

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

FILE NO. 502012CP004391XXXXSB

IN RE: ESTATE OF
SIMON BERNSTEIN,

Deceased.

**CURATOR'S PETITION FOR APPROVAL OF
ACCOUNTING AND FOR DISCHARGE**

COMES NOW, Curator, Benjamin P. Brown ("Curator"), by and through undersigned counsel, files this Petition for Approval of Accounting and for Discharge pursuant to Florida Probate Rule 5.122 and Florida Statutes §733.5036, and states as follows:

1. On February 25, 2014, this Court entered an Order on "Interested Person" William Stansbury's Motion for the Appointment of a Curator or Successor Personal Representative ("Order Appointing Curator"), appointing Benjamin P. Brown as Curator of the Estate of Simon L. Bernstein ("Estate"). On March 11, 2014, this Court entered Letters of Curatorship in Favor of Benjamin Brown ("Letters").

2. This Court has appointed Brian M. O'Connell, Esq. as Successor Personal Representative of this Estate on July 11, 2014.

3. Attached hereto as Exhibit A is the Accounting of Curator that has been or is being contemporaneously filed with the Court.

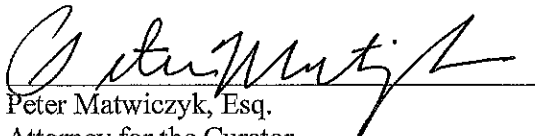
4. The Curator is currently owed \$14,022.84 for May 2014 and \$16,781.46 for June 2014, for a total of \$30,804.30. The Curator has and will also incur fees for July 2014 that are presently undetermined.

5. The Curator intends to deliver possession of all Estate assets in his possession to the Successor Personal Representative.

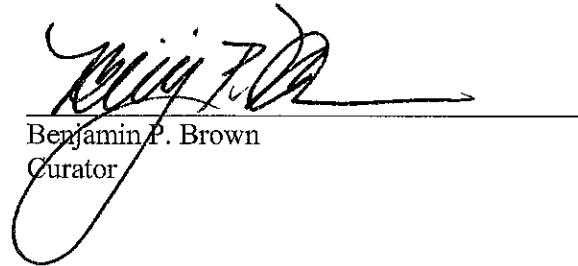
6. Under the circumstances, the Curator is entitled to receive a discharge from the Court, as well as payment of his remaining fees.

WHEREFORE, the Curator respectfully requests that this Court enter an Order providing for payment of the Curator's outstanding fees, approving the Curator's Accounting, discharging the Curator, and for such other relief as this Court deems just and proper.

Dated this 16 day of July, 2014.



Peter Matwiczuk, Esq.
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Benjamin P. Brown
Curator

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

FILE NO. 502012CP004391XXXXSB

IN RE: ESTATE OF
SIMON BERNSTEIN,

Deceased.

ACCOUNTING OF CURATOR

From: March 1, 2014, Through: June 30, 2014

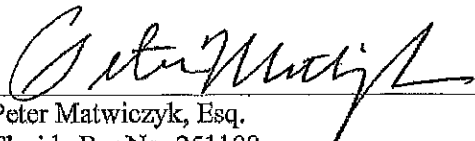
The purpose of this accounting is to acquaint all interested persons with the transactions that have occurred during the period covered by the accounting and the assets that remain on hand. It consists of a SUMMARY sheet and Schedule A showing all Receipts, Schedule B showing all Disbursements, Schedule C showing all Distributions, Schedule D showing all Capital Transactions and Adjustments (the effect of which are also reflected in other schedules, if appropriate), and Schedule E showing assets on hand at the end of the accounting period.

It is important that this accounting be carefully examined. Requests for additional information and any questions should be addressed to the personal representative or the attorneys for the personal representative, the names and addresses of whom are set forth below.

Under penalties of perjury, the undersigned personal representative declares that I have read and examined this accounting and that the facts and figures set forth in the Summary and the attached Schedules are true, to the best of my knowledge and belief, and that it is a complete report of all cash and property transactions and of all receipts and disbursements by me as Curator of the Estate of Simon Bernstein, deceased, from March 1, 2014¹ through June 30, 2014.

