

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CASE NO. 502014CP003698XXXXSB

TED BERNSTEIN, as Trustee
of the Shirley Bernstein Trust Agreement
dated May 20, 2008, as amended,

Plaintiff,

-vs-

ALEXANDRA BERNSTEIN; ERIC BERNSTEIN;
MICHAEL BERNSTEIN; MOLLY SIMON;
PAMELA B. SIMON, Individually and as Trustee
f/b/o Molly Simon under the Simon L. Bernstein
Trust Dtd 9/13/12; ELIOT BERNSTEIN, individually,
as Trustee f/b/o D.B., Ja.B. and Jo.B. under the
Simon L. Bernstein Trust Dtd 9/13/12, and on
behalf of his minor children D.B., Ja.B. and Jo.B.;
JILL IANTONI, Individually, as Trustee f/b/o J.I.
under the Simon L. Bernstein Trust Dtd 9/13/12, and
on behalf of her minor child J.I.; MAX FRIEDSTEIN;
LISA FRIEDSTEIN, Individually, as Trustee f/b/o
Max Friedstein and C.F., under the Simon L.
Bernstein Trust Dtd 9/13/12, and on behalf of her
minor child, C.F.,

Defendants.

(EXCERPT - RULINGS)

HEARING BEFORE THE HONORABLE
MARTIN H. COLIN

Thursday, March 26, 2015
South County Courthouse
Courtroom 8
Delray Beach, Florida 33444
1:03 p.m. - 2:10 p.m.

Stenographically Reported By:
April Y. Segui, RPR, FPR
Registered Professional Reporter
Florida Professional Reporter

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APPEARANCES:

On behalf of the Plaintiff:

MRACHEK, FITZGERALD, ROSE, KONOPKA,
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BY: ALAN B. ROSE, ESQUIRE

On behalf of the Personal Representative:

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BY: JOIELLE A. FOGLIETTA, ESQUIRE

On behalf of D.B., Ja.B. and Jo.B., Minors, as
Parents and Natural Guardians
and individually:

ELIOT BERNSTEIN and CANDICE BERNSTEIN, PRO SE
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BY: ELIOT BERNSTEIN

P R O C E E D I N G S

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4 MR. ROSE: We're here to get you to order the
5 sale approved. If you don't order the sale
6 approved, it doesn't go forward.

7 THE COURT: The contract is still pending.
8 I'm not negating the contract. You want -- what
9 you wanted was a court order to allow the closing
10 to take place by the 31st.

11 MR. ROSE: And to prohibit him from
12 interfering.

13 THE COURT: I'm going to deal with that --
14 I'm going to deal with that second.

15 MR. ROSE: Because he --

16 THE COURT: You don't have to argue that, him
17 interfering. I'm going to enter an order right
18 now dealing with that subject.

19 MR. ROSE: As soon as you tell the buyers
20 that there's going to be litigation to claw back
21 the property, these are very wealthy people. They
22 don't need the aggravation.

23 THE COURT: I don't need your help on this
24 issue.

25 MR. ROSE: I apologize.

1 THE COURT: So one part of my ruling is that,
2 because Eliot is objecting and says there's a good
3 faith basis for this sale not to go through
4 whereby the -- what's going to happen is there's
5 going to be a change in the asset structure of the
6 trust from property to cash. Eliot is objecting
7 to that.

8 All right. So, Eliot, I'm going to make this
9 clear, I'm going to right it. If the buyers here,
10 by telling me that the Pony Express told them that
11 there was litigation about this, I know it's
12 coming from you, okay? I am ordering you not to
13 discuss, not to disseminate, or not to give any
14 notice that you think needs to go to the buyers,
15 okay? And if I find out that the buyers find out
16 about the stuff that you just asked Mr. Poletto
17 about, I'm only going to look to you, and then you
18 and I are going to have issues, okay?

19 MR. ELIOT BERNSTEIN: I hear it.

20 THE COURT: Because you may think it's good
21 to do that huffing that you do to Mr. Poletto by
22 telling him all of that stuff that you think has
23 some merit, that I have never found to have any
24 merit yet, okay, so I haven't found the
25 conspiracy, I haven't removed Ted, I haven't found

1 that it matters who's trustee in order to go ahead
2 and sell this for the benefit of the trust. I
3 might wind up finding that all of the things
4 you're doing is harmful to the trust and the trust
5 beneficiaries, okay. I haven't gotten there yet
6 because that's why I'm trying to push this matter
7 through.

