

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

IN RE: THE ESTATE OF  
SHIRLEY BERNSTEIN,  
Deceased

CASE NO. 502012CP004391XXXXSB  
HON. JUDGE MARTIN H. COLIN

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ELIOT IVAN BERNSTEIN, PRO SE  
PETITIONER,

V.

TESCHER & SPALLINA, P.A., (AND ALL PARTNERS,  
ASSOCIATES AND OF COUNSEL);  
ROBERT L. SPALLINA, ESQ., PERSONALLY;  
ROBERT L. SPALLINA, ESQ., PROFESSIONALLY;  
DONALD R. TESCHER, ESQ., PERSONALLY;  
DONALD R. TESCHER, ESQ., PROFESSIONALLY;  
THEODORE STUART BERNSTEIN, INDIVIDUALLY;  
THEODORE STUART BERNSTEIN, AS ALLEGED PERSONAL  
REPRESENTATIVE;  
THEODORE STUART BERNSTEIN, AS ALLEGED TRUSTEE  
AND SUCCESSOR TRUSTEE PERSONALLY;  
THEODORE STUART BERNSTEIN, AS ALLEGED TRUSTEE  
AND SUCCESSOR TRUSTEE, PROFESSIONALLY;  
THEODORE STUART BERNSTEIN, AS TRUSTEE FOR HIS  
CHILDREN;  
LISA SUE FRIEDSTEIN, INDIVIDUALLY AS A BENEFICIARY;  
LISA SUE FRIEDSTEIN, AS TRUSTEE FOR HER CHILDREN;  
JILL MARLA IANTONI, INDIVIDUALLY AS A BENEFICIARY;  
JILL MARLA IANTONI, AS TRUSTEE FOR HER CHILDREN;  
PAMELA BETH SIMON, INDIVIDUALLY;  
PAMELA BETH SIMON, AS TRUSTEE FOR HER CHILDREN;  
MARK MANCERI, ESQ., PERSONALLY;  
MARK MANCERI, ESQ., PROFESSIONALLY;  
MARK R. MANCERI, P.A. (AND ALL PARTNERS,  
ASSOCIATES AND OF COUNSEL);  
JOSHUA ENNIO ZANDER BERNSTEIN (ELIOT  
MINOR CHILD);  
JACOB NOAH ARCHIE BERNSTEIN (ELIOT  
MINOR CHILD);  
DANIEL ELIJSHA ABE OTTOMO BERNSTEIN  
(ELIOT MINOR CHILD);  
ALEXANDRA BERNSTEIN (THEODORE ADULT  
CHILD);

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ERIC BERNSTEIN (THEODORE ADULT CHILD);  
MICHAEL BERNSTEIN (THEODORE ADULT CHILD);  
MATTHEW LOGAN (THEODORE'S SPOUSE ADULT CHILD);  
MOLLY NORAH SIMON (PAMELA ADULT CHILD);  
JULIA IANTONI – JILL MINOR CHILD;  
MAX FRIEDSTEIN – LISA MINOR CHILD;  
CARLY FRIEDSTEIN – LISA MINOR CHILD;  
PAGE, MRACHEK, FITZGERALD & ROSE, P.A.  
(AND ALL PARTNERS, ASSOCIATES AND OF COUNSEL);  
ALAN B. ROSE, ESQ. – PERSONALLY;  
ALAN B. ROSE, ESQ. – PROFESSIONALLY;  
PANKAUSKI LAW FIRM PLLC, (AND ALL PARTNERS, ASSOCIATES AND OF COUNSEL);  
JOHN J. PANKAUSKI, ESQ. – PERSONALLY;  
JOHN J. PANKAUSKI, ESQ. – PROFESSIONALLY;  
KIMBERLY FRANCIS MORAN – PERSONALLY;  
KIMBERLY FRANCIS MORAN – PROFESSIONALLY;  
LINDSAY BAXLEY AKA LINDSAY GILES – PERSONALLY;  
LINDSAY BAXLEY AKA LINDSAY GILES – PROFESSIONALLY;  
THE ALLEGED “SIMON L. BERNSTEIN AMENDED AND RESTATED TRUST AGREEMENT” DATED JULY 25, 2012;  
JOHN AND JANE DOE’S (1-5000).

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**EMERGENCY MOTION TO COMPEL ALLEGED TRUSTEE OF THE SHIRLEY TRUST TO MAKE EMERGENCY WELFARE PAYMENTS AS PROVIDED FOR UNDER THE TRUST; MOTION FOR REMOVAL OF TRUSTEE ON THE COURT’S OWN INITIATIVE – FLORIDA TITLE XLII**

**736.0706**

COMES NOW, Eliot Ivan Bernstein (“Eliot”) or (“Petitioner”), PRO SE, as Beneficiary and Interested Party both for himself personally and Guardian for his three minor children (who may also be Beneficiaries and Interested Parties of the Estates and Trusts of Simon Bernstein (“Simon”) and Shirley Bernstein (“Shirley”), and hereby files this

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**“EMERGENCY MOTION TO COMPEL ALLEGED TRUSTEE OF THE SHIRLEY TRUST TO MAKE EMERGENCY WELFARE PAYMENTS AS PROVIDED FOR UNDER THE TRUSTS OF SIMON AND SHIRLEY; MOTION FOR REMOVAL OF TRUSTEE ON THE COURT’S OWN INITIATIVE – FLORIDA TITLE XLII 736.0706”**

and in support thereof states, on information and belief, as follows:

**EMERGENCY MOTION TO COMPEL ALLEGED TRUSTEE OF THE SHIRLEY TRUST TO MAKE EMERGENCY WELFARE PAYMENTS AS PROVIDED FOR UNDER THE TRUSTS OF SIMON AND SHIRLEY**

1. That Eliot Bernstein states that Theodore Bernstein (“Theodore”) or (“Ted”) has failed to make necessary Welfare Payments as provided for under the Shirley and Simon Trusts that he alleges to be a Trustee of.

From Shirley’s Alleged Trust,

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 "8'elfare" 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.

From Simon's Trust,

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.

2. That this Breach of ALLEGED Fiduciary Duties to make these Welfare Payments timely for three minor children's education has now put three minor children of Eliot's in danger of being pulled out their school as they have already been de-enrolled as of 8/19/2014 and their long planned and paid for educations set up by Simon and Shirley destroyed in opposite of the Trusts intent and language and Shirley's and Simon's wishes and desires.
3. That this Breach of ALLEGED Fiduciary Duties is yet another Breach in a long list of Breaches and other misconduct already posited with the Court, including criminal misconduct that Theodore is a central party to that prohibit Theodore from acting as a Fiduciary in the Estates and Trusts of Simon

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and Shirley and the Court is fully aware of this criminal misconduct.

4. That hearings were to be scheduled to hear multiple motions to remove Theodore filed by several parties in these matters were delayed and it is now time for the Court to hear those Motions and Petitions to remove Theodore and act on its own initiative to instantly remove Theodore in any fiduciary capacities forward BEFORE HEARING ANY OTHER PLEADINGS FILED BY THEODORE and represented by Alan Rose are heard by this Court.
5. That Alan Rose on August 19, 2014 in a hearing before this Court additionally notified the Court on the record that he was being sued in these matters as a Respondent and Defendant in other lawsuits relating to these matters and in prior hearings has already even been called as a material and fact witness regarding his involvement in ongoing investigations, the prior frauds and more, all new reasons and new conflicts that he should not be able to represent parties, other than himself going forward.
6. These issues of Eliot suing Alan and Theodore and the fact that they are under ongoing investigations due to Eliot efforts to have them prosecuted by criminal and civil authorities have led to extreme hostilities towards Eliot and as Theodore stated on the record in this Court, he stated that he and Alan had written in an email that they were intending on using force and aggression against Eliot. Eliot is a victim of the crimes already proven and admitted in these matters by Theodore's former counsel and fiduciaries in these matters that such frauds directly benefited their legal client and business associate Theodore.
7. That Theodore is additionally being sued with Alan for serious Breaches and other torts in these matters and is a Respondent in these matters and a Defendant in other lawsuits that conflict him and make him adverse to parties, which also further make him unfit to be a fiduciary forward in the

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Estates and Trusts of Simon and Shirley.

8. That Eliot was forced due to the delay in the hearings to remove Theodore, to request of the ALLEGED Trustee Theodore to make a Welfare Payment as provided for under the terms of the ALLEGED Shirley and/or Simon Trust as required for his children's school and have it deducted later from the TO BE DETERMINED BENEFICIARIES when distributions can FINALLY LEGALLY be made to Beneficiaries that at this time are unknown.
9. That in efforts to secure open ended liability releases and open ended indemnifications instead of as agreed in Court to be limited to the scope and amounts of the payments to Saint Andrews school, an agreement that was suggested by the Court to be made between the parties to try and solve this problem could not ultimately be agreed upon, as it did not meet the intent of this Court or Eliot as stated on the record to limit the scope of liabilities and the amount of indemnification and Theodore and Alan remain steadfast on violating the stated intent of the Court regarding these issues with clear and concise language. The Court can review the proposed language thread in Exhibit 1 herein, which has been uploaded to a private link @

[www.iviewit.tv/Simon and Shirley Estate/20140820EXHIBIT1ROSEandELIOTS EMAILS.pdf](http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140820EXHIBIT1ROSEandELIOTS%20EMAILS.pdf)

or

[www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140820EXHIBIT1ROSEandELIOTS%20EMAILS.pdf](http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140820EXHIBIT1ROSEandELIOTS%20EMAILS.pdf)

10. That it was also stated in the first draft of the Agreement proposed to Eliot by Alan for signing that "distributions" were being made to Eliot's children and this was wholly against the stated intent of this Court and Eliot agreed to in the hearing that any Agreement would make it clear that "distributions" were not being made to any party at this time, until the Court later decided who the beneficiaries are so that distributions could be made to a legal beneficiary.

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11. That in so following Alan's own advice as exhibited in the attached correspondences in Exhibit 1 and after consulting with other people including those Alan recommended review the proposed Agreement, another more fundamental issue arose that now questions if the Welfare Payments in question can be legally classified as "distributions" as the beneficiaries are unknown at this time and no parties disagree that due to the prior frauds committed by Theodore's former counsel that the beneficiaries are not known at this time and may not be for some time while the fraud and other alleged criminal acts and civil torts are heard and the Court determines what documents are valid and who the beneficiaries are to make any distributions to legally qualified Beneficiaries.
12. That Alan even conceded to removing that language that the distributions were going to the children, as exhibited in Exhibit 1 after discussing with Eliot that it could be fraudulent and make the agreement null and void.
13. That Alan and Theodore desire these changes that alter the fundamental purpose of the Welfare Payment as agreed, despite knowing what the Court Ordered to be drafted in the agreement for signing but cannot live without two things it appears. First, they desire Eliot to make "distributions" to his children as they have done fraudulently while knowing that this "distribution" would be fraudulent as there are no Beneficiaries known at this time due to the prior fraudulent activities and those alleged. Second, they desire to only have global releases from liabilities and unlimited amounts of indemnification for a \$133,500.00 transaction.
14. That after removing that language inserted regarding distributions to any party, which was opposite the Court and Eliot's intents, the discussion then moved to the language regarding limiting the release of liabilities and indemnification. Here the Court was crystal clear that the agreement was to limit the scope of any release from liabilities to the payment of Saint Andrews and limit the amount

of indemnification to the amount of the Saint Andrews payment of \$133,500.00.

15. That as Exhibit 1, at the final hour, Alan refused to make concessions on this point to clarify the language, despite claiming that everyone knew that the Agreement was limited in scope and amount to the payments to Saint Andrews and terms of that payment, as exhibited in Exhibit 1 but Alan refused to put clarifying language in and so the Court can review the language and see that it clearly has open ended liability release and open ended scope of liabilities and the amount of indemnification in each rendition Alan tried to have Eliot sign still was opposite of what the Court agreed would be in the Agreement regarding limiting these items when it was drafted for signature.
16. That after trying a best effort for 10 hours straight to secure the payments and modify the proposed agreement in Court for signing, no Agreement could be made, this after Alan wasted considerably more time and monies of everybody.
17. That due to this failure to reach Agreement with the Alleged Trustee, the Trustee's Counsel Alan became irate and sent an email slandering and defaming and prejudicing Eliot to other parties in these matters by calling him paranoid and more, as exhibited in Exhibit 1 and trying to state that it was Eliot who was harming his children.
18. That now that agreement cannot be made civilly with the Trustee or his counsel as they are conflicted and adverse and hostile to Eliot, Eliot now asks the Court instead to compel the ALLEGED Trustee Theodore to comply with the compulsory terms of the Shirley and Simon's Trusts and make the Welfare Payments and have them deducted from the TO BE DETERMINED BENEFICIARIES final distributions, once beneficiaries can be established by this Court to legally make distributions to.
19. Theodore and Alan have acted in ways that benefit their best interests in trying to structure this Welfare Payment and again not in the best interests of the beneficiaries. In addition, they are using



trust assets to protect their interests and defense of ill-actions and not acting to benefit the trust or the beneficiaries.

20. That Eliot for good and legally valid reasons no longer can trust the Trustee Theodore or his counsel and this breach is just another example to add to the long list of reasons waiting to be heard next by this Court in the next hearings this Court has reserved to hear Motions and Petitions to Remove Theodore, that the Court is aware and stated on the record are the next hearings to be had. That Eliot has provided this Court with an Order attached hereto with language that should satisfy the Trustee's desires, this Court's desires, be constructed and construed in good faith and achieve everything agreed to in Court regarding the Welfare Payments in a lawful manner.

**MOTION FOR REMOVAL OF TRUSTEE ON THE COURT'S OWN INITIATIVE –  
FLORIDA TITLE XLII 736.0706**

**736.0706 Removal of trustee.—**

- (1) The settlor, a cotrustee, or a beneficiary may request the court to remove a trustee, **or a trustee may be removed by the court on the court's own initiative.**
- (2) **The court may remove a trustee if:**
- (a) The trustee has committed a **serious breach of trust;**
  - (b) The lack of cooperation among cotrustees substantially impairs the administration of the trust;
  - (c) Due to the **unfitness, unwillingness, or persistent failure of the trustee to administer the trust effectively, the court determines that removal of the trustee best serves the interests of the beneficiaries;** or
  - (d) There has been a **substantial change of circumstances** or removal is requested by all of the qualified beneficiaries, **the court finds that removal of the trustee best serves the interests of all of the beneficiaries and is not inconsistent with a material purpose of the trust, and a suitable cotrustee or successor trustee is available.**
- (3) Pending a final decision on a request to remove a trustee, or in lieu of or in addition to removing a trustee, the court **may order**

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**such appropriate relief under s. 736.1001(2) as may be necessary to protect the trust property or the interests of the beneficiaries.**

History.—s. 7, ch. 2006-217.

21. That Plaintiff hereby reiterates and incorporates herein by reference, as if fully restated herein, preceding paragraphs 1 through 20, inclusive.
22. That Eliot hereby incorporates by reference in entirety all pleadings before the Court to remove Theodore filed by Creditor Stansbury's counsel and Eliot in this Motion for the Court to review in making its decision on its own initiative to remove Theodore.
23. That the delay in hearing to remove Theodore can no longer be allowed by this Court, as Peter Feaman, Esq. stated on the record in the August 19<sup>th</sup> 2014 hearing, he had to schedule the hearing to schedule a hearing to remove Theodore due to opposing counsels failing to cooperate in rescheduling the hearings to remove Theodore.
24. That these delays are not only leading to serious breaches that endanger the future of minors but now are alleged to be allowing assets of the Estate of Simon to be stolen off with and unaccounted for in violation of Court Order for re-inventorying.
25. There is evidence that personal properties of Simon alleged to be worth millions of dollars are not where the Trustee and Alan stated to this Court which led to the Order for re-inventorying at Simon's residence of the assets and that there are now statements made by Donald Tescher under sworn deposition and by Alan who was deposing him that directly contradict those statements made to the Court of where the assets are and the Court Order has been violated by Theodore to evade an inventory.
26. That Theodore was centrally involved with his Attorneys at Law, Tescher and Spallina, in the frauds

that benefited him the most in Shirley's Trusts and also now is under ongoing investigations for these illegal distributions he and others made knowingly and for other alleged criminal misconduct in both the Estates and Trusts of Simon and Shirley.