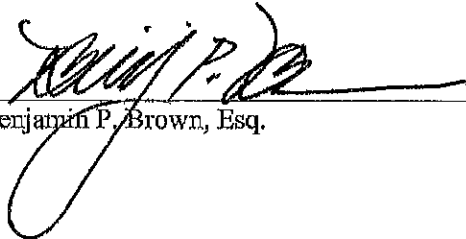
Signed on July 14, 2014.

Attorney for the Curator:



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Curator:



Benjamin P. Brown, Esq.



¹ The Final Accounting of the undischarged Co-Personal Representatives, Donald Tescher and Robert Spallina, is for the period September 13, 2012 through February 28, 2014. Objections to that Accounting are pending. Benjamin P. Brown was appointed as Curator by Order dated February 25, 2014. Letters of Curatorship were issued to the Curator on March 11, 2014.
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IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FLORIDA
PROBATE DIVISION

FILE NO. 502012CP004391XXXXSB

IN RE: ESTATE OF
SIMON BERNSTEIN,

Deceased.

ACCOUNTING OF CURATOR

From: March 1, 2014, Through: June 30, 2014

SUMMARY

	<u>Income</u>	<u>Principal</u>	<u>Totals</u>
I. <u>Starting Balance</u> Assets per Inventory or on Hand at Close of Last Accounting Period			\$1,107,664.39 ²
II. <u>Receipts</u> Schedule A:	\$10.73	\$12,245.00	\$12,255.73
III. <u>Disbursements</u> Schedule B:	\$0.00	\$17,555.46	\$17,555.46
IV. <u>Distributions</u> Schedule C:	\$0.00	\$12,245.00	\$12,245.00
V. <u>Capital Transactions and Adjustments</u> Schedule D: Net Gain or (Loss)	\$0.00	\$27,796.94	\$27,796.94
VI. <u>Assets on Hand at Close of Accounting Period</u> Schedule E: Cash and Other Assets			<u>\$1,117,916.60</u>

NOTE: Refer to Florida Probate Rule 5.330(b), 5.345, 5.346, and 5.400.

Also see Accountings, Chapter 12 of Practice Under Florida Probate Code (Fla. Bar CLE).

Entries on Summary are to be taken from totals on Schedules A, B, C, and D.

The Summary and Schedules A, B, C, D and E are to constitute the full accounting. Every transaction occurring during the accounting period should be reflected on the Schedules.

All purchases and sales, all adjustments to the inventory or carrying value of any asset, and any other changes in the assets (such as stock splits) should be described on Schedule D.

The amount in the "Total" column for Item VI must agree with the total inventory or adjusted carrying value of all assets on hand at the close of the accounting period on Schedule E.

² Assets on Hand at Close of Accounting filed by Co-Personal Representatives, Donald Tescher and Robert Spallina, for the period September 13, 2012 through February 28, 2014 (the "T&S Accounting"). The T&S Accounting has not been approved by the Court, and multiple objections have been filed and remain pending.
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**ACCOUNTING OF CURATOR
ESTATE OF SIMON BERNSTEIN
From: March 1, 2014, Through: June 30, 2014**

SCHEDULE A- Receipts During Period

Date	Brief Description of Items	Income	Principal
03/27/14	2013 Kia Automobile (VIN KNDJT2A50D7497193) ³		\$12,245.00
03/01/14 – 04/21/14	Interest earned on Sabadell Checking Account Ending 7176	\$5.53	
04/21/14 – 06/30/14	Interest earned on Sabadell Checking Account Ending 5346	\$5.20	
	TOTAL	----- \$10.73	----- \$12,245.00

NOTE: Schedule A should reflect only those items received during administration that are not shown on the inventory. Classification of items as income or principal is to be in accordance with the provisions of the Florida Uniform Principal and Income Act, Chapter 738, Florida Statutes.

Entries involving the sale of assets or other adjustments to the carrying values of assets are to be shown on Schedule D, and not on Schedule A.

³ Not shown on the Inventory or the T&S Accounting. The original title to the Kia was received by the Curator on March 27, 2014.
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**ACCOUNTING OF CURATOR
ESTATE OF SIMON BERNSTEIN
From: March 1, 2014, Through: June 30, 2014**

SCHEDULE B - Disbursements

Date	Brief Description of Items	Income	Principal
	<u>From Sabadell Account Ending 5346:</u>		
05/13/14	CBIZ MHM, Inc. (Invoice dated 2/28/14 and addressed to Simon Bernstein Estate)		\$1,886.94
05/13/14	Matwiczuk & Brown, LLP (Curator fees, Court Order dated 4/22/14)		\$8,481.62
06/12/14	Matwiczuk & Brown, LLP (Curator fees, Court Order dated 6/12/14)		\$7,186.90
			----- \$17,555.46 ⁴

NOTE: Schedule B should reflect only those items paid out during the accounting period. Classification of disbursements as income or principal is to be in accordance with the provisions of the Florida Uniform Principal and Income Act, Chapter 738, Florida Statutes.

