

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 (TED ADULT CHILD);
ERIC BERNSTEIN (TED ADULT CHILD);
MICHAEL BERNSTEIN (TED ADULT CHILD);
MATTHEW LOGAN (TED'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).

MOTION IN OPPOSITION OF PERSONAL REPRESENTATIVES “PETITION TO RE-CLOSE ESTATE BASED UPON PRIOR SIGNED WAIVERS AND FOR DISCHARGE OF SUCCESSOR PERSONAL REPRESENTATIVE”

COMES NOW, Eliot Ivan Bernstein (“Eliot”), 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 “**MOTION IN OPPOSITION OF PERSONAL REPRESENTATIVES “PETITION TO RE-CLOSE ESTATE BASED UPON PRIOR SIGNED WAIVERS AND FOR DISCHARGE OF SUCCESSOR PERSONAL REPRESENTATIVE”**” and in support thereof states, on information and belief, as follows:

That this Court has re-opened the Estate of Shirley in an Order dated, September 24, 2013 and appointed Theodore Bernstein as Successor Personal Representative and intended on issuing Letters of Administration upon his completing the proscribed requirements.

1. That Theodore Stuart Bernstein (“TED”) or (“THEODORE”) states in his factually incorrect pleading,

The initial Personal Representative, Simon L. Bernstein, fully administered this estate and Petitioned for a discharge, with signed (but un-notarized) waivers by all interested persons. §731.301, Fla. Stat. (See Exhibit "A").

However, TED fails to state that Simon petitioned for discharge with fraudulently notarized and forged waivers while factually DEAD as part of a Fraud on the Court committed by Donald Tescher, Esq. (“TESCHER”) and Robert Spallina, Esq. (“SPALLINA”), who acting as Simon’s counsel as Personal Representative/Executor failed to notify this Court that the initial PR Simon was DEAD. Instead, TESCHER and SPALLINA continued to use him while DEAD for four months to close his wife’s estate as part of a larger Fraud on the Court to change Shirley’s irrevocable trust and estate beneficiaries and make it appear that Simon made changes while alive to her dispositive documents and his own, when he did not. When this Court discovered the Fraud on the Court in a September 13, 2013 hearing and learned that the Estate of Shirley was closed by a DEAD Personal Representative/Executor using fraudulently notarized and now proven forged documents and that a fraud on the beneficiaries had also been committed, Your Honor stated you had enough at that moment to issue Miranda Rights to TED and his counsel Robert L. Spallina, Esq. (“SPALLINA”) twice for the crimes (see Exhibit 1 - Excerpts 9/13/13 Hearing).

That Simon did not have all waivers prior to his death, as Jill Iantoni (“IANTONI”) did not provide one until after Simon was dead and thus this claim that Simon had all the waivers while alive is a lie

that intends to mislead the Court, again (see Exhibit 2 - Jill Iantoni Waiver signed October 01, 2012.

That Eliot did sign a waiver because he was induced to sign one to end disputes between primarily TED and his sister Pamela Beth Simon (“PAMELA”) and Simon that was causing Simon great emotional duress causing him to seek therapy. These disputes began when TED and PAMELA were tipped off by SPALLINA without Simon’s consent that they had been wholly disinherited with their lineal descendants from the Estates and Trusts of both Simon and Shirley (see Exhibit 3 - PAMELA Attorney Letter to Simon). That TED and PAMELA then attempted to extort Simon to make changes to him and Shirley’s Wills and Trusts and unless he ceded to their demands he would never see them or their four children again. In Shirley’s Estate and Trusts the changes they demanded were not even legally possible but they were demanding him to change them and recruited TESCHER and SPALLINA to try and convince Simon that changes could be legally done. From a Palm Beach County Sheriff (“PBSO”) Report¹, SPALLINA states to investigators,

Spallina said that he explained to him [Simon] again, that only his trust, not Shirley’s can go to both grandchildren, unless he takes all of the assets out of the Shirley Trust and puts them into his name...

New documents were drawn up for Simon’s estate. These new documents gave everything to all 10 grandkids, he also exercised his power over Shirley’s estate, leaving everything to all 10 grandkids, **even though legally he could not include Ted and Pam’s kids because of the predeceased limitations.**

What is strange is that this statement to PBSO investigators came after a year of TESCHER and SPALLINA attempting to convince Eliot and others that changes to Shirley and Simon’s documents were done legally and that distributions could be made legally under their changes to Simon and Shirley’s Estate plans. This statement was an “about face” to TESCHER and SPALLINA’s actions for over a year after Simon’s death where they promulgated that all of the changes were legally done.

¹ Palm Beach County Sheriff Reports @ [www.iviewit.tv/Sheriff Reports.pdf](http://www.iviewit.tv/Sheriff%20Reports.pdf)

That TED and PAMELA then recruited their sisters, IANTONI and FRIEDSTEIN into not seeing their father Simon and withholding their children from him in yet another extortive plot. This plot also was instigated by THEODORE primarily, who claimed Simon's girlfriend Maritza Puccio ("PUCCIO") was after his money and that he had information that she had stolen already from Simon and Shirley. Four of five of Simon's children then participated in this assault of Simon, whereby if he did not stop seeing his girlfriend, PUCCIO, they would not see Simon and ban their children from seeing him. These extortive plots caused Simon great emotional stress starting immediately after Shirley's death when TED and PAMELA were tipped off by SPALLINA that they were disinherited. These disputes and Simon's emotional duress over them lasted until the day he died, as he refused to bend to their demands and make any changes to him and Shirley's Wills and Trusts done in 2008 and refused to stop seeing PUCCIO. On the day Simon died TED accused PUCCIO of murdering Simon via poisoning him, and then started a PBSO investigation and instigated a Coroner's examination to prove she had murdered him on that same day².

Eliot signed a waiver, which is actually a three-part document consisting of (i) WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE (ii) WAIVER OF SERVICE OF PETITION FOR DISCHARGE and (iii) RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE³.

² PBSO Murder investigation report @ [www.iviewit.tv/Sheriff Reports.pdf](http://www.iviewit.tv/Sheriff%20Reports.pdf) or (<http://www.iviewit.tv/Sheriff%20Reports.pdf>) and Palm Beach County Coroner Report @ [www.iviewit.tv/20140310 Simon Bernstein Autopsy Coroner Report Heavy Metal Screen received in July 2014.pdf](http://www.iviewit.tv/20140310%20Simon%20Bernstein%20Autopsy%20Coroner%20Report%20Heavy%20Metal%20Screen%20received%20in%20July%202014.pdf) or www.iviewit.tv/20140310%20Simon%20Bernstein%20Autopsy%20Coroner%20Report%20Heavy%20Metal%20Screen%20received%20in%20July%202014.pdf), both fully incorporated by reference herein.

³ NOTE: It is the "RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE" that was required to be Notarized by this Court and sent back and not the waiver portions of the document. That Eliot was never given any information regarding his inheritance and had no idea what his interests were and thus why he attached with the document a statement that he did not have any documents other than this one piece of paper to determine his interests to waive and was waiting for the dispositive documents to make the document he signed legally valid. Eliot only

Eliot signed the document on the condition that he would receive all the documents showing his 1/3rd interest in the Shirley and Simon Estates and Trusts were, prior to making any final decisions on what to do with his beneficial interests that it appeared he was being asked to give up and transfer to others. Eliot was asked by Simon to consider doing changes he contemplated briefly in an effort to end the torture of Simon by his other four children and seven of ten of his grandchildren. That Eliot was never sent dispositive documents showing his interests to make the statements on the waivers and receipt true and he still has not been shown his or his children's interests, therefore he still would not be able to honestly sign a waiver document at this time. SPALLINA and TESCHER stated they were forwarding the documents and information that would show Eliot the interests he was claiming in the waiver to have seen and was waiving before anything would be officially done by anyone.

That after Simon died the Waivers were submitted to the Court not by Simon but on his behalf, as he was dead, by his Attorneys at Law TESCHER and SPALLINA who fraudulently posited them with the Court for Simon acting as PR/Executor while dead. These waivers deposited fraudulently were rejected by the Court for failure to be notarized. Then amazingly, the waivers were again fraudulently posited with Court by Simon as PR/Executor, still dead and this time they were later found to be forged and fraudulently notarized for Simon, Eliot and the other four siblings. This Fraud on the Court is partially what led to this Court reopening the Estate of Shirley due to the Fraud on the Court that took place using a DEAD Personal Representative/Executor, Simon, to close his beloved wife Shirley's Estate. Additionally, while DEAD, Simon closed Shirley's Estate with forged and fraudulently notarized waivers and receipts for six parties, including one that was forged and fraudulently notarized by Simon **POST MORTEM**.

signed the document sent in good faith and to relieve the stress on Simon that prompted him to ask Eliot to sign the document as stated on the original document and stated in an email with a clean copy the same.

