MOTION FOR CONTEMPT OF COURT – ORDER DATED AUGUST 20, 2014 RE: Saint Andrews SCHOOL

Eliot Ivan Bernstein, Petitioner, moves for an order finding Theodore Bernstein, alleged Trustee of the Shirley Bernstein Trust (PUT IN FULL NAME) and Alan B. Rose, Esq. as Attorney at Law for Trustee, in contempt of' court for violating the Courts' Order dated August 20, 2014 (Exhibit "A") and for appropriate sanctions;

1. That on August 20, 2014, this Court Ordered that payment to Saint Andrews school was to be made by the Trustee and his counsel for past due tuitions and one year of current tuition for Petitioner Eliot’s three minor children’s private school.
2. That when timely payment to fulfill the Court Order was not made by the Trustee Eliot filed an “EMERGENCY MOTION TO COMPEL ALLEGED TRUSTEE OF THE SHIRLEY TRUST TO MAKE EMERGENCY WELFARE PAYMENTS AS PROVIDED FOR UNDER THE TRUST; MOTION FOR REMOVAL OF TRUSTEE ON THE COURT'S OWN INITIATIVE - FLORIDA TITLE XLll 736.0706” dated August 20, 2014, pleading with the Court to demand the Order be followed and the school paid to keep the children in school as was intended.
3. That the Court, believing the Order was being complied with as Ordered, dismissed the Emergency Order on August 22, 2014, which was not received by Eliot until August 26, 2014 stating the Emergency Motion was denied as the payment was already Ordered.
4. That two days after school was in session, on August 21, 2015, Saint Andrews school informed Petitioner that the arrears and payment for the following school year that were Court ordered to be paid timely, were not paid and rejected all three minor children from attendance and did not re-enroll them.
5. That Petitioner then had to enroll all three children in public schools that had already begun for almost a month, as Private School’s with later start dates rejected applications made due to the arrears that were still owed to Saint Andrews school.
6. That the arrears owed and not paid as Court ordered then caused each child’s transcripts to be held and remain so today due to the breach of fiduciary duty and contempt for this Court’s Order by the Trustee and his counsel, Rose and left the children losing credits, class opportunities, scholastic achievements, sports achievements and more.
7. That all children’s grades suffered from the mental traumas of switching schools, arriving almost a month after school had started, loss of sporting credits, loss of friends and emotionally they are all traumatized.
8. Long planned and paid for school by Plaintiff’s parents, Simon and Shirley Bernstein, costing almost $500,000.00 to that point was interrupted after seven years, costing all of them future opportunities, including preventing the oldest from graduating with his class, loss of college guidance, loss of credits, loss of varsity letters in two sports in his senior year and most importantly, due to his transcripts being held for lack of payment, he has not been able to apply and enroll in universities at this time.
9. That after arrears were to be paid, the 2014-2015 school tuitions were then to be paid to Saint Andrews as Ordered by the Court and this must now be ordered by this Court to be paid directly to Petitioner to be used to continue their educations for next year, including first year college costs and private school middle and high school tuitions and more for the children.
10. That without payment by May 05, 2015 of the arrears for Joshua, he will not be able to enroll in college.
11. That Alan Rose claimed he did not need Eliot’s signature on the Agreement (SEE EXHIBIT – Rose Correspondence), as the Court record would stand if they could not agree on terms and sent an Order for this Court to sign, which it did, despite Your Honor stating on the record that it would sign the Order and if the Agreement were not signed in time the Court record would stand as the Agreement, SEE EXHIBIT \_\_\_\_ - Colin Transcript Re Order.
12. That after obtaining the signed Order both Ted and Rose failed to pay Saint Andrews school, with scienter, and the children were removed from school for the lack of the payment of both the arrears and for payments of the school year.
13. That Ted is not now a qualified fiduciary and in certain instances in the Trusts and Estates of Simon and Shirley Bernstein, is being accused of acting improperly as an alleged Trustee in the Simon Trust and in the Illinois Insurance Litigation, where he claims to be Trustee of Trust that has not been produced and he claims not to be in possession of an executed copy.
14. That Ted is not now qualified to be a Trustee of anything in these matters due to serious conflicts of interest and adverse interests with beneficiaries and others and for failure to properly administer the Estate of Shirley and Trusts of Shirley and Simon.
15. That the new PR of Simon’s Estate, Brian O’Connell, Esq. replying to a Shirley Trust filing by Ted, listed as the only affirmative defense a very damning statement,

