**NOT SURE WHAT CASE THIS WAS FILED IN**

**Objection to Simon Bernstein Trust Accounting**

**Do we file this with breach count?**

1. That the alleged Successor Trustee failed to get a statutorily required accounting on change of Trusteeship from the prior Co-Trustees Tescher and Spallina within 60 days from their resignation.
2. That there is no accounting for the time that Tescher and Spallina were Co-Trustees and therefore the accounting fails to provide a clear picture of the assets from the time of Simon Bernstein’s death to present.
3. That the alleged Successor Trustee has failed to statutorily notice beneficiaries of his Trusteeship after accepting a change of trusteeship from the prior Co-Trustees Tescher and Spallina.
4. That there are not clearly accounted for records of the trust instrument and amendments and requests to inspect the originals have been denied.
5. That the Governor Rick Scott’s Notary Public Division has determined the Amended Trust document is not properly notarized, is alleged to be fraudulent and has trust construction and verification processes under litigation currently.
6. That it has been alleged by the PR of Simon’s Estate, Brian O’Connell Esq. that Ted is not a valid Trustee. See Exhibit \_\_\_\_ - O’Connell Pleading
7. That it has been alleged by Counsel Peter Feaman, Esq. that Ted and his Counsel Alan B. Rose, Esq. are acting in violation of fiduciary and conduct codes. See Exhibit \_\_ - Feaman to O’Connell Letter
8. There are pending actions against Ted as alleged trustee for various breaches of fiduciary duties and violations of law and actions have been taken to remove Ted, which are being litigated before this Court presently, including but not limited to two stayed counter complaints.

The 2014 Florida Statutes

Title XLII

ESTATES AND TRUSTS

Chapter 736

FLORIDA TRUST CODE

736.08135 Trust accountings.—

1. That Ted has failed to provide an understandable report. Ted failed as fiduciary to get the statutorily required accounting from the prior Co Trustees, TESCHER and SPALLINA and thus his accounting fails without the historical and required accounting and supporting evidence to present an accounting for the Trust’s assets since the time Simon died to present.
2. There is no prior accounting of Simon’s Trust as the former Co-Trustees, Spallina and Tescher, have failed to provide the statutorily required accounting upon transfer of the trusteeship to Ted and Ted has failed as a fiduciary to demand the required accounting due upon the transfer and necessary to fully account for the Trust assets.

(1) A trust accounting must be a reasonably understandable report from the date of the last accounting or, if none, from the date on which the trustee became accountable, that adequately discloses the information required in subsection (2).

(2)(a) The accounting must begin with a statement identifying the trust, the trustee furnishing the accounting, and the time period covered by the accounting.

(b) The accounting must show all cash and property transactions and all significant transactions affecting administration during the accounting period, including compensation paid to the trustee and the trustee’s agents. Gains and losses realized during the accounting period and all receipts and disbursements must be shown.

(c) To the extent feasible, the accounting must identify and value trust assets on hand at the close of the accounting period. For each asset or class of assets reasonably capable of valuation, the accounting shall contain two values, the asset acquisition value or carrying value and the estimated current value. The accounting must identify each known noncontingent liability with an estimated current amount of the liability if known.

(d) To the extent feasible, the accounting must show significant transactions that do not affect the amount for which the trustee is accountable, including name changes in investment holdings, adjustments to carrying value, a change of custodial institutions, and stock splits.

(e) The accounting must reflect the allocation of receipts, disbursements, accruals, or allowances between income and principal when the allocation affects the interest of any beneficiary of the trust.

(f) The trustee shall include in the final accounting a plan of distribution for any undistributed assets shown on the final accounting.

(3) This section applies to all trust accountings rendered for any accounting periods beginning on or after January 1, 2003.

History.—s. 8, ch. 2006-217.

The 2014 Florida Statutes

Title XLII

ESTATES AND TRUSTS

Chapter 736

FLORIDA TRUST CODE

736.0813 Duty to inform and account.—The trustee shall keep the qualified beneficiaries of the trust reasonably informed of the trust and its administration.

(1) The trustee’s duty to inform and account includes, but is not limited to, the following:

1. That Ted failed to notice the qualified beneficiaries of the acceptance of the trust, the full name and address of the Trustee and of the fiduciary lawyer-client privilege with respect to the trustee and attorneys employed by the trustee.