27. That as negotiations failed over these points to have the Trustee make the required Welfare Payments, Eliot has no recourse but to now ask this Court to Compel the ALLEGED Trustee Theodore to make these EMERGENCY Welfare Payments as provided in the Trusts of Simon and Shirley, from Simon and/or Shirley's Trusts and Estates for the children's continuing education.
28. That Alan Rose has asked the Creditors counsel to release his hold on some of the funds in the Simon Trust to make these payments, the Creditor's counsel Feaman then simply asked Alan to provide an accounting of the Trust by the Alleged Trustee Theodore, as **NO ACCOUNTING HAS BEEN PROVIDED TO ANY BENEFICIARY or OTHER PARTY FOR FOUR YEARS NOW** in the Trust of Shirley and the Estate of Shirley. Feaman's request was simply to prove that what Alan was claiming regarding the deficiency in the Trust to meet his claims was true, as no one can be sure what is still left in the Trusts after the last Trustee, Simon, closed the Estate of Shirley while dead as part of larger complex fraud that has occurred in both Estates and Trusts proven and admitted to this Court committed by Theodore's prior counsel, Tescher and Spallina acting as Officers and Fiduciaries of this Court.
29. That Simon's Trust has had **NO ACCOUNTING PROVIDED TO ANY BENEFICIARY FOR TWO YEARS NOW** and since Theodore has allegedly become the Successor Trustee, which is being challenged by Eliot in unheard Petitions and Motions before the Court he has still failed to provide statutorily required and requested by Beneficiaries accountings.
30. That Eliot Bernstein states that Theodore Bernstein ("Theodore") or ("Ted") is acting knowingly and

ILLEGALLY as alleged Successor Trustee of the Simon Bernstein alleged Amended and Restated Trust, in violation of the Breach of the terms of the Trust, which such terms explicitly exclude Theodore by name from acting as Trustee and therefore these pleadings he is filing is Simon's Trust are all PROHIBITED.

31. That the first question this Court must answer before considering ANY pleadings of Theodore in the Simon Trust is if he is acting with legal authority or if he has hijacked this position and these proceedings right under Your Honor's nose in violation of the terms of the Trusts and for other good and just reasons that now preclude him from being a fiduciary further.
32. That Theodore has illegally been anointed by the former removed and resigned Trustees, Tescher and Spallina, in a Successor of Criminals scheme that violates the very terms of the Trust that PROHIBITTED EXPRESSLY FROM ACTING IN ANY FIDUCIARY CAPACITY.
33. That if Theodore has become Successor Trustee of the Simon Trust by fraudulent appointment, he should be removed and for many other reasons as well. First, Theodore is ineligible under the very terms of the ALLEGED Simon Trust to serve as successor trustee. Article IV, Section C. (3) (Page 16) of the ALLEGED Simon Trust states:

C. Appointment of Successor Trustee

3. A successor Trustee appointed under this subparagraph **shall not be a Related or Subordinate Party of the trust.** (emphasis added)

34. That Theodore further was **specifically** disqualified to be a Successor Trustee by the terms of the ALLEGED Trust. Another provision of the ALLEGED Trust also disqualifies Theodore. Article III E(1) states:

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 ... "** (emphasis added)

Therefore, by the very language of the Alleged 2012 Amended and Restated Trust, Theodore Bernstein is disqualified by this provision to serve as Successor Trustee or in any capacity, as Ted is considered dead for all purposes of the Trust and the dispositions made thereunder and therefore Theodore is acting illegally knowing he cannot serve in any fiduciary capacity.

35. That if the ALLEGED 2012 Amended and Restated Trust is ruled legally invalid due to fraud and improper notarizations as pled to this Court and under ongoing investigations and the 2008 Trust of Simon is reverted to, Theodore will again remain wholly disinherited along with his lineal descendants, as they are in Shirley's Trusts as it stands now and that language from the 2008 Simon Trust is as follows;

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.**

Under the 2008 Simon Trust, Eliot and his lineal descendants are Beneficiaries of Simon's Trust, as it would be the same Beneficiary Class as Shirley (Eliot, Lisa and Jill and their lineal descendants) and Theodore and Pamela and their lineal descendants would be wholly excluded, as was the case in Shirley's Trust when she died and the Trust became irrevocable and her Beneficiary Class was established as Eliot, Jill and Lisa and their lineal descendants, who at this time remain the ONLY beneficiaries in the Shirley Trust.

36. That the alleged changes to Simon's Wills and Trusts took place allegedly 48 days prior to Simon's sudden and unexpected death. The Governor Rick Scott's Notary Public Division has already confirmed that these documents were improperly notarized. Again, improper notarizations in these

proceedings are discovered, this time committed by Theodore's personal assistant, Lindsay Baxley aka Lindsay Giles on Wills and Trusts no less and due to the improper notarizations it cannot now or ever be stated that Simon was present at the signing of these alleged documents at all. All of the witnesses to the document are involved in prior criminal Fraudulent Notarizations, Admitted Forged and Altered documents in these proceedings and one has been arrested and convicted, all facts that this Court is fully aware of and therefore cannot now or ever be trusted or act as witness.

**CONFLICT OF INTEREST FROM PROVEN AND ALLEGED CRIMINAL ACTS AND CIVIL TORTS THAT BENEFITED THEODORE AND THAT HE IS THE ALLEGED CENTRAL PARTICIPANT IN**

37. That there has been PROVEN FELONY CRIMINAL ACTS in the Shirley and Simon's Estates and Trusts and further allegations of conversion, comingling and theft of assets that are estimated to be crimes that have cost the Beneficiaries, Interested Parties and Creditors already millions upon millions of dollars. There are serious factual FRAUDS and FORGERIES, with certain felony crimes already proven and admitted and ongoing investigations of others in the Shirley and Simon Bernstein Estates and Trusts committed by former Personal Representatives, Trustees and Counsel and Theodore.
38. That there are hosts of new alleged felonious misconduct, where Theodore Bernstein and his minion of Attorneys at Law again are centrally involved in and directly benefiting from these acts, while providing no benefit to the trusts or beneficiaries.
39. That the prior CRIMINAL FELONY MISCONDUCT committed by Theodore's Counsel, Tescher and Spallina, who were acting as Officers and Fiduciaries of this Court and committed numerous Frauds Upon this Court, now appears to be continuing with Theodore's new counsel and Theodore's new claims that he is a qualified Successor Trustee of the Simon Trusts despite numerous reasons he

and his counsel and this Court are aware make him ineligible to serve in any fiduciary capacity in the Simon and Shirley Estates and Trusts going forward.

40. In one instance of the fraud going on in this Court by Theodore and his prior counsel, prior Co-Personal Representatives and Co-Trustees of Simon's Estate, Tescher and Spallina, is that documents were submitted to the Court bearing fraudulently notarized and forged signatures of Simon Bernstein on a date after he had passed away and there were fraudulently notarized and forged signatures in the name of Theodore Bernstein himself. This Court was apprised of these allegations in a hearing conducted September 13, 2013 wherein the Court questioned whether the parties involved in perpetrating the Frauds, including Theodore and his Attorneys at Law, Donald Tescher, Esq. ("Tescher") and Robert Spallina, Esq. ("Spallina"), should be read their Miranda Rights. (Exhibit 2 - Transcript of Proceedings, pages 15 and 16).
41. That the Attorneys at Law for Theodore whom he introduced to the Bernstein Family, Tescher and Spallina, have now admitted to Palm Beach County Sheriff Investigators to conspiring to altering provisions of the Shirley Bernstein Trust POST MORTEM OF SHIRLEY AND SIMON, see the Sheriff's report fully incorporated by reference herein at <http://www.iviewit.tv/20140131PBSORreport.pdf>, hereby incorporated by reference in entirety herein, which had the effect of directly benefitting their client, affiliate and business associate Theodore and damaging other Beneficiaries, including Plaintiff, by fraudulently converting and comingling benefits to Theodore using fraudulent documents to make illegal and improper distributions knowingly to improper Beneficiaries and making such distributions while being fully cognizant that there were allegations of Fraud and Forgery and more and that the beneficiaries were alleged improper at that time and no proven and admitted improper.

42. That additionally, Theodore's direct involvement in such criminal activity involving the Estate of Shirley and Simon should disqualify him from serving as Successor Trustee of the ALLEGED Simon Trust and disqualify him in any fiduciary capacity whatsoever in the Estates and Trusts of Simon and Shirley.
43. That Tescher and Spallina, upon their removal from these proceedings as both Fiduciaries and Counsel in Simon's Estate, in the wake of the frauds committed to benefit their client Theodore and themselves, then FRAUDULENTLY attempted to transfer Trusteeship to Theodore as their parting gift to these proceedings. This FRAUDULENT transfer of Trusteeship to Theodore when knowing he is a party that was directly involved in and who benefited directly from their fraudulent activities and who now has a conflict of interest with other beneficiaries due to the fraud that benefited him.
44. That Tescher and Spallina knew Theodore and his counsel Alan who they recruited from the start to aid and abet the schemes would do everything as Successor Criminals to further cover up their crimes and those of Tescher and Spallina through this fraudulent transfer of Trusteeship scheme.
45. That this attempted felonious transfer violates the very alleged Simon Trust terms that Tescher and Spallina wrote and this is reason alone for this Court to remove Theodore immediately and sanction all those involved in this felonious attempt to continue the frauds in and upon this Court, the Beneficiaries, Interested Parties and Creditors by attempting such a criminally shady and unlawful transfer of Trusteeship that violates even the very terms of the Alleged Trust.
46. That Alan has further been retained by Theodore who was only representing him as a Defendant in the Creditor Stansbury lawsuit against the Estate and Trusts prior, to now replace the capacities Tescher and Spallina were abdicating with their withdrawal and removal from all Bernstein family related matters.



47. That Alan too has been involved and participated in the advancement of the fraudulent schemes to benefit himself and his client Theodore from the start in cahoots with Tescher and Spallina and advancing the fraudulent schemes, again acting opposite the best interests of the Beneficiaries and Creditors et al.
48. That Alan, despite knowing of the Florida Bar Rules against advancing frivolous pleadings and legally devoid and baseless arguments still allows Theodore to continue to act as ALLEGED Successor Trustee, even despite direct and explicit language excluding Theodore from acting in any capacities in the Trusts of Simon. Alan continues to represent Theodore as the alleged Trustee's counsel despite his knowledge that Theodore cannot serve and yet continues to advance pleadings in this matter that he knows are TOXIC, VEXATIOUS, FRIVOLOUS, MISLEADING AND PROHIBITED BY LAW AND THE TERMS OF THE SIMON TRUST.
49. That it is understandable that they would disregard law to maintain illegally gained Dominion and Control of the Estate and Trusts, as Alan's life too hangs in the balance in these matters and if Theodore is ousted by this Court in all fiduciary capacities, so goes Alan and the Estates and Trusts can finally begin to ascertain the damages done and begin hunting down those ripe for prosecution and hunting down the missing assets, documents and personal properties. No longer will Alan and Theodore be able to delay, stymie or derail these proceedings and misuse Estate and Trust assets to protect themselves whilst launching harassing campaigns against beneficiaries using their delayed and interfered inheritances, including Minor Children, as more fully defined herein.

**THEODORE HAS BEEN DENIED BY THIS COURT TWO RECENT MOTIONS TO BECOME A FIDUCIARY IN THE ESTATE OF SIMON**

50. That this Court should take note that Theodore has TWICE attempted to become a fiduciary in the Estate of Simon despite knowing all the reasons he is unfit and further waste the courts time and the

Estates and Trusts assets. Theodore's first Petition was to become Curator as Successor to Tescher and Spallina upon their termination and this was rejected on February 19th, 2014 by the Your Honor who stated in the Order, "DENIED, for the reasons stated on the record." This DENIAL was for just and sound reasons by the Court that should have applied to removal of Theodore in any and all fiduciary capacities in both Simon and Shirley's Estates and Trusts that Theodore was acting in already as a fiduciary or seeking nomination to become one.

51. That the second attempt to become a fiduciary of the Estate of Simon was made by Theodore in a hearing held in July 2014 in efforts to become Successor Personal Representative at the replacement of Benjamin Brown as Curator.
52. That he Court however strongly urged Theodore and Alan to WITHDRAW their TOXIC, VEXATIOUS, FRIVILIOUS, PROHIBITED and DOOMED pleading PRIOR to even hearing the pleading.
53. That after considerable waste of this Court, the Beneficiaries, Creditors and everyone's time, effort and monies in a frivolous pleading certain to fail, Alan and Theodore finally WITHDREW the pleading but only after the Court warned them that they would SANCTIONED if they lost for everyone's costs.
54. That the Court's Order dated July 11, 2014 reads, "Ted Bernstein's Petition For Appointment of Successor Personal Representative is hereby ~~DENIED~~ WITHDRAWN. Again, this Court suggested such withdrawal of their pleading at the hearing and this SECOND attempt was withdrawn for just and sound reasons urged by the Court and these reasons again should have applied to removal of Theodore in any and all fiduciary capacities Theodore was acting in or seeking nomination for at the time.

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55. That for the same reasons the Court has deemed Theodore unfit in now two attempts to become a Successor Fiduciary forward, now constitute the same reasons that should serve for this Court to act on its own Motion under Fla. Stat. 736.0706 to remove Theodore from any/all fiduciary capacities in either the Estates or Trusts of Simon and Shirley, as further discussed herein.

56. That in addition to the fact that the Trust language precludes Theodore from becoming a Successor Trustee in Simon's Trusts, Theodore is further not qualified now or has ever been to be a fiduciary in the Estates and Trusts of both Simon and Shirley, including from a continued pattern and practice of fraudulent activity, breaches of fiduciary duties and more, that include but are not limited to all of the following:

**CONFLICTS OF INTEREST AND ADVERSE INTERESTS THAT PRECLUDE THEODORE FROM BEING A FIDUCIARY IN THE ESTATES AND TRUSTS OF SIMON AND SHIRLEY**

57. Theodore has adverse interests and conflicts of interest that preclude him from acting as a fiduciary, including but not limited to:

- i. Theodore and his lineal descendants were wholly disinherited in Estate and Trust documents done in 2008 and only allegedly have been included through the use of forged, fraudulent, improperly notarized and legally invalid documents, all alleged to have been done only days before Simon passed. If these alleged 2012 documents and forged and fraudulent documents do not stand up, Theodore and his lineal descendants will be excluded entirely from the Estates and Trusts and this puts Theodore in conflict with other beneficiaries and impairs his ability to be impartial due to the conflicts.
- ii. Theodore and his counsel Alan Rose ("Alan") are both further adverse to Eliot Bernstein and his family, as it is through Eliot's Pro Se efforts that Theodore's prior counsel, the

fiduciaries of Simon's Estate and Trusts and Alan's affiliates who brought him into these matters, Tescher and Spallina, have been forced out of these proceedings and removed as Fiduciaries and Counsel. Further, there has been an arrest of their employee made and where Eliot is still pursuing Tescher, Spallina, Manceri, Theodore and Alan, with criminal authorities and in state and federal civil actions for their direct involvement and benefit from the frauds, thefts, conversions and comingling of assets and more, severely impairs both Theodore and Alan's ability to be impartial to Eliot and has led to their continued retaliation and extortion of Eliot, as further defined herein. If Theodore is removed as a fiduciary in these matters by this Court and loses his illegally gained Dominion and Control of the Estates and Trusts and his ability to misuse Trust funds for his legal defenses of these actions, he and his Counsel Alan both may land in jail and lose their assets if successfully prosecuted in these matters forward.

- iii. That Theodore and Alan are both Respondents in the probate cases in Shirley and Simon's Estates and Trusts before this Court and are now also Defendants in a related Counter Complaint recently moved to Your Honor, Case #502014CP002815XXXXSB, with allegations that directly relate to these Probate and Trust matters, including; CIVIL CONSPIRACY, CIVIL EXTORTION, THEFT, FRAUDULENT CONVERSION, INTENTIONAL INTERFERENCE WITH AN INHERITANCE/EXPECTANCY, CIVIL FRAUD, BREACH OF FIDUCIARY DUTIES, ABUSE OF PROCESS, LEGAL MALPRACTICE and EQUITABLE LIEN.
- iv. That Theodore is conflicted with the Estates and Trusts sued under the Creditor William Stansbury's lawsuit against the Estate and Trusts of Simon and Theodore Professionally

and Personally, as Theodore is the alleged primary cause of the torts claimed by Stansbury and Theodore is the primary Defendant in that action. Despite the possibility that Theodore may have or may, settle(d) his personal capacities with Stansbury, the Estate, the Trusts and the Beneficiaries will still have claims that may seek recovery from Theodore personally for any settlement with Stansbury that uses Simon or Shirley's Trust and/or Estate funds that further damage the Beneficiaries. The Estate and the Beneficiaries may make the claim that Theodore and not the Estates and Trusts are WHOLLY responsible for the torts and damages to Stansbury, as Petitioner is already making that claim and would seek immediate recovery from Theodore and this again makes irrefutable conflicts of interest.

