Eliot Ivan Bernstein

From: Eliot Ivan Bernstein <iviewit@iviewit.tv>
Sent: Thursday, August 21, 2014 10:07 PM
To: Brian M. O'Connell PA ~ Partner @ Ciklin Lubitz Martens & O'Connell (boconnell@ciklinlubitz.com); Peter Feaman, Esq. ~ Attorney at Law @ Peter M. Feaman, P.A. (pfeaman@feamanlaw.com)
Cc: Caroline Prochotska Rogers Esq. (caroline@cprogers.com); Michele M. Mulrooney ~ Partner @ Venable LLP (mmulrooney@Venable.com); Andrew R. Dietz @ Rock It Cargo USA; Marc R. Garber Esq. @ Flaster Greenberg P.C. (marcrgarber@verizon.net); Marc R. Garber Esq. (marcrgarber@gmail.com); Marc R. Garber Esq. @ Flaster Greenberg P.C. (marc.garber@flastergreenberg.com); ''tourcandy@gmail.com' (tourcandy@gmail.com)'; 'Eliot Bernstein (iviewit@iviewit.tv)'
Subject: Bernstein Children School Payments

Tracking:

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Brian and Peter,

On Alan's advice to talk with several people to get comfortable with his proposed agreement language before signing it he suggested the two of you as part of that group. Alan suggested that I ask your opinions on his final proposed agreement language attached herein and he refuses to make any changes to that since yesterday and he is telling me it covers everything agreed to in Court. I have attached also the original proposed agreement Alan sent over after court with my hand notes, which was supposed to reflect exactly what we agreed to in Court and ready to sign. After talking with some of the people, concerns were raised that appear to violate the stated intent of all parties that worked together that day in Court to get a draft prepared on what we all thought we agreed on. Brian, I know Alan has copied you in on the prior messages and so I left a message for you yesterday morning so we could discuss these issues and try to get to a timely resolution but I have not heard back yet and was in the dentist again for 4.5 hours today and may have missed a call.

When we were at court we agreed that the proposed agreement and order would have two issues resolved that I stated repeatedly to Brian, Alan and the Judge throughout all of our discussions that I could not agree to anything without them fully resolved in both the orders and agreement. The Judge, Alan, Brian and I agreed these two items would be properly addressed in the proposed order and agreement that Alan was going to type up after court and send to the parties for review for the first time and signature. Brian and Peter, as you may recall when we first started negotiating Alan did not have a copy of his documents and we waited for almost an hour while he frantically searched for them, including leaving the Court to go to his car. Alan still didn't have all his documents on his return and so we only had his ipad screen to view some and the agreed modifications were written on the backs of some of his documents in scribbled hand notes that were barely legible and no one got copies of those. Brian you even joked with Alan how hard it was to read his handwritings.

After we agreed the two issues were resolved, Brain, Alan and I went before the Judge and we discussed those two items and agreed they would not be a problem and the Judge had Alan read into the record the proposed language and we discussed certain of the items and the judge made suggestions and Alan was to take his ipad Order and his changes to his documents that only he had a copy of and get them all ready to be sent to us for review and signed by 5mp. In good faith Alan was going to go back to his office, as time was pressing and the children's school was in jeopardy by end of day and draft up the language from his notes for us to review for the first time as a complete set of orders and agreement that would include all of our changes and those the judge added orally and if everything was as agreed, Candice and I would sign and get money that day paid to the school according to Alan.

ISSUE #1 - PAYMENTS TO SAINT ANDREWS COULD NOT BE CONSTRUED AS TAKING DISTRIBUTIONS TO BENEFICIARIES AT THIS TIME ANYWHERE IN THE AGREEMENT AND ORDER. WE ALL AGREED.