(a) Within 60 days after acceptance of the trust, the trustee shall give notice to the qualified beneficiaries of the acceptance of the trust, the full name and address of the trustee, and that the fiduciary lawyer-client privilege in s. 90.5021 applies with respect to the trustee and any attorney employed by the trustee.

(b) Within 60 days after the date the trustee acquires knowledge of the creation of an irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise, the trustee shall give notice to the qualified beneficiaries of the trust’s existence, the identity of the settlor or settlors, the right to request a copy of the trust instrument, the right to accountings under this section, and that the fiduciary lawyer-client privilege in s. 90.5021 applies with respect to the trustee and any attorney employed by the trustee.

1. That despite repeated requests in writing and in Court filings for Ted to provide a complete copy of the trust instrument and amendments and allow for inspection of the originals, which in this case is necessary for forensic analysis due to the prior proven multiple fraudulent and forged documents in the Estates and Trusts of Simon and Shirley Bernstein. That in Eliot’s deposition, Alan Rose, Esq. claimed that neither Ted nor he were in possession of original trust documents for inspection.

(c) Upon reasonable request, the trustee shall provide a qualified beneficiary with a complete copy of the trust instrument.

1. That Ted has failed to provide accountings annually and on change of a trustee.

(d) A trustee of an irrevocable trust shall provide a trust accounting, as set forth in s. 736.08135, from the date of the last accounting or, if none, from the date on which the trustee became accountable, to each qualified beneficiary at least annually and on termination of the trust or on change of the trustee.

1. That Ted has failed to provide any information about the assets and liabilities of the trust and the particulars relating to administration. That the accounting submitted by Ted will show that two and half years after Simon died there are still assets that remain secreted and without value or name.

(e) Upon reasonable request, the trustee shall provide a qualified beneficiary with relevant information about the assets and liabilities of the trust and the particulars relating to administration.

Paragraphs (a) and (b) do not apply to an irrevocable trust created before the effective date of this code, or to a revocable trust that becomes irrevocable before the effective date of this code. Paragraph (a) does not apply to a trustee who accepts a trusteeship before the effective date of this code.

(2) A qualified beneficiary may waive the trustee’s duty to account under paragraph (1)(d). A qualified beneficiary may withdraw a waiver previously given. Waivers and withdrawals of prior waivers under this subsection must be in writing. Withdrawals of prior waivers are effective only with respect to accountings for future periods.

(3) The representation provisions of part III apply with respect to all rights of a qualified beneficiary under this section.

(4) As provided in s. 736.0603(1), the trustee’s duties under this section extend only to the settlor while a trust is revocable.

(5) This section applies to trust accountings rendered for accounting periods beginning on or after July 1, 2007.

History.—s. 8, ch. 2006-217; s. 15, ch. 2007-153; s. 11, ch. 2011-183; s. 14, ch. 2013-172.

**THIS IS FROM PROBATE RULES FOR ESTATE, NOT SURE IT APPLIES TO TRUST ACCOUNTINGS.**

APPENDIX B

UNIFORM FIDUCIARY ACCOUNTING PRINCIPLES

I. ACCOUNTS SHOULD BE STATED IN A MANNER THAT IS UNDERSTANDABLE BY PERSONS WHO ARE NOT FAMILIAR WITH PRACTICES AND TERMINOLOGY PECULIAR TO THE ADMINISTRATION OF ESTATES AND TRUSTS.

Commentary: In order for an account to fulfill its basic function of communication, it is essential that it be stated in a manner that recognizes that the interested parties are not usually familiar with fiduciary accounts. It is neither practical nor desirable to require that accounts be tailored to meet individual disabilities of particular parties but any account should be capable of being understood by a person of average intelligence, literate in English, and familiar with basic financial terms who has read it with care and attention.

Problems arising from terminology or style are usually a reflection of the fact that people who become versed in a particular form of practice tend to forget that terms which are familiar and useful to them may convey nothing to someone else or may even be affirmatively misleading. For example, the terms “debit” and “credit” are generally incomprehensible to people with no knowledge of bookkeeping and many people who are familiar with them in other contexts would

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assume that in the context of fiduciary accounting, the receipt of an item is a “credit” to the fund rather than a “debit” to the fiduciary.

