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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.

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I N D E X

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2 Restated Trust Agreement.)

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19 Consulting, LLC.)

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21 Period ending 9/29/2006.)

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23 period ending 11/30/2006.)

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25 period ending 1/31/2007.)

1 (Tescher 12, Declaratory Action to
2 Establish a Lost Trust and Appoint a
3 Successor Trustee.)

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5 Will of Simon Bernstein.)

6 (Tescher 14, four-page document,
7 12/6/2012.)

8 (Tescher 15, Florida Department of State,
9 Detail by Entity Name, T&S Registered
10 Agents, LLC.)

11 MR. FEAMAN: Alan, you're taking this
12 deposition for the purpose of using it at the
13 hearings that are going to take place on Friday
14 before Judge Colin; and I'd like to stipulate that
15 by this deposition today, I am not waiving -- I
16 assume none of the other parties are waiving their
17 right to take the deposition of Mr. Tescher at some
18 point in the future concerning any issues that are
19 not before the court on Friday.

20 MR. BLOCK: What's before the court on
21 Friday?

22 MR. FEAMAN: Before the court on Friday,
23 according to an order entered by Judge Colin --

24 MR. BLOCK: What date is Friday?

25 MR. FEAMAN: Friday is the 11th.

1 MR. BLOCK: Okay. Good enough.

2 MR. FEAMAN: And the four things that this
3 deposition -- I understand -- is being taken for
4 is, No. 1, Elliot Bernstein's motion to disqualify
5 Alan Rose and the Mrachek law firm and John
6 Pankauski and the Pankauski law firm; No. 2, the
7 various motions/petitions filed in connection with
8 an appointment of a successor personal
9 representative for the estate of Simon Bernstein;
10 No. 3, the various motions and petitions filed in
11 connection with the removal of Ted Bernstein as
12 trustee of the Simon Bernstein Revocable Trust; and
13 the determination of the applicability of the
14 attorney/client privilege regarding an email sent
15 by Ted Bernstein to Eliot Bernstein; and that, by
16 our asking questions of Mr. Tescher today, we do
17 not waive the right to take Mr. Tescher's
18 deposition, if necessary, at some point in the
19 future concerning any other issues that may or may
20 not arise in connection with these matters.

21 MR. ROSE: I have no objection to your
22 stipulation. In fact, I think it's very obvious
23 that this deposition should be limited to four very
24 narrow issues. One of them has nothing to do with
25 Mr. Tescher -- which will be the privileged email.

1 I agree wholeheartedly.

2 I would actually express in advance some
3 concern that your exhibits would seem to go far
4 afield of those issues. But subject to that, I am
5 fine with your stipulation. And I would like to --
6 I think the witness should be sworn in.

7 MR. MORRISSEY: This is John Morrissey.
8 The only addition that I would have to the
9 stipulation is Mr. Feaman made a couple of
10 references to the use of this deposition only at
11 the hearing on the 11th.

12 My understanding is we have a kind of a
13 pour-over hearing on the 16th. So I would add to
14 that stipulation that this deposition could be used
15 on the 16th to the extent necessary as well.

16 MR. FEAMAN: Well, my stipulation doesn't
17 involve use. It involves a waiver on the part of
18 my client to -- if -- that somehow he would not be
19 allowed or anybody else would be allowed to take
20 Mr. Tescher's deposition again because it's already
21 been taken. And the point is, there may be issues
22 that arise in the future in which Mr. Tescher is
23 involved -- either as a witness or in some other
24 capacity -- and, therefore, today's deposition
25 would not be a waiver of any parties' right to take

1 his deposition in the future for other matters.

2 MR. ROSE: Let me take over for a second.
3 This is Alan Rose. Mr. Block, as counsel for Don
4 Tescher, do you agree he can be deposed again in
5 the future?

6 MR. BLOCK: Well --

7 MR. FEAMAN: Subject to the limitation and
8 nobody would ask him the same questions we're going
9 to ask him today.

10 MR. BLOCK: What I agreed to is the
11 stipulation decided by Peter, with the additional
12 of the date of the 16th by John Morrissey. That's
13 what I agree to.

14 MR. ROSE: And for the record, the
15 deposition is going to be used for whatever
16 purposes a deposition can be used under the Florida
17 Rules of Civil Procedure with no limitation.

18 You can swear in the witness.

19 DONALD R. TESCHER, having
20 satisfactorily been identified by
21 the production of a driver's license,
22 and being first duly sworn by the Notary
23 Public, was examined and testified as
24 follows to interrogatories

25 BY MR. ROSE:

1 **Q. Would you state your full name for the**
2 **recovered?**

3 A. Donald R. Tescher.

4 **Q. And are you an attorney licensed to**
5 **practice law in the State of Florida; currently a**
6 **partner of the law firm Tescher & Spallina?**

7 A. Yes; and yes.

8 **Q. Where are you physically located today?**

9 A. Right now I'm sitting in Plymouth,
10 Massachusetts.

11 **Q. Is your plan to spend the summer in**
12 **Massachusetts?**

13 A. Yes.

14 **Q. Do you have plans to be in Palm Beach**
15 **county or July 11th or July 16th of this year?**

16 A. No.

17 **Q. Is -- is your current location more than**
18 **100 miles from the courthouse?**

19 A. Your courthouse; right -- or our
20 courthouse, I should say, in Florida --

21 **Q. Is your --**

22 A. -- certainly it's about 1,500 miles.

23 **Q. Is your location more than 100 miles from**
24 **the Palm Beach County courthouses?**

25 A. Yes, sir.

1 **Q. Okay. You have in front of you something**
2 **called "Affidavit of Donald Tescher"?**

3 A. I don't. (Witness reviews documents.)
4 I do.

5 MR. ROSE: I'd like to mark that as
6 Exhibit 1 to your deposition.

7 (Discussion off the record.)

8 (Tescher A, Affidavit of Donald R.
9 Tescher.)

10 **Q. Are you familiar with Exhibit A, Mr.**
11 **Tescher?**

12 A. Yes, sir.

13 **Q. Is this an affidavit you prepared some**
14 **time ago?**

15 A. Yes.

16 **Q. And signed under oath on March 4th, 2014?**

17 A. Yes.

18 **Q. Have you reviewed the affidavit recently?**

19 A. Yes.

20 **Q. And had you reviewed the affidavit and had**
21 **a role in editing it prior to the time that you**
22 **signed it in March of 2014?**

23 A. Yes, I did.

24 **Q. If I asked you questions that would elicit**
25 **the information that you put in your affidavit in**

1 **March, would you give me the same answers today as**
2 **you wrote in your affidavit?**

3 A. I believe so.

4 **Q. Now, attached to the affidavit there are**
5 **five documents that have been marked in the**
6 **affidavit as A, B, C, D, and E.**

7 A. Yes, sir.

8 **Q. Do you have those in front of you?**

9 A. Yes, I do.

10 **Q. The first document -- which is Exhibit A**
11 **to your affidavit -- is entitled "Will of Shirley**
12 **Bernstein."**

13 **Are you familiar with the will of Shirley**
14 **Bernstein?**

15 A. This is the will that was executed on May
16 20, 2008.

17 **Q. And the original of this will was held in**
18 **your safe deposit box and ultimately was filed with**
19 **the court?**

20 A. That is correct.

21 **Q. Exhibit B is the Shirley Bernstein Trust**
22 **Agreement, also dated May 20, 2008.**

23 **Are you familiar with that document?**

24 A. Yes, sir.

25 **Q. Was your law firm responsible for drafting**

1 the will and the trust for Shirley Bernstein?

2 A. Yes, it was.

3 Q. If you look at Exhibit C, there's a
4 document called "First Amendment to Shirley
5 Bernstein Trust Agreement."

6 Are you familiar with that document?

7 A. Yes, sir.

8 Q. Is Exhibit C a true and accurate copy of
9 the first amendment to the Shirley Bernstein Trust
10 Agreement?

11 A. The only thing that's unusual about the
12 copy I'm looking at here is there's no date
13 inserted on the top of the first page; and I
14 believe that document, as I recall, was -- was
15 dated. It's dated, obviously, on the page 2.

16 Q. As far as you know, is the document
17 attached to the affidavit an accurate copy of what
18 would have been signed by Shirley Bernstein on or
19 about November 18, 2008?

20 A. Yes.

21 Q. Other than the three documents -- A, B,
22 and C -- are you aware of any other operative
23 documents that would have -- that would have been
24 signed by Shirley Bernstein while she was alive?

25 A. No.

1 MR. FEAMAN: Objection to the form.

2 Q. I'll ask a different question: As far as
3 you know, are Exhibits A, B, and C, the will, and
4 the trust, and the amendment and -- the only
5 amendment that you're aware of to the Shirley
6 Bernstein Trust?

7 A. Yes.

8 Q. Now, Exhibit D is the will of Simon
9 Bernstein.

10 Do you see that?

11 A. Yes, sir.

12 Q. And this is a -- not original document,
13 but it appears to be dated on July 25, 2012.

14 A. It appears to be a conformed copy of a
15 will that was executed, apparently, on that date.

16 Q. And this will would have been held in your
17 safe deposit box in the original files with the
18 court upon Mr. Bernstein's death?

19 A. Yes, sir.

20 Q. And as far as you know, is this the last
21 will of Simon L. Bernstein?

22 A. Yes, sir.

23 Q. The last exhibit, Exhibit E, is the Simon
24 L. Bernstein Amended and Restated Trust Agreement,
25 which is dated July 25, 2012.

1 **Are you familiar with this document?**

2 A. Yes.

3 **Q. As far as you know, is this the final**
4 **version of a -- or the last version of any trust**
5 **document that Simon Bernstein signed prior to his**
6 **death?**

7 A. Yes, sir.

8 **Q. Are you familiar with the prior versions**
9 **of Simon's will and trust from 2008?**

10 A. Generally.

11 **Q. In the 2012 document, were you and Robert**
12 **Spallina designated as the successor cotrustees**
13 **upon the death of Simon Bernstein?**

14 A. Yes, we were.

15 **Q. And do you recall who had been listed as a**
16 **successor cotrustee in the 2008 version?**

17 A. My -- my recollection -- and I don't
18 specifically recall -- that it might have been Mr.
19 Stansbury.

20 **Q. And are you aware of a decision by Simon**
21 **Bernstein to remove Mr. Stansbury as a successor**
22 **trustee under his 2012 trust?**

23 A. Yes, indirectly.

24 **Q. Did you have any discussions with Simon**
25 **about that decision?**

1 A. I did not have discussions directly with
2 Simon regarding that decision.

3 **Q. Upon Mr. Spallina's resignation as**
4 **trustee, at some point in time you were the sole**
5 **remaining trustee of the Simon L. Bernstein Amended**
6 **and Restated Trust Agreement; is that correct?**

7 A. Yes, sir, for one day.

8 **Q. And did the trust document give you any**
9 **powers with regard to deciding who would be your**
10 **successor?**

11 A. The provision of the trust document
12 provides first that if there is none named, that
13 the last surviving trustee can designate the
14 successor trustee.

15 **Q. And did you make a decision in your**
16 **position who should be the successor to you?**

17 A. Yes, I did.

18 **Q. And who did you select?**

19 A. I selected Theodore.

20 **Q. And could you tell the court why you**
21 **selected Mr. Bernstein -- Mr. Ted Bernstein?**

22 A. I concluded that he was the logical choice
23 for a variety of reasons, including the fact that
24 he -- among all of the children, probably had the
25 most knowledge of his -- his mother and father's

1 matters. He was then serving as successor --
2 personal representative and successor trustee for
3 Shirley after Simon had died. He had, you know,
4 direct knowledge of the litigation that was ongoing
5 with William Stansbury. He's not a beneficiary
6 under any of those documents, other than dividing
7 up tangible personal property; and I believe him to
8 be a competent person and a competent businessman.

9 **Q. Did you give any consideration to**
10 **selecting Eliot Bernstein for that role?**

11 A. Not at all.

12 **Q. Do you think that Simon Bernstein would**
13 **want Eliot Bernstein to have any fiduciary role in**
14 **connection with his will or his trust?**

15 A. I do not.

16 **Q. And can you tell us why?**

17 A. There has been --

18 MR. FEAMAN: Objection to the form.

19 **Q. You can answer, sir.**

20 A. Over -- over the years it was made
21 apparent to us by members of the Bernstein family
22 that Eliot -- Eliot suffers from certain
23 impediments and impairments that would affect his
24 judgment and ability to act in an impartial fashion
25 and to handle the affairs that would be necessary

1 to be handled.

2 Eliot and his family -- particularly his
3 siblings -- did not enjoy a -- a wonderful
4 relationship. It's my understanding that he, at
5 times, threatened -- I'm not sure if he actually
6 sued -- but he certainly threatened to sue certain
7 members of the family.

8 In fact, my recollection is that there is
9 an agreement that Si Bernstein had Eliot and his
10 wife execute regarding his ceasing that activity,
11 in exchange for which -- I believe that there were
12 payments to be made to Eliot Bernstein in
13 connection with helping to support him.

14 **Q. Now, do you recall Mr. Stansbury also**
15 **being named as the successor personal**
16 **representative under Simon's 2008 document?**

17 A. I don't specifically recall, but I think
18 that was the case.

19 **Q. And in the documents that were signed July**
20 **25th, Mr. Stansbury is not named in any capacity;**
21 **is that correct?**

22 A. That is correct.

23 **Q. Do you know what happened between or**
24 **around July of 2012 that would have caused Simon**
25 **Bernstein to want to remove William Stansbury from**

1 **having any role or say in his affairs?**

2 MR. FEAMAN: Objection to the form.

3 A. Well, I -- I believe -- although I'm not a
4 hundred percent certain -- that litigation had
5 already commenced by Mr. Stansbury against Mr.
6 Bernstein -- Simon Bernstein -- as well as the Life
7 Insurance Concepts and other entities around that
8 time.

9 **Q. Did you have personal knowledge of Simon's**
10 **reaction to being sued by William Stansbury?**

11 A. Unfortunately, no, I do not.

12 **Q. Okay. That's fine.**

13 **Now, in connection with the estate**
14 **planning, did Simon take any extra precautions or**
15 **special arraignments in dealing with assets that**
16 **were being provided to or set aside for Eliot**
17 **Bernstein?**

18 A. Yeah. And, again, this was not -- this
19 was not a matter that our firm was involved in
20 creating or structuring.

21 Simon Bernstein had trusts created for
22 Eliot Bernstein's three children. He had those
23 trusts become the members -- sole members of a
24 limited liability company. He provided the
25 financing and the monies to acquire their current

1 residence, which is owned in that limited liability
2 company; and, in essence, owned by those three
3 trusts for Eliot Bernstein's children.

4 **Q. And were those elaborate estate plans**
5 **designed and created so that Eliot would not have**
6 **any assets in his individual name or control?**

7 A. I believe that that was part of the
8 rationale.

9 **Q. Prior to the time that you resigned, Ted**
10 **was not playing any role in the Simon estate or the**
11 **Simon trust; is that accurate?**

12 A. I'm sorry? Who wasn't?

13 **Q. Ted was not involved --**

14 A. Ted?

15 **Q. -- in a fiduciary capacity for the Simon**
16 **estate or for the Simon trust prior to your**
17 **resignation; is that accurate?**

18 A. That is correct.

19 MR. FEAMAN: Objection to form.

20 MR. ROSE: What's the objection?

21 MR. FEAMAN: No predicate. Overly broad.

22 **Q. Now, was Ted at that same time serving in**
23 **a fiduciary capacity as the successor trustee of**
24 **the Shirley Bernstein Trust and the successor PR of**
25 **the Shirley Bernstein estate?**

1 A. Yes, sir.

2 Q. And was your law firm representing him in
3 his capacity as a fiduciary on the Shirley side?

4 A. Yes, we were.

5 Q. During the time that Ted was being
6 represented by you, did there come -- from time to
7 time -- situations where you would give advice of
8 what -- what action should be taken in a given
9 circumstance?

10 A. Our firm did; yes.

11 Q. Did Ted generally follow your advice?

12 A. Yes.

13 Q. Were there any times when Ted specifically
14 refused to follow your advice?

15 A. No.

16 Q. Now, there was -- this is on the Shirley
17 side --

18 A. Well, I take that --

19 Q. -- not especially relevant, but it relates
20 to Ted's ability and capacity to serve as a
21 fiduciary on the Simon side -- but was there a time
22 when there was a sale of a large asset on the
23 Shirley side?

24 A. Yes. One of the --

25 MR. FEAMAN: Objection.

1 A. -- one of the residences was sold.

2 Q. And were there discussions concerning
3 whether to make an interim distribution at that
4 time?

5 A. Yes, there were.

6 Q. And at the end of the -- at the end of the
7 day, after whatever discussions occurred, did your
8 firm ever advise Ted that it would be improper for
9 him, as trustee, to make an interim distribution?

10 A. We never advised him that it was improper.
11 We advised him to be cautious about making
12 distributions, because at that time the Shirley
13 trust was a named defendant in the Stansbury
14 litigation.

15 Q. And with respect to that -- so long as
16 there was sufficient funds left over to cover
17 whatever claim there was, there would be no problem
18 with an interim distribution; is that accurate?

19 A. Assumedly.

20 MR. FEAMAN: Objection to form.

21 Q. Now, Stansbury's claim has been against
22 the estate of Shirley Bernstein or the Shirley
23 Bernstein Trust have been dismissed with prejudice;
24 are you aware of that?

25 A. Yes.

1 **Q. Back at the time when an interim**
2 **distribution was being considered, what were your**
3 **thoughts as to the merits of the lawsuit by Mr.**
4 **Stansbury against the Shirley Bernstein estate or**
5 **the Shirley Bernstein Trust?**

6 MR. FEAMAN: Objection to the form.

7 A. I thought it was ludicrous, frankly.

8 They continued to keep naming Mr. Spallina
9 and myself as the trustees of that trust, which we
10 never were in -- in all of the pleadings.

11 That trust had -- Shirley never owned any
12 interest in the business. And I could see no
13 reason why Mr. Stansbury was attempting to reach
14 into that trust, other than the fact that it had
15 some assets.

16 **Q. Now, there is an issue -- there is an**
17 **issue on the Shirley side about whether the**
18 **distribution should have been made to all 10**
19 **grandchildren or to only six.**

20 Were you aware at the time of the interim
21 distribution that there was a question about
22 distributions to six versus 10?

23 A. Not at that time; no.

24 **Q. As far as you know, was Ted aware of the**
25 **issue of six versus 10?**

1 MR. FEAMAN: Objection to the form.

2 A. To the best of my knowledge, I don't think
3 he was at that time.

4 Q. One second, please.

5 Do you recall when the Shirley Bernstein
6 Trust sold the condominium that, among the contents
7 of the condominium would be property that would
8 have then been owned by the estate of Simon
9 Bernstein?

10 A. Well, under -- under Shirley's documents,
11 all the tangible personal property passed to Simon.

12 Q. I thought -- at the time that Shirley's
13 condo was sold, whatever contents were in it would
14 have been owned by Simon's estate.

15 A. Correct.

16 Q. At the time you were the personal
17 representative or copersonal representative of
18 Simon's estate; is that correct?

19 A. At the time that the sale occurred; yes.

20 Q. Did you and the other copersonal
21 representative agree that the -- that the property
22 should be sold with the condominium; and that if
23 there was ever a time in the future when there
24 needed to be some allocation, it could be handled
25 in the future, rather than either interfering with

1 the sale of the condo, or requiring the furniture
2 to be to be removed from the condo?

3 MR. FEAMAN: Objection to the form.

4 A. I don't recall if I was directly involved
5 in that discussion.

6 Q. Does it make sense to you that if the
7 beneficiaries of the Shirley trust are the same as
8 the beneficiaries of the Simon estate should not
9 undergo an expense to move furniture or undertake
10 an allocation if the money is going to the same
11 people?

12 A. Correct.

13 Q. And if at some later point in time it
14 makes a difference, couldn't somebody then go back
15 and allocate some portion of the purchase price
16 from the Shirley condo and give the money to the
17 Simon estate for the value of the -- of his
18 personal property that was included in the sale?

19 A. Yes, it could true up.

20 Q. Does that make more sense to you, that an
21 estate with limited resources -- to true it up at
22 the end, if it matters, rather than undertake that
23 expense at the time of the sale?

24 MR. FEAMAN: Form.

25 A. From a practical standpoint, given the

1 fact that these estates were not going to be
2 subject to federal estate tax liabilities; yes.

3 **Q. As you sit here today, do you have any**
4 **reason you would advise Judge Colin or any**
5 **hesitancy in suggesting that Ted would be a proper**
6 **candidate and could -- and competent and capable of**
7 **doing the job if the judge were to appoint Ted as**
8 **the successor personal representative of his**
9 **father's estate?**

10 MR. FEAMAN: Objection to the form.

11 A. I would have no object -- I would have no
12 problem in recommending Mr. Ted Bernstein to serve
13 in the fiduciary capacity requested.

14 MR. ROSE: That's the end of my
15 examination. I'd like mine ordered on an expedited
16 basis. And I have no further questions; and turn
17 him over to cross-examination by whomever wishes to
18 do so.

19 MR. FEAMAN: Okay if I go next with
20 everybody?

21 THE WITNESS: Is that Peter?

22 MR. FEAMAN: Yeah.

23 THE WITNESS: All right. Let me just get
24 the other set of exhibits there.

25 MR. FEAMAN: Alan Rose, I'm going to

1 object to the admission of the affidavit. So I
2 want to give you the opportunity to ask more
3 questions concerning what's contained in the
4 affidavit so you don't feel like I am sandbagging
5 you in any way.

6 So if you have further questions
7 concerning what's contained in the affidavit of
8 this witness, I want to give you the opportunity to
9 ask.

10 MR. ROSE: That's fine.

11 My -- and just for the record, I believe
12 that once the affidavit is tendered by the witness
13 during a deposition and is subject to
14 cross-examination by all parties, that the
15 affidavit is fully admissible, regardless of
16 whether I asked him every question. But I will
17 also go through -- while you're questioning him --
18 and decide if there are any other questions I wish
19 to ask as a protective measure.

20 MR. FEAMAN: Okay. Very good.

21 MR. MORRISSEY: This is John Morrissey.
22 Just for the record, by allowing Mr. Feaman to ask
23 questions today, I'm certainly not agreeing and --
24 and don't waive any objection to -- to a standing
25 argument.

1 **Can you find that provision in the trust**
2 **which allows you to do that?**

3 A. Page 16, paragraph 3 -- subparagraph 2 --
4 no, subparagraph 3(a).

5 **Q. Okay. And is it fair to say that under**
6 **paragraph (b) (1) on page 15, the bottom of page 15,**
7 **you and Mr. Spallina were the successor**
8 **cotrustees --**

9 A. That's correct.

10 **Q. -- before you have exercised your power of**
11 **appointment?**

12 A. That's correct.

13 **Q. And when did Mr. Spallina resign as**
14 **successor cotrustee?**

15 A. The day before me.

16 **Q. Did he do that in the form of a letter --**

17 A. He executed --

18 **Q. -- or how did he do that?**

19 A. He executed a resignation form, as I
20 recall.

21 **Q. All right. Do you know what day that --**
22 **what the date of that was?**

23 A. I don't have any of those documents in
24 front of me. I can't tell you.

25 **Q. Okay. And do you have a copy of the**

1 **resignation form?**

2 A. I believe it exists; and I believe it's
3 included somewhere in all the discovery that, you
4 know, you all have from our files.

5 **Q. So then you do have it in your files at
6 some point?**

7 A. I believe that we do. I know it exists.
8 I saw it.

9 **Q. Did you excise -- or excuse me -- execute
10 a resignation?**

11 A. Yes, I did.

12 **Q. Do you recall the date of your
13 resignation?**

14 A. No. I do not, other than to reference it
15 the day after Mr. Spallina's resignation.

16 **Q. All right. Now, in your exercise of what
17 you term your "appointment of a successor trustee,"
18 what form did that exercise take?**

19 **Did you write a letter? Or what did you
20 do?**

21 A. It's a written form. It's "Resignation as
22 Successor Trustee and Appointment of Successor," I
23 believe.

24 Again, I don't have the benefit of having
25 the document in front of me, sir, so I'm at a

1 little bit of a loss.