Brian, we agreed with Alan in our discussions you were helping me in at the Court and then with the Judge that the agreement and orders would be drafted so that in no way would there be any language that could be construed to have "distributions" being made to any party at this time and not until such time that the beneficiaries are determined by the Court at a later date, this due to the fraud that has occurred throwing who the beneficiaries are into question. Then, we agreed that only after the Court decides who the beneficiaries are, which may take months, the payments made to the school would then and only then be deducted from a future distribution that would be made to a legally qualified beneficiary. This concern was to alleviate me taking "distributions" that could be construed as fraudulent and to knowingly improper parties, as I allege the other parties already did commit this fraud while knowing the beneficiaries were unknown and their distributions were to improper parties. As the beneficiaries remain unknown at this time due to the fraud that took place and we all agreed on that, including Alan, the agreement and order cannot be construed in any way to even suggest that I or my children took a distribution at this time.

I was stunned when I received Alan's first draft of the proposed agreement and order and saw language that absolutely confuted the agreement we made at Court in regard to Issue #1.

In the original proposed agreement attached herein that Alan sent me we had to negotiate for a long time and wholly modify Alan's draft language to take out the part where Alan stated "Further, to the extent that it is determined that these monies **have been distributed** to Eliot Bernstein individually rather than **to his children**" as this clearly violated what the Court and all of us agreed on and actually states the children would be getting distributions.

I could not believe this and I reminded Alan that I would then be committing fraud this way, as it is clear from that language that the children took "distributions." This was very bothersome to see that his proposed language violated what we all agreed on in Court. With only a few hours to try and satisfy the school we worked through that one instance out and in the next proposal that language was removed. However, in the time I have had to review the document with

now, it has now become apparent that the word “distribution” could be construed to mean “distribution,” not a payment to later be deducted from the TBD beneficiaries’ distributions, in several other places.

I suggested to overcome this problem of any confusion with the word distribution globally in the agreement and order that we simply define the term “distribution” at the beginning of each document to state what exactly it means so that it cannot be misconstrued anywhere but Alan refused to negotiate on that approach.

Alan is determined to have the word “distribution” undefined throughout the agreement leaving it violating what we agreed to in Court and with Alan and leaving exposure everywhere to misinterpretation. The change in the agreement without defining the word “distribution” or taking it out altogether and replacing it with some other word would still have to be fixed in any new proposed agreement or else it violates the spirit and good intent we all agreed on for Issue #1. Alan was charged by the Court in making sure this could not happen through clearly defined language in the agreement that Alan was going to draft and send over, including all the changes the Judge wanted inserted that were orally made.

To avoid any chance of implied consent that I took distributions like others did that I have stated were fraudulent, it must be changed to one of these two ways to resolve that. From Alan’s final proposed language this proposed agreement could still be construed as “distributions” were taken, in several spots as my hand notes indicate. This language as we agreed would have to be bullet proof for me to sign and not have a single instance where it could be misconstrued.

I was also stunned that after Alan knew we bought another day after suggesting we send the proposed Order to the school at 5pm we instead called the school and bought a day to try and work things out but when we could not resolve some of this a bit later in the evening Alan refused to make any other changes to fix the problems.

I ask both of you if you think the language in the proposed agreement regarding Issue #1 leaves no possibility anywhere in the document for misinterpretation or debate that NO DISTRIBUTIONS are being made to any party at this time and will only be deducted from the TBD beneficiaries’ distributions after the Court determines who they are.

ISSUE #2 – LIMIT THE SCOPE AND AMOUNTS OF ANY RELEASES FROM LIABILITIES, INDEMNIFICATIONS AND HOLD HARMLESS LANGUAGE TO THE AGREEMENT AND THE AMOUNT PAID TO THE SCHOOL. WE ALL AGREED.

Brian we agreed with Alan and Judge Colin then agreed on the record that the release of liability, hold harmless and indemnification language would also be limited in scope and amount to the singular act of making a payment to the school and that amount only. After several attempted resolutions I proposed very clear language limiting these items as agreed but Alan would only agree to his language in his final proposed language and again refused to talk about this very complex yet highly important legal language in another take it or leave it negotiation. I am not sure how or why Alan refuses to limit these when that is what was stated would be in the agreement and order but this does not seem in the beneficiaries best interests and may leave them exposed in language that benefits Ted and Alan very well and almost tries to gain them unlimited release from these items and lawsuit perhaps even those they are already defendants in.