While the need for concise presentation makes a certain amount of abbreviation both acceptable and necessary, uncommon abbreviation of matters essential to an understanding of the account should be avoided or explained.

No position is taken for or against the use of direct print-outs from machine accounting systems. The quality of the accounts produced by these systems varies widely in the extent to which they can be understood by persons who are not familiar with them. To endorse or object to a direct print-out because it is produced by machine from previously stored data would miss the essential point by focusing attention upon the manner of preparation rather than the product.

II. A FIDUCIARY ACCOUNT SHALL BEGIN WITH A CONCISE SUMMARY OF ITS PURPOSE AND CONTENT.

Commentary: Very few people can be expected to pay much attention to a document unless they have some understanding of its general purpose and its significance to them. Even with such an understanding, impressions derived from the first page or two will often determine whether the rest is read. The use that is made of these pages is therefore of particular significance.

The cover page should disclose the nature and function of the account. While a complete explanation of the significance of the account and the effect of its presentation upon the rights of the parties is obviously impractical for inclusion at this point, there should be at least a brief statement identifying the fiduciary and the subject matter, noting the importance of examining the account and giving an address where more information can be obtained.

It is assumed that the parties would also have enough information from other sources to understand the nature of their relationship to the fund (e.g., residuary legatee, life tenant, remainderman), the function of the account, and the obligation of the fiduciary to supply further relevant information upon request. It is also assumed that notice will be given of any significant procedural considerations such as limitation on the time within which objections must be presented. This would normally be provided by prior or contemporaneous memoranda, correspondence, or discussions.

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A summary of the account shall also be presented at the outset. This summary, organized as a table of contents, shall indicate the order of the details presented in the account and shall show separate totals for the aggregate of the assets on hand at the beginning of the accounting period; transactions during the period; and the assets remaining on hand at the end of the period. Each entry in the summary shall be supported by a schedule in the account that provides the details on which the summary is based.

III. A FIDUCIARY ACCOUNT SHALL CONTAIN SUFFICIENT INFORMATION TO PUT THE INTERESTED PARTIES ON NOTICE AS TO ALL SIGNIFICANT TRANSACTIONS AFFECTING ADMINISTRATION DURING THE ACCOUNTING PERIOD.

Commentary: The presentation of the information account shall allow an interested party to follow the progress of the fiduciary’s administration of assets during the accounting period.

An account is not complete if it does not itemize, or make reference to, assets on hand at the beginning of the accounting period.

Illustration:

3.1 The first account for a decedent’s estate or a trust may detail the items received by the fiduciary and for which the fiduciary is responsible. It may refer to the total amount of an inventory filed elsewhere or assets described in a schedule attached to a trust agreement.

Instead of retyping the complete list of assets in the opening balance, the preparer may prefer to attach as an exhibit a copy of the inventory, closing balance from the last account, etc., as appropriate, or may refer to them if previously provided to the interested parties who will receive it.

Transactions shall be described in sufficient detail to give interested parties notice of their purpose and effect. It should be recognized that too much detail may be counterproductive to making the account understandable. In accounts covering long periods or dealing with extensive assets, it is usually desirable to consolidate information. For instance, where income from a number of securities is being accounted for over a long period of time, a statement of the total dividends received on each security with appropriate indication of changes in the number of February 23, 2015 Florida Probate Rules 87

shares held will be more readily understandable and easier to check for completeness than a chronological listing of all dividends received.

Although detail should generally be avoided for routine transactions, it will often be necessary to proper understanding of an event that is somewhat out of the ordinary.

Illustrations:

3.2 Extraordinary appraisal costs should be shown separately and explained.

3.3 Interest and penalties in connection with late filing of tax returns should be shown separately and explained.

3.4 An extraordinary allocation between principal and income such as apportionment of proceeds of property acquired on foreclosure should be separately stated and explained.

3.5 Computation of a formula marital deduction gift involving non-probate assets should be explained.

IV. A FIDUCIARY ACCOUNT SHALL CONTAIN TWO VALUES, THE ASSET ACQUISITION VALUE OR CARRYING VALUE, AND CURRENT VALUE.

Commentary: In order for transactions to be reported on a consistent basis, an appropriate carrying value for assets must be chosen and employed consistently.