That all closing documents and dispositive documents of Shirley's have been challenged by Eliot with the Court as further fraudulent documents and the Estate was reopened to provide access to the documents that have been suppressed and denied and begin forensic evaluation of them for evidence of further foul play and to obtain Accountings that appeared missing or suppressed.

That the Court upon reopening the Estate of Shirley stated that the waivers and receipts were no good and new ones could not be had from all parties, including Eliot and Simon. Eliot refused and Simon was not signing a new one as he remained deceased and in light of that and Your Honor determined in light of that there would now need to be a formal final accounting prepared by the new Personal Representative/Executor. Judge Colin then erred in appointing TED, as the alleged Will of Shirley, allegedly names TED as Successor to Simon, although it is alleged that this document has also been fraudulently tampered with and Eliot has been denied access to see the original Will of Shirley and all Schedules and Addendums attached. The Court appointed TED over a year after Simon's death stating he was named in the alleged 2008 Shirley Will as the Successor to Simon.

The Estate was closed illegally and therefore **abandoned** for over a year with no legal Successor Personal Representative/Executor to legally close it, as Simon had died and yet continued to act as PR/Executor to close Shirley's Estate while dead and no successor was chosen due to this complex fraud. This Fraud on the Court was committed in part by Simon's Attorneys at Law, TESCHER and SPALLINA, who perpetrated this Fraud on the Court and fraud on the beneficiaries to benefit their client, friend and business associate TED and his sister PAMELA who had both been wholly disinherited with their lineal descendants.

That the frauds already proven, admitted and those alleged and under ongoing investigations in the Estates and Trusts of both Simon and Shirley were in large part enabled by the illegal seizure of Dominion and Control of the Estates and Trusts of Simon and Shirley. That through this series of

fraudulent and legally invalid and challenged dispositive documents tendered to this Court, TESCHER, SPALLINA and TED, were then able illegally to seize Dominion and Control of the Estates and Trusts through this legal debauchery. That once Dominion and Control had been gained through these fraudulent documents a looting of the Estates and Trusts began and continues to this day in a variety of various conversions and theft of properties with virtually unaccounted for and unchecked illegal control of the Estates and Trusts by TESCHER, SPALLINA and TED.

2. That TED states,

Under her Will, admitted to probate, Shirley left all of her personal effects, jewelry, collections, furnishings, automobiles and all non-business assets to her husband, Simon, if he survived her, which he did. Shirley residences were to go to Simon, but she had no residences other than property already in her trust. The remainder of her estate was to pour-over into the Shirley Bernstein Trust Agreement dated May 20, 2008 (the "Shirley Trust"). Simon was the sole beneficiary of the Shirley Trust while he was alive.

That Shirley's Will with all Schedules and Addendums has not been turned over to the beneficiaries as of the date of this filing for four years now and with no inventory listing any of her assets and effects it is presently unknown what Shirley left to Simon. That the inventory of Shirley is **missing** all of her personal effects, jewelry, collections, furnishings, automobiles and all non-business assets that she allegedly gave to her husband. These items also have not turned up in Simon's estate assets. NOTHING is on the inventory except a statement that her inventory was worth "\$25,0000 (est)."⁴ That even if Shirley left everything to Simon, what exactly she left to him would have had to be accounted for on her inventory and then transferred to Simon, including but far from limited to, a fully paid Bentley in Shirley's name, millions of dollars of Jewelry and Art Shirley owned and more. That Eliot has filed Sheriff Reports for some of the missing items he has discovered unaccounted for

⁴ The Creditor Stansbury in a recent Objection to the Final Accounting posited by TESCHER and SPALLINA upon Court Order at their termination in Simon's Estate, has written a sworn statement that the inventories of Simon and Shirley are far below the value that he is personally aware of.

and not on the inventory of Shirley and Simon, already totaling millions of dollars. That PAMELA, Jill Marla Iantoni (“JILL”) or (“IANTONI”) and Lisa Sue Friedstein (“LISA”) took boxes and boxes of Shirley’s personal properties while Simon was very depressed over the recent loss of his wife, including almost all of her Jewelry and other valuables. When Simon found out what they had done, they stated they sent Shirley’s possession to their homes for protection against theft from Shirley’s assistant, Rachel Walker and then from his girlfriend PUCCIO who they thought were out to steal from Simon.

The boxes of personal effects were not accounted for and failed to appear on the inventory of Shirley or Simon and it is further alleged the inventory posited with the Court is also a fraudulent document, similar to the many forged and fraudulently notarized and other fraudulent documents already uncovered in the Estates and Trusts of both Simon and Shirley. Eliot states that the original inventory done by Simon while alive and acting as the Personal Representative/Executor is suppressed, denied or destroyed and replaced with a fraudulent one by his attorneys at law TESCHER and SPALLINA and where Simon’s accounted for the missing items such as the Bentley, Jewelry, Art and other assets. Many of the items were specifically bequeathed to individuals that would have been listed on attached schedules, memorandums and addendums attached to the alleged Will that have also been secreted, suppressed, denied or destroyed. ALL schedules, memorandums and addendums that were attached to all the dispositive documents in both Estates and Trusts of Simon and Shirley, leave one with NO TRANSPARENCY as to what the Estates Corpuses and Trusts Res’ were that the dispositive documents deal with.

Simon was never the sole beneficiary of the Shirley Trust as stated and further he had no ability to amend or make changes to her trusts once she died and her trusts became irrevocable with a defined beneficiary class. The irrevocable and defied beneficiary class included Family Trusts created for

only three of the five children of Simon and Shirley, Eliot, Jill and Lisa, as TED and PAMELA and their lineal descendants were considered PREDECEASED for all purposes of the Shirley Estate and Trusts and disposition made thereunder and therefore were only personal property beneficiaries of anything not in her trusts or that did not roll over into her trusts from the Estate.

From Simon and Shirley's alleged Trusts,

ALLEGED ORIGINAL 2008 SIMON L. BERNSTEIN TRUST AGREEMENT

A. ARTICLE I. DURING MY LIFE AND UPON MY DEATH

Rights Reserved. I reserve the right (a) to add property to this trust during my life or on my death, by my Will or otherwise; (b) to withdraw property held hereunder; and (c) by separate written instrument delivered to the Trustee, to revoke this Agreement in whole or in part and otherwise modify or amend this Agreement. **However, after my spouse's death I may not exercise any of said rights with respect to property added by my spouse upon my spouse's death by my spouse's Will or otherwise. [emphasis added].**

ALLEGED 2012 AMENDED AND RESTATED SIMON L. BERNSTEIN TRUST AGREEMENT

ARTICLE I. DURING MY LIFE AND UPON MY DEATH

A. Rights Reserved. I reserve the right (a) to add property to this trust during my life or on my death, by my Will or otherwise; (b) to withdraw property held hereunder; and (c) by separate written instrument delivered to the Trustee, to revoke this Agreement in whole or in part and otherwise modify or amend this Agreement.

SHIRLEY ALLEGED 2008 SHIRLEY TRUST

ARTICLE III - GENERAL

E. Definitions. In this Agreement.

1. Children Lineal Descendants. The terms "child, " "children" and "lineal descendant" mean only persons whose relationship to the ancestor designated is created entirely by or through (a) legitimate births occurring during the marriage of the joint biological parents to each other, (b) children and their lineal descendants arising from

surrogate births and/or third party donors when (i) the child is raised from or near the time of birth by a married couple (other than a same sex married couple) through the pendency of such marriage, (ii) one of such couple is the designated ancestor, and (iii) to the best knowledge of the Trustee both members of such couple participated in the decision to have such child, and (c) lawful adoptions of minors under the age of twelve years. No such child or lineal descendant loses his or her status as such through adoption by another person. **Notwithstanding the foregoing, as I have adequately provided for them during my lifetime, for purposes of the dispositions made under this Trust, my children, TED S. BERNSTEIN ("TED") and PAMELA B. SIMON ("PAM"), and their respective lineal descendants shall be deemed to have predeceased the survivor of my spouse and me,** provided, however, if my children, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN, and their lineal descendants all predecease the survivor of my spouse and me, then TED and PAM, and their respective lineal descendants shall not be deemed to have predeceased me and shall be eligible beneficiaries for purposes of the dispositions made hereunder. (**emphasis added**)

Note that the language from the 2008 Simon Trust regarding his limited powers over Shirley's property was removed by illegal amendment. The amendment actually removed the language entirely from the alleged 2012 Amended and Restated Simon Trust (done allegedly 48 days prior to Simon's death) that stated that Simon could not amend, alter or revoke in whole or part Shirley's properties added. Then TESCHER and SPALLINA allegedly had Simon change Shirley's beneficiaries of the Shirley Trust using this new illegally amended document. The Court should also note that the original Simon Trust of 2008 was secreted from the beneficiaries until 2014, when TESCHER and SPALLINA were forced by the Court upon their termination, to turn over their records. Then, this illegal alteration, revocation and amendment to Simon's 2008 Trust was discovered when the documents were laid side by side for analysis and it was found that the language in the alleged 2012 document was violative of the 2008 language and where both sets of documents were drafted by TESCHER and SPALLINA making it impossible for them to claim ignorance in making these knowingly illegal changes. Even if Simon had signed them while living they would be

legally invalid changes and Simon would be charged with fraud but it is more likely and evidence already reveals that these changes and others were done Post Mortem for Simon as he refused to make them while living.

