

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

PROBATE DIVISION

CASE NO.: 502014CP002815XXXXSB (IY)

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

Petitioner,

vs.

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

Respondents.

PETITIONER'S NOTICE OF INTENT TO USE SUMMARIES

Petitioner, OPPENHEIMER TRUST COMPANY OF DELAWARE (“Oppenheimer”), as the resigned trustee of three irrevocable trusts created by the late Simon Bernstein for the benefit of his minor grandchildren, Joshua, Jake and Daniel Bernstein (the “Grandchildren Trusts”), by and through its undersigned counsel, pursuant to Section 90.956, Florida Statutes, hereby gives notice of its intent to use the three summaries identified below at the continued evidentiary hearing on Respondents’ Objections to Petitioner’s Final Accountings:

1. OPP1535-1536 (with supporting documents produced as OPP1525-1534, 1537-1562, 1643-1666, and 1715-1738);
2. OPP1576-1577 (with supporting documents produced as OPP1563-1575, 1578-1590, 1592-1604, 1629, 1667-1690, and 1739-1762); and
3. OPP1614-1615 (with supporting documents produced as OPP1591, 1605-1613, 1616-1628, 1630-1642, 1691-1714, and 1763-1786).

Copies of the summaries are attached hereto as Exhibits "A" through "C." The summaries and supporting documents identified above have been produced to Respondents and are available for inspection by the Court.

Respectfully submitted,

GUNSTER, YOAKLEY & STEWART, P.A.
Counsel for Petitioner
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West Palm Beach, FL 33401
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By: /s/Steven A. Lessne

Steven A. Lessne, Esq.
Florida Bar No. 107514
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via e-mail to all parties on the attached Service List this 8th day of April, 2015.

/s/ Steven A. Lessne

SERVICE LIST

Eliot Bernstein
2753 N.W. 34th Street
Boca Raton, FL 33434
iviewit@iviewit.tv
iviewit@gmail.com

Candice Bernstein
2753 N.W. 34th Street
Boca Raton, FL 33434
tourcandy@gmail.com

EXHIBIT A

Simon Bernstein fbo Daniel Bernstein
EIN: 20-7354918

Tax Year 2008

Original return filed

Total tax = \$0.00
Payments as shown on return = \$42,131.00
Overpayment as shown on return = \$42,131.00
Refund due = \$42,131.00
Refund check was received but not cashed and was voided and returned to the IRS when the amended return was filed (see letter to IRS dated 11/15/10 sent with amended return).

Amended return filed

Total tax = \$8,261.00
Payments as shown on return = \$42,131.00
Overpayment as shown on return - \$33,870.00
Credit to 2009 = \$8,300.00
Refund due = \$25,570.00
Refund check for \$27,384.69 posted 1/20/11 (\$25,569.82 plus interest of \$1,814.87)

Tax Year 2009

Return filed

Total tax = \$2,771.00
Payments as shown on return = \$8,300.00
Overpayment as shown on return = \$5,529.00
Credit to 2010 = \$2,800.00
Refund due = \$2,729.00
Refund check for \$2,739.79 posted 1/3/11 (\$2,729.00 plus interest of \$10.79)

Tax Year 2010

Return filed

Total tax = \$158.00
Payments as shown on return = \$2,800.00
Overpayment as shown on return = \$2,642.00
Credit to 2011 = \$160.00
Refund due = \$2,482.00
Refund check posted 10/24/11

Tax Year 2011

Original return filed (payments on account were reported as \$2,628.00 but should have been \$2,613.00 = difference of \$15.00)

Total tax = \$0.00
Payments as shown on return = \$2,628.00 (should have been \$2,613.00)
Overpayment as shown on return = \$2,628.00 (should have been \$2,613.00)
Credit to 2012 = \$2,628.00 (should have been \$2,613.00)
Refund due = \$0.00

OPP0001535

Tax Year 2011 -continued

Amended return filed

Total tax = \$463.00

Payments as shown on return = \$2,628.00 (should have been \$2,613.00-see above re: \$15.00 difference)

Overpayment as shown on return = \$2,165.00 (should have been \$2,150.00-see above re: \$15.00 difference)

Credit to 2012 = \$464.00

Refund due = \$1,701.00 (should have been \$1,686.00-see above re: \$15.00 difference)

Per IRS notice dated 10/15/12, we were notified that the IRS credited the entire refund (\$2,613.00) from the original 2011 return to 2012. They subsequently did not follow the instructions on the amended return. Since the IRS did this, the \$463.00 total tax was not deducted from the payments reported. We received a notice from the IRS dated 4/15/13 of tax due of \$463.00 plus interest of \$14.07 which was paid on 5/15/13.

Tax Year 2012

Return filed

Total tax = \$0.00

Payments as shown on return = \$464.00

Refund due = \$464.00

Payments were actually \$2,613.00 (see Tax Year 2012 for explanation). The total refund of \$2,674.93 was posted 2/12/14 (\$2,613.00 plus interest \$61.93)

Tax Year 2013

Return filed

Total tax = \$487.00

Payments as shown on return = \$487.00

Overpayment as shown on return = \$0.00

EXHIBIT B

Simon Bernstein fbo Jacob Bernstein
EIN: 20-7294171

Tax Year 2008

Original return filed

Total tax = \$0.00
Payments as shown on return = \$42,130.00
Overpayment as shown on return = \$42,130.00
Refund due \$42,130.00
Refund check was received but not cashed and was voided and returned to the IRS when the amended return was filed (see letter to IRS dated 11/15/10 sent with amended return).

