

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

Case No. 502011CP000653XXXXSB
Honorable Judge Martin Colin

IN RE

ESTATE OF SHIRLEY BERNSTEIN,

Deceased.

Division: IY

**OBJECTION TO INVENTORY BY TED S. BERNSTEIN, AS
SUCCESSOR PERSONAL REPRESENTATIVE**

Petitioner, ELIOT IVAN BERNSTEIN, individually and on behalf of his minor children ("Petitioner"), who are alleged qualified beneficiaries¹ of the Estate (the "Estate"), and Trusts of Shirley Bernstein hereby Objects to the Final Accounting put forth by the Successor Personal Representative, Theodore Stuart Bernstein ("TED") and his counsel Alan B. Rose, Esq. as permitted by Florida Probate Rule 5.401. OBJECTIONS TO PETITION FOR DISCHARGE OR FINAL ACCOUNTING and any other germane statutes and in support thereof, on information and belief, Petitioner alleges as follows:

Background

1. That the Estate of Shirley has been reopened by this Court due to Fraud that was committed upon the Court and the Beneficiaries of the Estate of Shirley Bernstein to close the Estate, including using a dead Personal Representative to the close the Estate illegally and remains open as of the date of this filing.
 2. That TED was appointed by this Court on October 29, 2013 prior to his attorneys being removed as Successor Personal Representatives and Successor Trustees of Simon Bernstein's
-

Estate and Trust and resigning from any involvement in the Estates and Trusts of Simon and Shirley Bernstein, for actions of their law firm involving Fraud on the Court and Fraud on the Beneficiaries, including Fraud involving the Estate and Trust of both Simon and Shirley Bernstein.

3. That the fraud committed in the Shirley Estate caused this Court to reopen the closed Shirley Estate.
4. That the removed attorneys at law who worked at the law firm Tescher & Spallina PA, Robert Spallina, Esq. (“SPALLINA”) and Donald Tescher, Esq. (“TESCHER”), were not known at the time to have directly been involved in the fraud committed by their law firm, as the criminal acts were alleged to have been committed only by their Notary Public, Kimberly Moran (“MORAN”), who was later arrested and prosecuted for fraudulently notarizing six documents in Shirley’s Estate, for six separate parties and admitted additionally to forging the documents, including POST MORTEM fraud and forgery for documents purported to be signed by Simon Bernstein and used to close his deceased wife Shirley’s Estate while Simon was dead for several months.
5. That at that time of TED’S appointment, TED’S close friends TESCHER and SPALLINA were also acting as Counsel for TED as alleged Successor Trustee in the Shirley Trust and SPALLINA stated to the Court in a hearing on September 13, 2013 that he knew of no other problems in the Estates or Trusts of Simon and Shirley than those committed by MORAN.
6. That on or about January 21, 2014 TED’S counsel SPALLINA, admitted to Palm Beach Sheriff Officers that he and his partner TESCHER had conspired to fraudulently alter a Shirley Bernstein Trust document that added language to include TED’S family into Shirley Trust for distributions, as TED and his family were considered Predeceased for all purposes

of dispositions in the Estates and Trusts of Shirley and Simon. (SEE EXHIBIT ___- PBSO REPORT)

7. That SPALLINA then stated that he fraudulently altered the document personally and the document was disseminated to perpetrate a Fraud on Beneficiaries.
8. That Spallina also stated to Sheriff Investigators that TED was advised by counsel not to make distributions of Shirley's assets due to both a creditor still being involved in litigation with the Estate and Trust of Shirley and because the beneficiaries could only be Eliot Bernstein, Jill Iantoni and Lisa Friedstein but TED ignored counsels advice and made distributions to members of his family despite their not being beneficiaries.
9. That due to the fraud committed by TED'S attorneys at law, TED should have not been appointed by the Court due to his involvement with his attorneys in perpetrating the Fraud on the Court and the Fraud on the Beneficiaries despite any alleged language in the dispositive documents naming him a fiduciary, however the Court and the beneficiaries at the time of the appointment of TED were not aware of TESCHER and SPALLINA'S direct fraudulent acts in addition to MORAN'S, as they concealed this to the Court and in fact concealed this fact that they had also committed fraud in the initial hearing on September 13, 2013, failing to tell the Court of their crime that occurred months before, on or about January 2013.
10. The legal authenticity of the dispositive documents have been challenged on the basis that these documents may also be part of a Pattern and Practice of Fraudulent documents and it is alleged that TED was fraudulent inserted into the dispositive documents of Shirley.
11. That since the Court has appointed TED he has failed to take necessary fiduciary steps to correct the violations of law regarding his former counsel and friends TESCHER and SPALLINA and his appointment instead has continued the Fraud on this Court and Fraud on

the Beneficiaries, as will be evidenced in part below in the Specific Objections to the Inventory TED provided.