Where evidence shows that Theodore may have benefited solely from the misconduct alleged by Stansbury and new evidence suggests that Simon was unaware that Stansbury had been defrauded by Theodore until approximately six weeks before his sudden and unexpected death. That at that time, Simon and Theodore are alleged to have been at extreme odds with each other, with Simon abandoning his offices with Theodore due to Theodore's extreme anger raged upon Simon by Theodore, his son, that was witnessed by others. Theodore was enraged at his exclusion from the Estates and Trusts and that Simon would not support him in his defense of the alleged bad faith acts against Stansbury.

Stansbury, whom Simon and Shirley loved and trusted, so much so, as to name Stansbury in their 2008 estate plans as the Personal Representative and Trustee over their entire Estates and Trusts, and not Theodore their own eldest son for good and just reasons.

Where Stansbury may again be in those fiduciary capacities if Theodore is successfully removed by this Court and the 2012 Will and Amended and Restated Trust of Simon fails due to the improperly notarized and perhaps forged documents, according to newly discovered 2008 documents of Simon's, including two new 2008 Simon Trusts and a Will, only recently produced by Tescher and Spallina, upon the Court's Order to turn over ALL of their records on their removal, after suppressing and denying these documents from Beneficiaries and this Court for almost two years despite repeated requests by beneficiaries and their counsel.

- v. That Theodore is further conflicted with the Estate and Trust of Simon and the Beneficiaries, Interested Parties and Creditors further due to a lawsuit IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION Case No. 13cv3643, SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST DTD 6/21/95 v. HERITAGE UNION LIFE INSURANCE COMPANY, adjudicated by Hon. Judge Amy St. Eve. The lawsuit filed by Theodore acting as Trustee of a NONEXISTENT TRUST is for Breach of Contract that he was advised by Tescher and Spallina et al. that he had no basis to file but Theodore filed anyway using yet another TOXIC, VEXATIOUS, FRIVOLOUS, FRAUDULENT and PROHIBITED pleading, this time acting as a "Trustee" of a NONEXISTENT TRUST that he claims he has never seen. Again Theodore effectuates this criminal illegal legal scheme to convert insurance proceeds into his own pocket is aided and abetted by his minion of Attorneys and this Fraud is now upon a Federal Court and as that crime attempts to remove an asset of the Estate of Simon out the back door, this is yet another

Fraud on this Court that Theodore is smack in the middle of costing the Estates and Trusts time, monies and attorney fees, while providing no benefit to the Estates, Trusts and Beneficiaries. Theodore has paid Tescher and Spallina from Estate and Trusts assets to remove this insurance asset from the Estate where he and sister Pamela would get none of it and thus they tried this costly scheme and fraud on a federal court to convert it into he and his sister Pamela Simon's pockets, instead of their very own children.

It should be noted that remarkably, Theodore in a January 28, 2014 police interview stated to Palm Beach County Sheriff Investigators, "Ted confirmed that **he did not make any decisions in relation to Simon's insurance policy generated out of Chicago, Illinois [emphasis added]**."

However, Theodore is actually the Plaintiff that filed the lawsuit in 2012 trying to claim the insurance proceeds through the illegal Breach of Contract legal action, which puts Theodore again directly in conflict with the Estate Beneficiaries. If that baseless lawsuit fails, the Estate would receive the benefits due to the fact that no beneficiary can be found at the time of death. The Court is already well aware of this lawsuit and has recently allowed the Personal Representative and Counsel to represent the Estate in that matter, again after over a year and half that the Estate was blocked from entry in the case to represent the Estates interest in the insurance proceeds by Tescher and Spallina, who were representing Ted initially in the Breach of Contract Lawsuit and are alleged to have made a FRAUDULENT INSURANCE DEATH BENEFIT CLAIM that led to the alleged breach.

That it should be noted that several weeks before filing the FRAUDULENT Breach of

Contract Lawsuit, Robert Spallina filed an Insurance Death Benefit Claim as the Trustee of the same LOST trust that he claims to have never seen or possessed and this claim was DENIED by the carrier as Spallina could not prove his alleged beneficial interest as the alleged Trustee of a LOST Trust he claimed to the carrier not to possess. The DENIAL OF THE CLAIM led to Theodore then claiming he was now the “Trustee” of the LOST Trust he never saw and in such IMAGINARY FIDUCIARY CAPACITY filed the Breach of Contract lawsuit against Heritage for their failing to pay on Spallina’s DENIED and FRAUDULENT INSURANCE CLAIM.

Again, this insurance scheme inures benefits directly to the pocket of Theodore and his minion of counsel and where again, it is Theodore that is completely disinherited from both the 2008 and 2012 Estates and Trusts of Simon and Shirley (not Eliot as Alan repeatedly tries to sell this Court). Without this fraudulent insurance scheme to convert the insurance proceeds from the Estate of Simon’s Beneficiaries and Creditors, Theodore would receive nothing. These conflicts of interest further demand Theodore’s removal from these proceedings in any/all fiduciary capacities he has or alleges to have in both Simon and Shirley’s Estates and Trusts.

- vi. That further disqualifying Theodore from acting as fiduciary are further statements he made to PBSO investigators and this Court that show that he is perjuring himself and unfit to serve as a fiduciary and conflicted with these matters, whereby according to the PBSO Supplemental Report,

**“TED STATED THAT HE DID NOT READ ALL OF SHIRLEY’S TRUST DOCUMENTS [EMPHASIS ADDED] and that Spallina and Tescher told him several times how Shirley’s Trust was to be distributed. TED**



**SAID THAT HE DID READ IN THE DOCUMENTS WHERE THE 10 GRANDCHILDREN WERE TO RECEIVE THE ASSETS FROM THE TRUST [EMPHASIS ADDED].** He said that he did issue a partial distribution to the seven of the 10 grandchildren.”

Spallina stated to PBSO investigators that “SPALLINA STATED THAT AGAINST HIS ADVICE, A DISTRIBUTION WAS MADE FROM ONE OF THE TRUSTS AFTER SIMON'S DEATH. HE STATED THAT HE ADVISED AGAINST THIS...” and later states “SPALLINA REITERATED THAT TED WAS TOLD TO NOT MAKE DISTRIBUTIONS.”

That Theodore could not have read as he claims, language in the 2008 Shirley Trust (that he also claims not to have read?) that the grandchildren were to receive the assets from the Trust, as that language is NOT in the Trust anywhere at all. The only Beneficiaries defined in the Shirley Trust are Eliot, Jill and Lisa and their lineal descendants, as Theodore and Pamela and their lineal descendants are considered predeceased as evidenced already herein.

That the only possible way Theodore could have read in the Shirley Trust documents that the 10 grandchildren were to receive benefits, is if he would have read the newly alleged FRAUDULENTLY CRAFTED “Second First Amendment to Shirley’s Trust,” the very Trust document Spallina states to PBSO that he fraudulently altered for Shirley POST MORTEM by two years in January 2013. This fraud achieved allegedly by Spallina altering an alleged “First Amendment to Shirley’s Trust” whereby the altered document then fraudulently attempted to include the 10 grandchildren in Shirley’s Trust fraudulently.

The problem for Theodore here is also that he claims to PBSO in that same Supplemental Report,

“Ted said that he not spoken to Spallina about his withdrawing from being the attorney for the trusts, but that he did speak with Tescher. He said that Tescher told him he had been made aware of a fabricated document that was potentially problematic for the Estates [referencing the Second First Amendment]. He said that Tescher told him that Spallina created the fabricated document and it essentially impacted the ability for Simon to distribute funds to all 10 grandkids. Ted said that Tescher told him that he had only recently become aware of this document, approximately three weeks from today (01/28/14).”

Again, Theodore made the distributions in Sept 2013 to the 10 grandchildren before learning of the altered document, which directly contradicts his own prior claims and his illegal actions in distributing the funds to knowingly improper parties.

Theodore then wrote to Eliot further contradicting his statement that he saw language allowing him to make distributions in Shirley’s documents to the grandchildren that does not exist and where he claims again not to have known of the altered document until way after his distributions by stating to Eliot,

**From:** Ted Bernstein [mailto:tbernstein@lifeinsuranceconcepts.com]  
**Sent:** Tuesday, **January 14, 2014**[emphasis added] 5:23 PM  
**To:** Eliot Bernstein (iviewit@gmail.com)  
**Subject:** Update

Eliot,

You may have received a letter or email from Don Tescher today. Late last week I learned of **shocking developments concerning mom and dad’s planning documents that were prepared by their counsel at the time [Ted fails to state they were his counsel too at the time]. In light of what I have learned,[emphasis added]** I will be obtaining new counsel, as Trustee and PR. Things are still unfolding. As a courtesy to you, please let me know if you would like to arrange a meeting with me and my counsel in an effort to bring you up to speed.

Sincerely,

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Spallina then tells PBSO investigators in the already exhibited herein report,

Spallina told me that he and his Partner had discussions reference to fulfilling Simon's wishes of all 10 grandchildren receiving the benefit from both Simon and Shirley's Trust...

That Spallina said that **they** [referring to he and his partner Tescher] noticed that the first page of the document skipped from one to three, so he took it upon himself to add in number two, before sending it to Yates [Christine Yates of the most respectable Tripp Scott law firm that represented Eliot and his children and cost them over \$50,000.00 to chase around fraudulent documents sent to her and more]. The change that number two made to the trust, amended Paragraph E of Article III, making it read that only Ted and Pam were considered predeceased, not their children. He said the original trust states that Ted, Pam and their children are deemed predeceased. Spallina said he did this at this office in Boca Raton, Florida. He said that no one else took part in altering the document.

So if Spallina sent this document to Yates in January 2013 and did not confess to it until January 2014 to PBSO investigators, how could Theodore have seen language in Shirley's Trust documents that would have allowed him to make distributions to 10 grandchildren on or about September 16, 2013, when even Ted claims he did know about the "Second First Amendment" until January of 2014.

That for Theodore's admitted alleged **failure to even read** Shirley's Trust documents before acting as the alleged Trustee and making fraudulent distributions upon language that does not exist, this Court should sanction and remove him instantly for this reckless behavior.

This breach has led to fraudulent conversion and comingling of assets to profit himself directly and in fact use trust and estate funds for counsel and fiduciaries to advance and

effectuate these schemes benefiting both he and they at the expense of the Beneficiaries and Creditors. Now Theodore tells lie after lie attempting to cover up the crimes and further mislead the Court and others, which is outrageous conduct for an alleged fiduciary that is supposed to be held to a higher standard not a lower standard for their actions. That Theodore further stated to PBSO investigators in contradiction to Spallina's prior exhibited statement herein where Spallina states he told Theodore to NOT make distributions that "He [Theodore] stated that Spallina told him it was OK to distribute the funds." That this contradiction of statements to investigators puts Theodore in direct contradiction with his own counsel's statements and shows that irrefutably, Theodore is now adverse to other beneficiaries who are claiming the distributions were illegal conversions and a comingling of funds to improper parties and thus how can he now be impartial forward under Florida Statute 736.0803, where his actions as an alleged fiduciary may benefit his children at the expense of other beneficiaries in both the Estates and Trusts of Simon and Shirley.

**ACCOUNTING VIOLATIONS BY THEODORE AS ALLEGED FIDUCIARY IN THE ESTATES AND TRUSTS OF SIMON AND SHIRLEY – FLORIDA STATUTE 736.0813 DUTY TO INFORM AND ACCOUNT**

58. That Theodore and his predecessors Tescher and Spallina have all failed to follow the very Terms of the Trusts he operates under, The Trust Code and Florida Probate Rules and Statutes, that all require a duty of accounting to beneficiaries.
59. To date, Theodore, nor Spallina and Tescher have ever sent any required accountings or administrative information for the trusts they claim to be trustees of to the beneficiaries, yet all have had several open checking accounts that they have administered freely with no supervision or

accountability using them as their own personal accounts and reporting to no one.

- vii. Theodore refuses to provide financial information of transactions he has done or any accountings despite repeated requests and therefore breaches all duties of loyalty and accounting under the terms of the trust.
- viii. THEODORE is self-dealing, converting and co-mingling trust funds and uses trust funds for his own personal use. Petitioner has reasons to believe THEODORE and others he has recruited to the Estates and Trusts as either counsel or as Fiduciaries, in coordinated efforts are stealing Trust and Estate assets, failing to give accountings, suppressing and denying Trust documents, altering Trust and Estate documents and the Beneficiaries and Creditors need immediate relief from this Court by removing Theodore on the Court's own motion as required by law and appointing a qualified independent Trustee to marshal the assets and guarantee the terms of the trust are carried out in a non-conflicted and non-vindictive fashion against those Theodore and Alan are adverse to. No accountings have been provided for the Simon Trust for two years and in Shirley's Estate & Trusts for almost four years and Beneficiaries have been denied this information as part of the overall fraud and looting of the Estates and Trusts. Petitioner has requested accountings that are due to him under the terms of the Trusts, upon request, annually and when the PR and Trusteeship have changed according to Statute. There have been NO Annual accountings provided, NO requested accountings provided and NO accountings at the change of trusteeship by Theodore or the former removed Fiduciaries and Counsel in these matters in violation 736.0813 and 733.604.

736.0813 Duty to inform and account.—The trustee shall keep the qualified beneficiaries of the trust reasonably informed of the trust

and its administration.

(1) The trustee's duty to inform and account includes, but is not limited to, the following:

(a) Within 60 days after acceptance of the trust, the trustee shall give notice to the qualified beneficiaries of the acceptance of the trust, the full name and address of the trustee, and that the fiduciary lawyer-client privilege in s. 90.5021 applies with respect to the trustee and any attorney employed by the trustee.

(b) Within 60 days after the date the trustee acquires knowledge of the creation of an irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise, the trustee shall give notice to the qualified beneficiaries of the trust's existence, the identity of the settlor or settlors, the right to request a copy of the trust instrument, the right to accountings under this section, and that the fiduciary lawyer-client privilege in s. 90.5021 applies with respect to the trustee and any attorney employed by the trustee.

(c) Upon reasonable request, the trustee shall provide a qualified beneficiary with a complete copy of the trust instrument.

(d) A trustee of an irrevocable trust shall provide a trust accounting, as set forth in s. 736.08135, to each qualified beneficiary annually and on termination of the trust or on change of the trustee.

(e) Upon reasonable request, the trustee shall provide a qualified beneficiary with relevant information about the assets and liabilities of the trust and the particulars relating to administration.

60. That Theodore upon accepting the PROHIBITED fiduciary capacity of ALLEGED Successor Trustee from Tescher via the Fraudulent Transfer of Trusteeship has failed to provide an accounting for the Trust since January 2014 and Tescher similarly failed to produce ANY Trust accountings while he was the ALLEGED Trustee.
61. That Theodore upon allegedly accepting his Letters of Administration most amazingly granted to him by Your Honor while there were serious allegations of breaches and criminal misconduct before the Court, in October 2013, has failed to provide an accounting when he became Successor PR of Shirley's Estate. It should be noted that no FINAL ACCOUNTING of the Estate of Shirley was ever completed by Simon due to fraudulent and forged waivers being submitted and other closing documents filed by Simon while he was dead for four months and so NO ACCOUNTINGS have

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ever been done in Shirley's Estates and Trusts, in violation of Probate and Trust Rules and Statutes.

**BREACHES OF FIDUCIARY DUTIES BY THEODORE IN THE ESTATES AND TRUSTS OF SIMON AND SHIRLEY**

62. On January 28, 2014, THEODORE, in the already Exhibited PBSO report admitted to PBSO investigators regarding distributions that he made that he had never read the Trust documents in full, "Ted stated that he did not read all of Shirley's Trust documents and that Spallina and Tescher had both told him several times how Shirley's Trust was to be distributed."
63. However, Spallina stated to PBSO, "Spallina reiterated that Ted was told to not make distributions." Then Theodore stated, "Ted stated that Spallina told him it "was OK to distribute the funds." THEODORE however states in various emails produced by his counsel Tescher and Spallina in the Court Ordered production upon their termination that he had in fact read the trust document "carefully." From an alleged email dated October 25, 2013, months prior to his statements to PBSO that he had not read the Shirley Trust and only followed the advice of counsel we find Theodore again contradicting himself when he states,

**Robert Spallina**

**From:** Ted Bernstein [tbernstein@lifeinsuranceconcepts.com]

**Sent:** Friday, October 25, 2013 7:34 PM

**To:** Robert Spallina

**Subject:** RE: Withdrawal Activity Report

Good news is that on quick glance, all looks kosher but Deborah and I will tie everything out over the weekend. Bad news is that there is a steadily increasing amount of money being wasted on Eliot related matters. Once we get past Monday, I want to meet with you about my damages that I have incurred as a result of my role as trustee. I have read through the document carefully [emphasis added] and I have important questions and concerns about doing some things to counter the affects and I feel that there is time sensitivity involved. I hope Kim is doing as best as can be expected [this statement regarding Kimberly Moran and Eliot having her arrested by PBSO for fraudulent notarizations and admitted forgery]. I'm available over the weekend if you need me.

