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EXHIBITS: 1-15, A

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL  
CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA  
NO. 502012CP004391XXXXSB  
CP - Probate

\_\_\_\_\_  
IN RE: )  
ESTATE OF SIMON L. BERNSTEIN )  
\_\_\_\_\_ )

TELEPHONIC DEPOSITION of DONALD R.  
TESCHER, called as a witness by and on behalf of  
Ted S. Bernstein, pursuant to the applicable  
provisions of the Florida Rules of Civil Procedure,  
before P. Jodi Ohnemus, RPR, RMR, CRR, CA-CSR  
#13192, NH-LCR #91, MA-CSR #123193, and Notary  
Public, within and for the Commonwealth of  
Massachusetts, at the Hampton Inn & Suites, 10  
Plaza Way, Plymouth, Massachusetts, on Wednesday, 9  
July, 2014, commencing at 2:38 p.m.

1 nor did Mr. Spallina bring it to the attention of  
2 anybody; is that --

3 A. We couldn't, because we weren't aware of  
4 it.

5 Q. Okay. And when you became aware of it in  
6 2013, did you think it appropriate at that time to  
7 resign as copersonal representative from the estate  
8 of Simon Bernstein?

9 A. No.

10 Q. Now, did there come a time, however, when  
11 you did resign -- you and Mr. Spallina -- as  
12 copersonal representatives of the Simon Bernstein  
13 estate; correct?

14 A. That is correct.

15 Q. Do you recall when that was?

16 A. January of 2014.

17 Q. And what was the incident at that time  
18 that then caused you to resign as copersonal  
19 representatives of the estate of Simon Bernstein?

20 A. It came to light -- it was brought to my  
21 attention that the -- there was an amendment --  
22 there was an altered document altering the  
23 amendment to Shirley Bernstein's revocable trust,  
24 which document had been forwarded to Christine  
25 Yates, who was then serving as counsel to Eliot

1 Bernstein's children; and that document added a  
2 provision.

3 **Q. All right. And how did that document come**  
4 **to light -- the altered document?**

5 A. It was brought to my attention by someone  
6 in my office.

7 **Q. Okay. Now, the -- you identified the**  
8 **altered document as what again -- the Shirley**  
9 **Bernstein Trust?**

10 A. The Amendment to Shirley Bernstein's  
11 Revocable Trust Agreement.

12 **Q. Okay. And who in your office brought that**  
13 **to your attention?**

14 A. Our associate.

15 **Q. And who is that?**

16 A. Lauren Galvani.

17 **Q. And when did that take place?**

18 A. January 2013.

19 **Q. Okay. And there is a document that's**  
20 **attached to your affidavit, which is the -- I**  
21 **believe an amendment to the Shirley Bernstein**  
22 **Trust; is that correct?**

23 A. Hold on one moment. Let me get to that.

24 **Q. Is that Exhibit C?**

25 A. I believe that's C, if I'm not mistaken.

1 Hold on one moment.

2 (Witness reviews document.) Yeah. That's  
3 Exhibit C.

4 **Q. Okay. All right.**

5 **Now, Exhibit C, is that the altered**  
6 **document or the unaltered document?**

7 A. That is the unaltered document.

8 **Q. And what did the altered first amendment**  
9 **to the Shirley Bernstein trust say?**

10 A. I don't have it in front of me, but  
11 essentially what it did was there was a -- you see  
12 how it's numbered now 1 and 3? There were -- you  
13 know, somebody had messed up when it had been  
14 originally prepared, and it got numbered --  
15 paragraph No. 1, paragraph No. 3.

16 A paragraph No. 2 was inserted between 1  
17 and 3.

18 **Q. And when did that take place?**

19 A. I don't know.

20 **Q. Was it -- did it take place sometime in**  
21 **2012?**

22 A. I don't know.

23 **Q. Did it take -- well, how did your**  
24 **associate suddenly come across it in January of**  
25 **2014?**

1           A.    You'll have to ask her.

2           **Q.    Did you ever ask her how she came across**  
3 **it that then subsequently caused you to resign as**  
4 **copersonal representative?**

5           A.    She noticed that the amendment that had  
6 been included in the letter to Christine Yates was  
7 different than Exhibit -- the exhibit that's here  
8 attached to my affidavit.

9           **Q.    And in that letter to Christine Yates,**  
10 **what was the date of that letter?**

11          A.    I think it was January of 2013 -- I think.

12          **Q.    Okay.  And so that was after the death of**  
13 **Simon Bernstein; correct?**

14          A.    Yes, it was.

15          **Q.    So then that altered document contained in**  
16 **a document dated January 11, 2013 could very well**  
17 **have been prepared while Ted Bernstein was the**  
18 **successor personal representative and successor**  
19 **trustee to the Shirley Bernstein estate and trust;**  
20 **correct?**

21          A.    No.  Probably -- well...

22                   Probably -- I'm not sure, to be honest,  
23 Peter.  I'm not a hundred percent certain on the  
24 timing.

25          **Q.    Okay.  And how did a year go by between**

1 the time of the January 11th, 2013 letter in which  
2 the altered document was produced to the attorneys  
3 for Eliot Bernstein and then the discovery that it  
4 was, in fact, an altered document? What happened  
5 in that 12-month time that caused you, or your  
6 associate, or your office to discover that, in  
7 fact, what had been supplied to counsel for Eliot  
8 Bernstein was, in fact, a forged document or  
9 altered document?