“AFFIRMATIVE DEFENSE

1. First Affirmative Defense- Lack of Standing- Ted Bernstein lacks the requisite standing as he is not validly serving as Trustee of the Simon Trust, is not a beneficiary of the Simon Trust, and is not representing any minor child that is a beneficiary of the Simon Trust.” (SEE EXHIBIT \_\_\_\_)

1. That attorney at law, Peter Feaman, Esq. contacted attorney at law Brian O’Connell, Esq. and made the following statements.

Email from Peter Feaman, Esq. (Counsel to Creditor William Stansbury) to Brian O’Connell Esq. (PR)

Subject: Bernstein Estate
Date: Tue, 16 Dec 2014 15:57:54 -0500
From: pfeaman@feamanlaw.com
To: boconnell@ciklinlubitz.com
CC: jroyer@feamanlaw.com

Brian,

When you and I spoke last week you indicated that you were in favor of the settlement that Mr. Stansbury had signed and sent to you for signature.

You indicated that you had to work out funding with the trust.

Meanwhile, the Life insurance litigation in Chicago is moving forward.

Our attorneys are taking a deposition in Chicago the week after New Years of "Scooter" Bernstein, I think.

They also want to depose Ted Bernstein and Robert Spallina in early January as well.

I offered my office as a locale for those depositions.

Deposing Ted Bernstein in the Chicago action poses some **serious conflict of interest issues for Ted Bernstein and ethical issues for Mr. Rose as the Florida attorney for Mr. Ted Bernstein. [emphasis added]**

He is being deposed as a party Plaintiff in the Chicago action, the purpose of which is to direct $1.7 million in life insurance to the 5 adult children of Simon Bernstein away from the Bernstein estate.

Yet Mr. Rose represents Ted Bernstein as Successor Trustee to the Simon Bernstein Trust, the beneficiaries of which are the GRANDCHILDREN OF Simon Bernstein, and the Trust is the beneficiary of the Simon Estate which is directly opposed to the position of Ted Bernstein as Plaintiff in the Chicago Life Insurance litigation.

**Just as Ted Bernstein cannot wear both hats, it seems that Alan Rose cannot represent a client so conflicted. [emphasis added]**

Further, it would seem to me that the estate (you as Personal Representative) has an absolute duty to demand Ted's resignation as Successor Trustee, as his continued role as such imperils the interests of the grandchildren, to whom you owe a fiduciary duty as the Personal Representative.

The bottom line is that **the more this drags on, the worse it is going to get for all concerned. [emphasis added]**

At some point, respectfully,  I think you are going to have to take the bull by the horns and **1.) demand that Ted Bernstein resign as Successor Trustee.** [**emphasis added**] and 2.) Take an active role in directing the attorneys in Chicago to push the case in order to bring it to a successful resolution on behalf of the estate, either by settlement or trial. This means taking over the responsibility for the litigation from Mr. Stansbury in light of the favorable position that the Estate is now in as a result of Mr. Stansbury 's efforts.

I welcome your thoughts on this.

Peter M. Feaman

Peter M. Feaman, P.A.

