receipts generated by Plaintiff's efforts, and to books and records reflecting said receipts and the other information from which can be calculated all moneys due to Plaintiff under his arrangement with Defendants.

28. The period of time during which Plaintiff has been deprived of moneys due him spans approximately four and a half years, the numerosity of the sources of receipts by Defendants of moneys from which the amounts due Plaintiff may be calculated, and the changes in the formula under which, and manner in which, Plaintiff was to be paid, all involve extensive and complicated accounts, and Plaintiff's remedy at law could not be as full, adequate and expeditious as it is in equity.

WHEREFORE, Plaintiff prays for an adjudication of Plaintiff's right to a full and complete accounting from Defendants, and for such orders of Court as will require the Defendants to provide Plaintiff with all records and copies of documents, dated from the date in 2003 when Plaintiff first began his efforts to generate sales of the concept described in paragraph 11 above to the present, as will reveal his right to, and the amount of, all amounts: (a) received as commissions on said concepts or any other commissions as to which Plaintiff was entitled to a share; (b) due to Plaintiff, whether paid or not; (c) paid to Plaintiff, whether for commissions, salary, distributions, expenses or any other reason; (d) paid to each of the Defendants out of moneys received as commissions; (e) deposits of any and all moneys received as commissions by any Defendants to any accounts, including the name of the entity whose account was involved, the number(s) of each such account; the address of the branch or other facility through which any Defendant dealt with such entity; (f) calculations as to moneys paid, to be paid, or not to be paid to Plaintiff, together with such other and further relief as the Court may deem just

and appropriate.

II. ACCOUNTING

(Against TED S. BERNSTEIN and SIMON BERNSTEIN, for Accounting as to Money Due to Plaintiff Which Said Defendants Converted)

29. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive.

30. The relationship between Plaintiff and the Defendants, particularly as affected by Defendants' acts described in preceding paragraphs 20 through 25, inclusive, created a situation where Defendants had sole access to, receipts generated by Plaintiff's efforts, and to books and records reflecting said receipts and the other information from which can be calculated all moneys due to Plaintiff under his arrangement with Defendants.

31. The period of time during which Plaintiff has been deprived of moneys due him spans approximately four and a half years, the numerosity of the sources of receipts by Defendants of moneys from which the amounts due Plaintiff may be calculated, and the changes in the formula under which, and manner in which, Plaintiff was to be paid, all involve extensive and complicated accounts, and Plaintiff's remedy at law could not be as full, adequate and expeditious as it is in equity.

WHEREFORE, Plaintiff prays for an adjudication of Plaintiff's right to a full and complete accounting from Defendants, and for such orders of Court as will require the Defendants to provide Plaintiff with all records and copies of documents, dated from the date in 2003 when Plaintiff first began his efforts to generate sales of the concept described in paragraph 11 above to the present, as will reveal his right to, and the amount of, all amounts: (a) received as commissions on said concepts or any other commissions as to which Plaintiff was entitled to a

share; (b) due to Plaintiff, whether paid or not; (c) paid to Plaintiff, whether for commissions, salary, distributions, expenses or any other reason; (d) paid to each of the Defendants out of moneys received as said commissions; (e) deposits of any and all moneys received as commissions by any Defendants to any accounts, including the name of the entity whose account was involved, the number(s) of each such account; the address of the branch or other facility through which any Defendant dealt with such entity; (f) calculations as to moneys paid, to be paid, or not to be paid to Plaintiff, together with such other and further relief as the Court may deem just and appropriate.

III. BREACH OF ORAL CONTRACT
(Against All the Defendants)

32. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive.

33. The arrangement between Plaintiff and Defendants as described in paragraphs 11 and 13 above, and as modified by the parties as further described above, constituted a contract between them.

34. An express term of that contract involved the commitment of Defendants to calculate, and to pay to Plaintiff, fully and timely, all sums due to him under the parties' contract, whether as commissions, salary, distributions, expenses or any other reason.

35. The parties initially performed the duties required of them under said contract.

36. However, as described above in paragraphs 20 through 25, inclusive, Defendants willfully and maliciously agreed to breach their contract with Plaintiff by withholding from Plaintiff moneys due him under the contract.

37. Defendants did withhold such moneys due Plaintiff.

38. The withholding of such moneys constituted a material breach of the contract between Plaintiff and Defendants.

39. There is therefore due to Plaintiff from Defendants all amounts due under said contract, together with prejudgment and post-judgment interest on said amounts.

WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, for the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts, together with such other and further relief as the Court may deem just and appropriate.

IV. BREACH OF IMPLIED COVENANT OF GOOD FAITH and FAIR DEALING

40. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive, and paragraphs 33 through 38, inclusive.

41. The said contract, as a matter of law, contained an implied covenant of good faith and fair dealing, obligating the parties to honor every express term of the agreement.

42. Among the express terms of the oral contract between the parties were (a) that Plaintiff would be constantly apprised, either through being permitted to calculate all amounts due the Defendants out of commissions, or through being advised of all receipts of commissions and the disposition thereof, or the amounts due to Plaintiff for any reason under the terms of the contract; and (b) that Plaintiff would be fully and promptly paid all such amounts due him.

43. Through their actions as described in preceding paragraphs 20 through 25, inclusive, the Defendants willfully breached the said express of the contract.

WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, for

the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts, together with such other and further relief as the Court may deem just and appropriate.

V. BREACH OF FIDUCIARY DUTY

41. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive.