8 So we're going to take this one small step at
9 a time, but I'm ordering an injunction against you
10 not to contact the buyers directly or indirectly
11 with respect to any information concerning this
12 transaction. Understood?

13 MR. ELIOT BERNSTEIN: Yes. I've never
14 contacted any buyers.

15 THE COURT: But you're suggesting that they
16 need to know that.

17 MR. ELIOT BERNSTEIN: I'm suggesting if he
18 knew it.

19 THE COURT: But that's not the point.

20 MR. ELIOT BERNSTEIN: Okay. That's fine. I
21 understood.

22 THE COURT: That's not your job.

23 MR. ELIOT BERNSTEIN: My next question was:
24 Did you get a lis pendens I filed in this matter?

25 THE COURT: Doesn't matter. I got it. They

1 are told that it's filed.

2 MR. ELIOT BERNSTEIN: So are the buyers aware
3 there's a lis pendens? I'm not allowed to ask
4 that?

5 THE COURT: No, you're not allowed to ask
6 that. I don't know who you gave notice to. If
7 you sent notice to the contract -- if you sent
8 notice of this lis pendens to a contract buyer,
9 you're going to be right back in court here so
10 quickly your head is going to ring.

11 MR. ELIOT BERNSTEIN: I'm not going to talk
12 to the contract buyer.

13 THE COURT: No, but I don't want you to send
14 something to them.

15 MR. ELIOT BERNSTEIN: I'm not going to send
16 anything to the buyer. I would never do that.
17 I'm not doing that.

18 THE COURT: Because, obviously, if there's a
19 sale --

20 MR. ELIOT BERNSTEIN: I'm assuring you, I am
21 assuring you on that.

22 THE COURT: -- because if we have a sale, the
23 lis pendens is going to go away. They can't clear
24 title. It can't be sold over that.

25 MR. ELIOT BERNSTEIN: Correct. Now, I don't

1 think I filed it properly in the county and
2 recorded it with the thing.

3 THE COURT: If you improperly file a lis
4 pendens, you're at risk for whatever it is you
5 did, so withdraw your lis pendens then, if that's
6 the case.

7 MR. ELIOT BERNSTEIN: I'm not quite sure I
8 filed it wrong. I'm pro se. We will have to get
9 to that. But the point was, you asked that
10 everything come to you in this case.

11 THE COURT: But you didn't do it with the lis
12 pendens.

13 MR. ELIOT BERNSTEIN: I did. I gave it to
14 you in October.

15 THE COURT: Well, yeah, but I didn't approve
16 it. I held it because I didn't order it being
17 filed. You did send it.

18 MR. ELIOT BERNSTEIN: In the meantime, all of
19 a sudden, we get alerted there's a pending sale.
20 That would have denied me the due process to file
21 a lis pendens properly.

22 THE COURT: No, no. All you had to do was --
23 he went ahead and gave notice because you can't
24 sell it without getting court approval, okay, and
25 so once he filed to get court approval, you had

1 notice, he gave you notice of the hearing.

2 MR. ELIOT BERNSTEIN: That's just the other
3 day.

4 THE COURT: That's when this all started.

5 MR. ELIOT BERNSTEIN: Well, I filed the lis
6 pendens first --

7 THE COURT: All right.

8 MR. ELIOT BERNSTEIN: -- prior to his --

9 THE COURT: So what do you want, Ted?

10 MR. TED BERNSTEIN: I know you have something
11 else pressing, but I'm concerned I don't
12 understand something Mr. Poletto said and I want
13 to make sure in court I'm clear.

14 THE COURT: Go ahead.

15 MR. TED BERNSTEIN: Did you say that there's
16 a chance the buyer backs out of this contract if
17 it's not done by March 31st, just walks away from
18 the deal?