Entries involving the purchase of assets or adjustments to the carrying values of assets are to be shown on Schedule D, and not on Schedule B.

⁴ On June 20, 2014, the Curator filed his Third Petition for Payment of Curator's Fees seeking payment for services rendered in May 2014 in the amount of \$13,127.50 and costs in the amount of \$895.34, for a total of \$14,022.84. The Petition is pending. On July 16, 2014, the Curator filed his Fourth Petition for Payment of Curator's Fees seeking payment of fees and costs incurred in June in the total amount of \$16,781.46, and has incurred and will incur additional fees in July 2014.

ACCOUNTING OF CURATOR
ESTATE OF SIMON BERNSTEIN
From: March 1, 2014, Through: June 30, 2014

SCHEDULE C- Distributions

Date	Brief Description of Items	Income	Principal
04/11/14	2013 Kia Automobile (VIN KNDJT2A50D7497193) transferred to Candice Bernstein per Court Order dated 3/26/14 ⁵		\$12,245.00

NOTE: Schedule C should reflect only those items or amounts distributed to beneficiaries during the accounting period. Assets distributed should be shown at their inventory or adjusted carrying values. Classification of disbursements as income or principal is to be in accordance with the provisions of the Florida Uniform Principal and Income Act, Chapter 738, Florida Statutes.

Entries involving adjustments to the carrying values of assets are to be shown on Schedule D, and not on Schedule C.

⁵ As the March 26, 2014 Order reflects, there is an unresolved dispute whether this item was gifted by Decedent pre-death.
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**ACCOUNTING OF CURATOR
ESTATE OF SIMON BERNSTEIN
From: March 1, 2014, Through: June 30, 2014**

SCHEDULE D - Capital Transactions and Adjustments

Date	Brief Description of Transactions	Net Unrealized Gains	Net Loss
03/01/14 – 06/30/14	Net increase in Simon Bernstein IRA (old JP Morgan Account Ending 5007, new JP Morgan Account Ending 8004) ⁶ taking into account income, gains/losses, and distributions from close of the T&S Accounting to the close of this Accounting on 6/30/14. The Net Gain reflects an unrealized gain, which gain or loss will be realized when assets in the IRA account are sold. (See footnote 6 below.)	\$27,796.94	
	TOTAL NET UNREALIZED GAINS AND (LOSSES)	\$27,796.94	\$0.00

NOTE: Schedule D should reflect all purchases and sales of assets and any adjustments to the carrying values of any assets.

Entries reflecting sales should show the inventory or adjusted carrying values, the costs and expenses of the sale, and the net proceeds received. The net gain or loss should be extended in the appropriate column on the right side of Schedule D.

Entries reflecting purchases should reflect the purchase price, any expenses of purchase or other adjustments to the purchase price, and the total amount paid. Presumably no gain or loss would be shown for purchases.

Entries reflecting adjustments in capital assets should explain the change (such as a stock split) and the net gain or loss should be shown in the appropriate column on the right side of Schedule D.

The NET gain or loss should be entered in the Principal column of the Summary.

⁶ On June 19, 2014, the Court entered an Order on Curator's Motion for Instructions Regarding Authority to Liquidate IRA. When the Curator presented the Order to JP Morgan, the Curator was advised that in order to liquidate the assets in the IRA, the assets must first be transferred from the IRA account ending 5007 to a new account ending 8004. On about June 23, 2014, JP Morgan started the process of moving the assets to the new account ending 8004, but that process was halted when the Curator realized that the June 19, 2014 Order required that the IRA assets remain in account ending 5007. On July 11, 2014, the Court entered the Amended Order on Curator's Motion for Instructions Regarding Authority to Liquidate IRA.
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**ACCOUNTING OF CURATOR
ESTATE OF SIMON BERNSTEIN
From: March 1, 2014, Through: June 30, 2014**