2 But it was a standard document that we
3 would use in our office to have somebody resign and
4 appoint a successor.

5 **Q. Okay, 'cause I have not seen such a**
6 **document that you describe.**

7 MR. ROSE: I think they've been produced.
8 If you want me to email you a copy, Peter, I'll be
9 glad to do it.

10 MR. FEAMAN: Sure. That will be fine.

11 MR. ROSE: Okay.

12 **Q. All right. Now, the -- I'd like to draw**
13 **your attention to the paragraph that you brought me**
14 **to, which is paragraph 3 on page 16.**

15 A. Yes.

16 **Q. It says that -- it's the last paragraph of**
17 **page 16 -- "A trustee appointed under this**
18 **paragraph shall not be a related or subordinate**
19 **party of the trust."**

20 Do you see that?

21 A. Yeah, but I --

22 **Q. Okay.**

23 A. Go ahead. I'm sorry.

24 **Q. Is Mr. Bernstein -- Ted Bernstein -- a**
25 **related or subordinate party of the trust?**

1 A. Not for purposes of paragraph 3(b) -- not
2 for purposes of paragraph 3(a).

3 For purposes of paragraph 3(b), he would
4 be.

5 **Q. And where does 3(a) start?**

6 A. "The remaining trustees, if any."

7 **Q. All right. And did you not tell me that**
8 **you exercised your power of appointment pursuant to**
9 **the sentence that is actually two lines above that?**

10 A. Well, you probably didn't -- what I said
11 to you was that, if the remaining trustee is the
12 one who's making the appointment, the "flush"
13 language dealing with "related or subordinate
14 party" is not material.

15 It's only material if a beneficiary of the
16 trust picks a related or subordinate person to
17 serve as their trustee.

18 **Q. Let me draw your attention, if I could, to**
19 **the definitional section of this document, which is**
20 **-- I believe begins at page 5, paragraph E.**

21 A. Yes, sir.

22 **Q. Would you go there, please?**

23 A. Okay.

24 **Q. And this is the definitional section of**
25 **the trust; is that correct?**

1 A. This is a definition provision.

2 **Q. All right. And under paragraph E, let me**
3 **call your attention to paragraph 7, which appears**
4 **on page 7.**

5 A. Correct.

6 **Q. It says "A related or subordinate party to**
7 **a trust describes --" could you read that into the**
8 **record?**

9 A. Yes, sir. 7: "Related or subordinate
10 party: A related or subordinate party to a trust
11 describes a beneficiary of the subject trust or a
12 related or subordinate party to a beneficiary of
13 the trust as the terms 'related or subordinate
14 party' are defined under code section 672(c)."

15 **Q. And have you reviewed the code section**
16 **referred to there as to how it's defined?**

17 A. I'm generally familiar with 672(c),
18 although I don't have in front of me.

19 **Q. And does it define a related or**
20 **subordinate party as a child or issue of a grantor?**

21 A. I would not want to comment without having
22 the code provision in front of me.

23 **Q. Okay. So as you sit here today, you don't**
24 **-- you don't know one way or the other whether a**
25 **related party under that code section would include**

1 a child of the grantor; is that correct?

2 A. They would be related to the grantor.

3 Q. Is the grantor in this case under this
4 trust Simon Bernstein?

5 A. He was the grantor. He died.

6 Q. And is it your understanding that Ted
7 Bernstein is an issue of the grantor --

8 A. He certainly is.

9 Q. -- as used in the code section referred to
10 in your document 672?

11 A. Yes.

12 Q. I also want to direct your attention to --
13 under the definition section, (e) (1).

14 Do you see where it says "Children, Lineal
15 Decedents"?

16 A. Yes, sir.

17 Q. Okay. Now, that definition paragraph
18 bleeds over on the top of page 6.

19 Could you turn there?

20 A. Yes, sir.

21 Q. All right. Could you read the last
22 sentence of paragraph (e) (1), beginning with
23 "Notwithstanding."

24 A. "Notwithstanding the foregoing, for all
25 purposes of this trust and the dispositions made

1 hereunder, my children, Ted S. Bernstein, Pamela B.
2 Simon, Eliot Bernstein, Jill Iantoni, and Lisa S.
3 Friedstein shall be deemed to have predeceased me,
4 as I have adequately provided for them during my
5 lifetime."

6 **Q. All right. Does -- does that provision**
7 **apply, in your opinion, to the appointment of a**
8 **successor trustee?**

9 A. No. "Dispositions hereunder," sir.

10 **Q. Okay. Now, it says "Notwithstanding the**
11 **foregoing," it says "for all purposes of this**
12 **trust."**

13 **Are you limiting "for all purposes of this**
14 **trust" to answer that question?**

15 A. Am I limiting the "Notwithstanding the
16 foregoing"?

17 **Q. Yeah. What does "for all purposes of this**
18 **trust" mean if it doesn't also include the children**
19 **as eligible to be appointed as a successor trustee?**

20 A. This definition is intended solely for
21 purposes of determining whether they are
22 beneficiaries under the trust.

23 **Q. So when you said, "for all purposes of**
24 **this trust," you didn't really mean all purposes of**
25 **this trust; is that what you're saying?**

1 A. I think you have to read it in context of
2 the entire document.

3 Q. And "for all purposes of this trust," you
4 wrote that the children of the grantor are
5 predeceased. So for all purposes of this trust, if
6 the children have predeceased, then wouldn't that
7 mean that Ted Bernstein, as one of the children,
8 would not then be eligible to be appointed by you
9 as a successor trustee?

10 A. One could make that tortured argument, if
11 you'd like.

12 Q. Okay. All right. Now, I wanted to ask
13 you a question about your affidavit.

14 A. Yes, sir.

15 Q. I want to draw your attention to paragraph
16 5.

17 A. Yes.

18 Q. You state in the second sentence of
19 paragraph 5, quote, "None of the five children were
20 involved in the estate planning process, nor did
21 any of them attend any meetings with myself as
22 counsel."

23 Did I read that correctly?

24 A. You read it correctly.

25 Q. When you refer to "estate planning

1 process," are you talking about the 2008 estate
2 planning process that you did for the Bernsteins or
3 the 2012 estate planning process that you allegedly
4 did for Simon Bernstein?

5 A. Well, I clearly was referring first to the
6 2008 process.

7 With regard to the subsequent process, I
8 did not attend any meetings as counsel in
9 connection with the 2012 planning.

10 Q. So you then have no personal knowledge as
11 to --

12 A. Just my understanding; that's correct.

13 Q. -- the intent -- if I could finish my
14 question -- you then have no personal knowledge as
15 to the intent of Simon Bernstein when he allegedly
16 changed his trust and will in 2012; is that
17 correct?

18 A. I believe that I did not have direct
19 knowledge -- hearing it from his lips; that would
20 be correct.

21 Q. Now, I want to turn to some of the
22 exhibits that I sent to the court reporter in
23 advance.

24 A. Yes, sir.

25 MR. FEAMAN: Alan, I believe you have

1 these as well. I apologize to the others on this
2 call, but due to the nature of this deposition, I
3 wasn't able to provide copies for everybody.

4 **Q. Can you please take a look at what's been**
5 **premarked as Exhibit 2 --**

6 A. Yes, sir.

7 **Q. -- to this deposition.**

8 A. Yes, sir.

9 **Q. Does this appear to be a true and correct**
10 **copy of the three pages of your website for Tescher**
11 **& Spallina, PA?**

12 A. To be honest with you, I haven't looked at
13 that in so long, I'm not sure. But...

14 **Q. All right. Well, let's see if we can**
15 **verify some of the information contained on it.**

16 A. Sure.

17 **Q. It shows the address of Tescher & Spallina**
18 **as 925 South Federal Highway, Suite 500; is that**
19 **correct?**

20 A. That is correct.

21 **Q. How long has Tescher & Spallina been**
22 **located at that address?**

23 A. March 1, 2014.

24 **Q. All right. So then this was at least**
25 **updated within the last couple of months; is that**

1 **fair to say?**

2 A. Yeah, obviously.

3 **Q. Okay.**

4 A. At least the address was updated, sir.

5 **Q. All right. And you represent there in**
6 **your website that your attorneys -- which I assume**
7 **would include you -- have extensive expertise in**
8 **certain areas, including "Wealth transfer planning**
9 **for high-net-worth individuals and families"; is**
10 **that correct?**

11 A. That is correct.

12 **Q. "Business succession planning"; is that**
13 **correct?**

14 A. That's correct.

15 **Q. "Life insurance planning"; is that**
16 **correct?**

17 A. Yes.

18 **Q. "Probate administration"; is that correct?**

19 A. Yes, sir.

20 **Q. Okay. Now, assisting you, it shows --**
21 **there's a picture of you on the second page, Mr.**
22 **Spallina, and then, on the third page, Ms.**
23 **Galvani --**

24 A. Correct.

25 **Q. -- is that correct?**

1 A. Yes.

2 **Q. Are you the managing partner of the firm?**

3 A. I don't know if I still am.

4 I guess I am right now; yes.

5 **Q. Okay. And for how long have you been**
6 **managing partner of Tescher & Spallina?**

7 A. Since its inception in -- would be a
8 little over six years.

9 **Q. So you began Tescher & Spallina in 2008;**
10 **is that correct?**

11 A. We began January 1, 2008; yes. January 1,
12 2008.

13 **Q. Okay. And what firm were you with before**
14 **that?**

15 A. Tescher, Gutter, Chaves, Josepher, Rubin,
16 Ruffin & Forman, PA.

17 **Q. How long were you with that firm?**

18 A. From its inception, going back to 1990.
19 The name changed --

20 **Q. By the way, I forgot to ask you a question**
21 **concerning the Amended and Restated Trust**
22 **Agreement. Could you go back to that document for**
23 **a second?**

24 A. Yes, sir. I've got it.

25 **Q. Okay. It appears that the -- this was**

1 **dated July 25th, 2012; is that correct?**

2 A. July 25, 2012 is the date I see on it.

3 **Q. Okay. And if it was signed by Mr.**
4 **Bernstein, it would have -- can it be assumed then**
5 **that it was signed by him on that day?**

6 A. One could assume that. I think there's a
7 related will that was signed on the same day also.

8 **Q. Okay. That would be July 25th, 2012?**

9 A. I believe that's correct.

10 **Q. It's witnessed by Mr. Spallina and Ms.**
11 **Moran?**

12 A. That's correct.

13 **Q. You were not present when this was signed;**
14 **is that correct?**

15 A. I was not present when that was signed. I
16 was ensconced on Cape Cod.

17 **Q. Now, do you know when that lawsuit that**
18 **you referred to in your direct examination was**
19 **filed by Mr. Stansbury?**

20 A. I said I wasn't sure whether it was before
21 or after that date.

22 **Q. So then, when you testified that you**
23 **believe the litigation had been filed at the time**
24 **that these new documents were executed, you don't**
25 **really know if that's true or not; do you?**

1 A. I'm not certain as to whether, in fact,
2 litigation had commenced.

3 **Q. Okay. Now, on your web page you show**
4 **support staff of Kimberly Moran; correct?**

5 A. Yes, sir.

6 **Q. Okay. And what is her position at the**
7 **firm -- or was her position at the firm?**

8 A. She is a legal secretary.

9 **Q. Does she still work there?**

10 A. She still works there.

11 **Q. Okay. And was she recently accused and**
12 **pled guilty to a crime in connection with work she**
13 **performed while at your firm involving the**
14 **Bernstein estate?**

15 A. Yes.

16 **Q. And what was that crime?**

17 A. She misused her notary seal in notarizing
18 certain documents regarding the Shirley Bernstein
19 estate.

20 **Q. Do you know the statute that she was**
21 **accused of violating and whether it was a felony or**
22 **a misdemeanor?**

23 A. I don't -- I don't know precisely how it
24 ended. I know that she did not and has not served
25 time in jail; that she is apparently currently on

1 probation. And that's all I know.

2 **Q. Is she still a notary?**

3 A. No.

4 **Q. And what document was she accused of**
5 **notarizing falsely?**

6 A. In the Shirley Bernstein estate, when it
7 came time to basically close the probate
8 administration, she sent out to the five children
9 -- and I think to -- to Simon at that time too --
10 waivers, consents, and joinders to the petition for
11 distribution and discharge; and they all came back;
12 everybody signed off -- including Eliot Bernstein;
13 those documents were then filed in the court; and
14 the clerk's office bounced those documents because
15 Judge Colin's division requires that that
16 particular document be signed and notarized; and
17 they had not been notarized.

18 **Q. Okay. And so did she subsequently**
19 **notarize them?**

20 A. She subsequently prepared new ones, and
21 signed them, and notarized them.

22 **Q. And when she prepared the new ones, that**
23 **included a form signed by Simon Bernstein; correct?**

24 A. I believe that's correct.

25 **Q. And Simon --**

1 MR. ROSE: Just for the record -- this is
2 Alan Rose -- I could -- there's no issue for Friday
3 with regard to the document.

4 MR. FEAMAN: Yeah, there is. Yeah, there
5 is.

6 MR. ROSE: There's no issue.

7 MR. FEAMAN: I'm going to tie it in in a
8 minute if you let me finish.

9 MR. ROSE: There's also no issue in the
10 case that the document wasn't properly -- was not
11 properly --

12 MR. FEAMAN: Wait a minute. Wait a
13 minute. Wait a minute. Unless you object to my
14 question, okay, this -- this statement on your part
15 is improper in the middle of my examination.

16 MR. ROSE: Well, I'm not -- the witness
17 answered the question. I'm putting on the record I
18 think this is an irrelevant line of questioning and
19 you are wasting our time on --

20 MR. FEAMAN: And you have no right to
21 interrupt the spontaneity of my examination by
22 making a statement like this at this time. And I
23 would respectfully request that you not do that.
24 And I'd like to finish this line of questioning.
25 I'm almost done.

1 Q. My question, isn't it true that Ms. -- is
2 it Morin or Moran?

3 A. Moran.

4 Q. -- that Ms. Moran notarized Simon
5 Bernstein's signature at a time after he had, in
6 fact, passed away; is that correct?

7 A. In connection with the Shirley Bernstein
8 estate closing.

9 Q. Okay.

10 A. I believe I --

11 Q. And at that time the successor personal
12 representative of the Shirley Bernstein estate was
13 Ted Bernstein; is that correct?

14 A. I believe that's correct.

15 Q. Okay. And at that time the successor
16 trustee to the Shirley Bernstein Trust was Ted
17 Bernstein; is that correct?

18 A. That would be correct.

19 Q. All right. Now, Diane Dustin, what does
20 she do at the firm? Is she still there?

21 A. She is still with me. She is a legal
22 assistant.

23 Q. And then there's Sue Anne Tescher?

24 A. Yes.

25 Q. Is that a relative of yours?

1 A. Happens to be a very close relative of
2 mine. She's my wife.

3 **Q. All right. And what does she do at the**
4 **firm?**

5 A. She manages the firm accounts and books,
6 pays the bills.

7 **Q. Kind of like a -- in the bookkeeper side**
8 **of the office?**

9 A. In the bookkeeper side of the office. She
10 has nothing to do with the legal side of the
11 office.

12 **Q. So she oversees the checks that come into**
13 **the firm; is that correct?**

14 A. That's correct.

15 **Q. Okay. All right.**

16 **Now, how long, Mr. Tescher, have you known**
17 **the Bernstein family -- either professionally or**
18 **personally?**

19 A. I think -- my recollection would be 2007.
20 And when you say "The Bernstein family," that would
21 have -- that would be Ted Bernstein, Simon
22 Bernstein, and Shirley Bernstein.

23 I don't think that I had contact with the
24 other Bernstein family members until subsequent to
25 that.

1 **Q. All right. Oh, I forgot.**

2 **Now, when it came to light that Ms. Moran**
3 **had notarized a signature of a deceased person --**
4 **namely Simon Bernstein -- did you at that time**
5 **resign as the copersonal representative of the**
6 **Simon Bernstein estate?**

7 **A. Not at that time.**

8 What we did was we filed -- because --
9 because the court proceedings were tainted in terms
10 of the documents that had been -- in fact, the
11 estate had been closed. And we -- we moved to have
12 the estate reopened so that the record could be
13 cleaned. And we petitioned the court to reopen the
14 estate, allow us to obtain correct, untainted
15 waivers from those who could give them, and
16 attempted to expunge the -- what were tainted
17 documents.

18 **Q. And when were those documents -- was it**
19 **just one document that was criminally notarized, or**
20 **were there others?**

21 **A. There was one -- to the best of my**
22 **recollection, there was one document -- one form**
23 **document -- the waiver -- I think the waiver,**
24 **consent, and joinder, if I'm not mistaken; and I**
25 **think that only related to the five children and no**

1 one else. I don't think that -- I mean, Si was the
2 personal -- you know, had been the personal
3 representative of the estate.

4 **Q. And how did this come to light?**

5 A. My recollection is that Eliot Bernstein
6 apparently found the discrepancy -- or what he
7 thought appeared to be a discrepancy in the court
8 documents when he reviewed the court files --
9 again, this is supposition on my part; I don't
10 know, you know, for a fact that that was the case.

11 He filed a complaint with the governor's
12 office which administers notary publics in the
13 State of Florida. And apparently they filed --
14 they sent Ms. Moran a -- an inquiry letter asking
15 for, you know, an explanation, etcetera, of what
16 had occurred.

17 **Q. And do you know when -- about -- that was?**

18 A. I don't recall exact dates.

19 **Q. Was that in the year 2013?**

20 A. I believe that it was in the year 2013.

21 **Q. Okay. Was it in the summer of 2013?**

22 A. It might have been -- 'cause in the summer
23 -- if it was the summer, I was not in town. I
24 would have been up here on Cape Cod.

25 **Q. Certainly you didn't bring it to light,**

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.

1 Q. Now, just to have closure on the subject
2 we were talking about about the altered Shirley
3 Bernstein Trust, Exhibit 3 appears to be a true and
4 correct -- is it a true and correct copy of the
5 letter you wrote on January 14th, 2014 to Ted
6 Bernstein, Eliot Bernstein, Lisa Friedstein, Jill
7 Iantoni, and Pam Simon announcing your resignation
8 as personal representative of the estate of Simon
9 Bernstein?

10 A. Announcing our intent to resign; yes, sir.

11 Q. Your intent to resign.

12 And at that point had -- well, let me back
13 up and lay a predicate.

14 You hired Mr. Manceri as an attorney to
15 represent the Simon Bernstein estate; correct?

16 A. Mr. Manceri was hired -- was brought in by
17 Ted Bernstein -- no, we hired him -- we hired him
18 to assist with regard to the litigation with
19 Stansbury as it related to the estate of Simon
20 Bernstein.

21 Q. All right. And now, as -- do you recall
22 as of January 14th, 2014, whether Mr. Manceri had
23 withdrawn as attorney for the estate in that
24 litigation at this point?

25 A. I do not recall when he specifically

1 withdrew.

2 **Q. I guess we'd have to refer to the court**
3 **records for that; is that correct?**

4 A. Yes, sir.

5 MR. ROSE: Peter, we're here trying to get
6 to the truth. Why don't we just agree it was
7 probably Friday, January the 11th, 2014 when Mr.
8 Manceri filed papers -- that you and I both
9 received -- withdrawing from the case; and ask your
10 next question.

11 MR. FEAMAN: Okay. Good. Thank you for
12 that.

13 **Q. I assume that representation is correct?**

14 A. I have no knowledge.

15 MR. ROSE: To the best of my knowledge,
16 that's correct.

17 MR. FEAMAN: Okay. Very well.

18 MR. ROSE: Because shortly after that, I
19 got a phone call that -- that Mr. Tescher had
20 spoken with Ted Bernstein. So that's my frame of
21 reference.

22 MR. FEAMAN: Okay.

23 **Q. And up until now, had you recommended Ted**
24 **Bernstein to be successor personal representative?**

25 A. I don't recall when I recommended anything

1 to anybody --

2 Q. Okay.

3 A. -- after -- after January 14th.

4 Q. All right. Now, the -- the documents --
5 subsequent to your resignation, you turned over
6 documents to Mr. Brown, the administrator ad litem
7 -- or I should say the curator appointed by the
8 court; is that correct?

9 A. Yes, sir.

10 Q. And Mr. Brown received about -- what --
11 700 pages of documents -- or thousands?

12 A. I have no idea how many pages he received.
13 I know that we completely copied onto disks all of
14 our files.

15 Q. All right. Did you keep copies of what
16 you produced to Mr. Brown?

17 A. Yes, sir.

18 Q. Okay. Do you have originals of any
19 documents in your possession?

20 A. I'm not sure if we have originals of any
21 wills and trusts, for example. Those would have
22 been all turned over or filed in the court.

23 Q. 'Cause I have a copy of the Simon
24 Bernstein last will and testament that appoints Mr.
25 Stansbury as a copersonal representative after

1 Shirley or successor personal representative after
2 Shirley, but I don't have a copy of the original or
3 the original -- nor have I seen one -- I only have
4 a conformed copy.

5 Do you have the original of that document?

6 A. The original will is sitting in the court.

7 Q. No, 2008.

8 A. Oh. I'm sorry. I thought you were
9 referring to the current document.

10 Q. I'm sorry if I was not clear.

11 A. Yeah. I don't know that we had it. If it
12 was there, it got copied.

13 Q. Right. But do you have the original of
14 the 2008 will and trust of Mr. Simon Bernstein?

15 A. If it was there -- I -- I don't know.

16 Q. Okay.

17 A. I don't have my --

18 Q. Do you keep those in a safe deposit box or
19 a vault?

20 A. Not if they're old documents that have
21 been superseded.

22 Q. Okay. And one more question on this, and
23 then I'm going to move on: When Mr. Bernstein
24 allegedly executed his 2012 documents, was that in
25 your office; if you know?

1 A. No, sir; it was not.

2 **Q. Where did that execution take place?**

3 A. In Simon Bernstein's office.

4 **Q. Okay. And have you been told -- since you**
5 **obviously weren't there -- who was present when**
6 **those documents were executed?**

7 A. Well, the only -- the only thing that I
8 know who was present -- and there may have been
9 others present -- is by the executions on the will
10 and trust that were signed that day. And
11 present --

12 **Q. Right. But you don't know anything more**
13 **than I might know by looking at the documents; is**
14 **that correct?**

15 A. That is correct.

16 **Q. Okay. Now, you said that you first met**
17 **some members of the Bernstein family in 2007.**

18 **Who did you meet first, Ted or Si?**

19 A. I think I met Ted before 2007; and we had
20 -- we've had dealings over the years with mutual
21 clients. I think that our first dealings with Ted
22 Bernstein also involved his sister's company up in
23 Chicago. They were doing a -- a life insurance
24 arbitrage program that was kind of interesting; and
25 we -- we had some mutual clients there.

1 **Q.** So you had a professional relationship
2 with Mr. Ted Bernstein before you did with Mr.
3 Simon Bernstein; is that correct?

4 A. I think so.

5 **Q.** Okay. Did you also have a business
6 relationship with Mr. Ted Bernstein?

7 A. In what sense?

8 **Q.** In any sense.

9 A. Well, tell me what businesses. I mean, we
10 had -- we had mutual clients.

11 There were clients who I brought to Ted
12 Bernstein for life insurance needs. There were
13 clients that Ted Bernstein referred to us.

14 **Q.** Okay. Were there any businesses in which
15 you and Ted were both owners?

16 A. No.

17 **Q.** All right. I'd like to draw your
18 attention to Exhibit 6, if I could.

19 A. Okay. Hold on a moment. (Witness reviews
20 documents.)

21 Okay.

22 **Q.** Now, Exhibit 6 is a copy of a printout we
23 got from the Florida Department of State, Division
24 of Corporations. This makes reference to a
25 "Bernstein Family Realty, LLC."

1 Do you see that?

2 A. Yes, sir.

3 Q. Now, it shows the registered agent as "T &
4 **S Registered Agents."**

5 Are you familiar with that company?

6 A. Yes.

7 Q. What is that company?

8 A. That is a shell company that we typically
9 use to serve as registered agent for entities that
10 we form for clients.

