

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

TED BERNSTEIN, AS TRUSTEE
OF THE SHIRLEY BERNSTEIN TRUST AGREEMENT
DATED MAY 20, 2008, AS AMENDED,

PROBATE DIVISION
CASE NO.: 502014CP003698XXXXSB

PLAINTIFF,

V.

ALEXANDRA BERNSTEIN; ET AL.

DEFENDANTS.

_____ /

MOTION TO STOP SALE OF 7020 LIONS HEAD LANE PROPERTY

1. That Eliot and other beneficiaries cannot determine if they can purchase the family home of their parents because as of this date accountings of their inheritances remain incomplete or missing entirely as the Trustee has failed to properly account according to Probate Rules and Statutes.
2. That until such time that beneficiaries, who at this time are unknown due to prior Fraud on the Court and Fraud on the Beneficiaries by the Trustee's former counsel are determined and are made aware of the true and total value of their inheritances through statutorily required accountings, they are unable to determine if they need to sell the property or if they can buy the property and thus the sale should be halted until all accountings are complete, all objections resolved and the true and proper beneficiaries determined.
3. That to do the sale backwards, without determining beneficiaries and accountings first, could result later in lengthy litigation by aggrieved beneficiaries to claw back the property or for other relief.

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4. There was a prior sale of Condominium owned by Shirley's Trust by the Trustee in 2013 and the Trustee has still failed to file with beneficiaries any of the transaction details of that sale, despite numerous requests.
5. That the proceeds from the sale of the Condominium were then distributed to improper parties by the Trustee, including to his own family, against the advice of counsel according to statements made by counsel to Palm Beach County Sheriff Investigators. (Exhibit 1 – PBSO Report)
6. That the alleged Trustee failed to give any notice to beneficiaries or the PR of the Estate or this Court of the pending sale on March 31, 2015 of the 7020 Lions Head Lane, Boca Raton, FL 33496 and Eliot only found out days before the sale was to be complete, when he filed a Lis Penden, which led to this Court postponing the potential sale until April 20th 2015.
7. That the Court should take note that the sale contract was already signed and no notice had been given to the beneficiaries or others, especially the PR where the Personal Property to be re-inventoried was allegedly stored and had it not been for Eliot's wife Candice getting alerted the sale of the property would have taken place with no notice to anyone, even the Court that held the pending Lis Penden and the Personal Properties moved after the sale without completing the Court Ordered inventorying.
8. That the Court agreed that Eliot and his children should have been given ample notice and a right to determine if they wanted to purchase the property prior to any sale being entered into and had time to review any transaction details, which were not provided until the March 26, 2015 hearing.
9. That in order for Eliot and his children to determine if they can afford or finance the family home they will need to have a complete accounting of both the Estates and Trusts of Shirley and Simon Bernstein to determine their inheritances, which remains wholly unknown at this time.

10. That the Trustee recently filed with the Court, a long overdue accounting of the Trust of Simon Bernstein but the Court will note that there are unlisted and un-named assets with an asset value simply stated as illiquid and no amount or description given, leaving no way to account for the values at all.
11. That the Trustee has claimed that accounting of Shirley's Trust will not be completed until sometime after the intended sale date and thus without this information the sale of the home should be forbidden until a full and complete of accounting by the Trustee is proffered to beneficiaries.
12. That the Trustee has failed to account for over two years in the Shirley Trust in violation of Probate Rules and Statutes and this failure prevents beneficiaries from being unable to determine their inheritances and if the sale of the home is necessary at this time or if they can purchase it instead.
13. That the firesale price of the home appears to be due to the run down and dilapidated condition of the home that has occurred due to the failure of the Trustee to perform even basic maintenance on the home. (See Exhibit ____ - Pictures of Street View)
14. That according to the PR of the Estate of Simon's assistant, Joielle "Joy" A. Foglietta Esquire ("Joy"), who went to the home to complete the Court ordered re-inventorying of the home PRIOR to any sale and transfer of the Personal Property, she stated the inside of the home looked as if it had been left untouched since Simon died on September 13, 2012.
15. That according to Joy the Personal Properties from the Condo sale that the Trustee Ted and his counsel Alan Rose told the court, the PR of Simon's Estate who has custody of them and the beneficiaries, were safely stored in the Lions Head Lane home appeared to be missing and virtually nothing was there from the 4,000 sq ft condominium. (See Exhibits - ____)
16. The Court will recall that it issued an Order for re-inventorying of the items missing and now it appears that the these items have been stolen and another Fraud on the Court, Fraud on the

Beneficiaries and Fraud on the Creditor has occurred by the Fiduciaries and Counsel involved in these matters and whom replaced the previous fraudsters, who now appear to be continuing a pattern and practice of Fraud on the Court and Fraud on the Beneficiaries through breach after breach of fiduciary duties.

