

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

PROBATE DIVISION  
CASE NO.: 502014CP002815XXXXSB (IY)  
HONORABLE MARTIN COLIN

OPPENHEIMER TRUST COMPANY  
OF DELAWARE, in its capacity as  
Resigned Trustee of the Simon Bernstein  
Irrevocable Trusts created for the benefit  
of Joshua, Jake and Daniel Bernstein,

Petitioner,

vs.

ELIOT AND CANDICE BERNSTEIN,  
in their capacity as parents and natural  
guardians of JOSHUA, JAKE AND  
DANIEL BERNSTEIN, minors.

Respondents.

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**OBJECTION TO FINAL ACCOUNTING; PETITION FOR FORMAL, DETAILED,  
AUDITED AND FORENSIC ACCOUNTING AND DOCUMENT PRODUCTION**

Respondents, Eliot Ivan Bernstein and Candice Michelle Bernstein, on behalf of their minor children ("Respondent(s)"), and where the minor children are alleged qualified beneficiaries, hereby Objects in entirety to the Oppenheimer Trust Company of Delaware, "Final Accountings (for the period July 30, 2010 through May 26, 2014)" for the following **alleged** and legally deficient trusts:

- A. The Daniel Bernstein Irrevocable Trust Dated September 7, 2006 (Exhibit A) provided by Oppenheimer Trust Company of New Jersey;
- B. The Jake Bernstein Irrevocable Trust Dated September 7, 2006; (Exhibit B) provided by Oppenheimer Trust Company of New Jersey

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C. The Joshua Bernstein Irrevocable Trust Dated September 7, 2006; (Exhibit C) provided by Oppenheimer Trust Company of New Jersey put forth by the former resigned alleged Successor Trustees, Oppenheimer Trust Company of New Jersey dba Oppenheimer Trust Company of Delaware, and their counsel Steven A. Lessne, Esq. as permitted by the Florida Trust Code and any other germane statutes and in support thereof, Respondents allege as follows:

**GENERAL OBJECTIONS TO FINAL ACCOUNTING**

1. Object that no individual or partner has signed, verified or dated the purported accounting from Morrison, Brown, Argiz & Farra, LLC (MBAF).
2. Object no one has signed, verified or dated the purported accounting from the resigned Trustee Oppenheimer Trust Company.
3. Object to all withdrawals of trust funds by Oppenheimer Trust Company and allege that they were done fraudulently and without proper documentation and converted to improper parties as part of a larger fraud on the beneficiaries of the children's trusts and the beneficiaries of the Estate and Trusts of Simon and Shirley Bernstein who set up the children's trusts as part of their estate plans.
4. Object that three trusts do not indicate what law firm prepared them and are legally deficient and executed improperly.
5. Object that there are no prior accountings attached to the alleged Final Accounting for any of the three trusts, from their date of alleged inception on September 07, 2006 through July 30, 2010.
6. Object that there is not legally executed trust documents attached for the trusts to the final accounting and none have been provided to beneficiaries upon repeated demands for fully

executed documents. This and other problems with the accountings violate Florida Trust Codes 736.0801, 736.0810 (1)&(3), 736.0804, 736.0802 and 736.0809.

7. The trust documents are not fully executed, all are missing initials on the pages (the initials are for minor children at the time?), signature pages are missing entirely for Daniel Bernstein and Trustees named in the document conflict with each other making knowing who the Trustee actually was in the alleged trust document impossible to determine.
8. Object that there are no prior legally required accountings at each change of Trusteeship.
9. Object that there are no prior accountings or documents dating to the inception of the trusts.
10. Object that the trusts listed in this complaint provided by Oppenheimer do not match the statements the monies are withdrawn from, they are funds from accounts held by the SIMON BERNSTEIN IRREVOCABLE TRUST U/A 9/7/06 in each instance and not those listed in Oppenheimer's complaint and final accounting exhibited herein as Exhibits A B & C.
11. Alleged Trustees for the three trusts are alleged to be:
  - a. Traci Kratish, Esq./CPA – Alleged original trustee,
  - b. Steven Greenwald, Esq. (“Greenwald”) – Alleged original trustee. The three trusts have conflicting statements on Page 1 and Page 2 as to who the Trustee is, naming Greenwald as the original trustee despite Kratish being named on Page 1 as the trustee.
  - c. Larry Bishens, Esq. – Alleged original named Successor Trustee to Steven Greenwald, Esq. or Traci Kratish, depending on how the Court determines this conflict in the document,
  - d. Stanford Trust Company – Alleged Successor Trustee,
  - e. Oppenheimer Trust Company of New Jersey – Alleged Successor Trustee,

- f. Oppenheimer Trust Company of Delaware – Alleged Successor Trustee,
  - g. Unknown, Successor to Oppenheimer of Delaware who resigned as Successor Trustee, to be determined by this Court.
12. Object that there are no signed trust tax returns attached for any years from the trusts inception to present provided for in the final accounting for each trust.
  13. Object that there are no legal fee and fiduciary fee backup data for any services rendered by legal counsel or fiduciaries.
  14. Object globally that all starting and ending balance entries are unreconcilable due to the failure to attach prior year accountings to this final accounting that accounts only for a portion of the trusts existence.
  15. Object that the accountings do not meet generally accepted accounting principles and violate trust codes and statutes regarding final accountings.
  16. Object that the accountings do not comply with 736.08135 Trust accountings.-- .
  17. Object that the accountings do not comply with 736.0813 Duty to inform and account.-

**SPECIFIC OBJECTIONS TO FINAL ACCOUNTING**  
**DANIEL BERNSTEIN, JOSHUA BERNSTEIN AND JACOB BERNSTEIN**

**OBJECTIONS - SUMMARY PAGE**

18. That the objections to the accounting for all three alleged trusts are similar and to save the court and everyone's time and expense this objection while relating to Daniel specifically will be used for all three trust objections unless the Court would like separate filings for each trust that will be almost identical to this. Individual differences will be cited accordingly.
19. The following items on the "Summary" need further investigation, thus Respondent objects as set forth below. In addition, Respondent objects as no substantiating documents were provided, thus the Respondent reserves his right to further object to same.

20. Object to the Summary Accounting in toto in that it accounts only for the Period 07/30/2010 through 05/26/2014 and has no account history prior to that time, from September 07, 2006 when the trust is alleged to have been funded.
21. Account balances beginning and ending cannot be confirmed or reconciled and therefore without prior accounting information to validate them, the whole accounting is fatally flawed and unreconcilable.
22. Object there is no financial information, physical evidence, tangible things or backup relating to the Summary that was provided with the Final Accounting that evidence, support or relate to the summary accounting entries. The lack of prior accounting to validate the entries fails to provide accounting according to generally accepted accounting principles, as there is no way for the beneficiaries to determine the validity of any of the Summary Accounting as it is merely numbers on a page for a limited period of the alleged trusts and no documentation on any entry.

**OBJECTIONS TO RECEIPTS OF PRINCIPAL  
Receipts Subsequent to Inventory  
(Valued when received)**

Pages 1-2 – Receipts

23. Object there is no financial information, physical evidence, tangible things or backup relating to the Receipts that were provided with the final accounting that evidence, support or relate to the Receipts. This fails to provide an accounting of receipts according to generally accepted accounting principles and there is no way for the beneficiaries to determine the validity of any of the receipt accounting as it is merely numbers on a page for a limited period.

24. Object there is no receipt information prior to inventory and the time when Oppenheimer Trust Company of New Jersey is alleged to have received trusteeship or thereafter.
25. Object to the Receipt Pages in toto in that they account only for the Period 07/30/2010 through 05/26/2014.
26. Object to Receipt entries in toto as there are no actual receipts attached to confirm or deny any of the entries.
27. Object to the 09/20/2010 LIC Holdings Inc 6 Units - \$0.00 entry.
  - a. Object. No accounting for LIC Holdings Inc. has been provided to the beneficiaries of these trusts since its inception and in the Estate of Simon where they are listed as part of the Amended Inventory as "N/A." Ted Bernstein has refused all requests to turn over these records for over two years to beneficiaries of these trusts and beneficiaries of Simon's Estate to define their interest in this entity and the many entities that are held under it.
  - b. No tax returns are attached for LIC Holdings Inc. so object to arbitrary valuation provided
  - c. That the beneficiaries have sent repeated requests to Oppenheimer requesting information be gathered by them regarding LIC Holdings, acting as alleged Trustee for the beneficiaries who hold interest in this entity. The repeated demands for the accounting have failed.
28. No financial information, physical evidence, tangible things or backup relating to any account documents, statements, valuations, stock certificates, buy-sell or any other information regarding LIC Holdings, Inc. were provided with the final accounting that evidence or relate to this transaction for review by Respondents.

29. The Accounting fails to comply with the Florida Trust Code with regard to LIC Holdings, Inc. as no information regarding LIC has been provided.
30. That LIC Holdings, Inc. ("LIC") and its subsidiaries and successors are the companies owned by Simon Bernstein and the three trusts also own significant interests in them. To this date, per conversations with the Curator, Benjamin Brown, Esq. and the new Personal Representative Brian O'Connell for the Estate of Simon it was learned that no records of LIC et al. have been tendered to the Estate regarding these entities as well. Beneficiaries and interest holders of LIC also have received no records or copies of stock holdings, tax returns, etc. and the company has been listed on the Amended Inventory and Final Accounting in the Simon Bernstein Estate as N/A. No Final Accounting can be completed without information regarding the value of these entities.
31. That requests for legally required information regarding LIC to Janet Craig of Oppenheimer Trust Company by the beneficiaries of the alleged Trusts, which allegedly hold stock in LIC has been denied. Thus the Estate and the children's Trusts appear denied these suppressed records relating to the financials of LIC, which Theodore Bernstein appears in control of and which he apparently refuses to release in violation of law to any parties he is legally obligated to disclose to.
32. That the following emails evidence Oppenheimer's failure to provide the legally required information upon demand.

**From:** Eliot Bernstein [mailto:iviewit@gmail.com]

**Sent:** Friday, November 8, 2013 11:54 AM

**To:** 'Craig, Janet'; Hunt Worth ~ President @ Oppenheimer Trust Company (Hunt.Worth@opco.com); William McCabe Esq. @ Oppenheimer Trust Company (William.McCabe@opco.com); 'katie.saia@opco.com'; 'patrick.wade@opco.com'; 'pat.wade@opco.com'

**Cc:** Caroline Prochotska Rogers Esq. (caroline@cprogers.com); Michele M. Mulrooney ~ Partner @ Venable LLP (mmulrooney@Venable.com); Andrew R. Dietz @ Rock It Cargo USA; Marc R. Garber Esq. (marcgarber@gmail.com); Marc R. Garber, Esquire @ Flaster Greenberg P.C.; Marc R. Garber Esq. @ Flaster Greenberg P.C. (marcgarber@verizon.net)

**Subject:** RE: Joshua Jacob and Daniel Bernstein Trusts

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OBJECTION TO FINAL ACCOUNTING

Janet, while this addresses a small part of my requests in the email sent below, I do not see any reply to the other matters information was requested for, including the information on LIC Holdings. Did you request the information for LIC Holdings as requested below and if so can you please send me the letters sent to them and their response. I do also note that Ted and Spallina were copied on your response to my private and confidential email and I ask by what authority and whose direction are you copying this PRIVATE AND CONFIDENTIAL information to these parties on, please address each party separately? Please confirm that you did not blind copy any other parties on the emails. In addition to the records for LIC Holdings, please provide the same information for Bernstein Family Realty LLC as requested below for LIC Holdings, as you were Manager and the shares for both are listed under the trusts you are still trustee of. I am still unclear under what authority you made Ted manager, knowing of the disputes going on and that my children are the owners of the company, as this seems a breach of fiduciary duties and trust. That you did this after first stating that you were turning over the Manager position to me and then without notice or approval of my family appointing Ted appears preposterous because he volunteered, how was he contacted about volunteering, please provide accurate details into how that occurred and who was involved in the decision. Did you contact him or he you?

That prior to my father's passing I am aware of information that he was concerned about his Oppenheimer accounts and these concerns had him making inquiries for accounting of all of his assets, in all of his family members Oppenheimer accounts and personal accounts, as he was concerned the balances were incorrect and did not think his assets were being handled properly and transferred correctly from the various banks they were shuffled to by his brokers from the transition from Stanford Bank (infamous for Sir Robert Allen Stanford Ponzi), to JP Morgan and Oppenheimer, please provide all past records of all Bernstein accounts or letters you may possess in regards to his inquiries immediately prior to his passing regarding the accounts and all of your firms responses. Also, I was informed that each child had 1.2 shares of LIC Holding and your accounting statement is only reflecting 1, please provide details regarding the discrepancies. Also, under Bernstein Family Realty you show each child owning 0.334 shares, so collectively 1 share, please clarify how many shares were issued and to whom and when and provide all records and minutes, etc. regarding the stocks? Also, please provide all records you received from Legacy Bank regarding the prior Legacy Account that was being used to pay my family bills, prior to Spallina redirecting this to you and converting it instead to the children's school trust funds to pay those bills, instead of Bernstein Family Realty LLC's accounts. As I am sure you are aware, Spallina's Law Firm was involved in fraud and forgery and their notary public was arrested for fraud and this would further make sharing my information with them without my express consent, as my emails maintain confidentiality statements on them as well, and again, for the third time this unauthorized transfer of the records to adversaries of my family seems a gross breach of fiduciary and more.

I will continue to send you all requests for funds since I have yet to see proper papers on the trusts and LLC as they are missing notaries in some instances and other documents you sent are incomplete with missing signatures as mentioned in my prior correspondences and with all this forgery and fraud going on with Spallina et al. it is hard to assess what has transpired in these accounts. I feel that you have obligations as Trustee and former Manager to verify if these monies and assets have been handled properly and have taken whatever actions and legal actions necessary to protect the beneficiaries you are responsible for and the funds you over sighted. Please go through this email and the email request below and answer each and every request separately as to how you're handling each issue. Finally, if you plan on sending this email to any other parties please get my consent if you are transferring my correspondences.

Eliot

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**From:** Eliot Ivan Bernstein [mailto:[iviewit@iviewit.tv](mailto:iviewit@iviewit.tv)]

**Sent:** Thursday, October 31, 2013 4:11 PM

**To:** Craig, Janet; Worth, Hunt

**Cc:** Caroline Prochotska Rogers Esq.; Michele M. Mulrooney ~ Partner @ Venable LLP; Andrew R. Dietz @ Rock It Cargo USA; Marc R. Garber Esq.; Marc R. Garber, Esquire @ Flaster Greenberg P.C.

**Subject:** Joshua Jacob and Daniel Bernstein Trusts

Janet, please provide the following based on the information that you sent to me whereby Oppenheimer is the trustee for the trusts for Joshua, Jacob and Daniel. As such under Article 5 (specifically 5.5), accountings must be given to the beneficiary of each trust at least annually (quarterly if a Corporate Trustee is serving). The accountings must show the assets held in trust and all receipts and disbursements. Other than the 6 shares of LIC Holdings, Inc. stock, I am not sure what other assets there are. The current trustee has the right to ask prior trustees for an accounting if none was previously provided to you (refer to last sentence of 5.5). No accountings have been previously provided me or my children. Provide a complete accounting that includes investment accounts, bank accounts, trust tax returns, etc. for all years. As I am the legal guardian for my children, I am asking for all these as they were supposed to have been provided by you.

There are 6 shares of LIC Holdings Inc. stock in each trust. Oppenheimer should request on behalf of the trust beneficiaries pursuant to Florida Statute 607.1602 for inspection of the corporate records from LIC Holdings, Inc. The request should include all years from corporate inception to present. Florida Statute 607.1601 describes corporate records:

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607.1601 Corporate records.—

- (1) A corporation shall keep as permanent records minutes of all meetings of its shareholders and board of directors, a record of all actions taken by the shareholders or board of directors without a meeting, and a record of all actions taken by a committee of the board of directors in place of the board of directors on behalf of the corporation.
- (2) A corporation shall maintain accurate accounting records. (at the very least, you should request accounting and financial records of LIC Holdings including income tax returns, general ledgers, balance sheets, P&L statements, bank statements, loan agreements or guarantees)
- (3) A corporation or its agent shall maintain a record of its shareholders in a form that permits preparation of a list of the names and addresses of all shareholders in alphabetical order by class of shares showing the number and series of shares held by each.
- (4) A corporation shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.
- (5) A corporation shall keep a copy of the following records:
  - (a) Its articles or restated articles of incorporation and all amendments to them currently in effect;
  - (b) Its bylaws or restated bylaws and all amendments to them currently in effect;
  - (c) Resolutions adopted by its board of directors creating one or more classes or series of shares and fixing their relative rights, preferences, and limitations, if shares issued pursuant to those resolutions are outstanding;
  - (d) The minutes of all shareholders' meetings and records of all action taken by shareholders without a meeting for the past 3 years;
  - (e) Written communications to all shareholders generally or all shareholders of a class or series within the past 3 years, including the financial statements furnished for the past 3 years under s. 607.1620;
  - (f) A list of the names and business street addresses of its current directors and officers; and
  - (g) Its most recent annual report delivered to the Department of State under s. 607.1622.