11 Q. Okay. And the address of T & S Registered
12 **Agents, is that 925 South Federal Highway, Suite**
13 **500?**

14 A. It is now. It was the address that's on
15 the Exhibit 6 up until March.

16 Q. Right. That's your law firm?

17 A. Yes, sir.

18 Q. Was your law firm at 4855 Technology Way,
19 **Suite 720?**

20 A. 7 -- yes, it was.

21 Q. Okay. Now, it shows that the mailing
22 **address of the Bernstein Family Realty, LLC was**
23 **changed -- it looks like -- in 2013 to the**
24 **Oppenheimer Trust Company.**

25 Do you see that on Exhibit 6?

1 A. (Witness reviews document.) I see
2 Oppenheimer listed there; yeah.

3 **Q. And what was your involvement in the**
4 **change?**

5 A. I didn't have any involvement in the
6 change.

7 **Q. Okay. And did you organize the Bernstein**
8 **Family Realty, LLC, as the attorney?**

9 A. I didn't -- as the attorney.

10 **Q. You did or you did not?**

11 A. I might have filed the articles of
12 organization. I don't recall. I think I was
13 originally named as the registered agent. This was
14 done back in February of '08. At that time it --
15 when I -- when I first withdrew from my prior firm,
16 Peter, we actually shared office space for a year
17 with my former partners -- just, you know, we just
18 continued using our office. It was a friendly --
19 friendly division.

20 And when this company was formed, it was
21 formed February of '08, which would have been
22 roughly a month after -- a little over a month
23 after Robert Spallina and I had set up Tescher &
24 Spallina. We probably didn't even have a new
25 registered agent entity set up yet.

1 Q. All right. And the documents on Exhibit 6
2 shows that the previous mailing address in 2012 was
3 950 Peninsula Corporate Circle, Suite 3010.

4 What address is that?

5 A. I think that was LIC's office.

6 Q. All right. And LIC was the business owned
7 by Simon Bernstein and Ted Bernstein by majority?

8 A. Correct.

9 Q. All right. And if you look at the third
10 page --

11 A. Yes.

12 Q. -- it shows that the managing member was
13 Simon Bernstein.

14 A. Correct.

15 Q. As of January 2012; correct?

16 A. Correct.

17 Q. Now, you are knowledgeable in trust and
18 estates and succession planning, like you said and
19 shown on your website.

20 Once Mr. Bernstein passes away, does the
21 estate then become the managing member?

22 A. No, the estate does not become the
23 managing member.

24 Q. Okay. Well, who then would have been
25 responsible for changing the mailing address of the

1 **Bernstein Family Realty, LLC from the offices of**
2 **LIC -- LIC to Oppenheimer, if it wasn't somebody**
3 **acting on behalf of the estate?**

4 A. I can't answer that question.

5 **Q. All right. And is Bernstein Family Realty**
6 **listed as an asset of the Simon Bernstein estate?**

7 A. No. He didn't own any equity interest in
8 it, other than a mortgage -- a note and mortgage.

9 **Q. Okay. And so normally, as an expert in**
10 **this field, if a person is the only member of an**
11 **LLC, and that person passes away, what is your**
12 **standard operating procedure as to how the**
13 **operations of that LLC are carried out after the**
14 **passing of the only manager?**

15 A. Mr. Feaman --

16 MR. ROSE: Objection to form.

17 A. Mr. Feaman, I'm assuming you meant to say,
18 "manager" and not "member"?

19 Do you want to restate your question?

20 **Q. No, because the electronic signature of**
21 **page 3 of Exhibit 6 is signed by Simon Bernstein,**
22 **as the managing member manager?**

23 A. No, "manager," not "managing member."

24 "Manager," sir.

25 **Q. Okay. Do you know -- as the registered**

1 **agent, do you know where the books and records of**
2 **the Bernstein Family Realty, LLC are maintained?**

3 A. I personally don't know.

4 **Q. Has your office ever maintained them?**

5 A. I don't think so. Remember that the
6 members -- the members of this entity, sir, are
7 three trusts, of which Oppenheimer until recently
8 -- or maybe still is; I don't know -- was the
9 trustee.

10 **Q. And what -- what are those three trusts?**

11 A. They are trusts -- irrevocable trusts
12 created in 2006 by Simon Bernstein for the benefit
13 of Eliot Bernstein's three children.

14 **Q. Okay. Did you create those trusts?**

15 A. No, we did not.

16 **Q. Who did?**

17 A. I don't -- I don't know.

18 **Q. All right.**

19 A. Their prior counsel obviously, not us.

20 **Q. And as copersonal representative of the**
21 **estate of Simon Bernstein, would you have any**
22 **fiduciary responsibility to carry out the intent of**
23 **Mr. Simon Bernstein with regard to the management**
24 **of Bernstein Family Realty?**

25 A. I don't believe so.

1 **Q. Who were the trustees of those three**
2 **trusts that you mentioned that owned it?**

3 A. Oppenheimer.

4 **Q. And who were the trustees before**
5 **Oppenheimer?**

6 A. Stanford.

7 **Q. Stanford?**

8 A. Yes.

9 **Q. Okay. And where are those trusts --**
10 **copies of those trusts located?**

11 A. I don't know.

12 **Q. Do you have possession of the original?**

13 A. Why would I?

14 **Q. I don't know.**

15 MR. ROSE: And I object to this line of
16 questioning as completely irrelevant and
17 immaterial, since the estate has no interest in
18 this, other than the mortgage, which has been
19 unpaid and for which Mr. Eliot Bernstein has been
20 living in the residence without paying any rent, or
21 mortgage, or interest for two years.

22 But other than that, I think this whole
23 line of questioning is wholly irrelevant; and
24 you're wasting valuable time.

25 **Q. Let me ask a follow-up question: What**

1 **conversations have you had with Ted Bernstein**
2 **concerning the Bernstein Family Realty, LLC, since**
3 **the passing of Simon Bernstein?**

4 MR. BLOCK: Well, I ask a question as to
5 whether or not there's a privilege. I have no idea
6 of what you're talking, but just want to throw that
7 out.

8 THE WITNESS: Well, I'm mulling that in my
9 head, Irwin, as to whether it is a privilege issue.

10 **Q. Okay. Let me --**

11 MR. ROSE: The question is, have you had a
12 discussion? And if the -- the answer is either yes
13 or no; and then we can deal with the privilege
14 issue.

15 MR. FEAMAN: Yeah. Right.

16 A. Yeah. I think tangentially there has been
17 -- there had been discussion regarding Bernstein
18 Family Realty.

19 **Q. Between you and Mr. Ted Bernstein; is that**
20 **correct?**

21 A. That's correct.

22 **Q. Okay. And has there been email traffic**
23 **between you and Mr. Ted Bernstein concerning**
24 **Bernstein Family Realty, LLC?**

25 A. Not me, I don't believe.

1 **Q. I mean, to your knowledge, on paper Mr.**
2 **Ted Bernstein has no involvement with Bernstein**
3 **Family Realty, LLC; correct?**

4 A. Well, he has no direct involvement in
5 Bernstein Family Realty, LLC. He does have -- or
6 potentially has involvement vis-a-vis -- no, he
7 does not have involvement; that's correct.

8 **Q. Okay. And so --**

9 A. That I'm aware of.

10 **Q. Therefore, what would the nature of any --**
11 **why would you be having any correspondence or**
12 **conversation with Mr. Ted Bernstein concerning**
13 **Bernstein Family Realty if he has no apparent**
14 **involvement in that entity?**

15 A. Well, Bernstein Family Realty -- if I'm
16 not mistaken -- was also named as a defendant in
17 the Stansbury litigation.

18 **Q. Okay.**

19 A. And certainly in that regard there was
20 discussion.

21 **Q. Okay. Is Bernstein Family Realty still a**
22 **defendant in the Stansbury litigation?**

23 A. Is it still? I don't know. I -- those
24 are issues that I'm not necessarily privy to.

25 **Q. All right. Let me draw your attention to**

1 **premarked Exhibit 7 --**

2 A. Yes, sir.

3 **Q. -- for the deposition --**

4 A. Yes, sir.

5 **Q. -- which is a --**

6 MR. ROSE: Is it still a defendant in the
7 lawsuit, Peter, since it's your lawsuit?

8 MR. FEAMAN: Yes, it is.

9 **Q. Marked as Exhibit 7 is a copy of Articles**
10 **of Incorporation for Bernstein Holdings, LLC.**

11 Do you see that?

12 A. Yes, sir.

13 **Q. You are shown as the registered agent of**
14 **Bernstein Holdings, LLC; is that correct?**

15 A. That's correct.

16 **Q. All right. And the manager is shown as**
17 **Simon Bernstein under article 5 on page 2; correct?**

18 A. That is correct.

19 **Q. Now, the -- this looks like a different**
20 **address altogether than the ones we identified**
21 **before under article 4. It shows an address for**
22 **you of 2101 Corporate Boulevard, Suite 107.**

23 Do you know what was located at that
24 address at that time?

25 A. Yes. That was in the first year of our --

1 of our firm. Starting January 1 of '08, that was
2 our office address.

3 Q. Okay. Very good.

4 And it shows a manager as Simon Bernstein;
5 is that correct?

6 A. That's correct.

7 Q. There's also a signature of a member,
8 Robert Spallina.

9 Do you know what his involvement in the
10 corporation was or is?

11 A. He didn't sign as a member. He signed as
12 an authorized representative of a member.

13 MR. ROSE: Object to form.

14 Q. All right. Well, let me draw your
15 attention to page 3 of Exhibit 7, document dated by
16 the Secretary of State April 12th, 2013. It shows
17 the manager as Robert Spallina.

18 That would be your law partner; correct?

19 A. That is -- yes, he is my law partner.

20 Q. Okay. And how did your law partner, Mr.
21 Spallina, come to be the manager of Bernstein
22 Holdings, LLC?

23 A. The manager died.

24 Q. Okay.

25 A. The interest in this entity was owned by,

1 I believe, the Shirley Bernstein Trust and the
2 Simon Bernstein Trust. They owned a majority
3 interest -- those two trusts -- in Bernstein
4 Holdings, LLC, which was the general partner of a
5 limited partnership.

6 Q. All right. So the manager died. And
7 somehow Robert Spallina became manager.

8 But you told me with regard to Bernstein
9 Family Realty, Exhibit 6, we identified Simon
10 Bernstein as the manager. But then you said nobody
11 became the manager after that as far as you knew.

12 How did Mr. Spallina become the manager of
13 Bernstein Holdings, LLC?

14 A. I don't recall.

15 Q. Who are the members -- did you say -- of
16 Bernstein Holdings, LLC?

17 A. I don't have those documents in front of
18 me, Peter. But I believe that it would have been
19 the Simon Bernstein Trust and the Shirley Bernstein
20 Trust; and there may have been some minor interest
21 held for other family members. I'm not certain.

22 Q. Which trusts would you be referring to --
23 'cause we've identified a number of trusts here
24 today?

25 A. The 2012 -- July 25, 2012 Simon Bernstein

1 Amended and Restated Trust Agreement and --

2 **Q. Okay. And that's -- go ahead.**

3 A. -- and assumedly the family trust under --
4 that was established for the benefit of Simon after
5 Shirley's death under the Shirley Bernstein Trust
6 Agreement from '08.

7 **Q. Okay. And the members designated you, as
8 the managing member --**

9 A. They didn't designate me, Peter.

10 **Q. I mean -- sorry -- designated Mr. Spallina
11 as the managing member. And the members were
12 acting through Ted Bernstein as the successor
13 trustee; is that right?**

14 MR. ROSE: Object to the form.

15 A. I --

16 **Q. Do you remember --**

17 A. I have no personal knowledge.

18 **Q. Okay. Who would know?**

19 A. Mr. Spallina --

20 **Q. Okay.**

21 A. -- or perhaps Mr. Bernstein. I don't
22 know.

23 **Q. Let's take a look at Exhibit 8, if we
24 could.**

25 A. Okay. Yes, sir.

1 **Q. Exhibit 8 is a copy of a Certificate of**
2 **Limited Partnership for the Bernstein Family**
3 **Investments, LLLP.**

4 **Do you see that?**

5 A. Yes, sir.

6 **Q. Now, you're shown as the registered agent**
7 **for that entity; is that correct?**

8 A. Yes. Again, February of 2008; that's
9 correct.

10 **Q. Okay. And the general partner is shown as**
11 **Bernstein Holdings, LLC.**

12 **Is that the entity we just identified --**

13 A. Yes, sir.

14 **Q. -- that Mr. Spallina is now the managing**
15 **partner of?**

16 A. Yes, sir.

17 **Q. Okay. And your shell company that you**
18 **created is now the registered agent for that**
19 **company rather than you individually; is that**
20 **correct?**

21 A. Yes, sir. Yes, sir.

22 **Q. Okay. And 950 Peninsula Corporate Circle,**
23 **Suite 3010, what's located at that address?**

24 A. I presume that to be what was Simon
25 Bernstein's office.

1 Q. And now I guess Ted Bernstein's office;
2 right?

3 A. I guess; yes.

4 Q. Okay. All right.

5 Let's take a look at Exhibit 9, if we
6 could.

7 A. Yes, sir.

8 Q. Now, this is a copy of Articles of
9 Incorporation for the Shirley Bernstein Family
10 Foundation, Inc.?

11 A. Yes.

12 Q. Do you see that?

13 A. Yes, sir.

14 Q. Okay. You're shown as, again, the
15 registered agent. Did you -- are you the one that
16 created this entity?

17 A. Yes, sir.

18 Q. And what is the purpose or the business of
19 the Shirley Bernstein Family Foundation, Inc.?

20 A. It has no purpose today. It's an inactive
21 entity, as far as I know.

22 It was formed back in 2008 at a time when
23 Shirley had -- Bernstein had expressed an interest
24 in setting up a foundation to carry on some of her
25 charitable desires.

1 **Q. All right. Let me draw your attention to**
2 **Exhibit 10.**

3 A. Yes, sir.

4 **Q. Exhibit 10 is a printout from the Florida**
5 **Department of State Division of Corporation for an**
6 **entity known as "Two Oaks --"**

7 MR. FEAMAN: That's O-a-k-s, Madam Court
8 Reporter, T-w-o, Oaks -- oh, you have it there in
9 front of you --

10 **Q. "-- Consulting, LLC."**

11 **Do you see that?**

12 A. Yes, sir.

13 **Q. Okay. It shows it's currently inactive,**
14 **but it was apparently active from 2006 through**
15 **2011.**

16 **What is your understanding of what Two**
17 **Oaks Consulting, LLC is?**

18 A. Geeze. I'm trying to remember now.

19 I set this up for -- principally for my
20 wife and I to use for purposes of trying to develop
21 some additional consulting business on our own.

22 **Q. What kind of consulting?**

23 A. All types of business consulting.

24 She is a pretty good bookkeeper. You
25 know, we could provide -- looking to provide, like,

1 bookkeeping services and office administration
2 services.

3 Q. All right. And 2600 Whispering Oaks Lane,
4 is that your home address?

5 A. Yes, it is, sir.

6 Q. All right. And your wife Sue Anne, that's
7 -- she's shown -- is she the only -- was she the
8 only manager?

9 A. She was the manager.

10 Q. Okay. And did Two Oaks Consulting do any
11 business for any entities owned or controlled by
12 the Bernsteins?

13 A. I believe that it might have. I don't
14 recall. I'm looking at your Exhibit 11-A for the
15 first time. So obviously there were some payments
16 that were made to Two Oaks.

17 Q. Okay. Let's take a look at Exhibit 11-A.
18 It's a copy of a reconciliation detail report for
19 Arbitrage International Management, LLC.

20 First, what is your understanding of what
21 Arbitrage International Management, LLC is?

22 A. I'm not 100 percent certain. It was one
23 -- it was part of the overall insurance business of
24 the Bernsteins.

25 Q. So is it fair to say, though, you do

1 understand that this company is -- was or is owned
2 and controlled by majority by Simon and Ted
3 Bernstein?

4 A. I believe I do understand that.

5 Q. Okay. Now, Simon's ownership interest in
6 Arbitrage International Management, LLC, did that
7 exist at the time of Mr. Bernstein's death in 2012?

8 A. I don't recall.

9 Q. Do you know if his ownership interest in
10 this company is shown on the inventory of the
11 estate?

12 A. I don't recall it being listed on the
13 inventory of the estate, because if it were owned
14 still, it might have been owned through his trust
15 and not through his -- him individually.

16 Q. Okay. I guess we have to do further
17 discovery on that. But you would agree that both
18 Ted and Simon Bernstein controlled that entity;
19 correct?

20 A. My knowledge -- to the best of my
21 knowledge.

22 Q. Yeah. That's all I can ask is to the best
23 of your knowledge. Yeah. Yeah.

24 Okay. Let me draw your attention to page
25 1 of Exhibit 11-A, to about two-thirds of the way

1 down the page.

2 There's a check that's listed there dated
3 11/1/2006, No. 2047.

4 Do you see that, sir?

5 A. Yes, sir.

6 Q. And it's a check payable to Two Oaks
7 Consulting for \$55,000.

8 Do you see that?

9 A. Yes, sir.

10 Q. Okay. And what work was performed by Two
11 Oaks Consulting that caused a delivery of that
12 payment from Arbitrage International Management to
13 Two Oaks for \$55,000 at or around October or
14 November of 2006?

15 A. This is seven-and-a-half years ago. To be
16 honest with you, I don't know, without going back
17 and trying to find out.

18 I don't have any immediate knowledge.

19 Q. All right. Then just below that is an
20 entry for 11/1/2006 --

21 A. Yes, sir.

22 Q. -- check No. 2046 for Tescher Gutter.
23 That's your firm before Tescher &
24 Spallina; correct?

25 A. That is correct, sir.

1 Q. That's the Chaves firm I guess you
2 referred to.

3 Now, there's a check for \$45,000 on the
4 same day, which totaled a payment of \$100,000 on
5 November 1st, 2006.

6 Do you recall what that was for?

7 A. Again, no, I'm not a hundred percent
8 certain. But, obviously, if it's paid -- the
9 payment -- I'm -- no, I do not know without
10 checking.

11 Q. All right. Well, let me draw your
12 attention to the next page --

13 A. Yes, sir.

14 Q. -- which is a reconciliation detail.

15 And about a quarter of the way down --
16 also on 11/1/2006 -- this is marked as Exhibit
17 11-B, by the way --

18 A. Yes, sir.

19 Q. There's a check by -- a different check
20 number, 2045, payable to Two Oaks Consulting for
21 the same amount, \$55,000.

22 Do you know what that was for?

23 A. No. This looks like a duplication of
24 11-A, frankly. I mean, I --

25 Q. Yeah. That's what I thought too, except

1 **that it's a different check number.**

2 A. Yeah, I can't explain it. Obviously, it's
3 not my reconciliation. But it certainly looks like
4 the same things here.

5 **Q. Yeah. Okay. And then, finally, on page**
6 **11-C --**

7 A. Yes, sir.

8 **Q. -- there's a check in 2007 -- January**
9 **22nd, 2007 -- payable to your wife's company from**
10 **Arbitrage International Management for \$30,000 --**
11 **check No. 2247.**

12 **Do you know what that was for?**

13 A. No, sir, not without, you know, trying to
14 go back and see if I can find it -- find out what
15 it was.

16 **Q. As you sit here today, any idea**
17 **whatsoever?**

18 A. No.

19 **Q. All right, sir.**

20 **Now, the -- when you do estate planning**
21 **documents for clients, I assume that you also ask**
22 **them about life insurance?**

23 A. Generally, we would ask them about --

24 **Q. As part of your due diligence; is that**
25 **correct?**

1 A. Yes, we would generally ask them about
2 life insurance. Yes, sir.

3 **Q. Okay. And when you did your estate**
4 **planning for Simon Bernstein and Shirley Bernstein**
5 **in 2008, I assume then you asked them about life**
6 **insurance; is that correct?**

7 A. I would presume that we did.

8 **Q. Okay. And are you aware that there's**
9 **presently pending in Chicago litigation concerning**
10 **a life insurance trust?**

11 A. Yes, sir.

12 **Q. And are you aware that the litigation**
13 **makes reference to a lost life insurance trust**
14 **instrument?**

15 A. Yes. Yes, sir.

16 **Q. Okay. Have you ever seen it -- or a copy**
17 **of it?**

18 A. No, sir.

19 **Q. Ever?**

20 A. No, sir.

21 **Q. All right. Do you know if Shirley**
22 **Bernstein was ever a trustee of that document that**
23 **you've never seen?**

24 A. It's my understanding but -- at some point
25 that she was, but I -- I could not tell you for

1 sure.

2 **Q. All right. And do you know who would be**
3 **the alleged trustee of the alleged trust is today?**

4 A. I believe that -- that it is Ted
5 Bernstein.

6 **Q. Okay. And --**

7 A. Now, you --

8 **Q. And what's the basis of your belief that**
9 **Ted Bernstein is the trustee of the trust that you**
10 **have never seen?**

11 A. Just, you know, information related to us,
12 either from Pam Simon, or her husband, or Ted
13 Bernstein, or the insurance companies.

14 **Q. So --**

15 A. And you understand -- you understand that
16 the policy itself was owned by Simon Bernstein.

17 **Q. Yes.**

18 A. The alleged trust was only the alleged
19 beneficiary.

20 **Q. Okay. Now, I'm not an expert in this**
21 **area, but if Simon Bernstein was the owner of the**
22 **trust --**

23 A. Owner of the policy, sir.

24 **Q. I mean -- of the policy -- would that make**
25 **that a potential asset of the estate if the**

1 **beneficiary can't be located?**

2 A. You're -- you're mixing -- you're mixing
3 ownership and beneficiary.

4 **Q. Right.**

5 A. The fact that he was an owner only means
6 that, at least for federal estate tax purposes, the
7 life insurance proceeds would be includable as part
8 of his federal gross estate.

9 **Q. Okay. Now, other than what Pam might have**
10 **told you or Pam's husband, do you have any other**
11 **reason why you say you believe that Mr. Ted**
12 **Bernstein is currently the successor trustee?**

13 A. My recollection -- and, again, this is
14 without the benefit of looking at documents -- at
15 one point in time the -- Simon and Shirley
16 Bernstein were being represented by the Proskauer
17 firm in Boca. And Al Gortz, in that firm --
18 G-o-r-t-z -- was doing some legal work for them;
19 and I believe he prepared -- it may be a 2000
20 trust; I don't remember precisely.

21 He had prepared a new life -- irrevocable
22 life insurance trust, I believe. And I think -- I
23 think my understanding is -- and I could be wrong
24 -- was that he was -- he had prepared that to have
25 Simon transfer the ownership of the policy into

1 this trust so as to keep it out of his estate for
2 estate tax purposes.

3 I don't know that to be 100 percent. You
4 know, that's just what my understandings are. And
5 I don't have specific knowledge. But that would --
6 would make some sense and --

7 **Q. To your knowledge, that was never done;**
8 **correct?**

9 A. That was never done as far as I know. And
10 we --

11 **Q. Now, did your law partner, Mr. Spallina,**
12 **represent that, in fact, he was the cotrustee -- I**
13 **mean, successor trustee of that trust at one point?**

14 A. I -- I find that -- I can't -- I saw some
15 document somewhere in all of the minutia of
16 paperwork that has occurred in the last six months
17 here where supposedly he signed something as a
18 trustee.

19 I don't think he ever represented himself
20 to anybody really as being a trustee of a trust
21 that was to receive the proceeds of that \$1.6
22 million policy.

23 **Q. Well, take a look at Exhibit 14, if you**
24 **would.**

25 A. Yeah. No. I said there is a document

1 floating around; and I didn't know what -- what
2 documents you -- I hadn't seen these in advance, so
3 I wasn't sure.

4 **Q. Okay.**

5 A. Okay. I'm looking at 14 now.

6 **Q. Yeah. It's a composite exhibit?**

7 A. Right.

8 **Q. And it's a letter dated under your**
9 **letterhead of Tescher & Spallina dated December 6,**
10 **2012.**

11 Do you see that?

12 A. Yes.

13 **Q. And it's directed to the claims department**
14 **of Heritage Union Life Insurance Company; is that**
15 **correct?**

16 A. Yes, it is.

17 **Q. He states that he wants -- under the fifth**
18 **bullet point -- the proceeds from the policy**
19 **released so that, quote, "We can make distributions**
20 **amongst the five Bernstein children," unquote.**

21 Do you see that?

22 A. Yes, sir.

23 **Q. Okay. Have you ever seen the Heritage**
24 **policy itself?**

25 A. I'm not a hundred percent certain that I

1 have.