42. Plaintiff reposed full confidence in the defendants BERNSTEIN, and trusted them and relied on them to be as good as their word and to deal honestly with him, for a variety of reasons. Plaintiff knew of SIMON BERNSTEIN as a major figure in the insurance industry, prior to their becoming parties to the agreement involved herein. Moreover, Plaintiff and the Defendants BERNSTEIN had formed a social relationship which had grown into what Plaintiff regarded as friendship. Moreover, as the initial situation under their contractual relationship had Plaintiff receiving all information as to commissions received and calculating the amount of money due to Plaintiff and the Defendants BERNSTEIN, as mentioned in preceding paragraphs 21 and 22, and also because Plaintiff was told he had been given a minority shareholder interest in LIC, Plaintiff reasonably felt that the Defendants would deal with Plaintiff honestly and fairly, and that the Defendants had no intention of hiding from Plaintiff any information as to the amounts due Plaintiff or as to the Defendants' intention of paying said amounts to Plaintiff

43. Moreover, when Defendants proposed to Plaintiff that Plaintiffs cease being the one to calculate moneys due the parties out of commissions received, the Plaintiff trusted Defendants to make proper, accurate and complete calculations, as Plaintiff had done, and to pay Plaintiff accordingly.

44. Furthermore, when Defendants BERNSTEIN made statements to Plaintiff as to why payments due him were not being paid, as described, for example, in preceding paragraphs 22 through 25, inclusive, and 42, he trusted Defendants to be telling Plaintiff the truth,

45. As a result of the foregoing, a fiduciary relationship existed between Defendants BERNSTEIN and Plaintiff, and there existed in Plaintiff complete confidence and trust in the said Defendants, of which confidence and trust said Defendants were well aware.

46. Defendants BERNSTEIN accepted the trust which Plaintiff reasonably placed in them.

47. Through Defendants' willful misrepresentations and withholding of material information as to their intentions and the purposes for which Plaintiff's payments were not being paid, and through their diversion from Plaintiff of amounts which should have been paid to him, Defendants abused and betrayed Plaintiff's trust and confidence in them, to Plaintiff's great detriment, in that he has been deprived of the said amounts due him, the precise amount of which cannot be calculated without access to Defendants' books and records, and a full accounting by them.

WHEREFORE, Plaintiff prays for judgment against Plaintiffs, jointly and severally, for the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts, together with such other and further relief as the Court may deem just and appropriate.

VI. CIVIL THEFT
Against All Defendants

48. This is an action for Civil Theft under Chapter 772, Florida Statutes, more

specifically §772.11, Fla.Stats.

49. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive.

50. All funds which Defendants' records will reveal are due to Plaintiff but which have been deposited to any of the Defendants' accounts or which have been received by any Defendant or diverted by any Defendant to any recipient but Plaintiff are the specific funds to which this Court relates.

51. By refusing to pay to Plaintiff funds due him under their agreement, and by paying said sums to themselves or to others, Defendants have been guilty of criminal theft by conversion, which has been and continues to be performed by Defendants with the criminal intent of stealing his money and depriving him of the possession and use thereof.

52. Written demand for payment of all amounts due Plaintiff has been made to Defendants, more than 30 days preceding the filing of this Complaint, to no avail.

WHEREFORE, Plaintiff prays for judgment against Plaintiffs, jointly and severally, for three times the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts, and such other remedies as may be awarded Plaintiff under other Counts herein, together with such other and further relief as the Court may deem just and appropriate, together with such other and further relief as the Court may deem just and appropriate.

VII. FRAUD
(Against All Defendants)

53. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated

herein, preceding paragraphs 1 through 24, inclusive.

54. Defendants, with the intent to defraud Plaintiff by preventing his receipt of moneys due him from Defendants as commissions, salary, distributions, expenses, and otherwise, made false statements to him and withheld material information from him, all as specifically set forth in preceding paragraphs 20 through 24 above.

55. At the time said statements were made, Defendants knew that they were material and false, and that Plaintiff would rely thereon. At the time said material information was withheld from Plaintiffs, Defendants knew that the information being withheld was material, and that the withholding of the information would cause Plaintiff to rely on the absence of said information

56. Defendants intended for Plaintiff to rely on said false statements of material fact and to rely on the absence of the material facts which were withheld.

57. Plaintiff did rely on the false statements and the withholding of material information, and was damaged thereby. Through the loss the possession and use of moneys due him but withheld by Defendants under their scheme to defraud him of said money.

58. The behavior of Defendants in deceiving Plaintiff and in abusing the trust they had engendered in Plaintiff, as set forth in preceding paragraphs 42 through 47, which are incorporated herein by reference as if expressly restated herein, was in willful and conscious disregard of his rights, and was of such a concerted, premeditated, and outrageous nature as to go beyond the bounds of decency, and constituted rampant fraud.

WHEREFORE, Plaintiff prays for judgment against Plaintiffs, jointly and severally, for the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts, together with such other and further relief as the Court may deem just and appropriate.

VIII. EQUITABLE LIEN

59. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive, and paragraphs 54 through 58, inclusive.

60. The bank accounts into which any of the commissions received by Defendants as to which Plaintiff was to receive a share of commissions received; and the operating accounts and other accounts of the corporate Defendants into which said commission checks were deposited were intended by Defendants and by Plaintiff to be the source out of which Plaintiff would be paid, and they therefore were intended to be, and therefore should be, charged by this Court with the obligation of being the source of all amounts Plaintiff was and is to be paid, including amounts not yet paid.

61. Any and all other accounts into which were deposited said commissions or any part thereof, out of which Plaintiff was to be paid, should, out of general considerations of right and justice as applied to the relations of the parties and the circumstances of their dealings, be charged with the obligation of paying Plaintiff.