Please advise LIC Holdings, Inc. that you are seeking to inspect the records in good faith and for the purpose of determining if misappropriation of corporate assets for improper purposes has previously or is currently taking place.

I will be happy to go to the LIC office on my children's behalf and copy the records requested if they have any problems copying them. I will provide you with a copy as well. As my schedule is flexible please make the request with a 5 day notice as the statute requires and I will co-ordinate the time with the secretary in the office or they can have them ready for pick up.

Eliot I. Bernstein

33. 09/20/2010 Bernstein Family Realty LLC (33% interest) - \$(36,667.00)

- a. Object no historical accounting for the entity.
- b. Object no tax returns attached for any years to determine what assets were held so object to arbitrary valuation provided.

34. 09/20/2010 Bernstein Family Realty LLC (33% interest) - 1st Mortgage - (36,667.00)

- a. Object. No historical accounting for this mortgage since inception.

35. 09/20/2010 Bernstein Family Realty LLC (33% interest)- 2nd Mortgage – (121,667.00)

- a. Object that this is a non perfected mortgage and that no promissory note has been supplied.
- b. Object no accounting for this loan since inception.

## **GAINS AND LOSSES ON SALES AND OTHER DISPOSITIONS**

### Pages 3-17 / Net Gain (or Loss) on Sales or Other Dispositions

36. Object there is no Net Gain (or Loss) on Sales or Other Dispositions information prior to inventory and the time when Oppenheimer Trust Company of New Jersey is alleged to have received trusteeship.
37. Object to the Net Gain (or Loss) on Sales or Other Dispositions Pages in toto in that they account only for the Period 07/30/2010 through 05/26/2014.
38. Object to Net Gain (or Loss) on Sales or Other Dispositions in toto as there are no actual receipts attached to confirm or deny any of the proposed numbers.

### **OBJECT - OTHER RECEIPTS ALLOCABLE TO PRINCIPAL Income Taxes - Refunds (Prin) Miscellaneous**

#### Page 18 / Other Receipts

39. Object regarding the following tax entries. There are no copies of checks or tax returns to support the accounting.
  - a. 01/03/2011 2009 Federal Fiduciary Tax Refund - Check Dtd 12/28/2010 - \$ 2,729.00
  - b. 01/20/2011 2008 Federal Fiduciary Tax Refund - \$25,569.82
  - c. 10/24/2011 2010 Federal Fiduciary Tax Refund - \$2,482.00
  - d. 02/12/2014 2010 Federal Fiduciary Tax Refund - \$2,613.00
  - e. Total Income Taxes - Refunds (Prin) 33,393.82
  - f. TOTAL OTHER RECEIPTS - \$ 33,393.82
40. Object there is no Income Taxes - Refunds (Prin) information prior to inventory and the time when Oppenheimer Trust Company of New Jersey is alleged to have received trusteeship.

41. Object to the Income Taxes - Refunds (Prin) entries in toto in that they account only for the Period 07/30/2010 through 05/26/2014.
42. Object to Income Taxes - Refunds (Prin) in toto as there are no actual copies of IRS forms, checks or returns attached to confirm or deny any of the proposed numbers.

**OBJECT - DISBURSEMENTS OF PRINCIPAL**

Page 19 / Accounting Fees

43. Object regarding the Accounting Fees entries. There are no copies of bills or work product, including returns to support the accounting.
44. Object there is no Accounting Fees information prior to inventory and the time when Oppenheimer Trust Company of New Jersey is alleged to have received trusteeship.
45. Object to the Accounting Fees entries in toto in that they account only for the Period 07/30/2010 through 05/26/2014.

Pages 19-20 / Fiduciary Fees

46. Object regarding the Fiduciary Fees entries. There are no copies of bills or work product, including returns to support the accounting.
47. Object there is no Fiduciary Fees information prior to inventory and the time when Oppenheimer Trust Company of New Jersey is alleged to have received trusteeship.
48. Object to the Fiduciary Fees entries in toto in that they account only for the Period 07/30/2010 through 05/26/2014.

Page 20 / Income Taxes

49. Object regarding the Income Taxes entries. There are no copies of checks or tax returns to support the accounting.
50. Object there is no Income Taxes information prior to inventory and the time when Oppenheimer Trust Company of New Jersey is alleged to have received trusteeship.
51. Object to the Income Taxes entries in toto in that they account only for the Period 07/30/2010 through 05/26/2014.
52. Object to Income Taxes in toto as there are no actual copies of IRS forms, checks or returns attached to confirm or deny any of the proposed numbers.

**OBJECT - DISTRIBUTIONS OF PRINCIPAL FOR BENEFICIARIES**

Pages 21-27 / Distributions for Beneficiaries

53. Object regarding the Distributions for Beneficiaries. There are no copies of receipts or back up information to support the accounting.
54. Object there is no Distributions for Beneficiaries information prior to inventory and the time when Oppenheimer Trust Company of New Jersey is alleged to have received trusteeship.
55. Object to the Distributions for Beneficiaries entries in toto in that they account only for the Period 07/30/2010 through 05/26/2014.
56. Object to Distributions for Beneficiaries in toto as there are no actual copies of IRS forms, checks or returns attached to confirm or deny any of the proposed numbers.

**OBJECT - PRINCIPAL BALANCE ON HAND**

Page 28 / Principal Balance on Hand

57. 09/20/2010 LIC Holdings Inc 6 Units - \$0.00

- a. Object. No accounting for LIC Holdings Inc. has been provided to the beneficiaries of these trusts since its inception and in the Estate of Simon where they are listed as part of the Amended Inventory as "N/A." Ted Bernstein has refused all requests to turn over these records for over two years to beneficiaries of these trusts and beneficiaries of Simon's Estate.
  - b. No tax returns attached.
  - c. See Exhibit A – Eliot Letters to Oppenheimer requesting information be gathered by them as alleged Trustee for the beneficiaries regarding LIC. Repeated demands for the accounting have failed.
58. 09/20/2010 Bernstein Family Realty LLC (33% interest) - \$129,699.59
- a. Object no historical accounting for the entity.
  - b. Object no tax returns attached for any years to determine what assets were held so object to valuation.
59. 09/20/2010 Bernstein Family Realty LLC (33% interest) - 1st Mortgage - (36,667.00)
- a. Object. No historical accounting for this mortgage since inception.
60. 09/20/2010 Bernstein Family Realty LLC (33% interest)- 2nd Mortgage – (121,667.00)
- a. Object non perfected mortgage and no promissory note.
  - b. Object no accounting for this loan since inception.
61. Object regarding the Principal Balance on Hand entries. There is no historical information for the entries.
62. Object there is no Principal Balance on Hand information prior to inventory and the time when Oppenheimer Trust Company of New Jersey is alleged to have received trusteeship.

63. Object to the Principal Balance on Hand entries in toto in that they account only for the Period 07/30/2010 through 05/26/2014.
64. Object to Principal Balance on Hand in toto as there are no actual stock certificates, corporate accounting information, copies of IRS returns to confirm or deny any of the proposed numbers regarding LIC.
65. Object to Mortgages as there are no historical account information regarding them, for example loan payments, etc.

**OBJECT - INFORMATION SCHEDULES**  
**Changes in Investment Holdings**

Pages 29-33

66. Object regarding the Changes in Investment Holdings entries. There is no historical information for the entries.
67. Object there is no Changes in Investment Holdings information prior to inventory and the time when Oppenheimer Trust Company of New Jersey is alleged to have received trusteeship.
68. Object to the Changes in Investment Holdings entries in toto in that they account only for the Period 07/30/2010 through 05/26/2014.
69. Object to Changes in Investment Holdings in toto as there are no supporting backup documents regarding any of the entries.

**OBJECT - RECEIPTS OF INCOME**

Objection Pages 34-48 / Receipts

**Dividends**

70. Object regarding the Dividends entries. There is no historical information for the entries.
71. Object there is no Dividends information prior to inventory and the time when Oppenheimer Trust Company of New Jersey is alleged to have received trusteeship.
72. Object to the Dividends entries in toto in that they account only for the Period 07/30/2010 through 05/26/2014.
73. Object to Dividends in toto as there are no supporting backup documents regarding any of the entries.

**Interest  
Miscellaneous**

74. Object regarding the Interest entries. There are no copies of checks or tax returns to support the accounting.
75. Object there is no Interest information prior to inventory and the time when Oppenheimer Trust Company of New Jersey is alleged to have received trusteeship.
76. Object to the Interest entries in toto in that they account only for the Period 07/30/2010 through 05/26/2014.
77. Object to Interest in toto as there are no actual copies of IRS forms, checks or returns attached to confirm or deny any of the proposed numbers.

**OBJECT - DISBURSEMENTS OF INCOME**

Objections Page 49 / Accountant Fees and Fiduciary Fees

78. Object regarding the Accountant Fees entries. There are no copies of bills or work product, including returns to support the accounting.
79. Object there is no Accountant Fees information prior to inventory and the time when Oppenheimer Trust Company of New Jersey is alleged to have received trusteeship.

80. Object to the Accountant Fees entries in toto in that they account only for the Period 07/30/2010 through 05/26/2014.

Fees and Commissions

81. Object regarding the Fees and Commission entries. There are no copies of bills or work product, including returns to support the accounting.

Fiduciary Fees

82. Object regarding the Fiduciary Fees entries. There are no copies of bills or work product, including returns to support the accounting.

83. Object there is no Fiduciary Fees information prior to inventory and the time when Oppenheimer Trust Company of New Jersey is alleged to have received trusteeship.

84. Object to the Fiduciary Fees entries in toto in that they account only for the Period 07/30/2010 through 05/26/2014.

**OBJECT - DANIEL BERNSTEIN IRREVOCABLE TRUST FOR THE PERIOD JULY 30, 2010 THROUGH MAY 26, 2014 DISCLOSURE STATEMENTS**

85. That the following disclosure statements attached to Daniel's accounting is for Jacob Bernstein not Daniel. There are no disclosure statements for Joshua or Daniel and Jacob's disclosures are used in each trusts accounting while they are not applicable to each accounting.

86. "Oppenheimer Trust Co accepted appointment as successor trustee on July 30, 2010. No assets were received by Oppenheimer Trust Co for the Jake Bernstein Irrevocable Trust until September 20, 2010."



- a. Object – Do not believe that Oppenheimer was properly elected as Successor Trustee of the alleged trust and that these trusts and the accountings are part of a larger fraud on the beneficiaries.
- b. Object – where were the assets for two months, where is an accounting for this period?
87. “There has been no activity for the Jake Bernstein Irrevocable Trust since May 26, 2014 in the Oppenheimer Trust Co account.”
- a. Object – There is no accounting to reflect this and this statement is for Jacob not Daniel.
88. “33% interest in Bernstein Family Realty LLC - Bernstein Family Realty LLC owns a 100% interest in a personal residence located 2753 N.W. 34th St., Boca Raton, Florida. We are informed that this property is the primary residence of minors, Joshua, Jake, and Daniel Bernstein, and their parents, Eliot and Candice Bernstein. According to the Palm Beach Property Appraiser website, the property was purchased on June 18, 2008 for \$360,000. We have received information that there are currently two (2) mortgages secured by the property. The first mortgage is a promissory note dated June 20, 2008, which was amended February 15, 2012 for \$110,000. Interest is due annually at 3.5%, and the principal was due June 19, 2014. The second mortgage dated July 9, 2008 for \$365,000. The loan terms were not included with the record mortgage in Palm Beach County.”
- a. Object – No documentation and accounting for the mortgages and promissory notes.
89. “**To the best of our knowledge**, we have reflected the following carrying values for a 33% interest in Bernstein Realty LLC [**emphasis added**]:
- \$120,000 - Purchase price of personal residence ( $\$360,000 * 1/3$ )

- i. Object - no accounting or other information to support this "best of our knowledge" guesstimate
  - \$ 36,667 - Balance due on first mortgage ( $\$110,000 * 1/3$ )
    - ii. Object - no accounting or other information to support this "best of our knowledge" guesstimate.
  - \$121,667 - Balance due on second mortgage ( $\$365,000 * 1/3$ )
    - iii. Object - no accounting or other information to support this "best of our knowledge" guesstimate.
90. Object that the Accounting is deficient as it fails to comport with the Florida Trust Code, among other things, the accounting classifies multiple transactions as, "Mortgages" and "Interest" yet provides no other information.

**WHEREFORE**, Respondents hereby object to the "Final Accounting" for the time period of 07/30/2010 through 05/26/2014, and requests that this Court enter an Order:

1. For attorneys' fees and costs,
2. Denying the Final Accounting and demanding a new properly executed Final Accounting be tendered to this Court;
3. Demand that all records be produced to support the Final Accounting to all appropriate parties, necessary to validate the Final Accounting;
4. Demand all records in the possession of Oppenheimer Trust Company be turned over to the beneficiaries for inspection;
5. Report Oppenheimer Trust Company and their attorney Lessne to proper authorities for administering trusts without legally executed documents and fraudulently crafted documents submitted to this Court in each trust as part of another fraud on this Court,

committed again by the Attorneys at Law acting as Officers of this Court in conjunction with the fiduciaries appointed by this Court and Your Honor, similar to the felony misconduct already proven in the Estates and Trusts of Simon and Shirley Bernstein.

**PETITION FOR FORMAL, DETAILED, AUDITED AND FORENSIC ACCOUNTING AND DOCUMENT ANALYSIS**

91. Respondents state that all costs for an audited forensic accounting and forensic document analysis should be billed to Oppenheimer Trust Company of New Jersey and Oppenheimer Trust Company of Delaware who have caused the need for now a thorough analysis of the Trusts and accountings due to the legally insufficient trust documents and this wholly legally insufficient accounting.


**WHEREFORE**, Respondents respectfully request that this Court enter an Order:

1. Demanding a Full Forensic Accounting of the Final Accounting, the Dispositive Documents and all documents and records relating to the trusts, and,

2. Granting such other and further relief as the Court deems just and proper.

Signed on January 22, 2015.

Respectfully submitted,




---

By: ELIOT BERNSTEIN, individually and on behalf of his minor children, who are alleged qualified beneficiaries of Settlor's Estate and Trusts,

Respondent (*pro se*)

2753 N.W. 34th St.  
Boca Raton, Florida 33434-3459  
(561) 245.8588 (telephone)  
Email address: [iviewit@iviewit.tv](mailto:iviewit@iviewit.tv)



---

By: CANDICE BERNSTEIN, individually and on behalf of her minor children, who are alleged qualified beneficiaries of Settlor's Estate and Trusts,  
Respondent (*pro se*)

2753 N.W. 34th St.  
Boca Raton, Florida 33434-3459  
(561) 245.8588 (telephone)  
Email address: [tourcandy@gmail.com](mailto:tourcandy@gmail.com)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Petition was served via electronic mail on Wednesday, January 22, 2015 to the parties listed in the attached Service List.



---

Eliot Bernstein, Pro Se Petitioner  
2753 N.W. 34th St.  
Boca Raton, Florida 33434-3459

Page 20

Wednesday, January 22, 2015  
OBJECTION TO FINAL ACCOUNTING

(561) 245.8588 (telephone)  
Email address: [iviewit@iviewit.tv](mailto:iviewit@iviewit.tv)

**EMAIL SERVICE LIST**

Steven Lessne, Esq.  
Gray Robinson, PA  
225 NE Mizner Blvd #500  
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# **EXHIBIT A**

**The Daniel Bernstein  
Irrevocable Trust Dated  
September 7, 2006 provided  
by Oppenheimer Trust  
Company of New Jersey**



SIGNATURE PAGES ARE  
ENTIRELY MISSING FROM THE  
DOCUMENT!

No Law Firm markings or file  
markings indicating who did this  
document.