3. That TED states,

Based upon the foregoing, everything that was Shirley's became Simon's, and Simon's alone. It is believed by the current Successor Personal Representative that the Estate's assets consisted only of tangible personal property (furnishing, jewelry, clothes, etc.) located in Simon's home, but no one other than Simon would know for sure and he is dead. While Shirley was alive, none of Shirley's and Simon's children were apprised of the state of her affairs nor shown her testamentary documents. Because Simon survived Shirley, none of her children were entitled to any portion of her estate.

This statement seems to imply that Shirley's Trust beneficiaries were not the benefactors of the Shirley Trust or Estate and instead Simon was which is not what the alleged dispositive documents state at all. Certain rights for use and enjoyment of properties may have transferred to Simon as Personal Representative/Executor and Trustee but nowhere is he named as a beneficiary of Shirley's Trust. Again, without the schedules, memorandums and addendums to the dispositive documents it is impossible to know what Shirley had bequeathed to others and what went into her trust and this is further a breach of fiduciary duties in hiding the Trust Res and the Estate Corpus from the beneficiaries entirely.

That Eliot is glad to hear what the Personal Representative TED believes the Estate's assets consisted of but there is no way to account for or prove his statements as true and where he is being accused of having stolen large quantities of both Shirley and Simon's properties his belief is not enough nor is it trusted.

That TED is aware that Jewelry, Art and other valuables are missing from Shirley's inventory and Simon's, as Eliot has sent him appraisals for an insurance policy on Jewelry showing that vast

amounts of Jewelry has gone missing. Yet, TED acting as PR has done nothing as the PR/Executor since this Court appointed him a year ago to recover or account for any of Shirley's property and protect the beneficiaries. Instead, TED now tries this latest trick to rush to close the Estate while no accountings have been done that are statutorily required upon his becoming a Successor Personal Representative and an alleged Successor Trustee to Simon and TED has only made further attempts to cover up the crimes, not investigate them, in efforts to protect himself and his former attorneys at law TESCHER and SPALLINA. Obviously, it was an err for this Court to appoint TED who is being accused of, acting as PR prior to appointment, stealing estate assets, converting funds to knowingly improper parties, participating in a fraud to change beneficiaries to his advantage while disadvantaging others and multitudes of other serious breaches and felony crimes. The Court could not expect that TED was going to rush to call in the guards to investigate and prosecute himself and his friends TESCHER and SPALLINA who he brought into the Bernstein Family and this is another reason the Court must forcefully and aggressively remove TED.

4. That TED states,

Shirley died on December 8, 2010. Sometime thereafter, Simon directly took possession and control of all assets of her estate, and indirectly took control of the Shirley Bernstein Trust's assets as the initial Successor Trustee and sole beneficiary during his lifetime.

That Simon was not the beneficiary of Shirley's Trust or assets of her estate, he was the Trustee and Personal Representative/Executor acting on behalf of the beneficiaries and with very limited powers to make any changes once Shirley died and her trusts were irrevocable and her beneficiary class was etched in stone. Again, the question looms as to what assets Simon took control of when she died as all evidence of any assets is missing from the Estates and Trusts of Simon and Shirley at this time.

5. That TED states,

On April 9, 2012, Simon signed a Petition for Discharge and his own Waiver form. By that time, Simon had completed the administration of Shirley's Estate and he wanted the Estate to be closed. Because the five children – Ted, Pam, Eliot, Jill and Lisa – were interested parties, Simon also sought from each of them a Waiver.

This statement is wholly untrue. The Petition for Discharge and Simon's own waiver form were submitted to the Court on October 24, 2012 (while dead) by Simon acting as the Personal Representative/Executor. The submissions to the Court came almost five months after the Petition is alleged to have been signed and one month after Simon was DEAD. These documents were submitted through a FRAUD ON THE COURT and fraud on the beneficiaries committed by TESCHER and SPALLINA, who were acting on behalf of their DEAD client Simon to close the Estate, while making it appear that it was Simon doing all this while alive. Further, the Petition for Discharge and Waivers Simon allegedly signed in April 09, 2012 contain perjured statements and as such appear legally void. (see Exhibit 4 - Simon Petition for Discharge) For example, Simon's Petition for Discharge states on April 09, 2012,

Petitioner, pursuant to Section 731.302 of the Florida Probate Code, and as permitted by Fla. Prob. R. 5.400(f), **files herewith waivers and receipts signed by all interested persons.** (emphasis added)

However, in April 2012, Simon had not even had the May 10, 2012 conference call to discuss possibly changing the estate plan that he was contemplating at the time and thus NO waivers had even been sent out to any interested parties until after the May 2012 meeting. Further complicating matters and proving this statement false, is that fact that Jill Iantoni did not even submit a waiver back to TESCHER and SPALLINA until after Simon was dead in September 2012. Therefore, either Simon was committing perjury or this is yet another document in a long

line that appears to be fraudulent and/or perjured. Simon at no time while living could have made this statement that he had all the waivers from interested parties honestly.

6. That TED states,

In May 2012, Simon gathered his children on a conference call to advise them of his estate plan – to leave everything to his ten grandchildren equally. During that call, Simon mentioned the need for each of them to waive an accounting and allow the Estate to be closed. At that time, Simon was mentally competent, had the capacity to alter any and all of his testamentary documents, and held a power of appointment over the assets in the Shirley Trust.¹ If any of his children had disobeyed his request to sign a Waiver, Simon would have had within his power the ability to completely disinherit that child and all of that child's lineal descendants.

FOOTNOTE 1 –

Upon Shirley's death, Simon was the sole beneficiary of her Estate and Trust, and was the sole trustee of her Trust. As such, Simon had all rights of ownership of all assets that formerly were in Shirley's Estate, and had the full power to do whatever he wanted with the assets, including selling or giving away anything he chose. As noted above, neither Simon nor Shirley shared their testamentary documents with their children prior to Shirley's death. In fact, Simon never shared with Eliot any of Shirley's or Simon's testamentary documents. That was his prerogative as the sole owner and sole beneficiary of all of their wealth.

That Simon did have a conference call to try to negotiate with his children to end the disputes and abuse and contemplated leaving everything to his 10 grandchildren if it could be legally done and Eliot, Lisa and Jill gave their consent as they were the legal beneficiaries at the time of both Simon and Shirley's Estates and Trusts, all in order to end abuse by four of five of his children and seven of his ten grandchildren. After that meeting however Simon found out that the plan promulgated by TESCHER and SPALLINA was legally impossible, despite what TESCHER and SPALLINA claimed was legal at the time of the meeting and therefore he never made any changes and Eliot, IANOTONI and LISA never gave informed consent while Simon was alive to

have ever made the changes legally. Further, the abuse of Simon that was agreed to end when the changes were made, did not end until the day he died. Simon felt no desire to make any changes to he and Shirley's 2008 wills and trusts and he did not make any that at this time appear to be legal and not done Post Mortem. All changes to he and Shirley's Wills and Trusts appear to have been done Post Mortem for Simon through a series of forged and fraudulent documents done by others as fully defined herein.

Simon **may have** been able to make changes to his Will and Trusts but he could not do so with Shirley's as already evidenced herein and had only a limited power to make changes to the shares distributed to Shirley's irrevocable beneficiary class which excluded TED, PAMELA and their lineal descendants. Further, NO Family trusts were created for Theodore and Pamela, as they and their lineal descendants are considered dead for ALL purposes of the Shirley Trust and distributions made thereunder and they were not in any way beneficiaries when she died.

Shirley's beneficiaries were Family Trusts created under her trust for Eliot, Jill and Lisa and their lineal descendants only. Her trust and Simon's trust specifically state who her children and lineal descendants are, clearly and unambiguously,

ARTICLE II E.1

Disposition of Trusts Upon Death of Survivor of my Spouse and Me.