WHEREFORE, Plaintiff prays for judgment against Plaintiffs, jointly and severally, for the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts. Plaintiff further prays for the Court to declare and establish an equitable lien in favor of Plaintiff on all the accounts described in preceding paragraphs 60 and 61, and for all other accounts into which said commissions have been or will be wholly or partly diverted, and on all assets of Defendants or third parties which have been purchased wholly or partly with the

diversion of said funds due Plaintiff. Plaintiff further prays for such other and further relief as the Court may deem just and appropriate.

IX. CONTRACT IMPLIED IN LAW

62. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 25, inclusive.

63. By keeping the moneys due Plaintiff, Defendants have been unjustly enriched.

64. By agreeing to permit Defendants to receive, possess and control the paperwork revealing commissions received, and by agreeing that Defendants would assume the function of calculating amounts due the parties, Plaintiff conferred on Defendants the benefit of controlling the disposition of the funds received, including those due Plaintiff. The Defendants, having induced Plaintiff to confer said benefit, knew of the benefit and accepted and retained the benefit and abused it to defraud the Plaintiff.

65. The Circumstances are such that it would be inequitable for the Defendants to retain the benefit of the possession and use of funds due Plaintiff

WHEREFORE, Plaintiff prays for judgment that there exists a contract implied in law with the terms against Defendants described above, and for judgment against all Defendants, jointly and severally, for the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts, together with such other and further relief as the Court may deem just and appropriate.

X. CONSTRUCTIVE TRUST

66. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive.

67. The bank accounts into which any of the commissions received by Defendants as to which Plaintiff was to receive a share of commissions received, and the operating accounts and other accounts of the corporate Defendants into which said commission checks were deposited were intended by Defendants and by Plaintiff to be the source out of which Plaintiff would be paid, and they therefore were intended to be, and therefore should be, charged by this Court with the obligation of being the source of all amounts Plaintiff was and is to be paid, including amounts not yet paid.

68. Any and all other accounts into which were deposited said commissions or any part thereof, out of which Plaintiff was to be paid, should, out of general considerations of right and justice as applied to the relations of the parties and the circumstances of their dealings, be charged with the obligation of paying Plaintiff.

.WHEREFORE, Plaintiff prays for judgment against Plaintiffs, jointly and severally, for the full amount of moneys due to Plaintiff under the terms of their contract, including agreed-upon modifications thereof, together with prejudgment and post-judgment interest on said amounts. Plaintiff further prays for the Court to declare and establish a constructive trust in favor of Plaintiff on all the accounts described in preceding paragraphs 60 and 61, and for all other accounts into which said commissions have been or will be wholly or partly diverted, and on all assets of Defendants or third parties which have been purchased wholly or partly with the diversion of said funds due Plaintiff. Plaintiff further prays for such other and further relief as the Court may deem just and appropriate.

XI. INDEMNIFICATION

69. Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 24, inclusive.

70. When Defendants entered the arrangement with Plaintiff described in preceding paragraph 13, SIMON BERNSTEIN, acting for himself and on behalf of the corporate Defendants and TED BERNSTEIN, and for their collective and shared benefit, told Plaintiff that it would be better for the simplicity of administration, if Plaintiff would arrange for all commissions, paid by insurance companies for sales of the said product by the Defendant companies, to be paid in the name of Plaintiff, even though Plaintiff would ultimately receive only 15% thereof.

71. Plaintiff, believing the representation that this was being requested solely to simplify bookkeeping and administration, agreed to receive all commissions in his own name, even though the bulk of each commission would become the property of the various Defendants.

72. At the time Defendants, through SIMON BERNSTEIN, represented to Plaintiff that the reason for their request that Plaintiff receive all commissions solely in his own name was for administrative simplicity, they knew that they had an ulterior motive in making this request. Their said motive was that, in the event any insurance company which had paid a commission for sale of the said product were to request a full refund of the commission on the ground that the insurance client or the broker had falsified the application for the policy, Defendants intended to disclaim liability therefor, and to avoid personal and corporate responsibility for any requests for refund of commissions paid, even though they collectively have received 85% of each such commission.

73. Plaintiff, acting in good faith, did not realize that Defendants were concealing this motive, or that such was their motive, and he reasonably relied on their representations as to the reason for the request, to his detriment.

74. As a direct and proximate result of the Defendants' representations, Plaintiff will have nominal full liability for refund of any commissions thus sought to be refunded as described in preceding paragraph 72. Such liability creates the certainty that requests for refunds will be made solely to Plaintiff, even though Defendants received 85% of the commissions.. Such disproportionate and unfair liability has been caused by the willful misrepresentation by Defendants.

75. Plaintiff was without fault in reasonably relying on the said representations.

76. Defendants were solely at fault in creating the said liability.

77. There was a special relationship between Plaintiff and the Defendants, because Plaintiff was acting as the nominal agent for Defendants in receiving in his name 100% of the commissions, making him vicariously liable for the refund of the 85% of commissions which were retained by Defendants for their own benefit.

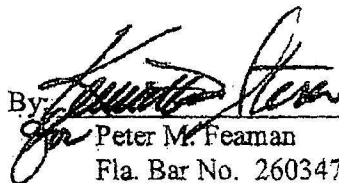
78. Moreover, Defendants had ceased to pay Plaintiff any commissions. Instead, as an employee he was now receiving a salary. To reflect Plaintiff's successful generation of Defendants' business, Defendants made Plaintiff's salary approximate 15% of the amount of commissions received. Nonetheless, as Plaintiff was not receiving any share of commissions *per se*, he should not have his indemnification limited to 85%, but rather it should be to the full 100% of all commissions being refunded.