Ted

There are multiple ongoing investigations into felony criminal misconduct involving Theodore and Alan, including but not limited to, Frauds, Insurance Fraud, Fraud on a State and a Federal Court,

Bank Fraud, Theft of Estate and Trust Assets of Simon and Shirley totaling millions of dollars, Falsifying Documents, Criminal Breaches of Fiduciary Duties and more, all relating to Simon and Shirley's Estates and Trusts and those who have administered them from the start.

64. That the next Breach of Fiduciary duties by Theodore is a direct attack on Eliot's three minor children and retaliation by Theodore and Alan against Eliot, whereby Theodore alleges the three minor children of Eliot's are Beneficiaries of the Shirley and Simon Trusts that he alleges to be Trustee for. In a sophisticated attempt to destroy their educational futures that were long planned and paid for by Simon and Shirley and as part of an extortive effort to get Eliot to participate in taking knowingly illegal distributions again, in the same manner he and Tescher and Spallina did, a new recent attempt was launched using the children as pawns this time with Theodore and Alan.
65. That Eliot contacted the alleged Trustee Theodore on July 25, 2014 for a Welfare Payment according to the terms of the alleged Trust as defined herein, which provides for distributions for schooling and requested a simple yes or no answer so that he could notify St. Andrew's school, who had notified Eliot that on August 09, 2014 his children would lose their enrollments for school for the 2014-2015 year for past due balances owed and current tuition due.
66. That the children have been in St. Andrew's school throughout most of their lives and which was contracted and paid for entirely by Simon and Shirley while they were alive and provisions were made to continue after their deaths that have been interfered with to cause this calamity with intent. Greater detail of this extortive attempt and fraud can be found in Eliot's recently filed Motion for Interim distributions filed in both Simon and Shirley's Estates and Trusts. See Motion for Interim Distribution @

<http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140815EMERGENCYMOTIONFORI>



67. That despite knowing of the illegal distributions already made using the fraudulent documents and schemes to alter Shirley's Beneficiary Class by Tescher and Spallina, Alan now tried to get Eliot to take illegal distributions, this time by extorting him using his children's school tuition as the basis of the extortion play or pay this time and tried to keep the extortive attempt secreted from this Court and others by misleading Eliot with misstated and misquoted statutes regarding Settlements.
68. That even other Attorneys at Law that Alan attempted to recruit into this scheme are catching on to his schemes, as illustrated in the Creditor Stansbury's counsel, Peter Feaman, Esq.'s letter to Alan in response to his request to have the creditor release his hold on the assets in Simon's Estate and Trusts, since Eliot would not again partake in the fraudulent distribution scheme under Shirley's Trust, see Exhibit 3 - Feaman Letter to Alan. Whereby Feaman states after requesting an accounting from Alan of the alleged Simon Trust to confirm his claims about how little was left in the Trust and then being denied a copy, Feaman states to Alan,

My client tells me there are numerous witnesses who know that it was Simon's intent to provide for the St. Andrews schooling for Eliot's children. Heck, the house he bought for Eliot is within walking distance of the school! Whatever differences there are between Ted and Eliot, **the grandkids should not be used as pawns.** There is money to pay for the grandchildren's education. Stop playing games and get this done. At the end of the day, an adjustment can be made if necessary, **but stop putting the kids in the middle [emphasis added].**

69. That once Theodore and Alan could not get Eliot or Feaman to participate in their renewed extortive schemes and play by Alan's rules, Theodore then failed as an alleged Fiduciary to respond to Eliot's repeated request for a simple yes or no answer to the distribution, in order to notify the school of their decision and make preparations if necessary to relocate the children. No timely reply was

given (talk about uncooperative) and they allowed the due date to pass and the children to lose their enrollments and enacted a new series of schemes to cover up their new breaches.

70. That once they failed with scienter, in an attempt to cover up their breach of duties and failure to pay under the terms of the Trusts of Simon and/or Shirley, they then claimed they need all kinds of stipulations now from this Court to make any payment and stated they were seeking a Court Order to make the payments, which of course they have not done timely or at all and so enrollment was compromised.
71. That instead of the promised Court filing to get the distributions, in efforts to now recruit the Court to aid and abet in the coverup of their breaches, they have instead filed a Contempt Motion against Eliot, to act as if Eliot has somehow prevented them from making the Welfare Payments to keep the children in school and are using this new ABUSE OF PROCESS and TOXIC, VEXATIOUS, FRIVOLOUS, COSTLY, EXTORTIVE pleading as an excuse for failing to act in a timely manner.
72. This breach of duties resulting in MASSIVE DAMAGES THEY HAVE NOW CAUSED TO THREE MINOR CHILDREN'S FUTURES. In fact, it appears they intentionally created these delays through this new Fraud on the Court to have Eliot take "distributions", in order to intentionally miss the deadline through further abuse of process by filing their Contempt Motion instead to confuse the Court while failing to act in the interests of the minor children of Eliot who they claim are the Beneficiaries, despite admitting to the Court in hearings repeatedly that they are unsure who the Beneficiaries are in the Shirley Trust at this time. In an email of Alan's dated August 01, 2014 he states that the Trustee does not Objecting to "Payment from the Trust Funds", whereby Alan states,

**As Trustee, Ted has no objection to making a payment from the Trust funds to St. Andrews School for each of Eliot's three kids**

**[emphasis added]**, so long as (i) the Court enters an order directing and authorizing such payment, with the approval of a guardian ad litem if the Court decides to appoint one, and also holding the Trustee harmless for complying with such order and requiring repayment if needed; (ii) the payment for each child will reduce the amount to be distributed to that child's trust and with Eliot agreeing that if it is ultimately decided that the payments were to go to him and not his childrens' trusts (which we believe is not the case), then these same payments would count against Eliot's distribution; and (iii) each of you has the opportunity to be heard by responding to the email or by appearing in court."

73. Then Theodore and Alan filed yet another TOXIC, VEXATIOUS, FRIVOLOUS, COSTLY and MISLEADING Construction of Trust motion, recently filed in now a separate hearing to make it look like they could also not make the Welfare Payments without this Court's Order and a reconstruction of the Shirley Trust and to have this Court somehow now reconstruct the Shirley Trust to fit the crimes they already have committed in knowing violation by taking "distributions" to knowingly improper beneficiaries of that Trust with scienter. Yes, Alan and Theodore, who aided and abetted the prior frauds and benefited directly from them, now want to have this Court reconstruct Shirley's Trust four years later to attempt to make the illegal "distributions" Theodore made with others knowing they were improper no somehow legal.
74. That Alan claims they cannot make Welfare Payments without Eliot taking them as knowingly improper "distributions" to beneficiaries that have not been resolved by the Court and are currently admitted by all parties to be unknown.
75. That their claims that Welfare Payments cannot be made and must be made as knowingly ILLEGAL "distributions" despite the fact that at the present time there are no legally qualified Beneficiaries known to make legal distributions too are untrue.
76. That Donald Tescher stated in a letter dated, December 26, 2013, "Ted as trustee of Shirley's trust did

make some partial distributions and that issue was also addressed at the first hearing where Judge Colin again addressed Eliot on the proper course of action. Despite Eliot's refusal to open up trust accounts for your boys, Ted has paid necessities for your family (since the Oppenheimer trusts were depleted by your actions) to keep the house running.” Those Welfare Payments were made without a Court Order and any language to release them from anything. However, Eliot conceded to Alan and the Court that the Welfare Payments would be considered later to be deducted as distributions when legally defined beneficiaries could be determined by the Court.

2. That further, Theodore claimed in a letter to Candice dated December 26, 2013,

**Because of my concern stemming from my fiduciary role as well as the fact that Joshua, Jacob and Danny are my nephews, Robert Spallina and I agreed that I would pay some of the bills for your family that I deemed necessary for their well being, on a temporary basis. For example, I have paid for such things as health insurance, electric, water, phones and Internet. I have made these payments from the Shirley Trust account and I will deduct these amounts from any distributions that are ultimately made to the three boys' trusts.**

This statement shows that Alan and Theodore could have simply made the payments to St. Andrews school and then deducted them later after the Court determined the true and proper beneficiaries and only after review of ALL the dispositive documents by forensic analysis and more but they chose instead to try a last attempt to use Eliot's children's schooling and futures to force him to take the illegal and improper distributions the way Theodore and his sisters Pam, Lisa and Jill knowingly did already with the help of Tescher, Spallina and Alan et al.

77. That Theodore and Alan's attempt to further again extort Eliot this time by using his children's schooling as leverage and force him to either take the distributions illegally or else his children would be forced out of school has been brought to this Court's attention in a yet another unheard

pleading filed by Eliot, see

<http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140804EMERGENCYMOTIONFORINTERIMDISTRIBUTIONS.pdf> , which further defines the continued and ongoing Pattern and

Practice of Fraud and Extortion being committed by Alan and Theodore against Eliot, his three minor children and lovely wife Candice.

78. This new and exotic extortive attempt began when Alan tried to trick Eliot into a meeting to extort him to take KNOWINGLY ILLEGAL DISTRIBUTIONS TO IMPROPER PARTIES in a meeting Alan tries to claim is about a settlement and Alan tries to claim nothing in the meeting can be used in anyway with any party, in efforts to keep the extortion a secret from the Courts and others.
79. The meeting was only to get a yes or no on if the ALLEGED Trustee Theodore would make the Welfare Payments as he has done in the past as provided for the in the ALLEGED trust he operates under and NOTHING TO DO WITH SETTLING ANY CLAIMS.
80. That Alan in fact cites to Eliot a law that he has knowingly fabricated by adding language to the law to make it appear that the meeting could not be used in any way in Court or elsewhere because he claims it is cloaked as a settlement conference and hoped Eliot as a Pro Se litigant would not fact check his legal citing and would comply with Alan's misrepresented law and be forced to keep the extortionary attempt in the dark.
81. That Alan's email to Eliot clearly shows that despite knowing that Shirley's beneficiaries were altered through illegal activity and despite the fact that the beneficiaries are now not known due to the fraud (again costing everyone a fortune to defend and expose), Alan tries to use Eliot's children's school tuition to extort him to take the monies illegally or else the children will be thrown out of school. Alan in his letter even claims he is aware the beneficiaries are not known at this time but in a

last ditch effort to get Eliot to partake in illegal distributions to non legally qualified beneficiaries, he picks up where Spallina and Tescher's extortion of Eliot left off, as he demands Eliot take "distributions" to knowing improper beneficiaries, instead of, as Eliot suggested, making them as Welfare Payment until the Court rules on who the ultimate beneficiaries will be and then deduct it from those parties distributions, either Eliot or his children.

82. That all this renewed extortive effort to have Eliot in desperation to keep his kids in the school they were put in by his parents and paid for by them for virtually their entire lives, accept "distributions" illegally to gain an implied consent that Eliot too took illegal distributions as Theodore and other did and further participate in the crime leaving him perhaps no recourse against those who already took KNOWINGLY improper and illegal distributions. This is the same tactic that was tried by Tescher and Spallina before they finally admitted to altering trust documents to make the illegal distributions to improper parties and more and after lying to the Court and others until they finally confessed.
83. That finally, it was just learned from review of the production documents turned over by Tescher and Spallina upon their resignations and by Order of this Court that the school contract for the 2012-2013 was directly with Simon and should have been a liability of the Estate and instead these costs were shifted to Eliot's children to pay by Spallina and Tescher, which is yet another fraud that is more fully expanded on in the Counter Complaint filed in the related Oppenheimer v. Eliot and Candice Bernstein lawsuit now before this Court.
84. That both Theodore and Alan have profited and benefited from aiding and abetting in the advancement of the fraudulent schemes to enrich themselves and primarily Theodore at the expense of Beneficiaries, Interested Parties and Creditors from excessive billing, self-dealing and fraudulent transfers.

85. That Theodore, his sisters Pamela, Jill and Lisa, all knew that documents had been fraudulently notarized and forged in their names and in their deceased father's name POST MORTEM at least from May 2013 when Eliot first presented the evidence to the Court in his initial Petition to this Court and served it upon them.
86. That despite knowing of these crimes, Theodore and the others who took the "distributions" failed to take any steps as alleged fiduciaries to report these crimes to the authorities or this Court, instead rushing to take the knowingly improper "distributions" and Theodore only admitted he knew of the frauds to PBSO in January of 2014 when he was hauled in for questioning in direct contradiction to the truth, which is he knew at least in May of 2013. In fact, Theodore and his sisters then attempted to gloss over and pardon the criminal acts of proven Fraudulent Notarizations and admitted Forgeries of the arrested and convicted Legal Assistant/Notary Public of Tescher and Spallina, Kimberly Moran et al. by submitting further fraudulent waivers to this Court.
87. That from the time they knew of the allegations alleging the fraudulent distributions and a mass of other crimes launched against him, Theodore began a further aggressive and forceful campaign of terror and retribution with Tescher and Spallina et al. and now continued by Alan, against Eliot, his three minor children and lovely wife Candice, in efforts to stop them from bringing these criminal acts and civil torts they partook in to Justice.

**CONTINUED MISREPRESENTATIONS, MISTATEMENTS OF FACTS AND WASTE, FRAUD and ABUSE in the ADMINISTRATION OF THE ESTATES AND TRUSTS**

88. The court needs to act on its own Motion to Remove Theodore as Trustee and review those petitions and motions filed by Eliot and the Creditor Stansbury to stop these continuing and ongoing Frauds on the Court, again being committed by Fiduciaries and Officers of this Court under the Court's tutelage who are directly involved in and directly benefited from the prior frauds? This Court needs

to put a stop this RECKLESS, WANTON and GROSSLY NEGLIGENT disregard for law, this Court, the Beneficiaries and Creditors and begin to prevent the ongoing attempts to cover up their crimes through further fraud, waste and abuse of process.

89. That this Court needs to stop them from committing additional new crimes instantly, including the new alleged thefts of Personal Properties (discussed further herein and in prior unheard Motions and Petitions) and round up and rid the Court of every single person who was involved in any way with the prior fraudulent activity, as is required by law when Fraud Upon the Court has been proven. This Court needs to clean up its own Court and provide for fair and impartial due process free of the fraudsters who operate cloaked as Officers and Fiduciaries of this Court and not wait for Stansbury or Eliot to file further Motions and Petitions to have him removed, IT IS THIS COURTS DUTY. Every day this Court leaves these reckless and unlawful Fiduciaries and Officers of this Court in place, is a day of suffering, damages and abusive costs for the already injured parties.
90. That the Court should note that all of these PROVEN AND ADMITTED FRAUDS on this Court, the Beneficiaries and the Interested Parties have ALL been committed through legal process abuse that allowed for illegal seizure of Dominion and Control of the Estates committed by OFFICERS OF THIS COURT and FIDUCIARIES, using this Court as the host for the CRIMES and ALL of these parties were APPROVED BY YOUR HONOR.
91. That despite knowing these facts, this Court continues to allow those involved and under investigation to now continue to act in Fiducial and Legal capacities, despite KNOWING THESE FACTS and knowing that under law they should have already resigned voluntary when requested and under law they should be removed by this Court on the Court's own Motion. These problems occurred and continue to occur in this Court and it is this Court's duty under law to clean up the mess



it is responsible for, not wait for Eliot or others to do this.

92. That Alan and Theodore now pick up and continue the Pattern and Practice of Harassment, Extortion, ATTEMPTED NEW Illegal Distributions of Estate and Trust funds, Fraud on the Court, Fraud on Beneficiaries, Fraud on Creditors and more committed by Theodore and the prior PR's, Trustees and Counsel in the Estate and Trusts of Simon and Shirley, Tescher and Spallina, who have been removed from these matters after MASSIVE AMOUNTS OF time, effort and costs to Petitioner and others to have them removed.
93. That Theodore has brought ALL of these people who have participated in all these fraudulent activities into the Estates and Trusts of Simon and Shirley who have all BLED THE ESTATE of hundreds of thousands in legal fees already. Where Theodore and his cohorts have benefited and continue to benefit at the expense of everyone else involved. Again, THIS COURT NEEDS TO PUT AN END TO THE FRAUDS BEING COMMITTED BY OFFICERS OF THE COURT and remove them on the Court's own motion as allowed for in instances such as these, especially where the main frauds have all been effectuated by multiple Frauds on this Court. The only remedy at law is removal, award of damages, sanctions and more.
94. That the Court can no longer look the other way or wait for Pro Se Eliot to file proper legal pleadings and have hearings where PROHIBITED pleadings are filed fraudulently and argued wasting everyone's time and simply remove those who should voluntarily withdraw. Where the Court has legal obligations to act on its own motion to stop FRAUD, WASTE and ABUSE especially in its own Court committed by Officers of the Court.
95. That this Court allowing Theodore and Alan to continue to act as fiduciaries and counsel before the Court can only be viewed by the victims as aiding and abetting the crimes and attempting to cover up

the crimes that took place in this Court, especially where all these felony crimes occurred in this Court by Officers and Fiduciaries that are under the tutelage of this Court and Your Honor. That Your Honor has a duty to protect the beneficiaries and interested parties and has failed to follow law and judicial canons to protect them.