Upon the death of the survivor of my spouse and me,

1. **Limited Power.** My spouse (if my spouse survives me) may appoint the Marital Trust and Family Trust (except any part added by disclaimer from the Marital Trust and proceeds of insurance policies on my spouse's life) to or **for the benefit of one or more of my lineal descendants and their spouses** [emphasis added];

ARTICLE II E.2

2. Disposition of Balance. Any parts of the Marital Trust and the Family Trust my spouse does not or cannot effectively appoint (including any additions upon my spouse's death), or all of the Family Trust if my spouse did not survive me, **shall be divided among and held in separate Trusts for my lineal descendants then living**

MOTION IN OPPOSITION...

Tuesday, September 9, 2014

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[emphasis added], per stirpes. **Any assets allocated under this Subparagraph II. D. to my children (as that term is defined under this Trust), shall be distributed to the then serving Trustees of each of their respective Family Trusts[emphasis added]**, established by my spouse as grantor on even date herewith (the "Family Trusts" which term includes any successor trust thereto), to be held and administered as provided under said Trusts. **The provisions of the Family Trusts are incorporated herein by reference**, and if any of the Family Trusts are not then in existence and it is necessary to accomplish the foregoing dispositions, the current Trustee of this Trust is directed to take such action to establish or reconstitute such applicable trust(s), or if the Trustee is unable to do so, said assets shall be held in separate trusts for such lineal descendants and administered as provided in Subparagraph II. E. below. **Each of my lineal descendants for whom a separate Trust is held hereunder shall hereinafter be referred to as a "beneficiary," with their separate trusts to be administered as provided in Subparagraph II. E. below** [emphasis added].

ARTICLE III. GENERAL

E. Definitions. In this Agreement,

1. Children, Lineal Descendants. The terms "child," "children" and "lineal descendant" mean only persons whose relationship to the ancestor designated is created entirely by or through (a) legitimate births occurring during the marriage of the joint biological parents to each other, (b) children and their lineal descendants arising from surrogate births and/or third party donors when (i) the child is raised from or near the time of birth by a married couple (other than a same sex married couple) through the pendency of such marriage, (ii) one of such couple is the designated ancestor, and (iii) to the best knowledge of the Trustee both members of such couple participated in the decision to have such child, and (c) lawful adoptions of minors under the age of twelve years. No such child or lineal descendant loses his or her status as such through adoption by another person.

Notwithstanding the foregoing, as I have adequately provided for them during my lifetime, for purposes of the dispositions made under this Trust, my children, TED S. BERNSTEIN ("TED") and PAMELA B. SIMON ("PAM"), and their respective lineal descendants shall be deemed to have predeceased the survivor of my spouse and me, provided, however, *if* my children, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN, and their lineal descendants **all** predecease the survivor of my spouse and me, then TED and PAM, and their respective lineal descendants shall not be deemed to have predeceased me and shall be eligible beneficiaries for purposes of the dispositions made hereunder. **[emphasis added]**

The statement that Simon could have disinherited his children is not quite correct, as Simon and

Shirley had already, prior to May 2012 meeting, wholly disinherited TED and PAMELA and their lineal descendants. Further making the statement confusing is that TED is alleging that Simon made changes to his estate plans in 2012 that did cut out all of Simon's children from their inheritances in favor of his grandchildren.

7. That TED states,

Based upon the request of their father, each of his children signed a Waiver, including Eliot. Indeed, Eliot, who was being financially supported by Simon, signed his first and immediately, on May 15, 2012. (Three of the children signed in August, and the last did not sign the Waiver until October.)

That each child did sign a three-part document, including a waiver and that waiver was rejected by the Court for lack of notarization. Eliot and Simon never notarized a waiver but a forged and fraudulently notarized waiver was then submitted on their behalf by Tescher & Spallina, PA, this too was later rejected by the Court. Therefore, Eliot and Simon have never signed a waiver that has been posited with the Court legally.

8. That TED states,

In the correspondence that accompanied Eliot's signed Waiver, Eliot wrote:
Hi Robert ~ attached is the Waiver of Accounting and Portions of Petition For Discharge; Waiver of Service of Petition for Discharge; and Receipt of Beneficiary and Consent to Discharge. As I mentioned in the phone call, **I have not seen any of the underlying estate documents or my mother's will at this point, yet I sign this document after our family call so that my father can be released of his duties as Personal Representative and put whatever matters that were causing him stress to rest** Thank you for your efforts on behalf of my family ~ Eliot (See Exhibit "B")

That Eliot did write that to state that the statements in the Waiver and Receipt were untrue until Eliot could see the documents and properly waive rights and interests fully informed and with

consent. Eliot signed the document without those items because the stress and duress Simon expressed at the meeting, that were the cause of the meeting and where Simon had a heart condition and Eliot did not want him to stress himself to death. The actual email states,

PRIVATE & CONFIDENTIAL

May 17, 2012

Robert L. Spallina, Esq.
Teschler & Spallina, P.A.
Boca Village Corporate Center I
4855 Technology Way
Suite 720
Boca Raton, FL 33431

Hi Robert ~ attached is the Waiver of Accounting and Portions of Petition For Discharge; Waiver of Service of Petition for Discharge; and Receipt of Beneficiary and Consent to Discharge. As I mentioned in the phone call, I have not seen any of the underlying estate documents or my mother's will at this point, yet I sign this document after our family call so that my father can be released of his duties as Personal Representative and put whatever matters that were causing him stress to rest. For my trustees I would like the following individuals in the following order to be trustees:

1. Caroline Prochatska Rogers, Esq.
3500 North Lake Shore Drive
17th Floor
Chicago, IL 60657
(773) 804-9400 ext 19
caroline@cprogers.com
2. Michele M. Mulrooney, Esq.
mmulrooney@Venable.com
(will get new address shortly)
3. Andrew & Donna Dietz
2002 Circle Drive
Hermosa Beach, California 90254
(310) 410-0936 ext1271
andyd@rockitcargo.com

Please send copies of all estate documents to Caroline and Michele and if my dad would like them to keep the information private and confidential, including from me, until some later point in time, you can arrange that with them directly with my approval granted herein. Please also reply to this email to confirm receipt, a hard copy of my signed document will be sent via mail.

Thank you for your efforts on behalf of my family ~ Eliot

The reason Eliot asked for the documents is because the day before the meeting when Simon scheduled the meeting with Eliot, Simon was shocked that Eliot had not received anything from TESCHER and SPALLINA regarding his inheritance in the Shirley Estate and Shirley Trust. After the meeting, Simon stated that Eliot should demand all documents be sent to him or his Trustees by TESCHER and SPALLINA before making any decisions about his inheritance that

was discussed at the meeting, once he reviewed his interests.

Simon had also later expressed that he was being pressured by TESCHER, SPALLINA, TED and PAMELA to make changes he thought were illegal and was disturbed by the fact that Eliot had never received documents after the meeting showing his interests. Later, Simon stated he was not planning on making any changes to he and Shirley's estate plans as was contemplated because it was legally impossible and he was not going to be extorted by anyone no matter what TED and PAMELA and their children decided to do about ever seeing him again. This decision of Simon's led to a continued warfare with TED and PAMELA until the day he died. Several weeks before he died TED was trying to get him to sign documents with SPALLINA to make changes, which he refused and this led to Simon leaving his offices with TED suddenly, afraid of TED. Simon started a new business with his personal assistants husband Scott Banks, several weeks before his death.

Due to the lack of informed consent prior to signing the waiver under duress and concern for his father, Eliot's waiver was not legally valid as all the following statements in it were untrue,

(d) Expressly acknowledges that the undersigned has actual knowledge of the amount and manner of determining the compensation of the personal representative, attorneys, accountants, appraisers, or other agents; has agreed to the amount and manner of determining such compensation; and waives any objections to the payment of such compensation;

(g) Acknowledges receipt of complete distribution of the share of the estate to which the undersigned was entitled;

Eliot had no knowledge of the information stated in (d) and had NO RECEIPT of complete distribution of the share of the estate to which the undersigned was entitled and this due to TESCHER and SPALLINA suppressing and denying this information to him for approximately fifteen months after Shirley's passing. Eliot still does not have the information necessary to

make the statements on the waiver true and either way is unwilling to sign a new waiver due to the fraud discovered. Further, Eliot is demanding a full forensic accounting and final accounting prepared by an independent third party to ascertain what his interests really are and not just what TED and his counsel Alan Rose say they are.

9. That TED states,

Thus, Eliot confirmed that he lacked knowledge of Shirley's testamentary documents.

Eliot also had no knowledge of Simon's or Shirley's true financial picture, yet he agreed to and did sign a Waiver. After he signed the Waiver, Eliot (i) emailed the Waiver to his father's counsel; and (ii) printed the email, signed it and mailed it to his father's counsel with the original signed Waiver.