SCHEDULE E - Assets on Hand at Close of Accounting Period

	Estimated Current Value	Carrying Value
<u>ASSETS OTHER THAN CASH:</u>		
Furniture and Furnishings (located at 7020 Lions Head Lane, Boca Raton, FL and 2494 South Ocean Boulevard, Unit C-5, Boca Raton, FL) per appraisal by Robert A. Hittel Appraisal Services, Inc. dated January 22, 2013	\$51,135.00 ⁷	\$51,135.00
Jewelry (in Curator's possession) per appraisal by A. Matteini & Co., LLC dated May 14, 2013	\$63,205.00 ⁸	\$63,205.00
Promissory Note dated July 1, 2008, payable to Decedent by Bernstein Family Realty, LLC (original in Curator's possession)	\$365,000.00 ⁹	\$365,000.00
Simon Bernstein IRA – JP Morgan Account Ending 5007 (old)	\$381,888.25	\$381,888.25
Simon Bernstein IRA – JP Morgan Account Ending 8004 (new)	\$173,924.71	\$173,924.71
Reimbursements owed to the Estate by Bernstein Family Realty, LLC for expenses and legal fees per Schedule D of the T&S Accounting	\$25,500.00	\$25,500.00
Reimbursements owed to the Estate by the Simon Bernstein Insurance Trust ¹⁰ for legal fees per Schedule D of the T&S Accounting	\$20,000.00	\$20,000.00
LIC Holdings, Inc. (Company stock held at corporate office)	Unknown ¹¹	Unknown
OTHER ASSETS TOTAL	<u>\$1,080,652.96</u>	<u>\$1,080,652.96</u>

⁷ The Order authorizing inspection of this property was entered on June 24, 2014 ("Order"). Counsel for the purported Trustee of the Simon Bernstein Revocable Trust has subsequently advised that some of the items from both the condominium located at 2494 South Ocean Blvd., Unit C-5, Boca Raton, FL ("Condo") and from the house at 7020 Lions Head Lane, Boca Raton, FL ("House") are boxed and in the House's garage, and some items in the Condo were sold with the Condo. Accordingly, it appears unlikely that a) all of the items listed on Robert Hittel's Fair Market Value Appraisal Report, dated January 22, 2013, are still owned by the Estate, and b) that the inspection/inventory can be obtained within the \$500 budget imposed by the Order.

⁸ On July 7, 2014, the Curator filed a Motion for Instructions Regarding Jewelry. That Motion is pending.

⁹ Face amount of Note.

¹⁰ Whether said Trust exists is in dispute and the subject of *Simon Bernstein Irrevocable Insurance Trust DTD 6/21/95, et al v. Heritage Mutual Life Insurance Company*, United States District Court, Northern District of Illinois, Case No. 1:13-CV-03643.

¹¹ The Curator has made request on the President of LIC (who is also the purported Trustee of the Simon Bernstein Revocable Trust), through counsel, for information regarding the shares and their value, by letters dated June 18, 2014 and July 7, 2014. As of this Accounting, the information has not been provided to the Curator.

CASH:

Sabadell Checking Account ending 7176 ¹²	\$0.00	\$0.00
Sabadell Checking Account ending 5346	\$11,732.05	\$11,732.05
JP Morgan Checking Account ending 5220 ¹³	\$25,531.59	\$25,531.59
CASH TOTAL	<u>\$37,263.64</u>	<u>\$37,263.64</u>
	-----	-----
TOTAL ASSETS (must agree with the Total for Item VI on Summary)	<u>\$1,117,916.60</u>	<u>\$1,117,916.60</u>

NOTE: Schedule E should be a complete list of all assets on hand reflecting inventory values for each item, adjusted in accord with any appropriate entries on Schedule D.

Current market values for any assets that are known to be different from the inventory or carrying values as of the close of the accounting period should be shown in the column marked "Current Value." The total inventory or adjusted carrying value (not Current Value) must agree with the Total for Item VI on Summary.

¹² Account closed on April 21, 2014. The closing balance of \$29,282.31 was transferred to the Sabadell account (ending 5346) opened by the Curator on about April 21, 2014.

¹³ As of the June 2014 statement, JP Morgan had transferred this account to the name of the Curator, but failed to use the Curator's address for the statements (the June 2014 statement incorrectly uses the former Co-Personal Representatives' address). The Curator has requested that the address be corrected.