The carrying value of an asset should reflect its value at the time it is acquired by the fiduciary (or a predecessor fiduciary). When such a value is not precisely determinable, the figure used should reflect a thoughtful decision by the fiduciary. For assets owned by a decedent, inventory values or estate tax values — generally reflective of date of death —would be appropriate. Assets received in kind by a trustee from a settlor of an inter vivos trust should be carried at their value at the time of receipt. For assets purchased during the administration of the fund, cost would normally be used. Use of Federal income tax basis for carrying value is acceptable when basis is reasonably representative of real values at the time of acquisition. Use of tax basis as a carrying value under other circumstances could be affirmatively misleading to beneficiaries and therefore is not appropriate.

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In the Model Account, carrying value is referred to as “fiduciary acquisition value.” The Model Account establishes the initial carrying value of assets as their value at date of death for inventoried assets, date of receipt for subsequent receipts, and cost for investments.

Carrying value would not normally be adjusted for depreciation.

Except for adjustments that occur normally under the accounting system in use, carrying values should generally be continued unchanged through successive accounts and assets should not be arbitrarily “written up” or “written down.” In some circumstances, however, with proper disclosure and explanation, carrying value may be adjusted.

Illustrations:

4.1 Carrying values based on date of death may be adjusted to reflect changes on audit of estate or inheritance tax returns.

4.2 Where appropriate under applicable local law, a successor fiduciary may adjust the carrying value of assets to reflect values at the start of that fiduciary’s administration.

4.3 Assets received in kind in satisfaction of a pecuniary legacy should be carried at the value used for purposes of distribution.

Though essential for accounting purposes, carrying values are commonly misunderstood by laypersons as being a representation of actual values. To avoid this, the account should include both current values and carrying values.

The value of assets at the beginning and ending of each accounting period is necessary information for the evaluation of investment performance. Therefore, the account should show, or make reference to, current values at the start of the period for all assets whose carrying values were established in a prior accounting period.

Illustrations:

4.4 The opening balance of the first account of a testamentary trustee will usually contain assets received in kind from the executor. Unless the carrying value was written up at the time of distribution (e.g., 4.2 or 4.3 supra) these assets will be carried at a value established during the executor’s administration. The current value at the beginning of the accounting period should also be shown.

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4.5 An executor’s first account will normally carry assets at inventory (date of death) values or costs. No separate listing of current values at the beginning of the accounting period is necessary.

Current values should also be shown for all assets on hand at the close of the accounting period. The date on which current values are determined shall be stated and shall be the last day of the accounting period, or a date as close thereto as reasonably possible.

Current values should be shown in a column parallel to the column of carrying values. Both columns should be totalled.

In determining current values for assets for which there is no readily ascertainable current value, the source of the value stated in the account shall be explained. The fiduciary shall make a good faith effort to determine realistic values but should not be expected to incur expenses for appraisals or similar costs when there is no reason to expect that the resulting information will be of practical consequence to the administration of the estate or the protection of the interests of the parties.

Illustrations:

4.6 When an asset is held under circumstances that make it clear that it will not be sold (e.g., a residence held for use of a beneficiary) the fiduciary’s estimate of value would be acceptable in lieu of an appraisal.

4.7 Considerations such as a pending tax audit or offer of the property for sale may indicate the advisability of not publishing the fiduciary’s best estimate of value. In such circumstances, a statement that value was fixed by some method such as “per company books,” “formula under buy-sell agreement,” or “300% of assessed value” would be acceptable, but the fiduciary would be expected to provide further information to interested parties upon request.

V. GAINS AND LOSSES INCURRED DURING THE ACCOUNTING PERIOD SHALL BE SHOWN SEPARATELY IN THE SAME SCHEDULE.

Commentary: Each transaction involving the sale or other disposition of securities during the accounting period shall be shown as a separate item in one combined schedule of the account indicating the transaction, date, explanation, and any gain or loss.

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Although gains and losses from the sale of securities can be shown separately in accounts, the preferred method of presentation is to present this information in a single schedule. Such a presentation provides the most meaningful description of investment performance and will tend to clarify relationships between gains and losses that are deliberately realized at the same time.

VI. THE ACCOUNT SHALL SHOW SIGNIFICANT TRANSACTIONS THAT DO NOT AFFECT THE AMOUNT FOR WHICH THE FIDUCIARY IS ACCOUNTABLE.