2 **Q. Do you know if it exists?**

3 A. I have no direct knowledge. I presume it
4 exists. Somebody paid 1.6 million into the
5 registry of the court. So there's some life
6 insurance policy that existed.

7 **Q. Well, maybe they should have paid 2.6**
8 **million.**

9 A. Well...

10 **Q. Has a request ever been made, to your**
11 **knowledge -- either on behalf of the state or**
12 **otherwise -- to get a copy of the policy?**

13 A. I'm not aware.

14 **Q. Did you and Mr. Spallina have discussions**
15 **at or about the time that this letter dated**
16 **December 6, 2012, marked as Exhibit 14 was written**
17 **about under what authority Mr. Spallina made the**
18 **demands that the proceeds should be paid to the**
19 **five Bernstein children?**

20 A. It doesn't really read like a demand.
21 But, you know, if you want to characterize it that
22 way...

23 I'm seeing this letter for the first time.

24 **Q. Did you have discussions with Mr. Spallina**
25 **concerning the request made by him that he would**

1 **like the distributions amongst the five Bernstein**
2 **children?**

3 A. Well, my conversations with Robert
4 Spallina included relating conversations he had had
5 with Simon Bernstein regarding the policy and the
6 overall plan that Simon Bernstein wished to have
7 occur upon his demise.

8 **Q. Are there emails between Mr. Bernstein --**
9 **Simon -- and your office concerning any expressions**
10 **of intent about the distribution of insurance**
11 **proceeds upon his demise?**

12 A. I'm not certain. Again, we provided all
13 of that documentation to everybody. There may have
14 been notes. There may have been file notes.

15 MR. ROSE: For the record, Peter, before
16 you ask your next question -- and I hate to break
17 your momentum -- but it's 4:30 p.m.

18 There are a number of other people that
19 might have questions. And you are, in my view,
20 taking discovery in a case that you're not involved
21 in that Mr. Stansbury has counsel, and is
22 representing, as administrator ad litem, the
23 interests of the estate in unrelated litigation;
24 and I think this is far afield of the issues we
25 have Friday. And I think you're being a little

1 unfair to the other participants.

2 MR. ELIOT BERNSTEIN: Perfectly fine.
3 This is Eliot Bernstein; and it's relevant to the
4 matters at hand as to the qualifications of Ted and
5 the qualifications of Mr. Tescher.

6 Q. Did Mr. Spallina, to your knowledge, have
7 the consent of Mr. Eliot Bernstein to request that
8 the distributions of the life insurance policy be
9 made to him instead of the estate?

10 A. I don't know.

11 Q. Okay. Do you recall that there were two
12 other life insurance policies that were, in fact,
13 paid to the Simon Bernstein estate?

14 A. Yes, I believe so. I don't recall. They
15 were relatively modest policies, if I'm not
16 mistaken.

17 Q. Would you agree with me that, if the lost
18 trust instrument cannot be established, that the
19 proceeds of the insurance policy would be then
20 payable to the estate of Simon Bernstein?

21 MR. ROSE: Objection. Calls for a legal
22 conclusion. Beyond the witness's knowledge, scope,
23 information. Irrelevant. Immaterial. And
24 improper question for the purposes of this
25 deposition.

1 MR. ELIOT BERNSTEIN: Are you representing
2 Don Tescher?

3 MR. ROSE: No. He's representing Ted
4 Bernstein.

5 MR. ELIOT BERNSTEIN: Are you putting that
6 objection on for Ted or...

7 MR. FEAMAN: Don Tescher is represented
8 by --

9 THE WITNESS: Irwin Block.

10 MR. FEAMAN: -- Mr. Irwin Block, a very
11 well-respected attorney here in Palm Beach County.

12 MR. ELIOT BERNSTEIN: Okay. Is he making
13 the objections for Mr. Tescher?

14 MR. ROSE: No. He's making the objections
15 on behalf of Mr. Ted Bernstein, which he has the
16 right to do.

17 **Q. Okay. So you can answer.**

18 A. Could you repeat the question, please?
19 I'm sorry.

20 MR. FEAMAN: Sure. I would ask the court
21 reporter to read it back.

22 THE WITNESS: Sure.

23 (Question read: Question: "Would you
24 agree with me that, if the lost trust
25 instrument cannot be established, that the

1 proceeds of the insurance policy would be
2 then payable to the estate of Simon
3 Bernstein?")

4 A. I think it may depend upon the terms and
5 conditions contained in the insurance policy. So I
6 can't say absolutely that that would be the case.

7 **Q. Okay. But it seems nobody can find the**
8 **insurance policy. So in a default provision,**
9 **wouldn't it, in fact, then go to the estate --**

10 A. I --

11 **Q. -- the -- Bernstein as the owner of the**
12 **policy?**

13 A. I -- I --

14 MR. ROSE: Objection to the form. Calls
15 for a legal conclusion. Beyond the scope of the
16 witness's knowledge.

17 A. I don't have an answer.

18 **Q. All right. Well, as the copersonal**
19 **representative, what effort did you take to**
20 **ascertain whether the proceeds of this policy**
21 **should, in fact, be payable to the estate?**

22 A. Well, the first -- what we attempted to
23 first do was to go into court in Palm Beach County
24 and have a declaratory action to establish a lost
25 trust and appoint a successor trustee, which is a

1 -- you know, not an uncommon proceeding.

2 We, in fact, had drafted a pleading, which
3 is your Exhibit 12.

4 The family, for whatever reasons -- and
5 I'm not certain what all the reasons were --
6 decided that they wanted to remove the action to
7 Federal District Court in Illinois. So the matter
8 was removed to federal district court in Illinois.

9 **Q. And --**

10 A. We are not a party any longer in that
11 proceeding and have not been involved in that for
12 quite some time.

13 **Q. Well as a PR, did you think you had any**
14 **fiduciary obligations to creditors -- interested**
15 **persons of the estate to marshal the assets of the**
16 **estate for the benefit of not only the**
17 **beneficiaries but the creditors too?**

18 A. The best information that was given to us
19 that we acted upon was to attempt to see if the '95
20 trust could either be located or reestablished
21 through -- through appropriate testimony.

22 **Q. All right. Let's get back, if we could,**
23 **to Exhibit 14, and then we'll get to my Exhibit 12.**

24 A. Okay. I've got 14. Okay.

25 **Q. So you can identify the letter written by**

1 **Mr. Spallina; is that correct?**

2 A. It is a letter that appears to have been
3 written by Mr. Spallina.

4 **Q. Now, let me draw your attention to the**
5 **claimant's statement that is on page 2 of Exhibit**
6 **14 --**

7 A. Yes, sir.

8 **Q. -- do you see that?**

9 **Do you know who filled that out?**

10 A. It looks to me like it is Mr. Spallina's
11 signature for sure.

12 **Q. Pardon me?**

13 A. It looks to me like it is Mr. Spallina's
14 signature for sure; that would be his signature.

15 **Q. Okay.**

16 A. And apparently he wrote "Personal rep and
17 trustee."

18 **Q. Did you and Mr. Spallina have discussion**
19 **about this document at any time?**

20 A. No, sir.

21 **Q. Is it your understanding that he's**
22 **representing himself to be the trustee of the lost**
23 **insurance trust?**

24 A. No. It's my understanding that he was
25 representing himself to be the trustee of Simon's

1 trust and also personal representative of Simon's
2 estate.

3 Q. Well, let's go to the next page, which is
4 Bates stamped No. JCK 001273.

5 A. Yeah, I see it.

6 Q. Do you see that where it says "Name of
7 Trust: Simon Bernstein Irrevocable Insurance
8 Trust," dated 6/1/95. And it looks like "Printed
9 name of trustee: Robert Spallina."

10 Do you see that?

11 A. I see that.

12 Q. Did you have any discussions with Mr.
13 Spallina concerning his authority to represent
14 himself to the insurance company as the trustee of
15 the 1995 revocable trust?

16 A. No, sir. I'm seeing this document
17 probably for the first time.

18 Q. Okay.

19 MR. ROSE: Object to the form of the last
20 one.

21 Q. And then you mentioned the action that was
22 then filed --

23 A. I didn't say it was filed. I said it was
24 contemplated to be filed.

25 Q. No, in Illinois?

1 A. Oh. I'm sorry. Go ahead.

2 Q. Okay. Now, there -- are you aware that
3 the trustee of the lost trust -- that Mr. Ted
4 Bernstein represents himself as the successor
5 trustee?

6 Are you aware of that?

7 A. Yes, sir.

8 Q. Okay. Do you know by what authority Mr.
9 Bernstein represented himself as successor trustee?

10 A. No.

11 Q. Are you aware that there were discussions
12 and email traffic between your office and counsel
13 in Chicago concerning whether an action should be
14 filed in Palm Beach County -- as you mentioned --
15 or in Illinois?

16 A. I believe there was correspondence back
17 and forth; and there were also telephone
18 discussions.

19 Q. Are you aware that in that correspondence
20 Mr. Spallina represented to counsel in Chicago that
21 the life insurance proceeds were, in fact, an asset
22 of the Simon Bernstein estate; therefore, it should
23 be litigated in Palm Beach County?

24 MR. ROSE: Object to the form.

25 A. I don't recall.

1 Q. All right. And now, take a look at
2 Exhibit 12.

3 A. Yes, sir.

4 Q. That's a draft of a complaint; correct?

5 A. Yes.

6 Q. Was that prepared in your office?

7 A. Yes, sir.

8 Q. Okay. And who prepared it?

9 A. I believe that I did.

10 Q. And this is a draft of a complaint
11 prepared by you entitled "Declaratory Action to
12 Establish a Lost Trust and Appoint a Successor
13 Trustee"; correct?

14 A. Yes, sir.

15 Q. You prepared that on behalf of Ted
16 Bernstein; is that correct?

17 A. "Comes now Ted Bernstein, son of Simon
18 Bernstein"; that's correct.

19 Q. Okay. So -- now, then you said earlier in
20 your testimony that the family -- quote, "the
21 family," close quote -- decided that it should be
22 -- this action should be filed in Chicago?

23 Was Eliot Bernstein a member of the family
24 that you referred to?

25 A. Eliot Bernstein is a member of the family.

1 As to whether Eliot Bernstein's opinion was
2 elicited, I would seriously doubt.

3 **Q. Okay. And, in fact, Eliot Bernstein is**
4 **mentioned in paragraph 5 as one of the five**
5 **surviving children of Simon Bernstein.**

6 A. That is -- that is correct.

7 **Q. Okay. And how did the decision come about**
8 **that the action instead was filed in Chicago -- in**
9 **Illinois state court, rather than in the county**
10 **where the decedent resided, in Palm Beach County;**
11 **if you know?**

12 A. I don't know.

13 **Q. And who would be most knowledgeable about**
14 **that?**

15 MR. ROSE: Objection. Relevance.
16 Materiality. It's 4:42. You're trying the wrong
17 case. The judge has already determined that Mr.
18 Stansbury, at his own expense, can pursue the
19 litigation in Illinois. And you're not supposed to
20 use this deposition for discovery in that case.
21 And, otherwise, everything you're asking is
22 irrelevant and wasting the time of everyone,
23 including the people that haven't yet had a chance
24 to ask questions.

25 MR. ELIOT BERNSTEIN: Okay. This is Eliot

1 Bernstein. I'll put back on the record that it's
2 very relevant to the qualifications of Mr. Tescher
3 to act in any capacity on this.

4 THE WITNESS: I'm not being asked to act
5 in any capacity, Mr. Bernstein.

6 MR. ELIOT BERNSTEIN: Are you objecting on
7 behalf of Ted or on behalf of --

8 Q. I mean, I'm laying a predicate here,
9 because my next question is, in recommending Ted
10 Bernstein as successor personal representative to
11 the estate of Simon Bernstein, what are you
12 recommending what action Ted Bernstein takes -- if
13 he's appointed by the court as successor personal
14 representative -- to protect the estate in trying
15 to obtain the assets -- excuse me -- the proceeds
16 of this insurance policy?

17 A. I'm not your lawyer anymore.

18 Q. Well, you were never my lawyer.

19 A. Well, I'm no longer Ted Bernstein's lawyer
20 either.

21 Q. And would you expect him to take action to
22 protect the estate?

23 MR. ROSE: Objection to the form in light
24 of Judge Colin's prior ruling.

25 I think you understand it's an improper

1 question, Peter, which is why you keep asking it.

2 MR. ELIOT BERNSTEIN: I don't think it's
3 improper at all.

4 A. I am --

5 Q. You are recommending, sir, Mr. Ted
6 Bernstein, the PR, you're the previous PR. And
7 since you're in the business of recommending, would
8 you recommend to Ted Bernstein as successor
9 personal representative to take assets -- to take
10 steps necessary to try to get these insurance
11 proceeds into the estate of Simon Bernstein, since
12 the PR has a fiduciary obligation to all interested
13 persons of an estate?

14 A. I think that Mr. Bernstein -- Ted
15 Bernstein -- should do what he should do based upon
16 his standing as a fiduciary; and if that means not
17 taking a position -- if that means taking a
18 position on behalf of the estate, if that means
19 standing silent and letting the chips fall where
20 they may, those are decisions that he will have to
21 make.

22 Q. And what decision did you make as personal
23 representative with regard to those estate assets?

24 A. We felt that they belonged to the '95
25 trust; that there was enough evidence around that

1 the trust, in fact, existed; and that it ought to
2 be reestablished if it could be.

3 That was our determination. The family --

4 **Q. Were you aware of the 2000 trust?**

5 A. Yes, we were.

6 **Q. Okay. And is that trust -- can that trust**
7 **be found?**

8 A. I think so, if I'm not mistaken.

9 I'm not 100 percent certain about that,
10 Peter.

11 **Q. And is that also a life insurance trust?**

12 A. I believe it is, in the sense that it was
13 going to be the owner and beneficiary of the
14 policy, I believe.

15 **Q. And the --**

16 A. The reason why -- let me just tell you.

17 The reason why Si never wanted to put the
18 ownership out of his control was for the very
19 reason that he wanted to be able to control where
20 that policy was ultimately going.

21 **Q. And the two other policies that were paid**
22 **to the --**

23 A. Yes, sir.

24 **Q. -- estate --**

25 A. Yes, sir.

1 **Q. -- were they in a trust or owned by him**
2 **personally?**

3 A. Well, they were paid --

4 **Q. Were they placed into a trust?**

5 A. No. They were owned by him personally,
6 and they were payable to the estate.

7 **Q. Okay. Did Eliot Bernstein ever express to**
8 **you his disagreement of -- regarding the estate --**
9 **of Simon Bernstein's noninvolvement in the Illinois**
10 **action?**

11 A. He might have. I don't recall.

12 **Q. You don't recall? And if he might have --**

13 A. He --

14 **Q. -- do you recall what you might have said?**

15 MR. BLOCK: I object to the form of that
16 question.

17 A. I don't know how to respond to that
18 question.

19 **Q. Did your office have disagreements with**
20 **Chicago counsel in emails about the filing of the**
21 **action in Illinois?**

22 A. We -- we did not necessarily totally agree
23 with what they wanted to do.

24 **Q. And were the -- some of the children of**
25 **Mr. Simon Bernstein fearful that the claim of Mr.**

1 **Stansbury would consume the insurance proceeds and,**
2 **therefore, wanted to keep those insurance proceeds**
3 **that are the subject of the litigation in Illinois**
4 **out of the estate at all costs?**

5 MR. BLOCK: Peter, what does that have to
6 do with the issue before the court? This is Block.
7 You know, I'm trying to be quiet, but I think
8 you're really going far afield here.

9 MR. FEAMAN: Okay. Fair -- fair comment.

10 **Q. Let me ask one or two more questions: Did**
11 **Ted Bernstein express to you -- either email or**
12 **orally while you were personal representative --**
13 **his desire to keep the insurance proceeds out of**
14 **the estate of Simon Bernstein so that it would not**
15 **be subject to the claim of Mr. Stansbury as a**
16 **creditor?**

17 A. I don't recall. I mean, obviously we all
18 knew that, if the proceeds were payable to the
19 estate --

20 MR. BLOCK: Don, did you hear my objection
21 on privilege?

22 THE WITNESS: Yes, sir.

23 MR. BLOCK: If you want to answer it,
24 that's up to you.

25 MR. FEAMAN: Yeah. I'm asking that

1 question, Irwin, in his capacity as personal
2 representative.

3 MR. BLOCK: Does that mean he wasn't a
4 lawyer?

5 MR. FEAMAN: Well, when you're a personal
6 representative --

7 MR. BLOCK: Go ahead, Peter.

8 A. I will answer it this way: We were all
9 obviously aware -- everybody was aware that if the
10 proceeds came into the estate they would be exposed
11 to a successful prosecution of Mr. Stansbury's
12 lawsuit if he got a judgment.

13 **Q. Did you talk to Mr. Stansbury at any time**
14 **about his claim -- or your attorney, Mr. Manceri?**

15 A. I don't recall ever talking to Mr.
16 Stansbury about it.

17 MR. FEAMAN: Okay. All right. I think
18 that's all I have at this point.

19 THE WITNESS: Thank you, Peter.

20 MR. ROSE: Does anybody else wish to ask
21 questions of Mr. Tescher?

22 MR. MORRISSEY: John Morrissey. I have no
23 questions.

24 MR. ROSE: Anybody else?

25 MR. ELIOT BERNSTEIN: This is Eliot

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

CASE NO. 502012CP004391XXXXSB
CP - Probate

IN RE:

ESTATE OF SIMON L. BERNSTEIN,
_____ /

AFFIDAVIT OF DONALD R. TESCHER

STATE OF FLORIDA)
)
COUNTY OF PALM BEACH)

BEFORE ME, the undersigned authority, personally appeared Donald R. Tescher, upon being duly sworn, deposes and says:

1. I am over the age of eighteen years, sui juris, and have personal knowledge of the facts set forth herein.

2. Tescher & Spallina, P.A. ("Firm") were counsel to Shirley Bernstein and Simon L. Bernstein while they were alive. They had five children borne of their long-time marriage, Ted Bernstein, Pamela Simon, Eliot Bernstein, Lisa Friedstein and Jill Iantoni. Simon was the natural father and Shirley was the natural mother of each of these children. Simon and Shirley also had ten living grandchildren, each of whom was a direct and natural descendant of one of the children. Thus, Simon and Shirley had fifteen lineal descendants.

3. After consultations with Robert L. Spallina and myself or solely with Robert L. Spallina, a Will and Trust was created for each of Simon and Shirley, as amended. I am aware of the final estate plan of each, as expressed in their final testamentary documents, specifically:

- a. Will of Shirley Bernstein dated May 20, 2008 (Exhibit A);
- b. Shirley Bernstein Trust Agreement dated May 20, 2008 (Exhibit B), as Amended on November 18, 2008 (Exhibit C);
- c. Will of Simon L. Bernstein dated July 25, 2012 (Exhibit D); and
- d. Simon L. Bernstein Amended and Restated Trust Agreement dated July 25, 2013 (Exhibit E).

4. The attached five documents are the final documents signed by each of Shirley and Simon, respectively, during their lives. The originals of the Wills were retained in our Firm's safe deposit box (or "vault") until the times of their deaths.

5. It is my understanding and belief that, during their lifetimes, neither Shirley nor Simon shared copies of their testamentary documents with their children. None of the five children were involved in the estate planning process, nor did any of them attend any meetings with myself as counsel.

6. When Shirley died on December 8, 2010, her testamentary documents provided that Simon be given any tangible personal property in her name, other than anything disposed of in a separate written memorandum. The residue of her estate was devised to the Shirley Trust. After her death, the beneficiary of the Shirley Trust was Simon during his life, with the assets disposed of after his death through a limited power of appointment, empowering Simon to transfer the assets to or for the benefit of one or more of their lineal descendants and their spouses.¹

7. Our Firm prepared the July 2012 Amended and Restated Trust Agreement and the Will for Simon Bernstein. Those are the final documents that our Firm prepared and the final documents I am aware of Simon having signed prior to his death in September, 2013. Our Firm

¹ There is an alternate disposition of the assets upon the death of Simon if he did not exercise his power of appointment, but in my view that is irrelevant.

retained the originals of those documents in our safe deposit box until Simon's death. There are no later executed testamentary documents for Simon L. Bernstein.

8. Simon exercised his limited power of appointment in Article II of the July 2012 Will, which specifically references Shirley's Trust and the power given to him under subparagraph E.1 of Article II of Shirley's Trust. Pursuant to that power of appointment, Simon directed Shirley's Trustee to divide the remaining trust assets into equal shares for his then living grandchildren to be added to trusts established for the ten grandchildren under Simon's Trust. Because Simon exercised his power of appointment, the assets in the Shirley Trust were distributed according to Simon's direction, and did not pass under the Shirley Trust to Shirley's default beneficiaries.

9. Under these testamentary documents, neither Ted, Pam, Eliot, Lisa or Jill is a beneficiary of any of their Trusts and Estates. With the sole exception of possibly some specific items of tangible personal property not relevant to the estate and trust administration, Shirley and Simon effectively disinherited all five of their children, and none of them take anything from either of their Trusts or Wills.

10. While he was alive, Simon was the Personal Representative of the Estate of Shirley Bernstein and was the Trustee of the Shirley Bernstein Trust. After Simon's death, under the terms of the Will and Trust, Ted S. Bernstein became the Successor Personal Representative and Successor Trustee. Prior to that time, Ted had not been involved in the administration of Shirley's Estate or Trust. As far as I am aware, Ted was not aware that he would be the successor to Simon until after Simon's death.

11. Upon Ted assuming his fiduciary role as Successor Personal Representative and Successor Trustee, Ted retained our Firm to represent him as a fiduciary. From that point in time until our withdrawal from representing Ted, which was approved by the Court in February 2014, Ted was a responsive client who listened to and followed my advice. At no time did Ted take any action which I advised him would be improper or a breach of his fiduciary duty. In my view, at all times Ted acted as a fiduciary based upon the facts and circumstances and information available to him at that time.

12. At some point after Simon died, a significant asset of Shirley's Trust (a condominium) was sold, and the decision was made to make a partial interim distribution to all of the beneficiaries of the Shirley Trust. In connection with the decision to make an interim distribution, I participated in consulting with Ted and his siblings (other than Eliot) as his counsel. I engaged in a call with various members of the family (other than Eliot). Among those children who participated in the phone call, there was a general consensus that it was appropriate to make an interim partial distribution. I assisted in the mechanics of making these distributions, including providing tax identification numbers and instructions to open a bank account for each of the grandchildren's trusts.

13. At no time did I advise Ted that it would be a violation of his fiduciary duty to make the interim distribution to the trusts for the ten living grandchildren of Simon. I did not advise Ted at any time that there was any question concerning the proper beneficiaries of the Trust, nor was Ted aware of any issue concerning the effectiveness of the exercise of the power of appointment until I advised him and others of that fact in mid-January, 2014.

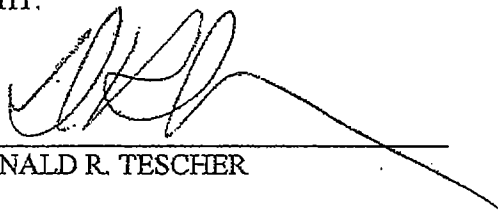
14. In my view, during the time I was counsel for Ted as fiduciary, it is my opinion that he fulfilled his fiduciary duties and acted in a reasonable and appropriate manner. I am aware of

no facts that would give a court cause to be concerned about whether Ted could continue to fulfill his fiduciary duty in those capacities, or serve as Personal Representative of Simon's Estate.

15. Upon my resignation as Trustee of the Simon Trust, I concluded that the appointment of Ted as Successor Trustee would be consistent with Simon's wishes and would be in the best interest of the family. Under the terms of Simon's Trust, he gave the power to appoint a successor trustee to the last resigning trustee. In this case, for a variety of reasons I concluded that Ted was the logical choice for Successor Trustee, including the following: Ted's knowledge of the facts and of these estate matters; his current service in similar capacities in Shirley's Trust and Estate; his knowledge of the pending litigation with a creditor, William Stansbury; the fact that he is not a beneficiary of or seeking monies from any of the Trusts or Estates; and the fact that I believe him to be a reasonable and competent business person capable of fulfilling his fiduciary duties. Accordingly, after Robert Spallina resigned, I exercised the power given to me by Simon to appoint Ted S. Bernstein as Successor Trustee of the Simon Bernstein Trust.