WHEREFORE, Plaintiff prays for a Judgment in his favor, and against all Defendants, Adjudicating them under an obligation to defend, hold harmless and indemnify Plaintiff from

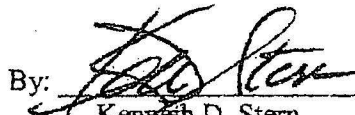
and against refund claims for said commissions, to the extent of 100% thereof, and for such other
and further relief as the Court shall deem just and appropriate.

July 30, 2012

Peter M. Feaman, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel: 561-734-5552 Fax: 561-734-5554
pfeaman@feamanlaw.com

By: 
Peter M. Feaman
Fla. Bar No. 260347

Kenneth D. Stern, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel: 561-740-1413 Fax: 561-734-5554
kdstern@gmail.com

By: 
Kenneth D. Stern
Fla. Bar No. 0244929

The Florida Senate

2012 Florida Statutes

733.703 Form and manner of presenting claim.—

(1) A creditor shall file a written statement of the claim. No additional charge may be imposed by a claimant who files a claim against the estate.

(2) Within the time allowed by s. 733.702, the personal representative may file a proof of claim of all claims he or she has paid or intends to pay. A claimant whose claim is listed in a personal representative's proof of claim shall be deemed to have filed a statement of the claim listed. Except as provided otherwise in this part, the claim shall be treated as if the claimant had filed it.

History.—s. 1, ch. 74-106; s. 84, ch. 75-220; s. 5, ch. 81-27; s. 5, ch. 85-79; s. 6, ch. 89-340; s. 147, ch. 2001-226.

Note.— Created from former s. 733.16.

Disclaimer: The information on this system is unverified. The journals or printed bills of the respective chambers should be consulted for official purposes.

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EXHIBIT "C"

48 3/19/13

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

CASE NO.: 50 2012CA013933 XXXX(NB) (AA)

WILLIAM E. STANSBURY, an individual,

Plaintiff,

v.

TED S. BERNSTEIN, an individual,
SIMON L. BERNSTEIN, an individual,
LIC HOLDINGS, INC., a Florida
Corporation, **ARBITRAGE
INTERNATIONAL MARKETING, LLC**, a
Florida Corporation f/k/a **ARBITRAGE
INTERNATIONAL HOLDINGS, LLC.**,

Defendants.

FILED
13 MAR 18 PM 3:13
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CIVIL 2

GREENBERG TRAURIG, P.A.'S MOTION FOR LEAVE TO WITHDRAW

Greenberg Traurig, P.A. ("GT") respectfully moves for leave to withdraw as counsel for Defendants Ted S. Bernstein, LIC Holdings, Inc. and Arbitrage International Marketing, LLC f/k/a Arbitrage International Holdings, LLC (the "Defendants") and in support of its motion, GT states as follows:

1. GT has served as counsel for the Defendants in this case.
2. However, irreconcilable conflicts have arisen between GT and the Defendants, which preclude GT from effectively representing the Defendants.
3. GT has attempted to resolve the conflict and has notified the Defendants of its intention to withdraw from the representation if the conflict could not be resolved.
4. Unfortunately, GT has been unable to resolve the conflict.

FTL 109102998v1 141289.010100

WHEREFORE, GT respectfully requests leave to withdraw as counsel of record for the Defendants in this matter, to be relieved of all further responsibility in this matter and for such other and further relief the Court deems just and proper.

Respectfully Submitted,

GREENBERG TRAUIG, P.A.
401 East Las Olas Boulevard
Suite 2000
Ft. Lauderdale, Florida 33301
Telephone: (954) 768-5201
Telefax: (954) 765-1477

By: 

JON L. SWERGOLD
Florida Bar No. 108510

Attorneys for Ted S. Bernstein, LIC
Holdings, Inc. and Arbitrage International
Marketing, LLC f/k/a Arbitrage
International Holdings, LLC

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the has been sent via e-mail to:

Peter M. Feaman, Esq.(pfeaman@feamanlaw.com),
Kenneth D. Stern, Esq. (kdstern@gmail.com),
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436

Ted S. Bernstein
LIC Holdings, Inc.
Arbitrage International Marketing, LLC
950 Peninsula Corporate Circle
Suite 3010
Boca Raton, FL 33487

on this 17th day of March, 2013.



JON L. SWERGOLD

FTL 109102998v1 141289.010100

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

WILLIAM E. STANSBURY,
Plaintiff,

CASE NO: 50 2012 CA 013933 MB AA

v.

TED S. BERNSTEIN; SIMON BERNSTEIN;
LIC HOLDINGS, INC.; and ARBITRAGE
INTERNATIONAL MANAGEMENT, LLC,
f/k/a ARBITRAGE INTERNATIONAL
HOLDINGS, LLC.

Defendants.

FILED
13 MAR 27 AM 10:33
JANOR R. BOCK, CLERK
PALM BEACH COUNTY
COURT REPORT

NOTICE OF HEARING
(Motion Calendar – per order of Court)


PLEASE TAKE NOTICE that the undersigned attorney for Plaintiff, WILLIAM STANSBURY, has called up for hearing the following matter:

Matter: CASE STATUS CONFERENCE
Date: Tuesday, April 9, 2013
Time: 8:45 a.m.
Place: Honorable Glenn D. Kelley
Courtroom 11A
Palm Beach County Circuit Court
205 No. Dixie Highway
West Palm Beach, FL 33401

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the above and foregoing has been forwarded via e-mail at mrmlaw@comcast.net; and mrmlaw1@gmail.com to Mark R. Manceri, Esq., Mark R. Manceri, P.A., *Attorney for Donald Tescher and Robert Spallina as Co-Personal Representatives*, 2929 E. Commercial Blvd., Suite 702, Fort Lauderdale, FL 33308; and via U.S. Mail to Ted S. Bernstein, LIC Holdings, Inc. and Arbitrage International Management, LLC, 950 Peninsula Corp Circle, Suite 3010, Boca Raton, FL 33487, on this 26th day of March, 2013.