17. That had the sale that was taking place without notice to the Court, the beneficiaries or interested parties, the missing items would have disappeared with the sale and made it virtually impossible to comply with the Court Order to inventory the items at the 7020 Lions Head Lane home that has been evaded for months, with the Trustee claiming the boxes were so numerous in the garages that the Personal Properties were in that it would cost of fortune to unpack and re-inventory, costing far more than the \$500.00 apportioned by the Court.
18. As the Court learned in the March 26, 2015 hearing no notice was given to beneficiaries or the PR of the Estate of Simon that the home was being sold up until March 20, 2015 when Eliot filed the Lis Penden's that had been submitted to the Court in **October 2014** for approval to file and the Court had taken at that time to review and decide if it would allow it to be filed noticing any potential buyer of the multiple litigations ongoing involving the home.
19. That the Trustee and his counsel were not planning notifying the beneficiaries and fully intended to notify parties after the sale was complete and the monies distributed, again any distributions would have been to improper parties, as beneficiaries remain unknown and this would have caused untold damages to beneficiaries in seeking redress and further litigation costs and claw back costs that could increase the cost of this underhanded sale to everyone.
20. That the fiduciary Ted and his Counsel Alan Rose failed to seek Court approval to enter into the contract first, what if the Court would have not approved the sale due to the Lis Penden or other reasons. This was willful, reckless and wanton disregard for law by the fiduciary Ted and his

Counsel, Alan B. Rose, Esq. both Officers of this Court under Your Honor's tutelage is further clear and convincing evidence of breaches of fiduciary duties.

21. That it appears that the depilated condition the house was shown as has led to a steady and massive decline in listing prices since Simon died. Where Simon listed the home weeks before his death at \$3.2M with the same broker that is now selling in an up market for the basement bargain price of \$1.1M. That since 2012 the country has realized an up market in real estate prices and the only explanation for such dramatic valuation decrease is the AS IS condition the home has been left in.
22. That it is hard to believe that the Trustee has allowed the condition of the property under his care to become so run down as to cause a massive price devaluation of the property but this appears to be with intent to set up a straw man buyer to come in and purchase the property for a low ball number, apply some quick fix remedies and then resell the property at a much higher value, thereby causing a massive loss to the beneficiaries.
23. That the Court has hearings to remove the Trustee Ted, who also has breach of fiduciary claims filed against him already in a stayed counter complaint in Shirley's Trust case and if the sale is transacted and it is later determined that Ted was not a qualified or legal Trustee the sale of the home will additionally become a contentious litigation with buyer, seller and the beneficiaries. Demands for a claw back of the property may also be made.
24. That due to this highly probable litigation that would result if this were determined to have been a firesale by an inappropriate fiduciary, despite whether the sale of the property were reasonably priced due to its current condition, the costs of the litigations that would follow would make the price skyrocket to all parties involved.
25. That the Court should take note that while the property is held in the Shirley Trust, the Trust has not been released from the Gross Estate as the Estate was reopened due to the prior Fraud on the

Beneficiaries and Fraud on this Court caused by the Trustee Ted's former counsel Donald Tescher, Esq. and Robert Spallina, Esq. who resigned as Ted's counsel after admitting to Palm Beach County Sheriff Officers that their law firm had fraudulently altered a Shirley Trust document that was to benefit Ted's family who had been considered predeceased in the Shirley Trust.

26. That the Appraisal is dated July 2014, that is 9months ago, and the Sale is "AS IS" and that is because the Trustee has let the property rot with no care.

27. That Eliot requests that the E&O insurance of the appraiser be made available to the beneficiaries.

WHEREFORE, Eliot requests that this Court enter an order;

- i. To halt the sale of the 7020 Lions Head Lane, Boca Raton, FL 33496 home until full statutorily required accountings are provided to beneficiaries to determine if they would like to purchase the home,
- ii. for legal fees of Eliot Bernstein Pro Se,
- iii. any other remedies, relief, damages and sanctions this Court finds apropos.

Filed on **Friday, January 30, 2015**

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

X_____

CERTIFICATE OF SERVICE

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, **Friday, January 30, 2015**.

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

X_____

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