Commentary: Transactions such as the purchase of an investment, receipt of a stock split, or change of a corporate name do not alter the total fund for which a fiduciary is accountable but must be shown in order to permit analysis and an understanding of the administration of the fund. These can be best shown in information schedules.

One schedule should list all investments made during the accounting period. It should include those subsequently sold as well as those still on hand. Frequently the same money will be used for a series of investments. Therefore, the schedule should not be totalled in order to avoid giving an exaggerated idea of the size of the fund.

A second schedule (entitled “Changes in Investment Holdings” in the Model Account) should show all transactions affecting a particular security holding, such as purchase of additional shares, partial sales, stock splits, change of corporate name, divestment distributions, etc. This schedule, similar to a ledger account for each holding, will reconcile opening and closing entries for particular holdings, explain changes in carrying value, and avoid extensive searches through the account for information scattered among other schedules.

RULE 5.350. CONTINUANCE OF UNINCORPORATED BUSINESS OR VENTURE

(a) Separate Accounts and Reports. In the conduct of an unincorporated business or venture, the personal representative shall keep separate, full, and accurate accounts of all receipts and expenditures and make reports as the court may require.

(b) Petition. If the personal representative determines it to be in the best interest of the estate to continue an unincorporated business or venture beyond the February 23, 2015 Florida Probate Rules 91

time authorized by statute or will, the personal representative shall file a verified petition which shall include:

(1) a statement of the nature of that business or venture;

(2) a schedule of specific assets and liabilities;

(3) the reasons for continuation;

(4) the proposed form and times of accounting for that business or venture;

(5) the period for which the continuation is requested; and

(6) any other information pertinent to the petition.

(c) Order. If the continuation is authorized, the order shall state:

(1) the period for which that business or venture is to continue;

(2) the particular powers of the personal representative in the continuation of that business or venture; and

(3) the form and frequency of accounting by that business or venture.

(d) Petition by Interested Person. Any interested person, at any time, may petition the court for an order regarding the operation of, accounting for, or termination of an unincorporated business or venture, and the court shall enter an order thereon.

Committee Notes

Rule History

1975 Revision: New rule. § 733.612, Fla. Stat.

1984 Revision: Extensive changes in rule and title. Clarifies procedural steps to be taken by a personal representative who determines it to be in the best interest of an estate to continue any unincorporated business beyond the time authorized by statute. Information required to be filed in a verified petition is specified, and normal information to be included in a court order is listed. Other pertinent information under (b)(6) may include provisions for insurance of business or venture, proposed professionals to be used in connection with such activities, how the business or venture shall be managed, the person or persons proposed for managerial positions, a list of all other employees, agents, or independent contractors employed by or affiliated with the business or venture, and proposed compensation for all such management personnel, agents, employees, and independent contractors. Committee notes revised and expanded.

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1988 Revision: Editorial change in caption of (b). Committee notes revised. Citation form changes in committee notes.

1992 Revision: Committee notes revised. Citation form changes in committee notes.

2012 Revision: Committee notes revised.

Statutory Reference

§ 733.612(22), Fla. Stat. Transactions authorized for the personal representative; exceptions.

Rule References

Fla. Prob. R. 5.020 Pleadings; verification; motions.

Fla. Prob. R. 5.040 Notice.

Fla. Prob. R. 5.041 Service of pleadings and documents.

Fla. Prob. R. 5.330 Execution by personal representative.

Fla. R. Jud. Admin. 2.516 Service of pleadings and documents.

**SUCCESSOR TRUSTEE'S NOTICE OF ACCOUNTING OF THE SIMON BERNSTEIN REVOCABLE TRUST**

From: February 3, 2014 through March 15, 2015

Ted S. Bernstein, as Successor Trustee, hereby gives notice of serving upon all interested persons an accounting of the Simon L. Bernstein Amended and Restated Trust u/a/d 7-25-2012. This accounting is rendered from the date on which the Trustee became accountable, February 3, 2014.

**LIMITATION NOTICE**

Pursuant to Florida Statute Section 736.1008, this Limitation Notice is provided with respect to the enclosed trust accounting for the Simon Bernstein Amended and Restated Trust u/a/d 7-25-2012, for the period from February 3, 2014 and ending March 15, 2015.