96. That Theodore and Alan are violating a Court Order that involves now attempting to further and cover up the crime of THEFT, CONVERSION AND COMINGLING OF ESTATE ASSETS, in fact FELONY MISCONDUCT IN VIOLATING THE COURT ORDER as pled in Eliot Motion in Response to Theodore's Contempt Motion filed with this Court and yet unheard.
97. That Alan and his client Theodore have failed to follow the Court's Order, see Exhibit 4 – Court Order for Inspection of Residence and Accounting for Personal Property, for an re-inventorying of the Estate assets of Simon, after learning in a hearing before this Court that statements made by Theodore and Alan revealed that Estate assets were missing and unaccounted for. Where it appears that Theodore and others may have stolen off with these personal properties of Simon and then lied to this Court about where they had gone.
98. That the Court was told in the hearing that furnishings of Simon's estate that were held in a Condominium held in Shirley's Trust were moved to Simon's other residence when the Condominium was sold. Despite Theodore and Alan's claim that the furniture was moved to Simon's other residence, no records of such transaction were turned over by Spallina and Tescher who were the prior responsible parties for the personal properties and the items appear in the Final Accounting submitted upon their termination in these proceedings.
99. That no mention was made in the fraudulent estate Final Accounting prepared by Tescher and Spallina after their resignations and withdrawals that were turned over by Order of this Court that

these personal property assets were disposed of in any way. The fact that the items were missing and Theodore who is alleged to be the Trustee responsible for the items could not state where they were are what led to the Court Order to verify that the assets were where they now stated. Spallina and Tescher were responsible for the items of Simon's estates and should be sanctioned.

100. That Theodore, alleging to be the Trustee of Shirley's Trust, knows that he is responsible for the marshalling of those assets of Simon's Estate contained in Condominium, as he was informed of this obligation by Spallina in a letter dated September 14, 2012 (1 day after Simon passed) whereby it states,

On a separate note, as discussed, you are designated as the successor trustee to Si on your mother's trust document. In this regard, both the residence and the beach condo were titled in the name of her trust. **All of the contents in both places are the subject of your father's estate, over which Don and I have been named as Personal Representatives. Please make sure that both homes are secure and that the contents contained therein are protected. As a fiduciary of your mother's trust and during the period of administration of your father's estate, you owe a duty to the ultimate beneficiaries to protect the assets...**[emphasis added] It may be helpful to take pictures and even create an inventory of the contents so that when there is a division of the assets among the family there are no issues.

101. That after telling the Court that the furniture was moved to Simon's other residence and then knowing they were again going to be busted if the Court Order was complied with as the furniture is not there, Donald Tescher in his deposition on July 09, 2014, ordered by Alan (who throughout the deposition objected and represented Tescher several times), see Tescher Deposition Regarding Furniture excerpt and partial transcript and exhibits at <http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140709TescherDepositionAndExhibits.pdf>, fully incorporated by reference herein, then claimed and Alan chimed in now in direct contradiction to what was told to the Court that the contents were now sold with the Condominium

without any accounting for the properties to the Beneficiaries or anyone or even including this information in the shoddy Final Accounting Tescher and Spallina produced. Where further evidence will prove that this claim is also untrue, as the Condominium was sold without any personal properties listed as part of the transaction.

102. That when the lies they told to the Court that the furniture and other properties were moved to the other residence did not hold up as they themselves seemed confused at the hearing, the Order for the Inspection was granted by Your Honor. They then claimed that the Court ORDER could not be complied with because the items were boxed in the garage and this somehow made them unaccountable for, then they were sold without any accounting and with each claim being proven false they have continued to try and make up new explanations for where the missing items went and continue to violate the Court Ordered Inspection.
103. That it is alleged that Theodore took the possessions to his own second home and then sold that home after selling the Condominium with the contents owned by Simon's Estate in them as part of a further elaborate scheme to steal millions of dollars of assets and/or Theodore disposed of these properties in other ways for his own personal gain, as beneficiaries were NOT notified of any such sale of these items. Again, this Court and everyone else involved are wasting precious time, effort and monies to expose these nonstop frauds and thefts, all again being perpetrated by Officers of this Court who were directly involved in the prior frauds, who again appear to have lied to this Court about Estate assets and now fail to follow the Court's Order to cover up and further their crimes.
104. That Eliot will be filing yet another criminal complaint for this GRANDTHEFT of the personal properties estimated worth millions and again will have to recruit law enforcement time and efforts to hunt down the missing items and contact all those parties involved in the transactions that Theodore,

Alan and others did regarding the ILLEGAL sale of the Condominium and the subsequent missing personal properties of Simon's Estate.

105. That other crimes alleged and under investigation regarding the sale of the Condominium include Theodore signing documents as the PR of Shirley's Estate to make the sale complete when he was not appointed as the Personal Representative at the time he made the sale and signed the documents in that fiduciary capacity knowingly and with scienter.
106. That Theodore at the time of the sale knew the Estate of his mother had been closed illegally through a Fraud on the Court using his deceased father as PR to close the Estate and knew no Successor PR was ever appointed by this Court due to that Fraud and thus knew he was signing the tax documents for the sale illegally. Again, the closing of the Estate of Shirley was achieved through fraud with a DEAD Personal Representative, Simon, acting as if alive to close his deceased wife's Estate, which was all part of an elaborate FRAUD ON THE COURT by OFFICERS of the Court that has already been proven in this Court.
107. That this Court will remember in the September 13, 2013 hearing that Your Honor upon learning of this Fraud on the Court and Fraud on the Beneficiaries using a dead PR to close an estate as if alive to then attempt to enact fraudulent changes to the beneficiaries stated that you had enough evidence at that time, almost a year ago, to read Theodore, Spallina and Tescher their Miranda rights, see Exhibit 2 and perhaps now it is that time for the reading of these Miranda Rights to protect the Estates and Trusts and prevent further criminal activity by Officers and Fiduciaries of this Court.
108. That Your Honor will also remember that it was proven that POST MORTEM FORGED documents for Simon were tendered to this Court by Spallina and Tescher as part of the elaborate scheme to change beneficiaries by Theodore's counsel that directly benefited Theodore the most, to the

disadvantage of other beneficiaries.

109. That upon learning of these facts, the Court issued a second statement in the September 13, 2013 hearing that it had enough to read them their Miranda warnings and again the Court instead let them walk out the door and continue to practice law, continue to act as fiduciaries and counsel, allowed Successor Criminals to be anointed exposing all parties involved and the general public to these lawyers who have committed felony crimes in these proceedings and without sanctions or required reporting of their crimes as required under Judicial Canons and law, as of yet.
110. That further in the September 13, 2013 hearing it was further stated by Spallina that Moran's forgeries and fraudulent notarizations were a one off event and he knew of nothing else wrong in the Estates and Trusts, while knowing and CONCEALING FROM THE COURT that he and his partner Tescher had committed yet another FELONY CRIME by FRAUDULENTLY ALTERING TRUST documents that they failed to notify the Court of at that time they claimed they knew nothing else wrong and therefore bold face lied to the Court.
111. That Spallina, only later, in January 2014, three months after the hearing and wasting everyone's time and monies in the hundreds of thousands in that time period, then confessed to Palm Beach County Sheriff investigators that he and his partner Tescher had known they could not change the Shirley Trust Beneficiary Class (although Alan will now try and con everyone that he can do that in his new Motion for Construction) and together Spallina and Tescher had discussed their options and determined they would alter documents to perpetrate the fraud and Spallina then admitted that he ALTERED TRUST DOCUMENTS with scienter and sent them to various parties.
112. That again Spallina's confession only came when he and Tescher knew they were busted from Eliot's Pro Se pleadings and Eliot and Candice's excellent investigatory efforts that exposed their crimes

and led to ongoing investigations of them and Theodore and Alan.

113. That again, the confession came only after everyone, including this Court, the Palm Beach County Sheriff's office, the Governor Rick Scott's Notary Public Division, the State Attorney, the Beneficiaries and Interested Parties, wasted hundreds of thousands of dollars having to force the confessions. That Eliot questions the truthfulness of the confessions as well, as it appears that it was carefully crafted and fraught with further perjured statements to try and cover up their crime as best they could.
114. That Eliot again apologizes to the Court for having to file a lengthy pleading to unravel the web of lies and deceit in Alan's TOXIC, VEXATIOUS, FRIVILOUS, EXTORTIVE, PROHIBITED, COSTLY and MISLEADING pleading that is further an abuse of process but there are just so many false statements and attempts to twist things around by these Successor Criminals to somehow, now that they are all busted, make Eliot, the victim of their crimes already proven and admitted, look like the bad guy to the Court.
115. That it takes a lot of time to explain and unravel each of these schemes to this Court and unwind the lies in their pleadings and Eliot is doing the best he can Pro Se to comport with the statutes and rules he is not schooled in and thus admits his pleadings may fall short but Eliot has ALWAYS HAS TOLD THE TRUTH TO THIS COURT DESPITE HOW MANY PAGES IT TAKES AND HAS NEVER PUT FORTH ANY FORGED, FRADULENT, FRAUDULENTLY NOTARIZED DOCUMENTS or lied to the Court, nor has he violated any criminal codes or civil torts in these proceedings, unlike Theodore, Spallina, Tescher, Alan, Manceri, Pankauski et al..
116. That again Alan and Theodore and their cohorts costing everyone time and money on TOXIC, VEXATIOUS, FRIVILOUS, EXTORTIVE, MISLEADING, CRUEL and COSTLY pleadings that

abuse process, and Eliot, despite his lengthy, yet poetically just pleadings that may be legally faulty as expected in Pro Se pleadings, has put forth nothing abusive, unless this Court considers the length of truth abusive.

117. That if the Court wishes to stop the poetic pleadings of Eliot, the Court can simply, again on its own motion under the circumstances, demand that the Estates and Trusts provide funds for Eliot to retain counsel, as certainly the ALLEGED Fiduciaries and Counsel in these matters (excluding Brown and O'Connell) have already wasted fortunes on legal fees to further their criminal misconduct. Where these monies of the Estates and Trusts are either Eliot's or his children's and Theodore, Spallina, Tescher, Alan, Manceri and Pankauski have used these funds of Eliot's and his children for EXCESSIVE AND ABUSIVE legal fees to execute their crimes and then more Estate and Trust funds used to further protect and shield themselves from prosecution of their crimes.
118. That Theodore and his cohorts have nothing to lose spending the Trusts and Estate funds recklessly and illegally, which are not theirs and deny the victims counsel, which is provided for in the very documents they operate under to protect the Beneficiaries. Certainly, having Eliot and his children represented by separate counsel due to the Conflicts created through the frauds that make Eliot and his children in conflict for the proceeds, caused by Tescher and Spallina et al. with scienter will not only benefit this Court but further protect, the Estates, Trusts, Beneficiaries, Interested Parties and Creditors.
119. That there have been serious breaches of Trust already proven and many more alleged and under investigation, all involving Theodore Bernstein and Alan as central parties in the misconducts.
120. That it has been evidenced herein and in prior pleadings filed that Theodore is unfit and unwilling to follow probate and trust Rules and Statutes.



121. That it has been evidenced that Theodore cannot act as the Trustee in the Simon Trust as he is expressly prohibited and this may be even further fraud on this Court, the Beneficiaries and Interested Parties.
122. That it has been evidenced herein and in prior pleadings filed that Theodore has persistently failed as alleged Trustee to administer the Trust in Simon and Shirley's Trusts legally.
123. That Theodore and Alan are both in conflict and have adverse interests in these matters, especially in regard to Eliot.
124. That the Court removing Theodore instantly from ALL fiduciary capacities in the Estates and Trusts of Simon and Shirley for very serious breaches of fiduciary duties and alleged criminal misconduct from his direct participation in the prior frauds committed in this Court and now causing continued torts and alleged criminal misconduct regarding assets of the Estate causing continuing and ongoing harms to Beneficiaries, Interested Parties and Creditors.
125. That there has been substantial change of circumstances after discovering criminal misconduct and breaches of fiduciary duties that Theodore is directly involved in and benefited from and a continued Pattern and Practice of newly alleged criminal misconduct under ongoing investigations that justify the Court's instant removal of Theodore to protect the assets of the Estates and Trusts of Simon and Shirley to prevent further criminal acts and civil torts from occurring that damage the Beneficiaries, Interested Parties and Creditors further.
126. That the Court should find that removal of the trustee best serves the interests of all of the beneficiaries and is not inconsistent with a material purpose of the trust, and a suitable co-trustee or successor trustee is available.
127. That for all of these reasons stated herein, this Court must act as legally obligated on its own motion

under 736.0706 to remove Theodore and Alan from ALL Fiduciary and Legal capacities they have in both the Estates and Trusts of Simon and Shirley, in order to remove the conflicts and adverse interests and stop further violations of, Attorney Conduct Codes, Judicial Canons, State and Federal Law that are being committed by their continued allowance by this Court to remain as Fiduciaries and Counsel before this Court and continue acting as OFFICERS OF THIS COURT. Their continued actions are wasting estate assets due to their fraudulent misadministration and attempts to cover up their own and their friends and business associates prior crimes with one lie after another to this Court and the Beneficiaries, Interested Parties and Creditors.

128. That the remedies to cure the damages from the prior Frauds In and Upon this Court, the Beneficiaries, Interested Parties and Creditors, would mandate now that the Trustees and Fiduciaries sue themselves and when this type of situation arises the only remedy at law is to remove them from this irrefutable conflict of interest.
129. That the Fiduciaries and Counsel thus far in these matters have all (except Benjamin Brown and Brian O'Connell) acted in their own best interests, basking in ill-gotten legal and trustee fees, instead of acting the best interests of the Beneficiaries and Creditors and it is expected for them to continue misusing trust and estate assets to now protect themselves from further prosecution and therefore the Court must instantly remove them.
130. That failure of the Court to remove ALL tentacles from these proceedings of those who participated, profited and benefited from the prior CRIMINAL MISCONDUCT and FRAUD COMMITTED BY OFFICERS OF THIS COURT THAT HAS OCCURRED IN AND UPON THIS COURT, the BENEFICIARIES, INTERESTED PARTIES AND CREDITORS violates the sanctity and decorum of the Court, violates law and judicial canons and denies fair and impartial due process and procedure

under law to all the other parties and allows for continuing and ongoing crimes to be committed.

131. That Eliot demands the Court take Judicial Notice of the criminal misconduct and follow its own rules and act on its own motions to restore law and order to the Court and impart fair and impartial due process to all parties and begin by STRIKING all TOXIC, FRIVOLOUS, VEXATIOUS and MISLEADING filings of the Fiduciaries and Counsel acting as OFFICERS OF THIS COURT and Remove these fiduciaries and counsel in order to stop the further fraud, waste and abuse by those Officers of this Court and alleged Fiduciary, who knowingly and with scienter continue to act in violation of Probate and Trust Rules and Statutes, despite the Court's knowledge of their participation in the prior frauds, their overwhelming conflicts of interests and adverse interests that all legally preclude their continued involvement as Fiduciaries and Counsel.
132. That Theodore and Alan wholly ignore their duties to withdraw voluntarily due to their lack of qualification and continue to act despite repeated requests to withdraw for multitudes of legally valid reasons. These continued actions further misuse Estate and Trusts assets and are accruing damages to the Beneficiaries, Interested Parties and Creditors from the Court allowing this continuing Pattern and Practice of Fraud, Waste and Abuse started by the prior fiduciaries and counsel who worked together with Theodore and Alan to perpetrate the prior frauds from the start and again this will require the Beneficiaries to ultimately sue them all for damages. Certainly if they will not voluntarily withdraw knowing they are unfit to act as fiduciaries and officers of this Court, then they will not sue themselves either and thus this Court must smack down the gauntlet and forcefully and aggressively remove them.
133. That finally, Eliot, his lovely wife Candice and their three angelic boys have been tormented, lied to, defrauded, extorted and abused through legal process by these Officers of this Court and their crimes

to deny, delay, stymie and steal off with assets of Eliot and his children's due to them as inheritance and deny them through further frauds to deny them entirely their inheritances, jeopardizing and exposing the Estates and Trusts to more and more risks from their actions, as they lack to administer these legally and this has caused major damages, including directly to THREE MINOR CHILDREN with intent, including withholding the KIA, failing to provide trust assets used for education, theft of millions of dollars of assets, failure to account under law, removing health insurance etc. that all border on child abuse by these alleged Fiduciaries and Officers of this Court and now threaten the minor children's school futures and more.