Specific Objections to Inventory

12. That Simon Bernstein is alleged to have completed an inventory of the Estate of Shirley on September 08, 2011, that inventory was recently discovered to have never been sent and verified to the beneficiaries as statutorily required and was only proffered to the Florida Department of Revenue.
13. That it is alleged that the inventory of Simon of Shirley's Personal Property was removed from the dispositive documents and replaced with this fraudulent inventory that is the only inventory provided to this Court and the Beneficiaries and appears to be yet another fraudulent document inserted into the record as part of the past Fraud on the Court committed by the prior fiduciaries and their counsel.
14. That the September 08, 2011 inventory failed to claim any of Shirley's Personal Property on the Inventory and stated that it totaled \$25,000.00 total, current parole evidence shows that Personal Properties of Shirley were significantly higher.
15. Ted, after being appointed to the re-opened Estate of Shirley learned that Shirley's Personal Property had been transferred to Simon, without first being accounted for on the Inventory sent to the Florida Tax Department and failed to modify, adjust or amend the alleged initial inventory to reflect Shirley's property that he was aware of.
16. When asked in hearing before this Court how the amount of \$25,000.00 was derived, Simon's counsel SPALLINA stated he called Simon and asked what her properties were worth and Simon allegedly claimed to him only \$25,000.00 and no verification or

inventorying was done according to Spallina who acted as counsel to Simon when he was the Personal Representative of Shirley's Estate.

17. That it was then learned through appraisals submitted regarding Shirley's assets that there was well over \$25,000.00 of furniture, jewelry, art and more that was transferred to Simon but was not listed on her inventory prior to the alleged transfer.
18. That Plaintiff alleges that much of this property has been stolen by the former fiduciaries and prior counsel involved in these matters, along with his siblings, primarily TED and his sister Pamela Simon ("PAM") both considered predeceased for purposes of the Estates and Trusts of both Simon and Shirley.
19. That it is alleged that the Inventory Simon prepared for Shirley has been replaced with the alleged inventory and provides a reason why NO items were not accounted for in Shirley's purported inventory and only later accounted for in part in Simon's Estate by the former fiduciaries and counsel, TESCHER and SPALLINA.
20. That for example, personal property of Shirley's included a fully paid for Bentley Automobile with a resale value of approximately several hundred thousand dollars and her wedding ring, worth an appraised value prior to her death of approximately \$250,000.00.
21. That additionally Eliot later submitted to the Court an insurance policy that covered and appraised a portion Shirley's Jewelry (See Exhibit __- Insurance Appraisal) shortly before her death where several hundred thousand dollars of Jewelry was insured and none of this was on Shirley's inventory.
22. That it was claimed that all of Shirley's assets were transferred to Simon but the legal problem is that they were never first put on her inventory according to the recorded inventory

provided to beneficiaries prior to the transfer to Simon and thus are not properly accounted for according to Generally Accepted Accounting Principles and Probate Statutes and Rules.

23. That learning of these missing items from her inventory, TED as Successor Personal Representative has failed to submit a statutorily required amended inventory and has instead chosen to further conceal this information from both the Court and Beneficiaries and breached his fiduciary duties under law and he is one the alleged suspects in ongoing PB Sheriff investigation into the matters.

733.604 Inventories and accountings; public records exemptions.—

(1)(a) Unless an inventory has been previously filed a personal representative shall file a verified inventory of property of the estate, listing it with reasonable detail and including for each listed item its estimated fair market value at the date of the decedent's death.

(2) If the personal representative learns of any property not included in the original inventory, or learns that the estimated value or description indicated in the original inventory for any item is erroneous or misleading, the personal representative shall file a verified amended or supplementary inventory showing any new items and their estimated value at the date of the decedent's death, or the revised estimated value or description.