PETER M. FEAMAN, P.A.
3615 W. Boynton Beach Blvd.
Boynton Beach, FL 33436
Tel: 561-734-5552
Fax: 561-734-5554
pfeaman@feamanlaw.com

By: 
Peter M. Feaman
Florida Bar No.: 0260347

cc: Judicial Assistant to Hon. Glenn Kelley

"If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Germaine English, Americans with Disabilities Act Coordinator, Palm Beach County Courthouse, 205 North Dixie Highway West Palm Beach, Florida 33401; telephone number (561) 355 4380 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711."

"Si usted es una persona minusválida que necesita algún acomodamiento para poder participar en este procedimiento, usted tiene derecho, sin tener gastos propios, a que se le provea cierta ayuda. Tenga la amabilidad de ponerse en

contacto con Germaine English, 205 N. Dixie Highway, West Palm Beach, Florida 33401; teléfono número (561) 355-4380, por lo menos 7 días antes de la cita fijada para su comparecencia en los tribunales, o inmediatamente después de recibir esta notificación si el tiempo antes de la comparecencia que se ha programado es menos de 7 días; si usted tiene discapacidad del oído o de la voz, llame al 711."

"Si ou se yon moun ki enfim ki bezwen akomodasyon pou w ka patisipe nan pwosedi sa, ou kalifye san ou pa gen okenn lajan pou w peye, gen pwovizyon pou jwen kèk èd. Tanpri kontakte Germaine English, kòdonatè pwogram Lwa pou ameriken ki Enfim yo nan Tribinal Konte Palm Beach la ki nan 205 North Dixie Highway, West Palm Beach, Florida 33401; telefòn li se (561) 355 4380 nan 7 jou anvan dat ou gen randevou pou parèt nan tribinal la, oubyen imedyatman apre ou fin resevwa konvokasyon an si lè ou gen pou w parèt nan tribinal la mwens ke 7 jou; si ou gen pwoblèm pou w tande oubyen pale, rele 711."

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

CASE NO.: 50 2012CA013933 XX XX MB AA

WILLIAM E. STANSBURY, an individual,

Plaintiff,

v.

TED S. BERNSTEIN, an individual,
SIMON L. BERNSTEIN, an individual,
LIC HOLDINGS, INC., a Florida
Corporation, ARBITRAGE
INTERNATIONAL MARKETING, LLC, a
Florida Corporation f/k/a ARBITRAGE
INTERNATIONAL HOLDINGS, LLC.,

Defendants.

FILED
2013 MAR 25 AM 10:27
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CIVIL 5

**ORDER ON GREENBERG TRAUIG, P.A.'S
MOTION FOR LEAVE TO WITHDRAW AND DIRECTING
CLERK TO UPDATE FILE WITH NEW CONTACT INFORMATION**

THIS CAUSE having come before the Court on Greenberg Traurig's Motion for Leave to Withdraw (the "Motion") as counsel for Defendants Ted S. Bernstein, LIC Holdings, Inc. and Arbitrage International Marketing, LLC f/k/a Arbitrage International Holdings, LLC (the "Defendants"), and the Court having reviewed the motion, heard argument, and being otherwise fully advised in the premises, it is hereby

ORDERED AND ADJUDGED

1. That the Motion is GRANTED.
2. Greenberg Traurig, P.A. and its lawyers who have made an appearance on behalf of the Defendants, are hereby relieved of all further responsibility for the representation of Defendants Ted S. Bernstein, LIC Holdings, Inc. and Arbitrage International Marketing, LLC

Copies furnished by mail

f/k/a Arbitrage International Holdings, LLC in this case effective the date below.

3. The Clerk of the Court is hereby directed to remove the law firm of Greenberg Traurig, P.A., Jon L. Swergold, Esq. and Kristina L. Arnsdorff, Esq. (aka Krisitina L. Ciaffi, Esq.) as counsel of record for Defendants.


4. Until further notice, all pleadings and papers filed or served in this case shall be sent to the following address:

Ted S. Bernstein
LIC Holdings, Inc.
Arbitrage International Marketing, LLC
950 Peninsula Corporate Circle
Suite 3010
Boca Raton, FL 33487

5. Defendants shall have 20 days to obtain new counsel.

6. _____

DONE AND ORDERED at West Palm Beach, Palm Beach County, Florida this 25th
day of March, 2013.



Hon. Glenn Kelley, Circuit Judge

Copies furnished: see following page

Copies furnished:

Jon Swergold, Esq., Greenberg Traurig, P.A., 401 E. Las Olas Blvd., Suite 200, Ft. Lauderdale, FL
33301 (*swergoldj@gtlaw.com*)

Jason H. Okleshen, Esq., Greenberg Traurig, P.A., 777 So. Flagler Dr., Suite 300 E, West Pam Beach, FL
33401 (*okleshenj@gtlaw.com*)

Peter M. Feaman, Esq., and Kenneth D. Stern, Esq., 3615 W. Boynton Beach Blvd., Boynton Beach, FL
33436 (*pfeaman@feamanlaw.com and kdstern@gmail.com*)

Mark R. Manceri, Esq., Mark R. Manceri, P.A., 2929 E. Commercial Blvd., Suite 702, Ft. Lauderdale, FL
33308 (*mrmlaw@comcast.net and mrmlaw1@gmail.com*)

Ted S. Bernstein, LIC Holdings, Inc., Arbitrage Marketing, LLC, 950 Peninsula Corporate Circle, Suite
3010, Boca Raton, FL 33487



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IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
PROBATE /GUARDIANSHIP DIVISION "IY"

CASE NO. 502012CP004391XXXXSB

IN RE: THE ESTATE OF
SIMON BERNSTEIN,
Deceased.