**AN ACTION FOR BREACH BASED ON MATTERS DISCLOSED** IN A **TRUST ACCOUNTING OR OTHER WRITTEN REPORT OF THE TRUSTEE MAY BE SUBJECT TO** A SIX **(6) MONTH STATUTE OF LIMITATIONS FROM THE RECEIPT OF THE TRUST ACCOUNTING**

**OR OTHER WRITTEN REPORT. IF YOU HA**VE ANY **QUESTIONS, PLEASE CONSULT YOUR ATTORNEY.**

**SUMMARY INFORMATION FOR ATTACHED ACCOUNTING**

This summary information is provided pursuant to Florida Statute 736.08135:

Trust name: Simon L. Bernstein Amended and Restated Trust Agreement u/a/d 7-25-2012 Trustee: Ted S. Bernstein

Time Period: February 3, 2014 through March 15, 2015

ACCOUNTING OF SIMON BERNSTEIN TRUST BY TED S. BERNSTEIN, SUCCESSOR TRUSTEE

Trust: Simon L. Bernstein Amended and Restated Trust Agreement u/a/d 7-25-2012 Trustee: Ted S. Bernstein

Time Period: February 3, 2014 through March 15, 2015

1. Starting Balance

Assets per Inventory or on Hand at Close of Last Accounting Period

Income Principal

$30,177.17 $30,177.17

1. That the following items on the "Summary" need further investigation, thus Objector objects as set forth below. In addition, the Objector objects as no substantiating documents were provided, thus the Objector reserves his right to further object to same:
	1. "Starting Balance"; and
	2. "Assets on Hand at Close of Accounting Period."
2. Receipts

Income Principal Total

$0 $0 $0

1. Objector objects to Receipts as no substantiating documents were provided, thus the Objector reserves any and all further objections after examination of same.
2. The following items listed on Schedule A Receipts need further investigation, thus the Objector objects as set forth below. In addition, the Objector objects as no substantiating documents were provided, thus the Objector reserves his right to further object to same:
3. Disbursements

Income Principal Total

$0 ($7,250.00) ($7,250.00)

1. Objector objects to Disbursements as no substantiating documents were provided, thus the Objector reserves any and all further objections after examination of same.

IV. Distributions

$0 $0 $0

1. Capital Transactions and

Adjustments $0 $0 $0

1. Objector objects to “Capital Transactions and Adjustments” as no substantiating documents were provided, thus the Objector reserves any and all further objections after examination of same.
2. Assets of Hand at Close of

Accounting Period $0 $22,927.17 $22,927.17

1. Objector objects to “Assets on Hand at Close of Accounting Period” as no substantiating documents were provided, thus the Objector reserves any and all further objections after examination of same.

**During Tenure of Ted Bernstein as Successor Trustee**

Total Assets in existence at time of acceptance of appointment: Feb. 3, 2014

|  |  |  |
| --- | --- | --- |
| 1. | Interest in Bernstein Family Investments, LLLP | $illiquid/undetermined |
| 2. | JP Morgan Account | $30,177.17 |
| 3. | Expectancy - sole beneficiary of Simon Bernstein Estate | $ unknown |

1. Objector objects to “Total Assets” numbers 1, 2 and 3 as no substantiating documents were provided, thus the Objector reserves any and all further objections after examination of same.

Accounting:

1. Interest in Bernstein Family Investments, LLLP
2. Objector objects to “Accounting 1 – Interest in Bernstein Family Investments, LLLP” as no substantiating documents were provided, thus the Objector reserves any and all further objections after examination of same.

No known activity

1. Objector objects to “No known activity” as it is vague and unsubstantiated and no substantiating documents were provided, thus the Objector reserves any and all further objections after examination of same.

Value: maximum would be 49% of total value (BFI, LLLP assets = approx. $436,275

less tax liabilities, expenses)

$illiquid/undetermined

Est. range: $150,000-200,000

2 Funds from JP Morgan Account:

|  |  |
| --- | --- |
| Starting balance: | $30,177.17 |
| Additions: | $0 |
| Expenses: |  |
| 11/19/2014Expert Witness Fee: Bruce Stone | ($ 7,250.00) |

Ending balance 3-18-15

\* Balance at JP Morgan

Balance in Mrachek-Law IOTA

$22,927.17\*

$10,000.00

$12,927.17

**Additional Information**

The prior trustees have not done any accounting, formal or informal.