Amended return filed

Total tax = \$8,261.00
Payments as shown on return = \$42,130.00
Overpayment as shown on return - \$33,869.00
Credit to 2009 = \$8,300.00
Refund due = \$25,569.00
Refund check for \$27,383.61 posted 1/20/11 (\$25,568.81 plus interest of \$1,814.80)

Tax Year 2009

Return filed

Total tax = \$2,771.00
Payments as shown on return = \$8,300.00
Overpayment as shown on return = \$5,529.00
Credit to 2010 = \$2,800.00
Refund due = \$2,729.00
Refund check for \$2,739.79 posted 1/3/11 (\$2,729.00 plus interest of \$10.79)

Tax Year 2010

Return filed

Total tax = \$158.00
Payments as shown on return = \$2,800.00
Overpayment as shown on return = \$2,642.00
Credit to 2011 = \$160.00
Refund due = \$2,482.00
Refund check posted 10/24/11

Tax Year 2011

Original return filed (payments on account were reported as \$2,628.00 but should have been \$2,613.00 = difference of \$15.00)

Total tax = \$0.00
Payments as shown on return = \$2,628.00 (should have been \$2,613.00)
Overpayment as shown on return = \$2,628.00 (should have been \$2,613.00)
Credit to 2012 = \$2,628.00 (should have been \$2,613.00)
Refund due = \$0.00

Tax Year 2011 -continued

Amended return filed

Total tax = \$463.00

Payments as shown on return = \$2,628.00 (should have been \$2,613.00-see above re: \$15.00 difference)

Overpayment as shown on return = \$2,165.00 (should have been \$2,150.00-see above re: \$15.00 difference)

Credit to 2012 = \$464.00

Refund due = \$1,701.00 (should have been \$1,686.00-see above re: \$15.00 difference)

Per IRS notice dated 10/15/12, we were notified that the IRS credited the entire refund (\$2,613.00) from the original 2011 return to 2012. They subsequently did not follow the instructions on the amended return. Since the IRS did this, the \$463.00 total tax was not deducted from the payments reported. We received a notice from the IRS dated 4/22/13 of tax due of \$463.00 plus interest of \$14.34 which was paid on 5/15/13.

Tax Year 2012

Return filed

Total tax = \$0.00

Payments as shown on return = \$464.00

Refund due = \$464.00

Payments were actually \$2,613.00 (see Tax Year 2012 for explanation). The total refund of \$2,674.93 was posted 2/12/14 (\$2,613.00 plus interest \$61.93)

Tax Year 2013

Return filed

Total tax = \$555.00

Payments as shown on return = \$555.00

Overpayment as shown on return = \$0.00

EXHIBIT C

Simon Bernstein fbo Joshua Bernstein
EIN: 20-7294156

Tax Year 2008

Original return filed

Total tax = \$0.00
Payments as shown on return = \$42,131.00
Overpayment as shown on return = \$42,131.00
Refund due \$42,131.00
Refund check was received but not cashed and was voided and returned to the IRS when the amended return was filed (see letter to IRS dated 11/15/10 sent with amended return).

Amended return filed

Total tax = \$8,261.00
Payments as shown on return = \$42,131.00
Overpayment as shown on return - \$33,870.00
Credit to 2009 = \$8,300.00
Refund due = \$25,570.00
Refund check for \$27,384.69 posted 1/20/11 (\$25,569.82 plus interest of \$1,814.87)

Tax Year 2009

Return filed

Total tax = \$2,771.00
Payments as shown on return = \$8,300.00
Overpayment as shown on return = \$5,529.00
Credit to 2010 = \$2,800.00
Refund due = \$2,729.00
Refund check for \$2,739.79 posted 1/3/11 (\$2,729.00 plus interest of \$10.79)

Tax Year 2010

Return filed

Total tax = \$158.00
Payments as shown on return = \$2,800.00
Overpayment as shown on return = \$2,642.00
Credit to 2011 = \$160.00
Refund due = \$2,482.00
Refund check posted 10/24/11

Tax Year 2011

Original return filed (payments on account were reported as \$2,628.00 but should have been \$2,613.00 = difference of \$15.00)

Total tax = \$0.00
Payments as shown on return = \$2,628.00 (should have been \$2,613.00)
Overpayment as shown on return = \$2,628.00 (should have been \$2,613.00)
Credit to 2012 = \$2,628.00 (should have been \$2,613.00)
Refund due = \$0.00

Tax Year 2011 -continued

Amended return filed

Total tax = \$463.00

Payments as shown on return = \$2,628.00 (should have been \$2,613.00-see above re: \$15.00 difference)

Overpayment as shown on return = \$2,165.00 (should have been \$2,150.00-see above re: \$15.00 difference)

Credit to 2012 = \$464.00

Refund due = \$1,701.00 (should have been \$1,686.00-see above re: \$15.00 difference)

Per IRS notice dated 3/29/13, we were notified that the IRS credited the entire refund (\$2,613.00) from the original 2011 return to 2012 and did not follow the instructions on the amended return. Since the IRS did this, the \$463.00 total tax was not deducted from the payments reported. We received a notice from the IRS dated 4/15/13 of tax due of \$463.00 plus interest of \$14.07 which was paid on 5/15/13.

Tax Year 2012

Return filed

Total tax = \$0.00

Payments as shown on return = \$464.00

Refund due = \$464.00

Payments were actually \$2,613.00 (see Tax Year 2012 for explanation). The total refund of \$2,674.93 was posted 2/12/14 (\$2,613.00 plus interest \$61.93)

Tax Year 2013

Return filed

Total tax = \$480.00

Payments as shown on return = \$480.00

Overpayment as shown on return = \$0.00