134. That Eliot and his family have refused to participate in knowingly fraudulent distributions to improper parties, while those improper parties have stolen off, converted and comingled assets they took knowingly improperly and illegally with scienter and now use Eliot and his children's family's inheritance monies to line their pockets and harass and extort Eliot in prayers that these criminal tactics will force Eliot to participate in illegal "DISTRIBUTIONS" and attempt to gain under FL Statute 736.1012 consent from Eliot through his participation to take "distributions" under great pressure and duress to attempt to keep his children in school as provided for under the Terms of the Trusts.

Beneficiary's consent, release, or ratification.—A trustee is not liable to a beneficiary for breach of trust if the beneficiary consented to the conduct constituting the breach, released the trustee from liability for the breach, or ratified the transaction constituting the breach, unless:

- (1) The consent, release, or ratification of the beneficiary was induced by improper conduct of the trustee; or
- (2) At the time of the consent, release, or ratification, the beneficiary did not know of the beneficiary's rights or of the material facts relating to the breach.

This all done despite the fact that (1) above negates any such extorted consent. Despite that fact,

Eliot will not commit a violation of law knowingly and also violate one or more of the Ten Commandments and participate in their crimes under ANY circumstances, except with this Court's blessing to participate in such fraud that the Court would not give in the September 13, 2013 hearing and so Eliot doubts the Court now will with all of this new information of criminal misconduct unfolding since that hearing decide that Eliot should participate in knowingly FRAUDULENT ILLEGAL DISTRIBUTIONS TO ADMITTED UNKNOWN BENEFICIARIES AT THIS TIME.

135. That until Eliot and others can review for further evidence of FRAUD AND FORGERY, ALL the records, court records, dispositive and other documents, accountings, inventories and re-inventory ALL assets of the Estates and Trusts of Shirley and Simon, this Court must provide EMERGENCY WELFARE PAYMENTS TO ELIOT AND HIS FAMILY TO BE DEDUCTED LATER FROM HIS OR HIS CHILDREN INHERITANCES when the Court determines the Beneficiaries or add them to THE CONTINUING AND TOLLING DAMAGES ASSESSED TO THE RESPONSIBLE PARTIES OF THESE CRIMES.

136. That this Court should and must act to protect Eliot and his family who are victims of the past and present Fiduciaries and their Counsel, who all took part and benefited from the prior Willful, Wanton, Reckless, Criminal and Egregious Acts of Bad Faith committed with Unclean Hands that again were done by Officers of this Court Under Your Direct Jurisdiction and in light of the Court's knowledge of these past and ongoing Crimes and Extortion after Extortion of Eliot to either take the improper proceeds and lose rights to claim damages against others by participating in the knowingly fraudulent activity or watch his family be starved out through fraud after fraud by Fiduciaries approved by Your Honor, as now proven, admitted and evidenced in Eliot's pleadings since May 2013, it is time this Court act to release WELFARE PAYMENTS DUE TO THE INTENTIONAL

INTERFERENCE WITH INHERITANCE THAT HAS DELAYED DISTRIBUTION until this Court can determine beneficiaries to make distributions legally to and until all of this grotesque Fraud can be sorted out due to CRIMINAL MISCONDUCT BY OFFICERS OF THIS COURT.

137. That since this Court is also partially responsible for these continued and ongoing damages caused by its Officers, damages inflicted by the delay and interference of life sustaining inheritances that were intended to be distributed to Eliot and his family over four years ago, as were the desires and wishes of both Simon and Shirley, due to special circumstances already defined in Eliot's initial pleadings with the Court.
138. The Extortions first started with Theodore, his former counsel, the former Fiduciaries and Counsel of the Estates and Trusts, seizing companies that were left to Eliot's families alone, acting with no legal authority and taking over a company responsible for paying the bills of Eliot's household for over 7 years while Simon and Shirley were alive and where the bills were even sent to others and controlled by others. Once the illegal corporate takeover was achieved by Tescher, Spallina, Theodore, members of Oppenheimer and others, Eliot's family's basic necessities were cut off without notice repeatedly by Tescher, Spallina, Theodore and others, including but not limited to shutting off, Security Services, Homeowners Insurance (this also exposing Simon's Estate to further MAJOR RISKS), Health Insurance for the entire Family, Electricity, Phones, School Services for the minor Children, School Tuition for the children, Utilities, Food, etc.). The company also provided income and a monthly 10-20 thousand dollar monthly stipend to cover ALL expenses of Eliot's family and this too was shut off through a combination of frauds discussed further in the Oppenheimer Counter Complaint and in prior pleadings Eliot filed, see Answer and Counter Complaint Oppenheimer @ [http://www.iviewit.tv/Simon and Shirley Estate/20140730OppenheimerAnswerAndCounter.pdf](http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140730OppenheimerAnswerAndCounter.pdf) ,

fully incorporated by reference herein.

139. That when this forced destitution or else failed to compel Eliot to participate in the fraud and take knowingly improper distributions as others had done, they next moved on to using Eliot's son's birthday gift, the KIA, as a lever to force Eliot to take distributions illegally or not get the gifted car back.
140. That when that failed, they have refused Welfare Payments as provided under the Trusts despite REPEATED requests to act even under the terms of the Alleged Documents they are touting, which are most likely fraudulent to begin with but even so they fail to act as required in the best interests of the Beneficiaries for items provided for the Beneficiaries in the terms thereunder.
141. Again, these criminal acts and breaches of duties are all being committed by the fiduciaries who are supposed to be protecting the beneficiaries as intended in the Estate plans but who are instead too busy forging, fraudulently notarizing, criminally altering trust documents, looting the Estates, committing Insurance Fraud and Bank Fraud, Fraud on this Court and Federal Court, Extorting Eliot and his family, Losing, Destroying and Suppressing Trust Documents, and more to care of the damages they are causing, even to minor children. They have even been alleged to have seized illegally and misused school trust funds of the children in yet another fraudulent scheme that Eliot's Counter Complaint in the new Oppenheimer Lawsuit more fully exposes.
142. This Court must now act to allow to remove Theodore on its own initiative due to all of the reasons so stated herein.

WHEREFORE, Eliot requests this Court either on its Own Motions or based on Eliot's Pro Se pleadings enter an Order for all of the following, a copy of an Order for Your Honor to sign attached hereto:

- i. TO COMPEL ALLEGED TRUSTEE OF THE SHIRLEY TRUST TO MAKE EMERGENCY WELFARE PAYMENTS AS PROVIDED FOR UNDER THE TRUSTS OF SIMON AND SHIRLEY;
- ii. FOR REMOVAL OF TRUSTEE ON THE COURT'S OWN INITIATIVE – FLORIDA TITLE XLII 736.0706;
- iii. an order for relief under s. 736.1001(2) as may be necessary to protect the trust property or the interests of the beneficiaries;

Filed on Wednesday, August 20, 2014,

Eliot Bernstein, Pro Se, Individually and as legal guardian on behalf of his minor three children.

X \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I, ELIOT IVAN BERNSTEIN, HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by email to all parties on the following Service List, Wednesday, August 20, 2014.

Eliot Bernstein, Pro Se, Individually and as legal guardian on behalf of his minor three children

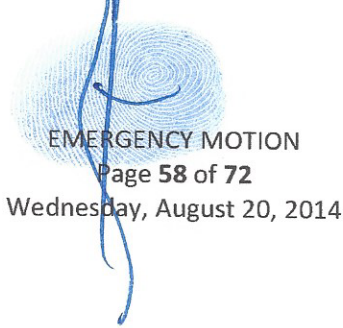
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## SERVICE LIST

<p>RESPONDENT PERSONALLY, PROFESSIONALLY, AS A GUARDIAN AND TRUSTEE FOR MINOR/ADULT CHILDREN, AS AN ALLEGED TRUSTEE AND ALLEGED PERSONAL REPRESENTATIVE</p> <p>Theodore Stuart Bernstein Life Insurance Concepts 950 Peninsula Corporate Circle, Suite 3010 Boca Raton, Florida 33487 <a href="mailto:thernstein@lifeinsuranceconcepts.com">thernstein@lifeinsuranceconcepts.com</a></p>	<p>RESPONDENT INDIVIDUALLY, PROFESSIONALLY AND LAW FIRM and COUNSEL TO THEODORE BERNSTEIN IN VARIOUS CAPACITIES</p> <p>Alan B. Rose, Esq. Page, Mrachek, Fitzgerald &amp; Rose, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 (561) 355-6991 <a href="mailto:arose@pm-law.com">arose@pm-law.com</a> and <a href="mailto:arose@mrachek-law.com">arose@mrachek-law.com</a> <a href="mailto:mchandler@mrachek-law.com">mchandler@mrachek-law.com</a> <a href="mailto:cklein@mrachek-law.com">cklein@mrachek-law.com</a> <a href="mailto:lmrachek@mrachek-law.com">lmrachek@mrachek-law.com</a> <a href="mailto:rfitzgerald@mrachek-law.com">rfitzgerald@mrachek-law.com</a> <a href="mailto:skonopka@mrachek-law.com">skonopka@mrachek-law.com</a> <a href="mailto:dthomas@mrachek-law.com">dthomas@mrachek-law.com</a> <a href="mailto:gweiss@mrachek-law.com">gweiss@mrachek-law.com</a> <a href="mailto:jbaker@mrachek-law.com">jbaker@mrachek-law.com</a> <a href="mailto:mchandler@mrachek-law.com">mchandler@mrachek-law.com</a> <a href="mailto:lchristian@mrachek-law.com">lchristian@mrachek-law.com</a> <a href="mailto:tclarke@mrachek-law.com">tclarke@mrachek-law.com</a> <a href="mailto:gdavies@mrachek-law.com">gdavies@mrachek-law.com</a> <a href="mailto:pgillman@mrachek-law.com">pgillman@mrachek-law.com</a> <a href="mailto:dkelly@mrachek-law.com">dkelly@mrachek-law.com</a> <a href="mailto:cklein@mrachek-law.com">cklein@mrachek-law.com</a> <a href="mailto:lwilliamson@mrachek-law.com">lwilliamson@mrachek-law.com</a></p>	<p>RESPONDENT INDIVIDUALLY, PROFESSIONALLY AND LAW FIRM and COUNSEL TO THEODORE BERNSTEIN IN VARIOUS CAPACITIES</p> <p>John J. Pankauski, Esq. Pankauski Law Firm PLLC 120 South Olive Avenue 7th Floor West Palm Beach, FL 33401 (561) 514-0900 <a href="mailto:courtfilings@pankauskilawfirm.com">courtfilings@pankauskilawfirm.com</a> <a href="mailto:john@pankauskilawfirm.com">john@pankauskilawfirm.com</a></p>	<p>RESPONDENT INDIVIDUALLY, PROFESSIONALLY AND LAW FIRM AND AS FORMER COUNSEL TO THEODORE BERNSTEIN IN VARIOUS CAPACITIES</p> <p>Robert L. Spallina, Esq., Tescher &amp; Spallina, P.A. Boca Village Corporate Center I 4855 Technology Way Suite 720 Boca Raton, FL 33431 <a href="mailto:rspallina@tescherspallina.com">rspallina@tescherspallina.com</a> <a href="mailto:kmoran@tescherspallina.com">kmoran@tescherspallina.com</a> <a href="mailto:ddustin@tescherspallina.com">ddustin@tescherspallina.com</a></p>
<p>RESPONDENT INDIVIDUALLY AND AS GUARDIAN AND TRUSTEE OF HER MINOR CHILD</p> <p>Pamela Beth Simon 950 N. Michigan Avenue Apartment 2603 Chicago, IL 60611 <a href="mailto:psimon@stpcorp.com">psimon@stpcorp.com</a></p>	<p>COUNSEL FOR LIMITED APPEARANCE representing Mr. Tescher in connection with his Petition for Designation and Discharge as Co-Personal Representative of the Estate of Simon L. Bernstein, deceased.</p> <p>Irwin J. Block, Esq. The Law Office of Irwin J. Block PL 700 South Federal Highway Suite 200 Boca Raton, Florida 33432 <a href="mailto:ijb@ijblegal.com">ijb@ijblegal.com</a> <a href="mailto:martin@kolawyers.com">martin@kolawyers.com</a></p>	<p>RESPONDENT INDIVIDUALLY, PROFESSIONALLY AND LAW FIRM and FORMER WITHDRAWN COUNSEL TO THEODORE BERNSTEIN IN VARIOUS CAPACITIES, NO NOTICES OF APPEARANCES</p> <p>Mark R. Manceri, Esq., and Mark R. Manceri, P.A., 2929 East Commercial Boulevard Suite 702 Fort Lauderdale, FL 33308 <a href="mailto:mrmlaw@comcast.net">mrmlaw@comcast.net</a> <a href="mailto:mrmlaw1@gmail.com">mrmlaw1@gmail.com</a></p>	<p>RESPONDENT INDIVIDUALLY, PROFESSIONALLY AND LAW FIRM AND AS FORMER COUNSEL TO THEODORE BERNSTEIN IN VARIOUS CAPACITIES</p> <p>Donald Tescher, Esq., Tescher &amp; Spallina, P.A. Boca Village Corporate Center I 4855 Technology Way Suite 720 Boca Raton, FL 33431 <a href="mailto:dtescher@tescherspallina.com">dtescher@tescherspallina.com</a></p>

			<a href="mailto:dtescher@tescherspallina.com">dtescher@tescherspallina.com</a> <a href="mailto:ddustin@tescherspallina.com">ddustin@tescherspallina.com</a> <a href="mailto:kmoran@tescherspallina.com">kmoran@tescherspallina.com</a>
RESPONDENT INDIVIDUALLY AND AS GUARDIAN AND TRUSTEE OF HER MINOR CHILD  Jill Iantoni 2101 Magnolia Lane Highland Park, IL 60035 <a href="mailto:jilliantoni@gmail.com">jilliantoni@gmail.com</a>	COUNSEL TO CREDITOR WILLIAM STANSBURY  Peter Feaman, Esquire Peter M. Feaman, P.A. 3615 Boynton Beach Blvd. Boynton Beach, FL 33436 <a href="mailto:pfeaman@feamanlaw.com">pfeaman@feamanlaw.com</a> <a href="mailto:service@feamanlaw.com">service@feamanlaw.com</a> <a href="mailto:mkoskey@feamanlaw.com">mkoskey@feamanlaw.com</a>	COURT APPROVED CURATOR TO REPLACE THE REMOVED FORMER PERSONAL REPRESENTATIVES/CO-TRUSTEES/COUNSEL TO THEMSELVES AS FIDUCIARIES TESCHER AND SPALLINA  Benjamin Brown, Esq., Thornton B Henry, Esq., and Peter Matwiczuk Matwiczuk & Brown, LLP 625 No. Flagler Drive Suite 401 West Palm Beach, FL 33401 <a href="mailto:bbrown@matbrolaw.com">bbrown@matbrolaw.com</a> <a href="mailto:attomeys@matbrolaw.com">attomeys@matbrolaw.com</a> <a href="mailto:bhenry@matbrolaw.com">bhenry@matbrolaw.com</a> <a href="mailto:pmatwiczuk@matbrolaw.com">pmatwiczuk@matbrolaw.com</a>	COUNSEL FOR JILL IANTONI and LISA FRIEDSTEIN  William M. Pearson, Esq. P.O. Box 1076 Miami, FL 33149 <a href="mailto:wpearsonlaw@bellsouth.net">wpearsonlaw@bellsouth.net</a>
RESPONDENT INDIVIDUALLY AND AS GUARDIAN AND TRUSTEE OF HER MINOR CHILD  Lisa Friedstein 2142 Churchill Lane Highland Park, IL 60035 <a href="mailto:Lisa@friedsteins.com">Lisa@friedsteins.com</a> <a href="mailto:lisa.friedstein@gmail.com">lisa.friedstein@gmail.com</a> <a href="mailto:lisa@friedsteins.com">lisa@friedsteins.com</a>	COUNSEL FOR JILL IANTONI and LISA FRIEDSTEIN  William H. Glasko, Esq. Golden Cowan, P.A. 1734 South Dixie Highway Palmetto Bay, FL 33157 <a href="mailto:bill@palmettobaylaw.com">bill@palmettobaylaw.com</a> <a href="mailto:eservice@palmettobaylaw.com">eservice@palmettobaylaw.com</a> <a href="mailto:tmealy@gcprobatelaw.com">tmealy@gcprobatelaw.com</a>	RESPONDENT – ADULT CHILD  Alexandra Bernstein 3000 Washington Blvd, Apt 424 Arlington, VA, 22201 <a href="mailto:alb07c@gmail.com">alb07c@gmail.com</a>	RESPONDENT/ARRESTED AND CONVICTED OF FRAUD AND ADMITTED TO FORGERY OF SIX SIGNATURES, INCLUDING POST MORTEM FOR SIMON/HAS HAD NOTARY PUBLIC LICENSE REVOKED BY FLORIDA GOVERNOR RICK SCOTT NOTARY PUBLIC DIVISION. *See notes  Kimberly Moran <a href="mailto:kmoran@tescherspallina.com">kmoran@tescherspallina.com</a>