The email and the Waiver signed by Eliot are undeniably genuine and authentic because the printed document bears Eliot's trademark "signature" – his initials inside his thumb print. (See Exhibit "B")

That the alleged original waiver signed by Eliot is not attached as “Exhibit B” as stated and has no discernible thumbprint on it. In fact, the original waiver signed by Eliot also had a lengthy hand written note on it that Eliot was only signing the document to alleviate Simon’s stress and was waiting for documents to confirm his signed statements as he did not give consent without seeing what was necessary to make the document truthful. This document submitted in their pleading is yet another fraudulently altered document, to hide the handwriting on the original. This waiver was gained initially with both TESCHER and SPALLINA pressuring Eliot to sign immediately as the stress was killing Simon and telling Eliot everything was legal that they were purposing and “not to worry we are members of the Florida Bar” or words to that effect.

10. That TED states,

For some reason, the final waivers took an extended period of time to be signed and the last one was not returned to Simon's counsel until October. In the intervening period, Simon died. Eventually,

all of the Waivers were delivered to this Court, but rejected for lack of a notary.

While there is no requirement under Florida law for a waiver to be notarized, this Court has imposed such a requirement, presumably to confirm the validity of the documents. The Successor Personal Representative believes that, after learning that the Waivers needed to be notarized, a notary in the office of Simon's counsel created a second set of "notarized" documents purporting to be signed by Simon (after he was dead) and his five children (none of whom signed in the presence of the notary).

These "notarized" documents were then submitted to this Court, which closed the Estate.

The waivers took an extended period of time to be signed because Simon never pursued making any changes after the May 2012 meeting and they were not filed for Simon until after he died, as no changes had been made while he was alive. The documents were not only rejected for lack of a notary but because they had been posited with the Court illegally by a DEAD PR/Executor.

That TED and Alan Rose forget to state that these fraudulent and FORGED waivers that in part were used to close the Estate illegally are what led to this Court reopening the Estate and stating that accountings would now be required to reclose the Estate. Once this Court appointed Ted as the new PR/Executor, he then hired his business associates and bedfellows TESCHER AND SPALLINA to be his counsel and to keep the fraud they had committed covered-up and continuing. That since TED was appointed, no Successor accountings were provided as required by Probate Rules and Statutes and no copies of the complete Will of Shirley with all Schedules and Addendums were sent to beneficiaries as legally required, despite repeated requests by beneficiaries. That TED has failed to provide any statutorily required information to beneficiaries since his appointment and has basically done nothing to investigate what happened or where all the missing assets are, in efforts to stymie, delay and interfere with investigations and accountings and in efforts to protect his counsel.

11. That TED states,

After this irregularity came to light, and based upon pleadings filed by the Estate's counsel, the Court re-opened the case and appointed Ted S. Bernstein as Successor Personal Representative (by that time, Simon, the initial Personal Representative, had passed away).² The irregularity in the second set of waivers, as revealed to this Court on September 13, 2013, in the end is a matter of little to no consequence to the outcome here. This Court noted as much during the hearing, stating on the record:

The Court: Mr. [Eliot] Bernstein, I want you to understand something. Let's say you prove what seems perhaps to be easy, that Moran notarized your signature, your father's signature, other people's signatures after you signed it, and you signed it without the notary there and they signed it afterwards. *That may be a wrongdoing on her part as far as her notary republic (sic) ability, but the question is, unless someone claims and proves forgery, okay, forgery, proves forgery, the document will purport to be the document of the person who signs it, and then the question is, will something different happen in Shirley's estate then what was originally intended?*

Originally intended they say, the other side, was for Simon to close out the estate. The estate they say was small. The estate gave everything to the trust and that's what it did, and that was the end of the estate Remember, this is not everything about your parents and their estate planning.

(See Exhibit "C")

FOOTNOTE 2 -

In her Will, Shirley had named Ted as Successor Personal Representative.

There were no irregularities with the documents. There instead was felony fraudulent notarizations and felony forgery that was compounded with Fraud on the Court when Tescher & Spallina, then acting as counsel to the deceased Simon then posited such fraudulent and forged documents with this Court through their law firm Tescher & Spallina, PA, on behalf of Simon, who they knew was dead. Yes, they knew he was dead but failed to inform the Court of this and elect a successor because they needed Simon to be alive when the Estate of Shirley was closed as

part of a further fraud to change the beneficiaries of Shirley's Estate and Irrevocable Trusts and they needed to make it appear that Simon changed the disposition of Shirley's Trust after it was transferred to him as Trustee while alive.

That from the Palm Beach County Sheriff report it is noted that Kimberly Moran admitted forging the documents,

Moran stated that at this time, she took it upon herself to trace each signature of the six members of the Bernstein family onto another copy of the original waiver document. She then notarized them and resubmitted them to the courts. When I interviewed her on 9/24/13, she stated she [MORAN] did not really have a reason **why she forged the signatures**, other than to save time."⁵

12. That TED states,

Despite the problems with the second set of waivers, the first set of un-notarized Waivers were properly signed by each of the Beneficiaries. That is not in dispute. There were six signed Waivers: Simon individually; and the five children, Ted, Pam, Eliot, Jill, and Lisa. Every child but Eliot has given a separate affidavit (Exhibit "D") confirming the genuineness and validity of their original signature, and confirming their desire to have the Estate closed.

That no one can state that Simon ever signed the waiver and that both copies tendered to the Court were not forged and fraudulent and thus Simon's waivers are in dispute and further forensic analysis will need to be done. Simon can never sign another waiver and Eliot refuses to sign any waiver, especially now that all this fraud and forgery has been discovered and remains under investigations. Now due to these frauds and more there are needs for full accounting and forensic document analysis, as well as full accounting of legal fees, etc. and certainly the Estate cannot be closed before damages are assessed to the proper parties and more.

⁵ Palm Beach County Sheriff Reports, Page 19 [www.iviewit.tv/Sheriff Reports.pdf](http://www.iviewit.tv/Sheriff%20Reports.pdf)

That the other children have all waived their rights and desire to close the Estate because they have been involved in the fraudulent activity and took knowingly improper distributions. In fact, their new waivers appear to be perjured as well as statements contained therein are false. Further, once the children, TESCHER and SPALLINA knew the documents were forged as early as May 2013, they did nothing to report the crimes they were cognizant about in the Estate of Shirley to the proper authorities and in fact secreted that information regarding FELONY crimes and instead rushed to sell assets and make distributions to knowingly improper parties instead.

That admission to the fact that their signatures were forged and fraudulent and that of their father's was forged and fraudulently notarized Post Mortem, only came after Sheriff Investigators came knocking on Moran's door. Then each of each of Eliot's siblings in newly signed waivers, dated on or about September 13, 2013 (a year after Simon's death and months after they knew the documents were forged and fraudulent) then confessed that they knew about this. Yet, none of them took any actions to report the crimes, despite the fact that they claim to be acting as Trustees for their children who they claim are the beneficiaries and TED was acting as an alleged Personal Representative/Executor at the time (before this Court had appointed him) and thus was duty bound to report the crimes.

13. That TED states,

Only Eliot, who is attempting to use this irregularity to his advantage, objects to closing this Estate. There is no basis in law for the Court to allow Eliot to withdraw his Waiver form, which was knowingly, intelligently and voluntarily signed. This fact is confirmed in Eliot's cover e-mail, which clearly notes that the document was signed at his father's request to reduce his father's stress. Moreover, Eliot should be estopped from withdrawing his waiver, because his father took action after receiving his waiver form, presumably in reliance upon receipt of the signed waiver

form. Simon asked each of his children to sign the waiver form. After receiving Eliot's waiver form, Simon Amended and Restated his Trust and revoked his earlier Will in favor of a new 2012 Will, exercising his power of appointment in favor of ten grandchildren, including Eliot's children.

Theoretically, had Eliot refused to sign the waiver form, Simon could have disinherited not only Eliot, but each of his three children, and Simon could have cutoff his financial support.

FOOTNOTE 3 –

Although not relevant to this case, upon the Successor Personal Representative's belief, the notary lost her notary license, was arrested and was placed on probation.

Eliot did formally withdraw his waiver by submitting a Revocation of Waiver with the Court (see Exhibit 5 - Eliot Revocation of Waiver). Further, there is no reason for Eliot's waiver to be withdrawn as it is not legally docketed with the Court as it was rejected and no new one was ever signed by Eliot that has been posited with the Court, as the fraudulent and forged one was rejected as well. As for Eliot signing the document "knowingly, intelligently and voluntarily" this is untrue, as Eliot signed the document without informed consent, unknowingly, unintelligently and not voluntarily but rather with a gun to his head to sign or have the gun to his father's head triggered and cause him a heart attack.

