

The Governor's Office Notary Section Internet Complaint Form

Please carefully review this complaint form once you have included all information. You must include a copy of the improperly notarized document along with the complaint form.

Your Name:
Eliot Ivan Bernstein on behalf of Deceased
Simon L. Bernstein

What is the name, commission number, and
expiration date of the notary public that is the
subject of this complaint?

Address: _____
2753 NW 34th St.
Boca Raton, FL, 33434
(561) 245-8588

Notary's Name: Kimberly Moran _____
Commission #: EE 156021 _____
Expiration Date: 4/28/16

DESCRIBE YOUR COMPLAINT, PROVIDE FACTS OF ALLEGED MISCONDUCT AND A COPY OF THE IMPROPERLY NOTARIZED DOCUMENT. (Please do not write on the back of this form. You may use a separate sheet if necessary. **Must be typewritten or clearly printed.**)

That I, Eliot Ivan Bernstein, make this statement on behalf of my deceased father, Simon L. Bernstein, as the document forgery and fraudulent notarization occurred after my father had passed away on September 13, 2012, as further defined herein.

That Notary Public Kimberly Moran has falsely affixed a notary public stamp on the attached document on behalf of my deceased father, Simon Bernstein, illustrated as Exhibit 1 and titled, "WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE" submitted in the West Palm Beach FL Probate Court, Case No. 502011CP000653XXXXSB in the Estate of Shirley Bernstein. In addition to the fraudulent notarization affixed, the signature on this document also appears to be a forgery. Simon Bernstein could not have notarized or signed this document as he was deceased at the time of the notarization and signing. There are other instances of this same document being forged and submitted to the court with a fraudulent notary affixed for each of 6 family members and each document will be submitted to the Governor's office separately for investigation.

Kimberly Moran, in both her personal and professional capacities has violated with her employer Tescher & Spallina, P.A. and Donald Tescher, Esq. and Robert Spallina, Esq. the following laws and notary public rules and regulations, including but not limited to:

- TITLE X, PUBLIC OFFICERS, EMPLOYEES, AND RECORDS CHAPTER 117 NOTARIES PUBLIC, Sections:

117.05 Use of notary commission; unlawful use

117.105 False or fraudulent acknowledgments

Punishable as provided in s. 775.082, s. 775.083, or s. 775.084

117.107 Prohibited acts

Including but not limited to, (7), (9)

- Title XLVI CRIMES Chapter 838 BRIBERY; MISUSE OF PUBLIC OFFICE
- Title XLVI CRIMES Chapter 831 FORGERY AND COUNTERFEITING

Exhibit 2 is the “WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE” that Simon Bernstein originally signed without notarization on April 09, 2012, while he was still alive and which document was then submitted to the court on October 24, 2012 by the law firm of Tescher & Spallina P.A.. The document was rejected by the court and was returned to Tescher & Spallina P.A. by the court to be notarized as illustrated in the attached court Memo dated November 05, 2012 and submitted as Exhibit 3. The problem here is that Simon Bernstein was deceased on September 13, 2012, making impossible for him to have notarized the document sent back for notarization by the court on November 05, 2012, yet, somehow it was notarized and resubmitted to the court on November 19, 2012.

That Tescher & Spallina P.A. then engaged an employee/notary public of their law firm, Kimberly Moran, to fraudulently affix her Notary Seal to a new document that was crafted to look like the one the court returned the original un-notarized document. That Exhibit 1 (the notarized waiver) and Exhibit 2 (the un-notarized waiver) appear at first glance to be similar and the only difference appears to be the newly affixed notary stamp on the one returned to the court by Tescher & Spallina P.A. on November 19, 2012, as if the original document was shrunk and then the fraudulent notary stamp affixed. However, upon closer inspection several problems become evident that serve as Prima Facie evidence of not only Notary Public Fraud but of Felony Document and Signature Forgery.

First, the court sent the original document signed but NOT NOTARIZED on April 09, 2012 back to Tescher & Spallina P.A. on November 05, 2012 for notarization. Therefore, it would be impossible to have that same document notarized on April 09, 2012 the original date of the document in the past and the document would have had to be redone with a current date after November 05, 2012 when the request for notary was made by the court, yet this is not the case as the document returned is purportedly signed and notarized on April 09, 2012, a date almost 8 months past.

The two documents appear similar regarding Simon’s signature as the forgery is done rather well and thus it seems that the original un-notarized document was shrunk to fit a notary stamp on it and then returned to the court but upon closer inspection of the signatures they are wholly different with marked differences indicating that the notarized document was crafted to look the same as the original and then a forged signature was applied to make it look like the original signature as best as the forger could do and then the fraudulent notary was affixed using the date in the past.

That these acts of the notary Kimberly Moran were supervised and controlled by the law firm of Spallina & Tescher P.A., Donald Tescher and Robert Spallina and thus they too have both personal and professional liabilities to the injured parties as well. These documents were transmitted to the courts through US Mail, which may also indicate Mail and Wire Fraud and made part of an Official Proceeding

where Tescher & Spallina P.A. are officers of the Court the document was submitted to in regard to the underlying estate case. That these false instruments are now part of that court's official records.

That a similar document was altered fraudulently on my behalf and after seeking counsel, the document containing my signature has been revoked to that court, as indicated in the attached Exhibit 4, titled "Revocation of WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE."

As these documents have major impact on the estates of my mother and father your prompt attention to these matters is greatly appreciated. It should also be noted that not only are fraudulent notarizations herein complained of but also Felony Forgery and Obstruction of Official Proceedings through falsified documents is also complained of and exhibited herein and any necessary notifications of such crimes to the proper authorities by your offices would be greatly appreciated.

I affirm that I have provided the above information completely and truthfully to the best of my knowledge.

Signature _____

Date _____

RETURN TO: OFFICE OF THE GOVERNOR
NOTARY SECTION, 209 CAPITOL
TALLAHASSEE, FL 32399-0001

EXHIBIT 1 – FRAUDULENT NOTARIZATION AND FORGED SIGNATURE ON “WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE”
SIMON BERNSTEIN

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)



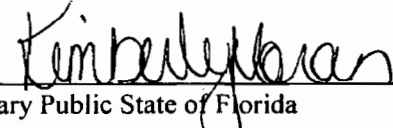

Notary Public State of Florida

EXHIBIT 2 – ORIGINAL SIGNED AND NOT NOTARIZED “WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE”
SIMON 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 H. B. OF ELLIOTT
PALM BEACH COUNTY, FL
SOUTH CITY SQUARE-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.

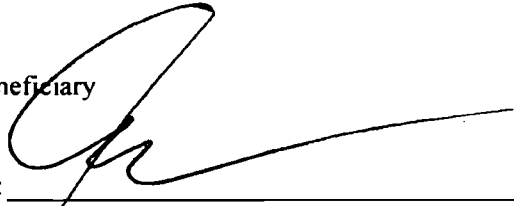
Beneficiary
By: 
SIMON L. BERNSTEIN

EXHIBIT 3 – MEMO DATED NOVEMBER 05, 2012 FROM PROBATE COURT TO HAVE
“WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF
SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT
TO DISCHARGE” NOTARIZED.

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>.

SHIRLEY R. BOCK, CLERK
PALM BEACH COUNTY, FL
300 SHIRLEY BRANCH-FILED
12 NOV - 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**

EXHIBIT 4 – “REVOCATION OF WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE” SUBMITTED TO THE PROBATE COURT TO RESCIND DOCUMENTS BASED ON FORGED AND FRAUDULENT NOTARIZED DOCUMENTS.
ELIOT BERNSTEIN

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

IN RE: ESTATE OF
SHIRLEY BERSTEIN,

FILE NO.: 502011CP000653XXXXSB

Division: Probate

Deceased.

**REVOCATION OF: 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:

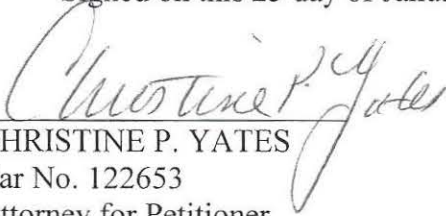
- (a) I expressly revoke the “Waiver of Accounting and Portions of Petition for Discharge; Waiver of Service of Petition for Discharge; And Receipt of Beneficiary and Consent to Discharge” (herein after the “Waiver”) I signed May 15, 2012.
- (b) Although I signed the Waiver on May 15, 2012, I did not sign it before any notary. The attached Waiver was notarized and filed with the Court without my knowledge.
- (c) It was not explained to, nor was it known by, me the rights I was waiving.
- (d) Undue pressure and influence was placed upon me to sign the above referenced pleading without an understanding of the rights and privileges that were being waived.

THEREFORE, Eliot Bernstein, through undersigned counsel, respectfully requests this Court vacate, void, nullify, and render ineffective the “Waiver of Accounting and Portions of Petition for Discharge; Waiver of Service of Petition for Discharge; And Receipt of Beneficiary and Consent to Discharge” he signed May 15, 2012.

[SIGNATURES ON FOLLOWING 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 this 23 day of January, 2013.


CHRISTINE P. YATES

Bar No. 122653

Attorney for Petitioner


TRIPP SCOTT, P.A.

110 SE 6th Street, 15th Floor

Ft. Lauderdale, Florida 33301

Telephone: (954) 760-4916

Fax: (954) 761-8475


ELIOT BERNSTEIN, Beneficiary

STATE OF FLORIDA
COUNTY OF BROWARD

SWORN TO AND SUBSCRIBED before me on January 23, 2013 by the Beneficiary, **ELIOT BERNSTEIN**, who is personally known to me or has produced the following form of identification:

Drivers License.




Notary Public - State of Florida
My Commission Expires:

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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- (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

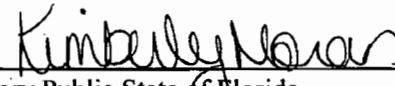
By: 

ELIOT BERNSTEIN

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)




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 OCT 24 PM 1:31
SHARON D. HORN, CLERK
PALM BEACH COUNTY, FL
SOUTH OF YORNBACH FILED

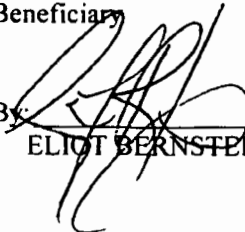
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Signed on May 15, 2012.

Beneficiary

By: 
ELIOT BERNSTEIN