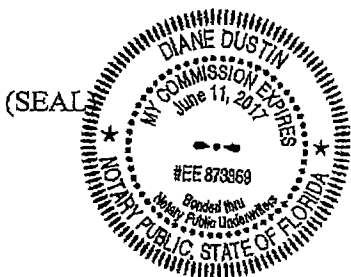
16. The last person Simon would want to serve in any fiduciary capacity is Eliot. Simon did not want Eliot to have any role in any of these matters.

FURTHER AFFIANT SAYETH NAUGHT.



DONALD R. TESCHER

Sworn to and subscribed before me this 4 day of March, 2014, by Donald R. Tescher, who is personally known to me and who did take an oath.



Diane Dustin

Notary Public
My commission expires:

EXHIBIT

"A"

WILL OF
SHIRLEY BERNSTEIN

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.

CONFORMED COPY

WILL OF

SHIRLEY BERNSTEIN

The original of this Will is being held in the safe deposit box of the law firm of Tescher & Spallina, P.A.

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

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.

[remainder of page intentionally left blank]

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

/s/ Shirley Bernstein
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 _____ day of _____, 2008.

/s/ Robert L. Spallina residing at 7387 Wisteria Ave
[Witness Signature] [Witness Address]

Parkland, FL 33076
[Witness Address]

/s/ Diana Banks residing at 23415 Boca Trace Dr.
[Witness Signature] [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.

/s/ Shirley Bernstein
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.

/s/ Robert L. Spallina
Witness

/s/ Diana Banks
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.

Kimberly Moran
Commission # DD766470
Expires: APR. 28, 2012

/s/ Kimberly Moran
Signature - Notary Public-State of Florida

[Seal with Commission Expiration Date]

Print, type or stamp name of Notary Public

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

LAST WILL
OF SHIRLEY BERNSTEIN

EXHIBIT

"B"

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

(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.

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

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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.

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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.

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8. 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).

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.

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;

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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

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,

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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.

2. Indemnification of Trustee. Except in regard to liabilities imposed on a Trustee under Subparagraph IV.G.I., 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

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

EXHIBIT

"C"

F

**FIRST AMENDMENT TO
SHIRLEY BERNSTEIN TRUST AGREEMENT**

This First Amendment is dated this ____ day of _____, 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.

3. I hereby ratify and reaffirm the Trust Agreement as amended by this First Amendment.

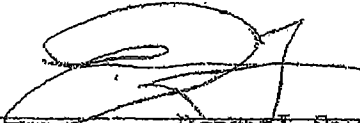
[remainder of page intentionally left blank]


IN WITNESS WHEREOF, the parties hereto have executed this First Amendment on the date first above written.

SETTLOR and TRUSTEE:


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:


Print Name: ROBERT L. SPALLINA
Address: 7387 WISTERIA AVENUE
PARKLAND, FL 33076

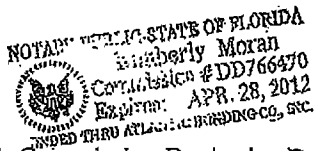

Print Name: Rachel Walker
Address: 100 Plaza Real South
apt 308
Boca Raton, FL 33432

STATE OF FLORIDA

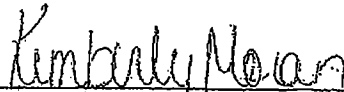
SS.

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 - Notary Public - State of Florida

Print, type or stamp name of Notary Public

Personally Known or Produced Identification _____
Type of Identification Produced _____

NEWPDATA\dm\Beinstein, Shirley & Simon\2008 Estate Planning\First Amendment to Shirley Bernstein Trust Agreement wpc [11 09:26 18 08]

EXHIBIT

"D"

WILL OF
SIMON L. BERNSTEIN

Prepared by:

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

CONFORMED COPY

WILL OF

SIMON L. BERNSTEIN

The original of this Will is being held in the safe deposit box of the law firm of Tescher & Spallina, P.A.

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 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 Article 1 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,

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.

[remainder of page intentionally left blank]

I have published and signed this instrument as my Will at Boca Raton, Florida, on the 25 day of July, 2012.

/s/ Simon L. Bernstein
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 25 day of July, 2012.

/s/ Robert L. Spallina residing at Robert L. Spallina
[Witness Signature] [Witness Address]
7387 Wisteria Avenue
Parkland, FL 33076
[Witness Address]

/s/ Kimberly Moran residing at Kimberly Moran
[Witness Signature] [Witness Address]
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.

/s/ Simon L. Bernstein
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.

/s/ Robert L. Spallina
Witness

/s/ 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.

Commission No. EE092282
Expires May 10, 2015
[Seal with Commission Expiration Date]

/s/ Lindsay Baxley
Signature - Notary Public-State of Florida

Lindsay Baxley
Print, type or stamp name of Notary Public

EXHIBIT

"E"

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 20 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 I.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.

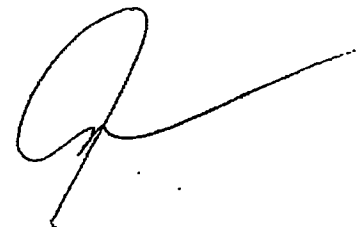
6. Exoneration. No Trustee (or any doctor retained by the Trustee) will be responsible or liable to anyone for a beneficiary's actions or welfare. The Trustee has no duty to inquire whether a beneficiary uses drugs or other substances as described in this Subparagraph III.C. The Trustee (and any doctor 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.

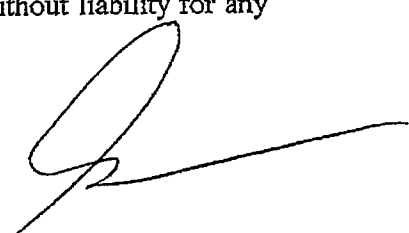
3. Ability to Amend or Revoke. The foregoing provisions of this paragraph shall not constitute a restriction on myself to amend or revoke the terms of this trust instrument under paragraph 1.A hereof, provided I otherwise have legal capacity to do so.

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.

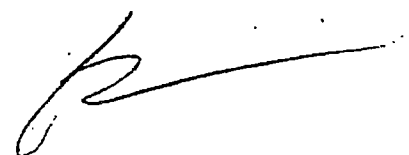
6. Lending. To extend, modify or waive the terms of any obligation, bond or mortgage at any time forming a part of a trust and to foreclose any such mortgage; accept a conveyance of encumbered property; and take title to the property securing it by deed in lieu of foreclosure or otherwise and to satisfy 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;

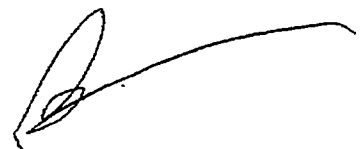
e. To organize one or more Business Entities under the laws of this or any other state or country and to transfer thereto all or any part of the Business Entities or other property of a trust, and to receive in exchange such stocks, bonds, partnership and member interests, and such other securities or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

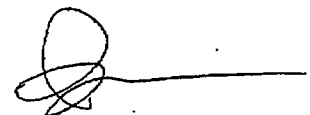
E. Limitations on Removal and Replacement Power. Any power to remove and/or replace a trustee hereunder that is granted to an individual (including such power when reserved to me) is personal to that individual and may not be exercised by a guardian, power of attorney holder, or other legal representative 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 instalments, (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 25 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

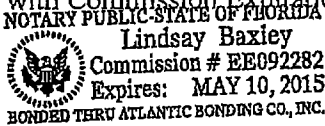
STATE OF FLORIDA
COUNTY OF PALM BEACH

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

[Seal with Commission Expiration Date]



Lindsay Baxley
Print, type or stamp name of Notary Public

Personally Known _____ or Produced Identification _____
Type of Identification Produced _____

Stansbury's
Exh. 1
to Tescher depo

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.



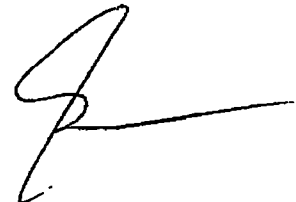
C. Upon My Death. Upon my death the Trustee shall collect and add to the trust all amounts due to the trust under any insurance policy on my life or under any death benefit plan and all property added to the trust by my Will or otherwise. After paying or providing for the payment from the augmented trust 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.

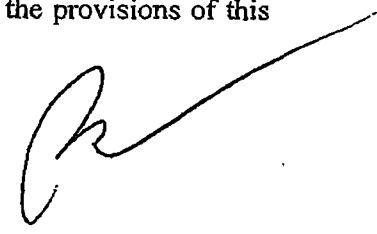
20. Assumptions. To assume, in the absence of written notice to the contrary from the person or persons concerned, that a fact or an event, by reason of which an interest or estate under a trust shall commence or terminate, does not exist or has not occurred, without incurring liability for any action 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]
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:

[Handwritten Signature]
Print Name: ROBERT L. SPALLINA
Address: 7387 WISTERIA AVENUE
PARKLAND, FL 33076

[Handwritten Signature]
Print Name: Kimberly Moran
Address: 6362 Las Flores Drive
Boca Raton, FL 33433

STATE OF FLORIDA
SS.
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 25 day of July, 2012, by SIMON L. BERNSTEIN.

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

[Seal with Commission Expiration Date]

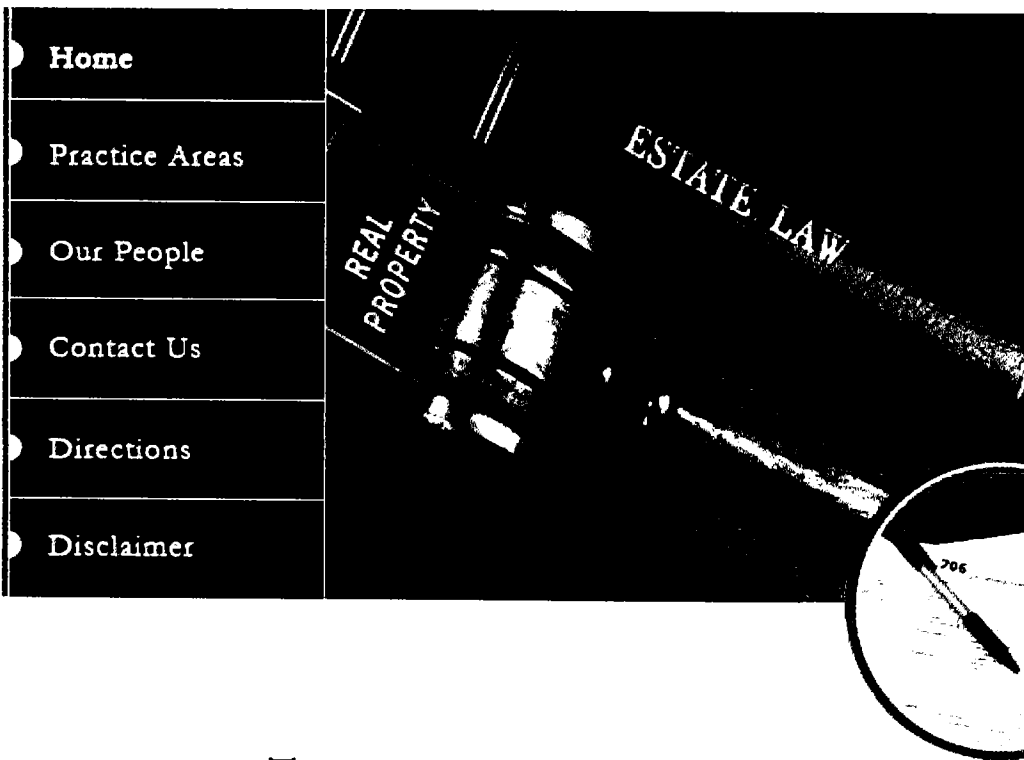
NOTARY PUBLIC-STATE OF FLORIDA
Lindsay Baxley
Commission # EE092282
Expires: MAY 10, 2015
BONDED THRU ATLANTIC BONDING CO., INC.

Personally Known _____ or Produced Identification _____
Type of Identification Produced _____

Stansbury's
Exh. 2
to Tescher Depo

TESCHER & SPALLINA, P.A.

ATTORNEYS-AT-LAW



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Welcome to **TESCHER & SPALLINA, P.A.**

The law office of **TESCHER & SPALLINA, P.A.** in Boca Raton, Florida is a boutique tax practice focused on wealth transfer planning for high net-worth individuals and families, including gift and estate tax planning, business succession planning, charitable planning, corporate, limited partnership and asset protection planning, life insurance planning, post-mortem planning, probate administration and other tax related matters.

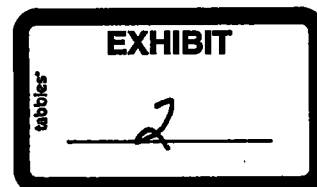
Our practice approach is team based, allowing us to provide the highest quality, cost efficient legal service for our clients. The selection of an attorney to plan your estate is a decision that can last for generations. An effective, tax efficient estate plan coordinates what will happen with the various aspects of your financial and personal life - home, investments, business, life insurance, retirement assets, and other issues in the event you become disabled or if you die. Most importantly, an overall estate plan protects the members of your family long after you are not able to care for them. Whenever possible, we like to work with families on multi-generational planning matters.

Our attorneys have extensive expertise in these areas, take pride in their practice and reputation, and have been recognized in national publications and through membership in prestigious peer organizations. The firm's managing partner has been prominently featured in numerous ranking guides including The Best Lawyers in America, Robb Report and Worth Magazine's Top 100 Attorneys, Florida Legal Elites, Florida Super Lawyers and Chambers USA. All of our attorneys hold graduate law degrees in tax or estate planning and are admitted to practice before the Florida Bar.

Members of our firm believe in giving back to their local community and their profession. Our attorneys participate in numerous bar activities and community organizations in Palm Beach, Broward and Miami-Dade counties. We welcome you to contact us to learn more about our firm.

DISCLAIMER

The hiring of a lawyer or law firm is an important decision and should not be based solely upon advertisements, this communication or the information provided herein. Before you decide whether to retain a lawyer or law firm, and before you decide which lawyer or law firm to retain, please call us and ask us to send you free written information about our qualifications and experience.



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Our People

Our Attorneys



DONALD R. TESCHER holds two degrees from the University of Florida, with a bachelor of science in business administration (accounting) from the University of Florida School of Business and a juris doctor from the University of Florida College of Law. Mr. Tescher also holds a master of laws degree in taxation from New York University. Mr. Tescher is a past Chairman of the Tax Section of The Florida Bar and recipient of the Gerald T. Hart Outstanding Florida Tax Lawyer Award. Mr. Tescher has been recognized by The Best Lawyers in America, the Robb Report Worth Magazine, Chambers and Partners USA, Florida Trend Magazine - South Florida Legal Guide, and Florida Super Lawyers. Mr. Tescher is a Fellow of the American College of Trust and Estate Counsel

(ACTEC) and a member of its Business Planning and Estate and Gift Tax committees. He has served as adjunct professor at the University of Miami School of Law Graduate Tax and Estate Planning programs. He is a member of the Directors' Committee of The Florida Bar Tax Section, the Executive Council and Trust Law Committee of The Florida Bar Real Property, Probate and Trust Law Section, and member of various Committees of the Tax and Real Property Sections of the American Bar Association. [Click here](#) for a complete list of Mr. Tescher's articles, publications, recognitions and extra-curricular activities. You can contact Mr. Tescher by email at dtescher@tescherspallina.com

[More>>](#)

ROBERT L. SPALLINA holds a bachelor of science degree in accounting with honors from the University of Florida Fisher School of Accounting, a juris doctor from Loyola Law School in Los Angeles, and a master of laws degree in estate planning from the University of Miami School of Law. Mr. Spallina is a former Certified Public Accountant (CPA) and Certified Financial Planner (CFP), and began his professional career with KPMG Peat Marwick in Los Angeles. After working as a CPA with KPMG, Mr. Spallina worked for several years as a controller





Spallina worked for several years as a Controller and Vice President of Finance for Sony Pictures Entertainment and Mandalay Pictures prior to pursuing his law degrees. Mr. Spallina began his legal career as a Trusts and Estates attorney with Tescher Gutter

Chaves Josepher Rubin Ruffin & Forman, P.A. in 2002, and focuses his practice on wealth transfer planning, post-mortem planning, probate and related matters for high net worth individuals and families. Mr. Spallina is an active member of the Tax and Real Property, Probate and Trust Law sections of the Florida Bar, and co-authored an article for the June 2010 Florida Bar Journal titled Section 2053 Regulations: Continued Uncertainty. Mr. Spallina has been a guest lecturer for the Tax Practitioners Annual Update Course for the Tax Law Section of the Florida Bar and is the current President of the Boca Raton Tax Institute. Mr. Spallina is also a member of the Greater Boca Raton Estate Planning Council and South Palm Beach County Bar Association. You can contact Mr. Spallina by email at rspallina@tescherspallina.com



LAUREN A. GALVANI graduated from Boston College in 2006 with a triple major, receiving her bachelor of arts degree in English, History, and Political Science. Ms. Galvani was also a dual degree candidate at the University of Miami School of Law, and simultaneously received her juris doctor and master of laws in taxation in 2009. While at the University of Miami, Ms. Galvani practiced international estate planning as a summer associate at Aballi Milne Kalil, P.A. in Miami, Florida. Ms. Galvani joined Tescher & Spallina, P.A. in October of 2009 and focuses her practice on wills, trusts and estates for high net worth individuals. Ms. Galvani is licensed to practice in Florida and Massachusetts, and is actively involved in the Tax and Real Property,

Probate and Trust Law sections of the Florida Bar and the American Bar Association. Ms. Galvani co-authored an article that appeared in the June 2010 Florida Bar Journal Section 2053 Final Regulations: Continued Uncertainty? and is co-authoring another article that will appear in the June 2011 Florida Bar Journal. Ms. Galvani is also a member of the Boca Raton Tax Institute and South Palm Beach County Bar Association. You can contact Ms. Galvani by email at lgalvani@tescherspallina.com

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Stansbury's

Exh. 3

to Fischer's depo

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TESCHER & SPALLINA, P.A.

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January 14, 2014

VIA U.S. MAIL AND EMAIL

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Pamela B. Simon
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Chicago, IL 60606

Jill Iantoni
2101 Magnolia Lane
Highland Park, IL 60035

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



Bernstein Family
January 14, 2014
Page 2

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.

Stansbury's
Exh. 4 (Composite emails)
to Tescher depo

Robert Spallina

From: Christine Yates [cty@TrippScott.com]
Sent: Wednesday, January 30, 2013 6:17 AM
To: Robert Spallina
Cc: 'Eliot Ivan Bernstein'
Subject: RE: Bernstein - E/O Shirley Bernstein & E/O Leon Bernstein: Heritage Policy

Robert, after discussions with my client, he is not in agreement with the plan proposed below. A more formal letter will follow.

From: Robert Spallina [mailto:rspallina@tescherspallina.com]
Sent: Tuesday, January 29, 2013 11:43 AM
To: Ted Bernstein; Lisa Friedstein; Pam Simon; Jill Iantoni; Christine Yates
Cc: Kimberly Moran
Subject: RE: Bernstein - E/O Shirley Bernstein & E/O Leon Bernstein: Heritage Policy

I am following up on our telephone conference from last week. Ted has contacted me about circulating a draft of the settlement agreement that would be presented to the court. Again, prior to preparing an agreement, I want to make sure that you are ALL in agreement that the proceeds do not come to the estate. I can tell you that your father planned his estate intending and believing that the five children would split the proceeds equally. We would like to see his wishes carried out and not have the proceeds paid to the estate where they could be subject to creditor claims prior to being split in equal shares among the grandchildren. Please advise if you are in agreement to move forward to petition the court for an order that would split the proceeds equally among the five of you.

Robert L. Spallina, Esq.
TESCHER & SPALLINA, P.A.
4855 Technology Way, Suite 720
Boca Raton, Florida 33431
Telephone: 561-997-7008
Facsimile: 561-997-7308
E-mail: rspallina@tescherspallina.com

If you would like to learn more about TESCHER & SPALLINA, P.A., please visit our website at www.tescherspallina.com

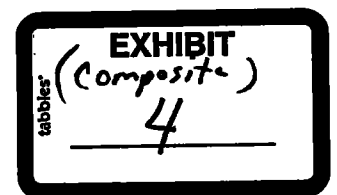
The information contained in this message is legally privileged and confidential information intended only for the use of the individual or entity named above. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. If you have received this communication in error, please immediately notify us by e-mail or telephone. Thank you.

From: Robert Spallina
Sent: Wednesday, January 23, 2013 1:14 PM
To: Ted Bernstein
Cc: Lisa Friedstein; Pam Simon; Jill Iantoni; Christine Yates; Kimberly Moran
Subject: Re: Heritage Policy

Kim will send.

Sent from my iPhone

On Jan 23, 2013, at 1:11 PM, "Ted Bernstein" <tbernstein@lifeinsuranceconcepts.com> wrote:



BT000053

Robert Spallina

From: Jill Iantoni [jilliantoni@gmail.com]
Sent: Tuesday, January 29, 2013 3:39 PM
To: Robert Spallina
Subject: Re: Heritage Policy

Thanks

Jill Iantoni
iantoni_jill@ne.bah.com
Recruiting Services
Booz | Allen | Hamilton

On Jan 29, 2013, at 2:03 PM, "Robert Spallina" <rspallina@tescherspallina.com> wrote:

The claim could be open for a long time but if it is cleared up then the money would be free from creditor claims. I do not know if there is a time frame for a pay out but if the proceeds are paid to the estate then your father's intent is not carried out.

From: Jill Iantoni [mailto:jilliantoni@gmail.com]
Sent: Tuesday, January 29, 2013 12:45 PM
To: Robert Spallina
Cc: Jill Iantoni
Subject: Re: Heritage Policy

Hi Robert,

If the money stays at the insurance company until the Bill S. claim is cleared up, can we then decide if ALL five are in agreement and if not, wouldn't that money be free from creditors at that point? Is there a time fram that the money has to leave the insurance company and be paid out?

Thanks.
Jill

On Tue, Jan 29, 2013 at 10:42 AM, Robert Spallina <rspallina@tescherspallina.com> wrote:

I am following up on our telephone conference from last week. Ted has contacted me about circulating a draft of the settlement agreement that would be presented to the court. Again, prior to preparing an agreement, I want to make sure that you are ALL in agreement that the proceeds do not come to the estate. I can tell you that your father planned his estate intending and believing that the five children would split the proceeds equally. We would like to see his wishes carried out and not have the proceeds paid to the estate where they could be subject to creditor claims prior to being split in equal shares among the grandchildren. Please advise if you are in agreement to move forward to petition the court for an order that would split the proceeds equally among the five of you.

From: Jill Iantoni [mailto:jill.iantoni@gmail.com]
Sent: Thursday, January 24, 2013 3:12 PM
To: Robert Spallina
Cc: Jill Iantoni
Subject: Bernstein Estate 1/24/2013

Hi Robert,

thanks for todays call. Three questions.

One, if the 5 kids do NOT all agree that we should split the insurance proceeds amongst the 5 of us, what happens to the insurance proceeds? Can 4 out of 5 (or whatever the number is) over rule and move forward with the court hearing requesting that the insurance proceeds get paid out to the 5 children? If that is a NO, do the proceeds go directly to the estate? If the answer is the 10 grandchildren, will that be subject to creditors or would that money get paid out quickly (just as it would to the 5 of us) and avoid any potential law suit/creditors?

Two, if any of the 5 children have personal counsel representing them, are they allowed to have their bills sent to you/Estate for payment? If yes, is there a provision that the others can put in place that regulates the amount/or a provision that states it come out of their child(ren) portion of the estate?

Can you also clarify, that based on the conversation today, there is a chance that Bill S. case will be null and void and even if it is not, it is not towards Si Bernstein or his estate? Did I understand that correctly?