14. That TED states,

Eliot signed a waiver form and it should be enforced as written and as signed by Eliot.

The so-called "fraud" which Eliot claims to have discovered was on the court, not on these parties, and does not alter in any way the fact that Eliot signed the Waiver. (Exhibit "B") To put this in perspective, the only person who "lost" as a result of the "improper notarization" is the notary who created the second set of documents and potentially her employers. The persons who likely would have benefitted from the "fraud," theoretically, were the beneficiaries of the Trust because no Trust assets would need to be depleted in closing the Estate. As there were no assets in the Estate at the time, funds would have been taken from the Shirley Bernstein Trust to pay the additional legal fees and costs that

would have been incurred trying to start anew the process of closing the Estate, and ultimately those potentially substantial expenses would have been borne by the beneficiaries.

That the statement, “The so-called ‘fraud’ which Eliot claims to have discovered was on the court...” is an admission by TED that Fraud on the Court has occurred, which further invalidates the proceedings and any documents that have been tendered to this Court until the Fraud on the Court is fully investigated, prosecuted and all elements and parties of the Fraud removed from the proceedings as required by law, this would include removing both TED and his counsel Rose who were centrally involved in the prior frauds and benefitted directly from them.

TED and his counsel Alan Rose are also mistaken in their statement, as the frauds were in addition to the Court, also against Eliot and other true and proper beneficiaries, as it involved forging their signatures, fraudulently notarizing documents that removed their right to refuse the notarization and waiver. Eliot would have refused to sign and notarize a new waiver based on his new knowledge of criminal acts uncovered at that time and where crimes against him and his deceased father directly had now been uncovered.

The question now is why is TED so afraid of an accounting that he is going to try and pass off new alleged fraudulent waivers to cover up the crimes and attempt to deny accounting to the beneficiaries to hide the crimes. It is obvious that TED would not want transparency, as TED is directly involved in the crimes and benefited from them. This answers the question to why TED is afraid to put down an accounting, as the truth will be uncovered and this will harm him and perhaps cause him to go to jail with his minion of attorneys at law involved and thus this has created adverse interests with the beneficiaries, especially Eliot who has uncovered the crimes. Truth plus transparency equals Trust, to this point, there has been no truth and no transparency,

and thus no trust is given to anything TED or Alan Rose do or say. This failure to account and failure to provide transparency are yet more reasons this Court should remove TED as Personal Representative/Executor as he will neither sue himself nor have investigations conducted that may cause him and his attorney at law bedfellows and business associates TESCHER and SPALLINA et al. to be imprisoned and possibly lose all their personal wealth.

TED's statement is further a fallacy, as the persons who benefited from the crimes are primarily TED and his sister PAMELA who have been angry and obsessively disgruntled about being disinherited from the Estates and Trusts of both Simon and Shirley. Since learning of their disinheritance THEODORE and PAMELA worked to force changes to occur while Simon was alive and when those were not done before he died, as he had no intent on making any changes, they appear to have been changed for him. These changes appear done through a series of Post Mortem fraudulent and forged documents used to defeat the last wishes and desires of Simon and Shirley to benefit TED and PAMELA. The crimes spurred on and further aided and abetted by TED's minion of attorneys at law who have all benefited in undisclosed amounts of legal and other fees and possibly a share of stolen and converted assets. Again, no accounting of their fees has ever been provided to beneficiaries for the Estates and Trusts of both Simon and Shirley.

TED is correct that the costs now necessary for forensic document analysis and forensic accounting will be expensive but they err when stating the costs will be to the beneficiaries, when they know the costs will be borne eventually not by the estate or the beneficiaries but by those who committed the crimes that now necessitate these expenses. It is highly unlikely that this Court will tax the injured beneficiaries or estate or trusts of Shirley for these costs to repair the damages caused by felony misconduct of Officers of this Court and Fiduciaries of the Estates

and Trusts under the tutelage of this Court. Judge Colin has already reserved the right for sanctions against TESCHER, SPALLINA and MANCERI for when the time is “ripe” according to Colin.

TED is mistaken in his statement as the people who lost by these crimes are not the criminals, other than that their crimes were discovered and they face further prosecution and more. The people who lost are the true and proper beneficiaries of Simon and Shirley’s Estates and Trusts, where the documents regarding their inheritances have been admittedly fraudulently tampered with and altered illegally to make illegal changes to the dispositions and which have allowed the Estates and Trusts to be looted and assets converted to knowingly improper parties. That the beneficiaries have also suffered from the delays in their expectancies due to these crimes committed by TESCHER, SPALLINA, MORAN and furthered by TED and others to benefit TED and PAMELA primarily at the expense of everyone else.

Simon and Shirley Bernstein have also lost from these crimes committed as their wishes and desires for their beneficiaries have been interfered with by the very people retained and entrusted to execute faithfully and legally their estate plans. TESCHER and SPALLINA are the main cause of interference and both profited in legal fees and more from the problems they created through fraud that have disgraced the beautiful legacy of Simon and Shirley and their intents for the future of their living flock. The problem again, TED and PAMELA, for good and just causes were considered predeceased and perhaps now the Court can see in part why their parents, of Jewish descendant, where it is the highest act of dishonor and disgrace to the child to become predeceased by their parents, totally considered TED and PAMELA and their bloodlines PREDECEASED for all purposes of the distributions and disposition of the estates and trusts.

Not just financially removed but removed from existence entirely in the plans, which makes one wonder why they are involved in the disposition of the Estates and Trusts at this time in any way, where they are prohibited from involvement at all in the alleged dispositive documents and then one realizes why all these crimes are occurring and point back to TED and PAMELA. Crimes that benefit primarily TED and PAMELA and their minion of costly and crooked Attorneys at Law and disadvantage the real beneficiaries of Eliot, Jill and Lisa and their children.

15. That TED states,

Under the Probate Code, section 731.302, an interested person may waive the requirements of the code, including an accounting. That is precisely what Eliot and the others did.

There does not appear to be any provision allowing the waiver to be revoked. Under a similar provision in the Trust Code, section 736.0813(2), a qualified beneficiary who has waived the trustee's duty to account "may withdraw a waiver previously given"; however, such withdrawal of a prior waiver must be in writing and "[w]ithdrawals of prior waivers are effective *only with respect to accountings for future periods*." Thus, even if the Court to allow Eliot to withdraw his waiver in the Estate proceeding, which it should not, that should only apply to future accountings. Thus, Eliot still will have waived his right to an accounting of anything Simon did from Shirley's death on December 8, 2010, to at least Simon's death on September 13, 2012, and more accurately until the date of Eliot's written withdrawal of his waiver. Regardless, from and after Simon's death there were no assets in Shirley's estate; nothing to account for; and nothing to distribute. There simply is no practical need for an accounting, other than to cause an additional expense.

The waivers again, really? Especially where the Court already made determinations on these waivers a year ago but now Alan Rose will attempt to pull a fraud on the Court to advance them again. As stated, Eliot already retracted his waiver as evidenced already herein in exhibit and further there is no waiver of Eliot's in the Court record to be withdrawn as it was rejected by the Court and not made part of the Court record. There are no legal waivers on file with this Court

and Eliot again states that the original waiver of his had handwritten notes on it that disclaim its validity without first having informed consent as to what he was waiving, etc. The alleged copy of the original waiver sent via mail to TESCHER and SPALLINA is NOT the document submitted to this Court in this pleading and again is alleged to be FRAUDULENT. That despite repeated requests the fiduciaries continue to deny Eliot a chance to review and inspect the original document they claim to possess.

This Court determined already that all the waivers were garbage back in September 2013 when it reopened the Estate and stated that full and formal accounting and transparency would be had by the beneficiaries before the Estate was closed again. The Court was aware that Eliot was not going to sign another waiver, especially in light of the felony acts uncovered since signing the original and Simon could not sign another, as he remained dead, so new waivers were considered moot but here again we now have Alan Rose trying to sell the Court what it already determined was a waste of time when TESCHER and SPALLINA tried this tactic.