  
EMERGENCY MOTION  
Page 58 of 72  
Wednesday, August 20, 2014

<p>RESPONDENT – ADULT CHILD</p> <p>Eric Bernstein 2231 Bloods Grove Circle Delray Beach, FL 33445 <a href="mailto:ebenstein@lifeinsuranceconcepts.com">ebenstein@lifeinsuranceconcepts.com</a> <a href="mailto:edb07@fsu.edu">edb07@fsu.edu</a> <a href="mailto:edb07fsu@gmail.com">edb07fsu@gmail.com</a></p>	<p>RESPONDENT – INITIALLY MINOR CHILD AND NOW ADULT CHILD</p> <p>Michael Bernstein 2231 Bloods Grove Circle Delray Beach, FL 33445 <a href="mailto:mchl_bernstein@yahoo.com">mchl_bernstein@yahoo.com</a></p>		<p>COUNSEL TO ALEXANDRA, ERIC AND MICHAEL BERNSTEIN AND MOLLY SIMON</p> <p>John P Morrissey, Esq. John P. Morrissey, P.A. 330 Clematis Street Suite 213 West Palm Beach, FL 33401 <a href="mailto:john@jmorrisseylaw.com">john@jmorrisseylaw.com</a></p>
<p>RESPONDENT – ADULT STEPSON TO THEODORE</p> <p>Matt Logan 2231 Bloods Grove Circle Delray Beach, FL 33445 <a href="mailto:matl89@aol.com">matl89@aol.com</a></p>	<p>RESPONDENTS – MINOR CHILDREN OF PETITIONER Joshua, Jacob and Daniel Bernstein, Minors c/o Eliot and Candice Bernstein, Parents and Natural Guardians 2753 NW 34th Street Boca Raton, FL 33434 <a href="mailto:iviewit@iviewit.tv">iviewit@iviewit.tv</a></p>	<p>RESPONDENT – MINOR CHILD</p> <p>Julia Iantoni, a Minor c/o Guy and Jill Iantoni, Her Parents and Natural Guardians 210 I Magnolia Lane Highland Park, IL 60035 <a href="mailto:jilliantoni@gmail.com">jilliantoni@gmail.com</a></p>	
<p>RESPONDENT/REPRIMANDED BY FLORIDA GOVERNOR RICK SCOTT NOTARY PUBLIC DIVISION FOR FAILING TO NOTARIZE AN ALLEGED 2012 WILL AND TRUST OF SIMON AND SIGNING NOTARY UNDER FALSE NAME</p> <p>Lindsay Baxley aka Lindsay Giles <a href="mailto:lindsay@lifeinsuranceconcepts.com">lindsay@lifeinsuranceconcepts.com</a></p>	<p>RESPONDENT MINOR CHILDREN</p> <p>Carley &amp; Max Friedstein, Minors c/o Jeffrey and Lisa Friedstein Parents and Natural Guardians 2142 Churchill Lane Highland Park, IL 6003 <a href="mailto:Lisa@friedsteins.com">Lisa@friedsteins.com</a> <a href="mailto:lisa.friedstein@gmail.com">lisa.friedstein@gmail.com</a></p>	<p>RESPONDENT – MINOR CHILD INITIALLY NOW ADULT CHILD</p> <p>Molly Simon 1731 N. Old Pueblo Drive Tucson, AZ 85745 <a href="mailto:molly.simon1203@gmail.com">molly.simon1203@gmail.com</a></p>	

EXHIBIT 1 – ELIOT AND ALAN DISCUSSIONS REGARDING THE FAILED AGREEMENT

THAT DUE TO THE 300+ PAGES OF CORRESPONDENCES THIS EXHIBIT HAS BEEN LINKED TO A PRIVATE WEBSITE AND IS FULLY INCORPORATED BY REFERENCE HEREIN AS EXHIBIT 1 @

[www.iviewit.tv/Simon and Shirley Estate/20140820EXHIBIT1ROSEandELIOTS EMAILS.pdf](http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140820EXHIBIT1ROSEandELIOTS%20EMAILS.pdf)


or

[www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140820EXHIBIT1ROSEandELIOTS%20EMAILS.pdf](http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/20140820EXHIBIT1ROSEandELIOTS%20EMAILS.pdf)



EMERGENCY MOTION...  
Wednesday, August 20, 2014  
EXHIBITS

EXHIBIT 2 - TRANSCRIPT OF PROCEEDINGS, PAGES 15 AND 16



EMERGENCY MOTION...  
Wednesday, August 20, 2014  
EXHIBITS

In Re\_ The Estate of Shirley Bernstein.txt

00001

1 IN THE CIRCUIT COURT OF THE 15TH JUDICIAL CIRCUIT,  
2 IN AND FOR PALM BEACH COUNTY, FLORIDA  
3 PROBATE/GUARDIANSHIP DIVISION IY  
4 CASE NO.: 502011CP000653XXXXSB

5 IN RE: THE ESTATE OF:  
6 SHIRLEY BERNSTEIN,  
7 Deceased

8 \_\_\_\_\_/  
9 ELIOT IVAN BERNSTEIN, PRO SE,  
10 Petitioner,

11 vs.

12 \_\_\_\_\_/  
13 TESCHER & SPALLINA, P.A., (AND ALL PARTNERS,  
14 ASSOCIATES AND OF COUNSEL); ROBERT L. SPALLINA  
15 (BOTH PERSONALLY & PROFESSIONALLY); DONALD  
16 R. TESCHER (BOTH PERSONALLY & PROFESSIONALLY);  
17 THEODORE STUART BERNSTEIN (AS ALLEGED PERSONAL  
18 REPRESENTATIVE, TRUSTEE, SUCCESSOR TRUSTEE) (BOTH  
19 PERSONALLY & PROFESSIONALLY); AND JOHN AND JANE  
20 DOE'S (1-5000),  
21 Respondents.

22 \_\_\_\_\_/  
23 TRANSCRIPT OF PROCEEDINGS  
24 BEFORE  
25 THE HONORABLE MARTIN H. COLIN

26 South County Courthouse  
27 200 West Atlantic Avenue, Courtroom 8  
28 Delray Beach, Florida 33344

29 Friday, September 13, 2013  
30 1:30 p.m. - 2:15 p.m.

31  
32  
33  
34 Stenographically Reported By:  
35 JESSICA THIBAUT

36

♀

00002

1 APPEARANCES

2

3 On Behalf of the Petitioner:  
4 ELIOT IVAN BERNSTEIN, PRO SE  
5 2753 NW 34th Street  
6 Boca Raton, Florida 33434



In Re\_ The Estate of Shirley Bernstein.txt

7 MR. MANCERI: That's when the order was  
8 signed, yes, your Honor.

9 THE COURT: He filed it, physically came  
10 to court.

11 MR. ELIOT BERNSTEIN: Oh.

12 THE COURT: So let me see when he actually  
13 filed it and signed the paperwork. November.  
14 What date did your dad die?

15 MR. ELIOT BERNSTEIN: September. It's  
16 hard to get through. He does a lot of things  
17 when he's dead.

18 THE COURT: I have all of these waivers by  
19 Simon in November. He tells me Simon was dead  
20 at the time.

21 MR. MANCERI: Simon was dead at the time,  
22 your Honor. The waivers that you're talking  
23 about are waivers from the beneficiaries, I  
24 believe.

25 THE COURT: No, it's waivers of

♀

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1 accountings.

2 MR. MANCERI: Right, by the beneficiaries.

3 THE COURT: Discharge waiver of service of  
4 discharge by Simon, Simon asked that he not  
5 have to serve the petition for discharge.

6 MR. MANCERI: Right, that was in his  
7 petition. When was the petition served?

8 THE COURT: November 21st.

9 MR. SPALLINA: Yeah, it was after his date  
10 of death.

11 THE COURT: Well, how could that happen  
12 legally? How could Simon --

13 MR. MANCERI: Who signed that?

14 THE COURT: -- ask to close and not serve  
15 a petition after he's dead?

16 MR. MANCERI: Your Honor, what happened  
17 was is the documents were submitted with the  
18 waivers originally, and this goes to  
19 Mr. Bernstein's fraud allegation. As you know,  
20 your Honor, you have a rule that you have to  
21 have your waivers notarized. And the original  
22 waivers that were submitted were not notarized,  
23 so they were kicked back by the clerk. They  
24 were then notarized by a staff person from  
25 Tescher and Spallina admittedly in error. They

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In Re\_ The Estate of Shirley Bernstein.txt  
1 should not have been notarized in the absentia  
2 of the people who purportedly signed them. And  
3 I'll give you the names of the other siblings,  
4 that would be Pamela, Lisa, Jill, and Ted  
5 Bernstein.

6 THE COURT: So let me tell you because I'm  
7 going to stop all of you folks because I think  
8 you need to be read your Miranda warnings.

9 MR. MANCERI: I need to be read my Miranda  
10 warnings?

11 THE COURT: Everyone of you might have to  
12 be.

13 MR. MANCERI: Okay.

14 THE COURT: Because I'm looking at a  
15 formal document filed here April 9, 2012,  
16 signed by Simon Bernstein, a signature for him.

17 MR. MANCERI: April 9th, right.

18 THE COURT: April 9th, signed by him, and  
19 notarized on that same date by Kimberly. It's  
20 a waiver and it's not filed with The Court  
21 until November 19th, so the filing of it, and  
22 it says to The Court on November 19th, the  
23 undersigned, Simon Bernstein, does this, this,  
24 and this. Signed and notarized on April 9,  
25 2012. The notary said that she witnessed Simon

♀  
00028

1 sign it then, and then for some reason it's not  
2 filed with The Court until after his date of  
3 death with no notice that he was dead at the  
4 time that this was filed.

5 MR. MANCERI: Okay.

6 THE COURT: All right, so stop, that's  
7 enough to give you Miranda warnings. Not you  
8 personally --

9 MR. MANCERI: Okay.

10 THE COURT: Are you involved? Just tell  
11 me yes or no.

12 MR. SPALLINA: I'm sorry?

13 THE COURT: Are you involved in the  
14 transaction?

15 MR. SPALLINA: I was involved as the  
16 lawyer for the estate, yes. It did not come to  
17 my attention until Kimberly Moran came to me  
18 after she received a letter from the Governor's  
19 Office stating that they were investigating  
20 some fraudulent signatures on some waivers that  
21 were signed in connection with the closing of



EXHIBIT 3 - FEAMAN LETTER TO ALAN

EMERGENCY MOTION...  
Wednesday, August 20, 2014  
EXHIBITS

A handwritten signature in blue ink, appearing to be 'A. Feaman', is written over a blue ink fingerprint.A blue ink fingerprint, likely from the same person as the signature, is located to the right of the signature.

## Eliot Ivan Bernstein

---

**From:** Peter M. Feaman <pfeaman@feamanlaw.com>  
**Sent:** Tuesday, August 5, 2014 10:42 AM  
**To:** Alan Rose  
**Cc:** William Stansbury  
**Subject:** RE: Eliot's Demand

By the way, what about the Shirley Bernstein Trust?  
We know The Aragon Condominium Unit was sold which netted over \$1,000,000.

Where is that money?

This is an expense that the trusts clearly should pay.

My client tells me there are numerous witnesses who know that it was Simon's intent to provide for the St. Andrews schooling for Eliot's children.

Heck, the house he bought for Eliot is within walking distance of the school!

Whatever differences there are between Ted and Eliot, the grandkids should not be used as pawns. There is money to pay for the grandchildren's education. Stop playing games and get this done.

At the end of the day, an adjustment can be made if necessary, but stop putting the kids in the middle.

*Peter M. Feaman*

PETER M. FEAMAN, P.A.

3695 West Boynton Beach Boulevard

Suite 9

Boynton Beach, FL 33436

Telephone: 561-734-5552

Facsimile: 561-734-5554

[www.feamanlaw.com](http://www.feamanlaw.com)

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---

**From:** Alan Rose [mailto:ARose@mrachek-law.com]

**Sent:** Tuesday, August 5, 2014 10:05 AM

**To:** Peter M. Feaman

**Subject:** Re: Eliot's Demand

My question is much simpler than that. Would Mr. Stansberry ever consent to Elliot receiving an interim distribution without there being sufficient assets to pay Mr. Stansberry's claim in full. In other words, would he agreed to a preferential distribution to Elliot that could potentially diminish or defeat his ability to collect on a claim, if he is successful

Alan B. Rose

On Aug 5, 2014, at 9:53, "Peter M. Feaman" <[pfeaman@feamanlaw.com](mailto:pfeaman@feamanlaw.com)> wrote:

Until Mr. Stansbury sees an accounting of trust assets, he is not in a position to make a decision on the request.

Can you send me a trust accounting?

*Peter M. Feaman*

PETER M. FEAMAN, P.A.

3695 West Boynton Beach Boulevard  
Suite 9

Boynton Beach, FL 33436

Telephone: 561-734-5552

Facsimile: 561-734-5554

[www.feamanlaw.com](http://www.feamanlaw.com)

NOTE THAT NO ONE HAS EVER BEEN GIVEN A TRUST ACCOUNTING TWO YEARS AFTER SIMON HAS DIED AND EVEN AFTER THE TRUSTEES WERE TERMINATED AND TED ALLEGES HE BECAME SUCCESSOR IN JAN. 2014 IN VIOLATION OF PROBATE RULES AND STATUTES.

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---

**From:** Alan Rose [<mailto:ARose@mrachek-law.com>]

**Sent:** Tuesday, August 5, 2014 9:02 AM

**To:** Peter M. Feaman

**Subject:** Eliot's Demand

Eliot has demanded an interim payment from the Simon Bernstein Trust or Estate.

Based upon the facts as I understand them, there is not more that enough money in the Estate or Trust than the amount of the claim by Mr. Stansbury, and indeed, it appears that there is substantially less than needed to do so should Mr. Stansbury prevail.

Absent Mr. Stansbury's consent to an interim distribution to Eliot, there is no point in anyone (including the new successor PR) considering the request as from the assets of Simon's Trust or Estate.

Please advise asap if Mr. Stansbury would consent to a payment of +/- \$125,000 to St. Andrews School for Eliot's children's three private school tuitions.

Thanks

Alan B. Rose, Esq.

[arose@Mrachek-Law.com](mailto:arose@Mrachek-Law.com)

561.355.6991

<image001.jpg>

505 South Flagler Drive

Suite 600

West Palm Beach, Florida 33401



561.655.2250 Phone  
561.655.5537 Fax

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If there any documents attached to this email with the suffix ,pdf, those documents are in Adobe PDF format, If you have difficulty viewing these attachments, you may need to download the free version of Adobe Acrobat Reader, available at: <http://www.adobe.com>



EXHIBIT 4 – COURT ORDER FOR INSPECTION OF RESIDENCE AND ACCOUNTING FOR PERSONAL  
PROPERTY

EMERGENCY MOTION...  
Wednesday, August 20, 2014  
EXHIBITS



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

PROBATE DIVISION  
CASE NO. 5021012CP004391XXXXSB

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

**ORDER ON CURATOR'S MOTION TO INSPECT AND TAKE POSSESSION OF ESTATE TANGIBLE PERSONAL PROPERTY**

THIS MATTER came before the Court on the Curator's Motion to Inspect and Take Possession of Estate Tangible Personal Property dated June 10, 2014 ("Motion"), the Court having reviewed the Motion, and the Court being otherwise fully advised in the premises, it is hereby:

ORDERED and ADJUDGED as follows:

The Motion is granted in part. Curator is authorized and directed to use Estate funds to retain Robert Hittel in order to inspect the tangible personal property at described on the January 22, 2013 Fair Market Value Appraisal of the Personal Property of Simon L. Bernstein (effective date September 13, 2012) ("Appraisal") located at 7020 Lions Head Lane, Boca Raton, FL

("House") and prepare a written report regarding whether such property is located at the House and its condition (if different than described on the Appraisal). The Court defers decision on the

remainder of the Motion. *Mr. Hittel's fee shall not exceed \$500.00,*

*Ted Bernstein and Eliot Bernstein may be present on the day Mr. Hittel conducts his inspection, but may not enter the house while Mr. Hittel conducts such inspection.*

DONE AND ORDERED in Chambers, Delray Beach, Palm Beach County, Florida, on

June \_\_\_\_\_, 2014.