3695 West Boynton Beach Boulevard

Suite 9

Boynton Beach, FL 33436

Telephone:      561-734-5552

Facsimile:        561-734-5554

www.feamanlaw.com

**Confidentiality: The email message and any attachment to this email message may contain privileged and confidential information, intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copy of this communication is strictly prohibited. If you receive this communication in error, please immediately notify the sender by return email and delete this message.**

1. That to avoid any implied consent to Ted acting as a Trustee, which Eliot has challenged as well that he is not and hearings are pending to remove Ted already that the Court wanted to hear months ago and now in light of this new and damning evidence coming from two attorneys that this Court holds in high regard regarding Ted’s ability to act legally as Trustee currently, Eliot now asks this Court to review and decide first, prior to ANY actions by Ted in any fiducial capacity, including to make ANY payments or distributions by the Trust he operates, the legality of Ted acting as a Trustee.
2. That this Court must now hear the Petitions and Motions to remove Ted in the Estate and Trust cases of Simon and Shirley and if Ted is found qualified to be the Trustee then settlements and payments and administration can move forward legally and if not, a new Trustee will have to be found to replace Ted and fulfill this Court’s Orders.
3. That all administration has ground to a halt in the Estates and Trusts of both Simon and Shirley due to Ted’s conflicts and more and as Feaman’s letter claims to the PR, the longer this charade goes on the more at risk and liability everyone else becomes who knowingly are working with a Trustee who everyone claims is legally not valid and not now qualified. For example, how can O’Connell ask the Trustee Ted for funds to settle claims and more, when he claims Ted is not a valid Trustee of the Simon Trust?
4. That how can Feaman strike a settlement with Ted on behalf of his client Stansbury as a knowingly not valid Trustee, who Feaman claims is conflicted and not now qualified and where Ted settled as Trustee on behalf of the Estates and Trusts a lawsuit whereby he was the MAIN DEFENDANT, an irrefutable conflict, whereby Ted shifted all the liability and settlement costs to the Estates and Trusts and personally he settled paying nothing, all to the detriment of beneficiaries, of which he is not one?
5. Feaman, O’Connell and Eliot jeopardize themselves, their clients and the beneficiaries by working with a knowingly not valid Trustee and both attorneys at law have reported this misconduct to this Court in pleadings and on the record but still there has been no hearing to remove Ted and the Court has not acted on its own motion despite the overwhelming evidence brought to the Court by two competent, ethical and accomplished, attorneys at law, Feaman and O’Connell and Pro Se, Eliot.
6. This Court must act on its own or through hearings to remove Ted before any other action involving Ted and his counsel are taken by any party. Even the Court is at risk, as if Ted is found to have not been qualified and acted illegally, all the agreements, pleadings, settlements will be stricken and beneficiaries further damaged by further Fraud on the Court, Fraud on the Creditors, Fraud on the Beneficiaries and more.
7. That Eliot was forced to work with Ted and Alan to try and make the payments for school and due to their conflicts of interest and adverse interests and admitted strategy of force and aggression against Eliot, his family and his father and mother’s friends, we now see the devastating, almost pedophilic damages this has caused on three minor children’s lives that they are supposed to be acting as fiduciary for.
8. The Court will recall the KIA automobile that Ted et al. claimed was the property of the Estate of Simon as it was Simon’s personal property, only to find Ted had written a birthday congratulation letter to Simon’s grandson regarding the KIA as gift to him and after months of court costs and legal costs, the Estate finally returned the car to the proper owner.

WHEREFORE, Petitioner requests that this Court enter an order: (i) dated \_\_\_\_\_\_\_\_\_\_, and enter an order, including but not limited to:

* 1. compelling a LEGALLY QUALIFIED Trustee to immediately pay Saint Andrews school the outstanding arrears;
	2. finding Theodore Stuart Bernstein and Alan B. Rose, Esq. in contempt of Court for violating the Court's Order;
	3. damages of no less than $3,000,000.00 for pain and suffering to minor children and loss of scholastic opportunities,
	4. seeks an order \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and
	5. seeks an order \_\_\_\_\_\_\_\_\_\_\_\_\_\_ and states: