

IN THE CIRCUIT COURT OF THE 15TH  
JUDICIAL CIRCUIT, IN AND FOR PALM  
BEACH COUNTY, FLORIDA

CASE NO. 502014CA14637XXXXMB  
HON. GREGORY M. KEYSER

ELIOT BERNSTEIN, individually;  
ELIOT BERNSTEIN as a beneficiary of the  
2008 SIMON L. BERNSTEIN TRUST  
AGREEMENT, as amended and restated in the  
SIMON L. BERNSTEIN AMENDED AND  
RESTATED TRUST AGREEMENT dated  
July 25, 2012 and as Legal Guardian of  
JOSHUA BERNSTEIN, JACOB BERNSTEIN,  
and DANIEL BERNSTEIN,

Plaintiffs,

v.

THEODORE STUART BERNSTEIN, individually;  
THEODORE STUART BERNSTEIN, as Successor  
Trustee of the 2008 SIMON L. BERNSTEIN  
TRUST AGREEMENT, as amended and restated in the  
SIMON L. BERNSTEIN AMENDED AND RESTATED  
TRUST AGREEMENT dated July 25, 2012;  
ALEXANDRA BERNSTEIN;  
ERIC BERNSTEIN;  
MICHAEL BERNSTEIN;  
MOLLY SIMON;  
JULIA IANTONI;  
MAX FRIEDSTEIN;  
CARLY FRIEDSTEIN;  
JOHN AND JANE DOE 1-5000,

Defendants.

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**URGENT MOTION FOR COURT TO INSTANTLY REMOVE ON ITS OWN  
MOTION TED BERNSTEIN AS ALLEGED SUCCESSOR TRUSTEE AND  
HIS COUNSEL ALAN B. ROSE, ESQ. UNDER FLORIDA STATUTE 736.0706  
BASED ON NEW INFORMATION OF FIDUCIARY AND ATTORNEY AT  
LAW BREACHES OF FIDUCIARY DUTIES AND ALLEGED UNLAWFUL  
AND UNETHICAL MISCONDUCT**

COMES NOW, Eliot Ivan Bernstein (“Eliot” or “Plaintiff”), Pro Se, individually and

Wednesday, February 18, 2015

URGENT MOTION FOR COURT TO INSTANTLY REMOVE ON ITS OWN MOTION TED BERNSTEIN AS  
ALLEGED SUCCESSOR TRUSTEE AND HIS COUNSEL ALAN B. ROSE, ESQ...

as a beneficiary of the “2008 SIMON L. BERNSTEIN TRUST AGREEMENT, as amended and restated in the SIMON L. BERNSTEIN AMENDED AND RESTATED TRUST AGREEMENT dated July 25, 2012” and Eliot as Guardians for his three minor children, as alleged beneficiaries, of the “SIMON L. BERNSTEIN AMENDED AND RESTATED TRUST AGREEMENT dated July 25, 2012” and hereby files this “**URGENT MOTION FOR COURT TO INSTANTLY REMOVE ON ITS OWN MOTION TED BERNSTEIN AS ALLEGED SUCCESSOR TRUSTEE AND HIS COUNSEL ALAN B. ROSE, ESQ. UNDER FLORIDA STATUTE 736.0706 BASED ON NEW INFORMATION OF FIDUCIARY AND ATTORNEY AT LAW BREACHES OF FIDUCIARY DUTIES AND ALLEGED UNLAWFUL AND UNETHICAL MISCONDUCT**” and in support thereof states, on information and belief, as follows:

1. That Florida Statute 736.0706 states

**Removal of trustee.—**

- (1) The settlor, a cotrustee, or a beneficiary may request the court to remove a trustee, or a trustee may be **removed by the court on the court’s own initiative.**
- (2) **The court may remove a trustee if:**
  - (a) **The trustee has committed a serious breach of trust;**
  - (b) The lack of cooperation among cotrustees substantially impairs the administration of the trust;
  - (c) **Due to the unfitness, unwillingness, or persistent failure of the trustee to administer the trust effectively, the court determines that removal of the trustee best serves the interests of the beneficiaries;** or
  - (d) There has been a substantial change of circumstances or removal is requested by all of the qualified beneficiaries, the court finds that removal of the trustee best serves the interests of all of the beneficiaries and is not inconsistent with a material purpose of the trust, and a suitable cotrustee or successor trustee is available.
- (3) **Pending a final decision on a request to remove a trustee, or in lieu of or in addition to removing a trustee, the court may order such appropriate relief under s. 736.1001(2) as may be necessary to protect the trust property or the interests of the beneficiaries.**

History.—s. 7, ch. 2006-217.

2. Further Florida Bar Rules state,

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RULE 4-8.3 REPORTING PROFESSIONAL MISCONDUCT  
4 RULES OF PROFESSIONAL CONDUCT  
4-8 MAINTAINING THE INTEGRITY OF THE PROFESSION  
RULE 4-8.3 REPORTING PROFESSIONAL MISCONDUCT

- (a) Reporting Misconduct of Other Lawyers. A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects shall inform the appropriate professional authority.
3. That Eliot has already filed Petitions and Motions to Remove Theodore S. Bernstein (“Ted”) with this Court, which are waiting to be heard that detail and provide prima facie evidence of a number of very serious alleged violations of fiduciary duties and state and federal criminal codes against the alleged Successor Trustee Ted and his counsel, Alan B. Rose, Esq. (“Rose” or “Alan”), including language in the alleged Trust document that prohibits Ted from being a Successor Trustee of the Simon Estate.
  4. That Eliot has recently come into possession of new Prima Facie evidence (see Exhibit A – December 16, 2014 Email between Peter Feaman, Esq. and Brian O’Connell, Esq. exposing Attorney at Law and Fiduciary Misconduct) that causes the Court to now act on its own initiative under 736,0706 (2) to remove Ted and Rose, due to a serious breach of trust exposed, involving alleged violations of attorney conduct codes, fiduciary duties and law, as so stated by an attorney at law, Peter Feaman, Esq. (Creditor William Stansbury Counsel) in an email sent to Brian O’Connell, Esq. (Personal Representative of the Estate of Simon) that reports on the misconduct of another attorney at law, Rose and Ted as an alleged Fiduciary, both Officers of this Court.
  5. The email exchange exhibits unfitness, unwillingness, or persistent failure of the alleged Successor Trustee to administer the trust effectively and contains information regarding conflicts of interest of Ted and Rose and other violations of ethics and law taking place, which provide cause for the court, ON ITS OWN INITIATIVE to determine if removal of the alleged Successor Trustee best serves the interests of the beneficiaries and thereby compels this Court to act on its

own motion to remove Ted instantly in order to protect the beneficiaries, creditors, interested parties, the integrity of this Court and the assets of the Simon Trust, the Shirley Trust and the Shirley Estate.

6. That the email exchange between Attorney at Law, Peter Feaman, Esq., who has been representing a Creditor to the Estate and Trusts of Simon and Shirley Bernstein, William Stansbury and the newly appointed Personal Representative of the Estate of Simon, Brian O'Connell, Esq., states in part:

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

Brian,

When you and I spoke last week you indicated that you were in favor of the settlement that Mr. Stansbury had signed and sent to you for signature. You indicated that you had to work out funding with the trust. Meanwhile, the Life insurance litigation in Chicago is moving forward. Our attorneys are taking a deposition in Chicago the week after New Years of "Scooter" Bernstein, I think. They also want to depose Ted Bernstein and Robert Spallina in early January as well. I offered my office as a locale for those depositions.

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

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

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

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

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

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

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

I welcome your thoughts on this.

*Peter M. Feaman*

PETER M. FEAMAN, P.A.

3695 West Boynton Beach Boulevard  
Suite 9

Boynton Beach, FL 33436

Telephone: 561-734-5552

Facsimile: 561-734-5554

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

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

7. That this email exchange exposes that there is alleged conspiratorial misconduct by the Fiduciary in charge of various estate and trusts of Simon and Shirley, Theodore Stuart Bernstein and his counsel, Alan B. Rose, Esq., who he has retained in a variety of capacities to replace his former disgraced Attorneys at Law, Robert Spallina, Esq. and Donald Tescher, Esq. who have been

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removed from the Estates and Trusts of Simon and Shirley Bernstein in all legal and fiduciary capacities they alleged to have had, due to their own personal and law firm's involvement in a series of Felony Acts, including but far from limited to,

- i. Fraudulently Altering a Trust document in efforts to change beneficiaries unlawfully and making distribution to improper parties in efforts to fraud other beneficiaries,
  - ii. Fraudulently amending and restating a trust document,
  - iii. Fraudulently Notarizing six documents, for six separate parties, including for Simon Post Mortem leading to arrest and conviction of their Legal Assistant and Notary Public Kimberly Moran,
  - iv. Forging six documents, for six separate parties, including for Simon Post Mortem,
  - v. Depositing six fraudulently notarized and six forged documents with the Court as part of a fraud on this Court,
  - vi. Depositing the six documents and other documents necessary to close the Estate of Shirley Bernstein on behalf of a deceased Personal Representative, Simon Bernstein, in order to fraudulently close the Estate of Shirley Bernstein, which was subsequently reopened and remains so today, due to these felonies.
8. That this email exchange from Feaman to O'Connell relates to Ted Bernstein and his counsel's actions in an Illinois Federal Court action, whereby again Ted acts as an alleged Successor Trustee to a legally nonexistent trust, in self-dealing efforts to convert an insurance policy to improper parties, including himself, as part of an alleged fraud to pay improper parties a life insurance policy death benefit. (See Exhibit B - NON-JOINT REASSIGNMENT MINORITY STATUS REPORT)

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9. That the Court may recall in an earlier hearing before Hon. Judge Colin to remove Ted that was delayed due to a standing issue that caused a new trust lawsuit to be ordered by Your Honor, Brian O'Connell made an initial opening statement to the Court that Ted Bernstein was precluded by the language of the alleged Simon Trust to be a fiduciary and read into the record the trust language that precluded him but the Court did not act at that time to remove Ted, despite the obvious violation of trusteeship.
10. That Tescher and Spallina are alleged to have committed a series of other state and federal criminal offenses and civil torts, including Insurance Fraud and Fraud on a Federal Court, in conspire with Ted that are all under ongoing criminal investigations and are part of ongoing civil cases in both state and federal courts that directly implicate Ted and his counsel Alan B. Rose, Esq. and others in the criminal activities under investigation, (see Exhibit B – Palm Beach County Sheriff Supplemental Report.)
11. That this email between Feaman and O'Connell implicates other serious breaches of fiduciary duties, ethical cannons and law that Alan B. Rose, Esq. is directly involved in and facilitating through improper and illegal representation of Ted and as such, Florida Bar Rules state,

Rule 4-8.4 MISCONDUCT

A lawyer shall not:

- (a) violate or attempt to violate the Rules of Professional Conduct, **knowingly assist or induce** another to do so, or do so through the acts of another;
- (b) commit a criminal act that reflects adversely on the lawyers honesty, trustworthiness, or fitness as a lawyer in other respects;
- (c) **engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;**
- (d) **engage in conduct in connection with the practice of law that is prejudicial to the administration of justice--**

Comment: --Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of these characteristics relevant to law practice. Offenses involving violence, dishonesty, or breach of trust or serious interference with the administration of justice are in that category. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation.

12. That due to the serious nature of the misconduct levied against both Ted and Alan, alleged by a member of the Florida Bar, Feaman, to another member of the Florida Bar, O'Connell and now

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transmitted herein to Your Honor, yet another member of the Florida Bar, each licensed attorney having this knowledge of misconduct by an attorney at law and a fiduciary, both who are acting as Officers of this Court in these matters, are by the Attorney Conduct Code, RULE 4-8.3 REPORTING PROFESSIONAL MISCONDUCT and law, duty-bound to report this attorney and fiduciary misconduct to the appropriate state and federal criminal and ethical authorities, as the misconduct exposed appears to violate both ethics codes and law.

13. That until such matters are fully reported by the appropriate parties (Feaman, O'Connell and Your Honor) to the proper authorities and all ongoing criminal investigations and civil actions against both Ted and Alan are adjudicated to conclusion, this Court must act on its own initiative as allowed and remove Ted and his counsel Alan from any further fiducial or legal capacities in the Estates and Trusts of Simon and Shirley Bernstein and as Officers of this Court until these matters are resolved. This action of the Court would be in the interest of protecting the Beneficiaries and Interested Parties who have already been harmed by the proven criminal actions of Ted's former counsel, Tescher and Spallina, who also acted as Fiduciaries and Attorneys at Law in the Simon Estate and Trusts and attempted to fraudulently change beneficiaries of the Estates and Trusts to benefit their business associate and close personal friend, Ted.

14. That the Court must take these actions to preclude new crimes from being committed, new breaches from occurring and loss of further Estate and Trust assets from the continued misconduct, including continued Fraud on this Court, the beneficiaries and others. As attorney Feaman claims in his email this is putting EVERYONE at risk, including this Court, the Beneficiaries, Creditors, other Attorneys at Law who are forced to work with knowingly conflicted parties.

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15. That the Court should notify the Federal Court in Illinois of the alleged conflict of interest in that litigation that the Estate is now involved in after this Court approved the intervention that Ted and his counsel attempted to block and where the Illinois Federal Court has now accepted the Estate as an intervenor.
16. That the Court should be apprised that the beneficiaries are alleged to include five minor children under the tutelage of this Court and that all five appear not to have legal counsel protecting their interests and their parents have conflicting interests. These conflicts in certain instances may be the reason no counsel has been secured for the minors by the alleged Successor Trustee Ted, who is conflicted with all the beneficiaries other than his own children or their parents.
17. That hearings to remove Theodore and his counsel remain pending, filed by Beneficiaries and Interested Parties, however, based on this new Prima Facie evidence requiring immediate reporting and investigation to the appropriate regulatory agencies of the alleged misconduct, this Court must act immediately and on its initiative to remove Ted and Alan and report these matters.
18. That a list of filings (see Exhibit D) - Petitions and Motions to Remove Fiduciaries) to remove Ted await being heard in the Estate of Simon, the Shirley Estate and Shirley Trust, all containing irrefutable reasons for this Court to act on its own initiative to remove Ted, especially where some of the filings are from licensed attorneys at law that show misconduct of Ted as a fiduciary and his counsel Rose.
19. That Eliot is filing Pro Se to have hearings to remove Ted in the Shirley Trust, the Simon Trust and the Shirley Estate and has met obstacle after obstacle trying to schedule these hearings with Alan despite the fact that the Court has requested to have these hearings heard next to determine if Ted is qualified at this time to be a fiduciary. Every scheduling attempt is met with delays by Rose who at each turn attempts to have other matters heard to benefit Ted prior to the hearings to

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ALLEGED SUCCESSOR TRUSTEE AND HIS COUNSEL ALAN B. ROSE, ESQ...

determine if Ted is qualified. If this Court will not remove Ted on its own motion based on the facts already presented to the Court in countless filings to remove Ted by Eliot and others, then this Court must demand a hearing time as soon as possible and force the hearing to remove Ted to be heard before any other matters involving Ted and his counsel are heard, in order to protect the interests of the beneficiaries, creditors and interested parties and prevent further fraud, waste and abuse from occurring.

20. That no administration of the Estate and Trusts where Ted and his counsel are acting can move forward until the motions to remove Ted are heard. Any actions before the Court that are heard prior to the hearings to remove Ted and any orders derived from them will all have to be reheard if in fact Ted is later found to have not been qualified to act as a fiduciary, all costing everyone involved a fortune in time, effort and monies to hear knowingly frivolous, vexatious and fraudulent filings tendered by Ted and Rose.
21. That in a recent filing in the Shirley Trust Construction Case that Ted and Alan filed (Case # 502014CP003698XXXXSB - Filing # 23874665 E-Filed 02/17/2015 05:23:37 PM – “ANSWER AND AFFIRMATIVE DEFENSE”) in an Answer filed by the newly appointed Personal Representative of the Estate of Simon, Brian O’Connell, Esq., (who this Court has already noted his outstanding capabilities as an Attorney at Law in Florida) states, “AFFIRMATIVE DEFENSE - 1. First Affirmative Defense - Lack of Standing - Ted Bernstein lacks the requisite standing **as he is not validly serving as Trustee of the Simon Trust**, is not a beneficiary of the Simon Trust, and is not representing any minor child that is a beneficiary of the Simon Trust. **[emphasis added]**” Again, Brian O’Connell, Esq. a licensed attorney at law is notifying the Court that **Ted is not a valid Trustee** and he already informed the Court in a hearing before Your Honor on August 19, 2014 to remove Ted that language which he read into the record from

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the alleged Simon Trust specifically precludes Ted from acting as Trustee. That the hearing was challenged on standing and by Court Order had to be refiled in a new case, as the filing to remove Ted was filed in the Simon Estate case and was to remove Ted in the Simon Trust.

WHEREFORE, Eliot requests that this Court enter an order;

- i. on its own initiative under Florida Statute 736.0706 to remove Theodore Stuart Bernstein as the alleged Successor Trustee of the Simon Trust for good and just cause,
- ii. secure all records and assets of the Simon Trust until a new Successor Trustee can be found,
- iii. order an immediate EMERGENCY hearing to remove Ted if necessary that the Court schedules and all parties with interests are compelled to attend,
- iv. notifying the appropriate state and federal authorities of the alleged misconduct of Ted and Alan as required under Attorney Conduct Codes, Judicial Cannon and law,
- v. award Pro Se legal fees and costs of Eliot and Candice Bernstein,
- vi. any other remedies, relief, damages and sanctions this Court finds apropos.

Filed on Wednesday, February 18, 2015

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

X\_\_\_\_\_

**CERTIFICATE OF SERVICE**

Wednesday, February 18, 2015  
URGENT MOTION FOR COURT TO INSTANTLY REMOVE ON ITS OWN MOTION TED BERNSTEIN AS ALLEGED SUCCESSOR TRUSTEE AND HIS COUNSEL ALAN B. ROSE, ESQ...

I, ELIOT IVAN BERNSTEIN, HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by email to all parties on the following Service List, Wednesday, February 18, 2015.

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

X\_\_\_\_\_

**SERVICE LIST**

<p>Alan B. Rose, Esq. PAGE, MRACHEK, FITZGERALD, ROSE, KONOPKA, THOMAS &amp; WEISS, P.A. 505 South Flagler Drive, Suite 600 West Palm Beach, Florida 33401 arose@pm-law.com and <a href="mailto:arose@mrachek-law.com">arose@mrachek-law.com</a></p>	<p>John P Morrissey. Esq. John P. Morrissey, P.A. 330 Clematis Street Suite 213 West Palm Beach, FL 33401 <a href="mailto:john@jmorrisseylaw.com">john@jmorrisseylaw.com</a></p>	<p>Carley &amp; Max Friedstein, Minors c/o Jeffrey and Lisa Friedstein Parents and Natural Guardians 2142 Churchill Lane Highland Park, IL 6003 Lisa@friedsteins.com lisa.friedstein@gmail.com</p>
<p>Julia Iantoni, a Minor c/o Guy and Jill Iantoni, Her Parents and Natural Guardians 210 I Magnolia Lane Highland Park, IL 60035 <a href="mailto:jilliantoni@gmail.com">jilliantoni@gmail.com</a></p>		

# EXHIBIT A

DECEMBER 16, 2014 EMAIL BETWEEN  
PETER FEAMAN, ESQ. AND BRIAN  
O'CONNELL, ESQ. EXPOSING ATTORNEY  
AT LAW AND FIDUCIARY MISCONDUCT

## Eliot Ivan Bernstein

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**Subject:** FW: Bernstein Estate

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Subject: Bernstein Estate

Date: Tue, 16 Dec 2014 15:57:54 -0500

From: [pfeaman@feamanlaw.com](mailto:pfeaman@feamanlaw.com)

To: [boconnell@ciklinlubitz.com](mailto:boconnell@ciklinlubitz.com)

CC: [jroyer@feamanlaw.com](mailto:jroyer@feamanlaw.com)

Brian,

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

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

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

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

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

I offered my office as a locale for those depositions.

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

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

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

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

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

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

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

I welcome your thoughts on this.

*Peter M. Feaman*

PETER M. FEAMAN, P.A.

3695 West Boynton Beach Boulevard

Suite 9

Boynton Beach, FL 33436

Telephone: 561-734-5552

Facsimile: 561-734-5554

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

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# EXHIBIT B

## NON-JOINT REASSIGNMENT MINORITY STATUS REPORT



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

SIMON BERNSTEIN IRREVOCABLE )  
INSURANCE TRUST DTD 6/21/95, )

Plaintiff, )

v. )

HERITAGE UNION LIFE INSURANCE )  
COMPANY, )

Defendant, )

HERITAGE UNION LIFE INSURANCE )  
COMPANY )

Counter-Plaintiff )

v. )

SIMON BERNSTEIN IRREVOCABLE )  
INSURANCE TRUST DTD 6/21/95 )

Counter-Defendant )

and, )

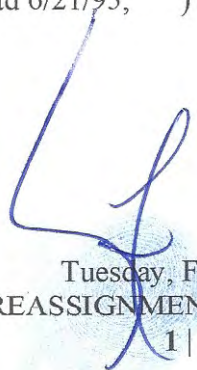
FIRST ARLINGTON NATIONAL BANK )  
as Trustee of S.B. Lexington, Inc. Employee )  
Death Benefit Trust, UNITED BANK OF )  
ILLINOIS, BANK OF AMERICA, )  
Successor in interest to LaSalle National )  
Trust, N.A., SIMON BERNSTEIN TRUST, )  
N.A., TED BERNSTEIN, individually and )  
as purported Trustee of the Simon Bernstein )  
Irrevocable Insurance Trust Dtd 6/21/95, )

Case No. 13 cv 3643  
Honorable John Robert Blakey  
Magistrate Mary M. Rowland

**NON-JOINT REASSIGNMENT**  
**MINORITY STATUS REPORT**

**Filers:**

Eliot Ivan Bernstein, Third-Party Defendant  
and Counter-Plaintiff.



and ELIOT BERNSTEIN, )  
)  
Third-Party Defendants. )

ELIOT IVAN BERNSTEIN, )  
)  
Cross-Plaintiff )

v. )

TED BERNSTEIN, individually and )  
as alleged Trustee of the Simon Bernstein )  
Irrevocable Insurance Trust Dtd, 6/21/95 )

Cross-Defendant )  
and, )

PAMELA B. SIMON, DAVID B.SIMON, )  
both Professionally and Personally )  
ADAM SIMON, both Professionally and )  
Personally, THE SIMON LAW FIRM, )  
TESCHER & SPALLINA, P.A., )  
DONALD TESCHER, both Professionally )  
and Personally, ROBERT SPALLINA, )  
both Professionally and Personally, )  
LISA FRIEDSTEIN, JILL IANTONI )  
S.B. LEXINGTON, INC. EMPLOYEE )  
DEATH BENEFIT TRUST, S.T.P. )  
ENTERPRISES, INC. S.B. LEXINGTON, )  
INC., NATIONAL SERVICE )  
ASSOCIATION (OF FLORIDA), )  
NATIONAL SERVICE ASSOCIATION )  
(OF ILLINOIS) AND JOHN AND JANE )  
DOES )

Third-Party Defendants. )

BRIAN M. O'CONNELL, as Personal )  
Representative of the Estate of )  
Simon L. Bernstein, )

Intervenor. )

Tuesday, February 3, 2015

NON-JOINT REASSIGNMENT MINORITY STATUS REPORT

**REASSIGNMENT STATUS REPORT**

1. That the following Non-Joint Minority Status Report is filed by Third Party Defendant / Cross Plaintiff, Eliot Bernstein (“Eliot” or “Cross Plaintiff”), as he was unable to speak with all parties to have his suggestions heard due to a refusal by Plaintiff’s Attorney, Adam Simon, Esq. (“A. Simon”) to speak with him regarding adding significant changes to the “facts” regarding the status of the case.
2. That Eliot was not a filer of the Status Report Submitted already to this Court as it states on the cover page and objects to his name in that capacity.
3. In efforts to have Eliot’s suggested changes considered for inclusion in the other Status Report submitted without him, the estate of Simon Bernstein’s counsel, Mr. Kevin Horan, Esq. (“Horan”) tried honorably to have Eliot’s comments and concerns added but A. Simon appears to have refused virtually all of Eliot’s clarifying comments and refused to speak with Eliot as indicated in the attached exhibited emails from A. Simon.
4. In order to have Eliot’s concerns with the Status Report heard, Eliot spoke with Horan after he spoke with A. Simon and he suggested filing a separate report since it appeared futile to reach a joint agreement on the language with A. Simon, especially with his refusal to speak to Eliot or make, or even discuss civilly the suggested changes making the attempt to comport with the Court’s Order impossible to achieve.
5. Therefore, the easiest way to make the Court aware of the problems that necessitated two Status Reports appears to be to exhibit to the Court the drafts that were circulated to Eliot and Eliot’s redlined version, which he sent back to Horan and A. Simon, so that the Court can see

Tuesday, February 3, 2015

NON-JOINT REASSIGNMENT MINORITY STATUS REPORT

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what the disagreements were that led to separate Status Reports being filed and thus both sides can be heard.

6. Attached as Exhibit A, is the initial report sent to Eliot by Horan, after he and A. Simon worked together, without Eliot's input to formulate such, sending their compilation to him for a first review on 1/30/15, with only two days until the deadline.
7. Attached as Exhibit B, is Eliot's redlined version of the initial Status Report sent to him and whereby Eliot's comments are extensive as he had no input in the creation of the first draft.
8. Attached as Exhibit C, is a letter from A. Simon to Horan showing his refusal to compromise or discuss the changes suggested by Eliot that forced Eliot to file this separate report. An attempt by Horan to modify the document was made but A. Simon then refused to talk with Eliot to discuss the minor changes Eliot wanted in the revision and thereby forced Eliot to file separately after making the concerns noted to Horan.
9. Attached as Exhibit D, is a letter from Horan to Eliot with a final copy of the Status Report that Horan and A. Simon submitted, the attachment is omitted it was filed ECF with the Court already. Eliot was to have a chance to review the final as well but do an office snafu in Horan's office as described in his email, Eliot was not sent a final to review before they filed with Your Honor.
10. Eliot did not review the email with their filing until 2:49am on 2/3/2015, which was after the deadline to submit a Status Report according to Your Honor's request and Eliot prays the Court understand his untimely filing.
11. Eliot requests the Court use Exhibit B submitted herein as Eliot's final Status Report submitted to the Court.

Tuesday, February 3, 2015

NON-JOINT REASSIGNMENT MINORITY STATUS REPORT

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12. After reviewing the final submitted to the Court by Simon and Horan, Eliot would like to add the following substantive facts he suggested to Horan that were omitted from their final Joint Status, as these are significant misstatements of fact that remain.

- a. In reference to A. Simon's claim in the Status Report that Eliot's Motion to Remove him for conflicts of interest and more being denied by the Court, Eliot would like the Court to take Judicial Notice of the attached Exhibit E, which is a letter from the Creditor of Estate of Simon's attorney, Mr. Peter Feaman, Esq. ("Feaman") and the newly appointed Personal Representative / Executor of the Estate of Simon Bernstein, Mr. Brian O'Connell, Esq. ("O'Connell") describing Attorney at Law ethical and possible criminal continued misconduct regarding the representations in this litigation. That due to this letter amongst Attorneys at Law describing continued attorney and fiduciary misconduct in matters regarding Simon L. Bernstein the decedent's Estate and Trusts, the misconduct further described in Exhibit B, a thorough review by this Court of the misconduct should be undertaken before allowing A. Simon to continue what may be knowingly conflicted and perhaps illegal representations of parties in this matter, despite Judge Amy St. Eve's order to allow him to continue without certain new and germane facts contained in the exhibited letter.
- b. The Joint Status produced by Horan and Simon continues to refer to an alleged "Policy" when no such legally executed insurance contract has been produced by any party in this matter.

Tuesday, February 3, 2015

NON-JOINT REASSIGNMENT MINORITY STATUS REPORT

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- c. The Joint Status continues to attempt to define “beneficiaries” of the nonexistent “Policy,” where the beneficiaries are not yet known as the “Policy” naming them is missing and not produced to this Court. Reinsurers of the “Policy” have not been contacted to produce their records and copies of the “Policy” and further discovery will be necessary.
- d. The Joint Status refers to “beneficiaries” of the Estate of Simon Bernstein and the Court should note that there are upcoming hearings before Judge Martin Colin to determine if the dispositive documents in the Estate are legally valid and thus the beneficiaries different than what is alleged. The Governor of Florida, Rick Scott’s Notary Public Division has already investigated the dispositive documents notarization and determined that they were not properly notarized according to Florida Notary Public rules and regulations.
- e. That the Joint Status report fails to address the Primary Beneficiary as a viable beneficiary and attempts to claim benefits can be paid to the Contingent Beneficiary instead, without the Primary Beneficiaries consent or knowledge, which could lead to further fraudulent conversion of the benefits.
- f. That Ted Bernstein is an alleged “Trustee” of a legally nonexistent trust that claims to be the Plaintiff in this case, which trust is further an alleged Contingent Beneficiary of an alleged “Policy” that legally does not exist at this time. Where Ted mysteriously replaced Robert Spallina as the new Trustee when this lawsuit was filed several weeks after the claim was denied that was filed by Ted’s former counsel Spallina with Heritage Union Life, where Spallina acted as Trustee of the non-

Tuesday, February 3, 2015

NON-JOINT REASSIGNMENT MINORITY STATUS REPORT

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existent trust at that time in efforts to collect the proceeds to his law firm trust account.


- g. That the denied claim by a legally nonexistent beneficiary is what led to this Breach of Contract Lawsuit (the contract breached however is still not produced to this Court by any party after Rule 26 disclosures and no legally executed trust has been produced) and this is the genesis of the issues leading up to the this “breach of contract: suit filed by Ted acting as Plaintiff and alleged Trustee of a legally nonexistent entity, now trying to have proceeds converted to himself directly.
- h. That Eliot has not been included in any settlement talks that would obfuscate the need for this case to be tried and thus does not agree with the statement in the Joint Status referencing such alleged settlement.

Respectfully submitted,

DATED: Tuesday, February 3, 2015

  
/s/ Eliot Ivan Bernstein  
Third Party Defendant/Cross Plaintiff PRO SE

Eliot Ivan Bernstein  
2753 NW 34<sup>th</sup> St.  
Boca Raton, FL 33434  
Telephone (561) 245-8588  
[iviewit@iviewit.tv](mailto:iviewit@iviewit.tv)  
[www.iviewit.tv](http://www.iviewit.tv)

  
Tuesday, February 3, 2015

NON-JOINT REASSIGNMENT MINORITY STATUS REPORT

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on 2/3/15, I electronically filed the foregoing with the Clerk of the Court using CM/ECF. I also certify that the foregoing is being served this day on all counsel of record identified below via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner.

Tuesday, February 3, 2015

NON-JOINT REASSIGNMENT MINORITY STATUS REPORT

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**EXHIBIT A**

**INITIAL STATUS REPORT TENDERED TO ELIOT BY HORAN FOR COMMENT**



**Eliot Ivan Bernstein**

---

**From:** Kevin Horan <KHoran@stamostrucco.com>  
**Sent:** Friday, January 30, 2015 12:07 PM  
**To:** Adam Simon; Eliot Ivan Bernstein  
**Cc:** James J. Stamos  
**Subject:** Estate of Bernstein: Joint Status Report  
**Attachments:** Joint Status Report for E. Bernstein Review.DRAFT.doc

Adam and Eliot,

Attached please find a revised draft of the Joint Status Report, due to be filed on February 2, 2015. The current version reflects edits and revisions which were made and agreed upon by me and Adam this morning. Adam, if any of my revisions do not comport with your understanding of our earlier conversation, please let me know. Eliot, please review and respond with any suggested additions, deletions, or revisions.

Thanks in advance for your cooperation.

Best wishes,

Kevin

**Kevin P. Horan**  
Stamos & Trucco LLP  
One East Wacker Drive  
Third Floor  
Chicago, IL 60601  
[\(312\) 630-1208](tel:3126301208) Direct  
[\(312\) 630-7979](tel:3126307979) Main  
[\(312\) 630-1183](tel:3126301183) Fax  
[www.stamostrucco.com](http://www.stamostrucco.com)

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

SIMON BERNSTEIN IRREVOCABLE )  
INSURANCE TRUST DTD 6/21/95, )

Plaintiff, )

v. )

HERITAGE UNION LIFE INSURANCE )  
COMPANY, )

Defendant, )

HERITAGE UNION LIFE INSURANCE )  
COMPANY )

Counter-Plaintiff )

v. )

SIMON BERNSTEIN IRREVOCABLE )  
INSURANCE TRUST DTD 6/21/95 )

Counter-Defendant )

and, )

FIRST ARLINGTON NATIONAL BANK )  
as Trustee of S.B. Lexington, Inc. Employee )  
Death Benefit Trust, UNITED BANK OF )  
ILLINOIS, BANK OF AMERICA, )  
Successor in interest to LaSalle National )  
Trust, N.A., SIMON BERNSTEIN TRUST, )  
N.A., TED BERNSTEIN, individually and )  
as purported Trustee of the Simon Bernstein )  
Irrevocable Insurance Trust Dtd 6/21/95, )

**Case No. 13 cv 3643  
Honorable John Robert Blakey  
Magistrate Mary M. Rowland**

**JOINT REASSIGNMENT  
STATUS REPORT**

**Filers:**

Brian O'Connell, as Personal  
Representative of the Estate of  
Simon L. Bernstein, Intervenor;

Simon Bernstein Irrevocable Insurance Trust  
Dtd. 6/21/95, Plaintiff;

Eliot Ivan Bernstein, Third-Party Defendant  
and Counter-Plaintiff.



and ELIOT BERNSTEIN, )  
)  
Third-Party Defendants. )  
)  
ELIOT IVAN BERNSTEIN, )  
)  
Cross-Plaintiff )  
)  
v. )  
)  
TED BERNSTEIN, individually and )  
as alleged Trustee of the Simon Bernstein )  
Irrevocable Insurance Trust Dtd, 6/21/95 )  
)  
Cross-Defendant )  
and, )  
)  
PAMELA B. SIMON, DAVID B. SIMON, )  
both Professionally and Personally )  
ADAM SIMON, both Professionally and )  
Personally, THE SIMON LAW FIRM, )  
TESCHER & SPALLINA, P.A., )  
DONALD TESCHER, both Professionally )  
and Personally, ROBERT SPALLINA, )  
both Professionally and Personally, )  
LISA FRIEDSTEIN, JILL IANTONI )  
S.B. LEXINGTON, INC. EMPLOYEE )  
DEATH BENEFIT TRUST, S.T.P. )  
ENTERPRISES, INC. S.B. LEXINGTON, )  
INC., NATIONAL SERVICE )  
ASSOCIATION (OF FLORIDA), )  
NATIONAL SERVICE ASSOCIATION )  
(OF ILLINOIS) AND JOHN AND JANE )  
DOES )  
)  
Third-Party Defendants. )  
)  
BRIAN M. O'CONNELL, as Personal )  
Representative of the Estate of )  
Simon L. Bernstein, )  
)  
Intervenor. )

**REASSIGNMENT STATUS REPORT**

**I. Nature of the Case**

**A. Attorneys of Record**

Adam M. Simon (#6205304)  
303 E. Wacker Drive, Suite 210  
Chicago, IL 60601  
Phone: 313-819-0730  
Fax: 312-819-0773  
E-Mail: asimon@chicagolaw.com

**Attorney for:**

*Simon L. Bernstein Irrevocable Insurance Trust Dtd 6/21/95; Ted Bernstein as Trustee, Pam Simon, Jill Iantoni, Lisa Friedstein, David Simon, The Simon Law Firm, STP Enterprises, Inc.*

Eliot Ivan Bernstein  
2753 NW 34th St.  
Boca Raton, FL 33434  
*Pro Se*

James J. Stamos (#3128244)  
Kevin P. Horan (#6310581)  
STAMOS & TRUCCO LLP  
One East Wacker Drive, Third Floor  
Chicago, IL 60601  
Telephone: (312) 630-7979  
Facsimile: (312) 630-1183

**Attorney for:**

*Brian O'Connell, Personal Representative of the Estate of Simon Bernstein, Intervenor*

**B. Basis for Federal Jurisdiction**

This Court has jurisdiction over this matter in that it is a civil action wherein the parties are all citizens of different states and the amount in controversy exceeds \$75,000.00. 28 U.S.C. §1332(a).

**C. Nature of the Claims Asserted**

This matter involves a dispute over the proper disposition of proceeds of a life insurance policy (the "Policy") insuring the life of Simon L. Bernstein, who passed away in September of 2012. After Mr. Bernstein's death, four out of five of his adult children filed a Complaint in the Circuit Court of Cook County claiming a right to the proceeds of the Policy as alleged beneficiaries under a trust they describe as the "Simon Bernstein Irrevocable Insurance Trust Dtd. 6/21/95." (the "1995 Trust"). Because (i) no executed original or executed copy of the 1995



Trust could be located, and (ii) Eliot Bernstein, the fifth adult child of Simon Bernstein, filed a letter asserting a competing claim, the Defendant insurance company, Heritage Union Life Insurance Company, as successor to Capitol Bankers Life Insurance Company (the issuer of the Policy), removed the case to this Court on June 26, 2013, filed an Interpleader action pursuant to 28 U.S.C. §1335(a) in conjunction with its Answer to Plaintiff's Complaint. Heritage Union Life Insurance Company then deposited the Policy proceeds with the Registry of the Court and has since been dismissed from the suit. The Estate of Simon Bernstein, through its Curator (and later, Personal Representative), filed a Motion to Intervene and Complaint for Declaratory Judgment in June 2014; the Estate's Motion to Intervene was granted on July 28, 2014.

**D. Relief Sought by Parties**

1. Plaintiff seeks resolution of the competing claims in the Interpleader action and more specifically the court's finding that:

- a. The 1995 Trust is the beneficiary of the Policy Proceeds;
- b. The Trustee of the 1995 Trust is Ted Bernstein;
- c. The beneficiaries of the 1995 Trust are the five children of Simon Bernstein whom are: Ted Bernstein, Pam Simon, Eliot Bernstein, Jill Iantoni, and Lisa Friedstein; and
- d. That the Policy proceeds be distributed to the 1995 Trust as beneficiary of the Policy, and then distributed according to the terms of the 1995 Trust.

2. Intervenor seeks a judgment from this Court declaring that no valid beneficiary is named under the Policy and that the proceeds of the Policy must therefore be paid to Simon L. Bernstein's Estate, currently pending in the Circuit Court of Palm Beach County, Florida. The Estate's position is that no valid beneficiary of the Policy can be proven and the Estate therefore takes by default under applicable law. The Bernstein children have been unable to produce an executed 1995 Trust document under which they assert their rights. If the Policy proceeds are

not distributed to the Bernstein children (Plaintiffs), they will be paid to other beneficiaries of the Estate, who include the grandchildren of Simon Bernstein.

## **II. Discovery and Pending Motions**

### **A. Pending Motions**

Intervenor's Complaint for Declaratory Judgment (Dkt. No. 112) was filed June 5, 2014. Plaintiff has filed a Motion for Leave to file Answer to Intervenor's Complaint (Dkt. No. 132). No briefing schedule has been entered.

### **B. Discovery**

Plaintiff has produced documents pursuant to Fed. R. Civ. P. 26(a)(1). In addition, Eliot I. Bernstein and now-discharged third-party defendants have produced documents pursuant to Rule 26(a)(1). Intervenor has reviewed production documents received from Plaintiff, Eliot I. Bernstein, and third-party defendants and has taken the deposition of David B. Simon. Intervenor anticipates conducting additional discovery, including likely five (5) additional depositions. A deadline of January 9, 2015 for fact discovery to be completed, and March 6, 2015 for the filing of dispositive motions, was set by the court by its order entered August 28, 2014 [Dkt. #123].

A status hearing scheduled for January 6, 2015 was postponed to January 20, 2015. The January 20, 2015 status hearing was postponed indefinitely upon reassignment to this Court's docket. At the next status hearing, Intervenor will seek additional time in which to complete discovery; Plaintiff will oppose Intervenor's request.

### **C. Substantive Rulings Issued to Date**

Please see chronology at I. C. *supra*. Please also note:

1. Eliot Bernstein's motion to disqualify Adam Simon as counsel and to strike pleadings was denied by the Court (Dkt. No. 56);

2. All of the Banking parties, i.e. JP Morgan, Bank of America, and others, as well as third-party defendants Robert Spallina, Donald Tescher, and Tescher & Spallina, P.A., have been dismissed and terminated from the litigation after either having not been found, or having been dismissed on a motion to dismiss, or by disclaiming their own interests. None of the Bank parties claimed an interest in the Policy proceeds.

### **III. Trial**

There has been no jury demand and no trial date has been set. Intervenor will seek this Court's leave to conduct additional discovery, and additional time in which to do so, at the next status hearing. Plaintiff will oppose any motion for additional discovery, and is preparing to file a dispositive motion by March 6, 2015.

### **IV. Settlement and Referrals**

The parties do not request a settlement conference at this time. A previous referral to Judge Rowland (Dkt. No. 36) was closed on January 24, 2014 (Dkt. No. 80). Intervenor consents to proceed before the assigned Magistrate Judge for purposes of conducting a settlement conference. Plaintiffs do not believe a settlement conference will be productive at this time. The parties to this suit are also involved in disputes before the probate court administering the Estate in Florida. There is pending before that court a proposed settlement which could materially affect the rights of the parties and whether Intervenor's involvement in this suit will continue. The parties should be in a position to report on the status of that settlement at the next status hearing.





Respectfully submitted,

/s/ Kevin P. Horan

One of the attorneys for Intervenor, Brian M. O'Connell, as Personal Representative of the Estate of Simon L. Bernstein

James J. Stamos (ARDC 03128244)  
Kevin P. Horan (ARDC 06310581)  
STAMOS & TRUCCO LLP  
One East Wacker Drive, Third Floor  
Chicago, IL 60601  
Telephone: (312) 630-7979  
Facsimile: (312) 630-1183



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on \_\_\_\_\_, I electronically filed the foregoing with the Clerk of the Court using CM/ECF. I also certify that the foregoing is being served this day on all counsel of record identified below via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner.



**EXHIBIT B**

**ELIOT'S REDLINED VERSION OF THE INITIAL STATUS REPORT**



**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

SIMON BERNSTEIN IRREVOCABLE )  
INSURANCE TRUST DTD 6/21/95, )

Plaintiff, )

v. )

HERITAGE UNION LIFE INSURANCE )  
COMPANY, )

Defendant, )

HERITAGE UNION LIFE INSURANCE )  
COMPANY )

Counter-Plaintiff )

v. )

SIMON BERNSTEIN IRREVOCABLE )  
INSURANCE TRUST DTD 6/21/95 )

Counter-Defendant )

and, )

FIRST ARLINGTON NATIONAL BANK )  
as Trustee of S.B. Lexington, Inc. Employee )  
Death Benefit Trust, UNITED BANK OF )  
ILLINOIS, BANK OF AMERICA, )  
Successor in interest to LaSalle National )  
Trust, N.A., SIMON BERNSTEIN TRUST, )  
N.A., TED BERNSTEIN, individually and )  
as purported Trustee of the Simon Bernstein )  
Irrevocable Insurance Trust Dtd 6/21/95, )

**Case No. 13 cv 3643  
Honorable John Robert Blakey  
Magistrate Mary M. Rowland**

**JOINT REASSIGNMENT  
STATUS REPORT**

**Filers:**

Brian O'Connell, as Personal  
Representative of the Estate of  
Simon L. Bernstein, Intervenor;

Simon Bernstein Irrevocable Insurance Trust  
Dtd. 6/21/95, Plaintiff;

Eliot Ivan Bernstein, Third-Party Defendant  
and Counter-Plaintiff.



and ELIOT BERNSTEIN, )

Third-Party Defendants. )

ELIOT IVAN BERNSTEIN, )

Cross-Plaintiff )

v. )

TED BERNSTEIN, individually and )  
as alleged Trustee of the Simon Bernstein )  
Irrevocable Insurance Trust Dtd, 6/21/95 )

Cross-Defendant )  
and, )

PAMELA B. SIMON, DAVID B.SIMON, )  
both Professionally and Personally )  
ADAM SIMON, both Professionally and )  
Personally, THE SIMON LAW FIRM, )  
TESCHER & SPALLINA, P.A., )  
DONALD TESCHER, both Professionally )  
and Personally, ROBERT SPALLINA, )  
both Professionally and Personally, )  
LISA FRIEDSTEIN, JILL IANTONI )  
S.B. LEXINGTON, INC. EMPLOYEE )  
DEATH BENEFIT TRUST, S.T.P. )  
ENTERPRISES, INC. S.B. LEXINGTON, )  
INC., NATIONAL SERVICE )  
ASSOCIATION (OF FLORIDA), )  
NATIONAL SERVICE ASSOCIATION )  
(OF ILLINOIS) AND JOHN AND JANE )  
DOES )

Third-Party Defendants. )

BRIAN M. O'CONNELL, as Personal )  
Representative of the Estate of )  
Simon L. Bernstein, )

Intervenor. )



**REASSIGNMENT STATUS REPORT**

**I. Nature of the Case**

**A. Attorneys of Record**

Adam M. Simon (#6205304)  
303 E. Wacker Drive, Suite 210  
Chicago, IL 60601  
Phone: 313-819-0730  
Fax: 312-819-0773  
E-Mail: [asimon@chicagolaw.com](mailto:asimon@chicagolaw.com)

**Attorney for:**

*Simon L. Bernstein Irrevocable Insurance Trust Dtd 6/21/95; Ted Bernstein as Trustee, Pam Simon, Jill Iantoni, Lisa Friedstein, David Simon, The Simon Law Firm, STP Enterprises, Inc.*

Eliot Ivan Bernstein  
2753 NW 34th St.  
Boca Raton, FL 33434  
*Pro Se*

James J. Stamos (#3128244)  
Kevin P. Horan (#6310581)  
STAMOS & TRUCCO LLP  
One East Wacker Drive, Third Floor  
Chicago, IL 60601  
Telephone: (312) 630-7979  
Facsimile: (312) 630-1183

**Attorney for:**

*Brian O'Connell, Personal Representative of the Estate of Simon Bernstein, Intervenor*

**B. Basis for Federal Jurisdiction**

This Court has jurisdiction over this matter in that it is a civil action wherein the parties are all citizens of different states and the amount in controversy exceeds \$75,000.00. 28 U.S.C. §1332(a).

**C. Nature of the Claims Asserted**

This matter involves a dispute over the proper disposition of proceeds of a life insurance policy (the "Policy") insuring the life of Simon L. Bernstein, who passed away in September of 2012. A claim for the insurance policy death benefit was filed by the Estate Counsel and Co-Personal Representative/Executor Robert Spallina, Esq. who acted as an alleged Trustee of an alleged Simon Bernstein Irrevocable Insurance Trust Dtd. 6/21/95." (the "1995 Trust"). This trust is alleged to be the Contingent Beneficiary of the policy and the Primary Beneficiary is

LaSalle National Trust, NA who is alleged by the carrier to be the beneficiary. The death benefit claim of Spallina's was DENIED by the carrier as Spallina was unable to prove a beneficial interest or produce a legally binding executed trust.

That Spallina and his legal partner Mr. Donald Tescher, Esq. have resigned and been removed by the Probate Court in Florida and their law firm has been found to have committed fraud on the probate court of Judge Martin Colin, forged documents POST MORTEM for Simon Bernstein, used Simon Bernstein POST MORTEM to close his wife's estate, which was reopened and fraudulently notarized and forged documents for six parties, in efforts to convert benefits to alleged improper parties. The following Estate and Trust cases for Simon and Shirley Bernstein are ongoing.

- i. Case # 502012CP004391XXXXSB – Simon Bernstein Estate
- ii. Case # 502011CP000653XXXXSB – Shirley Bernstein Estate
- iii. Case # 502014CP002815XXXXSB – Oppenheimer v. Bernstein Minor Children
- iv. Case # 502014CP003698XXXXSB – Shirley Trust Construction
- v. Case # 502014CA014637XXXXMB – Eliot Bernstein v. Trustee Simon Trust

After the claim was denied Mr. Bernstein's death, four out of five of Mr. Bernstein's his adult children filed a Complaint in the Circuit Court of Cook County, with Ted Bernstein now acting as Trustee for the lost trust claiming a right to the proceeds of the Policy as alleged beneficiaries under a trust they describe as the "Simon Bernstein Irrevocable Insurance Trust Dtd. 6/21/95." (the "1995 Trust"). Because (i) no executed original or executed copy of the 1995 Trust could be located the claim was denied. The lawsuit was then filed as a breach of contract and Heritage Union notified Eliot Bernstein, and (ii) Eliot Bernstein, the fifth adult child of Simon Bernstein who was excluded without notice by his siblings from their lawsuit, that he was a third party

~~defendant in the matter by suing him as such. , filed a letter asserting a competing claim, the Defendant insurance company,~~ Heritage Union Life Insurance Company (WAS THIS JACKSON NATIONAL?), as successor to Capitol Bankers Life Insurance Company (the issuer of the Policy), removed the case to this Court on June 26, 2013, filed an Interpleader action pursuant to 28 U.S.C. §1335(a) in conjunction with its Answer to Plaintiff's Complaint. Heritage Union Life Insurance Company then deposited the alleged Policy (no legally executed Policy has been produced to this Court or any party by the Plaintiffs or the Insurance Carrier and further discovery is necessary) proceeds with the Registry of the Court and has since been dismissed from the suit. The Estate of Simon Bernstein, through its Curator (and later, Personal Representative), filed a Motion to Intervene and Complaint for Declaratory Judgment in June 2014; the Estate's Motion to Intervene was granted on July 28, 2014. That this is a breach of contract lawsuit and where there is no legal insurance contract that has been produced and the lawsuit was filed by a legally non-existent entity whereby Plaintiff has failed to produce a legally executed Trust document to give them standing.

**D. Relief Sought by Parties**

1. Plaintiff seeks resolution of the competing claims in the Interpleader action and more specifically the court's finding that:
  - a. The 1995 Trust is the beneficiary of the Policy Proceeds;
  - b. The Trustee of the 1995 Trust is Ted Bernstein;
  - c. The beneficiaries of the 1995 Trust are the five children of Simon Bernstein whom are: Ted Bernstein, Pam Simon, Eliot Bernstein, Jill Iantoni, and Lisa Friedstein; and
  - d. That the Policy proceeds be distributed to the 1995 Trust as beneficiary of the Policy, and then distributed according to the terms of the 1995 Trust.
2. Intervenor seeks a judgment from this Court declaring that no valid beneficiary is named under the Policy and that the proceeds of the Policy must therefore be paid to Simon L.



Bernstein's Estate, currently pending in the Circuit Court of Palm Beach County, Florida. The Estate's position is that no valid beneficiary of the Policy can be proven and the Estate therefore takes by default under applicable law. The Bernstein children have been unable to produce an executed 1995 Trust document under which they assert their rights. If the Policy proceeds are not distributed to the Bernstein children (Plaintiffs), they will be paid to other beneficiaries of the Estate, who include the grandchildren of Simon Bernstein.

3. Cross Plaintiff Eliot Bernstein seeks this Court,

1. Pay the Primary Beneficiary LaSalle National Trust NA that is now Chicago Title and Trust Co (check name exactly), which is Trustee and beneficiary for a Bernstein family benefit plan or have LaSalle National Trust NA produce their records to this Court to determine the proper course of payment of the proceeds after them.
2. Deny that the lost trust is a contingent beneficiary with any standing.
3. Determine Plaintiff has filed a frivolous, vexatious and fraudulent lawsuit as part of a Fraud on the Court.
4. Determine that there are no beneficiaries of a 1995 lost trust as it is a legally nonexistent entity and has been superseded by other dispositive documents of Simon Bernstein.
5. Acknowledge a 2000 trust that replaced any prior 1995 trust to deal with the life insurance policy and would make the prior trust moot. This trust may be the beneficiary of the Bernstein family qualified plan that LaSalle National Trust NA is the trustee for and beneficiary of the policy proceeds. The qualified plan may

have other assets in it as well. No records have been turned over by LaSalle National Trust, NA/Chicago Title.

6. Refer the case to Federal Authorities to investigate the fraudulent insurance application of Spallina, as Ted Bernstein filed that his father Simon may have been murdered on the day he died and contacted the Sheriff and the Coroner.

7. Take note that Eliot Bernstein has alleged in a Federal RICO action that the crimes in the Probate Courts already proven and admitted, committed by the Fiduciaries and Attorneys at Law in those matters, may all be part of a larger RICO regarding inventions of Eliot's and Simon's (his partner) worth and estimated Billions to Trillions. The following cases have been filed,

a. United States District Court - New York Sothern District Case 1:07-cv-11196-SAS<sup>i</sup>

b. United States District Court – Nevada Case No. 2:12-cv-02040-JAD-PAC

±8. To have the estate counsel or this Court now join Robert Spallina and Donald Tescher into the case as Defendants and indispensable parties to the action.

## **II. Discovery and Pending Motions**

### **A. Pending Motions**

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<sup>1</sup> RELATED CASES TO CHRISTINE C. ANDERSON, ESQ., WHISTLEBLOWER CASE

(07cv09599) Anderson v The State of New York, et al.,

(07cv11196) Bernstein, et al. v Appellate Division First Department Disciplinary Committee, et al.,

(07cv11612) Esposito v The State of New York, et al.,

(08cv00526) Capogrosso v New York State Commission on Judicial Conduct, et al.,

(08cv02391) McKeown v The State of New York, et al.,

(08cv02852) Galison v The State of New York, et al.,

(08cv03305) Carvel v The State of New York, et al., and,

(08cv4053) Gizella Weissshaus v The State of New York, et al.

(08cv4438) Suzanne McCormick v The State of New York, et al.

Intervenor's Complaint for Declaratory Judgment (Dkt. No. 112) was filed June 5, 2014. Plaintiff has filed a Motion for Leave to file Answer to Intervenor's Complaint (Dkt. No. 132). No briefing schedule has been entered.

**B. Discovery**

Plaintiff has produced documents pursuant to Fed. R. Civ. P. 26(a)(1). In addition, Eliot I. Bernstein and now-discharged third-party defendants have produced documents pursuant to Rule 26(a)(1). Intervenor has reviewed production documents received from Plaintiff, Eliot I. Bernstein, and third-party defendants and has taken the deposition of David B. Simon. Intervenor anticipates conducting additional discovery, including likely five (5) additional depositions. A deadline of January 9, 2015 for fact discovery to be completed, and March 6, 2015 for the filing of dispositive motions, was set by the court by its order entered August 28, 2014 [Dkt. #123].

A status hearing scheduled for January 6, 2015 was postponed to January 20, 2015. The January 20, 2015 status hearing was postponed indefinitely upon reassignment to this Court's docket. At the next status hearing, Intervenor will seek additional time in which to complete discovery; Plaintiff will oppose Intervenor's request.

**C. Substantive Rulings Issued to Date**

Please see chronology at I. C. *supra*. Please also note:

1. Eliot Bernstein's motion to disqualify Adam Simon as counsel and to strike pleadings was denied by the Court (Dkt. No. 56);
2. All of the Banking parties, i.e. JP Morgan, Bank of America, and others, as well as third-party defendants Robert Spallina, Donald Tescher, and Tescher & Spallina, P.A., have been dismissed and terminated from the litigation after either having not been found, or having been dismissed on a motion to dismiss, or by disclaiming their own interests. None of the Bank parties claimed an interest in the Policy proceeds.

3. That pleadings to deny the Estate a right to intervene were filed by Ted Bernstein, who is simultaneously acting as alleged Trustee of a Simon Bernstein Trust that would receive the insurance benefits if granted to the Estate. Ted Bernstein also filed actions in the Estate of Simon to block intervention, which were denied by Judge Martin Colin. The Court should note that Ted Bernstein stands to inherit a twenty percent interest in the policy if this lawsuit is successful and zero interest if the proceeds are paid to the Estate and then the trusts, as Ted and his sister Pamela, both Plaintiffs have been disinherited entirely and considered predeceased for all purposes of the Estate and Trusts of Simon Bernstein and Shirley Bernstein. This conflict of interest and adversity to the beneficiaries of the Estate and Trust should be sanctioned by this Court.

### **III. Trial**

There has been no jury demand and no trial date has been set. Intervenor will seek this Court's leave to conduct additional discovery, and additional time in which to do so, at the next status hearing. Plaintiff will oppose any motion for additional discovery, and is preparing to file a dispositive motion by March 6, 2015. Defendant Eliot Bernstein will be seeking leave to amend his original complaint based on new information.

### **IV. Settlement and Referrals**

The parties do not request a settlement conference at this time. A previous referral to Judge Rowland (Dkt. No. 36) was closed on January 24, 2014 (Dkt. No. 80). Intervenor consents to proceed before the assigned Magistrate Judge for purposes of conducting a settlement conference. Plaintiffs do not believe a settlement conference will be productive at this time. The parties to this suit are also involved in disputes before the probate court administering the Estate in Florida. ~~There is pending before that court a proposed settlement which could materially affect the rights of the parties and whether Intervenor's involvement in this suit will continue. (Strike as this is wholly untrue.)~~ The parties should be in a position to report on the status of that settlement at the next status hearing.

Respectfully submitted,

/s/ Kevin P. Horan

One of the attorneys for Intervenor, Brian M. O'Connell, as Personal Representative of the Estate of Simon L. Bernstein

James J. Stamos (ARDC 03128244)  
Kevin P. Horan (ARDC 06310581)  
STAMOS & TRUCCO LLP  
One East Wacker Drive, Third Floor  
Chicago, IL 60601  
Telephone: (312) 630-7979  
Facsimile: (312) 630-1183

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on \_\_\_\_\_, I electronically filed the foregoing with the Clerk of the Court using CM/ECF. I also certify that the foregoing is being served this day on all counsel of record identified below via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner.



**EXHIBIT C**

**EMAIL FROM A. SIMON TO HORAN**



**Eliot Ivan Bernstein**

---

**From:** Kevin Horan <KHoran@stamostrucco.com>  
**Sent:** Saturday, January 31, 2015 7:02 PM  
**To:** Adam Simon  
**Cc:** Eliot Bernstein; James J. Stamos  
**Subject:** RE: Estate of Bernstein: Joint Status Report

Adam:

I will edit the current draft and attempt to synthesize our respective positions. I will circulate a draft in advance of any conference we may have Monday morning. I would think we'd all agree that we'd prefer not to have a minority report.

Thanks,  
Kevin

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

From: Adam Simon <asimon21@att.net>  
Date: 01/31/2015 11:02 AM (GMT-06:00)  
To: Adam Simon <asimon21@att.net>, Kevin Horan <KHoran@stamostrucco.com>  
Cc: Eliot Bernstein <iviewit@iviewit.tv>, "James J. Stamos" <JStamos@stamostrucco.com>  
Subject: Re: Fwd: Estate of Bernstein: Joint Status Report

Kevin and Eliot:

I have looked over the changes suggested by Eliot. With his suggested modifications, the joint status report does not comport with the Court's template or its Order regarding the content and length of the report.

Also, on behalf of my client, there is simply no way we could consent to 90% of Eliot's suggested modifications. At this point, I would suggest two options:

- 1) Kevin you can attempt to include, based on what Eliot provided, a brief summary of the nature of his claims and relief requested, and recirculate for all to approve and then we can submit a joint report in accordance with the Court's order; or
- 2) Eliminate all of Eliot's suggested modifications, and then Plaintiff's and the Estate of Simon Bernstein can file a joint report indicating we could not come to agreement with Eliot on the content, and then Eliot can file a separate report. I will reserve my client's rights to seek to strike the report if it contains much of the substance that is contained in these modifications.

I can think of no other options that would result in our compliance with Judge Blakey's order. Let me know your thoughts.

*Adam M. Simon*  
**The Simon Law Firm**  
303 E. Wacker Drive



**EXHIBIT D**

**HORAN EMAIL TO ELIOT WITH A FINAL COPY OF THE STATUS REPORT**



**Eliot Ivan Bernstein**

---

**From:** Kevin Horan <KHoran@stamostrucco.com>  
**Sent:** Monday, February 2, 2015 5:33 PM  
**To:** Eliot Ivan Bernstein  
**Subject:** RE: Fwd: Estate of Bernstein: Joint Status Report  
**Attachments:** Joint Status Report.Agreed.pdf

Eliot,

I just saw that the attached Status Report was filed and served via ECF (our staff is much more efficient than I am, it seems). Attached is an un-stamped copy of the Report as agreed to by myself and Adam Simon. I will be sending courtesy copies of the attached, per the Court's standing orders, to Judge Blakey's chambers tomorrow. Please let me know if you'd like me to have your Status Report, once filed, delivered as well. In speaking with Adam this afternoon, he agreed to notice his Motion (for leave to file an Answer to our Complaint) for Tuesday the 17<sup>th</sup>.

Thank you for taking the time to speak with me this morning. I look forward to speaking with you in the future. In the meantime, should you have any questions or concerns, please feel free to contact me.

Best wishes,

Kevin

**Kevin P. Horan**  
Stamos & Trucco LLP  
One East Wacker Drive  
Third Floor  
Chicago, IL 60601  
[\(312\) 630-1208](tel:3126301208) Direct  
[\(312\) 630-7979](tel:3126307979) Main  
[\(312\) 630-1183](tel:3126301183) Fax  
[www.stamostrucco.com](http://www.stamostrucco.com)

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---

**From:** Eliot Ivan Bernstein [mailto:[iviewit@iviewit.tv](mailto:iviewit@iviewit.tv)]  
**Sent:** Monday, February 02, 2015 10:36 AM  
**To:** Kevin Horan  
**Subject:** RE: Fwd: Estate of Bernstein: Joint Status Report

Hi Kevin, I still have some concerns with the language and I think we can discuss first and then if you think necessary contact Adam or file separate responses. I am available now if you have a few minutes. eb

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

SIMON BERNSTEIN IRREVOCABLE )  
INSURANCE TRUST DTD 6/21/95, )

Plaintiff, )

v. )

HERITAGE UNION LIFE INSURANCE )  
COMPANY, )

Defendant, )

HERITAGE UNION LIFE INSURANCE )  
COMPANY )

Counter-Plaintiff )

v. )

SIMON BERNSTEIN IRREVOCABLE )  
INSURANCE TRUST DTD 6/21/95 )

Counter-Defendant )

and, )

FIRST ARLINGTON NATIONAL BANK )  
as Trustee of S.B. Lexington, Inc. Employee )  
Death Benefit Trust, UNITED BANK OF )  
ILLINOIS, BANK OF AMERICA, )  
Successor in interest to LaSalle National )  
Trust, N.A., SIMON BERNSTEIN TRUST, )  
N.A., TED BERNSTEIN, individually and )  
as purported Trustee of the Simon Bernstein )  
Irrevocable Insurance Trust Dtd 6/21/95, )

**Case No. 13 cv 3643**  
**Honorable John Robert Blakey**  
**Magistrate Mary M. Rowland**

**JOINT REASSIGNMENT  
STATUS REPORT**

**Filers:**

Brian O'Connell, as Personal  
Representative of the Estate of  
Simon L. Bernstein, Intervenor;

Simon Bernstein Irrevocable Insurance Trust  
Dtd. 6/21/95, Plaintiff;



and ELIOT BERNSTEIN, )  
)  
Third-Party Defendants. )  
)  
ELIOT IVAN BERNSTEIN, )  
)  
Cross-Plaintiff )  
)  
v. )  
)  
TED BERNSTEIN, individually and )  
as alleged Trustee of the Simon Bernstein )  
Irrevocable Insurance Trust Dtd, 6/21/95 )  
)  
Cross-Defendant )  
and, )  
)  
PAMELA B. SIMON, DAVID B.SIMON, )  
both Professionally and Personally )  
ADAM SIMON, both Professionally and )  
Personally, THE SIMON LAW FIRM, )  
TESCHER & SPALLINA, P.A., )  
DONALD TESCHER, both Professionally )  
and Personally, ROBERT SPALLINA, )  
both Professionally and Personally, )  
LISA FRIEDSTEIN, JILL IANTONI )  
S.B. LEXINGTON, INC. EMPLOYEE )  
DEATH BENEFIT TRUST, S.T.P. )  
ENTERPRISES, INC. S.B. LEXINGTON, )  
INC., NATIONAL SERVICE )  
ASSOCIATION (OF FLORIDA), )  
NATIONAL SERVICE ASSOCIATION )  
(OF ILLINOIS) AND JOHN AND JANE )  
DOES )  
)  
Third-Party Defendants. )  
)  
BRIAN M. O'CONNELL, as Personal )  
Representative of the Estate of )  
Simon L. Bernstein, )  
)  
Intervenor. )

**REASSIGNMENT STATUS REPORT**

**I. Nature of the Case**

**A. Attorneys of Record**

Adam M. Simon (#6205304)  
303 E. Wacker Drive, Suite 210  
Chicago, IL 60601  
Phone: 313-819-0730  
Fax: 312-819-0773  
E-Mail: asimon@chicagolaw.com

**Attorney for:**

*Simon L. Bernstein Irrevocable Insurance Trust Dtd 6/21/95; Ted Bernstein as Trustee, Pam Simon, Jill Iantoni, Lisa Friedstein, David Simon, The Simon Law Firm, STP Enterprises, Inc.*

James J. Stamos (#3128244)  
Kevin P. Horan (#6310581)  
STAMOS & TRUCCO LLP  
One East Wacker Drive, Third Floor  
Chicago, IL 60601  
Telephone: (312) 630-7979  
Facsimile: (312) 630-1183

**Attorney for:**

*Brian O'Connell, Personal Representative of the Estate of Simon Bernstein, Intervenor*

Eliot Ivan Bernstein  
2753 NW 34th St.  
Boca Raton, FL 33434  
*Pro Se*

**B. Basis for Federal Jurisdiction**

This Court has jurisdiction over this matter in that it is a civil action wherein the parties are all citizens of different states and the amount in controversy exceeds \$75,000.00. 28 U.S.C. §1332(a).

**C. Nature of the Claims Asserted**

This matter involves a dispute over the proper disposition of proceeds of a life insurance policy (the "Policy") insuring the life of Simon L. Bernstein, who passed away in September of 2012. A claim for the insurance policy death benefit was filed on behalf of a purported trusted titled "Simon Bernstein Irrevocable Insurance Trust Dtd. 6/21/95." (the "1995 Trust"), as contingent beneficiary of the Policy. The death benefit claim was denied by the carrier when an executed trust document was not produced.

After the claim was denied, four out of five of Mr. Bernstein's adult children filed a Complaint in the Circuit Court of Cook County, with Ted Bernstein now acting as Trustee, claiming a right to the proceeds of the Policy as alleged beneficiaries under the 1995 Trust. Because (i) no executed original or executed copy of the 1995 Trust could be located, and (ii) Eliot I. Bernstein, the fifth adult child of Simon Bernstein and third party defendant/cross-plaintiff, objected to the claim, the Defendant insurance company, Heritage Union Life Insurance Company, as successor to Capitol Bankers Life Insurance Company (the issuer of the Policy), removed the case to this Court on June 26, 2013 and filed an Interpleader action pursuant to 28 U.S.C. §1335(a) in conjunction with its Answer to Plaintiff's Complaint. Heritage Union Life Insurance Company then deposited the Policy proceeds with the Registry of the Court and has since been dismissed from the suit. The Estate of Simon Bernstein, through its Curator (and later, Personal Representative), filed a Motion to Intervene and Complaint for Declaratory Judgment in June 2014; the Estate's Motion to Intervene was granted on July 28, 2014.

**D. Relief Sought by Parties**

1. Plaintiff seeks resolution of the competing claims in the Interpleader action and more specifically the court's finding that:

- a. The 1995 Trust is the beneficiary of the Policy Proceeds;
- b. The Trustee of the 1995 Trust is Ted Bernstein;
- c. The beneficiaries of the 1995 Trust are the five children of Simon Bernstein whom are: Ted Bernstein, Pam Simon, Eliot Bernstein, Jill Iantoni, and Lisa Friedstein; and
- d. That the Policy proceeds be distributed to the 1995 Trust as beneficiary of the Policy, and then distributed according to the terms of the 1995 Trust.

2. Intervenor seeks a judgment from this Court declaring that no valid beneficiary is named under the Policy and that the proceeds of the Policy must therefore be paid to Simon L. Bernstein's Estate, currently pending in the Circuit Court of Palm Beach County, Florida. The

Estate's position is that no valid beneficiary of the Policy can be proven and the Estate therefore takes by default under applicable law. The Bernstein children have been unable to produce an executed 1995 Trust document under which they assert their rights. If the Policy proceeds are not distributed to the Bernstein children (Plaintiffs), they will be paid to other beneficiaries of the Estate, who include the grandchildren of Simon Bernstein.

3. Third Party Defendant/Cross-Plaintiff Eliot I. Bernstein does not join in this Reassignment Status Report and will file a separate Status Report with the Court.

## **II. Discovery and Pending Motions**

### **A. Pending Motions**

Intervenor's Complaint for Declaratory Judgment (Dkt. No. 112) was filed June 5, 2014. Plaintiff has filed a Motion for Leave to file Answer to Intervenor's Complaint (Dkt. No. 132). No briefing schedule has been entered.

### **B. Discovery**

Plaintiff has produced documents pursuant to Fed. R. Civ. P. 26(a)(1). In addition, Eliot I. Bernstein and now-discharged third-party defendants have produced documents pursuant to Rule 26(a)(1). Intervenor has reviewed production documents received from Plaintiff, Eliot I. Bernstein, and third-party defendants and has taken the deposition of David B. Simon. Intervenor anticipates conducting additional discovery, including likely five (5) additional depositions. A deadline of January 9, 2015 for fact discovery to be completed, and March 6, 2015 for the filing of dispositive motions, was set by the court by its order entered August 28, 2014 [Dkt. #123].

A status hearing scheduled for January 6, 2015 was postponed to January 20, 2015. The January 20, 2015 status hearing was postponed indefinitely upon reassignment to this Court's

docket. At the next status hearing, Intervenor will seek additional time in which to complete discovery; Plaintiff will oppose Intervenor's request.

**C. Substantive Rulings Issued to Date**

Please see chronology at I. C. *supra*. Please also note:

1. Eliot Bernstein's motion to disqualify Adam Simon as counsel and to strike pleadings was denied by the Court (Dkt. No. 56);
2. All of the Banking parties, i.e. JP Morgan, Bank of America, and others, as well as third-party defendants Robert Spallina, Donald Tescher, and Tescher & Spallina, P.A., have been dismissed and terminated from the litigation after either having not been found, or having been dismissed on a motion to dismiss, or by disclaiming their own interests. None of the Bank parties claimed an interest in the Policy proceeds.

**III. Trial**

There has been no jury demand and no trial date has been set. Intervenor will seek this Court's leave to conduct additional discovery, and additional time in which to do so, at the next status hearing. Plaintiff will oppose any motion for additional discovery and is preparing to file a dispositive motion by March 6, 2015. Eliot Bernstein will be seeking leave to amend his original complaint based on new information.

**IV. Settlement and Referrals**

The parties do not request a settlement conference at this time. A previous referral to Judge Rowland (Dkt. No. 36) was closed on January 24, 2014 (Dkt. No. 80). Intervenor consents to proceed before the assigned Magistrate Judge for purposes of conducting a settlement conference. Plaintiffs do not believe a settlement conference will be productive at this time. The parties to this suit are also involved in disputes before the probate court administering the Estate in Florida. There is pending before that court a proposed settlement which could materially affect the rights of the parties and whether Intervenor's involvement in this suit will



continue. The parties should be in a position to report on the status of that settlement at the next status hearing. Despite the efforts of counsel to file an agreed Joint Reassignment Status Report, a consensus could not be reached. Eliot I. Bernstein does not join in this Reassignment Status Report and will file a separate Status Report with the Court.

Respectfully submitted,

*/s/ Kevin P. Horan*

One of the attorneys for Intervenor, Brian M. O'Connell, as Personal Representative of the Estate of Simon L. Bernstein

James J. Stamos (ARDC 03128244)  
Kevin P. Horan (ARDC 06310581)  
STAMOS & TRUCCO LLP  
One East Wacker Drive, Third Floor  
Chicago, IL 60601  
Telephone: (312) 630-7979  
Facsimile: (312) 630-1183

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on February 2, 2015 I electronically filed the foregoing with the Clerk of the Court using CM/ECF. I also certify that the foregoing is being served this day on all counsel of record identified below via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner.

Respectfully submitted,

/s/ Kevin P. Horan

One of the attorneys for Intervenor, Brian M. O'Connell, as Personal Representative of the Estate of Simon L. Bernstein

James J. Stamos (ARDC 03128244)  
Kevin P. Horan (ARDC 06310581)  
STAMOS & TRUCCO LLP  
One East Wacker Drive, Third Floor  
Chicago, IL 60601  
Telephone: (312) 630-7979  
FACSIMILE: (312) 630-1183



**EXHIBIT E**

**EMAIL BETWEEN ATTORNEY AT LAW PETER FEAMAN, ESQ. AND THE  
PERSONAL REPRESENTATIVE/EXECUTOR OF THE ESTATE OF SIMON  
BERNSTEIN, BRIAN O'CONNELL, ESQ.**



**Eliot Ivan Bernstein**

---

**Subject:** FW: Bernstein Estate

---

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

Brian,

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

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

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

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

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

I offered my office as a locale for those depositions.

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

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

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

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

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

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

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

I welcome your thoughts on this.

*Peter M. Feaman*

PETER M. FEAMAN, P.A.

3695 West Boynton Beach Boulevard

Suite 9

Boynton Beach, FL 33436

Telephone: 561-734-5552

Facsimile: 561-734-5554

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

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# EXHIBIT C

## PALM BEACH COUNTY SHERIFF SUPPLEMENTAL REPORT

PALM BEACH COUNTY SHERIFF'S OFFICE PAGE 1  
CASE NO. 14029489 OFFENSE REPORT CASE NO. 14029489  
DISPOSITION: ZULU  
DIVISION: DETECTIVE

911:  
ECONOMIC CRIMES \* \* \*  
SIGNAL CODE: 14 CRIME CODE: NON CRIME CODE: OT CODE: 9546 01/23/14 THURSDAY  
ZONE: BR GRID: DEPUTY I.D.: 7704 NAME: MILLER RYAN ASSIST: TIME D 1020 A 1020 C 1021  
OCCURRED BETWEEN DATE: 12/01/12 , 0000 HOURS AND DATE: 01/31/13 , 0000 HOURS  
EXCEPTION TYPE:  
INCIDENT LOCATION: 4855 TECHNOLOGY WY APT. NO.: 700  
CITY: BOCA RATON STATE: FL ZIP: 33431

NO. OFFENSES: 00 NO. OFFENDERS: UK NO. VEHICLES STOLEN: 0 NO. PREMISES ENTERED: 0  
LOCATION: OTHER  
NO. VICTIMS: 00 NO. ARRESTED: 0 FORCED ENTRY: 0

NAME LIST:

ROLE:  
OTHER SIMON BERNSTEIN DOB: 12/02/1935  
SEX: M RACE: W HT: 506 WT: 180 HR: GRAY EYE: BROWN  
RESIDENTIAL ADDRESS: 7020 LIONSHEAD LA BOCA RATON FL 33496 HOME PHONE: 561 000-0000  
BUSINESS PHONE: 561 000-0000  
OTHER SHIRLEY BERNSTEIN DOB: 06/29/1939  
SEX: F RACE: W HT: 502 WT: 102 HR: BLOND EYE: BLUE  
RESIDENTIAL ADDRESS: 7020 LIONSHEAD RD BOCA RATON FL 33496 HOME PHONE: 561 000-0000  
BUSINESS PHONE: 561 000-0000  
COMPLAINANT ROBERT L SPALLINA DOB: 06/09/1965  
SEX: M RACE: W HT: 511 WT: 175 HR: BLACK EYE: BROWN  
RESIDENTIAL ADDRESS: 7387 WISTERIA AV PARKLAND FL 33076 HOME PHONE: 561 997-7008  
BUSINESS PHONE: 561 000-0000  
OTHER ALAN B ROSE DOB: 10/23/1965  
SEX: M RACE: W HT: 509 WT: 170 HR: BROWN EYE: BROWN  
RESIDENTIAL ADDRESS: 21145 ORMOND CT BOCA RATON FL 33433 HOME PHONE: 561 000-0000  
BUSINESS ADDRESS: 505 S. FLAGLER DR., STE. 600, WEB, FL 33401 BUSINESS PHONE: 561 355-6991  
OTHER TED BERNSTEIN DOB: 08/27/1959  
SEX: M RACE: W HT: 0 WT: 0 HR: UNKNOWN EYE: UNKNOWN  
RESIDENTIAL ADDRESS: 800 BERKELEY ST BOCA RATON FL 33484 HOME PHONE: 561 213-2322  
BUSINESS PHONE: 561 968-8984

ON 01/21/13 AT 1:45 PM I MET WITH ROBERT SPALLINA AND HIS ATTORNEY DAVID ROTH. SGT. DAVID GROOVER WAS ALSO PRESENT DURING THE INTERVIEW. WE MET AT

printed by Employee Id #: 5264 on February 11, 2014 02:26:57PM

CASE NO. 14029489 PALM BEACH COUNTY SHERIFF'S OFFICE PAGE 2  
OFFENSE REPORT CASE NO. 14029489  
DISPOSITION: ZULU

THE PALM BEACH COUNTY SHERIFF'S OFFICE, DISTRICT 1 CONFERENCE ROOM, WHICH IS LOCATED AT 3228 GUN CLUB ROAD, WEST PALM BEACH, FL. ROBERT SPALLINA STATED THAT HE AND HIS PARTNER, DONALD TESCHNER, MET SIMON AND SHIRLEY BERNSTEIN IN 2007. HE SAID THAT IN 2008 THE BERNSTEIN'S CAME TO THE TESCHNER AND SPALLINA FIRM. HE SAID THAT THEY (THE ATTORNEY'S OFFICE) CREATED WILLS AND TRUSTS FOR BOTH SIMON AND SHIRLEY IN 2008, AMONG OTHER PLANNING. SPALLINA TOLD US THAT SIMON HAD BEEN IN THE INSURANCE BUSINESS FOR 40 YEARS.

HE SAID THAT THE SUBJECT OF THE FIRST MEETINGS WAS THE SALE OF THE INSURANCE BUSINESS DOWN THE ROAD, AS WELL AS MOVING AROUND SOME STOCKS. SPALLINA STATED THE CONVERSATIONS WITH SIMON AND THE THOUGHT PROCESS WAS THAT ONCE SIMON SOLD THE INSURANCE BUSINESS HE OWNED, ALL THE FAMILY WOULD BENEFIT FROM IT (FINANCIALLY). HE SAID THE BUSINESS WAS NEVER SOLD, BUT A LOT OF PLANNING AND PREPARATION WAS DONE FOR IT, TO INCLUDE SETTING UP A FLORIDA LIMITED PARTNERSHIP AND A DELAWARE ASSET PROTECTION TRUST. SPALLINA STATED THAT SIMON WAS ALWAYS CONCERNED WITH CREDITOR PROTECTION. HE SAID THAT IS QUITE COMMON IN THE INSURANCE BUSINESS WORLD.

SPALLINA REITERATED THAT IN 2008, THE LAW FIRM DID THE DOCUMENTS FOR THE WILLS AND TRUSTS. HE STATED THEY (SIMON & SHIRLEY) HAVE FIVE CHILDREN AND 10 GRANDCHILDREN, AS WELL AS A STEP-GRANDCHILD.

SPALLINA SAID THAT THE ESTATE PLAN WAS SIMILAR TO MOST OTHERS, IT SAID SHOULD ONE SPOUSE DIE FIRST, THE OTHER WILL RECEIVE EVERYTHING (ALL ASSETS). HE SAID THAT UNDER BOTH TRUSTS, THE INITIAL DOCUMENTS READ THAT UPON THE SECOND DEATH, TWO CHILDREN (TED AND PAM) WERE EXCLUDED. HE TOLD US THIS TOOK PLACE SINCE BOTH TED AND PAM WERE SET UP WITH LIFE INSURANCE BUSINESSES AND THEY WANTED TO MAKE THE REMAINING CHILDREN (ELIOT, LISA, AND JILL) AS WHOLE AS THEY COULD. NOTE: TED WAS WORKING WITH SIMON IN THE INSURANCE BUSINESS DOWN HERE IN FLORIDA AND PAM RECEIVED A COMPANY IN ILLINOIS.

SPALLINA REITERATED THAT UPON THE DEATH OF THE SECOND SURVIVOR, EVERYTHING FROM BOTH TRUSTS GOES TO JILL, LISA, AND ELIOT ADDING THAT SHIRLEY HAD ONE OTHER STIPULATION IN HER TRUST, WHICH STATED THAT TED'S STEPSON, (MATTHEW LOGAN) RECEIVED \$200,000. HE TOLD ME THAT SHIRLEY HAD A LIKING TO MATTHEW SO SHE ADDED THAT TO HER TRUST, BUT THAT SIMON DID NOT BELIEVE IN THAT, THAT HE FELT EVERYTHING SHOULD GO TO BLOOD (A BIOLOGICAL CHILD). SPALLINA SAID THAT LATER ON IN 2008, SHIRLEY STATED SHE WANTED TO CHANGE HER TRUST DOCUMENTS IN REFERENCE TO THE MONEY LEFT TO MATTHEW LOGAN. HE STATED THAT AN AMENDMENT WAS CREATED, WHICH WAS SIGNED BY SHIRLEY ON NOV. 18, 2008 TAKING LOGAN OUT OF THE TRUST.

SPALLINA STATED THAT HE FELT THAT SIMON'S WISHES OVERRODE SHIRLEY'S IN THIS SITUATION. SPALLINA SAID THAT HE AND KIMBERLY MORAN (HIS EMPLOYEE & A NOTARY) WENT TO SHIRLEY'S HOME FOR THE DOCUMENT TO BE SIGNED. HE SAID THAT RACHEL WALKER, SHIRLEY'S ASSISTANT, WAS PRESENT WHEN THE DOCUMENT WAS SIGNED.

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SHE AND SPALLINA ARE ON THE DOCUMENT AS WITNESSES, MORAN IS THE NOTARY FOR SHIRLEY'S SIGNATURE. HE TOLD ME THAT WAS THE LAST CHANGE SHIRLEY EVER MADE TO HER DOCUMENTS AND THAT SHE PASSED ON DECEMBER 2010. SIMON WAS STILL ALIVE AND THE TRUST READ THAT EVERYTHING WENT TO HIS BENEFIT. SPALLINA REITERATED THAT HER DOCUMENTS READ THAT UPON SIMON'S DEATH, EVERYTHING (HER ASSETS) WENT TO JILL, LISA, AND ELIOT.

SPALLINA STATED THAT IN 2012, SIMON CONTACTED HIM STATING THAT HE WAS HAVING CONCERNS ABOUT HOW HE HAD ELIMINATED TED AND PAM FROM HIS TRUST. HE STATED THAT IT IS POSSIBLE THAT THESE THOUGHTS CAME ON BECAUSE PAM STARTED SENDING HIM LETTERS. HE SAID THAT SHE (PAM) HAD A LAWYER CONTACT HIS OFFICE AND ASK FOR COPIES OF SHIRLEY'S TRUST DOCUMENTS. SPALLINA SAID THAT HE MET WITH SIMON, WHO SAID THAT HE WAS CONSIDERING CHANGING HIS DOCUMENTS. HE SAID THAT ONE OF THE CHANGES DISCUSSED WAS HOW TO INCLUDE TED AND PAM'S CHILDREN.

SPALLINA STATED THAT SIMON HAD A LIFE INSURANCE POLICY WITH THE BENEFIT OF \$1,600,000. HE SAID THAT THE POLICY READ THAT IF SIMON PASSED BEFORE SHIRLEY SHE RECEIVED THE BENEFIT, BUT IF SHIRLEY PASSED BEFORE HIM, THE FIVE CHILDREN RECEIVED THE BENEFITS ONCE HE PASSED. THIS POLICY ORIGINATED OUT OF ILLINOIS. SPALLINA ADDED THAT THIS POLICY AND ITS DISTRIBUTION OF FUNDS ARE CURRENTLY IN A FEDERAL COURT BATTLE.

SPALLINA STATED THAT A DISCUSSION TOOK PLACE WITH HIM AND SIMON IN 2012; REFERENCE THE FACT THAT SIMON HAD ISSUES ON HOW AND WITH WHOM FUNDS WERE GOING TO BE DISTRIBUTED TO UPON HIS DEATH. HE TOLD ME SIMON WAS HAVING RESERVATIONS ABOUT TED AND PAM NOT BEING IN HIS TRUST, AS WELL AS THAT FACT THAT HE THEN HAD A GIRLFRIEND BY THE NAME OF MARITZ PUCCIO THAT HE WANTED TO PROVIDE FOR. HE ADDED THAT NO ONE IN THE FAMILY WAS HAPPY THAT PUCCIO WAS IN SIMON'S LIFE. HE ALSO TOLD ME THAT SIMON WANTED HIS GRANDCHILDREN TO RECEIVE BENEFITS FROM THE TRUST.

SPALLINA SAID THAT SIMON FIRST SUGGESTED MAKING BENEFICIARY CHANGES ON THE AFOREMENTIONED LIFE INSURANCE POLICY. SPALLINA SAID THAT HE TOLD SIMON THAT WAS A VERY BAD IDEA. HE TOLD ME THAT THERE WAS SOMETHING CALLED AN EXERCISE OF POWER OF APPOINTMENT, PUT IN BOTH SIMON AND SHIRLEY'S TRUST DOCUMENTS. HE SAID THIS GAVE THE LIVING SPOUSE THE ABILITY TO MAKE CHANGES ON THE DECEASED SPOUSE'S DOCUMENTS. HE SAID THAT HE TOLD SIMON, THAT MAYBE THEY SHOULD EXPLORE OPTIONS WITH THAT. HE SAID SIMON TOLD HIM THAT HE WANTED TO MAKE THE NECESSARY CHANGES TO HAVE BOTH TRUSTS READ THAT THE 10 GRANDCHILDREN WERE THE BENEFICIARIES. HE TOLD ME THAT HE TOLD SIMON (SI AS HE CALLS HIM) THAT HE COULD NOT MAKE THOSE CHANGES TO SHIRLEY'S TRUST BECAUSE SHE HAD WROTE TED AND PAM AND THEIR CHILDREN AS PREDECEASED IN HER TRUST.

SPALLINA REITERATED THAT SIMON CAN DO WHATEVER HE WANTS WITH HIS ESTATE, BUT ALL HE CAN DO WITH SHIRLEY'S TRUST IS GIVE IT TO LISA, JILL, AND ELIOT'S CHILDREN. HE SAID THAT SIMON WAS NOT HAPPY ABOUT THIS. HE SAID THAT SIMON

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WAS VERY ADAMANT ABOUT LEAVING EVERYTHING IN THE ESTATES TO THE GRANDCHILDREN. HE ALSO SAID THAT HE ADVISED SIMON TO NOT MAKE CHANGES TO THE LIFE INSURANCE POLICY OR THE ESTATES, MAKING PUCCIO A BENEFICIARY. HE STATED THAT THIS WILL ONLY CAUSE PROBLEMS AND CREATE LITIGATION. SPALLINA SAID THE AFOREMENTIONED DISCUSSION AND MEETING TOOK PLACE IN FEBRUARY 2012. HE SAID THE MEETING CONCLUDED WITH SIMON SAYING HE NEEDED TO THINK ABOUT THINGS.

HE TOLD ME THAT THREE MONTHS LATER, SIMON CONTACTED HIM STATING HE KNEW WHAT HE WANTED TO DO. HE SAID THAT SIMON TOLD HIM HE WANTED TO LEAVE HIS INSURANCE POLICY ALONE, BUT THAT HE WANTS BOTH TRUSTS TO GO TO HIS 10 GRANDCHILDREN. SPALLINA SAID THAT HE EXPLAINED TO HIM AGAIN, THAT ONLY HIS TRUST, NOT SHIRLEY'S CAN GO TO BOTH GRANDCHILDREN, UNLESS HE TAKES ALL OF THE ASSETS OUT OF THE SHIRLEY TRUST AND PUTS THEM INTO HIS NAME. HE SAID THE COST OF TAKING THE ASSETS OUT OF SHIRLEY'S TRUST WOULD HAVE BEEN SIGNIFICANT, BECAUSE SHIRLEY'S DEATH OCCURRED BEFORE FEDERAL ESTATE TAX CHANGES TOOK PLACE, SO AS LONG AS IT STAYED IN HER ESTATE IT WOULD BE FREE OF TAX, BUT SHOULD IT GO TO SIMON'S TRUST IT WILL BE TAXED.

THERE WAS ALSO AN ISSUE OF SUBJECTING THE ASSETS FROM SHIRLEY'S ESTATE TO CREDITORS IF IT WENT TO SIMON'S ESTATE. SPALLINA TOLD ME THAT AT THIS TIME, SIMON SAID "GET MY CHILDREN ON THE PHONE". HE SAID THAT SIMON TOLD HIM THAT HE WANTED HIS CHILDREN TO AGREE THAT ALL ASSETS FROM BOTH TRUSTS GO TO THE 10 GRANDCHILDREN. HE SAID THAT SIMON TOLD HIM HE (SIMON) COULD GET THEM TO AGREE. SPALLINA CONFIRMED THAT THIS CONVERSATION OCCURRED ON THE SAME DATE, DURING THE SAME PHONE CALL (CONFERENCE CALL), REGARDING THE WAIVER OF ACCOUNTING FORM FOR SHIRLEY'S ESTATE IN PBSO CASE #13-097087.

FROM A PREVIOUS INVESTIGATION DONE BY ME, I FOUND THAT SIMON SIGNED THE WAIVER OF ACCOUNTING ON 04/09/12, SO IT IS POSSIBLE THAT THE PHONE CALL OCCURRED ON THAT DATE. I HAD ALSO NOTED IN MY REPORT THAT THERE WAS SOME DISCUSSION OF INHERITANCE AND WHO WAS TO GET WHAT. SPALLINA SAID THAT DURING THE PHONE CALL, ALL FIVE KIDS AGREED THAT CHANGING THE INHERITANCE OF BOTH ESTATES TO THE GRANDCHILDREN WAS A GREAT IDEA. HE SAID THAT ELIOT SPOKE THE MOST, STATING THINGS SUCH AS, GREAT IDEA DAD, WHATEVER YOU WANT TO DO, WHATEVER MAKES YOU FEEL BEST, WHATEVER IS BEST FOR YOUR HEALTH DAD.

SO, AFTER THE AFOREMENTIONED PHONE CALL, NEW DOCUMENTS WERE DRAWN UP FOR SIMON'S ESTATE. THESE NEW DOCUMENTS GAVE EVERYTHING TO ALL 10 GRANDKIDS. HE ALSO EXERCISED HIS POWER OF SHIRLEY'S ESTATE, LEAVING EVERYTHING TO ALL 10 GRANDKIDS, EVEN THOUGH LEGALLY HE COULD NOT INCLUDE TED AND RAM'S KIDS BECAUSE OF THE PREDECEASED LIMITATION. HE SAID THESE DOCUMENTS WERE EXECUTED AT THE END OF JULY 2012. HE SAID SEVEN WEEKS LATER SIMON DIES, UNEXPECTEDLY. I FOUND THAT SIMON PASSED ON SEPTEMBER 13, 2012 OF A HEART ATTACK.

SPALLINA SAID APPROXIMATELY TWO MONTHS AFTER THAT, HIS OFFICE RECEIVED A REQUEST FROM ELIOT'S ATTORNEY, CHRISTINE YATES, FOR ALL DOCUMENTS RELATING TO

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SIMON AND SHIRLEY BERNSTEIN, TO INCLUDE DOCUMENTS RELATING TO BERNSTEIN FAMILY REALITY, WHICH OWNS A HOME THAT ELIOT AND HIS FAMILY LIVE IN. HE SAID THAT HIS HOME IS ACTUALLY OWNED AND IS FUNDED BY THREE TRUSTS THAT SIMON CREATED. THE THREE TRUSTS ARE IN THE NAME OF ELIOT'S THREE CHILDREN, (JACK, JAKE, AND DAN).

SPALLINA TOLD ME THAT HE AND HIS PARTNER HAD DISCUSSIONS REFERENCE TO FULFILLING SIMON'S WISHES OF ALL 10 GRANDCHILDREN RECEIVING THE BENEFITS FROM BOTH SIMON AND SHIRLEY'S TRUSTS. HE SAID THAT HE AND HIS PARTNER, DONALD TESCHNER, DISCUSSED DOING A SCRIVENER'S AFFIDAVIT REFERENCE REINSTATING TED AND PAM'S CHILDREN INTO SHIRLEY'S TRUST, SINCE THEIR NOTES WERE UNCLEAR TO AS IF THE GRANDCHILDREN WERE OR WERE NOT DEEMED PREDECEASED, AS TED AND PAM WERE. HE TOLD ME THAT THE DECISION WAS MADE TO NOT DO THE SCRIVENER'S AFFIDAVIT, DUE TO THE CHANCE THAT IT MAY NOT WORK. HE SAID THOUGH, THAT AGAINST HIS BETTER JUDGMENT HE ALTERED THE FIRST PAGE OF THE FIRST AMENDMENT TO THE SHIRLEY BERNSTEIN TRUST AGREEMENT, BEFORE HE TURNED IT OVER TO YATES. THE ORIGINAL WAS MENTIONED EARLIER ON IN THIS REPORT AND STATES THAT SHIRLEY SIGNED IT ON NOVEMBER 18, 2008. IT TOOK MATTHEW LOGAN OUT OF THE TRUST.

SPALLINA SAID THAT THEY NOTICED THAT THE FIRST PAGE OF THE DOCUMENT SKIPPED FROM ONE TO THREE, SO HE TOOK IT UPON HIMSELF TO ADD IN NUMBER TWO, BEFORE SENDING IT TO YATES. THE CHANGE THAT NUMBER TWO MADE TO THE TRUST, AMENDED PARAGRAPH E OF ARTICLE III, MAKING IT READ THAT ONLY TED AND PAM WERE CONSIDERED PREDECEASED, NOT THEIR CHILDREN. HE SAID THE ORIGINAL TRUST STATES THAT TED, PAM, AND THEIR CHILDREN ARE DEEMED PREDECEASED. SPALLINA SAID HE DID THIS AT THIS OFFICE IN BOCA RATON, FLORIDA. HE SAID THAT NO ONE ELSE TOOK PART IN ALTERING THE DOCUMENT. HE SAID THAT HE DID IT TO MAKE SIMON'S WISHES AND THE VERBAL AGREEMENT FROM THE APRIL 2012 PHONE CONVERSATION COME TRUE. SPALLINA STATED THAT ALTHOUGH HE CREATED THE ALTERED FORM AND ATTACHED IT TO THE ORIGINALLY SIGNED/NOTARIZED FORM, HE RECEIVED NO INCOME OR GAIN FROM IT. HE STATED HE SOLELY DID IT TO FULFILL SIMON'S WISHES. HE CONFIRMED THAT THIS ALTERED DOCUMENT DID NOT GET FILED WITH THE COURTS.

SPALLINA STATED THAT AGAINST HIS ADVICE, A DISTRIBUTION WAS MADE FROM ONE OF THE TRUSTS AFTER SIMON'S DEATH. HE STATED THAT HE ADVISED AGAINST THIS AND WHEN SIMON PASSED, A FORMER PARTNER FILED A CLAIM AGAINST THE ESTATE FOR \$2,500,000.

SPALLINA ALSO TOLD ME THAT IN 2006, ALL OF THE GRANDCHILDREN RECEIVED TRUSTS FROM SHIRLEY AND SIMON. HE STATED THAT YATES WAS ACTUALLY THE ATTORNEY FOR ELIOT'S CHILDREN'S TRUSTS. SPALLINA STATED THAT SIMON WANTED ELIOT'S KIDS TO HAVE A HOME, BUT DID NOT WANT THE HOME IN ELIOT'S NAME.

SPALLINA ALSO TOLD ME THAT IN 2009 SIMON CAME TO HIM AND SAID HE IS BUYING A HOUSE FOR ELIOT AND HIS FAMILY TO LIVE IN, BUT HE DOES NOT WANT ELIOT TO OWN THE HOME. HE SAID THAT SIMON TOLD HIM THAT HE WANTED ELIOT'S

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CHILDREN'S THREE TRUSTS TO OWN THE HOME. HE THEN SET UP A LIMITED LIABILITY COMPANY, WHICH IS BERNSTEIN FAMILY REALTY. HE SAID THAT SIMON SET UP AN ACCOUNT AT LEGACY BANK. HE SAID THAT SIMON FUNDED THE ACCOUNT, TO PAY FOR THE EXPENSES AT THE HOUSE. RACHEL WALKER WAS IN CHARGE OF PAYING THOSE EXPENSES. HE SAID THAT AT SIMON'S DEATH THE ACCOUNT HAD VERY LITTLE MONEY IN IT. HE SAID THIS WAS THE TYPE OF ACCOUNT THAT ONLY ENOUGH MONEY WENT INTO IT EACH MONTH TO COVER THE NECESSARY EXPENSES FOR THE HOME, SUCH AS POWER, WATER, AND MORTGAGE.

SPALLINA STATED THAT PRIOR TO SIMON'S DEATH, HE WAS THE MANAGER OF BER, BUT AFTER HIS DEATH IT WAS TRANSFERRED TO OPPENHEIMER TRUST COMPANY, BECAUSE NO ONE IN THE FAMILY WANTED TO MANAGE IT. HE STATED THIS WAS BECAUSE NO ONE WANTED TO DEAL WITH ELIOT. HE SAID OTC BECAME THE TRUSTEE AND THE LEGACY BANK ACCOUNT GOT CLOSED OUT SINCE THE ACCOUNT HAD MINIMAL FUNDS IN IT AND SIMON WAS NO LONGER ALIVE TO FUND IT. HE STATED THAT OTC OPENED UP THEIR OWN BER TRUST ACCOUNT. HE SAID THAT WHEN THIS OCCURRED, THERE WAS APPROXIMATELY \$80,000 IN EACH OF ELIOT'S CHILDREN'S TRUSTS. HE SAID THAT ELIOT STARTED CALLING UP OTC ASKING FOR THEM TO PAY BILLS.

SPALLINA SAID THE PROBLEM IS THAT SINCE NEITHER ELIOT NOR HIS WIFE WERE WORKING, THEY WERE ALSO ASKING FOR THEIR CREDIT CARD BILLS TO BE PAID, ALONG WITH THE NORMAL LIVING EXPENSES. HE STATED THAT THE CREDIT CARD BILLS SHOWED CHARGES TO HIGH END RESTAURANTS, SUCH AS CAPITAL GRILL. SPALLINA SAID THAT DUE TO THE EXPENSES BEING PAID BY THE THREE CHILDREN'S TRUST, TO INCLUDE PRIVATE SCHOOL, THE TRUSTS WERE DRAINED BY AUGUST 2013.

SPALLINA STATED THAT TED BERNSTEIN IS THE TRUSTEE FOR SHIRLEY'S TRUST. HE SAID THAT SHIRLEY HAD A CONDO THAT WAS SOLD FOR \$1,400,000 AND THAT MONEY WENT INTO THE TRUST. HE SAID THAT TED DISCUSSED WITH HIS SIBLINGS, POSSIBLY EXCLUDING ELIOT, THAT THERE WAS CONCERN ABOUT A CREDITOR GETTING SOME OF THE MONEY. HE SAID THAT TED MADE A DISTRIBUTION TO SEVEN OF THE 10 GRANDCHILDREN'S TRUSTS. FOUR OF WHICH INCLUDE TED'S THREE CHILDREN AND PAM'S CHILD. SPALLINA SAID THAT TED ONLY FUNDED SEVEN OF THE GRANDCHILDREN, BECAUSE ELIOT REFUSED TO OPEN ACCOUNTS FOR HIS THREE KIDS SO THAT TED COULD FUND THEM. HE SAID THAT IN SEPTEMBER OF 2013, \$80,000 WAS DISTRIBUTED TO EACH OF THE SEVEN TRUSTS, WHICH IS A TOTAL OF \$560,000. SPALLINA REITERATED THAT TED WAS TOLD TO NOT MAKE DISTRIBUTIONS.

SPALLINA WAS ASKED AND CONFIRMED THAT THE ALTERED DOCUMENT REFERENCE SHIRLEY'S TRUST, IS THE ONLY MISTAKE THAT HE MADE. HE IS NOT AWARE OF ANY OTHER MISTAKES.

I WAS SUPPLIED A COPY OF THE ALTERED DOCUMENT BY SPALLINA ON 01/22/14. THIS NARRATIVE IS NOT A VERBATIM ACCOUNT OF THE INTERVIEW WITH SPALLINA. FURTHER INVESTIGATION WILL CONSIST OF MEETING WITH SIMON AND SHIRLEY'S CHILDREN, IN ATTEMPT TO GAIN STATEMENTS FROM THEM.

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DETECTIVE RYAN W. MILLER #7704  
01/24/14 @ 1153 HRS.  
TRANS. VIA EMAIL/COPY/PASTE: 01/29/2014/MDR/#6405

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DISPOSITION: SULO  
DIVISION: DETECTIVE

911:

ECONOMIC CRIMES \* \* \*  
SIGNAL CODE: 14 CRIME CODE: NON CRIME CODE: OT CODE: 9546 01/29/14 THURSDAY  
ZONE: BR GRID: DEPUTY I.D.: 7704 NAME: MILLER ASSIST: TIME D 1020 A 1020 C 1021  
OCCURRED BETWEEN DATE: 12/01/12 , 0000 HOURS AND DATE: 01/31/13 , 0000 HOURS  
EXCEPTION TYPE:  
INCIDENT LOCATION: 4855 TECHNOLOGY WY APT. NO.: 700  
CITY: BOCA RATON STATE: FL ZIP: 33431

NO. OFFENSES: 00 NO. OFFENDERS: UK NO. VEHICLES STOLEN: 0 NO. PREMISES ENTERED: 0  
LOCATION: OTHER  
NO. VICTIMS: 00 NO. ARRESTED: 0 FORCED ENTRY: 0

ON JAN. 28, 2014 I MET WITH TED BERNSTEIN WHO WAS ACCOMPANIED BY ATTORNEY ALAN ROSE. ROSE IS A CIVIL ATTORNEY, SPECIALIZING IN PROBATE AND BUSINESS LITIGATION. THIS INTERVIEW TOOK PLACE AT THE PALM BEACH COUNTY SHERIFF'S OFFICE, SPECIAL INVESTIGATIONS DIVISION'S CONFERENCE ROOM, LOCATED AT 3228 GUN CLUB ROAD, WEST PALM BEACH, FLORIDA 33406 AT 11:46 A.M. THE FOLLOWING IS A NON-VERBATIM ACCOUNT OF THE INTERVIEW:

TED STATED THAT HE AND HIS FATHER SIMON HAD AN OFFICE TOGETHER. HE TOLD ME THAT IN 2007 HE HAD NOTICED THAT TESCHER AND SPALLINA STARTED FREQUENTING THE OFFICE AND THEY CONTINUED TO VISIT THE OFFICE QUITE OFTEN INTO 2008. HE SAID THAT HE THEN REALIZED THAT HIS PARENTS WERE CONDUCTING THEIR ESTATE PLANNING. HE SAID THAT HE WAS NOT ASKED TO BE PART OF THE PLANNING, NOR DID HE INQUIRE ABOUT IT. TED TOLD ME THAT HE IS THE ELDEST CHILD OF FIVE, TO INCLUDE JILL, LISA, RAN, AND ELIOT. THE OFFICE FOR THE INSURANCE AGENCY THAT TED AND SIMON WORKED TOGETHER AT IS LOCATED AT 950 PENINSULA CORPORATE CIRCLE, BOCA RATON, FL 33487.

TED STATED THAT HE FOUND OUT UPON HIS FATHER'S DEATH, THAT HE WAS THE TRUSTEE FOR HIS MOTHER'S TRUST. HE TOLD ME THAT THE ATTORNEY'S (TESCHER AND SPALLINA) MADE HIM AWARE OF THIS. HE SAID HE WAS ALSO INFORMED HE WAS A CO-TRUSTEE FOR SOME OTHER ACCOUNT. HE TOLD ME THAT HE IS NOT GOING TO INHERIT AN INSURANCE AGENCY, BUT THAT HE AND HIS FATHER WERE PARTNERS. HE STATED THAT HE OWNS STOCK IN THE AGENCY WITH NO OPTION FOR HIM TO INHERIT OR PURCHASE HIS FATHER'S INTEREST IN THE COMPANY. HE COMMENTED ON THE FACT THAT THE BUSINESS MAKES LITTLE INCOME THESE DAYS.

TED STATED THAT IN THE FIRST PART OF 2012, HIS FATHER (SIMON) HAD A

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DISCUSSION WITH HIM, REFERENCE AN ISSUE THAT PAM RAISED WITH SIMON ABOUT HOW THE DOCUMENTS FOR THE TRUSTS WERE DRAWN UP. HE TOLD ME THAT HE BELIEVED PAM HAD SENT SIMON SOME INFORMATION OR A BOOK RELEVANT TO HER VIEW ON HOW YOU DO ESTATE PLANNING WHEN CHILDREN AND GRANDCHILDREN ARE INVOLVED. HE SAID THAT HIS FATHER DID ASK HIM HIS OPINION ON THINGS AND TED TOLD HIM THAT HE DID FEEL THAT THE GRANDCHILDREN MAY NOT UNDERSTAND IT IF THEY DID NOT RECEIVE AN INHERITANCE. HE STATED THAT HIS FATHER TOLD HIM THAT HE MADE A REALLY GOOD POINT AND SOMETHING TO CONSIDER. TED SAID THAT SOON AFTER THAT CONVERSATION HIS FATHER ANNOUNCED THAT HE WANTED TO TALK WITH HIS CHILDREN ABOUT THE DISTRIBUTION OF HIS AND SHIRLEY'S ASSETS UPON HIS DEATH. HE TOLD ME THAT A CONFERENCE CALL MEETING TOOK PLACE INCLUDING HIS (SIMON'S) FIVE CHILDREN, SIMON, AND SPALLINA. HE SAID THAT THE CONVERSATION WENT REALLY WELL AND SIMON GOT TO PROVIDE HIS WISHES VERY CLEARLY.

HE STATED THAT SPALLINA EXPLAINED THE PROCESS LEGALLY, BUT HIS FATHER MADE A STATEMENT AND ASKED EACH CHILD DIRECTLY, HOW THEY FELT ABOUT IT. TED SAID THAT IT WAS TOLD TO HIM AND HIS SIBLINGS THAT SIMON WAS LEAVING ALL OF HIS WEALTH TO HIS 10 GRANDCHILDREN EQUALLY. HE SAID THAT SIMON TOLD THEM THAT THEY (THE CHILDREN) WERE EACH GETTING 1/5 OF A LIFE INSURANCE POLICY. TED SAID THAT IT WAS OBVIOUS THAT HIS FATHER WAS NOT ASKING FOR PERMISSION, BUT STATING CLEARLY WHAT HE THOUGHT WAS RIGHT. TED SAID THAT EACH CHILD STATED THEY FELT OK ABOUT THE DECISION AND THAT IT WAS HIS WEALTH TO MAKE DECISIONS WITH. TED STATED THAT HE BELIEVES THIS WAS THE SAME PHONE CALL WHERE HE WAS TOLD BY SPALLINA HE, AS WELL AS SIBLINGS, WOULD BE RECEIVING FORMS THEY NEEDED TO SIGN AND RETURN. HE STATED THAT SOON AFTER THIS CALL HE RECEIVED THE WAIVER OF ACCOUNTING FORM FOR HIS MOTHER'S ESTATE. THIS IS THE DOCUMENT DISCUSSED IN PBSO CASE # 13-097087.

TED STATED THAT HE WAS NOT INVOLVED IN ANY OTHER DISCUSSIONS REFERENCE ESTATES UNTIL HIS FATHER'S PASSING ON SEPTEMBER 13, 2012. HE SAID THAT TESCHER AND SPALLINA TOLD HIM AFTER HIS FATHER'S DEATH THAT HE WAS THE TRUSTEE FOR HIS MOTHER'S ESTATE. HE SAID OVER MANY IN PERSON MEETINGS AND PHONE CALLS HE WAS GIVEN GUIDANCE BY THE ATTORNEYS ON HOW TO PERFORM HIS DUTIES AS A TRUSTEE, BECAUSE THIS WAS ALL NEW TO HIM. HE HAD NEVER BEEN IN THIS ROLE BEFORE. HE STATED HE WAS NOT PROVIDED A CHECKLIST OR BOOK ON HOW TO PERFORM THESE DUTIES. TED SAID THAT HE MADE IT CLEAR TO HIS SIBLINGS THAT HE IS THE TRUSTEE ON SHIRLEY'S TRUST. TED STATED THAT HE WAS TOLD THAT SHIRLEY'S TRUST WAS TO BE DISTRIBUTED AMONGST HER 10 GRANDCHILDREN. TED STATED THAT HE DID NOT READ ALL OF SHIRLEY'S TRUST DOCUMENTS AND THAT SPALLINA AND TESCHER HAD BOTH TOLD HIM SEVERAL TIMES HOW SHIRLEY'S TRUST WAS TO BE DISTRIBUTED.

TED SAID THAT HE DID READ IN THE DOCUMENTS WHERE THE 10 GRANDCHILDREN WERE TO RECEIVE THE ASSETS FROM THE TRUST. HE SAID THAT HE DID ISSUE A PARTIAL DISTRIBUTION TO THE SEVEN OF THE 10 GRANDCHILDREN. HE DID NOT ISSUE

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DISTRIBUTIONS TO ELIOT'S CHILDREN BECAUSE ELIOT REFUSED TO SET UP ACCOUNTS FOR THE FUNDS TO BE SENT TOO. HE ALSO TOLD ME THAT ELIOT TOLD JUDGE COLIN IN COURT THAT HE DID NOT WANT TO SET UP THE ACCOUNTS FOR HIS CHILDREN TO RECEIVE THE FUNDS, BECAUSE THE FUNDS BELONG TO HIM, NOT HIS CHILDREN. HE STATED THAT ELIOT HAD MENTIONED OTHER REASONS IN E-MAILS FOR NOT TAKING THE MONEY. HE ALSO STATED THAT ELIOT REFERENCED THE MONEY AS CRIME OR BLOOD MONEY.

HE STATED THAT SPALLINA TOLD HIM IT WAS OK TO DISTRIBUTE THE FUNDS. HE STATED THAT TESCHER AND SPALLINA RESPONDED VIA E-MAIL ON HOW TO RECEIVE THE FUNDS, SUCH AS SETTING UP TRUST ACCOUNTS FOR THE FUNDS TO GO INTO. TED TOLD ME THAT THERE WERE CONVERSATIONS, WHERE HE WAS TOLD THAT SIMON'S ASSETS COULD NOT BE DISTRIBUTED DUE TO CREDITORS FILING AGAINST THE ESTATE, BUT HE WAS LEAD TO BELIEVE IT WAS OK TO MAKE A PARTIAL DISTRIBUTION OF FUNDS FROM SHIRLEY'S ESTATE, BUT THAT THEY WOULD NEED TO BE CAREFUL IN REGARDS TO DISTRIBUTING FUNDS THAT WERE OBTAINED THROUGH LIQUIDATING HER JEWELRY AND PERSONAL PROPERTY. TED ALSO COMMENTED THAT ONE OF THE GOALS OF MAKING THE DISTRIBUTIONS WAS TO ASSIST ELIOT AND HIS FAMILY, BECAUSE THEY WERE RUNNING LOW ON FUNDS. HE STATED THIS DERIVED FROM ELIOT'S POTENTIAL MISUSE OF FUNDS THAT WERE IN HIS CHILDREN'S TRUSTS IN RELATION TO BERNSTEIN FAMILY REALTY (ELIOT'S HOME) AND ELIOT'S SPENDING AND EXPENSES.

TED CONFIRMED THAT HE DID NOT MAKE ANY DECISIONS IN RELATION TO SIMON'S INSURANCE POLICY GENERATED OUT OF CHICAGO, ILLINOIS. HE STATED THAT HE UNDERSTOOD THE POLICY TO BE OWNED BY SIMON PERSONALLY. HE STATED HE UNDERSTOOD THE POLICY TO READ AS, SHOULD SHIRLEY PASS BEFORE HIM, THE BENEFITS WOULD GO TO THE FIVE CHILDREN.

TED CONFIRMED THAT HE WAS NOT THE TRUSTEE FOR SIMON'S ESTATE, BUT THAT IT WAS EXPLAINED TO HIM, VERBALLY, THAT ALL 10 GRANDCHILDREN WILL RECEIVE THE ASSETS FROM THAT ESTATE IN AN EQUAL DISTRIBUTION AT SOME POINT IN TIME. WE DID DISCUSS THE POWER OF APPOINTMENT PUT IN THE TRUST DOCUMENTS. IT APPEARED AS IF TED WAS NOT AWARE OF ANYTHING CALLED A POWER OF APPOINTMENT, UNTIL THE LAST FEW WEEKS. THAT WAS WHEN SPALLINA NOTIFIED THE COURTS OF HIS WITHDRAW FROM BEING THE ATTORNEY FOR SIMON AND SHIRLEY'S ESTATES. IT APPEARS IT WAS EXPLAINED TO HIM AT THAT TIME.

TED TOLD ME THAT HE AND HIS FATHER HAD A GOOD BUSINESS AND PERSONAL RELATIONSHIP. HE SAID THAT HE HAS A GOOD RELATIONSHIP WITH ALL OF HIS SIBLINGS, EXCEPT FOR ELIOT. HE SAID THAT HE GOT ALONG WITH HIS MOTHER, PRIOR TO HER PASSING. HE TOLD ME THAT RACHEL WALKER WAS EMPLOYED BY HIS MOTHER AND FATHER. HE SAID THAT HE GOT ALONG WITH WALKER AND THAT SHE HELPED HIS MOTHER, SHIRLEY, PRIOR TO SHIRLEY'S PASSING. TED TOLD ME THAT MARITZA PUCCIO WAS SOMEONE THAT WORKED FOR HIM AND AS WELL AS HIS PARENTS. HE STATED THAT SHE HELPED AROUND THE HOMES, CLEANING AND/OR CARING FOR CHILDREN. HE STATED THAT HE MET HER AROUND 2003 OR 2005. HE SAID THAT HE NO LONGER HAS A RELATIONSHIP

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CASE NO. 14029489 SUPPLEMENT 1 OFFENSE REPORT CASE NO. 14029489  
DISPOSITION: ZULU

WITH HER. HE SAID THAT SIMON DID HAVE AN INTIMATE RELATIONSHIP WITH PUCCIO AFTER SHIRLEY PASSED. HE STATED THAT PUCCIO DID RECEIVE SOME TYPE OF FINANCIAL BENEFIT FROM SIMON, PRIOR TO HIM PASSING. HE SAID THAT PUCCIO WAS LIVING WITH SIMON AND HER BILLS WERE BEING PAID FOR. THIS MAY OR MAY NOT BE THE FINANCIAL BENEFIT; TED DID NOT SEEM TO BE SURE. HE DID STATE THAT IT APPEARED THAT SIMON WAS GENUINELY INVESTED INTO THE RELATIONSHIP HE HAD WITH PUCCIO.

TED SAID THAT HE HAS NOT SPOKEN TO SPALLINA ABOUT HIM WITHDRAWING FROM BEING THE ATTORNEY FOR THE TRUSTS, BUT THAT HE DID SPEAK WITH TESCHER. HE SAID THAT TESCHER TOLD HIM HE HAD BEEN MADE AWARE OF A FABRICATED DOCUMENT THAT WAS POTENTIALLY PROBLEMATIC FOR THE ESTATES. HE SAID THAT TESCHER TOLD HIM THAT SPALLINA CREATED THE FABRICATED DOCUMENT AND IT ESSENTIALLY IMPACTED THE ABILITY FOR SIMON TO DISTRIBUTE FUNDS TO ALL 10 GRANDKIDS. TED SAID THAT TESCHER TOLD HIM THAT HE HAD ONLY RECENTLY BECOME AWARE OF THIS DOCUMENT, APPROXIMATELY THREE WEEKS AGO FROM TODAY (01/29/14).

ATTORNEY ALAN ROSE PROVIDED A STATEMENT, STATING HE WISHED TO CLARIFY SOME THINGS IN REGARDS TO HOW THE ESTATE DOCUMENTS READ IN HIS OPINION. HE STATED THAT SHIRLEY'S ASSETS WENT TO LISA, JILL, AND ELIOT OR THEIR LINEAL DECEDENTS. HE STATED THAT ONCE SHIRLEY PASSED HER ASSETS WENT INTO HER TRUST. HE STATED THAT SIMON WAS THE SOLE BENEFICIARY FOR HIS LIFE. HE STATED THAT SIMON DID HAVE A POWER OF APPOINTMENT THAT HE COULD EXERCISE; REFERENCE SHIRLEY'S TRUST, CHANGING THE BENEFITS TO LISA, JILL, AND ELIOT'S CHILDREN. SIMON COULD CHANGE HIS DOCUMENTS AT ANY TIME UP TO HIS DEATH. ALAN STATED THERE IS QUESTION AS TO WHETHER OR NOT SIMON HAD THE POWER TO DISTRIBUTE THE FUNDS FROM THE TRUST TO SIX GRANDCHILDREN OR 10. THE 10 WOULD INCLUDE THE CHILDREN OF ALL FIVE OF SIMON'S KIDS.