10 A. I can't answer that question, actually --  
11 'cause I don't know.

12 Q. All right. And -- and who in your firm  
13 would be in the best position to know that -- if  
14 it's not the general manager -- the managing  
15 partner of the firm?

16 A. Mr. Spallina or Ms. Galvani.

17 Q. You were the managing partner at that time  
18 still; correct?

19 A. I was the president.

20 Q. Okay. And what did the altered document  
21 say in paragraph 2?

22 A. I told you that I don't have that in front  
23 of me.

24 Q. And the one attached to your affidavit?

25 A. I told you that I don't have that in front

1 of me.

2 **Q. I apologize if I'm being repetitive on**  
3 **that score.**

4 A. Yeah, I don't have --

5 **Q. Your best recollection.**

6 A. Yeah. Peter, I don't have it here.

7 It dealt with the definition of children  
8 and lineals.

9 MR. ROSE: Peter, I don't want to ruin  
10 your momentum that you're building up, but I need  
11 to take a bathroom break. Could we take -- we've  
12 been going at it for a little more than an hour.  
13 Can we take like a five-minute break?

14 MR. FEAMAN: Sure. I'm moving on to the  
15 next item anyway.

16 MR. ROSE: No more than five -- maybe as  
17 little as two minutes. I'll be right back.

18 MR. FEAMAN: No problem.

19 (Recess was taken.)

20 **Q. Mr. Tescher, I'd like you to take a look**  
21 **at what's been premarked as Exhibit 3.**

22 MR. FEAMAN: Madam Court Reporter, would  
23 you hand that to the witness.

24 COURT REPORTER: Okay.

25 MR. FEAMAN: Thank you.

Stansbury's

Exh. 3

to Teacher's depo



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January 14, 2014

**VIA U.S. MAIL AND EMAIL**

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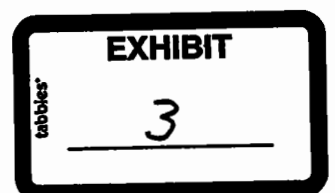
**Re: Estates and Trusts of Shirley Bernstein and Simon Bernstein**

Dear Ladies and Gentlemen:

It has been brought to my attention that a document was prepared in our office that altered the disposition of the Shirley Bernstein Trust subsequent to Simon Bernstein's death. Information provided to me appears to indicate that there were two versions of the First Amendment to the Shirley Bernstein Trust Agreement, both executed on November 18, 2008. Under one version the children of Pam Simon and Ted Bernstein would not be permissible appointees of Simon Bernstein's exercise of the power of appointment while under the second version that restriction was removed. As you all know, Simon Bernstein's dispositive plan, expressed to all of you during his lifetime on a conference call, was to distribute the Estate to all ten of his grandchildren. That was the basis upon which the administration was moving forward.

Under the Shirley Bernstein Trust, there is a definition of children and lineal descendants. That definition excluded Pam Simon, Ted Bernstein and their respective children from inheriting. The document also contained a special Power of Appointment for Simon wherein he could appoint the assets of the Trust for Shirley's lineal descendants. Based upon the definition of children and lineal descendants, the Power of Appointment could not be exercised in favor of Pam Simon, Ted Bernstein or their respective children, although we believe it was Simon Bernstein's wish to provide equally for all of his grandchildren.

On November 18, 2008, it does appear from the information that I have reviewed that Shirley Bernstein executed a First Amendment to her trust agreement. The document as executed appears to make only one relatively minor modification to her trust disposition by eliminating a specific gift to Ted



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Bernstein's stepson. In January of 2013 a First Amendment to the Shirley Bernstein Trust Agreement was provided to Christine Yates, Esq. who, at that time, was representing Eliot Bernstein. The document provided contained a paragraph number 2 which modified the definitional language in Shirley's document so as to permit, by deleting the words "and their respective lineal descendants" from the definition, an exercise of the power of appointment by Simon Bernstein over the Shirley Bernstein Trust to pass equally to all ten grandchildren rather than only six of the grandchildren.

By virtue of The Florida Bar Rules of Professional Conduct, I am duty bound to provide this information to you. Obviously, as a result of the issues and ramifications raised by the allegations, my firm must resign from further representation in all matters relating to the Estates and Trusts of Simon Bernstein and Shirley Bernstein. Furthermore, it is my intent, and I assume also the intent of Robert Spallina, to tender our resignations as personal representatives of the Simon Bernstein Estate and as trustees of the Simon Bernstein Trust. If the majority of the Bernstein family is in agreement, I would propose to exercise the power to designate a successor trustee by appointing Ted Bernstein in that capacity. With regard to the Simon Bernstein Estate, the appointment of the successor would require a court proceeding.

I am obviously upset and distraught over this chain of events and will do all that I reasonably can to correct and minimize any damages to the Bernstein family. As I believe you know, to date there has only been a modest funding of some, but not all, of the continuing trusts for the grandchildren emanating from Shirley's Trust assets.

Very truly yours,



DONALD R. TESCHER

DRT/km

cc: Alan Rose, Esq.