Thanks so much,

Jill

Robert Spallina

From: Ted Bernstein [tbernstein@lifeinsuranceconcepts.com]
Sent: Tuesday, January 22, 2013 1:34 PM
To: Robert Spallina; Lisa Friedstein; Pam Simon; Jill Iantoni; Christine Yates
Cc: Kimberly Moran
Subject: RE: Heritage Policy

Robert,

We are in the midst of arranging a phone call between myself, Pam, Eliot, Christine Yates, Jill and Lisa. We were hoping to have that call today but Christine cannot make it until Thursday. I think it is imperative for this call to occur prior to anything else being done, including your call with their legal department. This way, we can establish whether there is going to be an agreement among the 5 of us, or not.

I completely agree with your assessment below of the options available here.

Please feel free to call me to discuss.

Ted

From: Robert Spallina [mailto:rspallina@tescherspallina.com]
Sent: Tuesday, January 22, 2013 12:16 PM
To: Ted Bernstein; Lisa Friedstein; Pam Simon; Jill Iantoni; Christine Yates
Cc: Kimberly Moran
Subject: Heritage Policy

I received a letter from the company requesting a court order to make the distribution of the proceeds consistent with what we discussed. I have traded calls with their legal department to see if I can convince them otherwise. I am not optimistic given how long it has taken them to make a decision. Either way I would like to have a fifteen minute call to discuss this with all of you this week. There are really only two options: spend the money on getting a court order to have the proceeds distributed among the five of you (not guaranteed but most likely probable), or have the proceeds distributed to the estate and have the money added to the grandchildren's shares. As none of us can be sure exactly what the 1995 trust said (although an educated guess would point to children in light of the document prepared by Al Gortz in 2000), I think it is important that we discuss further prior to spending more money to pursue this option. Hopefully I will have spoken with their legal department by Thursday. I would propose a 10:30 call on Thursday EST. Please advise if this works for all of you.

Robert L. Spallina, Esq.

TESCHER & SPALLINA, P.A.

4855 Technology Way, Suite 720

Boca Raton, Florida 33431

Telephone: 561-997-7008

Stansbury's

Exh. 5

to Tescher Depo

502012CP004391XXXXSB

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WILL OF
SIMON L. BERNSTEIN

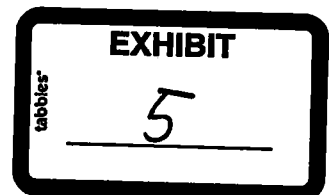
2012 OCT -2 AM 9:32
SHARON R. DEER, CLERK
PALM BEACH COUNTY, FL
SOUTH CITY BRANCH-FILED

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;

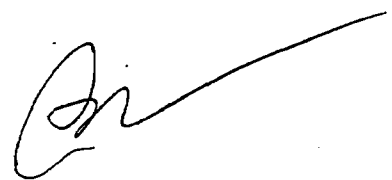
vi. To treat Business Entities as separate from my estate or a trust. In a fiduciary's accounting to any beneficiary, the fiduciary shall only be required to report the earnings and condition of the Business Entities in accordance with standard business accounting practice;

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 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.

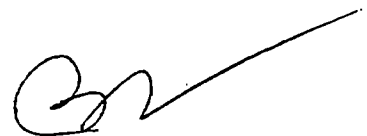
l. Voting. To vote and give proxies, with power of substitution to vote, stocks, bonds and other securities, or not to vote a security.

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 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,



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.

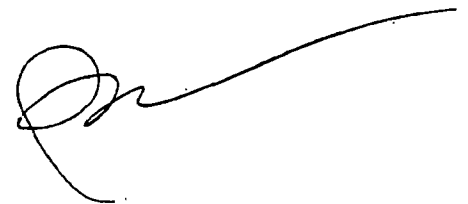
6. **Expenses of Handling Tangible Personal Property.** All expenses incurred by my fiduciary during the settlement of my estate in appraising, storing, packing, shipping, delivering or insuring an article of tangible personal property passing under this Will shall be charged as an expense of administering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

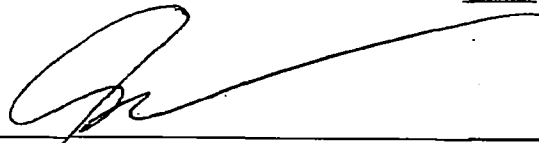
8. **Spouse.** The term "*spouse*" herein means, as to a designated individual, the person to whom that individual is from time to time married.

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.

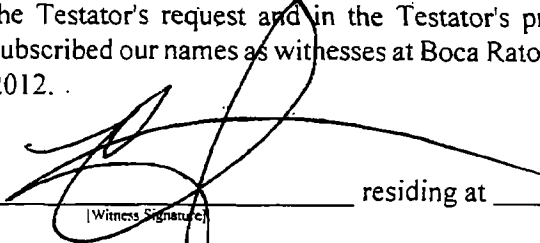
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I have published and signed this instrument as my Will at Boca Raton, Florida, on the 24 day of July, 2012.


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.

[Signature]
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.

[Signature]
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.

[Seal with Commission Expiration Date]

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

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

LAST WILL
OF SIMON L. BERNSTEIN

Stansbury's

Exh 6

to Tescher depo



Detail by Entity Name

Florida Limited Liability Company

BERNSTEIN FAMILY REALTY LLC

Filing Information

Document Number	L08000054043
FEI/EIN Number	26-2735064
Date Filed	06/02/2008
State	FL
Status	ACTIVE
Last Event	REINSTATEMENT
Event Date Filed	09/29/2010
Event Effective Date	NONE

Principal Address

2753 NW 34th Street
BOCA RATON, FL 33434

Changed: 04/12/2013

Mailing Address

Oppenheimer Trust Company of DE
405 Silverside Road
Suite 250
Wilmington, DE 19809

Changed: 03/19/2014

Registered Agent Name & Address

T & S REGISTERED AGENTS, LLC
4855 TECHNOLOGY WAY, SUITE 720
BOCA RATON, FL 33431

Name Changed: 04/20/2009

Address Changed: 04/20/2009

Authorized Person(s) Detail

Name & Address

Title MGR



Oppenheimer Trust Company
Oppenheimer Trust Company of DE
405 Silverside Road
Suite 250
Wilmington, DE 19809

Annual Reports

Report Year	Filed Date
2012	01/05/2012
2013	04/12/2013
2014	03/19/2014

Document Images

<u>03/19/2014 -- ANNUAL REPORT</u>	View image in PDF format
<u>04/12/2013 -- ANNUAL REPORT</u>	View image in PDF format
<u>01/05/2012 -- ANNUAL REPORT</u>	View image in PDF format
<u>04/14/2011 -- ANNUAL REPORT</u>	View image in PDF format
<u>09/29/2010 -- REINSTATEMENT</u>	View image in PDF format
<u>04/20/2009 -- ANNUAL REPORT</u>	View image in PDF format
<u>06/02/2008 -- Florida Limited Liability</u>	View image in PDF format

2012 LIMITED LIABILITY COMPANY ANNUAL REPORT

DOCUMENT# L08000054043

**FILED
Jan 05, 2012
Secretary of State**

Entity Name: BERNSTEIN FAMILY REALTY LLC

Current Principal Place of Business:

950 PENINSULA CORPORATE CIRCLE
SUITE 3010
BOCA RATON, FL 33487

New Principal Place of Business:

Current Mailing Address:

950 PENINSULA CORPORATE CIRCLE
SUITE 3010
BOCA RATON, FL 33487

New Mailing Address:

FEI Number: **FEI Number Applied For ()** **FEI Number Not Applicable (X)** **Certificate of Status Desired ()**

Name and Address of Current Registered Agent:

T & S REGISTERED AGENTS, LLC
4855 TECHNOLOGY WAY, SUITE 720
BOCA RATON, FL 33431 US

Name and Address of New Registered Agent:

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: _____

Electronic Signature of Registered Agent

_____ Date

MANAGING MEMBERS/MANAGERS:

Title: MGR
Name: BERNSTEIN, SIMON
Address: 950 PENINSULA CORPORATE CIRCLE STE 3010
City-St-Zip: BOCA RATON, FL 33431 US

I hereby certify that the information indicated on this report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 608, Florida Statutes.

SIGNATURE: SIMON BERNSTEIN

MR

01/05/2012

_____ Electronic Signature of Signing Managing Member, Manager, or Authorized Representative / Date

2013 FLORIDA LIMITED LIABILITY COMPANY ANNUAL REPORT

DOCUMENT# L08000054043

Entity Name: BERNSTEIN FAMILY REALTY LLC

Current Principal Place of Business:

2753 NW 34TH STREET
BOCA RATON, FL 33434

Current Mailing Address:

OPPENHEIMER TRUST COMPANY
18 COLUMBIA TURNPIKE, 3RD FLOOR
FLORHAM PARK, NJ 07932 US

FEI Number: 26-2735064

Certificate of Status Desired: Yes

Name and Address of Current Registered Agent:

T & S REGISTERED AGENTS, LLC
4855 TECHNOLOGY WAY, SUITE 720
BOCA RATON, FL 33431 US

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: _____

Electronic Signature of Registered Agent

_____ Date

Authorized Person(s) Detail :

Title MGR
Name OPPENHEIMER TRUST COMPANY
Address OPPENHEIMER TRUST COMPANY
18 COLUMBIA TURNPIKE, 3RD FLOOR
City-State-Zip: FLORHAM PARK NJ 07932

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 886, Florida Statutes; and that my name appears above, or on an attachment with all other filers empowered.

SIGNATURE: OPPENHEIMER TRUST COMPANY BY: JANET CRAIG SENIOR VICE PRESIDENT 04/12/2013

_____ Electronic Signature of Signing Authorized Person(s) Detail

_____ Date

Stansbury's

Exh. 7

to Tascher depo

**Electronic Articles of Organization
For
Florida Limited Liability Company**

L08000013540
FILED 8:00 AM
February 06, 2008
Sec. Of State
gharvey

Article I

The name of the Limited Liability Company is:

BERNSTEIN HOLDINGS, LLC

Article II

The street address of the principal office of the Limited Liability Company is:

950 PENINSULA CORPORATE CIRCLE
SUITE 3010
BOCA RATON, FL. US 33487

The mailing address of the Limited Liability Company is:

950 PENINSULA CORPORATE CIRCLE
SUITE 3010
BOCA RATON, FL. US 33487

Article III

The purpose for which this Limited Liability Company is organized is:

ANY AND ALL LAWFUL BUSINESS.

Article IV

The name and Florida street address of the registered agent is:

DONALD R TESCHER
2101 CORPORATE BOULEVARD
SUITE 107
BOCA RATON, FL. 33431

Having been named as registered agent and to accept service of process for the above stated limited liability company at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

Registered Agent Signature: DONALD R. TESCHER



Article V

The name and address of managing members/managers are:

Title: MGR
SIMON BERNSTEIN
950 PENINSULA CORPORATE CIRCLE, SUITE 3010
BOCA RATON, FL. 33487 US

L08000013540
FILED 8:00 AM
February 06, 2008
Sec. Of State
gharvey

Signature of member or an authorized representative of a member

Signature: ROBERT L. SPALLINA

2013 FLORIDA LIMITED LIABILITY COMPANY ANNUAL REPORT

DOCUMENT# L08000013540

Entity Name: BERNSTEIN HOLDINGS, LLC

Current Principal Place of Business:

950 PENINSULA CORPORATE CIRCLE
SUITE 3010
BOCA RATON, FL 33487

Current Mailing Address:

950 PENINSULA CORPORATE CIRCLE
SUITE 3010
BOCA RATON, FL 33487 US

FEI Number: NOT APPLICABLE

Certificate of Status Desired: No

Name and Address of Current Registered Agent:

T & S REGISTERED AGENTS, LLC
4855 TECHNOLOGY WAY, SUITE720
BOCA RATON
BOCA RATON, FL 33431 US

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: _____

Electronic Signature of Registered Agent

_____ Date

Authorized Person(s) Detail :

Title MGR
Name SPALLINA, ROBERT L
Address 4855 TECHNOLOGY WAY
SUITE 720
City-State-Zip: BOCA RATON FL 33431

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 608, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.

SIGNATURE: ROBERT L. SPALLINA

MGR

04/12/2013

_____ Electronic Signature of Signing Authorized Person(s) Detail

_____ Date

2012 LIMITED LIABILITY COMPANY ANNUAL REPORT

**FILED
Jan 05, 2012
Secretary of State**

DOCUMENT# L08000013540

Entity Name: BERNSTEIN HOLDINGS, LLC

Current Principal Place of Business:

950 PENINSULA CORPORATE CIRCLE
SUITE 3010
BOCA RATON, FL 33487 US

New Principal Place of Business:

Current Mailing Address:

950 PENINSULA CORPORATE CIRCLE
SUITE 3010
BOCA RATON, FL 33487 US

New Mailing Address:

FEI Number: FEI Number Applied For () FEI Number Not Applicable (X) Certificate of Status Desired ()

Name and Address of Current Registered Agent:

T & S REGISTERED AGENTS, LLC
4855 TECHNOLOGY WAY, SUITE 720
BOCA RATON
BOCA RATON, FL 33431 US

Name and Address of New Registered Agent:

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: _____
Electronic Signature of Registered Agent Date

MANAGING MEMBERS/MANAGERS:

Title: MGR
Name: BERNSTEIN, SIMON
Address: 950 PENINSULA CORPORATE CIRCLE, SUITE 3010
City-St-Zip: BOCA RATON, FL 33487 US

I hereby certify that the information indicated on this report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 608, Florida Statutes.

SIGNATURE: SIMON BERNSTEIN MR 01/05/2012
Electronic Signature of Signing Managing Member, Manager, or Authorized Representative / Date

**Electronic Articles of Organization
For
Florida Limited Liability Company**

L08000013540
FILED 8:00 AM
February 06, 2008
Sec. Of State
gharvey

Article I

The name of the Limited Liability Company is:

BERNSTEIN HOLDINGS, LLC

Article II

The street address of the principal office of the Limited Liability Company is:

950 PENINSULA CORPORATE CIRCLE
SUITE 3010
BOCA RATON, FL. US 33487

The mailing address of the Limited Liability Company is:

950 PENINSULA CORPORATE CIRCLE
SUITE 3010
BOCA RATON, FL. US 33487

Article III

The purpose for which this Limited Liability Company is organized is:

ANY AND ALL LAWFUL BUSINESS.

Article IV

The name and Florida street address of the registered agent is:

DONALD R TESCHER
2101 CORPORATE BOULEVARD
SUITE 107
BOCA RATON, FL. 33431

Having been named as registered agent and to accept service of process for the above stated limited liability company at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

Registered Agent Signature: DONALD R. TESCHER

LAW OFFICES
TESCHER & SPALLINA, P.A.

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

ATTORNEYS
DONALD R. TESCHER
ROBERT L. SPALLINA
LAUREN A. GALVANI

TEL: 561-997-7008
FAX: 561-997-7308
TOLL FREE: 888-997-7008
WWW.TESCHERSPALLINA.COM

SUPPORT STAFF
DIANE DUSTIN
KIMBERLY MORAN
SUANN TESCHER

October 11, 2012

VIA EMAIL

Gavin McNally, Associate Banker
J.P. Morgan Private Bank
205 Royal Palm Way
Palm Beach, FL 33480

Re: Bernstein Holdings, LLC

Dear Gavin:

This letter serves to state that due to the passing of Simon L. Bernstein, there is a change in management and signers of Bernstein Holdings, LLC. The members of the LLC have designated me as manager of the partnership until such time as there is a distribution of the Bernstein Estate.

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

Sincerely,



ROBERT L. SPALLINA

RLS/km

TS004866

Stansbury's
Exh. 8
to Fischer depo

Certificate of Limited Partnership

Name of Limited Partnership:

BERNSTEIN FAMILY INVESTMENTS, LLLP

A08000000154
FILED
February 15, 2008
Sec. Of State
gharvey

Street Address of Limited Partnership:

950 PENINSULA CORPORATE CIRCLE
SUITE 3010
BOCA RATON, FL. US 33487

Mailing Address of Limited Partnership:

950 PENINSULA CORPORATE CIRCLE
SUITE 3010
BOCA RATON, FL. US 33487

The name and Florida street address of the registered agent is:

DONALD R TESCHER
2101 CORPORATE BLVD.
SUITE 107
BOCA RATON, FL. 33431

I certify that I am familiar with and accept the responsibilities of registered agent.

Registered Agent Signature: DONALD R. TESCHER

The name and address of all general partners are:

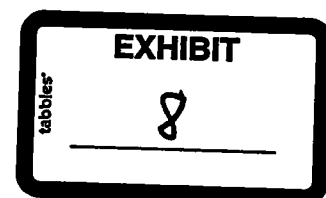
Title: G
BERNSTEIN HOLDINGS, LLC
950 PENINSULA CORPORATE CIRCLE SUITE 3010
BOCA RATON, FL. 33487 US

This Limited Partnership is a Limited Liability Limited Partnership.

Signed this Fifteenth day of February, 2008

I (we) declare the I (we) have read the foregoing and know the contents thereof and that the facts stated herein are true and correct.

General Partner Signature: ROBERT L. SPALLINA



FLORIDA DEPARTMENT OF STATE
DIVISION OF CORPORATIONS[Home](#)[Contact Us](#)[E-Filing Services](#)[Document Searches](#)[Forms](#)[Help](#)

Detail by Entity Name

Florida Limited Partnership

BERNSTEIN FAMILY INVESTMENTS, LLLP

Filing Information

Document Number	A08000000154
FEI/EIN Number	262124343
Date Filed	02/15/2008
State	FL
Status	INACTIVE
Last Event	REVOKED FOR ANNUAL REPORT
Event Date Filed	09/27/2013
Event Effective Date	NONE

Principal Address

950 PENINSULA CORPORATE CIRCLE
SUITE 3010
BOCA RATON, FL 33487

Mailing Address

950 PENINSULA CORPORATE CIRCLE
SUITE 3010
BOCA RATON, FL 33487

Registered Agent Name & Address

T & S REGISTERED AGENTS, LLC
4855 TECHNOLOGY WAY, SUITE 720
BOCA RATON, FL 33431

Name Changed: 04/17/2009

Address Changed: 04/17/2009

General Partner Detail

Name & Address

Document Number L08000013540

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State of Florida, Department of State

BERNSTEIN HOLDINGS, LLC
950 PENINSULA CORPORATE CIRCLE SUITE 3010
BOCA RATON, FL 33487

Annual Reports

Report Year	Filed Date
2010	09/30/2010
2011	04/18/2011
2012	01/03/2012

Document Images

<u>01/03/2012 -- ANNUAL REPORT</u>	View image in PDF format
<u>04/18/2011 -- ANNUAL REPORT</u>	View image in PDF format
<u>09/30/2010 -- REINSTATEMENT</u>	View image in PDF format
<u>04/17/2009 -- ANNUAL REPORT</u>	View image in PDF format
<u>02/15/2008 -- Domestic LP</u>	View image in PDF format

2012 LIMITED PARTNERSHIP ANNUAL REPORT

DOCUMENT# A08000000154

FILED
Jan 03, 2012
Secretary of State

Entity Name: BERNSTEIN FAMILY INVESTMENTS, LLLP

Current Principal Place of Business:

950 PENINSULA CORPORATE CIRCLE
SUITE 3010
BOCA RATON, FL 33487 US

New Principal Place of Business:

Current Mailing Address:

950 PENINSULA CORPORATE CIRCLE
SUITE 3010
BOCA RATON, FL 33487 US

New Mailing Address:

FEI Number: 26-2124343 FEI Number Applied For () FEI Number Not Applicable () Certificate of Status Desired ()

Name and Address of Current Registered Agent:

T & S REGISTERED AGENTS, LLC
4855 TECHNOLOGY WAY, SUITE 720
BOCA RATON, FL 33431 US

Name and Address of New Registered Agent:

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: _____

Electronic Signature of Registered Agent

_____ Date

GENERAL PARTNER INFORMATION:

Document #: L08000013540
Name: BERNSTEIN HOLDINGS, LLC
Address: 950 PENINSULA CORPORATE CIRCLE SUITE 3010
City-St-Zip: BOCA RATON, FL 33487 US

ADDRESS CHANGES ONLY:

Address:
City-St-Zip:

I hereby certify that the information indicated on this report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a General Partner of the limited partnership or the receiver or trustee empowered to execute this report as required by Chapter 620, Florida Statutes.

SIGNATURE: SIMON BERNSTEIN

_____ Electronic Signature of Signing General Partner

MR

01/03/2012

_____ Date

J.P. Morgan Account Suitability Supplement

J.P.Morgan

A. Account Information (required for JPMS Brokerage and Investment Management accounts)

Title of Account: BERNSTEIN FAMILY INVESTMENT LLLP

Personal Accounts

- Individual Joint (JTWROS/JAWROS for TX residents) Tenants in Common Tenants by the Entirety
 Community Property Transfer on Death (TOD) UTMA/UGMA IRA

Primary Account Owner:
 Number of Dependents _____ Name of Employer _____ Occupation/Position _____
 Owner Annual Income (\$) _____ Liquid Net Worth (\$) _____ Total Net Worth excl. primary residence (\$) _____

Joint Account Owner:
 Annual Income (\$) _____

Entity Accounts

- Corporation Partnership PIC/PHC (applicable to international entities only) Sole Proprietorship
 Foundation Endowment Limited Liability Company Limited Liability Partnership Other Non Profit
 Annual Income (\$) 500K Liquid Net Worth (\$) 5.0MM Total Net Worth (\$) 12.0MM

Trust/Estate Accounts

- Trust Estate Endowment Foundation ERISA Plan Other Charitable Trust Other _____
 Trust/Estate Liquid Net Worth (\$) _____ Trust/Estate Total Net Worth (\$) _____

B. Affiliations (required for JPMS Brokerage and Investment Management accounts)

Applicable to account owners or authorized signers or trustees and executors.

I, my spouse, or immediate family member who receives material support from me or gives material support to me is, or has been, a director, corporate officer, control person, affiliate or an owner of 10% of a public corporation's stock: Yes No

If yes, name of person _____ Name of corporation _____

If yes, is the corporation traded publicly on a U.S. Stock exchange? Yes No

I, my spouse, immediate family member who receives material support from me or gives material support to me, or an individual controlling the account is employed by or associated with a Broker-Dealer: Yes No

If yes*, name of Broker-Dealer _____ Name of employee/assoc. _____

Accountholder or immediate family member or another household member is an employee of a financial institution or insurance company: Yes No

If yes*, name of institution _____ Name of employee/assoc. _____

*If Yes, Broker-Dealer and FINRA member financial institutions must provide written permission on corporate letterhead to open a Brokerage, Margin, or Investment Management account.

C. Brokerage Account Information (required for JPMS Brokerage accounts only)

Investment Profile

My objective for this account (check one): Capital Preservation Income Generation Capital Appreciation

Speculative or aggressive investments that may generate higher returns but may be riskier than other investments because I may lose all or part of my investment (check one): Are permitted in this account Are not permitted in this account

Primary source of income: Investments Compensation Pension Other _____

Please indicate the number of years of personal trading experience for the authorized party(s) on this account:

Stocks 30 Bonds 30 FX 10 Structured Products 0 Options 20 Emerging Markets 10 Hedge Funds /Private Placements 10 Futures/Commodities 10 Mutual Funds 0

I currently have brokerage accounts with the following firms: _____

Approximate value of investable assets held away from the firm? \$ _____

Those assets are invested in the following Asset Classes: Equities Fixed Income & Cash Alternative Investments Other

Most of those assets are invested in: Equities Fixed Income & Cash Alternative Investments Other

Check only one selection for Investment Time Horizon, Primary Liquidity Needs, and Secondary Liquidity Needs

Investment Time Horizon: Less than 1 year 1-5 years 6-10 years Greater than 10 years

Primary Liquidity Needs: Short Term Medium Term Long Term None

Secondary Liquidity Needs: Short Term Medium Term Long Term None

J.P. Morgan Use Only

Title SPN CAS

Stansbury's

Exh. 9

to Tescher depo

**Electronic Articles of Incorporation
For**

N08000000944
FILED
January 30, 2008
Sec. Of State
epeterson

SHIRLEY BERNSTEIN FAMILY FOUNDATION, INC.

The undersigned incorporator, for the purpose of forming a Florida not-for-profit corporation, hereby adopts the following Articles of Incorporation:

Article I

The name of the corporation is:

SHIRLEY BERNSTEIN FAMILY FOUNDATION, INC.

Article II

The principal place of business address:

7020 LIONS HEAD LANE
BOCA RATON, FL. US 33496

The mailing address of the corporation is:

7020 LIONS HEAD LANE
BOCA RATON, FL. US 33496

Article III

The specific purpose for which this corporation is organized is:

IT IS A CHARITABLE PRIVATE FOUNDATION TO SUPPORT PUBLIC CHARITIES.

Article IV

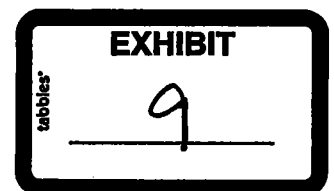
The manner in which directors are elected or appointed is:

AS PROVIDED FOR IN THE BYLAWS.

Article V

The name and Florida street address of the registered agent is:

DONALD R TESCHER
2101 CORPORATE BOULEVARD
SUITE 107
BOCA RATON, FL. 33431



I certify that I am familiar with and accept the responsibilities of registered agent.

N0800000944
FILED
January 30, 2008
Sec. Of State
epeterson

Registered Agent Signature: DONALD R. TESCHER

Article VI

The name and address of the incorporator is:

DONALD R. TESCHER
2101 CORPORATE BOULEVARD
SUITE 107
BOCA RATON, FL 33431

Incorporator Signature: DONALD R. TESCHER

Article VII

The initial officer(s) and/or director(s) of the corporation is/are:

Title: P
SIMON BERNSTEIN
7020 LIONS HEAD LANE
BOCA RATON, FL. 33496 US

Title: T
SHIRLEY BERNSTEIN
7020 LIONS HEAD LANE
BOCA RATON, FL. 33496 US

Title: S
TRACI KRATISH
950 PENINSULA CORPORATE CIRCLE, SUITE 3010
BOCA RATON, FL. 33487 US

Stansbury's
Exh. 10
to Teacher's depo



Detail by Entity Name

Florida Limited Liability Company

TWO OAKS CONSULTING, LLC

Filing Information

Document Number	L06000106492
FEI/EIN Number	205792177
Date Filed	11/01/2006
State	FL
Status	INACTIVE
Effective Date	10/30/2006
Last Event	ADMIN DISSOLUTION FOR ANNUAL REPORT
Event Date Filed	09/28/2012
Event Effective Date	NONE

Principal Address

2600 WHISPERING OAKS LANE
DELRAY BEACH, FL 33445

Mailing Address

2600 WHISPERING OAKS LANE
DELRAY BEACH, FL 33445

Registered Agent Name & Address

TESCHER, SUANN L
2600 WHISPERING OAKS LANE
DELRAY BEACH, FL 33445

Authorized Person(s) Detail

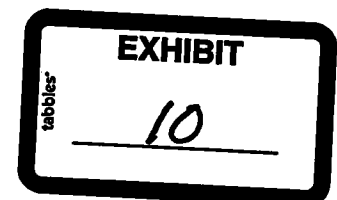
Name & Address

Title MGR

TESCHER, SUANN L
2600 WHISPERING OAKS LANE
DELRAY BEACH, FL 33445

Annual Reports

Report Year	Filed Date
-------------	------------



2009	02/11/2009
2010	04/05/2010
2011	03/04/2011

Document Images

<u>03/04/2011 -- ANNUAL REPORT</u>	View image in PDF format
<u>04/05/2010 -- ANNUAL REPORT</u>	View image in PDF format
<u>02/11/2009 -- ANNUAL REPORT</u>	View image in PDF format
<u>02/29/2008 -- ANNUAL REPORT</u>	View image in PDF format
<u>02/23/2007 -- ANNUAL REPORT</u>	View image in PDF format
<u>11/01/2006 -- Florida Limited Liability</u>	View image in PDF format

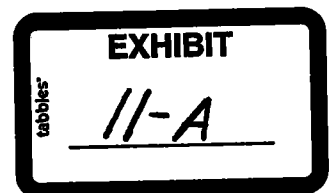
Stansbury's

Exh. 11-A, 11-B, 11-C
to Tescher's depo

5:06 PM
11/06/06

**Arbitrage International Management LLC
Reconciliation Detail
Cash - Wachovia, Period Ending 09/29/2006**

Type	Date	Num	Name	Ctr	Amount	Balance
Check	10/17/2006		Larry Bishins		-25,000.00	-473,970.06
Check	10/17/2006	2010	Sarita Roche		-2,000.00	-475,970.06
Check	10/17/2006	2009	ADT		-1,150.00	-477,120.06
Check	10/17/2006	2011	Ideal Tile		-500.64	-477,620.70
Check	10/17/2006	2007	Traci Kratish		-371.25	-477,991.95
Check	10/17/2006	2012	Sal Gorge		-365.75	-478,357.70
Check	10/18/2006	2013	Ransom Jones		-9,841.87	-488,199.57
Check	10/18/2006	2014	HPA Solida Floorin...		-625.00	-488,824.57
Check	10/19/2006	2017	Today's Business In...		-2,907.50	-491,732.07
Check	10/19/2006	2015	P&M Treasure Coa...		-1,700.00	-493,432.07
Check	10/19/2006	2016	Kinkos		-63.77	-493,495.84
Check	10/23/2006	EFT	Ted Bernstein		-17,000.00	-510,495.84
Check	10/23/2006	2023	21st Holdings, LLC		-1,820.00	-512,315.84
Check	10/23/2006	2020	William Alvarez		-1,000.00	-513,315.84
Check	10/23/2006	2022	Bill Stansbury		-741.42	-514,057.26
Check	10/23/2006	2018	Ron Galli		-425.47	-514,482.73
Check	10/23/2006	2019	Lisa Bruder		-356.50	-514,839.23
Check	10/23/2006	2021	Bill Stansbury		-100.00	-514,939.23
Check	10/24/2006	2024	Al Prince		-120,249.00	-635,188.23
Check	10/24/2006	2025	Telenet Systems, Inc		-9,825.00	-645,013.23
Check	10/24/2006		National Service As...		-8,800.00	-653,813.23
Check	10/24/2006	EFT	George J Karr DDS,...		-1,150.00	-654,963.23
Check	10/25/2006	2026	American Express		-4,559.60	-659,522.83
Check	10/25/2006	2028	Blue Box Design		-260.00	-659,782.83
Check	10/26/2006	2029	Glenn Dattile		-525.00	-660,307.83
Check	10/26/2006	ATM	Cash		-202.00	-660,509.83
Check	10/26/2006	2030	Juliana Goldman		-27.67	-660,537.50
Check	10/26/2006	ATM	Cash		-9.02	-660,546.52
Check	10/27/2006	VISA	Summit Van Lines, ...		-1,724.00	-662,270.52
Check	10/27/2006	2073	Ted Bernstein		-194.63	-662,465.15
Check	10/27/2006	VISA	Target		-129.75	-662,594.90
Check	10/27/2006	VISA	Dunkin Donuts		-14.18	-662,609.08
Check	10/28/2006	ATM	Cash		-500.00	-663,109.08
Check	10/28/2006	VISA	Dunkin Donuts		-13.75	-663,122.83
Check	10/29/2006	ATM	Cash		-202.00	-663,324.83
Check	10/30/2006	2035	Caris Furniture		-4,289.59	-667,614.42
Check	10/30/2006	2032	Petty Cash		-1,200.00	-668,814.42
Check	10/30/2006	2074	Ted Bernstein		-399.37	-669,213.79
Check	10/30/2006	2033	Juliana Goldman		-88.56	-669,302.35
Check	10/30/2006	2034	Diana Banks		-86.49	-669,388.84
Check	10/31/2006	2036	Signal US Commun...		-2,955.00	-672,343.84
Check	10/31/2006	2037	Signal US Commun...		-1,240.00	-673,583.84
Check	11/1/2006	2047	Two Oaks Consultin...		-55,000.00	-728,583.84
Check	11/1/2006	2046	Teschler Gutter Cha...		-45,000.00	-773,583.84
Check	11/1/2006	2075	Ransom Jones		-10,272.97	-783,856.81
Check	11/1/2006	2045	Banner Technolog...		-8,136.60	-791,993.41
Check	11/1/2006	2076	Ransom Jones		-333.67	-792,327.08
Check	11/1/2006	2048	Fred Braun		-150.00	-792,477.08
Check	11/1/2006	2038	Woodbridge Florist		-53.25	-792,530.33
Check	11/2/2006	2077	Cash		-35,000.00	-827,530.33
Bill Pmt - Check	11/2/2006	2078	Boz Admin Group		-2,125.00	-829,655.33
Bill Pmt - Check	11/3/2006	2088	Greenberg Traurig		-25,000.00	-854,655.33
Bill Pmt - Check	11/3/2006	2098	FedEx		-1,042.12	-855,697.45
Bill Pmt - Check	11/3/2006	2091	BellSouth		-524.35	-856,221.80
Bill Pmt - Check	11/3/2006	2095	Cingular Wireless		-483.14	-856,704.94
Bill Pmt - Check	11/3/2006	2097	Cingular Wireless		-377.74	-857,082.68
Bill Pmt - Check	11/3/2006	2089	UPS		-326.61	-857,409.29
Bill Pmt - Check	11/3/2006	2094	BellSouth		-99.12	-857,508.41
Bill Pmt - Check	11/3/2006	2093	FPL		-90.00	-857,598.41
Bill Pmt - Check	11/3/2006	2092	Cingular Wireless		-71.44	-857,669.85
Bill Pmt - Check	11/3/2006	2090	FPL		-70.00	-857,739.85
Check	11/3/2006	2100	Maroone Volvo		-42.46	-857,782.31
Check	11/3/2006	ATM	Cingular Wireless		-31.94	-857,814.25
Bill Pmt - Check	11/3/2006	2096	BellSouth		-31.76	-857,846.01
Check	11/3/2006	ATM	Starbucks		-9.53	-857,855.54



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12/07/06

Arbitrage International Management LLC
Reconciliation Detail
Cash - Wachovia, Period Ending 11/30/2006

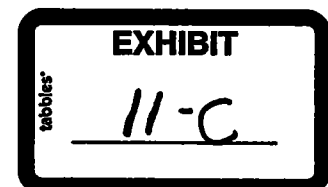
Type	Date	Num	Name	Clr	Amount	Balance
Beginning Balance						1,960,376.72
Cleared Transactions						
Checks and Payments - 127 Items						
Bill Pmt -Check	10/7/2006	2079	Aetna	X	-2,688.00	-2,688.00
Bill Pmt -Check	10/7/2006	2085	Office Depot	X	-1,435.74	-4,123.74
Bill Pmt -Check	10/7/2006	2087	Tax Collector, Palm...	X	-857.90	-4,981.64
Bill Pmt -Check	10/7/2006	2083	FPL	X	-220.33	-5,201.97
Bill Pmt -Check	10/7/2006	2086	PitneyBowes	X	-206.99	-5,408.96
Bill Pmt -Check	10/7/2006	2080	Avaya, Inc.	X	-95.10	-5,504.06
Bill Pmt -Check	10/7/2006	2084	InterCall	X	-40.08	-5,544.14
Bill Pmt -Check	10/7/2006	2081	Dell	X	-16.03	-5,560.17
Check	10/17/2006	2007	ADT	X	-1,150.00	-6,710.17
Check	10/17/2006	2012	Sal Gorge	X	-365.75	-7,075.92
Check	10/23/2006	2023	21st Holdings, LLC	X	-1,820.00	-8,895.92
Check	10/23/2006	2020	Bill Stansbury	X	-100.00	-9,995.92
Check	10/25/2006	2028	Blue Box Design	X	-260.00	-10,255.92
Check	10/30/2006	2034	Juliana Goldman	X	-88.56	-10,344.48
Check	10/31/2006	2036	Signal US Commun...	X	-2,955.00	-12,299.48
Check	10/31/2006	2037	Signal US Commun...	X	-1,240.00	-13,539.48
Check	10/31/2006	VISA	Uncle Tai's	X	-167.62	-13,707.10
Check	11/1/2006	2045	Two Oaks Consultin...	X	-55,000.00	-168,707.10
Check	11/1/2006	2046	Teschler Gutter Cha...	X	-45,000.00	-213,707.10
Check	11/1/2006	2075	Ransom Jones	X	-10,272.97	-223,980.07
Check	11/1/2006	2047	Banner Technologie...	X	-8,136.60	-232,116.67
Check	11/1/2006	2076	Ransom Jones	X	-333.67	-232,450.34
Check	11/1/2006	2048	Fred Braun	X	-150.00	-232,600.34
Check	11/1/2006	2038	Woodbridge Florist	X	-53.25	-232,653.59
Check	11/2/2006	2077	Cash	X	-35,000.00	-267,653.59
Bill Pmt -Check	11/2/2006	2078	Boz Admin Group	X	-2,125.00	-269,778.59
Check	11/2/2006	VISA	Home Decorators Co	X	-711.71	-270,490.30
Check	11/2/2006	VISA	NextStore	X	-57.63	-270,547.93
Bill Pmt -Check	11/3/2006	2088	Greenberg Traurig	X	-25,000.00	-295,547.93
Bill Pmt -Check	11/3/2006	2098	FedEx	X	-1,042.12	-296,590.05
Bill Pmt -Check	11/3/2006	2091	BellSouth	X	-524.35	-297,114.40
Bill Pmt -Check	11/3/2006	2095	Cingular Wireless	X	-483.14	-297,597.54
Bill Pmt -Check	11/3/2006	2097	Cingular Wireless	X	-377.74	-297,975.28
Bill Pmt -Check	11/3/2006	2089	UPS	X	-326.61	-298,301.89
Check	11/3/2006	ATM	Cash	X	-302.00	-298,603.89
Check	11/3/2006	VISA	Abe & Louie's	X	-99.60	-298,703.49
Bill Pmt -Check	11/3/2006	2094	BellSouth	X	-99.12	-298,802.61
Bill Pmt -Check	11/3/2006	2093	FPL	X	-90.00	-298,892.61
Bill Pmt -Check	11/3/2006	2082	DIRECTV	X	-83.33	-298,975.94
Bill Pmt -Check	11/3/2006	2092	Cingular Wireless	X	-71.44	-299,047.38
Bill Pmt -Check	11/3/2006	2090	FPL	X	-70.00	-299,117.38
Check	11/3/2006	2100	Maroono Volvo	X	-42.46	-299,159.84
Check	11/3/2006	ATM	Cingular Wireless	X	-31.94	-299,191.78
Bill Pmt -Check	11/3/2006	2096	BellSouth	X	-31.76	-299,223.54
Check	11/3/2006	ATM	Starbucks	X	-9.53	-299,233.07
Check	11/7/2006	2052	Simon Bernstein	X	-100,000.00	-399,233.07
Check	11/7/2006	VISA	Mike's Cigars Distri...	X	-295.40	-399,528.47
Check	11/8/2006	2051	Donald C. Sider & ...	X	-50,000.00	-449,528.47
Check	11/8/2006	EFT	Transfer	X	-35,000.00	-484,528.47
Check	11/8/2006	EFT	CFC of Delaware LLC	X	-25,000.00	-509,528.47
Check	11/8/2006	2102	Traci Kratish	X	-294.00	-509,822.47
Check	11/8/2006	VISA	Delta Airlines	X	-159.30	-509,981.77
Check	11/8/2006	VISA	Southwest Airlines	X	-137.10	-510,118.87
Check	11/8/2006	VISA	NextStore	X	-41.23	-510,160.10
Check	11/8/2006	VISA	Agent Fee	X	-30.00	-510,190.10
Check	11/9/2006	2053	Simon Bernstein	X	-100,000.00	-610,190.10
Check	11/9/2006	EFT	Paychex	X	-70,000.00	-680,190.10
Check	11/9/2006	EFT	Paychex	X	-39,917.94	-720,108.04
Check	11/9/2006	EFT	CFC of Delaware LLC	X	-28,330.06	-748,438.10
Bill Pmt -Check	11/9/2006	2054	Telenet Systems, Inc	X	-780.00	-749,218.10
Check	11/9/2006	VISA	Henry's	X	-152.49	-749,370.59
Check	11/9/2006	FEE	Wachovia Bank	X	-60.50	-749,431.09
Check	11/9/2006	VISA	NextStore	X	-26.29	-749,457.38
Check	11/10/2006	EFT	CFC of Delaware LLC	X	-50,565.00	-800,022.38
Check	11/10/2006	EFT	Paychex	X	-41,886.52	-841,908.90

EXHIBIT
11-B

6:37 PM
02/07/07

**Arbitrage International Management LLC
Reconciliation Detail
Cash - Wachovia, Period Ending 01/31/2007**

Type	Date	Num	Name	Clr	Amount	Balance
Check	1/16/2007	VISA	Credit One Bank	X	-666.77	-280,443.94
Check	1/16/2007	2249	Traci Kratish	X	-650.11	-281,094.05
Check	1/17/2007	EFT	CFC of Delaware LLC	X	-55,114.00	-336,208.05
Check	1/17/2007	VISA	Wynn Hotel	X	-3,119.84	-339,327.89
Check	1/17/2007	VISA	Hudson News	X	-17.75	-339,345.64
Check	1/18/2007	VISA	NextStore	X	-35.50	-339,381.14
General Journal	1/19/2007	EFT	Paychex Taxpay	X	-8,290.31	-347,671.45
General Journal	1/19/2007	EFT	Paychex DirDep/RCX	X	-5,914.21	-353,585.66
Check	1/19/2007	2245	Case Professional ...	X	-2,000.00	-355,585.66
Check	1/19/2007	2244	Petty Cash	X	-1,000.00	-356,585.66
General Journal	1/19/2007	EFT	Paychex DirDep/RCX	X	-475.90	-357,061.56
General Journal	1/19/2007	EFT	Paychex Taxpay	X	-165.37	-357,226.93
Check	1/19/2007	2242	Petty Cash	X	-125.00	-357,351.93
Check	1/19/2007	VISA	NextStore	X	-6.04	-357,357.97
Check	1/22/2007	2247	Two Oaks Consultin...	X	-30,000.00	-387,357.97
Check	1/22/2007	VISA	Kee Grill	X	-186.02	-387,543.99
Check	1/22/2007	2246	T-Mobile	X	-107.10	-387,651.09
Check	1/22/2007	VISA	Brio	X	-73.13	-387,724.22
General Journal	1/23/2007	EFT	Paychex DirDep/RCX	X	-25,000.00	-412,724.22
General Journal	1/23/2007	EFT	Paychex Taxpay	X	-19,489.07	-432,213.29
Check	1/23/2007	EFT	Cingular Wireless	X	-1,674.58	-433,887.87
Bill Pmt -Check	1/23/2007	2252	William Alvarez	X	-1,330.00	-435,217.87
Check	1/23/2007	EFT	Cingular Wireless	X	-286.64	-435,504.51
Bill Pmt -Check	1/23/2007	2254	AVS Underwriting, ...	X	-225.00	-435,729.51
Bill Pmt -Check	1/23/2007	2257	FedEx	X	-202.75	-435,932.26
Bill Pmt -Check	1/23/2007	2251	Totally Chocolate	X	-20.00	-435,952.26
Check	1/24/2007	EFT	Larry Bishins	X	-20,000.00	-455,952.26
Bill Pmt -Check	1/24/2007	2261	Goldstein Lewin & ...	X	-4,891.70	-460,843.96
Bill Pmt -Check	1/24/2007	2260	FedEx	X	-374.72	-461,218.68
Check	1/24/2007	2265	TeleOptions	X	-326.82	-461,545.50
Check	1/25/2007	EFT	CFC of Delaware LLC	X	-40,418.00	-501,963.50
Check	1/25/2007	VISA	BellSouth	X	-460.83	-502,424.33
Check	1/26/2007	2266	American Express	X	-14,284.85	-516,709.18
Check	1/29/2007	VISA	NextStore	X	-43.50	-516,752.68
Check	1/30/2007	EFT	APS	X	-1,000.00	-517,752.68
Check	1/31/2007	SWE...	Wachovia Bank	X	-1,078,000.00	-1,595,752.68
Check	1/31/2007	VISA	Wine Course	X	-117.00	-1,595,869.68
Check	1/31/2007	EFT	Paychex Taxpay	X	-48.31	-1,595,917.99
Check	1/31/2007	EFT	Paychex Taxpay	X	-42.86	-1,595,960.85
Total Checks and Payments					-1,595,960.85	-1,595,960.85
Deposits and Credits - 9 items						
Deposit	1/2/2007	SWE...	Arbitrage Internatio...	X	1,591,742.47	1,591,742.47
Deposit	1/5/2007	DEP	Coffee Whiz.com	X	23.96	1,591,766.43
Bill Pmt -Check	1/14/2007		David Stern Design...	X	0.00	1,591,766.43
Check	1/19/2007	2243	Simon Bernstein	X	0.00	1,591,766.43
Deposit	1/29/2007			X	4,587.18	1,596,353.61
Check	1/30/2007	EFT	APS	X	0.00	1,596,353.61
Bill Pmt -Check	1/31/2007	2276	Peninsula Corp., Ltd.	X	0.00	1,596,353.61
Check	2/1/2007	SWE...	Wachovia Bank	X	0.00	1,596,353.61
Bill Pmt -Check	2/6/2007	2295	Blue Box Design	X	0.00	1,596,353.61
Total Deposits and Credits					1,596,353.61	1,596,353.61
Total Cleared Transactions					392.76	392.76
Cleared Balance					392.76	1,129.00



Stansbury's

Exh. 12

to Tescher skpo

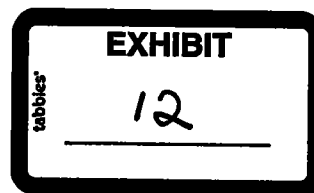
IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL
IN RE: SIMON BERNSTEIN PROBATE DIVISION
IRREVOCABLE INSURANCE
TRUST dated JUNE 21, 1995 FILE NO.:

**DECLARATORY ACTION TO ESTABLISH A LOST
TRUST
AND APPOINT A SUCCESSOR TRUSTEE**

COMES NOW TED BERNSTEIN, son of SIMON BERNSTEIN ("SIMON"), deceased, and alleges the following:

Parties, Jurisdiction and Venue

1. This is an action to establish the terms of a lost trust, including the determination of a successor trustee, pursuant to Florida Statutes 86.011, 86.041 and 736.0201(2) and (4).
2. Florida Statutes 86.736.0201 provides, in part, for the Court to intervene in the administration of a trust when invoked by an interested person relating to the validity, administration or distribution of a trust, appoint or remove a trustee and ascertain beneficiaries.
3. Petitioner, TED S. BERNSTEIN ("TED"), is of legal age and a resident of Palm Beach County, Florida, and the former Personal Representative and current trustee of the FAMILY TRUST F/B/O SIMON BERNSTEIN under the SHIRLEY BERNSTEIN REVOCABLE TRUST.
4. SHIRLEY BERNSTEIN is the predeceased spouse of SIMON, who upon information and belief was the Trustee of the SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST (the "ILIT"), an irrevocable trust established by SIMON on June 21, 1995.
5. SIMON died on September 13, 2012 and his estate is now being probated in the Circuit Court for Palm Beach County, Florida. SIMON is survived by the following adult children:



TED S. BERNSTEIN, resident of Palm Beach County, Florida ;
PAMELA BERNSTEIN, resident of Chicago, Illinois;
ELIOT BERNSTEIN, resident of Palm Beach County, Florida;
JILL IANTONI, resident of Highland Park, Illinois; and
LISA S. FRIEDSTEIN, resident of Highland Park, Illinois (hereinafter sometimes referred to as the "Children").

All of the Children are sui juris and have either executed and filed Consents to the relief sought or have been served with this Petition.

6. Venue of this proceeding is proper in this Court pursuant to Florida Statutes 737.0204 and Chapter 47 because the ILIT's principal place of administration and Trust situs was and remained in Palm Beach County, Florida.

General Allegations

7. Attached as Exhibit "A" is a copy of the Form SS-4, Application for Employer Identification Number, reflecting the name of the ILIT and signed by SHIRLEY as the Trustee and dated June 21, 1995.
8. Diligent search for the ILIT or a copy of it has been made, including inquiry with the insurance carrier, HERITAGE UNION LIFE INSURANCE COMPANY ("HERITAGE"), search of SIMON'S and SHIRLEY'S papers and documents, lawyer files and accountant files, and no original or copy has been located.
9. Upon information and belief, the Petitioner, TED, was named as the successor Trustee to SHIRLEY of the ILIT. (See Affidavit of David Simon, Esq., son-in-law of SIMON and SHIRLEY, attached hereto as Exhibit "B").
10. Upon information and belief, the beneficiaries of the ILIT were the children of SIMON and SHIRLEY, in equal shares and per stirpes. (See Affidavit of Robert L. Spallina, Esq., personal attorney to SIMON and SHIRLEY during their lifetimes, attached hereto as Exhibit "C").
11. HERITAGE has advised counsel for the Petitioner that their records reflect the owner of the life insurance policy to be SIMON and the beneficiary to be the ILIT. (See copy of communication from carrier dated _____ attached hereto as Exhibit

"D").

12. HERITAGE will not settle and pay the death benefit under policy #1009208 until receipt of a court order identifying the successor trustee of the ILIT.
13. In order to avoid delays occasioned by the need to open new banking arrangements for the ILIT to process and distribute the insurance proceeds, TED wishes to authorize HERITAGE to disburse the death benefit proceeds to Tescher & Spallina, P.A. Trust Account at Sabadell Bank.

WHEREFORE, Petitioner respectfully requests this Court to determine that

A. TED S. BERNSTEIN is the successor trustee to SHIRLEY BERNSTEIN of the SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST dated June 21, 1995;

B. The remainder beneficiaries of the SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST dated June 21, 1995 are the five (5) children of SIMON and SHIRLEY, in equal shares, per stirpes;

C. HERITAGE UNION LIFE INSURANCE COMPANY be directed to distribute the death benefit proceeds to the Tescher & Spallina, P.A. Trust Account at Sabadell Bank.

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 _____, 2013

TED S. BERNSTEIN

Donald R. Tescher, Esq.
Attorney for Petitioner
Florida Bar No. 121086
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Telephone: (561) 997-7008
Fax: (561) 997-7308

N:\WPDATA\ctm\ts\Bernstein, Simon\Life Insurance Trust\Declaratory Action to Establish a Lost Trust.wpd

Stansbury's

Exh. 13

to Tescher ~~Depo~~

WILL OF
SIMON L. BERNSTEIN

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.

CONFORMED COPY

WILL OF

SIMON L. BERNSTEIN

The original of this Will is being held in the safe deposit box of the law firm of Tescher & Spallina, P.A.

I, SIMON L. BERNSTEIN, of Palm Beach County, Florida, hereby revoke all my prior Wills and Codicils and make this Will. My spouse is SHIRLEY BERNSTEIN ("**SHIRLEY**"). 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 SHIRLEY, if SHIRLEY 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 SHIRLEY 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 SHIRLEY nor any child of mine survives me, this property shall pass with the residue of my estate.

ARTICLE II. RESIDENCES

I give to SHIRLEY, if SHIRLEY 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 SHIRLEY 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 SIMON L. BERNSTEIN

TESCHER & SPALLINA, P.A.

ARTICLE IV. PERSONAL REPRESENTATIVES

1. **Appointment and Bond.** I appoint SHIRLEY and WILLIAM E. STANSBURY, or either of them alone if the other is unable to serve, 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.

[remainder of page intentionally left blank]

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

/s/ Simon L. Bernstein
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 20 day of May, 2008.

/s/ Robert L. Spallina residing at 7387 Wisteria Ave
(Witness Signature) (Witness Address)

Parkland, FL 33076
(Witness Address)

/s/ Diana Banks residing at 23415 Boca Trace Dr
(Witness Signature) (Witness Address)

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.

/s/ Simon L. Bernstein
SIMON L. BERNSTEIN, Testator

We, Robert Spallina and Diana Banks, 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.

/s/ Robert L. Spallina
Witness

/s/ Diana Banks
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 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 SIMON L. BERNSTEIN and the subscribing witnesses, all on this 20 day of May, 2008.

Kimberly Moran
Commission # DD766470
Expires: APR. 28 2012

/s/ Kimberly Moran
Signature - Notary Public-State of Florida

[Seal with Commission Expiration Date]

Print, type or stamp name of Notary Public

F:\WPDATA\ldr\Wernstein, Shirley & Simon\2008 Estate Planning\Will of Simon L. Bernstein.wpd [08 15:41:29 5 19]

LAST WILL
OF SIMON L. BERNSTEIN

-8-

TESCHER & SPALLINA, P.A.

TS001367

LAW OFFICES
TESCHER & SPALLINA, P.A.

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

TEL. 561-997-7008
FAX 561-997-7308
TOLL FREE: 888-997-7008
WWW.TESCHERSPALLINA.COM

**STANSBURY
EXHIBIT**
502012CP004391SB

SUPPORT STAFF
DIANE DUSTIN
KIMBERLY MORAN
SUANN TESCHER

ATTORNEYS
DONALD R. TESCHER
ROBERT L. SPALLINA
LAUREN A. GALVANI

December 6, 2012

VIA FACSIMILE: 803-333-4936

Attn: Bree
Claims Department
Heritage Union Life Insurance Company
1275 Sandusky Road
Jacksonville, IL 62651

Re: **Insured: Simon L. Bernstein**
Contract No.: 1009208

Dear Bree:

As per our earlier telephone conversation:

- We are unable to locate the Simon Bernstein Irrevocable Insurance Trust dated June 1, 1995, which we have spent much time searching for.
- Mrs. Shirley Bernstein was the initial beneficiary of the 1995 trust, but predeceased Mr. Bernstein.
- The Bernstein children are the secondary beneficiaries of the 1995 trust.
- We are submitting the Letters of Administration for the Estate of Simon Bernstein showing that we are the named Personal Representatives of the Estate.
- We would like to have the proceeds from the Heritage policy released to our firm's trust account so that we can make distributions amongst the five Bernstein children.
- If necessary, we will prepare for Heritage an Agreement and Mutual Release amongst all the children.
- We are enclosing the SS4 signed by Mr. Bernstein in 1995 to obtain the EIN number for the 1995 trust.

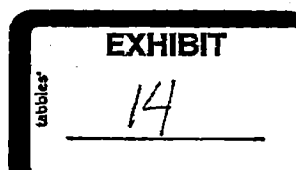
If you have any questions with regard to the foregoing, please do not hesitate to contact me.

Sincerely,

Robert L. Spallina
ROBERT L. SPALLINA

RLS/km

Enclosures



BT000083

CLAIMANT STATEMENT

00000000.0002710

DECEDENT INFORMATION			
1. Name of Deceased (Last, First Middle) Bernstein, Simon Leon		2. Last 4 digits of Deceased's Social Security No: 5211	
3. If the Deceased was known by any other names, such as maiden name, hyphenated name, nickname, derivative form of first and/or middle name or an alias, please provide them below.			
4. Policy Number(s) 1009208		5. If policy is lost or not available, please explain: Unable to locate, policy is 30 years old	
6. Deceased's Date of Death 09/13/12	7. Cause of Death natural causes	8. <input checked="" type="checkbox"/> Natural <input type="checkbox"/> Accidental <input type="checkbox"/> Suicide <input type="checkbox"/> Homicide <input type="checkbox"/> Pending	
CLAIMANT INFORMATION			
9. Claimant Name (Last, First, Middle). If trust, please list trust name and complete Trustee Certification section. Simon Bernstein Irrevocable Insurance Trust			
10. Street Address	11. City	12. State and Zip	13. Daytime Phone Number
14. Date of Birth	15. Social Security or Tax ID Number	16. Relationship to Deceased	
17. I am filing this claim as: <input type="checkbox"/> an individual who is named as a beneficiary under the policy <input type="checkbox"/> a Trustee of a Trust which is named as a beneficiary under the policy <input type="checkbox"/> an Executor of Estate which is named as a beneficiary under the policy <input type="checkbox"/> Other			
18. Are you a U.S. Citizen? <input type="checkbox"/> Yes <input type="checkbox"/> No If "No" please list country of citizenship			
19. Policies subject to Viatical / Life Settlement transactions - Are you a viatical settlement provider, life settlement provider, the receiver or conservator of viatical or life settlement company, a viatical or life financing entity, trustee, agent, securities intermediary or other representative of a viatical or life settlement provider; or an individual or entity which invested in this policy as a viatical or life settlement?			<input type="checkbox"/> Yes <input type="checkbox"/> No
CLAIMANT INFORMATION (to be completed by 2 nd claimant, if any)			
20. Claimant Name (Last, First, Middle). If trust, please list trust name and complete Trustee Certification section.			
21. Street Address	22. City	23. State and Zip	24. Daytime Phone Number
25. Date of Birth	26. Social Security or Tax ID Number	27. Relationship to Deceased	
28. I am filing this claim as: <input type="checkbox"/> an individual who is named as a beneficiary under the policy <input type="checkbox"/> a Trustee of a Trust which is named as a beneficiary under the policy <input type="checkbox"/> an Executor of Estate which is named as a beneficiary under the policy <input type="checkbox"/> Other			
29. Are you a U.S. Citizen? <input type="checkbox"/> Yes <input type="checkbox"/> No If "No" please list country of citizenship			
30. Policies subject to Viatical / Life Settlement transactions - Are you a viatical settlement provider, life settlement provider, the receiver or conservator of viatical or life settlement company, a viatical or life financing entity, trustee, agent, securities intermediary or other representative of a viatical or life settlement provider; or an individual or entity which invested in this policy as a viatical or life settlement?			<input type="checkbox"/> Yes <input type="checkbox"/> No

YOUR SIGNATURE IS REQUIRED ON THE NEXT PAGE.
CL 6012F Life Claimant Statement No RAA 12/23/2011 Page 3

CLAIMANT STATEMENT

00000000.0002711

SETTLEMENT OPTIONS

The policy may contain one or more settlement options, such as Interest Payments, Installments for a Specified Amount, Life Annuity, Life Annuity with Period Certain, and/or Joint Life and Survivorship Annuity. You may choose to receive a lump sum payment or another settlement option available in the policy under which a claim is made. For more information, refer to the optional methods of policy settlement provision in the policy or contact us at the mailing address noted on the front of the claim form.

If you wish to select a settlement option, please indicate your settlement selection by name (not by number) on the line below after you have carefully reviewed the options available in the policy. Availability of settlement options are subject to the terms of the policy. If you do not choose a settlement option, we will send a lump sum settlement to you.

Name of Settlement Option from Policy

Important Information About the USA PATRIOT Act

To help fight the funding of terrorism and money-laundering activities, the U.S. government has passed the USA PATRIOT Act, which requires banks, including our processing agent bank, to obtain, verify and record information that identifies persons who engage in certain transactions with or through a bank. This means that we will need to verify the name, residential or street address (no P.O. Boxes), date of birth and social security number or other tax identification number of all account owners.

SUBSTITUTE FOR IRS FORM W-9

This information is being collected on this form versus IRS form W-9 and will be used for supplying information to the Internal Revenue Service (IRS). Under penalty of perjury, I certify that 1) the tax ID number above is correct (or I am waiting for a number to be issued to me), 2) I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the IRS that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and 3) I am a U.S. person (including a U.S. resident alien). Please cross through item 2 if you have been notified by the IRS that you are subject to backup withholding because you have failed to report all interest and dividends on your tax return.

SIGNATURES

I/We do hereby make claim to said insurance, declare that the answers recorded above are complete and true, and agree that the furnishing of this and any supplemental forms do not constitute an admission by the Company that there was any insurance in force on the life in question, nor a waiver of its rights or defenses.

For Residents of New York: Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.

For Residents of All Other States: See the Fraud Information section of this claim form.

The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to avoid backup withholding.


Signature of Claimant and Title

Date

11/1/12

Signature of Second Claimant, if any, and Title

Date

CLAIMANT STATEMENT

TRUSTEE CERTIFICATION

00000000.0002712

TRUSTEE CERTIFICATION (to be completed only if trust is claiming proceeds)

COMPLETE THIS SECTION ONLY IF A TRUST IS CLAIMING BENEFITS.
Please include a copy of the trust agreement, including the signature page(s) and any amendments.

I/We, the undersigned trustee(s), represent and warrant that the copy of the trust agreement, which we will provide you pursuant to this certification, is a true and exact copy of said agreement, that said agreement is in full force and effect, and that we have the authority to make this certification.

Generation Skipping Transfer Tax Information - THIS MUST BE COMPLETED FOR PAYMENT

I/We the undersigned, on oath, depose and states as follows with respect to the possible application of the Generation Skipping Transfer (GST) tax to the death benefit payment (Mark the appropriate item):

- 1. The GST tax does not apply because the death benefit is not included in the decedent's estate for federal estate tax purposes.
- 2. The GST tax does not apply because the GST tax exemption will offset the GST tax.
- 3. The GST tax does not apply because at least one of the trust beneficiaries is not a "skipped" person.
- 4. The GST tax does not apply because of the reasons set forth in the attached document (Please attach document setting forth the reasons why you believe the GST tax does not apply.)
- 5. The GST tax may apply. As a result, the death benefit payment IS subject to withholding of the applicable GST tax. Enclosed is the completed Schedule R-1 (Form 706) for submission to the Internal Revenue Service.

Name of Trust <i>Simon Bernstein Irrevocable Insurance Trust</i>	Date of Trust Agreement <i>06/01/1995</i>
Date of all Amendments	Trust Tax ID Number <i>65-6178916</i>
Printed Name of Trustee(s)	Signature(s)
a. <i>[Signature]</i>	<i>Robert L. Spallina</i>
b. _____	_____
c. _____	_____
d. _____	_____

Stansbury's
Exh. 15
to Tescher's depo

FLORIDA DEPARTMENT OF STATE
DIVISION OF CORPORATIONS



Detail by Entity Name

Florida Limited Liability Company

T & S REGISTERED AGENTS, LLC

Filing Information

Document Number	L08000110070
FEI/EIN Number	N/A
Date Filed	11/25/2008
State	FL
Status	ACTIVE
Last Event	REINSTATEMENT
Event Date Filed	10/11/2012
Event Effective Date	NONE

Principal Address

925 S. FEDERAL HIGHWAY,
SUITE 500
BOCA RATON, FL 33432

Changed: 03/06/2014

Mailing Address

925 S. FEDERAL HIGHWAY,
SUITE 500
BOCA RATON, FL 33432

Changed: 03/06/2014

Registered Agent Name & Address

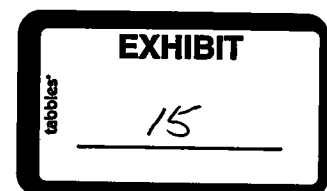
TESCHER, DONALD R
4855 TECHNOLOGY WAY
SUITE 720
BOCA RATON, FL 33431

Authorized Person(s) Detail

Name & Address

Title MGRM

TESCHER, DONALD R



4855 TECHNOLOGY WAY, SUITE 720
BOCA RATON, FL 33431

Title MGRM

SPALLINA, ROBERT L
4855 TECHNOLOGY WAY, SUITE 720
BOCA RATON, FL 33431

Annual Reports

Report Year	Filed Date
2012	10/11/2012
2013	03/21/2013
2014	01/08/2014

Document Images

01/08/2014 -- ANNUAL REPORT	View image in PDF format
03/21/2013 -- ANNUAL REPORT	View image in PDF format
10/11/2012 -- REINSTATEMENT	View image in PDF format
03/04/2011 -- ANNUAL REPORT	View image in PDF format
04/05/2010 -- ANNUAL REPORT	View image in PDF format
04/01/2009 -- ANNUAL REPORT	View image in PDF format
11/25/2008 -- Florida Limited Liability	View image in PDF format

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State of Florida, Department of State

2014 FLORIDA LIMITED LIABILITY COMPANY ANNUAL REPORT

DOCUMENT# L08000110070

Entity Name: T & S REGISTERED AGENTS, LLC

Current Principal Place of Business:

4855 TECHNOLOGY WAY
SUITE 720
BOCA RATON, FL 33431

Current Mailing Address:

4855 TECHNOLOGY WAY
SUITE 720
BOCA RATON, FL 33431

FEI Number: NOT APPLICABLE

Certificate of Status Desired: No

Name and Address of Current Registered Agent:

TESCHER, DONALD R
4855 TECHNOLOGY WAY
SUITE 720
BOCA RATON, FL 33431 US

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE:

Electronic Signature of Registered Agent

Date

Authorized Person(s) Detail :

Title MGRM
Name TESCHER, DONALD R
Address 4855 TECHNOLOGY WAY, SUITE 720
City-State-Zip: BOCA RATON FL 33431

Title MGRM
Name SPALLINA, ROBERT L
Address 4855 TECHNOLOGY WAY, SUITE 720
City-State-Zip: BOCA RATON FL 33431

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 605, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.

SIGNATURE: ROBERT L. SPALLINA

VP

01/08/2014

Electronic Signature of Signing Authorized Person(s) Detail

Date

2013 FLORIDA LIMITED LIABILITY COMPANY ANNUAL REPORT

DOCUMENT# L08000110070

Entity Name: T & S REGISTERED AGENTS, LLC

Current Principal Place of Business:

4855 TECHNOLOGY WAY
SUITE 720
BOCA RATON, FL 33431

Current Mailing Address:

4855 TECHNOLOGY WAY
SUITE 720
BOCA RATON, FL 33431

FEI Number: NOT APPLICABLE

Certificate of Status Desired: No

Name and Address of Current Registered Agent:

TESCHER, DONALD R
4855 TECHNOLOGY WAY
SUITE 720
BOCA RATON, FL 33431 US

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE:

Electronic Signature of Registered Agent

Date

Authorized Person(s) Detail :

Title MGRM
Name TESCHER, DONALD R
Address 4855 TECHNOLOGY WAY, SUITE 720
City-State-Zip: BOCA RATON FL 33431

Title MGRM
Name SPALLINA, ROBERT L
Address 4855 TECHNOLOGY WAY, SUITE 720
City-State-Zip: BOCA RATON FL 33431

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 608, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.

SIGNATURE: DONALD R. TESCHER

MGRM

03/21/2013

Electronic Signature of Signing Authorized Person(s) Detail

Date

2012 LIMITED LIABILITY COMPANY REINSTATEMENT

DOCUMENT# L08000110070

**FILED
Oct 11, 2012
Secretary of State**

Entity Name: T & S REGISTERED AGENTS, LLC

Current Principal Place of Business:

New Principal Place of Business:

4855 TECHNOLOGY WAY
SUITE 720
BOCA RATON, FL 33431

Current Mailing Address:

New Mailing Address:

4855 TECHNOLOGY WAY
SUITE 720
BOCA RATON, FL 33431

FEI Number: **FEI Number Applied For ()** **FEI Number Not Applicable (X)** **Certificate of Status Desired ()**

Name and Address of Current Registered Agent:

Name and Address of New Registered Agent:

TESCHER, DONALD R
4855 TECHNOLOGY WAY
SUITE 720
BOCA RATON, FL 33431 US

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: DONALD R. TESCHER

Electronic Signature of Registered Agent

Date

MANAGING MEMBERS/MANAGERS:

Title: MGRM
Name: TESCHER, DONALD R
Address: 4855 TECHNOLOGY WAY, SUITE 720
City-St-Zip: BOCA RATON, FL 33431

Title: MGRM
Name: SPALLINA, ROBERT L
Address: 4855 TECHNOLOGY WAY, SUITE 720
City-St-Zip: BOCA RATON, FL 33431

I hereby certify that the information indicated on this report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 608, Florida Statutes.

SIGNATURE: DONALD R. TESCHER

MGR

10/11/2012

Electronic Signature of Signing Managing Member, Manager, or Authorized Representative / Date

2011 LIMITED LIABILITY COMPANY ANNUAL REPORT

DOCUMENT# L08000110070

FILED
Mar 04, 2011
Secretary of State

Entity Name: T & S REGISTERED AGENTS, LLC

Current Principal Place of Business:

4855 TECHNOLOGY WAY
SUITE 720
BOCA RATON, FL 33431

New Principal Place of Business:

Current Mailing Address:

4855 TECHNOLOGY WAY
SUITE 720
BOCA RATON, FL 33431

New Mailing Address:

FEI Number: FEI Number Applied For () FEI Number Not Applicable (X) Certificate of Status Desired ()

Name and Address of Current Registered Agent:

TESCHER, DONALD R
4855 TECHNOLOGY WAY
SUITE 720
BOCA RATON, FL 33431 US

Name and Address of New Registered Agent:

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: _____

Electronic Signature of Registered Agent

_____ Date

MANAGING MEMBERS/MANAGERS:

Title: MGRM
Name: TESCHER, DONALD R
Address: 4855 TECHNOLOGY WAY, SUITE 720
City-St-Zip: BOCA RATON, FL 33431

Title: MGRM
Name: SPALLINA, ROBERT L
Address: 4855 TECHNOLOGY WAY, SUITE 720
City-St-Zip: BOCA RATON, FL 33431

I hereby certify that the information indicated on this report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 608, Florida Statutes.

SIGNATURE: DONALD R. TESCHER

MGR

03/04/2011

Electronic Signature of Signing Managing Member, Manager, or Authorized Representative / Date

2009 LIMITED LIABILITY COMPANY ANNUAL REPORT

DOCUMENT# L08000110070

FILED
Apr 01, 2009
Secretary of State

Entity Name: T & S REGISTERED AGENTS, LLC

Current Principal Place of Business:

4855 TECHNOLOGY WAY
SUITE 720
BOCA RATON, FL 33431

New Principal Place of Business:

Current Mailing Address:

4855 TECHNOLOGY WAY
SUITE 720
BOCA RATON, FL 33431

New Mailing Address:

FEI Number: FEI Number Applied For (X) FEI Number Not Applicable () Certificate of Status Desired ()

Name and Address of Current Registered Agent:

TESCHER, DONALD R
4855 TECHNOLOGY WAY
SUITE 720
BOCA RATON, FL 33431 US

Name and Address of New Registered Agent:

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: _____

Electronic Signature of Registered Agent

_____ Date

MANAGING MEMBERS/MANAGERS:

Title: MGRM () Delete
Name: TESCHER, DONALD R
Address: 4855 TECHNOLOGY WAY, SUITE 720
City-St-Zip: BOCA RATON, FL 33431

Title: MGRM () Delete
Name: SPALLINA, ROBERT L
Address: 4855 TECHNOLOGY WAY, SUITE 720
City-St-Zip: BOCA RATON, FL 33431

ADDITIONS/CHANGES:

Title: () Change () Addition
Name: _____
Address: _____
City-St-Zip: _____

Title: () Change () Addition
Name: _____
Address: _____
City-St-Zip: _____

I hereby certify that the information supplied with this filing does not qualify for the exemption stated in Chapter 119, Florida Statutes. I further certify that the information indicated on this report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 608, Florida Statutes.

SIGNATURE: DONALD R. TESCHER MGRM 04/01/2009

Electronic Signature of Signing Managing Member, Manager, or Authorized Representative / Date

**Electronic Articles of Organization
For
Florida Limited Liability Company**

L08000110070
FILED 8:00 AM
November 25, 2008
Sec. Of State
nculligan

Article I

The name of the Limited Liability Company is:

T & S REGISTERED AGENTS, LLC

Article II

The street address of the principal office of the Limited Liability Company is:

4855 TECHNOLOGY WAY
SUITE 720
BOCA RATON, FL. 33431

The mailing address of the Limited Liability Company is:

4855 TECHNOLOGY WAY
SUITE 720
BOCA RATON, FL. 33431

Article III

The purpose for which this Limited Liability Company is organized is:

ANY AND ALL LAWFUL BUSINESS.

Article IV

The name and Florida street address of the registered agent is:

DONALD R TESCHER
4855 TECHNOLOGY WAY
SUITE 720
BOCA RATON, FL. 33431

Having been named as registered agent and to accept service of process for the above stated limited liability company at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

Registered Agent Signature: DONALD R. TESCHER

Article V

The name and address of managing members/managers are:

Title: MGRM
DONALD R TESCHER
4855 TECHNOLOGY WAY, SUITE 720
BOCA RATON, FL. 33431

Title: MGRM
ROBERT L SPALLINA
4855 TECHNOLOGY WAY, SUITE 720
BOCA RATON, FL. 33431

Signature of member or an authorized representative of a member

Signature: DONALD R. TESCHER

L08000110070
FILED 8:00 AM
November 25, 2008
Sec. Of State
nculligan