As for future accountings, there would first have to have been a past accounting done to have future ones. Since there have been NO ACCOUNTINGS for Shirley's Estate, Shirley's Trusts and Simon's Trust given to beneficiaries in violation of Probate and Trust Rules and Statutes, for four years in Shirley's Estate and two years in Simon's Trust, a first accounting must be done⁶ in

⁶ The first accounting for Simon's Estate was forced by Order of this Court upon the disgraced former Personal Representatives and Counsel for the Estate removal and it has been challenged by all parties and hearings have been requested timely but delayed by this Court to hear objections that consist of statements that none of the accounting can be verified as no backup data was produced to verify the voracity of the entries in violation of standard accounting principles and no supporting financial information was turned over in the documents turned over as part of the Court Order to the Curator that was appointed. Thus it appears that Simon's financial records in the custody of the former Personal Representative/Executors was destroyed with intent and a fraudulent accounting was submitted. Further, from this accounting it is apparent that the net worth of Simon and Shirley was far over the four million dollars stated by TED and SPALLINA in the September 13, 2013 hearing with millions of newly discovered assets coming to light since that time.

order to have future ones done. In fact, to attempt to cover up the frauds and forgeries in their waivers ok and attempt to absolve the criminal acts, TED, PAMELA, IANTONI and LISA then signed new fraudulent waivers that contain untrue and incorrect statements and tried to get Eliot to sign one of these waiving the felony crimes committed. Of course, Eliot would not partake in aiding and abetting the criminals and absolving them of wrongdoing and commit Misprision of a Felony, especially when he was acting not only for himself but as a Trustee for his children and did the only legal thing, reported the crimes to the proper authorities and this tribunal.

TED again is mistaken in his claim that accountings will be costly to the beneficiaries and estate, as the costs will not be charged to the beneficiaries ultimately. In fact, these costs may be an asset to the beneficiaries who will recover these costs and further make claim for damages from those who caused these legal and accounting expenses due to felony criminal acts and more against them.

The costs now that this Court needs to allow in the Estate are (after TED's removal) those necessary to hire a forensic accountant and forensic document analyst to come in and recreate the financials that have been suppressed, denied or destroyed. Also, those involved will bear the cost and damages for experts to come in and hunt down the stolen assets, find the missing documents and more, all caused by the frauds and more that have taken place through these breaches of fiducial duties, legal malpractice and more, including but not limited to, failures to account and failure to maintain any transparency to the beneficiaries, all in violation of Probate and Trust Rules and Statutes.

16. That TED states,

Importantly, the nonsense with the waivers played no role in

altering the disposition of the assets of Shirley's Estate, because those assets already had been disposed of by Simon Bernstein. It is absurd that Eliot continues to use this improper notarization as some evidence of a massive fraud and conspiracy against him, when the evidence and the facts, and logic and common sense, are clearly to the contrary.

To contradict this statement, PBSO investigators state in their Report that,

In speaking with Spallina, we found that the document in questions changes the inheritance of Personal Property in the Estate of Shirley Bernstein from Simon and Shirley's children to their grandchildren.

and then,

Spallina reiterated that Simon can do whatever he wants with his estate but all he can do with Shirley's Trust is give it to Lisa, Jill and Eliot's children.

and then,

Spallina said that he explained to him (Simon) again that only his trust, not Shirley's can go to both grandchildren, unless he takes all of the assets out of the Shirley Trust and puts them into his name.

and then,

So, after the aforementioned phone call, new documents were drawn up for Simon's Estate. These new documents give everything to all 10 grandkids. He (Simon) also exercised his power of Shirley's Estate, giving everything to all 10 grandkids, even though legally he could not include Ted and Pam's kids because of the Predeceased Limitation.

What the detective may have not known, is that the only children considered living children in Shirley's Estate at the time of her death were Eliot, IANTONI and LISA and their lineal descendants as TED and PAMELA and their lineal descendants were deceased. Despite knowing all this improper distributions were made by TED knowingly and against the advice of SPALLINA, as SPALLINA claimed to PBSO he told TED not to make distributions.

TED claims that Simon disposed of Shirley's assets and here again is why the Estate needs to

remain open until it is learned what assets of Shirley's Simon received and how and who he disposed them to is learned.

17. That TED states,

At the time of his appointment, the Successor Personal Representative received no assets and administered no claims because, while Simon was alive, he disposed of all assets (believed to tangible personal property only) and resolved all claims (if any) which were presented.

There was nothing left in the Estate. There were no estate taxes due (Shirley died in 2010) and Simon had paid or caused to be paid all claims and expenses of administration. More than two years has passed since Shirley's death, so there can and will be no more claims. There currently are no assets in the Estate and no reason for it to remain open.

That again, it is impossible to TRUST either TED or Alan Rose, due in large part to their direct involvement in and advancement of the prior frauds and for their continued efforts to advance such frauds as evidenced in this TOXIC, VEXATIOUS, COSTLY and FRAUDULENT pleading. They have only acted in their best interest and that of their prior counsel and it is expected they will continue to do so to protect themselves at the expense of the beneficiaries who they are charged with protecting. That while this statement is filled with unproven statements about the assets and where they are or where they went, again there is no legal support for their claims and factually there are alleged further crimes for the failure to provide the documents and records necessary to prove their claims, all in violation of Probate and Trust Rules and Statutes.

18. That TED states,

Although this Court reopened the Estate, the Successor Personal Representative has possession of no assets and never has, and is aware of no liabilities. The Successor Personal Representative will never have any assets to distribute because there are no assets and anything which conceivably could have existed on the date of Shirley's death, would have been transferred to Simon as her

surviving spouse under the terms of her Will. Any such assets Simon retained as of his death would now be in Simon's estate. Thus, there is and will be nothing in this Estate.

That again all these claims are baseless hearsay and will need to be forensically dealt with by independent third parties to determine the voracity of the claims. That the Court is aware through earlier pleadings filed, yet unheard that assets have been discovered of Shirley's that are not inventoried on her Estate nor transferred into Simon's and seem to have vanished into thin air and all of these assets known missing have been reported to the Sheriff's department and are under ongoing investigations and the ongoing investigations involving both TED and Alan Rose are yet another reason the Estate should remain open, in addition to gaining accounting and forensic analysis now necessary to reconstruct the Estate from the fraud committed against it.

19. That TED states,

Moreover, it would be virtually impossible for anyone to conduct an accurate accounting, because no one – including the Successor Personal Representative – knows exactly what assets were in the Estate at the time of Shirley's death. Simon had the sole and absolute right to all such assets, either as sole beneficiary of her tangible personal property or as the initial Successor Trustee of the Shirley Trust, and Simon shared none of that information with his children.

This is a mind-blowing statement, that no one knows what assets were in the Estate at the time of Shirley's death and this statement in and of itself is cause for immediate forensic accountants and others to come in and investigate and recreate what was in the Estate at the time. In fact, TED as alleged Successor PR should have led the charge to find out what assets were Shirley's and what transferred to Simon, especially after learning that Jewelry and other assets were missing from both Estates. Eliot claims that TESCHER and SPALLINA are fully aware of what is missing and have purposely suppressed and denied schedules, memorandums and addendums to the

Wills and Trusts of Simon and Shirley to hide the Estates Corpuses and Trust Res' and that they continue to suppress and deny them or have destroyed them in efforts to cover up their crimes and what they have stolen and this all further damage the beneficiaries and is further reason to leave the Estate of Shirley open for further inspection of further fraud and to determine what exactly Shirley's Estate was comprised of.

20. That TED states,

The Estate seeks an order of this Court, based upon the genuineness of the Waivers signed while Simon was alive, to enforce the Waivers and close this Estate. Doing so will avoid an inordinate waste of resources. Thus, the Successor Personal Representative requests that the Court enforce the Waivers signed by all beneficiaries, re-close this Estate, and bring an end to this tragedy.

That when will the Court put an end to this madness? TED and Alan seek an order of the Court based on the fraudulent, forged and perjured waivers that are legally irrelevant. In fact, again TED and Alan deceive the Court and contradict their own prior statements in the pleading when they now claim that the old waivers were all signed while Simon was alive, yet knowing that Jill Iantoni's waiver was not signed until October 1, 2012, (see Exhibit 2 - Jill Waiver) weeks after Simon was DEAD. Again, this TOXIC pleading tries to deceive the Court and continues to perpetrate fraud through factually incorrect statements to this Court and further advances fraudulent documents, in a brazen attempt to have the Court now try and aid and abet in a cover up by closing the Estate prematurely and further injure the beneficiaries, which Eliot thinks this Court and Your Honor to smart and honorable to partake in.

21. That TED states,

WHEREFORE, the Successor Personal Representative respectfully

requests the entry of an Order re-closing this Estate; discharging the Successor Personal Representative and releasing the surety on any bond which the Successor Personal Representative may have posted in this proceeding; and granting such other relief as it just.

That this Court should strike this pleading and remove TED on its own motion for good and just cause as provided under Fla. Stat. 736 on the Prima Facie evidence already submitted to the Court in Eliot's recently filed "PETITION TO REMOVE TED BERNSTEIN AS ALLEGED SUCCESSOR TRUSTEE OF THE ALLEGED SIMON BERNSTEIN REVOCABLE TRUST", hereby incorporated by reference herein, filed in Simon's Estate, which gives countless legally sound reasons that TED must be removed as a fiduciary in both the Estates and Trusts of both Simon and Shirley immediately to prevent further FRAUD, WASTE and ABUSE.