**ORDER DENYING EMERGENCY PETITION TO: FREEZE ESTATE ASSETS,
APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED
AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND
OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT
BERNSTEIN IN ESTATE OF SHIRLEY BERNSTEIN AND MORE**

UPON CONSIDERATION of the Emergency Petition to: Freeze Estate Assets, Appoint New Personal Representatives, Investigate Forged and Fraudulent Documents Submitted to the Court and other Interested Parties, Rescind Signature of Eliot Bernstein in Estate of Shirley Bernstein and More, it is hereby

ORDERED AND ADJUDGED that the Emergency Petition is hereby **Denied** as an emergency. This matter may be set in the ordinary course.

DONE AND ORDERED in chambers, at Delray Beach, Palm Beach County, Florida this 8th day of May, 2013.



MARTIN H. COLIN
Circuit Court Judge

13 MAY - 8 PM 3:21
SHIRLEY BERNSTEIN
PALM BEACH COUNTY
SOUTH BEACH, FLORIDA
FILED

Copies furnished:
Peter M. Feaman, Esquire
3615 W. Boynton Beach Blvd.
Boynton Beach, Fl. 33436

Robert L. Spallina, Esquire
4855 Technology Way, Suite 720
Boca Raton, Fl. 33431

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

WILLIAM E. STANSBURY,

CASE NO: 50 2012 CA 013933 MB AA

Plaintiff,

vs.

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

Defendants.

**DEFENDANT'S, SHIRLEY BERNSTEIN TRUST,
MOTION TO DISMISS**

Defendant, Shirley Bernstein Trust Agreement dated May 20, 2008 ("Bernstein Trust"), by and through its Successor Trustee, Ted S. Bernstein ("Bernstein Trustee"), moves to dismiss the Amended Complaint served on April 22, 2013, upon Donald L. Tescher, as alleged Successor Trustee, and states:

1. The Amended Complaint should be dismissed for insufficient service of process. The Complaint was never served upon the Bernstein Trustee, and therefore, service is improper and should be quashed.

2. The Bernstein Trust adopts and incorporates herein the grounds for dismissal asserted by Bernstein Family Realty, LLC, in its motion served on May 10, 2013, as if fully set forth herein.

*** FILED: PALM BEACH COUNTY, FL SHARON BOCK, CLERK. ***

3. The Amended Complaint also does not assert any legally cognizable claim against the Bernstein Trust. First, the Amended Complaint fails to set forth sufficient allegations to support a claim for equitable lien or constructive trust over the Bernstein Trust or any property held or owned by such trust.

4. Second, the claims by Plaintiff belong, in whole or in part, to one or both of the legal entities known as LIC Holdings, Inc., a Florida corporation ("LIC") and/or Arbitrage International Management, LLC, a Florida limited liability company ("Arbitrage") (collectively the "Companies"). Plaintiff asserts that co-defendants, Ted S. Bernstein and Simon Bernstein, breached a fiduciary duty owed to the Companies and seeks an award of monies which necessarily would flow back to the Companies, not directly to Plaintiff. Thus, in Counts III and VIII, Plaintiff asserts derivative claims on behalf of the Companies. In this regard, Bernstein Trust adopts and incorporates herein the grounds for dismissal asserted by Ted S. Bernstein in his April 23, 2013, as if fully set forth herein.

5. Specifically, Plaintiff in this case has direct and derivative claims filed in the same lawsuit, there is a misjoinder issue which mandates the dismissal of the Complaint. Plaintiff cannot sue in different capacities in the same lawsuit. *Department of Ins. v. Coopers & Lybrand*, 570 So. 2d 369, 370 (Fla. 3d DCA 1990); *Karnegis v. Lazzo*, 243 So. 2d 642 (Fla. 3d DCA 1971); Fla. R. Civ. P. 1.110(g) ("A pleader may set up in the same action as many claims or causes of action ... *in the same right* as he has ...") (emphasis added).

6. Plaintiff lacks standing to bring any derivative claims on behalf of Arbitrage because he was never a shareholder of Arbitrage, and makes no such allegation in his Complaint.

7. Plaintiff lacks standing to bring any derivative claims on behalf of LIC or Arbitrage because, as alleged in paragraph 31, Plaintiff ceded his 10% interest in LIC. *See* § 607.07401, Fla.

Stat.; *Timko v. Triarsi*, 898 So. 2d 89, 91 (Fla. 5th DCA 2005) (holding that once the complaining shareholders' shares were repurchased, the complaining former shareholder could not continue to prosecute a derivative claim).

8. Plaintiff failed to allege that Plaintiff made a demand on the Corporation to bring these claims before filing their Counterclaim. Allegations of a demand is a statutory pre-requisite for maintaining a derivative action. § 607.07401(2). The Complaint also is not verified as required by that statute.

WHEREFORE, Defendant, Bernstein Trust by and through Bernstein Trustee, respectfully requests that this Court dismiss the Amended Complaint; award Defendant its costs and attorneys' fees pursuant to any applicable contract or statute; and grant such other relief as is just.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to the Service List set forth below by: E-mail Electronic Transmission; Facsimile; U.S. Mail; Overnight Delivery; Hand-delivery, this 13th day of May, 2013.