***TRUST AGREEMENT***  
***FOR THE***  
***DANIEL BERNSTEIN IRREVOCABLE TRUST***

*September 7, 2006*

**TRUST AGREEMENT**  
**FOR THE**  
**DANIEL BERNSTEIN IRREVOCABLE TRUST**

SIMON BERNSTEIN, as Settlor, hereby creates the Daniel Bernstein Irrevocable Trust ("the Trust") on September 7, 2006. Traci Kratish, P.A. is the trustee of this Trust and, in that capacity, he and his successors are collectively referred to in this Trust Agreement as the "Trustee."

Traci Kratish is a she not a he and denies being a part of this document done prior to her employment

**ARTICLE 1**  
**BENEFICIARY**

This Trust is for the benefit of the Settlor's Grandchild, DANIEL BERNSTEIN ("Beneficiary").

**ARTICLE 2**  
**TRANSFERS TO TRUST**

The Settlor hereby conveys to the Trustee all his interest in the assets listed on Schedule A, which together with any assets later added to this Trust are referred to as the "Trust Estate." Any person may transfer assets to the Trust Estate, if the Trustee agrees to accept them. Assets do not have to be listed on Schedule A to be part of the Trust Estate. Unless otherwise specified in writing at the time of the transfer, those assets will be held as provided in this Trust Agreement. The Trustee acknowledges receipt of the current Trust assets and agrees to hold the Trust Estate as set forth in this Trust Agreement.

**ARTICLE 3**  
**IRREVOCABLE PROVISION**

The Settlor declares that he has no right to alter, amend, modify, or revoke this Trust Agreement; to withdraw assets from the Trust; or to require changes in the investments of the Trust. No part of the Trust may ever revert to the Settlor, be used for his benefit, or be distributed in discharge of his legal obligations.

**ARTICLE 4**  
**ADMINISTRATION OF TRUST**

The Trustee shall hold, administer, and distribute the Trust Estate in accordance with the powers granted under this Trust Agreement as follows:

All pages missing initials. Daniel is a minor child.

INITIALS \_\_\_\_\_  
DANIEL BERNSTEIN IRREVOCABLE TRUST





**4.1 Discretionary Distributions.** The Trustee shall pay or apply such sums of principal from this Trust as in the Trustee's discretion are necessary or advisable for Beneficiary's health, education, support, and maintenance.

**4.2 Distribution of Principal.** When Beneficiary has reached age 21, the trustee shall distribute one-half (1/2) of the corpus of trust to Beneficiary plus accrued income. When Beneficiary has reached age 25 the Trustee shall distribute the entire remaining principal balance of the corpus of the trust to Beneficiary plus accrued income.

**4.3 Distribution Upon Death Before Age 25.** Upon the death of Beneficiary prior to age 25, the Trustee shall distribute the remaining assets in the trust to the estate of Beneficiary.

#### ARTICLE 5 PROVISIONS GOVERNING TRUSTEES

The following provisions apply to all Trustees appointed under this Trust Agreement:

**5.1 Incapacity of Trustee.** If any Trustee becomes disabled, he or she will immediately cease to act as Trustee. If a Trustee who ceases to serve because of a disability, or who is suspended, thereafter recovers from that disability or consents to the release of relevant medical information, he or she may elect to become a Trustee again by giving written notice to the then serving Trustee, and the last Trustee who undertook to serve will then cease to be a Trustee until another successor Trustee is required.

**5.2 Resignation.** Any Trustee may resign by giving 30 days' written notice delivered personally or by mail to any then serving Co-Trustee and to the Settlor if he is then living and not disabled; otherwise to the next named successor Trustee, or if none, to the persons having power to appoint successor Trustees.

**5.3 Power to Name Other Trustees.** Whenever a successor Trustee is required and that position is not filled under the terms specified in this Trust Agreement, an individual Trustee ceasing to serve (other than a Trustee being removed) may appoint his or her successor, but if none is appointed, the remaining Trustees, if any, or the beneficiary shall appoint a successor Corporate Trustee. The appointment will be by a written document (including a testamentary instrument) delivered to the appointed Trustee. In no event may the Settlor ever be appointed as the Trustee under this Trust Agreement nor shall a Successor trustee be appointed that will cause this trust to be a grantor trust.

**5.4 Powers of Successor Trustees.** Successor Trustees will have all powers granted to the original Trustee, except that only an Independent Trustee will succeed to the powers vested exclusively in the Independent Trustee.

5.5 **Accountings.** Accountings must be given to the beneficiary of each trust at least annually (quarterly if a Corporate Trustee is serving). The accountings must show the assets held in trust and all receipts and disbursements. A beneficiary's written approval of an accounting will be final and binding upon that beneficiary and all persons represented by him or her as to all matters disclosed in that accounting. In any event, if a beneficiary fails to object to an accounting within six months of receiving it, his or her approval is conclusively presumed. A successor Trustee may require the prior Trustee to render a full and final accounting.

5.6 **Acts by Other Fiduciaries.** The Trustee is not required to question any acts or failures to act of the fiduciary of any other trust or estate, and will not be liable for any prior fiduciary's acts or failures to act. The Trustee can require a beneficiary who requests an examination of another fiduciary's actions or omissions to advance all costs and fees incurred in the examination, and if the beneficiary does not, the Trustee may elect not to proceed or may proceed and offset those costs and fees directly against any payment that would otherwise be made to that beneficiary.

5.7 **Court Supervision.** The Settlor waives compliance by the Trustee with any law requiring bond, registration, qualification, or accounting to any court.

5.8 **Compensation.** Each Trustee is entitled to be paid reasonable compensation for services rendered in the administration of the Trust. Reasonable compensation for a Corporate Trustee will be its published fee schedule in effect when its services are rendered unless otherwise agreed in writing, and except as follows. Any fees paid to a Corporate Trustee for making principal distributions, for termination of the trust, and upon termination of its services must be based solely on the value of its services rendered, not on the value of the trust principal. During the Settlor's lifetime the Trustee's fees are to be charged wholly against income (to the extent sufficient), unless directed otherwise by the Settlor in writing.

5.9 **Indemnity.** Any Trustee who ceases to serve for any reason will be entitled to receive (and the continuing Trustee shall make suitable arrangements to provide) reasonable indemnification and security to protect and hold that Trustee harmless from any damage or liability of any nature that may be imposed upon it because of its actions or omissions while serving as Trustee. This protection, however, does not extend to a Trustee's negligent actions or omissions that clearly and demonstrably result in damage or liability. A prior Trustee may enforce these provisions against the current Trustee or against any assets held in the Trust, or if the prior Trustee is an individual, against any beneficiary to the extent of distributions received by that beneficiary. This indemnification right will extend to the estate, personal representatives, legal successors, and assigns of a Trustee.

**5.10 Successor Trustee.** In the event the initial Trustee, Steven I. Greenwald, resigns or ceases to serve as Trustee, then and in that event, I hereby appoint Larry V. Bishins to serve as Trustee.

**ARTICLE 6  
PROTECTION OF INTERESTS**

The interest of any beneficiary under this Trust Agreement, in either income or principal, may not be anticipated, alienated, or in any other manner assigned by the beneficiary, whether voluntarily or involuntarily, and will not be subject to any legal process, bankruptcy proceedings, or the interference or control of the beneficiary's creditors or others.

**ARTICLE 7  
FIDUCIARY POWERS**

The Settlor grants to the Trustee full power to deal freely with any property in the Trust. The Trustee may exercise these powers independently and without the approval of any court. No person dealing with the Trustee need inquire into the propriety of any of its actions or into the application of any funds or assets. The Trustee shall, however, exercise all powers in a fiduciary capacity for the best interest of the beneficiary of this Trust or any trust created under it. Without limiting the generality of the foregoing, the Trustee is given the following discretionary powers in addition to any other powers conferred by law:

**7.1 Type of Assets.** Except as otherwise provided to the contrary, to hold funds uninvested for such periods as the Trustee deems prudent, and to invest in any assets the Trustee deems advisable even though they are not technically recognized or specifically listed in so-called "legal lists," without responsibility for depreciation or loss on account of those investments, or because those investments are non-productive, as long as the Trustee acts in good faith.

**7.2 Original Assets.** Except as otherwise provided to the contrary, to retain the original assets it receives for as long as it deems best, and to dispose of those assets when it deems advisable, even though such assets, because of their character or lack of diversification, would otherwise be considered improper investments for the Trustee.

**7.3 Tangible Personal Property.** To receive and hold tangible personal property; to pay or refrain from paying storage and insurance charges for such property; and to permit any beneficiaries to use such property without either the Trustee or beneficiaries incurring any liability for wear, tear, and obsolescence of the property.

**7.4 Specific Securities.** To invest in assets, securities, or interests in securities of any nature, including (without limit) commodities, options, futures, precious metals, currencies, and in domestic and foreign markets and in mutual or investment

Here Steven I. Greenwald, Esq. is stated to be the initial Trustee not Kratish as stated on page 1!

funds, including funds for which the Trustee or any affiliate performs services for additional fees, whether as custodian, transfer agent, investment advisor or otherwise, or in securities distributed, underwritten, or issued by the Trustee or by syndicates of which it is a member; to trade on credit or margin accounts (whether secured or unsecured); and to pledge assets of the Trust Estate for that purpose.

**7.5 Property Transactions.** To buy, sell, plodge, exchange, or lease any real or personal property, publicly or privately, for cash or credit, without court approval and upon the terms and conditions that the Trustee deems advisable; to execute deeds, leases, contracts, bills of sale, notes, mortgages, security instruments, and other written instruments; to abandon or dispose of any real or personal property in the Trust which has little or no monetary or useful value; to improve, repair, insure, subdivide and vacate any property; to erect, alter or demolish buildings; to adjust boundaries; and to impose easements, restrictions, and covenants as the Trustee sees fit. A lease will be valid and binding for its full term even if it extends beyond the full duration of the Trust.

**7.6 Borrow Money.** To borrow money from any source (including the Trustee in its nonfiduciary capacity), to guarantee indebtedness, and to secure the loan or guaranty by mortgage or other security interest.

**7.7 Maintain Assets.** To expend whatever funds it deems proper for the preservation, maintenance, or improvement of assets. The Trustee in its discretion may elect any options or settlements or exercise any rights under all insurance policies that it holds. However, no fiduciary who is the insured of any insurance policy held in the Trust may exercise any rights or have any incidents of ownership with respect to the policy, including the power to change the beneficiary, to surrender or cancel the policy, to assign the policy, to revoke any assignment, to pledge the policy for a loan, or to obtain from the insurer a loan against the surrender value of the policy. All such power is to be exercised solely by the remaining Trustee, if any, or if none, by a special fiduciary appointed for that purpose by a court having jurisdiction.

**7.8 Advisors.** To employ and compensate attorneys, accountants, advisors, financial consultants, managers, agents, and assistants (including any individual or entity who provides investment advisory or management services, or who furnishes professional assistance in making investments for the Trust) without liability for any act of those persons, if they are selected and retained with reasonable care. Fees may be paid from the Trust Estate even if the services were rendered in connection with ancillary proceedings.

**7.9 Indirect Distributions.** To make distributions, whether of principal or income, to any person under age 21 or to any incapacitated person according to the terms of this Trust Agreement by making distributions directly to that person whether or not that person has a guardian; to the parent, guardian, or spouse of that person; to a custodial account established by the Trustee or others for that person under an applicable Uniform

Gift to Minors Act or Uniform Transfers to Minors Act; to any adult who resides in the same household with that person or who is otherwise responsible for the care and well-being of that person; or by applying any distribution for the benefit of that person in any manner the Trustee deems proper. The receipt of the person to whom payment is made will constitute full discharge of the Trustee with respect to that payment. No distributions may be made to the Settlor under this Section.

**7.10 Non-Pro Rata Distribution.** To make any division or distribution in money or in kind, or both, without allocating the same kind of property to all shares or distributees, and without regard to the income tax basis of the property. Any division will be binding and conclusive on all parties.

**7.11 Nominee.** Except as prohibited by law, to hold any assets in the name of a nominee without disclosing the fiduciary relationship; to hold the property unregistered, without affecting its liability; and to hold securities endorsed in blank, in street certificates, at a depository trust company, or in a book entry system.

**7.12 Custodian.** To employ a custodian or agent ("the Custodian") located anywhere within the United States, at the discretion of the Trustee but at the expense of the Trust, whether or not such Custodian is an affiliate of the Trustee or any person rendering services to the Trust; to register securities in the name of the Custodian or a nominee thereof without designation of fiduciary capacity; and to appoint the Custodian to perform such other ministerial functions as the Trustee may direct. While such securities are in the custody of the Custodian, the Trustee will be under no obligation to inspect or verify such securities nor will the Trustee be responsible for any loss by the Custodian.

**7.13 Settle Claims.** To contest, compromise, arbitrate, or otherwise adjust claims in favor of or against the Trust, to agree to any rescission or modification of any contract or agreement, and to refrain from instituting any suit or action unless indemnified for reasonable costs and expenses.

**7.14 Corporate Rights.** To vote and exercise any option, right, or privilege to purchase or to convert bonds, notes, stock (including shares or fractional shares of stock of any Corporate Trustee), securities, or other property; to borrow money for the purpose of exercising any such option, right, or privilege; to delegate those rights to an agent; to enter into voting trusts and other agreements or subscriptions; to participate in any type of liquidation or reorganization of any enterprise; and to write and sell covered call options, puts, calls, straddles, or other methods of buying or selling securities, as well as all related transactions.

**7.15 Partnership Interests.** To hold interests in sole proprietorships, general or limited partnerships, joint ventures, business trusts, land trusts, limited liability companies, and other domestic and foreign forms of organizations; and to exercise all



rights in connection with such interests as the Trustee deems appropriate, including any powers applicable to a non-admitted transferee of any such interest.

**7.16 Self-Dealing.** To exercise all its powers even though it may also be acting individually or on behalf of any other person or entity interested in the same matters. The Trustee, however, shall exercise those powers at all times in a fiduciary capacity, primarily in the interest of the beneficiaries of the Trust. Despite any other provision of this Trust Agreement, no Trustee may participate in the decision to make a discretionary distribution that would discharge a legal support obligation of that Trustee. No Trustee who has made a disclaimer, either individually or as a Trustee, may exercise any discretion in determining the recipient of the disclaimed property. All power to make such distributions, or to determine recipients of disclaimed property, will be exercised solely by the remaining Trustees, if any, or if there are no other Trustees then serving, by the person or persons named to serve as the next successor Trustee, or if there are none, by a special Trustee appointed for that purpose by a court having jurisdiction.

**7.17 Expenses.** An Independent Trustee may determine how expenses of administration and receipts are to be apportioned between principal and income.

**7.18 Terminate Small Trusts.** To exercise its discretion to refrain from funding or to terminate any trust whenever the value of the principal of that trust would be or is too small to administer economically, and to distribute the remaining principal and all accumulated income of the trust as provided in Section 7.9 to the income beneficiary of that trust. The Trustee shall exercise this power to terminate in its discretion as it deems prudent for the best interest of the beneficiaries at that time. This power cannot be exercised by the Settlor or any beneficiary, either alone or in conjunction with any other Trustee, but must be exercised solely by the other Trustee, or if none, by a special Trustee appointed for that purpose by a court having jurisdiction.

**7.19 Allocations to Income and Principal.** To treat premiums and discounts on bonds and other obligations for the payment of money in accordance with either generally accepted accounting principles or tax accounting principles and, except as otherwise provided to the contrary, to hold nonproductive assets without allocating any principal to income, despite any laws or rules to the contrary. The Trustee in its discretion may exercise the power described in Section 738.104 of the Florida Statutes to adjust between principal and income, as appropriate, and, in addition, may convert any income interest into a unitrust interest, or a unitrust interest to an income interest, as it sees fit, all as provided in Section 738.1041 of the Florida Statutes, despite any provision of those sections to the contrary.

**7.20 Use of Income.** Except as otherwise provided in this Trust Agreement, and in addition to all other available sources, to exercise its discretion in the use of income from the assets of the Trust to satisfy the liabilities described in this Trust Agreement, without accountability to any beneficiary.

**7.21 Valuations.** In making distributions or allocations under the terms of this Trust Agreement to be valued as of a particular date, the Trustee may use asset valuations obtained for a date reasonably close to that particular date (such as a quarterly closing date before or after that date) if, in the Trustee's judgment, obtaining appraisals or other determinations of value on that date would result in unnecessary expense, and if in the Trustee's judgment, the fair market value as determined is substantially the same as on that actual date. This paragraph will not apply if valuation on a specific date is required to preserve a qualification for a tax benefit, including any deduction, credit, or most favorable allocation of an exemption.