The Successor Trustee has investigated and makes the following report (which does not constitute any accounting required of the prior trustees, including Simon Bernstein, as Settlor/Trustee (initial trustee), or Donald Tescher and Robert Spallina, as Successor Co-Trustees.

**Transactions during trusteeship of Simon Bernstein, Settlor/Trustees**

No knowledge. Settlor-Trustee deceased.

**Transactions during trusteeship of**

**Donald Tescher and Robert Spallina, as Successor Co-Trustees**

Total Assets in existence at time of appointment:

|  |  |  |
| --- | --- | --- |
| 1. | Interest in Bernstein Family Investments, LLLP | $ illiquid/undetermined |
| 2. | Bank Accounts or other assets: | $ none |
| 3. | Expectancy - sole beneficiary of Simon Bernstein Estate | $ unknown |

Accounting:

1. Transactions involving Bernstein Family Investments, LLLP

Outflows: Several cash distributions made to limited partner, Simon Bernstein Restated Trust u/a/d 7/25/12:

|  |  |
| --- | --- |
| 10/23/12 | 60,000.00 |
| 11/2/12 | 39,000.00 |
| 12/20/13 | 100,000.00 |
| Total | 199,000.00 |

Ending Value: see above

1. Bank Accounts:

JP Morgan Account (newly opened account)

Starting Balance: $0

1. Objector objects to the following transactions:
2. Fees and Costs paid to Tescher & Spallina, P.A. as without an itemized description of their services it cannot be determined if their fees benefited the Trust. In addition, to the extent the co-personal representatives and/or the attorneys for the co-personal representatives breached their fiduciary duty, there is no entitlement to attorneys' fees.
3. Objector objects to Attorney's Fees and Costs paid to Mark R. Manceri, P.A. as such fees did not benefit the Trust, thus there is no entitlement to attorney's fees. In addition, documentation is needed which shows an itemization of the services provided and time incurred.
4. Objector objects to the extent there are no Court orders authorizing and/or directing payments to attorneys for the co-personal representatives, Tescher & Spallina, P.A. and/or Mark R. Manceri, P.A., as listed.
5. Objector objects to Costs paid to CBIZ as such fees are not known to benefit the Trust, thus there is no entitlement to fees. In addition, documentation is needed which shows an itemization of the services provided and time incurred.
6. Objector objects to Deposits listed as documentation is needed which shows the transaction details and banking records.
7. Objector objects to IRS entries as documentation is needed, including but not limited to, Signed Tax Returns and all financial transactions relating to the IRS entries.

Transactions

|  |  |  |  |
| --- | --- | --- | --- |
| DATE10/23/12 | DESCRIPTIONDeposit from LLLP | DEPOSIT60,000.00 | W I T H D R A W A L |
| 1112/12 | Deposit from LLLP | 39,000.00 |  |
| 12/26/2012 | Fees - CBIZ(tax return Jill Trust) |  | (500.00) |
|  | Fees - CBIZ |  |  |
|  | (tax return Lisa Trust) |  | (500.00) |
|  | Fees - CBIZ(tax return Eliot Trust) |  | (500.00) |
|  | Fees - CBIZ(Bernstein Holdings, LLC) |  | (595.05) |
|  | Fees - CBIZ(Bernstein Holdings, LLC) |  | (8,237.60) |
| 10/1/2013 | Fees - T&S Professional Fees |  | (15,146.12) |
| 10/16/2013 | Fees - Mark Manceri (Stansbury litigation) |  | (8,277.00) |
| 11/25/2013 | Fees - T&S Professional Fees |  | (15,067.06) |
| 12/20/13 | Deposit from LLLP | 100,000.00 |  |
| 01/15/2014 | Internal Revenue Service |   | (120,000.00) |
|  | TOTALS Receipts Payments | 199,000.00 | (168,882.83) |

1. Objector objects to “Ending balance @ Tescher Resignation as there is no accounting for Tescher and Spallina when they resigned so where and how did this number generate. Documentation is needed which shows an accounting from Tescher and Spallina as is legally required.