PAGE, MRACHEK, FITZGERALD, ROSE,
KONOPKA & DOW, P.A.
505 South Flagler Drive, Suite 600
West Palm Beach, Florida 33401
Telephone: (561) 655-2250
Facsimile: (561) 655-5537
Email: arose@pm-law.com; mchandler@pm-law.com
Email: sshelley@pm-law.com; tclarke@pm-law.com
Email: phely@pm-law.com; mchandler@pm-law.com
Counsel for Shirley Bernstein Trust

By: /s/ Alan B. Rose
Alan B. Rose (Florida Bar No. 961825)
Stefanie R. Shelley (Florida Bar No. 514446)
N. Patrick Hely (Florida Bar No. 0091466)

SERVICE LIST

Peter M. Feaman, Esquire
Peter M. Feaman, P.A.
3615 West Boynton Beach Blvd.
Boynton Beach, FL 33436
(561) 734-5552 - Telephone
(561) 734-5554 - Facsimile
Email: (pfeaman@feamanlaw.com); (service@feamanlaw.com); (mkoskey@feamanlaw.com)
Counsel for Plaintiff

Mark R. Manceri, Esq.
Mark R. Manceri, P.A.
2929 East Commercial Blvd., Suite 702
Ft. Lauderdale, FL 33309
(954) 491-7099
Email: (mrmlaw@comcast.net); (mrmlaw1@gmail.com)
Counsel for Donald R. Tescher and Robert L.
Spallina, as Co-Personal Representatives

*** FILED: PALM BEACH COUNTY, FL SHARON BOCK, CLERK. ***

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FLORIDA

WILLIAM E. STANSBURY,

CIVIL DIVISION

Plaintiff,

CASE NO: 502012CA013933 MB AA

DIVISION: KELLEY

vs.

**TED S. BERNSTEIN; DONALD TESCHER
and ROBERT SPALLINA, as Co-Personal
Representatives of the ESTATE OF SIMON
L. BERNSTEIN and as Co-Trustees of the
SHIRLEY BERNSTEIN TRUST AGREEMENT
dated May 20, 2008; LIC HOLDINGS, INC.;
ARBITRAGE INTERNATIONAL
MANAGEMENT, LLC, f/k/a ARBITRAGE
INTERNATIONAL HOLDINGS, LLC;
BERNSTEIN FAMILY REALTY, LLC,**

Defendants.

**BERNSTEIN FAMILY REALTY, LLC'S MOTION FOR
A MORE DEFINITE STATEMENT**

COMES NOW, Defendant, Bernstein Family Realty, LLC, by and through it's undersigned counsel and hereby files this it's Motion for a More Definite Statement pursuant to Florida Rule of Civil Procedure 1.140(e) and in support thereof states, as follows:

1. The Plaintiff filed an 85 paragraph, 9 Count, Amended Complaint dated February 12, 2013.
2. Defendant, Bernstein Family Realty, LLC was served with the Amended Complaint on April 22, 2013.
3. There are only four (4) paragraphs in the Amended Complaint which refer to

Bernstein Family Realty, LLC. They are paragraphs 7, 28, 55 and 76.

4. Paragraph 7 is an introductory paragraph that reads, as follows: "Defendant, Bernstein Family Realty, LLC is a Florida limited liability company doing business in Palm Beach County".

5. Paragraph 28 is part of the "Background" section of the Amended Complaint.

6. Paragraph 28 reads, as follows:

"Stansbury believes that some or all of the funds to which he was entitled and/or assets attributable to such funds were placed into certain entities, including but not limited to Bernstein Family Realty, LLC and Shirley's Trust. For example, based on information and belief some or all of the funds to which Stansbury was entitled were invested in certain parcels of real property, which parcels were conveyed to the trustee of Shirley's Trust on or about May 20, 2008, including but not limited to a 4,220 square foot oceanfront condominium unit in a complex known as "The Aragon" in Boca Raton, located at 2492 S. Ocean Blvd., Boca Raton, Florida and a mansion in St. Andrew's Country Club located at 7020 Lions Head Lane, Boca Raton, Florida". (emphasis added).

7. As can be seen, the Plaintiffs allegations in paragraph 28 are based on what he "believed" and "information and belief". With no definitive factual allegations of any kind linking the funds in question with any transaction involving Bernstein Family Realty, LLC. The lack of such factual allegations renders paragraph 76 so vague and ambiguous that Bernstein Family Realty, LLC cannot reasonably form a response thereto.

8. Paragraph 55 is part of Count III of the Amended Complaint against the "Bernsteins" for Breach of Fiduciary Duty.

9. Paragraph 55 reads, as follows:

"The Bernstein Defendants breached their fiduciary duty to Stansbury by repeated conduct of self-dealing and violations of corporate protocol, including: (a) directing LIC Holdings and Arbitrage to make payments to third parties not employed by the corporations and who had performed no services on behalf of the corporations for the personal benefit of the Bernsteins; (b) directing the corporations to pay for personal expenses of the wives and other friends of the Bernstein Defendants through corporate credit cards and other forms of payment, notwithstanding that they provided no services for the corporations; (c) transferring monies from LIC Holdings and Arbitrage to third party entities including the Bernstein Defendants, the Bernstein Family Realty, LLC and the Shirley Bernstein Trust Agreement for the benefit of the Bernsteins, personally; (d) paying themselves exorbitant compensation to the exclusion of Stansbury; (e) treating LIC Holdings and Arbitrage without as alter egos of themselves and otherwise handling the affairs of LIC Holdings and Arbitrage without regard to corporate protocol; (f) failing to convene annual meetings of the stockholders of LIC Holdings and Arbitrage, in violation of Florida law; (g) committing corporate waste by unnecessarily expending corporate assets on unrelated corporate activities; (h) failing to account for the revenue and expenses of LIC Holdings and Arbitrage to Stansbury, who was entitled to compensation as an employee and as a minority shareholder; (i) directed LIC Holdings and Arbitrage to take actions to reduce the profit of LIC Holdings and Arbitrage so as to prevent Stansbury from earning his just compensation, in violation of prior agreement of the parties".