**SIGNED & DATED**

**JUN 19 2014**

**MARTIN H. COLIN  
CIRCUIT JUDGE**

\_\_\_\_\_  
Circuit Court Judge

Copies furnished to the parties on the attached service list



**SERVICE LIST**

Estate of Simon L. Bernstein  
Palm Beach County Case No. 502012CP004391XXXXSB

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

IN RE: THE ESTATE OF  
SHIRLEY BERNSTEIN,  
Deceased

CASE NO. 502011CP000653XXXXSB

HON. JUDGE MARTIN H. COLIN

\_\_\_\_\_  
ELIOT IVAN BERNSTEIN, PRO SE  
PETITIONER,

V.

TESCHER & SPALLINA, P.A., (AND ALL PARTNERS,  
ASSOCIATES AND OF COUNSEL);  
ROBERT L. SPALLINA, ESQ., PERSONALLY;  
ROBERT L. SPALLINA, ESQ., PROFESSIONALLY;  
DONALD R. TESCHER, ESQ., PERSONALLY;  
DONALD R. TESCHER, ESQ., PROFESSIONALLY;  
THEODORE STUART BERNSTEIN, INDIVIDUALLY;  
THEODORE STUART BERNSTEIN, AS ALLEGED PERSONAL  
REPRESENTATIVE;  
THEODORE STUART BERNSTEIN, AS ALLEGED TRUSTEE  
AND SUCCESSOR TRUSTEE PERSONALLY;  
THEODORE STUART BERNSTEIN, AS ALLEGED TRUSTEE  
AND SUCCESSOR TRUSTEE, PROFESSIONALLY;  
THEODORE STUART BERNSTEIN, AS TRUSTEE FOR HIS  
CHILDREN;  
LISA SUE FRIEDSTEIN, INDIVIDUALLY AS A BENEFICIARY;  
LISA SUE FRIEDSTEIN, AS TRUSTEE FOR HER CHILDREN;  
JILL MARLA IANTONI, INDIVIDUALLY AS A BENEFICIARY;  
JILL MARLA IANTONI, AS TRUSTEE FOR HER CHILDREN;  
PAMELA BETH SIMON, INDIVIDUALLY;  
PAMELA BETH SIMON, AS TRUSTEE FOR HER CHILDREN;  
MARK MANCERI, ESQ., PERSONALLY;  
MARK MANCERI, ESQ., PROFESSIONALLY;  
MARK R. MANCERI, P.A. (AND ALL PARTNERS,  
ASSOCIATES AND OF COUNSEL);  
JOSHUA ENNIO ZANDER BERNSTEIN (ELIOT  
MINOR CHILD);  
JACOB NOAH ARCHIE BERNSTEIN (ELIOT  
MINOR CHILD);  
DANIEL ELIJSHA ABE OTTOMO BERNSTEIN  
(ELIOT MINOR CHILD);  
ALEXANDRA BERNSTEIN (THEODORE ADULT  
CHILD);  
ERIC BERNSTEIN (THEODORE ADULT CHILD);  
MICHAEL BERNSTEIN (THEODORE ADULT

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CHILD);  
MATTHEW LOGAN (THEODORE'S SPOUSE  
ADULT CHILD);  
MOLLY NORAH SIMON (PAMELA ADULT  
CHILD);  
JULIA IANTONI – JILL MINOR CHILD;  
MAX FRIEDSTEIN – LISA MINOR CHILD;  
CARLY FRIEDSTEIN – LISA MINOR CHILD;  
PAGE, MRACHEK, FITZGERALD & ROSE, P.A.  
(AND ALL PARTNERS, ASSOCIATES AND OF  
COUNSEL);  
ALAN B. ROSE, ESQ. – PERSONALLY;  
ALAN B. ROSE, ESQ. – PROFESSIONALLY;  
PANKAUSKI LAW FIRM PLLC, (AND ALL  
PARTNERS, ASSOCIATES AND OF COUNSEL);  
JOHN J. PANKAUSKI, ESQ. – PERSONALLY;  
JOHN J. PANKAUSKI, ESQ. – PROFESSIONALLY;  
KIMBERLY FRANCIS MORAN – PERSONALLY;  
KIMBERLY FRANCIS MORAN –  
PROFESSIONALLY;  
LINDSAY BAXLEY AKA LINDSAY GILES –  
PERSONALLY;  
LINDSAY BAXLEY AKA LINDSAY GILES –  
PROFESSIONALLY;  
THE ALLEGED “SIMON L. BERNSTEIN AMENDED  
AND RESTATED TRUST AGREEMENT” DATED  
JULY 25, 2012;  
JOHN AND JANE DOE'S (1-5000).

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**ORDER ON ELIOT BERNSTEIN'S: EMERGENCY MOTION TO COMPEL  
ALLEGED TRUSTEE OF THE SHIRLEY TRUST TO MAKE EMERGENCY  
WELFARE PAYMENTS AS PROVIDED FOR UNDER THE TRUST;  
MOTION FOR REMOVAL OF TRUSTEE ON THE COURT'S OWN  
INITIATIVE – FLORIDA TITLE XLII 736.0706**

THESE CAUSES CAME BEFORE THE COURT ON AUGUST \_\_, 2014 ON ELIOT  
BERNSTEIN'S "EMERGENCY MOTION TO COMPEL ALLEGED TRUSTEE OF THE  
SHIRLEY TRUST TO MAKE EMERGENCY WELFARE PAYMENTS AS PROVIDED FOR  
UNDER THE TRUST; MOTION FOR REMOVAL OF TRUSTEE ON THE COURT'S OWN  
INITIATIVE – FLORIDA TITLE XLII 736.0706" AND THE COURT HAVING HEARD

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ARGUMENT OF COUNSEL AND BEING OTHERWISE DULY ADVISED IN THE PREMISES, IT IS

**ORDERED AND ADJUDGED**

1. THAT THIS COURT COMPELS THEODORE AS THE ALLEGED TRUSTEE OF THE SHIRLEY AND SIMON TRUSTS TO COMPLY WITH THE TERMS OF THE TRUST AND MAKE REQUIRED NON DISCRETIONARY WELFARE PAYMENTS TO SAINT ANDREWS SCHOOL DIRECTLY, TO BE LATER DEDUCTED FROM ELIOT OR HIS CHILDREN'S DISTRIBUTIONS, ONCE BENEFICIARIES TO MAKE DISTRIBUTIONS TO LEGALLY CAN BE DETERMINED BY THE COURT AT SOME FUTURE TIME.

ELIOT AND CANDICE BERNSTEIN INDIVIDUALLY, AND ELIOT AND CANDICE AS PARENTS AND NATURAL GUARDIANS, ON BEHALF OF DANIEL, JACOB AND JOSHUA, AGREE THAT THE TRUSTEE AND HIS PROFESSIONAL SHALL HAVE ABSOLUTELY NO LIABILITY IN REGARD TO SPECIFICALLY MAKING THE ABOVE-LISTED PAYMENTS TO ST. ANDREWS SCHOOL FOR \$133,500.00 AND SHALL BE INDEMNIFIED AND HELD HARMLESS FROM SUIT; PROVIDED THAT IN NO EVENT SHALL SUCH INDEMNIFIED AMOUNT EXCEED \$133,350 FOR THESE PAYMENTS TO SAINT ANDREWS SCHOOL BY ELIOT AND CANDICE, AND ELIOT AND CANDICE AS PARENTS AND NATURAL GUARDIANS OF DANIEL, JACOB AND JOSHUA.

WELFARE PAYMENTS PER THE SHIRLEY TRUST AND/OR SIMON TRUST SHALL BE MADE IN THE AMOUNT OF:

PAYABLE TO ST. ANDREWS SCHOOL, FOR THE BENEFIT OF  
DANIEL: \$ 42,000.00

PAYABLE TO ST. ANDREWS SCHOOL, FOR THE BENEFIT OF  
JACOB: \$ 46,000.00

PAYABLE TO ST. ANDREWS SCHOOL, FOR THE BENEFIT OF  
JOSHUA: \$ 45,500.00

TOTALS \$133,500.00.

THE COURT HAS ORDERED THAT, IF FOR ANY REASON ANY OF THE  
CHILDREN WITHDRAW FROM OR NO LONGER ATTEND THE ST.  
ANDREWS SCHOOL, SAID SCHOOL MAY NOT DISBURSE ANY MONIES  
(EXCESS PAYMENTS OR REFUNDS IF APPLICABLE) TO ANYONE  
ABSENT COURT ORDER.

A CONDITION OF THIS WELFARE PAYMENT UNDER THE TERMS OF THE  
TRUST IS THE AGREEMENT BY THE UNDERSIGNED TO RETURN TO THE  
TRUSTEE, UPON DEMAND, ANY PROPERTY DETERMINED BY THE  
COURT TO HAVE BEEN IMPROPERLY RECEIVED AND ITS INCOME  
SINCE THE WELFARE PAYMENTS WERE PAID OR, IF THE UNDERSIGNED  
NOT HAVE THE PROPERTY, TO RETURN TO THE SAID TRUSTEE THE  
VALUE OF THE PROPERTY AT THE DATE OF FINAL DISPOSITION TO A  
LEGAL BENEFICIARY TO BE DECIDED BY THE COURT AT A LATER  
DATE AND ITS INCOME AND GAIN RECEIVED. THE UNDERSIGNED  
SHALL HAVE NO OBLIGATION TO RETURN THE PROPERTY UNLESS IT  
IS DETERMINED BY A COURT TO HAVE BEEN IMPROPERLY PAID.

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FURTHER, IF THE COURT DETERMINES THAT THESE PAYMENTS TO ST. ANDREWS SCHOOL SHOULD LATER BE TREATED AS A DISTRIBUTION TO ELIOT'S CHILDREN, THEN PAYMENT FOR THE BENEFIT OF THE RESPECTIVE CHILD WILL CONSTITUTE PART OF ANY FUTURE DISTRIBUTION TO WHICH EACH SUCH CHILD WOULD BE ENTITLED. IF THE COURT DETERMINES THAT THESE PAYMENTS TO ST. ANDREWS SCHOOL SHOULD BE TREATED AS A DISTRIBUTION TO ELIOT BERNSTEIN INDIVIDUALLY AT A LATER DATE, ELIOT AGREES THAT HE WOULD HAVE USED THIS MONEY FOR THE BENEFIT OF HIS CHILDREN AND HE AGREES THE \$133,500.00 PAYMENT WOULD CONSTITUTE PART OF ANY DISTRIBUTION TO WHICH HE WOULD BE ENTITLED IN THE FUTURE AFTER THE COURT DETERMINES THE TRUE AND PROPER BENEFICIARIES TO LEGALLY MAKE DISTRIBUTIONS TO.

IF THE COURT DETERMINES AT A LATER DATE THAT DANIEL, JACOB AND JOSHUA ARE BENEFICIARIES OF THE SHIRLEY TRUST, THE ABOVE-LISTED PAYMENTS WILL CONSTITUTE A PARTIAL DISTRIBUTION TO THE RESPECTIVE CHILD IN THE AMOUNT SET FORTH ABOVE.

IF THE COURT DETERMINES AT A LATER DATE THAT ELIOT IS A QUALIFIED LEGAL BENEFICIARY OF THE SHIRLEY TRUST, THE FULL AMOUNT OF \$133,500 WILL CONSTITUTE A PARTIAL DISTRIBUTION TO ELIOT AND WILL COUNT AGAINST ANY DISTRIBUTION TO ELIOT.

THE FACT THAT ELIOT AND CANDICE BERNSTEIN HAVE ENTERED

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INTO THIS AGREEMENT DOES NOT CONSTITUTE AN ADMISSION, CONCESSION OR WAIVER BY ELIOT AND CANDICE THAT ANY PRIOR DISTRIBUTIONS TO ANY PARTIES WERE PROPER, NOR DOES ENTERING THIS AGREEMENT WAIVE ANY OTHER CLAIMS AGAINST THE TRUSTEE AND HIS COUNSEL, NOR ANYONE ELSE.

THIS AGREEMENT WAS MADE VOLUNTARILY AND NOT UNDER ANY DURESS, PRESSURE OR COERCION BY THE TRUSTEE. THE WELFARE PAYMENTS TO SAINT ANDREWS SCHOOL CONTEMPLATED HEREUNDER ARE SUBJECT TO APPROVAL BY THE PROBATE COURT. THIS AGREEMENT AND ANY ORDERS ISSUED ARE ONLY ENFORCEABLE IF THE CHILDREN ARE RE-ENROLLED FOR THE 2014-2015 YEAR AND PAYMENTS ARE ACCEPTED BY SAINT ANDREWS, OTHERWISE THIS AGREEMENT WILL BE NULL AND VOID IN ENTIRETY.

THE AMOUNT TO BE RENDERED TO THE SCHOOL DIRECTLY IS USD \$133,500.00, PAYABLE IN FULL NO LATER THAN AUGUST \_\_, 2014.

THE TRUSTEE IS AUTHORIZED, DIRECTED AND COMPELLED TO MAKE PAYMENTS TO THE ST. ANDREW'S SCHOOL ON BEHALF OF EACH OF ELIOT'S THREE CHILDREN IN THE AMOUNTS SPECIFIED HEREIN, TO COVER THE 2013-2014 ARREARAGES, AND THE FULL COST OF TUITION FOR 2014-2015 SCHOOL YEAR.

IF FOR ANY REASON ANY OF THE CHILDREN WITHDRAW FROM OR NO LONGER ATTEND THE ST. ANDREWS SCHOOL, SAID SCHOOL MAY NOT DISBURSE ANY MONIES IN THE CHILDREN'S ACCOUNTS (EXCESS

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PAYMENTS, REFUNDS IF APPLICABLE, OR OTHERWISE) TO ANYONE  
ABSENT AN ORDER FROM THIS COURT.

THE COURT FINDS THAT NO BENEFICIARY OBJECTED TO THE  
REQUESTED DISTRIBUTION, AND FINDS  
THAT IT IS IN THE BEST INTERESTS OF ELIOT BERNSTEIN AND HIS  
CHILDREN THAT THESE WELFARE PAYMENTS PROVIDED FOR IN THE  
TRUSTS OF SIMON AND SHIRLEY BE MADE DIRECTLY TO THE ST.  
ANDREW'S SCHOOL. BECAUSE THE AGREEMENT RELATES TO MINOR  
CHILDREN, THE COURT ORDERS THAT THE AGREEMENT BE TREATED  
AS CONFIDENTIAL, TO BE PROVIDED SOLELY TO THE PARTIES  
(PARTIES MAY SHARE ON A CONFIDENTIAL BASIS A COPY OF THE  
AGREEMENT WITH COUNSEL OR OTHER PARTIES ADVISING THEM IN  
THIS MATTER).

IN ADDITION, TO THE EXTENT THAT IT WOULD BE NECESSARY, THE  
COURT WAIVES ANY REQUIREMENT FOR THE APPOINTMENT OF A  
GUARDIAN AD LITEM AND FURTHER FINDS THAT, IN RESPECT TO THE  
AGREEMENT AND THIS ORDER, THE AGREEMENT IS IN THE BEST  
INTERESTS OF THE MINOR CHILDREN AND THAT ELIOT AND CANDICE  
BERNSTEIN ADEQUATELY REPRESENT THE INTERESTS OF THEIR  
MINOR CHILDREN.

2. THAT THE COURT APPROVES AFTER CAREFUL REVIEW OF THE  
REASONS TO REMOVE THEODORE ON THIS COURTS OWN INITIATIVE  
AND HAVING REVIEWED THE MATTERS BEFORE THE COURT FOR THE

REMOVAL OF THEODORE BERNSTEIN, THE COURT ON THE COURT'S OWN INITIATIVE HEREBY REMOVES THEODORE IN ANY FIDUCIARY CAPACITIES IN THE ESTATES AND TRUSTS OF BOTH SIMON AND SHIRLEY, AS THIS COURT FINDS THAT THEODORE BERNSTEIN IS NOT NOW QUALIFIED TO ACT AS A FIDUCIARY IN ANY CAPACITY.

3.

\_\_\_\_\_  
\_\_\_\_\_  
DONE AND ORDERED IN DELRAY BEACH, PALM BEACH COUNTY, FLORIDA  
THIS \_\_ DAY OF AUGUST, 2014.

\_\_\_\_\_  
**MARTIN COLIN**  
**CIRCUIT COURT JUDGE**

**COPIES TO:**

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