19 MR. POLETTO: That's correct.

20 THE COURT: I didn't see that as a
21 contingency.

22 MR. POLETTO: I actually have another
23 document.

24 MR. ROSE: I haven't allowed my client to
25 sign the addendum because the addendum is -- they

1 had a chance to inspect or cancel. They exercised
2 their right, and said we will accept it as is if
3 it closes by March 31st. I have not let him sign
4 that because we -- I mean, I don't know that we
5 technically need court approval to sell property
6 in trust, but in this case, we wanted your
7 approval.

8 THE COURT: Right.

9 MR. ROSE: We were not going to do it
10 otherwise, sir.

11 THE COURT: It's one and the same.

12 MR. ROSE: If we don't sign that, then
13 there's no contract at all and the buyers are not
14 bound by anything, and ultimately what's going to
15 have to happen is we're going to have to lower the
16 asking price by \$30,000 to get these guys to go
17 forward.

18 THE COURT: For right now, subject to me
19 assessing the financial consequence of that to the
20 person who caused that sale not to go through, I
21 mean, that's what I reserve. But, Mr. Rose, part
22 of the problem is, it's like when I tell people
23 when they file emergency hearings, not everything
24 that seems to be important is an emergency. You
25 may have an important reason, and I think you do,

1 to try to sell this by the 31st. It may keep this
2 deal alive, and it may save someone \$30,000, but I
3 can't use that as a basis to deny the
4 beneficiaries the chance, now that we kind of
5 agree that they have a right to be involved in
6 this, to some degree, not contacting the buyers,
7 so there's a trade-off here in that. And so, you
8 know, if this was life or death, I would go for
9 life, but it's not life or death. This is a piece
10 of property. The property will just stay, if this
11 buyer backs out. If the buyer backs out, I'll
12 deal with that.

13 Ted, what else?

14 MR. TED BERNSTEIN: Your Honor, just to
15 clarify for me, what things can the beneficiaries
16 do to help bring whatever they want to bring to
17 bear to make this happen faster so that we, at
18 least, know what the expectations are?

19 THE COURT: That's a good question. The
20 answer is, now that the beneficiaries have notice,
21 okay, if they have an objection that's bona fide,
22 that's based upon a -- for example, here's a
23 potential bona fide basis. No matter what
24 testimony I've heard about the reasonableness of
25 this, the property is really worth more, and if it

1 was, that's something that you, Ted, would want to
2 know, and so let's say --

3 MR. TED BERNSTEIN: Yes.

4 THE COURT: -- I don't know who did that
5 appraisal, but a bona fide appraiser said, for
6 some reason -- this is James Hackett, okay -- and
7 some other MAI appraiser said, no way, you know,
8 Ted, this is a 1.4 or \$1.5 million deal, you may
9 want to know that.

10 MR. TED BERNSTEIN: Definitely.

11 THE COURT: So that's one thing, because I'm
12 told that it's not like the history of the
13 listings, as they have decreased and the appraisal
14 has been shared -- this appraisal was done as July
15 of 2014, so did anyone -- did the beneficiaries
16 get this appraisal?

17 MR. ROSE: No, Your Honor. In fact, I would
18 not -- I would like you, if you would, ore tenus,
19 to expand your injunction to prohibit the filing
20 in the public records of any of these exhibits,
21 including the appraisal and --

22 THE COURT: I'm holding on to the exhibits.
23 I'm not filing them.

24 MR. ROSE: He has a copy of them, though. He
25 now has the appraisal. I would not have advised

1 he be given a copy --

2 THE COURT: He can't -- Eliot can't file
3 anything without sending it to me first.

4 MR. ROSE: But he puts it on the Internet,
5 and we don't want the appraisal to be on the
6 Internet.

7 THE COURT: I've already ordered him not to
8 do anything directly or indirectly -- contact any
9 aspect of this transaction -- with the buyer.
10 That's direct or indirect.

11 MR. ROSE: We didn't share the appraisal
12 because, frankly, we were concerned it would be
13 public and that would defeat their chance of
14 selling it.

15 THE COURT: I'm not -- look, nothing is easy
16 here. It's not going to get easier until we can
17 get hearings where I can start to knock off some
18 of the issues, which is what I have been saying
19 now like a broken record.