**7.22 Incorporation.** To incorporate any business or venture, and to continue any unincorporated business that the Trustee determines to be not advisable to incorporate.

**7.23 Delegation.** To delegate periodically among themselves the authority to perform any act of administration of any trust.

**7.24 Advances.** To make cash advances or loans to beneficiaries, with or without security.

**7.25 Investment Manager.** To employ any investment management service, financial institution, or similar organization to advise the Trustee and to handle all investments of the Trust and to render all accountings of funds held on its behalf under custodial, agency, or other agreements. If the Trustee is an individual, these costs may be paid as an expense of administration in addition to fees and commissions.

**7.26 Depreciation.** To deduct from all receipts attributable to depreciable property a reasonable allowance for depreciation, computed in accordance with generally accepted accounting principles consistently applied.

**7.27 Disclaim Assets or Powers.** To disclaim any assets otherwise passing or any fiduciary powers pertaining to any trust created hereunder, by execution of an instrument of disclaimer meeting the requirements of applicable law generally imposed upon individuals executing disclaimers. No notice to or consent of any beneficiary, other interested person, or any court is required for any such disclaimer, and the Trustee is to be held harmless for any decision to make or not make such a disclaimer.

**7.28 Transfer Situs.** To transfer the situs of any trust or any trust property to any other jurisdiction as often as the Trustee deems advisable, and if necessary to appoint a substitute or ancillary Trustee to act with respect to that property. The Trustee may delegate to the substitute Trustee any or all of the powers given to the Trustee; may elect to act as advisor to the substitute Trustee and receive reasonable compensation for that service; and may remove any acting or substitute Trustee and appoint another, or reappoint itself, at will.



**7.29 Related Parties.** To enter into any transaction on behalf of the Trust despite the fact that another party to that transaction may be: (i) a business or trust controlled by the Trustee, or of which the Trustee, or any director, officer, or employee of the Corporate Trustee, is also a director, officer, or employee; (ii) an affiliate or business associate of any beneficiary or the Trustee; or (iii) a beneficiary or Trustee under this Trust Agreement acting individually, or any relative of such a party.

**7.30 Additional Powers for Income-Producing Real Estate.** In addition to the other powers set forth above or otherwise conferred by law, the Trustee has the following powers with respect to any income-producing real property which is or may become a part of the Trust Estate:

- To retain and operate the property for as long as it deems advisable;
- To control, direct, and manage the property, determining the manner and extent of its active participation in these operations, and to delegate all or any part of its supervisory power to other persons that it selects;
- To hire and discharge employees, fix their compensation, and define their duties;
- To invest funds in other land holdings and to use those funds for all improvements, operations, or other similar purposes;
- Except as otherwise provided with respect to mandatory income distributions, to retain any amount of the net earnings for working capital and other purposes that it deems advisable in conformity with sound and efficient management; and
- To purchase and sell machinery, equipment, and supplies of all kinds as needed for the operation and maintenance of the land holdings.

**ARTICLE 8  
SUBCHAPTER S STOCK**

Despite any other provisions of this Trust Agreement, if a trust created in this instrument is to become the owner of, or already owns, stock in a corporation that has an election in effect (or one that proposes to make an election) under Section 1362 of the Internal Revenue Code (an "S Corporation"), and that trust would not otherwise be permitted to be an S Corporation shareholder, the following provisions will apply:

**8.1 Electing Small Business Trust.** The Trustee in its discretion may elect for the trust to become an Electing Small Business Trust ("ESBT") as defined in the Internal Revenue Code.



**8.2 Qualified Subchapter S Trust.** If the Trustee does not cause the trust to become an ESBT, the Trustee shall set aside the S Corporation stock in a separate trust for the current income beneficiary of such trust, so that a Qualified Subchapter S Trust ("QSST") election under Section 1361 of the Internal Revenue Code can be filed with respect to that trust. The Trustee shall hold each share as a separate QSST for the persons described above, and each such person will be the sole beneficiary of his or her QSST. To the greatest extent possible, the Trustee shall administer each QSST under the terms of the trust from which it was derived, but subject to the following overriding provisions:

(a) **Consent.** The Trustee shall notify the beneficiary of each separate trust promptly that a QSST election must be filed with the Internal Revenue Service. Thereafter, each beneficiary shall file a timely and proper QSST election with the Internal Revenue Service. If a beneficiary fails or refuses to make the QSST election, the Trustee shall make an ESBT election for that trust. If the beneficiary does make the QSST election, then his or her separate trust will be administered as set forth below.

(b) **Income Payments.** During the beneficiary's life, the Trustee shall pay all net income of the trust to the beneficiary (and only to that beneficiary) in quarterly or more frequent installments. The beneficiary's income interest in the trust will terminate on the earlier of his or her death or the termination of the trust under its terms.

(c) **Principal Invasions.** If the beneficiary is otherwise entitled to receive principal distributions, the Trustee may distribute principal from that separate trust during the beneficiary's life only to or for the benefit of that beneficiary (and no one else).

(d) **Final Distribution.** If the QSST is terminated during the beneficiary's life, the Trustee shall distribute all remaining assets of that separate trust to that beneficiary. If the beneficiary dies before that trust's termination, all remaining assets of the QSST are to be distributed as provided in the original trust, but subject to this article.

(e) **Termination of QSST Status.** If a separate trust would cease to qualify as an S Corporation shareholder, the Trustee in its discretion may: (i) make an ESBT election for that separate trust, or (ii) distribute all S Corporation stock to the beneficiary. The Trustee in its discretion also may convert a QSST to an ESBT, whether or not the beneficiary has consented to QSST treatment and, if the beneficiary consents, may convert an ESBT into a QSST.

**ARTICLE 9**  
**PERPETUITIES PROVISION**

Despite any contrary provisions of this Trust Agreement, from the creation of this Trust and for up to 21 years after the death of the last of the Settlor's grandparents' descendants who are living at the creation of this Trust, a trust beneficiary (which includes persons succeeding to the interest of a deceased beneficiary) will be entitled to terminating distributions only at the ages specified in this Trust Agreement. In all events, however, the share of each beneficiary will vest (in the beneficiary or his or her estate) immediately prior to the expiration of the 21 year period described above.

**ARTICLE 10**  
**ADMINISTRATION AND CONSTRUCTION**

**10.1 Rules for Distributions.** In making distributions to beneficiaries under this Trust Agreement, the Trustee must use the following criteria.

(a) **Other Resources.** Whenever the Trustee has the authority to decide how much to distribute to or for the benefit of a beneficiary, the Trustee can make decisions without taking into account any information about the beneficiary's other available income and resources. The Trustee can make payments directly to a beneficiary or to other persons for the beneficiary's benefit, but it does not have to make payments to a court appointed guardian.

(b) **Trustee's Decision.** Absent clear and convincing evidence of bad faith, the Trustee's decisions as to amounts to be distributed will be final.

(c) **Standard of Living.** Distributions to a beneficiary for health, education, support, or maintenance are to be based on his or her standard of living, determined as of the date of the distribution.

**10.2 Funding Gifts.** The following rules will apply to funding gifts under this Trust Agreement.

(a) **Pecuniary Gifts.** All pecuniary gifts under this Trust Agreement that are paid by an in-kind distribution of assets must use values having an aggregate fair market value at the date or dates of distribution equal to the amount of this gift as finally determined for federal estate tax purposes.

(b) **Adjustments.** The Trustee shall select one or more dates of allocation or distribution for purposes of satisfying gifts and funding shares or trusts. The Trustee may make allocations before the final determination of federal estate tax, with those allocations being based upon the information then available to the Trustee,

and may thereafter adjust proportions among the shares or trusts if it is determined that the allocation should have been made differently.

**10.3 Accumulated Income.** Any income not distributed to the beneficiaries pursuant to either a mandatory direction or a discretionary power is to be incorporated into principal, at such intervals as the Trustee deems convenient.

**10.4 Estate Tax on Included Property.** If assets of any trust created under this Trust Agreement are included in a beneficiary's estate for federal estate tax purposes, the following will apply.

(a) **Appointed Assets.** If the beneficiary exercises a power of appointment over those assets, the Trustee is authorized to withhold from those assets the amount of estate taxes apportioned to them by applicable law, if the beneficiary does not make provisions for the payment of those taxes from other sources.

(b) **Other Assets.** If the beneficiary does not have or does not exercise a power of appointment over those assets, the Trustee will pay the estate taxes attributable to those assets. The estate taxes attributable to those assets will be the amount that the beneficiary's estate taxes are increased over the amount those taxes would have been if those assets had not been included in the beneficiary's gross estate.

(c) **Certification and Payment.** The Trustee may rely upon a written certification by the beneficiary's personal representative of the amount of the estate taxes, and may pay those taxes directly or to the personal representative of the beneficiary's estate. The Trustee will not be held liable for making payments as directed by the beneficiary's personal representative.

**10.5 Transactions With Other Entities.** The Trustee may buy assets from other estates or trusts, or make loans to them, so that funds will be available to pay claims, taxes, and expenses. The Trustee can make those purchases or loans even if it serves as the fiduciary of that estate or trust, and on whatever terms and conditions the Trustee thinks are appropriate, except that the terms of any transaction must be commercially reasonable.

## ARTICLE 11 MISCELLANEOUS PROVISIONS

**11.1 Definitions.** As used in this Trust Agreement, the following terms have the meanings set forth below:

(a) **Trustees.**



- (1) **Independent Trustee** means a trustee of a particular trust, either individual or corporate, who is not the Settlor or a beneficiary, and who is not a Related Person as to the Settlor or a beneficiary (if the Settlor or the beneficiary, respectively, is living and participated in that person's appointment). For purposes of this definition a beneficiary is a person who is a permissible distributee of income or principal, or someone with an interest in the trust in excess of five percent (5%) of its value, assuming a maximum exercise of discretion in his or her favor. Whenever this Trust Agreement requires an action be taken by, or in the discretion of, an Independent Trustee but no such Trustee is then serving, a court may appoint an Independent Trustee to serve as an additional Trustee whose sole function and duty will be to exercise the specified power.
- (2) **Corporate Trustee** means a trustee that is a bank, trust company, or other entity authorized to serve as a trustee under the laws of the United States or any state thereof that is not a Related Person to the Settlor. A bank or trust company that does not meet this requirement cannot serve as Trustee.

(b) **Internal Revenue Code Terms.**

- (1) **Internal Revenue Code** means the federal Internal Revenue Code of 1986, as amended from time to time, or successor provisions of future federal internal revenue laws.
- (2) The terms **health, education, support, and maintenance** are intended to set forth an "ascertainable standard," as described in the Internal Revenue Code and its associated Regulations. To the extent not inconsistent with the foregoing, "health" means a beneficiary's physical and mental health, including but not limited to payments for examinations, surgical, dental, or other treatment, medication, counseling, hospitalization, and health insurance premiums; "education" means elementary, secondary, post-secondary, graduate, or professional schooling in an accredited institution, public or private, or attendance at other formal programs in furtherance of the beneficiary's spiritual, athletic, or artistic education, including but not limited to payments for tuition, books,

fees, assessments, equipment, tutoring, transportation, and reasonable living expenses.

- (3) **Related Person** as to a particular individual is someone who is deemed to be "related or subordinate" to that individual under Section 672(c) of the Internal Revenue Code (as though that individual was a grantor).

(c) **Other Terms.**

- (1) Distributions that are to be made to a person's descendants, per stirpes, will be divided into equal shares, so that there will be one share for each living child (if any) of that person and one share for each deceased child who has then living descendants. The share of each deceased child will be further divided among his or her descendants on a per stirpes basis, by reapplying the preceding rule to that deceased child and his or her descendants as many times as necessary.
- (2) **Disabled or under a disability** means (i) being under the legal age of majority, (ii) having been adjudicated to be incapacitated, or (iii) being unable to manage properly personal or financial affairs because of a mental or physical impairment (whether temporary or permanent in nature). A written certificate executed by an individual's attending physician confirming that person's impairment will be sufficient evidence of disability under item (iii) above, and all persons may rely conclusively on such a certificate.
- (3) Removal of a Trustee for cause includes, without limitation, the following: the willful or negligent mismanagement of the trust assets by that individual Trustee; the abuse or abandonment of, or inattention to, the trust by that individual Trustee; a federal or state charge against that individual Trustee involving the commission of a felony or serious misdemeanor; an act of theft, dishonesty, fraud, embezzlement, or moral turpitude by that individual Trustee; or the use of narcotics or excessive use of alcohol by that individual Trustee.
- (4) The words *will* and *shall* are used interchangeably in this Trust Agreement and mean, unless the context clearly indicates otherwise, that the Trustee must take the action

indicated; as used in this Trust Agreement, the word *may* means that the Trustee has the discretionary authority to take the action but is not automatically required to do so.

**11.2 Powers of Appointment.** The following provisions relate to all powers of appointment under this Trust Agreement.

- (a) A **general power of appointment** granted to a person is one that can be exercised in favor of that person or his or her estate, his or her creditors, or the creditors of his or her estate.
- (b) A **special power of appointment** is any power that is not a general power.
- (c) A **testamentary power of appointment** (either general or special) is exercisable upon the powerholder's death by his or her Last Will or by a revocable trust agreement established by that person, but only by specific reference to the instrument creating the power. A "testamentary power of appointment" may not be exercised in favor of the person possessing the power.
- (d) In determining whether a person has exercised a testamentary power of appointment, the Trustee may rely upon an instrument admitted to probate in any jurisdiction as that person's Last Will, or upon any trust agreement certified to be valid and authentic by sworn statement of the trustee who is serving under that trust agreement. If the Trustee has not received written notice of such an instrument within six months after the powerholder's death, the Trustee may presume that the powerholder failed to exercise that power and will not be liable for acting in accordance with that presumption.

**11.3 Notices.** Any person entitled or required to give notice under this Trust Agreement shall exercise that power by a written instrument clearly setting forth the effective date of the action for which notice is being given. The instrument may be executed in counterparts.

**11.4 Certifications.**

(a) **Facts.** A certificate signed and acknowledged by the Trustee stating any fact affecting the Trust Estate or the Trust Agreement will be conclusive evidence of such fact in favor of any transfer agent and any other person dealing in good faith with the Trustee. The Trustee may rely on a certificate signed and acknowledged by any beneficiary stating any fact concerning the Trust beneficiaries, including dates of

birth, relationships, or marital status, unless an individual serving as Trustee has actual knowledge that the stated fact is false.

(b) **Copy.** Any person may rely on a copy of this instrument (in whole or in part) certified to be a true copy by the Settlor; by any person specifically named as a Trustee (or successor Trustee); by any Corporate Trustee whether or not specifically named; or, if there are none of the above, by any then serving Trustee.

**11.5 Applicable Law.** All matters involving the validity and interpretation of this Trust Agreement are to be governed by Florida law. Subject to the provisions of this Trust Agreement, all matters involving the administration of a trust are to be governed by the laws of the jurisdiction in which the trust has its principal place of administration.

**11.6 Gender and Number.** Reference in this Trust Agreement to any gender includes either masculine or feminine, as appropriate, and reference to any number includes both singular and plural where the context permits or requires. Use of descriptive titles for articles and paragraphs is for the purpose of convenience only and is not intended to restrict the application of these provisions.

**11.7 Further Instruments.** The Settlor agrees to execute such further instruments as may be necessary to vest the Trustee with full legal title to the property transferred to this Trust.

**11.8 Binding Effect.** This Trust Agreement extends to and is binding upon the Settlor's Personal Representative, successors, and assigns, and upon the Trustee.

SIGNATURE PAGES ARE  
ENTIRELY MISSING FROM THE  
DOCUMENT!



**Schedule A**  
**Initial Transfers to Trust**

Transfer of 6 shares of LIC Holdings, Inc.



# **EXHIBIT B**

**The Jake Bernstein  
Irrevocable Trust Dated  
September 7, 2006 provided  
by Oppenheimer Trust  
Company of New Jersey**



No Law Firm markings or file markings indicating who did this document.

***TRUST AGREEMENT***  
***FOR THE***  
***JAKE BERNSTEIN IRREVOCABLE TRUST***

*September 7, 2006*



**TRUST AGREEMENT  
FOR THE  
JAKE BERNSTEIN IRREVOCABLE TRUST**

SIMON BERNSTEIN, as Settlor, hereby creates the Jake Bernstein Irrevocable Trust ("the Trust") on September 7, 2006. Traci Kratish, P.A. is the trustee of this Trust and, in that capacity, he and his successors are collectively referred to in this Trust Agreement as the "Trustee."

Traci Kratish is a she not a he and denies being a part of this document done prior to her employment

**ARTICLE 1  
BENEFICIARY**

This Trust is for the benefit of the Settlor's Grandchild, JAKE BERNSTEIN.

**ARTICLE 2  
TRANSFERS TO TRUST**

The Settlor hereby conveys to the Trustee all his interest in the assets listed on Schedule A, which together with any assets later added to this Trust are referred to as the "Trust Estate." Any person may transfer assets to the Trust Estate, if the Trustee agrees to accept them. Assets do not have to be listed on Schedule A to be part of the Trust Estate. Unless otherwise specified in writing at the time of the transfer, those assets will be held as provided in this Trust Agreement. The Trustee acknowledges receipt of the current Trust assets and agrees to hold the Trust Estate as set forth in this Trust Agreement.

**ARTICLE 3  
IRREVOCABLE PROVISION**

The Settlor declares that he has no right to alter, amend, modify, or revoke this Trust Agreement; to withdraw assets from the Trust; or to require changes in the investments of the Trust. No part of the Trust may ever revert to the Settlor, be used for his benefit, or be distributed in discharge of his legal obligations.

**ARTICLE 4  
ADMINISTRATION OF TRUST**

The Trustee shall hold, administer, and distribute the Trust Estate in accordance with the powers granted under this Trust Agreement as follows:

**4.1 Discretionary Distributions.** The Trustee shall pay or apply such sums of principal from this Trust as in the Trustee's discretion are necessary or advisable for Beneficiary's health, education, support, and maintenance.

All pages missing initials. Jacob is a minor

INITIALS \_\_\_\_\_  
JAKE BERNSTEIN IRREVOCABLE TRUST

**4.2 Distribution of Principal.** When Beneficiary has reached age 21, the trustee shall distribute one-half (1/2) of the corpus of trust to Beneficiary plus accrued income. When Beneficiary has reached age 25 the Trustee shall distribute the entire remaining principal balance of the corpus of the trust to Beneficiary plus accrued income.

**4.3 Distribution Upon Death Before Age 25.** Upon the death of Beneficiary prior to age 25, the Trustee shall distribute the remaining assets in the trust to the estate of Beneficiary.

**ARTICLE 5  
PROVISIONS GOVERNING TRUSTEES**

The following provisions apply to all Trustees appointed under this Trust Agreement:

**5.1 Incapacity of Trustee.** If any Trustee becomes disabled, he or she will immediately cease to act as Trustee. If a Trustee who ceases to serve because of a disability, or who is suspended, thereafter recovers from that disability or consents to the release of relevant medical information, he or she may elect to become a Trustee again by giving written notice to the then serving Trustee, and the last Trustee who undertook to serve will then cease to be a Trustee until another successor Trustee is required.

**5.2 Resignation.** Any Trustee may resign by giving 30 days' written notice delivered personally or by mail to any then serving Co-Trustee and to the Settlor if he is then living and not disabled; otherwise to the next named successor Trustee, or if none, to the persons having power to appoint successor Trustees.

**5.3 Power to Name Other Trustees.** Whenever a successor Trustee is required and that position is not filled under the terms specified in this Trust Agreement, an individual Trustee ceasing to serve (other than a Trustee being removed) may appoint his or her successor, but if none is appointed, the remaining Trustees, if any, or the beneficiary shall appoint a successor Corporate Trustee. The appointment will be by a written document (including a testamentary instrument) delivered to the appointed Trustee. In no event may the Settlor ever be appointed as the Trustee under this Trust Agreement nor shall a Successor trustee be appointed that will cause this trust to be a grantor trust.

**5.4 Powers of Successor Trustees.** Successor Trustees will have all powers granted to the original Trustee, except that only an Independent Trustee will succeed to the powers vested exclusively in the Independent Trustee.

**5.5 Accountings.** Accountings must be given to the beneficiary of each trust at least annually (quarterly if a Corporate Trustee is serving). The accountings must show the assets held in trust and all receipts and disbursements. A beneficiary's written approval of an accounting will be final and binding upon that beneficiary and all persons represented by him or her as to all matters disclosed in that accounting. In any event, if a

beneficiary fails to object to an accounting within six months of receiving it, his or her approval is conclusively presumed. A successor Trustee may require the prior Trustee to render a full and final accounting.

**5.6 Acts by Other Fiduciaries.** The Trustee is not required to question any acts or failures to act of the fiduciary of any other trust or estate, and will not be liable for any prior fiduciary's acts or failures to act. The Trustee can require a beneficiary who requests an examination of another fiduciary's actions or omissions to advance all costs and fees incurred in the examination, and if the beneficiary does not, the Trustee may elect not to proceed or may proceed and offset those costs and fees directly against any payment that would otherwise be made to that beneficiary.

**5.7 Court Supervision.** The Settlor waives compliance by the Trustee with any law requiring bond, registration, qualification, or accounting to any court.

**5.8 Compensation.** Each Trustee is entitled to be paid reasonable compensation for services rendered in the administration of the Trust. Reasonable compensation for a Corporate Trustee will be its published fee schedule in effect when its services are rendered unless otherwise agreed in writing, and except as follows. Any fees paid to a Corporate Trustee for making principal distributions, for termination of the trust, and upon termination of its services must be based solely on the value of its services rendered, not on the value of the trust principal. During the Settlor's lifetime the Trustee's fees are to be charged wholly against income (to the extent sufficient), unless directed otherwise by the Settlor in writing.

**5.9 Indemnity.** Any Trustee who ceases to serve for any reason will be entitled to receive (and the continuing Trustee shall make suitable arrangements to provide) reasonable indemnification and security to protect and hold that Trustee harmless from any damage or liability of any nature that may be imposed upon it because of its actions or omissions while serving as Trustee. This protection, however, does not extend to a Trustee's negligent actions or omissions that clearly and demonstrably result in damage or liability. A prior Trustee may enforce these provisions against the current Trustee or against any assets held in the Trust, or if the prior Trustee is an individual, against any beneficiary to the extent of distributions received by that beneficiary. This indemnification right will extend to the estate, personal representatives, legal successors, and assigns of a Trustee.

**5.10 Successor Trustee.** In the event the initial Trustee, Steven I. Greenwald, resigns or ceases to serve as Trustee, then and in that event, I hereby appoint Larry V. Bishins to serve as Trustee.

INITIALS \_\_\_\_\_  
JAKE BERNSTEIN IRREVOCABLE TRUST

Here Steven I. Greenwald, Esq. is stated to be the initial Trustee not Kratish as stated on page 1!



**ARTICLE 6**  
**PROTECTION OF INTERESTS**

The interest of any beneficiary under this Trust Agreement, in either income or principal, may not be anticipated, alienated, or in any other manner assigned by the beneficiary, whether voluntarily or involuntarily, and will not be subject to any legal process, bankruptcy proceedings, or the interference or control of the beneficiary's creditors or others.

**ARTICLE 7**  
**FIDUCIARY POWERS**

The Settlor grants to the Trustee full power to deal freely with any property in the Trust. The Trustee may exercise these powers independently and without the approval of any court. No person dealing with the Trustee need inquire into the propriety of any of its actions or into the application of any funds or assets. The Trustee shall, however, exercise all powers in a fiduciary capacity for the best interest of the beneficiary of this Trust or any trust created under it. Without limiting the generality of the foregoing, the Trustee is given the following discretionary powers in addition to any other powers conferred by law:

**7.1 Type of Assets.** Except as otherwise provided to the contrary, to hold funds uninvested for such periods as the Trustee deems prudent, and to invest in any assets the Trustee deems advisable even though they are not technically recognized or specifically listed in so-called "legal lists," without responsibility for depreciation or loss on account of those investments, or because those investments are non-productive, as long as the Trustee acts in good faith.

**7.2 Original Assets.** Except as otherwise provided to the contrary, to retain the original assets it receives for as long as it deems best, and to dispose of those assets when it deems advisable, even though such assets, because of their character or lack of diversification, would otherwise be considered improper investments for the Trustee.

**7.3 Tangible Personal Property.** To receive and hold tangible personal property; to pay or refrain from paying storage and insurance charges for such property; and to permit any beneficiaries to use such property without either the Trustee or beneficiaries incurring any liability for wear, tear, and obsolescence of the property.

**7.4 Specific Securities.** To invest in assets, securities, or interests in securities of any nature, including (without limit) commodities, options, futures, precious metals, currencies, and in domestic and foreign markets and in mutual or investment funds, including funds for which the Trustee or any affiliate performs services for additional fees, whether as custodian, transfer agent, investment advisor or otherwise, or in securities distributed, underwritten, or issued by the Trustee or by syndicates of which

it is a member; to trade on credit or margin accounts (whether secured or unsecured); and to pledge assets of the Trust Estate for that purpose.

**7.5 Property Transactions.** To buy, sell, pledge, exchange, or lease any real or personal property, publicly or privately, for cash or credit, without court approval and upon the terms and conditions that the Trustee deems advisable; to execute deeds, leases, contracts, bills of sale, notes, mortgages, security instruments, and other written instruments; to abandon or dispose of any real or personal property in the Trust which has little or no monetary or useful value; to improve, repair, insure, subdivide and vacate any property; to erect, alter or demolish buildings; to adjust boundaries; and to impose easements, restrictions, and covenants as the Trustee sees fit. A lease will be valid and binding for its full term even if it extends beyond the full duration of the Trust.

**7.6 Borrow Money.** To borrow money from any source (including the Trustee in its nonfiduciary capacity), to guarantee indebtedness, and to secure the loan or guaranty by mortgage or other security interest.

**7.7 Maintain Assets.** To expend whatever funds it deems proper for the preservation, maintenance, or improvement of assets. The Trustee in its discretion may elect any options or settlements or exercise any rights under all insurance policies that it holds. However, no fiduciary who is the insured of any insurance policy held in the Trust may exercise any rights or have any incidents of ownership with respect to the policy, including the power to change the beneficiary, to surrender or cancel the policy, to assign the policy, to revoke any assignment, to pledge the policy for a loan, or to obtain from the insurer a loan against the surrender value of the policy. All such power is to be exercised solely by the remaining Trustee, if any, or if none, by a special fiduciary appointed for that purpose by a court having jurisdiction.

**7.8 Advisors.** To employ and compensate attorneys, accountants, advisors, financial consultants, managers, agents, and assistants (including any individual or entity who provides investment advisory or management services, or who furnishes professional assistance in making investments for the Trust) without liability for any act of those persons, if they are selected and retained with reasonable care. Fees may be paid from the Trust Estate even if the services were rendered in connection with ancillary proceedings.

**7.9 Indirect Distributions.** To make distributions, whether of principal or income, to any person under age 21 or to any incapacitated person according to the terms of this Trust Agreement by making distributions directly to that person whether or not that person has a guardian; to the parent, guardian, or spouse of that person; to a custodial account established by the Trustee or others for that person under an applicable Uniform Gift to Minors Act or Uniform Transfers to Minors Act; to any adult who resides in the same household with that person or who is otherwise responsible for the care and well-being of that person; or by applying any distribution for the benefit of that person in any

manner the Trustee deems proper. The receipt of the person to whom payment is made will constitute full discharge of the Trustee with respect to that payment. No distributions may be made to the Settlor under this Section.

**7.10 Non-Pro Rata Distribution.** To make any division or distribution in money or in kind, or both, without allocating the same kind of property to all shares or distributees, and without regard to the income tax basis of the property. Any division will be binding and conclusive on all parties.

**7.11 Nominee.** Except as prohibited by law, to hold any assets in the name of a nominee without disclosing the fiduciary relationship; to hold the property unregistered, without affecting its liability; and to hold securities endorsed in blank, in street certificates, at a depository trust company, or in a book entry system.

**7.12 Custodian.** To employ a custodian or agent ("the Custodian") located anywhere within the United States, at the discretion of the Trustee but at the expense of the Trust, whether or not such Custodian is an affiliate of the Trustee or any person rendering services to the Trust; to register securities in the name of the Custodian or a nominee thereof without designation of fiduciary capacity; and to appoint the Custodian to perform such other ministerial functions as the Trustee may direct. While such securities are in the custody of the Custodian, the Trustee will be under no obligation to inspect or verify such securities nor will the Trustee be responsible for any loss by the Custodian.

**7.13 Settle Claims.** To contest, compromise, arbitrate, or otherwise adjust claims in favor of or against the Trust, to agree to any rescission or modification of any contract or agreement, and to refrain from instituting any suit or action unless indemnified for reasonable costs and expenses.

**7.14 Corporate Rights.** To vote and exercise any option, right, or privilege to purchase or to convert bonds, notes, stock (including shares or fractional shares of stock of any Corporate Trustee), securities, or other property; to borrow money for the purpose of exercising any such option, right, or privilege; to delegate those rights to an agent; to enter into voting trusts and other agreements or subscriptions; to participate in any type of liquidation or reorganization of any enterprise; and to write and sell covered call options, puts, calls, straddles, or other methods of buying or selling securities, as well as all related transactions.

**7.15 Partnership Interests.** To hold interests in sole proprietorships, general or limited partnerships, joint ventures, business trusts, land trusts, limited liability companies, and other domestic and foreign forms of organizations; and to exercise all rights in connection with such interests as the Trustee deems appropriate, including any powers applicable to a non-admitted transferee of any such interest.



**7.16 Self-Dealing.** To exercise all its powers even though it may also be acting individually or on behalf of any other person or entity interested in the same matters. The Trustee, however, shall exercise these powers at all times in a fiduciary capacity, primarily in the interest of the beneficiaries of the Trust. Despite any other provision of this Trust Agreement, no Trustee may participate in the decision to make a discretionary distribution that would discharge a legal support obligation of that Trustee. No Trustee who has made a disclaimer, either individually or as a Trustee, may exercise any discretion in determining the recipient of the disclaimed property. All power to make such distributions, or to determine recipients of disclaimed property, will be exercised solely by the remaining Trustees, if any, or if there are no other Trustees then serving, by the person or persons named to serve as the next successor Trustee, or if there are none, by a special Trustee appointed for that purpose by a court having jurisdiction.

**7.17 Expenses.** An Independent Trustee may determine how expenses of administration and receipts are to be apportioned between principal and income.

**7.18 Terminate Small Trusts.** To exercise its discretion to refrain from funding or to terminate any trust whenever the value of the principal of that trust would be or is too small to administer economically, and to distribute the remaining principal and all accumulated income of the trust as provided in Section 7.9 to the income beneficiary of that trust. The Trustee shall exercise this power to terminate in its discretion as it deems prudent for the best interest of the beneficiaries at that time. This power cannot be exercised by the Settlor or any beneficiary, either alone or in conjunction with any other Trustee, but must be exercised solely by the other Trustee, or if none, by a special Trustee appointed for that purpose by a court having jurisdiction.

**7.19 Allocations to Income and Principal.** To treat premiums and discounts on bonds and other obligations for the payment of money in accordance with either generally accepted accounting principles or tax accounting principles and, except as otherwise provided to the contrary, to hold nonproductive assets without allocating any principal to income, despite any laws or rules to the contrary. The Trustee in its discretion may exercise the power described in Section 738.104 of the Florida Statutes to adjust between principal and income, as appropriate, and, in addition, may convert any income interest into a unitrust interest, or a unitrust interest to an income interest, as it sees fit, all as provided in Section 738.1041 of the Florida Statutes, despite any provision of those sections to the contrary.

**7.20 Use of Income.** Except as otherwise provided in this Trust Agreement, and in addition to all other available sources, to exercise its discretion in the use of income from the assets of the Trust to satisfy the liabilities described in this Trust Agreement, without accountability to any beneficiary.

**7.21 Valuations.** In making distributions or allocations under the terms of this Trust Agreement to be valued as of a particular date, the Trustee may use asset valuations

obtained for a date reasonably close to that particular date (such as a quarterly closing date before or after that date) if, in the Trustee's judgment, obtaining appraisals or other determinations of value on that date would result in unnecessary expense, and if in the Trustee's judgment, the fair market value as determined is substantially the same as on that actual date. This paragraph will not apply if valuation on a specific date is required to preserve a qualification for a tax benefit, including any deduction, credit, or most favorable allocation of an exemption.

**7.22 Incorporation.** To incorporate any business or venture, and to continue any unincorporated business that the Trustee determines to be not advisable to incorporate.