Alan’s final language on limiting the exposures appears to leave them wide open instead,

“Eliot and Candice Bernstein individually, and Eliot and Candice as parents and natural guardians, on behalf of Daniel, Jacob and Joshua, agree that (i) the Trustee and his professionals **shall have absolutely no liability to anyone for making the above-listed payments** to St. Andrews School, and (ii) the Trustee and his professionals **shall be indemnified and**

held harmless from suit by Eliot and Candice, and Eliot and Candice as parents and natural guardians of Daniel, Jacob and Joshua **for making the above-listed payments to St. Andrews School**."

Alan's language in (i) appears to state that for making the payments Ted and Alan would have absolutely no liability to anyone for anything and in unlimited amount. For liability to be limited as the Judge stated it would, it would need to state something to the effect,

…shall have absolutely no liability specifically and only in regard to making the above payments to Saint Andrews school and limiting this release of liability to no more than the $133,500 paid.

In number (ii) Alan's language wholly leaves indemnification and held harmless from suit open ended and not limited to scope and amount at all. It appears to again state that for making the payment to Saint Andrews he will be indemnified and held harmless from suit by Eliot and Candice for anything.

We proposed to Alan to limit that this language to try and resolve his language to meet the agreed intent,

…and shall be indemnified and held harmless from suit; provided 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.

After further discussions with those helping me any final agreement might better protect the beneficiaries by stating "and shall be indemnified and held harmless from suit specifically and only in regard to the making of the payment; provided 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."

I am not sure if that language would be strong enough to limit the liabilities etc. so I ask what you think or any changes you might suggest to Alan's or my proposed language to make this happen. As you can see from the email below, as of tomorrow my children are not allowed back in school.

I also stated to Alan that any agreement now proposed due to the missed enrollment timeframe would have to have language that stated that the agreement in whole was null and void if they could not be re-enrolled and payment accepted.

As you know Alan has suggested you guys help me get comfortable with his agreement language as I am not represented by counsel. If you are satisfied that Alan's current language in the agreement satisfies your understanding of what was agreed to in Court regarding Issue #1 and #2, please call me immediately and help me understand how our concerns are invalid and that the agreement is ok to sign as is, as I am trying desperately to get my children back in school if possible. To say the least, my wife is super depressed over this as the kids attended the last two days at school and now cannot go tomorrow and the kids are very sad and depressed over this too. I am looking at other solutions since Ted as Alleged Trustee and Alan refuse to make the welfare payment and will not negotiate anything since yesterday so I am open to anything you suggest. Brian, I did speak to you about the possibility that Ted would breach his duties as is a pattern and practice of his and if the Estate could somehow work this out and I believe you stated you would get back to me a few days ago so please let's discuss that tomorrow, as you can see from the Saint Andrew school letter below, there is virtually no time left to continue to beat a dead horse that refuses to negotiate these simple clarifying points.

Thank you both so very much for your time and efforts to help resolve this mess caused by the delays in my inheritance due to others frauds and lack of cooperation. Eliot

From: Kilian Forgus [mailto:kilian.forgus@saintandrews.net]
Sent: Thursday, August 21, 2014 4:40 PM
To: Candice Bernstein; iviewit@iviewit.tv
Cc: Peter Benedict; Philip Cork; Kathy Van Valkenburg
Subject: Re: Josh, Jake and Danny

Mr. and Mrs. Bernstein,

I trust that we are being explicitly clear that until we have both the funds that are in arrears and the funds for the 14-15 school year, that the boys will not be allowed to attend classes. Simply put, they are not currently enrolled and therefore can not be attending classes under any circumstances.

While we are in receipt of the signed order, the Headmaster, CFO, Business Manager and I have discussed this matter at length, and, as we have communicated, this is not sufficient for Saint Andrew's.

Again, please help us avoid a potentially embarrassing situation of having to ask the boys to leave campus. They are not to return for classes until such time that Saint Andrew's has executed their Re-Enrollment Contracts.

Sincerely,

Kilian

Kilian Forgus
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