20 At some point, either Eliot is going to be
21 sustained on his positions or he's going to be
22 overruled, but one way or the other, we can put
23 some of this stuff to rest. The problem is we're
24 doing all of this business with some of the metes
25 of the case still up in the air where I haven't

1 been able to adjudicate; the claims that Ted
2 should be removed; the claims that there's
3 wrongdoing beyond Spallina and Tescher, the trust
4 is not valid. I mean, give me a chance to rule on
5 that, because once I rule on that, then the matter
6 is over with on those and you'll know one way or
7 the other what to do.

8 Do you understand what I'm saying? I think
9 we have hearing time coming up. Let's use that,
10 you know, prioritize hearings on this case. So as
11 soon as we can, I'll give it to you.

12 MR. ROSE: I appreciate that.

13 We have one other thing, three seconds.

14 Miss Foglietta would like to go forward with
15 the inspection on Friday and I have no objection
16 to it. It had to be done at any point and she
17 already had it scheduled.

18 THE COURT: That's fine.

19 MR. ROSE: The only issue is, your prior
20 order was that Eliot could be present outside of
21 the house but not go physically into the house
22 during the inspection. We'd just like to maintain
23 that same ruling.

24 MR. ELIOT BERNSTEIN: No. Your Honor, you
25 just said in the last hearing --

1 MS. FOGLIETTA: Your Honor, if I could --

2 THE COURT: Hold on. It's her motion.

3 MS. FOGLIETTA: If I could, I want to clarify
4 a few things because we went so quickly through
5 it, and I just want to bring to Your Honor's
6 attention, if I may approach, an order that you
7 prior entered on this, on Mr. Brown as curator,
8 his motion, where you capped the price of the
9 inspection at \$500 for Mr. Hittel to do it and
10 then you included language that Ted and Eliot
11 could be there, but only could be outside.

12 So what my petition has, which is directly
13 under that order I've just handed you, Judge, is
14 we're actually asking for a few things, and I want
15 to address something Mr. Rose brought up outside
16 to me, too, that I just confirmed with
17 Mr. O'Connell. We're asking for an appraisal, an
18 inspection, and to take possession and move the
19 property in the house. Now, when Mr. Hittel
20 originally agreed to that \$500, that was if things
21 were not boxed in boxes in the house. We have
22 since found out that there are. He had said
23 previously, if things are boxed, now I need an
24 assistant and it's not going to cost \$500.

25 So what I am seeking is to have

1 Hall and Hall, a different appraiser, actually do
2 this, not Mr. Hittel, at a rate of \$125 an hour,
3 and also to get him an assistant at a rate of \$100
4 an hour. So that's the first thing.

5 THE COURT: And the tasks these people will
6 undertake is what?

7 MS. FOGLIETTA: To inspect the property
8 that's currently there because there's been
9 allegations some of the property is missing; to do
10 another appraisal because there's been allegations
11 that the first appraisal was done incorrectly.

12 THE COURT: Appraisal of the personalty?

13 MS. FOGLIETTA: Yes, Judge.

14 THE COURT: Let me ask you something. This
15 is being done this way in connection with the sale
16 of the property?

17 MS. FOGLIETTA: Well, we had always planned
18 on filing another motion because we found out
19 Mr. Hittel couldn't do the appraisal -- or the
20 inspection -- excuse me -- that you ordered for
21 \$500 and now we've just, you know, kind of brought
22 it to the forefront here because of the sale of
23 the property. But, either way, it needs to get
24 done. It's always been something that's on our
25 plate.

1 THE COURT: So inside this house is what that
2 belongs to the estate?

3 MS. FOGLIETTA: Personal property of the
4 decedents. Furniture -- I haven't seen it myself,
5 but I believe it's furniture, things that are
6 boxed, all sorts of trinkets and things, but the
7 way that I understand it, it's boxed, tangible
8 personal property, and also personal property
9 that's just outside.

10 THE COURT: And none of that is being sold
11 with the unit; is that true?

12 MR. POLETTA: Correct.

13 MS. FOGLIETTA: That's what I have been told.
14 I haven't seen the contract.

15 THE COURT: So everything, then, other than
16 things that are not to be detached, is going to
17 leave there and go to the estate, is that the
18 idea?

19 MS. FOGLIETTA: Yes.

20 MR. ROSE: It is. I would suggest, if
21 there's not a closing, you don't empty the house.

22 THE COURT: Okay. I understand that.

23 MR. ROSE: There's two different issues.
24 They can do their inspection. I have no problem
25 with that.

1 THE COURT: Okay.

2 MR. ROSE: And we understand there's an
3 increased cost. I don't believe they should do
4 another reappraisal.

5 THE COURT: Well, I don't know that I need an
6 appraisal now. If you want to, in anticipation
7 that there's going to be a closing and that the
8 items of personalty are going to leave there and
9 go somewhere else, and where will be at the
10 direction of the PR; you'll say where you want
11 it -- you know, the idea of having an appraisal is
12 something we can wait on because -- I mean, the
13 items are in the house now and ultimately they
14 will be taken out of the house.

15 MS. FOGLIETTA: The only reason we were
16 asking that is because we have to have Hall and
17 Hall already go to the house to do the inspection,
18 and since he will already be there charging the
19 same rate, we figured we might as well just have
20 the appraisal all done at the same time rather
21 than having him have to go back and us come back
22 on another motion, you know, and go through that
23 whole thing, so if we could just do it all at the
24 same time --

25 THE COURT: How much is this going to cost,

1 though?

2 MS. FOGLIETTA: It depends how much is in the
3 house. I don't know. It could take one day, it
4 could, at the most, take two days. From what I've
5 been told from Mr. Rose, there's not all that much
6 there. I'm hoping it will be one day, but it's
7 hard for me to say without actually having --

8 THE COURT: Well, one day and between the two
9 people, that's \$250 an hour, so eight hours, that
10 now could be, you know --

11 MS. FOGLIETTA: And if he's got to go there,
12 anyway, to do the inspection, he might as well do
13 the appraisal.

14 THE COURT: The appraisal is included in that
15 time frame.

16 MS. FOGLIETTA: That's right, Judge, yes,
17 it's for both. That's the rate we were quoted for
18 both. So I would ask that, you know, so that he
19 doesn't have to go back and incur additional fees,
20 so we don't have to file another motion, incur
21 additional fees, that we could do the inspection,
22 the appraisal, and then take possession and
23 store --

24 THE COURT: Well, not possession, because it
25 needs to sell with furniture in it. That makes it

1 more --

2 MS. FOGLIETTA: We could hold off on that.
3 That was only in anticipation of the sale, Judge,
4 that portion of the motion.

5 THE COURT: Okay. So inspect and appraise.
6 Approved to inspect, appraise, but not remove.

7 MS. FOGLIETTA: And then the next thing,
8 Judge, part of this motion was inspection of some
9 office property, which we briefly spoke about
10 yesterday. Mr. Rose said there's nothing there,
11 but I just wanted to be clear that Your Honor
12 still, you know, allows us to go ahead and inspect
13 it and appraise that.

14 THE COURT: You're allowed to inspect the
15 property under the rules, true? Yes.

16 MS. FOGLIETTA: And then Mr. Rose agreed
17 yesterday that the trust would pay for, and Eliot
18 had no objection, the inspection and appraisal of
19 the home -- of the property in the St. Andrews
20 home and we would ask for the same thing for the
21 office stuff, although it seems like there might
22 be nothing there. There may be no cost associated
23 with it.

24 THE COURT: Well, if you have an assistant,
25 if there's nothing in there, that cost could be

1 minimized by someone verifying there's nothing in
2 there.

3 MS. FOGLIETTA: That's correct, Judge.

4 THE COURT: That sounds like it's a quick
5 thing.

6 MS. FOGLIETTA: And then two other things.
7 The prior order that you have in front of you did
8 limit Ted and Eliot from going in, and then Your
9 Honor made -- whether it was a ruling or not, I
10 don't know -- but you made a statement at
11 yesterday's hearing that Eliot was allowed in and
12 was allowed to video it, so I just wanted Your
13 Honor to know there was a prior order that you
14 entered and I wanted to make sure that the estate
15 wasn't doing anything contrary to either your oral
16 statement yesterday or written ruling prior.

17 THE COURT: Let me look and think about this.
18 Okay. I'm going to reverse myself.

19 Eliot, you're not going in.

20 MR. ELIOT BERNSTEIN: Your Honor, can I
21 explain why you made that decision?

22 THE COURT: I'm leaving everything in there.

23 MR. ELIOT BERNSTEIN: This is very important.

24 THE COURT: What? Go ahead.

25 MR. ELIOT BERNSTEIN: The reason you made

1 that decision yesterday is because Joi found out
2 yesterday that -- not the only thing in the house
3 is supposed to be my dad's house stuff, 4,000
4 square feet of furniture and possessions of my
5 mother's condominium are also supposed to be in
6 that house. You made a court order to inspect
7 those items at that property. We just found out
8 yesterday from Joi that there are claims that
9 Mr. Rose has, or Ted, somebody has sold, or
10 otherwise moved properties.

11 THE COURT: So what's there to inspect?

12 MR. ELIOT BERNSTEIN: Well, to find out
13 what's missing from --

14 THE COURT: Here's the thing: The appraiser
15 that goes in is going to not look at title, but
16 look at items in the house. They will photograph
17 and prepare a report of what's in there. They are
18 not going to remove it. It is staying in there,
19 so I'm not sure what you're getting at.

20 MR. ELIOT BERNSTEIN: They are saying nothing
21 is left.

22 THE COURT: Nothing left of what?

23 MR. ELIOT BERNSTEIN: Of the personal
24 property.

25 THE COURT: Well, no, there is personal

1 property.

2 MR. ELIOT BERNSTEIN: Of Si, not of Shirley.

3 THE COURT: But, see, the appraiser is not
4 determining title. He's going to determine what's
5 in there and what it's worth.

6 MR. ELIOT BERNSTEIN: Well, the Court was
7 told one thing. He had no right to sell personal
8 property, meaning that was in their custody.

9 THE COURT: Okay. I'm not dealing with -- if
10 something is sold, I'll deal with that.

11 MR. ELIOT BERNSTEIN: I'm a beneficiary. Why
12 would you preclude me from the inspection?

13 THE COURT: Because I want to. I think
14 you'll be disruptive.

15 MR. ELIOT BERNSTEIN: I won't.

16 THE COURT: I'm ruling on that.

17 MR. ELIOT BERNSTEIN: I promise you not to be
18 disruptive in any way.

19 THE COURT: The answer is no. You can be
20 present, you can stay outside, you can watch the
21 appraiser go in. If he wants to speak to you, he
22 can, but you can't make him. He's going to look
23 at whatever is in there, he inventories, he
24 photos, he does all of that, and then it's
25 available to be looked at at some point later on.

1 And I don't want this being a show, and that's why
2 I'm changing my mind.

3 MR. ELIOT BERNSTEIN: Here is the other part.
4 If we're going to do this evaluation of the house,
5 Mr. Poletto, in his statement says that -- in his
6 affidavit or something says there's \$300,000 of
7 damages and remodeling costs and it's in -- well,
8 I was with my dad a lot at his house before he
9 died. The thing was immaculate, perfect, just had
10 an elevator put in. I don't know the cost.

11 THE COURT: What's your point?

12 MR. ELIOT BERNSTEIN: The house wasn't
13 crumbling apart like it's being portrayed. I want
14 to know: Did they rip out the copper? Is the
15 wall missing?

16 THE COURT: You have an inspector who did an
17 appraisal and went in.

18 MR. ELIOT BERNSTEIN: I haven't looked at
19 that yet.

20 THE COURT: He describes the condition and
21 there's --

22 MR. ELIOT BERNSTEIN: If I'm going to get
23 another inspector, or possibly a second opinion,
24 I'd sure like to go in.

25 THE COURT: Well, if -- not you. If you make

1 a bona fide motion to have it inspected by a bona
2 fide appraiser, I might let that person in. Maybe
3 there won't even be an objection on their side.
4 Because no one -- an appraiser is not going to
5 move stuff around. They are going to look, take
6 pictures. You know, that's the problem. They
7 don't want you in there.