HE STATED THAT SHIRLEY'S ORIGINAL DOCUMENTS STATE THAT TED AND PAM AND THEIR LINEAL DECEDENTS ARE CONSIDERED PREDECEASED. HE STATED THAT WERE OTHER WAYS TO MAKE SIMON'S WISHES COME TRUE FOR THE ESTATES. HE SAID THAT CHANGES COULD HAVE BEEN MADE TO SIMON'S DOCUMENTS TO REFLECT SHIRLEY'S SO THAT EQUAL DISTRIBUTIONS WERE MADE AMONGST THE 10 GRANDCHILDREN. THIS EXPLANATION OF THE DOCUMENTS GENERATED A SIMILAR IF NOT THE SAME CONCLUSION AS THAT OF SPALLINA'S FROM LAST WEEK.

I ALSO COMMUNICATED WITH ELIOT BERNSTEIN SEVERAL TIMES THIS WEEK AND LAST WEEK IN ATTEMPT TO ARRANGE AN INTERVIEW WITH HIM IN PERSON. HE CANCELED THE LAST TWO MEETINGS WE HAD SET. AT THIS TIME HE HAS REFUSED TO SET A NEW MEETING DATE.

THIS CONCLUDES MY SUPPLEMENTAL REPORT.  
DETECTIVE RYAN W. MILLER #7704  
01/29/14 @ 1425 HRS.  
TRANS. VIA EMAIL/COPY/PASTE: 01/29/2014/MDR/#6405

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PALM BEACH COUNTY SHERIFF'S OFFICE PAGE 1  
CASE NO. 14029489 SUPPLEMENT 2 OFFENSE REPORT CASE NO. 14029489

DISPOSITION: ZULU  
DIVISION: DETECTIVE

911:

ECONOMIC CRIMES

SIGNAL CODE: 14 CRIME CODE: \* NON CRIME CODE: OT CODE: 9546 01/31/14 THURSDAY  
ZONE: BR GRID: DEPUTY I.D.: 7704 NAME: MILLER ASSIST: TIME D 1020 A 1020 C 1021  
OCCURRED BETWEEN DATE: 12/01/12 , 0000 HOURS AND DATE: 01/31/13 , 0000 HOURS

EXCEPTION TYPE:

INCIDENT LOCATION: 4855 TECHNOLOGY WY APT. NO.: 700  
CITY: BOCA RATON STATE: FL ZIP: 33431

NO. OFFENSES: 00 NO. OFFENDERS: UK NO. VEHICLES STOLEN: 0 NO. PREMISES ENTERED: 0

LOCATION: OTHER

NO. VICTIMS: 00 NO. ARRESTED: 0 FORCED ENTRY: 0

ON 01/29/14 I ATTEMPTED TO MAKE CONTACT WITH LISA FRIEDSTEIN, JILL LANTONI, AND PAMELA SIMON VIA E-MAIL. THEY ARE THE THREE DAUGHTERS OF SIMON AND SHIRLEY BERNSTEIN. I USED THE INFORMATION THAT WAS PROVIDED TO ME BY ELIOT ON 09/10/13. I ATTACHED READ RECEIPTS TO THE E-MAIL. I RECEIVED A READ RECEIPT FROM PAMELA 01/30/14 AT 4:59 AM. ON 01/30/14 I PLACED PHONE CALLS TO JILL AND LISA, USING THE PHONE NUMBERS ELIOT HAD PROVIDED ME. I LEFT MESSAGES ASKING THEM TO CALL ME BACK. ON 01/31/14 I BRIEFLY SPOKE WITH LISA, BUT ASKED THAT SHE CALL BACK SO WE CAN FURTHER DISCUSS THIS CASE. TO DATE, I HAVE NOT RECEIVED A CALL OR E-MAIL FROM PAM OR JILL.

THIS CONCLUDES MY SUPPLEMENTAL REPORT.

DETECTIVE RYAN W. MILLER #7704

01/31/14 @ 1430 HRS.

TRANS. VIA EMAIL/COPY/PASTE: 02/04/2014/MDR/#6405

printed by Employee Id #: 5264 on February 11, 2014 02:26:57PM

# EXHIBIT D

## PETITIONS AND MOTIONS TO REMOVE FIDUCIARIES

**MOTIONS AND PETITIONS TO REMOVE TED AND FIDUCIARIES IN SIMON AND SHIRLEY  
BERNSTEIN ESTATE AND TRUST CASES**

**I. Simon Bernstein Estate Case # 502012CP004391XXXXSB – Motions and Petitions to Remove Fiduciaries**

75	MOT - MOTION		
<b>Filing Date:</b>	24-FEB-2014		
<b>Filing Party:</b>			
<b>Disposition Amount:</b>			
<b>Docket Text:</b>	MOTION TO: (I) HALT "YE OLE HAT TRICK" FOR DESIGNATION OF SUCCESSOR PERSONAL REPRESENTATIVES. APPOINT CURATOR IN INTERIM, APPOINT CORPORATE TRUSTEE AND PR AND PETITIONER AS CO- CURATOR, CO-PERSONAL REPRESENTATIVE AND CO- TRUSTEE IN ESTATES AND TRUSTS (II) EXTEND TIME TO CHOOSE SUCCESSORS. AND (III) MOTION FOR EMERGENCY HEARING FOR EMERGENCY DISTRIBUTIONS TO THREE MINOR CHILDREN IN COURT'S CUSTODIAL CARE AND PETITIONER AND' HIS WIFE CANDICE		

97	PET - PETITION		
<b>Filing Date:</b>	07-APR-2014		
<b>Filing Party:</b>			
<b>Disposition Amount:</b>			
<b>Docket Text:</b>	PETITION FOR CONSTRUCTION OF TESTAMENTARY TRUST, FOR REMOVAL OF TRUSTEE'AND FOR TRUST ACCOUNTING BY ELIOT IVAN BERNSTEIN		

126	NOF - NOTICE OF FILING		
<b>Filing Date:</b>	22-MAY-2014		
<b>Filing Party:</b>			
<b>Disposition Amount:</b>			
<b>Docket Text:</b>	JOINDER IN PETITION FILED BY ELIOT IVAN BERNSTEIN FOR REMOVAL OF TRUSTEE AND FOR TRUST ACCOUNTING F/B WILLIAM E. STANSBURY, CREDITOR OF THE E/O SIMON BERNSTEIN E-FILED		

127	OBJ - OBJECTION		
132	NOH - NOTICE OF HEARING		

<b>Filing Date:</b>	29-MAY-2014		
<b>Filing Party:</b>	BERNSTEIN, ELIOT IVAN		
<b>Disposition Amount:</b>			
<b>Docket Text:</b>	JULY 11TH 2014, 1:30 PM, OM OBJECTION TO FINAL ACCOUNTING AND PETITION FOR FORMAL, DETAILED, AUDITED AND FORENSIC ACCOUNTING AND DOCUMENT ANALYSIS, AND CONSTRUCTION OF TESTAMENTARY TRUST, REMOVAL OF TRUSTEE AND TRUST ACCOUNTING		

188	RESP - RESPONSE TO:		
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<b>Filing Date:</b>	27-JUN-2014
<b>Filing Party:</b>	STANSBURY, WILLIAM E
<b>Disposition Amount:</b>	
<b>Docket Text:</b>	RESPONSE IN OPPOSITION TO THE APPOINTMENT OF TED BERNSTEIN AS SUCCESSOR PERSONAL REPRESENTATIVE AND MOTION FOR THE APPOINTMENT OF AN INDEPENDENTTHIRD PARTY AS BOTH SUCCESSOR PERSONAL REPRESENTATIVE AND TRUSTEE OF THE SIMON BERNSTEIN TRUST AGREEMENT F/B

215	PET - PETITION		
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<b>Filing Date:</b>	29-JUL-2014
<b>Filing Party:</b>	STANSBURY, WILLIAM E
<b>Disposition Amount:</b>	
<b>Docket Text:</b>	PETITION TO REMOVE TED BERNSTEIN AS SUCCESSOR TRUSTEE OF THE SIMON BERNSTEIN REVOCABLE TRUST

217	MOT - MOTION		
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<b>Filing Date:</b>	30-JUL-2014
<b>Filing Party:</b>	FEAMAN , ESQ, PETER M
<b>Disposition Amount:</b>	
<b>Docket Text:</b>	MOTION TO SPECIAL SET PETITION TO REMOVE SUCCESSOR TRUSTEE, TED BERNSTEIN

233	EMOT - EMERGENCY MOTION		
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<b>Filing Date:</b>	24-AUG-2014
<b>Filing Party:</b>	BERNSTEIN, ELIOT IVAN
<b>Disposition Amount:</b>	
<b>Docket Text:</b>	AMENDED EMERGENCY MOTION - TO COMPEL ALLEGED TRUSTEE OF THE SHIRLEY TRUST TO MAKE EMERGENCY WELFARE PAYMENTS AS PROVIDED FOR UNDER THE TRUST MOTION FOR REMOVAL OF TRUSTEE ON THE COURTS OWN INITIATIVE - FLORIDA TITLE XLFL736.0706

244	MOT - MOTION		
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<b>Filing Date:</b>	28-AUG-2014
<b>Filing Party:</b>	BERNSTEIN, ELIOT IVAN
<b>Disposition Amount:</b>	
<b>Docket Text:</b>	(AMENDED) FOR REMOVAL OF PERSONAL REPRESENTATIVE AND TRUSTEE OF THE ESTATES AND TRUST OF SIMON AND SHIRLEY BERNSTEIN IN ALL FIDUCIAL CAPACITIES ON THE COURT'S OWN INITIATIVE UNEXECUTED ORDER ATTACHED EFILED

249	PET - PETITION		
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<b>Filing Date:</b>	06-SEP-2014
<b>Filing Party:</b>	BERNSTEIN, ELIOT IVAN
<b>Disposition Amount:</b>	
<b>Docket Text:</b>	TO REMOVE THEODORE BERNSTIEIN AS ALLEGED SUCCESSOR TRUSTEE EFILED

268	ORD - ORDER		
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<b>Filing Date:</b>	07-OCT-2014
<b>Filing Party:</b>	
<b>Disposition Amount:</b>	
<b>Docket Text:</b>	ORDER ON ELIOT BERNSTEIN'S PETITION TO REMOVE TED BERNSTEIN AS ALLEGED SUCCESSOR TRUSTEE OF THE ALLEGED SIMON BERNSTEIN REVOCABLE TRUST, JUDGE COLIN

**II. Shirley Bernstein Estate Case 502011CP000653XXXXSB – Motions and Petitions to Remove Fiduciaries**

34	PET - PETITION		
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<b>Filing Date:</b>	06-MAY-2013
<b>Filing Party:</b>	
<b>Disposition Amount:</b>	
<b>Docket Text:</b>	EMERGENCY PETITION TO: FREEZE ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SHIRLEY BERNSTEIN AND MORE F/B: ELIOT IVAN BERNSTEIN

39	MOT - MOTION		
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<b>Filing Date:</b>	26-JUN-2013
<b>Filing Party:</b>	
<b>Disposition Amount:</b>	
<b>Docket Text:</b>	MOTION TO: CONSIDER IN ORDINARY COURSE THE EMERGENCY PETITION TO FREEZE ESTATE ASSETS, APPOINT NEW PERSONAL REPRESENTATIVES, INVESTIGATE FORGED AND FRAUDULENT DOCUMENTS SUBMITTED TO THIS COURT AND OTHER INTERESTED PARTIES, RESCIND SIGNATURE OF ELIOT BERNSTEIN IN ESTATE OF SHIRLEY BERNSTEIN AND MORE FILED BY PETITIONER, F/B:ELIOT BERNSTEIN

45	NOT - NOTICE		
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<b>Filing Date:</b>	04-SEP-2013
<b>Filing Party:</b>	
<b>Disposition Amount:</b>	
<b>Docket Text:</b>	OF EMERGENCY MOT. TO FREEZE ESTATES OF SHIRLEY BERNSTEIN DUE TO ADMITTED & ACKNOWLEDGED NOTARY PUBLIC FORGERY, FRAUD & MORE BY THE LAW FIRM OF TESCHER & SPALLINA, P.A., ROBERT SPALLINA AND DONALD

	TESCHER ACTING AS ALLEGED P.R.S AND THIER LEGAL ASSISTANT AND NOTARY PUBLIC, KIMBERLY MORAN: MOT. FOR INTERIM DISTRIBUTION DUE TO EXTORTION BY ALLEGED P.R.S AND OTHER; MOT. TO STRIKE THE MOTION OF SPALLINA TO REOPEN THE ESTATE; ; CONTINUED MOT. FOR REMOVAL OF ALLEGED P.R. AND ALLEGED SUCCESSOR TRUSTEE F/B ELIOT IVAN BERNSTEIN		
82	MOT - MOTION		

<b>Filing Date:</b>		02-JAN-2014	
<b>Filing Party:</b>			
<b>Disposition Amount:</b>			
<b>Docket Text:</b>		I) STRIKE ALL PLEADINGS OF MANCERI AND REMOVE HIM AS COUNSEL; (II) FOR EMERGENCY INTERIM DISTRIBUTIONS AND FAMILY ALLOWANCE; (III) FOR FULL ACCOUNTING DUE TO ALLEGED THEFT OF ASSETS AND FALSIFIED INVENTORIES; (IV) NOT CONSOLIDATE THE ESTATE CASES OF SIMON AND SHIRLEY BUT POSSIBLY INSTEAD DISQUALIFY YOUR HONOR AS A MATTER OF LAW DUE TO DIRECT INVOLVEMENT IN.FORGED AND FRAUDULENTLY NOTARIZED DOCUMENTS FILED BY OFFICERS OF THIS COURT AND APPROVED BY YOUR HONOR DIRECTLY; (V) THE COURT TO SET AN.EMERGENCY HEARING ON ITS OWN MOTION DUE TO PROVEN FRAUD AND FORGERY IN THE ESTATE OF SHIRLEY CAUSED IN PART BY OFFICERS OF THE COURT AND THE DAMAGING AND DANGEROUS FINANCIAL EFFECT IT IS HAVING ON PETITIONER, INCLUDING THREE MINOR CHILDREN AND IMMEDIATELY HEAR ALL PETITIONER'S PRIOR MOTIONS IN THE ORDER' THEY WERE FILED PETITIONERS PRIOR MOTIONS IN THE ORDER THEY WERE FILED	

106	EMOT - EMERGENCY MOTION		
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<b>Filing Date:</b>		24-AUG-2014	
<b>Filing Party:</b>		BERNSTEIN, ELIOT IVAN	
<b>Disposition Amount:</b>			
<b>Docket Text:</b>		AMENDED EMERGENCY MOT. TO COMPEL ALLEGED TRUSTEE OF THE SHIRLEY TRUST TO MAKE EMERGENCY WELFARE PAYMENT AS PROVIDED FOR UNDER THE TRUST: MOT. FOR REMOVAL OF TRUSTEE OF THE COURT'S OWN INITIATIVE-FLORIDA TITLE XLII736.076 F/B ELIOT IVAN BERNSTEIN (ELIOT	

**III. Shirley Bernstein Trust Case # 502014CP003698XXXXSB – Motions and Petitions to Remove Fiduciaries**

16	ANS - ANSWER		
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<b>Filing Date:</b>		05-SEP-2014	
<b>Filing Party:</b>		BERNSTEIN, ELIOT IVAN	
<b>Disposition Amount:</b>			
<b>Docket Text:</b>		F/B ELIOT IVAN BERNSTEIN	

17	COCL - COUNTERCLAIM		
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<b>Filing Date:</b>		05-SEP-2014	
<b>Filing Party:</b>		BERNSTEIN, ELIOT IVAN	
<b>Disposition Amount:</b>			
<b>Docket Text:</b>		F/B ELIOT BERNSTEIN	

23	PET - PETITION		
<b>Filing Date:</b>	12-SEP-2014		
<b>Filing Party:</b>	BERNSTEIN, ELIOT IVAN		
<b>Disposition Amount:</b>			
<b>Docket Text:</b>	PETITION TO REMOVE THEODORE BERNSTEIN AS ALLEGED SUCCESSOR TRUSTEE FILED BY ELIOT IVAN BERNSTEIN		
41	PET - PETITION		
<b>Filing Date:</b>	05-DEC-2014		
<b>Filing Party:</b>	BERNSTEIN, ELIOT IVAN		
<b>Disposition Amount:</b>			
<b>Docket Text:</b>	PETITION TO REMOVE THEODORE STUART BERNSTEIN AS ALLEGED SUCCESSOR TRUSTEE BY ELIOT IVAN BERNSTEIN		

**IV. Simon Bernstein Trust Case # 502014CA014637XXXMB – Motions and Petitions to Remove Fiduciaries**

3	CMP - COMPLAINT		
<b>Filing Date:</b>	06-DEC-2014		
<b>Filing Party:</b>	BERNSTEIN, ELIOT IVAN		
<b>Disposition Amount:</b>			
<b>Docket Text:</b>	TO REMOVE THEODORE STUART BERNSTEIN AS SUCCESSOR TRUSTEE		