22. That the Court is reminded that the Estate of Shirley was closed using a DEAD Personal Representative, Simon Bernstein, who filed documents with the Court while dead through his attorneys at law, TESCHER and SPALLINA. These documents were posited with the Court by Tescher & Spallina, PA and Simon's former counsel, Donald R. Tescher, Esq. and Robert L. Spallina, Esq. as part of an elaborate legal abuse of process scheme that involved filing a series of forged and fraudulently notarized documents for six separate parties, including admitted Post Mortem forgeries and fraudulent notarizations for Simon to illegally seize Dominion and Control of the Estates and Trusts, appoint illegal imposter Personal Representatives/Executors and Trustees and then begin a series of frauds and thefts of the assets.
23. The Court should also take Judicial Notice of the fact that allegations were levied by TED and PAMELA and others that Simon was MURDERED via poisoning and that according to the Coroner's Heavy Metal Test recently disclosed to Eliot, it appears that certain levels of heavy metals appear elevated to reportable levels, although the report appears to claim Simon was 113 years old

and other irregularities that are being investigated. Eliot will most likely be conducting an independent third party to review the heavy the metal test and Coroner's reports and seeking the Coroner to invoke the Sheriff Coroner's involvement due to several irregularities and anomalies now discovered in relation to Simon's unexpected and sudden death immediately preceding his alleged signing of the alleged dispositive documents.

24. That this Court should also take note that TED has admitted under oath in a July 11, 2014 hearing before Your Honor that he and his counsel Alan Rose had conspired to use "FORCEFUL" and "AGGRESSIVE" tactics on Eliot to stop him from legally pursuing them (using estate and trust assets to perpetuate this legal process abuse), creating an irrefutable adverse interest with Eliot. However, the letter that TED sent to Eliot stating these things has been classified as inadvertent Attorney Client Privileged and cannot be advanced here but TED's admission under oath are not privileged and thus are entered herein via transcript of that hearing that Eliot has not been able to obtain yet and no other party with copies has sent that to him as requested. This adverse interest created is due to the fact that Eliot is the one having both TED and Alan Rose investigated in state and federal, civil and criminal, legal actions.

25. That TED and Alan Rose, Esq. have both been served two Counter Complaints in lawsuits directly related to the frauds in the Estates and Trusts described herein as Defendants in various capacities. Both had to be served formal process as they refused to accept waivers, despite the fact that one of the lawsuits is instigated by them. As bona fide Defendants being sued for Breaches of Fiduciary Duties, Legal Malpractice, Fraud and more both TED and Alan Rose have further conflicts of interest in these matters and this furthers their adversity and anger towards Eliot who again, is trying to uncover the extent of the crimes committed and protect the true and proper beneficiaries of the Estates and Trusts of Simon and Shirley. Where TED and Alan Rose's actions appear to be to

interfere and further delay expectancy of the beneficiaries while willfully, wantonly, recklessly and with egregious bad faith and unclean hands continue the frauds, including new ones on this Court and the beneficiaries and protect themselves and not the beneficiaries misusing Estate and Trust funds of Simon and Shirley. Further failing to account for these fees or seek court approval for them.

26. Even if it the threat of force and aggression was meant in only a legal strategy sense and not one of physical harm, as the Court subjectively interpreted it to be in its Order, this type of abusive legal strategy is another violation of fiducial duties to a beneficiary of the Estates and Trusts, especially to harm one who has already been injured by the felonious acts of the former fiduciaries and TED and this is yet another reason both TED and Alan Rose need to instantly be removed from these proceedings and further sanctioned.

27. That Simon never made any changes to Shirley's Trust or Estate while alive despite extreme pressure to force him to change the estate plans by THEODORE and PAMELA, who had been tipped off by Spallina prematurely that both Simon and Shirley had completely disinherited them and their lineal descendants, leaving Simon a sitting, or dead, duck. After learning that they and their families were considered predeceased they began immediately after Shirley's death to torture and torment Simon to make changes to he and Shirley's plans, despite the FACT that Shirley's estate and trust plans were irrevocable upon her death and Simon could make no changes to her beneficiary class.

28. Once upon a time and for a brief moment in weakness from the elder abuse of his grandchildren being used as hostages, Simon in a May 10, 2012 meeting discussed possibly changing the estate plans he and Shirley had done in May 20, 2008 in exchange for his children, Theodore, Pamela, Lisa and Jill to stop their abuse of him. Eliot, Jill and Lisa would be asked to give up their inheritances in both the Estates and Trusts of Simon and Shirley and give it to the 10 grandchildren, of course, only if it could legally be done as was suggested by TESCHER and SPALLINA. Theodore and Pamela in

exchange would cease their attacks on him to make changes and allow him to see their children again. Further if the plan were furthered that Theodore, Pamela, Lisa and Jill would cease demanding him to stop seeing his girlfriend, PUCCIO, who they detested and where they refused to see Simon with their children if he did not stop dating PUCCIO.

29. That Simon at the meeting was looking for three of his five children to approve any plan changes he was considering as it was their inheritances that would have to be forgone, as only Eliot, Jill and Lisa were beneficiaries of their estates and trusts, as Theodore and Pamela were disinherited entirely with their lineal descendants.
30. That Eliot, while requested to participate in this elder abuse scheme and use his children against Simon to force him to stop seeing his girlfriend, did not join the other siblings in their attack, to their ire. Eliot and his family in fact like PUCCIO and understood the many reasons Simon and Shirley had disinherited and considered both TED and PAMELA and their families from their estate plans.
31. That Simon never made changes to he and Shirley's plans as was considered for a number of reasons, primarily as he did not feel right about changing what he and Shirley decided together and that he knew that it could not be legally done. TED and PAMELA's rage and abuse only continued and in fact, increased to the very day he died.
32. Closing the Estate of Shirley via this TOXIC, VEXATIOUS, COSTLY and FRAUDULENT pleading is premature considering we have other upcoming hearings, including for all of the objection to the Simon Estate Final Accounting provided recently by TESCHER and SPALLINA and are just beginning process of verifying assets that went missing from the alleged transfer from Shirley and Simon and of course, Eliot would have to petition the Court to re-open the re-opened estate is it is prematurely closed as suggested in TED's pleading.

33. That further the estate needs to enforce its rights against the perpetrators of the crimes and seek sanctions and damages to get the missing assets recovered back to the Estate. The estate still needs to recreate the Estate Corpus at the time of Shirley's death and to have the Estates and Trusts paid back for legal fees and more that were misappropriated through further alleged criminal misconduct by the alleged fiduciaries and their counsel.
34. That so egregious are these abuses of legal fees that it appears that perpetrators actually billed the Estates and Trusts for their time forging, fraudulently notarizing, altering and distributing through mail and wire the fraudulent documents and even their time for going to the PBSO to confess further frauds.
35. That there are still pending actions and pleadings filed by several parties in Shirley's Estate that have not been heard by this Court and thus, again, it is premature to close the Estate.
36. That the only ones who benefit from premature closing are TED, Alan Rose, SPALLINA, TESCHER, PAMELA and others who are alleged to have been part of advancing the frauds and not the true and proper beneficiaries. Again, this conflict of interest with TED acting as Personal Representative/Executor makes him unfit **now** as a fiduciary despite what any alleged documents may name him in and the conflicts are obviously impairing his judgment and his counsel Alan Rose, where Alan continues to file these toxic, frivolous, vexatious, fraudulent and abusive pleadings that advance no one's interests other than their own interests in violation of the Florida Bar Rules of Professional Conduct and law.
37. The Estate has been blocked from doing all these things to remedy the damages and prosecute those involved and protect the beneficiaries, as the fiduciaries currently in place are part of the advancement and benefactors of the frauds committed and so have stopped the Estate from doing

anything legally required. Instead, they have run up rampant and abusive and unaccounted for fees to further enrich themselves at the expense of the true and proper beneficiaries and even conspired to use forceful and aggressive tactics against beneficiaries, including minor children to protect themselves by misusing Estate and Trust funds to do so.

Wherefore, Eliot prays that this Court,

- i. strike this pleading,
- ii. keep the Estate of Shirley open,
- iii. remove TED as a fiduciary for good and just cause and to protect the beneficiaries from further harms,
- iv. and any other relief this Court deems just.

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, Tuesday, September 9, 2014.

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

X _____

EXHIBIT 1
EXCERPTS 9/13/13 HEARING

EXHIBIT 2

JILL IANTONI WAIVER SIGNED OCTOBER 01, 2012

EXHIBIT 3

PAMELA ATTORNEY LETTER TO SIMON

EXHIBIT 4

SIMON PETITION FOR DISCHARGE

EXHIBIT 5

ELIOT REVOCATION OF WAIVER