**7.23 Delegation.** To delegate periodically among themselves the authority to perform any act of administration of any trust.

**7.24 Advances.** To make cash advances or loans to beneficiaries, with or without security.

**7.25 Investment Manager.** To employ any investment management service, financial institution, or similar organization to advise the Trustee and to handle all investments of the Trust and to render all accountings of funds held on its behalf under custodial, agency, or other agreements. If the Trustee is an individual, these costs may be paid as an expense of administration in addition to fees and commissions.

**7.26 Depreciation.** To deduct from all receipts attributable to depreciable property a reasonable allowance for depreciation, computed in accordance with generally accepted accounting principles consistently applied.

**7.27 Disclaim Assets or Powers.** To disclaim any assets otherwise passing or any fiduciary powers pertaining to any trust created hereunder, by execution of an instrument of disclaimer meeting the requirements of applicable law generally imposed upon individuals executing disclaimers. No notice to or consent of any beneficiary, other interested person, or any court is required for any such disclaimer, and the Trustee is to be held harmless for any decision to make or not make such a disclaimer.

**7.28 Transfer Situs.** To transfer the situs of any trust or any trust property to any other jurisdiction as often as the Trustee deems advisable, and if necessary to appoint a substitute or ancillary Trustee to act with respect to that property. The Trustee may delegate to the substitute Trustee any or all of the powers given to the Trustee; may elect to act as advisor to the substitute Trustee and receive reasonable compensation for that service; and may remove any acting or substitute Trustee and appoint another, or reappoint itself, at will.

**7.29 Related Parties.** To enter into any transaction on behalf of the Trust despite the fact that another party to that transaction may be: (i) a business or trust controlled by the Trustee, or of which the Trustee, or any director, officer, or employee of the Corporate Trustee, is also a director, officer, or employee; (ii) an affiliate or business associate of any beneficiary or the Trustee; or (iii) a beneficiary or Trustee under this Trust Agreement acting individually, or any relative of such a party.

**7.30 Additional Powers for Income-Producing Real Estate.** In addition to the other powers set forth above or otherwise conferred by law, the Trustee has the following powers with respect to any income-producing real property which is or may become a part of the Trust Estate:

- To retain and operate the property for as long as it deems advisable;
- To control, direct, and manage the property, determining the manner and extent of its active participation in these operations, and to delegate all or any part of its supervisory power to other persons that it selects;
- To hire and discharge employees, fix their compensation, and define their duties;
- To invest funds in other land holdings and to use those funds for all improvements, operations, or other similar purposes;
- Except as otherwise provided with respect to mandatory income distributions, to retain any amount of the net earnings for working capital and other purposes that it deems advisable in conformity with sound and efficient management; and
- To purchase and sell machinery, equipment, and supplies of all kinds as needed for the operation and maintenance of the land holdings.

**ARTICLE 8  
SUBCHAPTER S STOCK**

Despite any other provisions of this Trust Agreement, if a trust created in this instrument is to become the owner of, or already owns, stock in a corporation that has an election in effect (or one that proposes to make an election) under Section 1362 of the Internal Revenue Code (an "S Corporation"), and that trust would not otherwise be permitted to be an S Corporation shareholder, the following provisions will apply:

**8.1 Electing Small Business Trust.** The Trustee in its discretion may elect for the trust to become an Electing Small Business Trust ("ESBT") as defined in the Internal Revenue Code.

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JAKE BERENSTEIN IRREVOCABLE TRUST



**8.2 Qualified Subchapter S Trust.** If the Trustee does not cause the trust to become an ESBT, the Trustee shall set aside the S Corporation stock in a separate trust for the current income beneficiary of such trust, so that a Qualified Subchapter S Trust ("QSST") election under Section 1361 of the Internal Revenue Code can be filed with respect to that trust. The Trustee shall hold each share as a separate QSST for the persons described above, and each such person will be the sole beneficiary of his or her QSST. To the greatest extent possible, the Trustee shall administer each QSST under the terms of the trust from which it was derived, but subject to the following overriding provisions:

(a) **Consent.** The Trustee shall notify the beneficiary of each separate trust promptly that a QSST election must be filed with the Internal Revenue Service. Thereafter, each beneficiary shall file a timely and proper QSST election with the Internal Revenue Service. If a beneficiary fails or refuses to make the QSST election, the Trustee shall make an ESBT election for that trust. If the beneficiary does make the QSST election, then his or her separate trust will be administered as set forth below.

(b) **Income Payments.** During the beneficiary's life, the Trustee shall pay all net income of the trust to the beneficiary (and only to that beneficiary) in quarterly or more frequent installments. The beneficiary's income interest in the trust will terminate on the earlier of his or her death or the termination of the trust under its terms.

(c) **Principal Invasions.** If the beneficiary is otherwise entitled to receive principal distributions, the Trustee may distribute principal from that separate trust during the beneficiary's life only to or for the benefit of that beneficiary (and no one else).

(d) **Final Distribution.** If the QSST is terminated during the beneficiary's life, the Trustee shall distribute all remaining assets of that separate trust to that beneficiary. If the beneficiary dies before that trust's termination, all remaining assets of the QSST are to be distributed as provided in the original trust, but subject to this article.

(e) **Termination of QSST Status.** If a separate trust would cease to qualify as an S Corporation shareholder, the Trustee in its discretion may: (i) make an ESBT election for that separate trust, or (ii) distribute all S Corporation stock to the beneficiary. The Trustee in its discretion also may convert a QSST to an ESBT, whether or not the beneficiary has consented to QSST treatment and, if the beneficiary consents, may convert an ESBT into a QSST.

**ARTICLE 9  
PERPETUITIES PROVISION**

Despite any contrary provisions of this Trust Agreement, from the creation of this Trust and for up to 21 years after the death of the last of the Settlor's grandparents' descendants who are living at the creation of this Trust, a trust beneficiary (which includes persons succeeding to the interest of a deceased beneficiary) will be entitled to terminating distributions only at the ages specified in this Trust Agreement. In all events, however, the share of each beneficiary will vest (in the beneficiary or his or her estate) immediately prior to the expiration of the 21 year period described above.

**ARTICLE 10  
ADMINISTRATION AND CONSTRUCTION**

**10.1 Rules for Distributions.** In making distributions to beneficiaries under this Trust Agreement, the Trustee must use the following criteria.

(a) **Other Resources.** Whenever the Trustee has the authority to decide how much to distribute to or for the benefit of a beneficiary, the Trustee can make decisions without taking into account any information about the beneficiary's other available income and resources. The Trustee can make payments directly to a beneficiary or to other persons for the beneficiary's benefit, but it does not have to make payments to a court appointed guardian.

(b) **Trustee's Decision.** Absent clear and convincing evidence of bad faith, the Trustee's decisions as to amounts to be distributed will be final.

(c) **Standard of Living.** Distributions to a beneficiary for health, education, support, or maintenance are to be based on his or her standard of living, determined as of the date of the distribution.

**10.2 Funding Gifts.** The following rules will apply to funding gifts under this Trust Agreement.

(a) **Pecuniary Gifts.** All pecuniary gifts under this Trust Agreement that are paid by an in-kind distribution of assets must use values having an aggregate fair market value at the date or dates of distribution equal to the amount of this gift as finally determined for federal estate tax purposes.

(b) **Adjustments.** The Trustee shall select one or more dates of allocation or distribution for purposes of satisfying gifts and funding shares or trusts. The Trustee may make allocations before the final determination of federal estate tax, with those allocations being based upon the information then available to the Trustee,

and may thereafter adjust properties among the shares or trusts if it is determined that the allocation should have been made differently.

**10.3 Accumulated Income.** Any income not distributed to the beneficiaries pursuant to either a mandatory direction or a discretionary power is to be incorporated into principal, at such intervals as the Trustee deems convenient.

**10.4 Estate Tax on Included Property.** If assets of any trust created under this Trust Agreement are included in a beneficiary's estate for federal estate tax purposes, the following will apply.

(a) **Appointed Assets.** If the beneficiary exercises a power of appointment over those assets, the Trustee is authorized to withhold from those assets the amount of estate taxes apportioned to them by applicable law, if the beneficiary does not make provisions for the payment of those taxes from other sources.

(b) **Other Assets.** If the beneficiary does not have or does not exercise a power of appointment over those assets, the Trustee will pay the estate taxes attributable to those assets. The estate taxes attributable to those assets will be the amount that the beneficiary's estate taxes are increased over the amount those taxes would have been if those assets had not been included in the beneficiary's gross estate.

(c) **Certification and Payment.** The Trustee may rely upon a written certification by the beneficiary's personal representative of the amount of the estate taxes, and may pay those taxes directly or to the personal representative of the beneficiary's estate. The Trustee will not be held liable for making payments as directed by the beneficiary's personal representative.

**10.5 Transactions With Other Entities** The Trustee may buy assets from other estates or trusts, or make loans to them, so that funds will be available to pay claims, taxes, and expenses. The Trustee can make those purchases or loans even if it serves as the fiduciary of that estate or trust, and on whatever terms and conditions the Trustee thinks are appropriate, except that the terms of any transaction must be commercially reasonable.

#### ARTICLE 11 MISCELLANEOUS PROVISIONS

**11.1 Definitions.** As used in this Trust Agreement, the following terms have the meanings set forth below:

(a) **Trustees.**

- (1) **Independent Trustee** means a trustee of a particular trust, either individual or corporate, who is not the Settlor or a beneficiary, and who is not a Related Person as to the Settlor or a beneficiary (if the Settlor or the beneficiary, respectively, is living and participated in that person's appointment). For purposes of this definition a beneficiary is a person who is a permissible distributee of income or principal, or someone with an interest in the trust in excess of five percent (5%) of its value, assuming a maximum exercise of discretion in his or her favor. Whenever this Trust Agreement requires an action be taken by, or in the discretion of, an Independent Trustee but no such Trustee is then serving, a court may appoint an Independent Trustee to serve as an additional Trustee whose sole function and duty will be to exercise the specified power.
- (2) **Corporate Trustee** means a trustee that is a bank, trust company, or other entity authorized to serve as a trustee under the laws of the United States or any state thereof that is not a Related Person to the Settlor. A bank or trust company that does not meet this requirement cannot serve as Trustee.

(b) **Internal Revenue Code Terms.**

- (1) **Internal Revenue Code** means the federal Internal Revenue Code of 1986, as amended from time to time, or successor provisions of future federal internal revenue laws.
- (2) The terms **health, education, support, and maintenance** are intended to set forth an "ascertainable standard," as described in the Internal Revenue Code and its associated Regulations. To the extent not inconsistent with the foregoing, "health" means a beneficiary's physical and mental health, including but not limited to payments for examinations, surgical, dental, or other treatment, medication, counseling, hospitalization, and health insurance premiums; "education" means elementary, secondary, post-secondary, graduate, or professional schooling in an accredited institution, public or private, or attendance at other formal programs in furtherance of the beneficiary's spiritual, athletic, or artistic education, including but not limited to payments for tuition, books,

fees, assessments, equipment, tutoring, transportation, and reasonable living expenses.

- (3) **Related Person** as to a particular individual is someone who is deemed to be "related or subordinate" to that individual under Section 672(c) of the Internal Revenue Code (as though that individual was a grantor).

(c) **Other Terms.**

- (1) Distributions that are to be made to a person's descendants, *per stirpes*, will be divided into equal shares, so that there will be one share for each living child (if any) of that person and one share for each deceased child who has then living descendants. The share of each deceased child will be further divided among his or her descendants on a *per stirpes* basis, by reapplying the preceding rule to that deceased child and his or her descendants as many times as necessary.
- (2) **Disabled or under a disability** means (i) being under the legal age of majority, (ii) having been adjudicated to be incapacitated, or (iii) being unable to manage properly personal or financial affairs because of a mental or physical impairment (whether temporary or permanent in nature). A written certificate executed by an individual's attending physician confirming that person's impairment will be sufficient evidence of disability under item (iii) above, and all persons may rely conclusively on such a certificate.
- (3) Removal of a Trustee for cause includes, without limitation, the following: the willful or negligent mismanagement of the trust assets by that individual Trustee; the abuse or abandonment of, or inattention to, the trust by that individual Trustee; a federal or state charge against that individual Trustee involving the commission of a felony or serious misdemeanor; an act of theft, dishonesty, fraud, embezzlement, or moral turpitude by that individual Trustee; or the use of narcotics or excessive use of alcohol by that individual Trustee.
- (4) The words *will* and *shall* are used interchangeably in this Trust Agreement and mean, unless the context clearly indicates otherwise, that the Trustee must take the action



indicated; as used in this Trust Agreement, the word may means that the Trustee has the discretionary authority to take the action but is not automatically required to do so.

**11.2 Powers of Appointment.** The following provisions relate to all powers of appointment under this Trust Agreement.

- (a) A **general power of appointment** granted to a person is one that can be exercised in favor of that person or his or her estate, his or her creditors, or the creditors of his or her estate.
- (b) A **special power of appointment** is any power that is not a general power.
- (c) A **testamentary power of appointment** (either general or special) is exercisable upon the powerholder's death by his or her Last Will or by a revocable trust agreement established by that person, but only by specific reference to the instrument creating the power. A "testamentary power of appointment" may not be exercised in favor of the person possessing the power.
- (d) In determining whether a person has exercised a testamentary power of appointment, the Trustee may rely upon an instrument admitted to probate in any jurisdiction as that person's Last Will, or upon any trust agreement certified to be valid and authentic by sworn statement of the trustee who is serving under that trust agreement. If the Trustee has not received written notice of such an instrument within six months after the powerholder's death, the Trustee may presume that the powerholder failed to exercise that power and will not be liable for acting in accordance with that presumption.

**11.3 Notices.** Any person entitled or required to give notice under this Trust Agreement shall exercise that power by a written instrument clearly setting forth the effective date of the action for which notice is being given. The instrument may be executed in counterparts.

**11.4 Certifications.**

(a) **Facts.** A certificate signed and acknowledged by the Trustee stating any fact affecting the Trust Estate or the Trust Agreement will be conclusive evidence of such fact in favor of any transfer agent and any other person dealing in good faith with the Trustee. The Trustee may rely on a certificate signed and acknowledged by any beneficiary stating any fact concerning the Trust beneficiaries, including dates of

birth, relationships, or marital status, unless an individual serving as Trustee has actual knowledge that the stated fact is false.

(b) **Copy.** Any person may rely on a copy of this instrument (in whole or in part) certified to be a true copy by the Settlor; by any person specifically named as a Trustee (or successor Trustee); by any Corporate Trustee whether or not specifically named; or, if there are none of the above, by any then serving Trustee.

**11.5 Applicable Law.** All matters involving the validity and interpretation of this Trust Agreement are to be governed by Florida law. Subject to the provisions of this Trust Agreement, all matters involving the administration of a trust are to be governed by the laws of the jurisdiction in which the trust has its principal place of administration.

**11.6 Gender and Number.** Reference in this Trust Agreement to any gender includes either masculine or feminine, as appropriate, and reference to any number includes both singular and plural where the context permits or requires. Use of descriptive titles for articles and paragraphs is for the purpose of convenience only and is not intended to restrict the application of these provisions.

**11.7 Further Instruments.** The Settlor agrees to execute such further instruments as may be necessary to vest the Trustee with full legal title to the property transferred to this Trust.

**11.8 Binding Effect.** This Trust Agreement extends to and is binding upon the Settlor's Personal Representative, successors, and assigns, and upon the Trustee.

Executed as of the date first written above.

Signed in the presence of:

SETTLOR

Joseph M. Johnson  
[Signature]

[Signature]  
Simon Bernstein

Two witnesses as to Simon Bernstein

Signed in the presence of:

TRUSTEE

Traci Kratish, P.A.

Joseph M. Johnson  
[Signature]  
Two witnesses as to Traci Kratish

[Signature] FOR TRACI KRATISH, P.A.  
TRACI KRATISH, PRESIDENT  
Traci Kratish, President

**Schedule A**  
**Initial Transfers to Trust**

Transfer of 6 shares of LIC Holdings, Inc.

# **EXHIBIT C**

**The Joshua Bernstein  
Irrevocable Trust Dated  
September 7, 2006 provided  
by Oppenheimer Trust  
Company of New Jersey**



No Law Firm markings or file markings indicating who did this document.