10. While paragraph 55 mentions Bernstein Family Realty, LLC, the allegations therein are expressly directed toward the "Bernstein" Defendants, which are defined in paragraph 15 of the Complaint as only being Simon Bernstein and Ted Bernstein. Additionally, the "Wherefore" clause of Count III does not mention Bernstein Family Realty, LLC.

11. As such, the Amended Complaint is inherently vague and ambiguous as to whether the Plaintiff is making any allegations or a claim for relief against Bernstein Family Realty, LLC in Count III.

12. Paragraph 76 is part of Count VII of the Amended Complaint for an Equitable Lien.

13. Paragraph 76 reads, as follows:

"Further, upon information and belief, as a result of the funds being wrongfully diverted from LIC Holdings and/or Arbitrage, which otherwise rightfully belonged to and should have been paid to Stansbury, the property legal described as "Lot 68, Block G Boca Madeira, Unit 2 according to the plat thereof recorded in Plat Book 32, Pages 59 and 60 of the public records of Palm Beach County, Florida with a property address of 2753 NW 34 Street, Boca Raton, Florida", was encumbered with a mortgage representing wrongfully diverted funds which were loaned in the form of a second mortgage to Defendant, Bernstein Family Realty, LLC, a Florida limited liability company". (emphasis added).

14. As can be seen, the allegations in paragraph 76 are based upon the Plaintiffs "information and belief" relating to funds allegedly lent by Simon Bernstein and/or Ted Bernstein in the form of a certain second mortgage to Bernstein Family Realty, LLC.

15. However, paragraph 76 fails to include any factual allegations relating to the wrongful acquisition and transfer of the alleged funds or the funding of the second mortgage and the ultimate delivery of those funds to the Mortgagor (i.e. Bernstein Family Realty, LLC) by Simon Bernstein and/or Ted Bernstein.

16. The lack of such factual allegations renders paragraph 76 so vague and ambiguous that Bernstein Family Realty, LLC cannot reasonably form a response thereto.

17. With respect to the Plaintiffs allegations that are based on what he "believes or "information and belief", such allegations are inherently vague and ambiguous as they fail to comply with the pleadings requirements of the Florida Rule of Civil Procedure 1.140(b) to

sufficiently apprise Bernstein Family Realty, LLC of what it is being called upon to answer. See: Kislak v. Kreedan, 95 So.2d 512 (Fla. 1957).

18. Such "information and belief" are not sufficient to support the Plaintiff's vague and ambiguous allegations. See: Lotenfoe v. Palik, 747 So.2d 422 (Fla. 2nd DCA 1999).

19. Based on all of the foregoing, Bernstein Family Realty, LLC needs a more definite statement as to paragraphs 28, 55 and 76 of the Amended Complaint in order to be able to frame a responsive pleading.

WHEREFORE, Bernstein Family Realty, LLC, hereby requests that this Honorable Court enter an Order consistent with the relief requested herein and award them attorney's fees and costs and any other relief this Honorable Court deems just, equitable and proper.

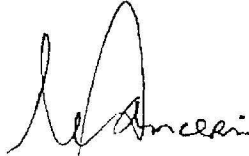
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By: 

Mark R. Manceri, Esq.
Florida Bar No. 444560

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-mail to the designated address(es) to all parties on the following Service List, this 10th day of May, 2013.



Mark R. Manceri, Esq.

SERVICE LIST

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505 South Flagler Drive, Suite 600
West Palm Beach, Florida 33401

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL
IN RE: ESTATE OF PROBATE DIVISION
SIMON BERNSTEIN,
FILE NO. 502012CP004391XXXXSB
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CLERK & COMPTROLLER
PALM BEACH COUNTY

HON. DAVID E. FRENCH

ELIOT IVAN BERNSTEIN, PRO SE

**RENEWED EMERGENCY
PETITION**

PETITIONER,

V.

TESCHER & SPALLINA, P.A., (AND ALL PARTNERS,
ASSOCIATES AND OF COUNSEL), ROBERT L.
SPALLINA (BOTH PERSONALLY &
PROFESSIONALLY), DONALD R. TESCHER (BOTH
PERSONALLY & PROFESSIONALLY), THEODORE
STUART BERNSTEIN, AS PERSONAL
REPRESENTATIVES ET AL., TRUSTEES,
SUCCESSOR TRUSTEES AND ESTATE COUNSEL
AND JOHN AND JANE DOES,

RESPONDENTS.

**RENEWED EMERGENCY PETITION TO: FREEZE ESTATE
ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES,
INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS
SUBMITTED TO THIS COURT AND OTHER INTERESTED
PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN
ESTATE OF SHIRLEY BERNSTEIN AND MORE - PROOF OF
SERVICE TO ALL INTERESTED PARTIES SERVED IN
ACCORDANCE WITH THIS COURT ORDER**

A handwritten signature in black ink is written over a circular fingerprint impression in the bottom right corner of the page.

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL

IN RE: ESTATE OF PROBATE DIVISION

SHIRLEY BERNSTEIN,

FILE NO. 502011CP000653XXXXSB

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MAY 29 2013

SHARON R. BOCK
CLERK & COMPTROLLER
PALM BEACH COUNTY

HON. MARTIN H. COLIN

**RENEWED EMERGENCY
PETITION**

ELIOT IVAN BERNSTEIN, PRO SE
PETITIONER,

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STUART BERNSTEIN, AS PERSONAL
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