(The inventory filed by Spallina & Tescher was never docketed, verified and served to the beneficiaries, the copy beneficiaries have is to the tax department only allegedly.)

24. That TED has failed

RULE 5.340. INVENTORY

(c) Amendments. A supplementary or amended inventory containing the information required by subdivision (a) as to each affected item shall be filed and served by the personal representative if:

(1) the personal representative learns of property not included in the original inventory; or

(2) the personal representative learns that the estimated value or description indicated in the original inventory for any item is erroneous or misleading (the \$25,000.00 stated as her assets in toto); or

(3) the personal representative determines the estimated fair market value of an item whose value was described as unknown in the original inventory.

(e) Information. On request in writing, the personal representative shall provide the following:

(h) Verification. All inventories shall be verified by the personal representative.

25. That it was recently learned that TESCHER and SPALLINA failed to properly service the beneficiaries of Shirley's Estate with an Inventory, in violation of Rule

RULE 5.340. INVENTORY

(d) Service. The personal representative shall serve a copy of the inventory and all supplemental and amended inventories on the surviving spouse, each heir at law in an intestate estate, each residuary beneficiary in a testate estate, and any other interested person who may request it in writing.

(See Exhibit ____ Inventory of Shirley filed to Tax Dept)

Statute 773.604

The personal representative must notify each beneficiary of that beneficiary's rights under this subsection. Neither a request nor the failure to request information under this subsection affects any rights of a beneficiary in subsequent proceedings concerning any accounting of the personal representative or the propriety of any action of the personal representative.

26. That the footnote one on the Inventory provided by the Successor PR Ted is erroneous, false and perjured. "¹This Inventory reports all assets which have come into the possession and knowledge of the undersigned as Successor Personal Representative as of the date of his Appointment. The undersigned did not receive possession of any property disclosed in the initial Personal Representative's Inventory dated August 29, 2011 (attached as Exhibit "A").

27. That Ted came into possession of all of Shirley's Personal Properties that were transferred to Simon without accounting for them, including assets secured of hers in two homes that were part of the Shirley Trust. The homes were in the trust but the contents were all part of Simon's estate once she passed away and Ted was made fully aware of this and that he was not in custody of these items as he was not the PR of Simon's Estate, who initially were TESCHER and SPALLINA and then after their removal the PR was Brian O'Connell. (See Exhibit – Spallina Letter to Ted re Custody of Simon Estate Personal Properties.)

28. That TED and his counsel Alan B. Rose, Esq. told this Court that when they sold a multimillion dollar condominium the Personal Properties of Shirley's that were transferred to Simon inside were all moved and stored at the multimillion dollar primary residence in the garage, this Court based on that claim issued an Order on [REDACTED] for the new PR O'Connell to re-inspect and take possession of these Personal Properties. Therefore, Ted's sworn statements in the Inventory he prepared are false.
29. On [REDACTED] Joielle "Joy" A. Foglietta, Esquire met Eliot at the Primary Residence and all four garage doors were open and three were wholly empty and one had a few trinkets such as salt shakers and napkin holders. It was then told to the PR O'Connell and former Curator Benjamin Brown, Esq. that it would cost a considerable amount over the \$500.00 apportioned by the Court in its Order, to now unbox all the furniture and items stored in the garages, claiming this as the reason to hold up the Court Ordered Inspection and when over six months later the Court Ordered the immediate inspection, there appeared to be only three or four very small boxes and no furniture and none of Shirley's Personal Properties from her Condominium were there. All of these items Ted was in possession from he failed to add to the Inventory he prepared in violation of Probate Statutes and Rules and Law.
30. That TED and Alan B. Rose then stated that they may have sold (stolen) some of the items and have provided no accountings or receipts for any such items stolen by them and others and Ted had NO rights to these properties to sell or otherwise dispose of them and was not a beneficiary of them having been disinherited from the Estate of Shirley.
31. That Palm Beach County Sheriff investigators have an ongoing criminal complaint investigating the alleged stolen properties, none of these items appear on the Shirley or

Simon accountings and inventories as being properly accounted for as sold or otherwise transferred.