***TRUST AGREEMENT***  
***FOR THE***  
***JOSHUA Z. BERNSTEIN IRREVOCABLE TRUST***

*September 7, 2006*



**TRUST AGREEMENT**  
**FOR THE**  
**JOSHUA Z. BERNSTEIN IRREVOCABLE TRUST**

SIMON BERNSTEIN, as Settlor, hereby creates the Joshua Z. Bernstein Irrevocable Trust ("the Trust") on September 7, 2006. Traci Kratish, P.A. is the trustee of this Trust and, in that capacity, *he and his successors are collectively referred to in this Trust Agreement as the "Trustee."*

Traci Kratish is a she not a he and denies being a part of this document done prior to her employment

**ARTICLE 1**  
**BENEFICIARY**

This Trust is for the benefit of the Settlor's Grandchild, JOSHUA Z. BERNSTEIN ("Beneficiary").

**ARTICLE 2**  
**TRANSFERS TO TRUST**

The Settlor hereby conveys to the Trustee all his interest in the assets listed on Schedule A, which together with any assets later added to this Trust are referred to as the "Trust Estate." Any person may transfer assets to the Trust Estate, if the Trustee agrees to accept them. Assets do not have to be listed on Schedule A to be part of the Trust Estate. Unless otherwise specified in writing at the time of the transfer, those assets will be held as provided in this Trust Agreement. The Trustee acknowledges receipt of the current Trust assets and agrees to hold the Trust Estate as set forth in this Trust Agreement.

**ARTICLE 3**  
**IRREVOCABLE PROVISION**

The Settlor declares that he has no right to alter, amend, modify, or revoke this Trust Agreement; to withdraw assets from the Trust; or to require changes in the investments of the Trust. No part of the Trust may ever revert to the Settlor, be used for his benefit, or be distributed in discharge of his legal obligations.

**ARTICLE 4**  
**ADMINISTRATION OF TRUST**

The Trustee shall hold, administer, and distribute the Trust Estate in accordance with the powers granted under this Trust Agreement as follows:

**4.1 Discretionary Distributions.** The Trustee shall pay or apply such sums of principal from this Trust as in the Trustee's discretion are necessary or advisable for Beneficiary's health, education, support, and maintenance.

All pages missing initials. Joshua is a minor child.

INITIALS \_\_\_\_\_  
JOSHUA Z. BERNSTEIN IRREVOCABLE TRUST

**4.2 Distribution of Principal.** When Beneficiary has reached age 21, the trustee shall distribute one-half (1/2) of the corpus of trust to Beneficiary plus accrued income. When Beneficiary has reached age 25 the Trustee shall distribute the entire remaining principal balance of the corpus of the trust to Beneficiary plus accrued income.

**4.3 Distribution Upon Death Before Age 25.** Upon the death of Beneficiary prior to age 25, the Trustee shall distribute the remaining assets in the trust to the estate of Beneficiary.

**ARTICLE 5  
PROVISIONS GOVERNING TRUSTEES**

The following provisions apply to all Trustees appointed under this Trust Agreement:

**5.1 Incapacity of Trustee.** If any Trustee becomes disabled, he or she will immediately cease to act as Trustee. If a Trustee who ceases to serve because of a disability, or who is suspended, thereafter recovers from that disability or consents to the release of relevant medical information, he or she may elect to become a Trustee again by giving written notice to the then serving Trustee, and the last Trustee who undertook to serve will then cease to be a Trustee until another successor Trustee is required.

**5.2 Resignation.** Any Trustee may resign by giving 30 days' written notice delivered personally or by mail to any then serving Co-Trustee and to the Settlor if he is then living and not disabled; otherwise to the next named successor Trustee, or if none, to the persons having power to appoint successor Trustees.

**5.3 Power to Name Other Trustees.** Whenever a successor Trustee is required and that position is not filled under the terms specified in this Trust Agreement, an individual Trustee ceasing to serve (other than a Trustee being removed) may appoint his or her successor, but if none is appointed, the remaining Trustees, if any, or the beneficiary shall appoint a successor Corporate Trustee. The appointment will be by a written document (including a testamentary instrument) delivered to the appointed Trustee. In no event may the Settlor ever be appointed as the Trustee under this Trust Agreement nor shall a Successor trustee be appointed that will cause this trust to be a grantor trust.

**5.4 Powers of Successor Trustees.** Successor Trustees will have all powers granted to the original Trustee, except that only an Independent Trustee will succeed to the powers vested exclusively in the Independent Trustee.

**5.5 Accountings.** Accountings must be given to the beneficiary of each trust at least annually (quarterly if a Corporate Trustee is serving). The accountings must show the assets held in trust and all receipts and disbursements. A beneficiary's written approval of an accounting will be final and binding upon that beneficiary and all persons represented by him or her as to all matters disclosed in that accounting. In any event, if a beneficiary fails to object to an accounting within six months of receiving it, his or her



approval is conclusively presumed. A successor Trustee may require the prior Trustee to render a full and final accounting.

**5.6 Acts by Other Fiduciaries.** The Trustee is not required to question any acts or failures to act of the fiduciary of any other trust or estate, and will not be liable for any prior fiduciary's acts or failures to act. The Trustee can require a beneficiary who requests an examination of another fiduciary's actions or omissions to advance all costs and fees incurred in the examination, and if the beneficiary does not, the Trustee may elect not to proceed or may proceed and offset those costs and fees directly against any payment that would otherwise be made to that beneficiary.

**5.7 Court Supervision.** The Settlor waives compliance by the Trustee with any law requiring bond, registration, qualification, or accounting to any court.

**5.8 Compensation.** Each Trustee is entitled to be paid reasonable compensation for services rendered in the administration of the Trust. Reasonable compensation for a Corporate Trustee will be its published fee schedule in effect when its services are rendered unless otherwise agreed in writing, and except as follows. Any fees paid to a Corporate Trustee for making principal distributions, for termination of the trust, and upon termination of its services must be based solely on the value of its services rendered, not on the value of the trust principal. During the Settlor's lifetime the Trustee's fees are to be charged wholly against income (to the extent sufficient), unless directed otherwise by the Settlor in writing.

**5.9 Indemnity.** Any Trustee who ceases to serve for any reason will be entitled to receive (and the continuing Trustee shall make suitable arrangements to provide) reasonable indemnification and security to protect and hold that Trustee harmless from any damage or liability of any nature that may be imposed upon it because of its actions or omissions while serving as Trustee. This protection, however, does not extend to a Trustee's negligent actions or omissions that clearly and demonstrably result in damage or liability. A prior Trustee may enforce these provisions against the current Trustee or against any assets held in the Trust, or if the prior Trustee is an individual, against any beneficiary to the extent of distributions received by that beneficiary. This indemnification right will extend to the estate, personal representatives, legal successors, and assigns of a Trustee.

**5.10 Successor Trustee.** In the event the initial Trustee, Steven I. Greenwald, resigns or ceases to serve as Trustee, then and in that event, I hereby appoint Larry V. Bishins to serve as Trustee.

#### ARTICLE 6 PROTECTION OF INTERESTS

The interest of any beneficiary under this Trust Agreement, in either income or principal, may not be anticipated, alienated, or in any other manner assigned by the beneficiary, whether voluntarily or involuntarily, and will not be subject to any legal process,

INITIALS \_\_\_\_\_  
JOSHUA Z. BERNSTEIN TRUST

Here Steven I. Greenwald, Esq. is stated to be the initial Trustee not Kratish as stated on page 1!



bankruptcy proceedings, or the interference or control of the beneficiary's creditors or others.

**ARTICLE 7**  
**FIDUCIARY POWERS**

The Settlor grants to the Trustee full power to deal freely with any property in the Trust. The Trustee may exercise these powers independently and without the approval of any court. No person dealing with the Trustee need inquire into the propriety of any of its actions or into the application of any funds or assets. The Trustee shall, however, exercise all powers in a fiduciary capacity for the best interest of the beneficiary of this Trust or any trust created under it. Without limiting the generality of the foregoing, the Trustee is given the following discretionary powers in addition to any other powers conferred by law:

**7.1 Type of Assets.** Except as otherwise provided to the contrary, to hold funds uninvested for such periods as the Trustee deems prudent, and to invest in any assets the Trustee deems advisable even though they are not technically recognized or specifically listed in so-called "legal lists," without responsibility for depreciation or loss on account of those investments, or because those investments are non-productive, as long as the Trustee acts in good faith.

**7.2 Original Assets.** Except as otherwise provided to the contrary, to retain the original assets it receives for as long as it deems best, and to dispose of those assets when it deems advisable, even though such assets, because of their character or lack of diversification, would otherwise be considered improper investments for the Trustee.

**7.3 Tangible Personal Property.** To receive and hold tangible personal property; to pay or refrain from paying storage and insurance charges for such property; and to permit any beneficiaries to use such property without either the Trustee or beneficiaries incurring any liability for wear, tear, and obsolescence of the property.

**7.4 Specific Securities.** To invest in assets, securities, or interests in securities of any nature, including (without limit) commodities, options, futures, precious metals, currencies, and in domestic and foreign markets and in mutual or investment funds, including funds for which the Trustee or any affiliate performs services for additional fees, whether as custodian, transfer agent, investment advisor or otherwise, or in securities distributed, underwritten, or issued by the Trustee or by syndicates of which it is a member; to trade on credit or margin accounts (whether secured or unsecured); and to pledge assets of the Trust Estate for that purpose.

**7.5 Property Transactions.** To buy, sell, pledge, exchange, or lease any real or personal property, publicly or privately, for cash or credit, without court approval and upon the terms and conditions that the Trustee deems advisable; to execute deeds, leases, contracts, bills of sale, notes, mortgages, security instruments, and other written instruments; to abandon or dispose of any real or personal property in the Trust which has little or no monetary or useful value; to improve, repair, insure, subdivide and vacate

any property; to erect, alter or demolish buildings; to adjust boundaries; and to impose easements, restrictions, and covenants as the Trustee sees fit. A lease will be valid and binding for its full term even if it extends beyond the full duration of the Trust.

**7.6 Borrow Money.** To borrow money from any source (including the Trustee in its nonfiduciary capacity), to guarantee indebtedness, and to secure the loan or guaranty by mortgage or other security interest.

**7.7 Maintain Assets.** To expend whatever funds it deems proper for the preservation, maintenance, or improvement of assets. The Trustee in its discretion may elect any options or settlements or exercise any rights under all insurance policies that it holds. However, no fiduciary who is the insured of any insurance policy held in the Trust may exercise any rights or have any incidents of ownership with respect to the policy, including the power to change the beneficiary, to surrender or cancel the policy, to assign the policy, to revoke any assignment, to pledge the policy for a loan, or to obtain from the insurer a loan against the surrender value of the policy. All such power is to be exercised solely by the remaining Trustee, if any, or if none, by a special fiduciary appointed for that purpose by a court having jurisdiction.

**7.8 Advisors.** To employ and compensate attorneys, accountants, advisors, financial consultants, managers, agents, and assistants (including any individual or entity who provides investment advisory or management services, or who furnishes professional assistance in making investments for the Trust) without liability for any act of those persons, if they are selected and retained with reasonable care. Fees may be paid from the Trust Estate even if the services were rendered in connection with ancillary proceedings.

**7.9 Indirect Distributions.** To make distributions, whether of principal or income, to any person under age 21 or to any incapacitated person according to the terms of this Trust Agreement by making distributions directly to that person whether or not that person has a guardian; to the parent, guardian, or spouse of that person; to a custodial account established by the Trustee or others for that person under an applicable Uniform Gift to Minors Act or Uniform Transfers to Minors Act; to any adult who resides in the same household with that person or who is otherwise responsible for the care and well-being of that person; or by applying any distribution for the benefit of that person in any manner the Trustee deems proper. The receipt of the person to whom payment is made will constitute full discharge of the Trustee with respect to that payment. No distributions may be made to the Settlor under this Section.

**7.10 Non-Pro Rata Distribution.** To make any division or distribution in money or in kind, or both, without allocating the same kind of property to all shares or distributees, and without regard to the income tax basis of the property. Any division will be binding and conclusive on all parties.

**7.11 Nominee.** Except as prohibited by law, to hold any assets in the name of a nominee without disclosing the fiduciary relationship; to hold the property

unregistered, without affecting its liability; and to hold securities endorsed in blank, in street certificates, at a depository trust company, or in a book entry system.

**7.12 Custodian.** To employ a custodian or agent ("the Custodian") located anywhere within the United States, at the discretion of the Trustee but at the expense of the Trust, whether or not such Custodian is an affiliate of the Trustee or any person rendering services to the Trust; to register securities in the name of the Custodian or a nominee thereof without designation of fiduciary capacity; and to appoint the Custodian to perform such other ministerial functions as the Trustee may direct. While such securities are in the custody of the Custodian, the Trustee will be under no obligation to inspect or verify such securities nor will the Trustee be responsible for any loss by the Custodian.

**7.13 Settle Claims.** To contest, compromise, arbitrate, or otherwise adjust claims in favor of or against the Trust, to agree to any rescission or modification of any contract or agreement, and to refrain from instituting any suit or action unless indemnified for reasonable costs and expenses.

**7.14 Corporate Rights.** To vote and exercise any option, right, or privilege to purchase or to convert bonds, notes, stock (including shares or fractional shares of stock of any Corporate Trustee), securities, or other property; to borrow money for the purpose of exercising any such option, right, or privilege; to delegate those rights to an agent; to enter into voting trusts and other agreements or subscriptions; to participate in any type of liquidation or reorganization of any enterprise; and to write and sell covered call options, puts, calls, straddles, or other methods of buying or selling securities, as well as all related transactions.

**7.15 Partnership Interests.** To hold interests in sole proprietorships, general or limited partnerships, joint ventures, business trusts, land trusts, limited liability companies, and other domestic and foreign forms of organizations; and to exercise all rights in connection with such interests as the Trustee deems appropriate, including any powers applicable to a non-admitted transferee of any such interest.

**7.16 Self-Dealing.** To exercise all its powers even though it may also be acting individually or on behalf of any other person or entity interested in the same matters. The Trustee, however, shall exercise these powers at all times in a fiduciary capacity, primarily in the interest of the beneficiaries of the Trust. Despite any other provision of this Trust Agreement, no Trustee may participate in the decision to make a discretionary distribution that would discharge a legal support obligation of that Trustee. No Trustee who has made a disclaimer, either individually or as a Trustee, may exercise any discretion in determining the recipient of the disclaimed property. All power to make such distributions, or to determine recipients of disclaimed property, will be exercised solely by the remaining Trustees, if any, or if there are no other Trustees then serving, by the person or persons named to serve as the next successor Trustee, or if there are none, by a special Trustee appointed for that purpose by a court having jurisdiction.

**7.17 Expenses.** An Independent Trustee may determine how expenses of administration and receipts are to be apportioned between principal and income.

**7.18 Terminate Small Trusts.** To exercise its discretion to refrain from funding or to terminate any trust whenever the value of the principal of that trust would be or is too small to administer economically, and to distribute the remaining principal and all accumulated income of the trust as provided in Section 7.9 to the income beneficiary of that trust. The Trustee shall exercise this power to terminate in its discretion as it deems prudent for the best interest of the beneficiaries at that time. This power cannot be exercised by the Settlor or any beneficiary, either alone or in conjunction with any other Trustee, but must be exercised solely by the other Trustee, or if none, by a special Trustee appointed for that purpose by a court having jurisdiction.

**7.19 Allocations to Income and Principal.** To treat premiums and discounts on bonds and other obligations for the payment of money in accordance with either generally accepted accounting principles or tax accounting principles and, except as otherwise provided to the contrary, to hold nonproductive assets without allocating any principal to income, despite any laws or rules to the contrary. The Trustee in its discretion may exercise the power described in Section 738.104 of the Florida Statutes to adjust between principal and income, as appropriate, and, in addition, may convert any income interest into a unitrust interest, or a unitrust interest to an income interest, as it sees fit, all as provided in Section 738.1041 of the Florida Statutes, despite any provision of those sections to the contrary.

**7.20 Use of Income.** Except as otherwise provided in this Trust Agreement, and in addition to all other available sources, to exercise its discretion in the use of income from the assets of the Trust to satisfy the liabilities described in this Trust Agreement, without accountability to any beneficiary.

**7.21 Valuations.** In making distributions or allocations under the terms of this Trust Agreement to be valued as of a particular date, the Trustee may use asset valuations obtained for a date reasonably close to that particular date (such as a quarterly closing date before or after that date) if, in the Trustee's judgment, obtaining appraisals or other determinations of value on that date would result in unnecessary expense, and if in the Trustee's judgment, the fair market value as determined is substantially the same as on that actual date. This paragraph will not apply if valuation on a specific date is required to preserve a qualification for a tax benefit, including any deduction, credit, or most favorable allocation of an exemption.

**7.22 Incorporation.** To incorporate any business or venture, and to continue any unincorporated business that the Trustee determines to be not advisable to incorporate.

**7.23 Delegation.** To delegate periodically among themselves the authority to perform any act of administration of any trust.

**7.24 Advances.** To make cash advances or loans to beneficiaries, with or without security.

**7.25 Investment Manager.** To employ any investment management service, financial institution, or similar organization to advise the Trustee and to handle all investments of the Trust and to render all accountings of funds held on its behalf under custodial, agency, or other agreements. If the Trustee is an individual, these costs may be paid as an expense of administration in addition to fees and commissions.

**7.26 Depreciation.** To deduct from all receipts attributable to depreciable property a reasonable allowance for depreciation, computed in accordance with generally accepted accounting principles consistently applied.

**7.27 Disclaim Assets or Powers.** To disclaim any assets otherwise passing or any fiduciary powers pertaining to any trust created hereunder, by execution of an instrument of disclaimer meeting the requirements of applicable law generally imposed upon individuals executing disclaimers. No notice to or consent of any beneficiary, other interested person, or any court is required for any such disclaimer, and the Trustee is to be held harmless for any decision to make or not make such a disclaimer.

**7.28 Transfer Situs.** To transfer the situs of any trust or any trust property to any other jurisdiction as often as the Trustee deems advisable, and if necessary to appoint a substitute or ancillary Trustee to act with respect to that property. The Trustee may delegate to the substitute Trustee any or all of the powers given to the Trustee; may elect to act as advisor to the substitute Trustee and receive reasonable compensation for that service; and may remove any acting or substitute Trustee and appoint another, or reappoint itself, at will.

**7.29 Related Parties.** To enter into any transaction on behalf of the Trust despite the fact that another party to that transaction may be: (i) a business or trust controlled by the Trustee, or of which the Trustee, or any director, officer, or employee of the Corporate Trustee, is also a director, officer, or employee; (ii) an affiliate or business associate of any beneficiary or the Trustee; or (iii) a beneficiary or Trustee under this Trust Agreement acting individually, or any relative of such a party.

**7.30 Additional Powers for Income-Producing Real Estate.** In addition to the other powers set forth above or otherwise conferred by law, the Trustee has the following powers with respect to any income-producing real property which is or may become a part of the Trust Estate:

- To retain and operate the property for as long as it deems advisable;
- To control, direct, and manage the property, determining the manner and extent of its active participation in these operations, and to delegate all or any part of its supervisory power to other persons that it selects;

- To hire and discharge employees, fix their compensation, and define their duties;
- To invest funds in other land holdings and to use those funds for all improvements, operations, or other similar purposes;
- Except as otherwise provided with respect to mandatory income distributions, to retain any amount of the net earnings for working capital and other purposes that it deems advisable in conformity with sound and efficient management; and
- To purchase and sell machinery, equipment, and supplies of all kinds as needed for the operation and maintenance of the land holdings

**ARTICLE 8  
SUBCHAPTER S STOCK**

Despite any other provisions of this Trust Agreement, if a trust created in this instrument is to become the owner of, or already owns, stock in a corporation that has an election in effect (or one that proposes to make an election) under Section 1362 of the Internal Revenue Code (an "S Corporation"), and that trust would not otherwise be permitted to be an S Corporation shareholder, the following provisions will apply:

**8.1 Electing Small Business Trust.** The Trustee in its discretion may elect for the trust to become an Electing Small Business Trust ("ESBT") as defined in the Internal Revenue Code.

**8.2 Qualified Subchapter S Trust.** If the Trustee does not cause the trust to become an ESBT, the Trustee shall set aside the S Corporation stock in a separate trust for the current income beneficiary of such trust, so that a Qualified Subchapter S Trust ("QSST") election under Section 1361 of the Internal Revenue Code can be filed with respect to that trust. The Trustee shall hold each share as a separate QSST for the persons described above, and each such person will be the sole beneficiary of his or her QSST. To the greatest extent possible, the Trustee shall administer each QSST under the terms of the trust from which it was derived, but subject to the following overriding provisions:

(a) **Consent.** The Trustee shall notify the beneficiary of each separate trust promptly that a QSST election must be filed with the Internal Revenue Service. Thereafter, each beneficiary shall file a timely and proper QSST election with the Internal Revenue Service. If a beneficiary fails or refuses to make the QSST election, the Trustee shall make an ESBT election for that trust. If the beneficiary does make the QSST election, then his or her separate trust will be administered as set forth below.

(b) **Income Payments.** During the beneficiary's life, the Trustee shall pay all net income of the trust to the beneficiary (and only to that beneficiary) in quarterly or more frequent installments. The beneficiary's income interest in the trust

will terminate on the earlier of his or her death or the termination of the trust under its terms.

(c) **Principal Invasions.** If the beneficiary is otherwise entitled to receive principal distributions, the Trustee may distribute principal from that separate trust during the beneficiary's life only to or for the benefit of that beneficiary (and no one else).

(d) **Final Distribution.** If the QSST is terminated during the beneficiary's life, the Trustee shall distribute all remaining assets of that separate trust to that beneficiary. If the beneficiary dies before that trust's termination, all remaining assets of the QSST are to be distributed as provided in the original trust, but subject to this article.

(e) **Termination of QSST Status.** If a separate trust would cease to qualify as an S Corporation shareholder, the Trustee in its discretion may: (i) make an ESBT election for that separate trust, or (ii) distribute all S Corporation stock to the beneficiary. The Trustee in its discretion also may convert a QSST to an ESBT, whether or not the beneficiary has consented to QSST treatment and, if the beneficiary consents, may convert an ESBT into a QSST.

#### ARTICLE 9 PERPETUITIES PROVISION

Despite any contrary provisions of this Trust Agreement, from the creation of this Trust and for up to 21 years after the death of the last of the Setlor's grandparents' descendants who are living at the creation of this Trust, a trust beneficiary (which includes persons succeeding to the interest of a deceased beneficiary) will be entitled to terminating distributions only at the ages specified in this Trust Agreement. In all events, however, the share of each beneficiary will vest (in the beneficiary or his or her estate) immediately prior to the expiration of the 21 year period described above.

#### ARTICLE 10 ADMINISTRATION AND CONSTRUCTION

10.1 **Rules for Distributions.** In making distributions to beneficiaries under this Trust Agreement, the Trustee must use the following criteria.

(a) **Other Resources.** Whenever the Trustee has the authority to decide how much to distribute to or for the benefit of a beneficiary, the Trustee can make decisions without taking into account any information about the beneficiary's other available income and resources. The Trustee can make payments directly to a beneficiary or to other persons for the beneficiary's benefit, but it does not have to make payments to a court appointed guardian.

(b) **Trustee's Decision.** Absent clear and convincing evidence of bad faith, the Trustee's decisions as to amounts to be distributed will be final.



(c) **Standard of Living.** Distributions to a beneficiary for health, education, support, or maintenance are to be based on his or her standard of living, determined as of the date of the distribution.

**10.2 Funding Gifts.** The following rules will apply to funding gifts under this Trust Agreement.

(a) **Pecuniary Gifts.** All pecuniary gifts under this Trust Agreement that are paid by an in-kind distribution of assets must use values having an aggregate fair market value at the date or dates of distribution equal to the amount of this gift as finally determined for federal estate tax purposes.

(b) **Adjustments.** The Trustee shall select one or more dates of allocation or distribution for purposes of satisfying gifts and funding shares or trusts. The Trustee may make allocations before the final determination of federal estate tax, with those allocations being based upon the information then available to the Trustee, and may thereafter adjust properties among the shares or trusts if it is determined that the allocation should have been made differently.

**10.3 Accumulated Income.** Any income not distributed to the beneficiaries pursuant to either a mandatory direction or a discretionary power is to be incorporated into principal, at such intervals as the Trustee deems convenient.

**10.4 Estate Tax on Included Property.** If assets of any trust created under this Trust Agreement are included in a beneficiary's estate for federal estate tax purposes, the following will apply.

(a) **Appointed Assets.** If the beneficiary exercises a power of appointment over those assets, the Trustee is authorized to withhold from those assets the amount of estate taxes apportioned to them by applicable law, if the beneficiary does not make provisions for the payment of those taxes from other sources.

(b) **Other Assets.** If the beneficiary does not have or does not exercise a power of appointment over those assets, the Trustee will pay the estate taxes attributable to those assets. The estate taxes attributable to those assets will be the amount that the beneficiary's estate taxes are increased over the amount those taxes would have been if those assets had not been included in the beneficiary's gross estate.

(c) **Certification and Payment.** The Trustee may rely upon a written certification by the beneficiary's personal representative of the amount of the estate taxes, and may pay those taxes directly or to the personal representative of the beneficiary's estate. The Trustee will not be held liable for making payments as directed by the beneficiary's personal representative.

**10.5 Transactions With Other Entities.** The Trustee may buy assets from other estates or trusts, or make loans to them, so that funds will be available to pay claims, taxes, and expenses. The Trustee can make those purchases or loans even if it

serves as the fiduciary of that estate or trust, and on whatever terms and conditions the Trustee thinks are appropriate, except that the terms of any transaction must be commercially reasonable.

**ARTICLE 11**  
**MISCELLANEOUS PROVISIONS**

**11.1 Definitions.** As used in this Trust Agreement, the following terms have the meanings set forth below:

**(a) Trustees.**

- (1) **Independent Trustee** means a trustee of a particular trust, either individual or corporate, who is not the Settlor or a beneficiary, and who is not a Related Person as to the Settlor or a beneficiary (if the Settlor or the beneficiary, respectively, is living and participated in that person's appointment). For purposes of this definition a beneficiary is a person who is a permissible distributee of income or principal, or someone with an interest in the trust in excess of five percent (5%) of its value, assuming a maximum exercise of discretion in his or her favor. Whenever this Trust Agreement requires an action be taken by, or in the discretion of, an Independent Trustee but no such Trustee is then serving, a court may appoint an Independent Trustee to serve as an additional Trustee whose sole function and duty will be to exercise the specified power.
- (2) **Corporate Trustee** means a trustee that is a bank, trust company, or other entity authorized to serve as a trustee under the laws of the United States or any state thereof that is not a Related Person to the Settlor. A bank or trust company that does not meet this requirement cannot serve as Trustee.

**(b) Internal Revenue Code Terms.**

- (1) **Internal Revenue Code** means the federal Internal Revenue Code of 1986, as amended from time to time, or successor provisions of future federal internal revenue laws.
- (2) The terms **health, education, support, and maintenance** are intended to set forth an "ascertainable standard," as described in the Internal Revenue Code and its associated Regulations. To the extent not inconsistent with the foregoing, "health" means a beneficiary's physical and

mental health, including but not limited to payments for examinations, surgical, dental, or other treatment, medication, counseling, hospitalization, and health insurance premiums; "education" means elementary, secondary, post-secondary, graduate, or professional schooling in an accredited institution, public or private, or attendance at other formal programs in furtherance of the beneficiary's spiritual, athletic, or artistic education, including but not limited to payments for tuition, books, fees, assessments, equipment, tutoring, transportation, and reasonable living expenses.

- (3) **Related Person** as to a particular individual is someone who is deemed to be "related or subordinate" to that individual under Section 672(c) of the Internal Revenue Code (as though that individual was a grantor).

(c) **Other Terms.**

- (1) Distributions that are to be made to a person's descendants, per stirpes, will be divided into equal shares, so that there will be one share for each living child (if any) of that person and one share for each deceased child who has then living descendants. The share of each deceased child will be further divided among his or her descendants on a per stirpes basis, by reapplying the preceding rule to that deceased child and his or her descendants as many times as necessary.
- (2) **Disabled or under a disability** means (i) being under the legal age of majority, (ii) having been adjudicated to be incapacitated, or (iii) being unable to manage properly personal or financial affairs because of a mental or physical impairment (whether temporary or permanent in nature). A written certificate executed by an individual's attending physician confirming that person's impairment will be sufficient evidence of disability under item (ii) above, and all persons may rely conclusively on such a certificate.
- (3) **Removal of a Trustee for cause** includes, without limitation, the following: the willful or negligent *mismanagement of the trust assets* by that individual Trustee; the abuse or abandonment of, or inattention to, the trust by that individual Trustee; a federal or state charge against that individual Trustee involving the commission of a felony or serious misdemeanor; an act of theft,

dishonesty, fraud, embezzlement, or moral turpitude by that individual Trustee; or the use of narcotics or excessive use of alcohol by that individual Trustee.

- (4) The words **will** and **shall** are used interchangeably in this Trust Agreement and mean, unless the context clearly indicates otherwise, that the Trustee must take the action indicated; as used in this Trust Agreement, the word **may** means that the Trustee has the discretionary authority to take the action but is not automatically required to do so.

**11.2 Powers of Appointment.** The following provisions relate to all powers of appointment under this Trust Agreement.

- (a) A **general power of appointment** granted to a person is one that can be exercised in favor of that person or his or her estate, his or her creditors, or the creditors of his or her estate.
- (b) A **special power of appointment** is any power that is not a general power.
- (c) A **testamentary power of appointment** (either general or special) is exercisable upon the powerholder's death by his or her Last Will or by a revocable trust agreement established by that person, but only by specific reference to the instrument creating the power. A "testamentary power of appointment" may not be exercised in favor of the person possessing the power.
- (d) In determining whether a person has exercised a testamentary power of appointment, the Trustee may rely upon an instrument admitted to probate in any jurisdiction as that person's Last Will, or upon any trust agreement certified to be valid and authentic by sworn statement of the trustee who is serving under that trust agreement. If the Trustee has not received written notice of such an instrument within six months after the powerholder's death, the Trustee may presume that the powerholder failed to exercise that power and will not be liable for acting in accordance with that presumption.

**11.3 Notices.** Any person entitled or required to give notice under this Trust Agreement shall exercise that power by a written instrument clearly setting forth the effective date of the action for which notice is being given. The instrument may be executed in counterparts.

**11.4 Certifications.**

- (a) **Facts.** A certificate signed and acknowledged by the Trustee stating any fact affecting the Trust Estate or the Trust Agreement will be conclusive

evidence of such fact in favor of any transfer agent and any other person dealing in good faith with the Trustee. The Trustee may rely on a certificate signed and acknowledged by any beneficiary stating any fact concerning the Trust beneficiaries, including dates of birth, relationships, or marital status, unless an individual serving as Trustee has actual knowledge that the stated fact is false.

(b) **Copy.** Any person may rely on a copy of this instrument (in whole or in part) certified to be a true copy by the Settlor; by any person specifically named as a Trustee (or successor Trustee); by any Corporate Trustee whether or not specifically named; or, if there are none of the above, by any then serving Trustee.

**11.5 Applicable Law.** All matters involving the validity and interpretation of this Trust Agreement are to be governed by Florida law. Subject to the provisions of this Trust Agreement, all matters involving the administration of a trust are to be governed by the laws of the jurisdiction in which the trust has its principal place of administration.

**11.6 Gender and Number.** Reference in this Trust Agreement to any gender includes either masculine or feminine, as appropriate, and reference to any number includes both singular and plural where the context permits or requires. Use of descriptive titles for articles and paragraphs is for the purpose of convenience only and is not intended to restrict the application of those provisions.

**11.7 Further Instruments.** The Settlor agrees to execute such further instruments as may be necessary to vest the Trustee with full legal title to the property transferred to this Trust.

**11.8 Binding Effect.** This Trust Agreement extends to and is binding upon the Settlor's Personal Representative, successors, and assigns, and upon the Trustee.

There is no date above.

Executed as of the date first written above.

Signed in the presence of:

Julie M. Johnson  
[Signature]

Two witnesses as to Simon Bernstein

Signed in the presence of:

Julie M. Johnson  
[Signature]

Two witnesses as to Traci Kratish

SETTLOR

[Signature]  
Simon Bernstein

Kratish denies having signed this document.

TRUSTEE

Traci Kratish, P.A.

[Signature] FOR TRACI KRATISH, P.A.  
[Signature] AS PRESIDENT

Traci Kratish, ~~P.A.~~, President

Whose signature is this as the second witness?

Whose signature is this as the second witness?

*Schedule A*  
**Initial Transfers to Trust**

Transfer of 6 shares of LIC Holdings, Inc.