8 MR. ELIOT BERNSTEIN: So they are going to --
9 they are going to take pictures. Can Joi take
10 video, possibly?

11 THE COURT: Well, I'm not telling them how to
12 do their job.

13 MR. ELIOT BERNSTEIN: So there will be photo
14 evidence.

15 THE COURT: We'll see where it goes, but for
16 what you want to accomplish, you need to do it
17 through separate motions, if you think there is
18 something in there, but why don't you wait and see
19 what, at least, is reported about being in the
20 house and make up your mind what you want to do.

21 MS. FOGLIETTA: Judge, I'll use the same
22 language from previous order.

23 THE COURT: Yes.

24 MS. FOGLIETTA: And the very last thing,
25 which shouldn't take long, is we need \$500 from

1 the trust to put up front as an initial deposit to
2 get this thing rolling tomorrow so I would ask
3 that as part --

4 THE COURT: Any objection?

5 MR. ROSE: There's no objection. One
6 clarification. I personally am not paying any of
7 this. Under the statute that allows the personal
8 representative to request money from a revocable
9 trust, we've agreed, for this purpose only, we'll
10 advance the costs. I'll give her a check for \$500
11 today from our trust account.

12 THE COURT: Thanks. Bye.

13 MR. ROSE: Thank you for your time.

14 THE COURT: No problem. I need to get to my
15 trial. Take this stuff back, please. I'm giving
16 you the exhibits back, I'm not taking them.

17 MR. ROSE: I'll hold them.

18 THE COURT: Get me that order, make sure
19 Eliot doesn't contact this buyer directly or
20 indirectly.

21 MR. ROSE: When should we set another
22 hearing?

23 THE COURT: We have a closing now set for
24 April 20th so, Eliot, you need to do your due
25 diligence. If you're going to want something to

1 be done, set it so I can hear it before the 20th.
2 So if you want to file something, get me what you
3 want to file, don't file it, I'll look at it, I'll
4 give you a hearing date before the 20th, if it's
5 bona fide. Otherwise, they are going to look
6 forward to selling this on the 20th.

7 MR. ELIOT BERNSTEIN: Can I, right now,
8 schedule this hearing to continue so I can deal
9 with the legality of if this is a legal sale? I
10 mean, we're going to have to deal -- I don't care.
11 If the price is right -- look, Your Honor, if the
12 price is right, I'm all for it, but if the deal is
13 going to put it into a legal quagmire of fraud,
14 possibly, and make decisions that lead us down
15 that path, I think I have to have a hearing that
16 continues this hearing to determine if the trustee
17 is acting within the statutes. It's real simple.
18 If he's not, then whether the price is good or not
19 isn't the key, the key is the statutes aren't
20 being followed. I don't want to have to bond
21 people, but, you know, obviously if we're going to
22 take a risk of violating statutes to get a sale
23 done because there's a buyer who just popped out
24 of the woodwork today --

25 THE COURT: Okay. But I can't give you a

1 hearing right now. I've got to start my trial.
2 If you file something, I'll get you a hearing.

3 MR. ELIOT BERNSTEIN: So a continuation of
4 this hearing?

5 THE COURT: Or something new. They are
6 still -- right now I know the sale is for
7 April 20th. They are going to come in before then
8 to get an order that actually allows them to close
9 on that date.

10 MR. ROSE: Or I will advise you that they
11 canceled. We'll keep you posted.

12 THE COURT: Or they have canceled. One of
13 the two. Okay. Bye.

14 MR. ELIOT BERNSTEIN: Thank you.

15 MS. FOGLIETTA: Judge, would you like me to
16 write this up and send it to you?

17 THE COURT: Yeah. I don't have time to do
18 that now. Thanks.

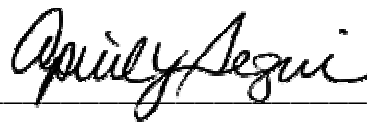
19 (The hearing was concluded at 2:10 p.m.)
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CERTIFICATE OF REPORTER

THE STATE OF FLORIDA)
COUNTY OF PALM BEACH)

I, APRIL Y. SEGUI, Registered Professional Reporter, Florida Professional Reporter, State of Florida at large, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

Dated this 29th day of March, 2015.





APRIL Y. SEGUI, RPR, FPR

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