

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

SIMON BERNSTEIN IRREVOCABLE )  
INSURANCE TRUST DTD 6/21/95, )  
 )  
Plaintiff, )

v. )

HERITAGE UNION LIFE INSURANCE )  
COMPANY, )  
 )  
Defendant. )

Case No. 13 cv 3643

Honorable Amy I. St. Eve  
Magistrate Mary M. Rowland

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HERITAGE UNION LIFE INSURANCE )  
COMPANY, )  
 )  
Counter-Plaintiff, )

v. )

SIMON BERNSTEIN IRREVOCABLE )  
INSURANCE TRUST DTD 6/21/95, )  
 )  
Counter-Defendant, )

and, )

FIRST ARLINGTON NATIONAL BANK, )  
as Trustee of S.B. Lexington, Inc. Employee )  
Death Benefit Trust, UNITED BANK OF )  
ILLINOIS, BANK OF AMERICA, )  
successor in interest to LaSalle National )  
Trust, N.A., SIMON BERNSTEIN TRUST, )  
N.A., TED BERNSTEIN, individually and )  
as purported Trustee of the Simon )  
Bernstein Irrevocable Insurance Trust Dtd. )  
6/21/95, and ELIOT BERNSTEIN, )

Third-Party Defendants. )

**JPMORGAN CHASE BANK'S ANSWER TO COUNTERCLAIM AND THIRD-PARTY  
COMPLAINT FOR INTERPLEADER**

Third-Party Defendant JPMorgan Chase Bank, National Association ("JPMorgan Chase Bank"), by one of its attorneys, Glenn E. Heilizer, for its answer to the counterclaim and third-party complaint for interpleader by Jackson National Life Insurance Company, states as follows.

#### INTRODUCTION

1. Jackson National Life Insurance Company ("Jackson") brings this counter-claim and third-party complaint for Interpleader pursuant to 28 U.S.C. § 1335(a) and Federal Rule of Civil Procedure 14, as it seeks a declaration of rights under a life insurance policy for which it is responsible to administer. The proceeds from the policy (the "Death Benefit Proceeds") have been tendered to this Court.

#### ANSWER:

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent interest in the life insurance policy that forms the subject matter of this lawsuit.

#### PARTIES AND VENUE

2. Jackson, successor in interest to Reassure America Life Insurance Company ("Reassure"), successor in interest to Heritage Union Life Insurance Company ("Heritage"), is a corporation organized and existing under the laws of the State of Michigan, with its principal place of business located in Lansing, Michigan. Jackson did not originate or administer the subject life insurance policy, Policy Number 1009208 (the "Policy"), but inherited the Policy and the Policy records from its predecessors.

#### ANSWER:

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent

interest in the life insurance policy that forms the subject matter of this lawsuit.

3. The Simon Bernstein Irrevocable Insurance Trust Dtd 6/21/95 (the "Bernstein Trust") is alleged in the underlying suit to be a "common law trust established in Chicago, Illinois by the settlor, Simon L. Bernstein, and was formed pursuant to the laws of the state of Illinois."

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent interest in the life insurance policy that forms the subject matter of this lawsuit.

4. Ted S. Bernstein is a resident and citizen of Florida. He is alleged in the underlying suit to be the "trustee" of the Bernstein Trust. Ted Bernstein is further, individually, upon information and belief, a beneficiary of the Bernstein Trust (as Simon Bernstein's son).

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent interest in the life insurance policy that forms the subject matter of this lawsuit.

5. Eliot Bernstein is a resident and citizen of Florida. He has asserted that he and/or his children are potential beneficiaries under the Policy as Simon Bernstein's son, presumably under the Bernstein Trust.

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent

interest in the life insurance policy that forms the subject matter of this lawsuit.

6. First Arlington National Bank is, upon information and belief, a bank in Illinois that was, at one point, and the purported trustee for the "S.B. Lexington, Inc. Employee Death Benefit Trust" (the "Lexington Trust"). The Lexington Trust was, upon information and belief, created to provide employee benefits to certain employees of S.B. Lexington, Inc., an insurance agency, including Simon Bernstein, but it is unclear if such trust was properly established.

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent interest in the life insurance policy that forms the subject matter of this lawsuit.

7. United Bank of Illinois is, upon information and belief, a bank in Illinois that was, at one point, a named beneficiary of the Policy. To date, Jackson has not determined the current existence of this bank.

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent interest in the life insurance policy that forms the subject matter of this lawsuit.

8. Bank of America, N.A., is a national banking association with its principal place of business in Charlotte, North Carolina. Bank of America, N.A. is the successor in interest to LaSalle National Trust, N.A., which was a named beneficiary of the Policy.

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof

thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent interest in the life insurance policy that forms the subject matter of this lawsuit.

9. The "Simon Bernstein Trust" is, upon information and belief, the Bernstein Trust listed in paragraph 3, above, and was a named contingent beneficiary of the Policy. However, based on the variance in title, to the extent it is a separate trust from the Bernstein Trust referenced above, it is named separately.

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent interest in the life insurance policy that forms the subject matter of this lawsuit.

10. Subject matter jurisdiction is proper in accordance with 28 U.S.C. § 1335(a).

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent interest in the life insurance policy that forms the subject matter of this lawsuit.

11. Personal jurisdiction is proper over Ted Bernstein because he, purportedly as Trustee of the Bernstein Trust, caused this underlying suit to be filed in this venue.

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent

interest in the life insurance policy that forms the subject matter of this lawsuit.

12. Personal jurisdiction is proper over First Arlington National Bank, United Bank of Illinois, and Bank of America in accordance with 735 ILCS 5/2-209(a)(1) because each, upon information and belief, transacts business in Illinois.

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent interest in the life insurance policy that forms the subject matter of this lawsuit.

13. Personal jurisdiction is proper over Ted and Eliot Bernstein in accordance with 735 ILCS 5/2-209(a)(13) as each are believed to have an ownership interest in the Bernstein Trust, which is alleged in the underlying complaint to exist underneath laws of and to be administered within this State.

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent interest in the life insurance policy that forms the subject matter of this lawsuit.

14. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) in that a substantial part of the events giving rise to this interpleader action occurred in this District.

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent interest in the life insurance policy that forms the subject matter of this lawsuit.

FACTS

15. On December 27, 1982, upon information and belief, Capitol Bankers Life Insurance Company issued the Policy, with Simon L. Bernstein as the purported insured (the "Insured").

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent interest in the life insurance policy that forms the subject matter of this lawsuit.

16. Over the years, the Policy's owner(s), beneficiary(ies), contingent beneficiary(ies) and issuer changed. Among the parties listed as Policy beneficiaries (either primary or contingent) include: "Simon Bernstein"; "First Arlington National Bank, as Trustee of S.B. Lexington, Inc. Employee Death Benefit Trust"; "United Bank of Illinois"; "LaSalle National Trust, N.A., Trustee"; "LaSalle National Trust, N.A."; "Simon Bernstein Insurance Trust dated 6/21/1995, Trust"; and "Simon Bernstein Trust, N.A."

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent interest in the life insurance policy that forms the subject matter of this lawsuit.

17. At the time of the Insured's death, it appears "LaSalle National Trust, N.A." was the named primary beneficiary of the Policy, and the "Simon Bernstein Trust, N.A." was the contingent beneficiary of the Policy. The Policy's Death Benefit Proceeds are \$1,689,070.00, less an outstanding loan.

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof

thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent interest in the life insurance policy that forms the subject matter of this lawsuit.

18. Subsequent to the Insured's death, Ted Bernstein, through his Florida counsel (who later claimed Bernstein did not have authority to file the instant suit in Illinois on behalf of the Bernstein Trust and withdrew representation), submitted a claim to Heritage seeking payment of the Death Benefit Proceeds, purportedly as the trustee of the Bernstein Trust. Ted Bernstein claimed that the Lexington Trust was voluntarily dissolved in 1998, leaving the Bernstein Trust as the purported sole surviving Policy beneficiary at the time of the Decedent's death.

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent interest in the life insurance policy that forms the subject matter of this lawsuit.

19. However, Ted Bernstein could not locate (nor could anyone else) a copy of the Bernstein Trust. Accordingly, on January 8, 2013, Reassure, successor to Heritage, responded to Ted Bernstein's counsel stating:

In as much as the above policy provides a large death benefit in excess of \$1.6 million dollars and the fact that the trust document cannot be located, we respectfully request a court order to enable us to process this claim.

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent interest in the life insurance policy that forms the subject matter of this lawsuit.

20. Presently, the Bernstein Trust still has not been located. Accordingly, Jackson is not aware whether the Bernstein Trust even exists, and if it does whether its title is the "Simon Bernstein Insurance Trust dated 6/21/1995, Trust," as captioned herein, or the "Simon Bernstein Trust, N.A.," as listed as the Policy's contingent beneficiary (or



otherwise), and/or if Ted Bernstein is in fact its trustee. In conjunction, Jackson has received conflicting claims as to whether Ted Bernstein had authority to file the instant suit on behalf of the Bernstein Trust.

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent interest in the life insurance policy that forms the subject matter of this lawsuit.

21. In addition, it is not known whether "LaSalle National Trust, N.A." was intended to be named as the primary beneficiary in the role of a trustee (of the Lexington and/or Bernstein Trust), or otherwise. Jackson also has no evidence of the exact status of the Lexington Trust, which was allegedly dissolved.

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent interest in the life insurance policy that forms the subject matter of this lawsuit.

22. Further, Jackson has received correspondence from Eliot Bernstein, attached as Exhibit 1, asserting that he and/or his children are potential beneficiaries under the Policy, (presumably under the Bernstein Trust, but nonetheless raising further questions as to the proper beneficiaries of the Policy), and requesting that no distributions of the Death Benefit Proceeds be made.

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent interest in the life insurance policy that forms the subject matter of this lawsuit.

COUNT I- INTERPLEADER

23. This is an action of interpleader brought under Title 28 of the United States Code, Section 1335.

**ANSWER:**

This paragraph calls for a legal conclusion to which no answer is necessary or required.

24. Jackson does not dispute the existence of the Policy or its obligation to pay the contractually required payment Death Benefit Proceeds under the Policy, which it has tendered into the registry of this Court.

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent interest in the life insurance policy that forms the subject matter of this lawsuit.

25. Due to: (a) the inability of any party to locate the Bernstein Trust and uncertainty associated thereunder; (b) the uncertainty surrounding the existence and status of "LaSalle National Trust, N.A." (the primary beneficiary under the Policy) and the Lexington Trust; and (c) the potential conflicting claims under the Policy, Jackson is presently unable to discharge its admitted liability under the Policy.

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent interest in the life insurance policy that forms the subject matter of this lawsuit.

26. Jackson is indifferent among the defendant parties, and has no interest in the benefits payable under the Policy as asserted in this interpleader other than to pay its admitted liability pursuant to the terms of the Policy, which Jackson has been unable to do by reason of uncertainty and potential competing claims.

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent interest in the life insurance policy that forms the subject matter of this lawsuit.

27. Justice and equity dictate that Jackson should not be subject to disputes between the defendant parties and competing claims when it has received a non-substantiated claim for entitlement to the Death Benefit Proceeds by a trust that has yet to be located, nor a copy of which produced.

**ANSWER:**

JPMorgan Chase Bank has insufficient knowledge to admit or deny the allegations of this paragraph, and therefore denies them and demands strict proof thereof. Further answering, JPMorgan Chase Bank disclaims any direct or contingent interest in the life insurance policy that forms the subject matter of this lawsuit.

JPMORGAN CHASE BANK,  
NATIONAL ASSOCIATION

By:           /s/ Glenn E. Heilizer            
One of their attorneys

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