**Ending balance @ Tescher Resignation $30,177.17**

1. All or a portion of the attorney's fees paid to Tescher & Spallina, P.A. on the asserted basis as fees generated on behalf of the former Co-Personal Representatives, are excessive, unauthorized and/or attributable to the acts, errors and/or omissions of Tescher & Spallina, P.A.
2. Objector is unaware of any Court orders authorizing and/or directing payments to attorneys for the former Co-Personal Representatives, Tescher & Spallina, P.A. or Mark R. Manceri, P.A., and no invoices or retainer agreements were provided with the Final Accounting.
3. Objector objects to the payments to CBIZ as no retainer or bills have been provided.
4. That objector objects to the omission from the estate assets the life insurance proceeds currently at issue in the case styled Simon Bernstein Irrevocable Insurance Trust DTD 6/21/95, Case No. 13 cv 3643, filed in the United States District Court for the Northern District of Illinois, Eastern Division. The policy benefit is approximately $1. 7 million, and the Estate and ultimately the trust is a potential beneficiary of the policy should the federal court determine that the Plaintiff insurance trust either no longer exists or it fails for lack of identifiable beneficiaries. This potential expectancy should be represented in the Accounting.
5. That Objector objects to the fact that no signed Tax Returns have been provided with the accounting.
6. That Creditor William Stansbury through his Counsel Peter Feaman, Esq. has attested to the fact that many assets appear missing due to the misconduct of Ted as Trustee and Alan B. Rose, Esq. his counsel in a letter to the new PR of the Estate of Simon expressing grave concerns relating to the mismanagement and loss of assets of Simon:

August 29, 2014

Re: Estate of Simon Bernstein

Dear Brian:

Earlier this week the Order came in denying my client, William Stansbury' s Motion to

Remove Theodore Bernstein as Successor Trustee of the Simon Bernstein Trust based on lack of standing. The purpose of this letter is to urge you, in no uncertain terms, to pick up the baton in Mr. Stansbury's stead and file to remove Mr. Theodore Bernstein as Successor Trustee.

The grounds for his removal are set forth in some detail in his Motion, a copy of which I attach for your review. Mr. Stansbury is of the firm conviction that assets of the Trust have been and will continue to be wasted under the trusteeship of Ted Bernstein.

**The grounds for removal are numerous and removal is urgently needed to preserve the Trust assets**, some or all of which may be called upon to satisfy Mr. Stansbury' s claim if and when it turns out that the assets of the Simon Bernstein probate estate are insufficient to satisfy his claim. No accounting has been provided since the passing of Shirley Bernstein with regard to the Shirley Bernstein Trust, and no accounting has been provided since the passing of Simon Bernstein in the Simon Bernstein Trust. **We believe that assets of the Simon Bernstein Trust in addition to not having been accounted for are being wasted.** In the absence of an accounting, one cannot know for sure. For example, the personal property at the residence of Simon Bernstein has never been accounted for.

**There are probably tens of thousands of dollars of assets which, upon information and belief, have been converted or unaccounted for by the Successor Trustee. An insurance schedule prior to Mr. Bernstein's death scheduled certain personal property to be insured. Yet this property has never been accounted for, either by the Trust or in the inventory filed on behalf of the Estate.**

Brian O'Connell, Esq.

August 29, 2014

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Further, as set forth in Mr. Stansbury's motion, Mr. Theodore Bernstein is facially unqualified by the very terms of the Trust to be the Successor Trustee. As a result of the foregoing, Mr. Stansbury requests that the Estate file its own petition to remove Ted Bernstein as Successor Trustee to the Simon Bernstein Trust.

PMF/rnk

Enclosure

Very truly yours,

Peter M. Feaman

1. That there requests for accountings for assets by beneficiaries since Simon’s death and included in pleading after pleading and still any accounting of these assets identified are denied to this day. The requests have been to account for assets that have been either improperly reported and/or not reported at all. See attached Exhibit A – List of Items unaccounted for.

Wherefore, Objectors respectfully request that this Court enter an order;

* + 1. sustaining the objections set forth hereinabove and entering judgment in favor of Objectors,
		2. deeming the Final Accounting of the alleged Trustee incomplete and, to the extent necessary, requiring that the Trustee file an Amended Final Accounting, requiring the alleged Trustee to reimburse the decedent's estate for all improper payments made from estate assets,
		3. that Requires Tescher & Spallina, P.A. to disgorge to the Estate all fees and costs improperly paid from Estate assets;
		4. awarding attorney's fees and costs of Pro Se Objector, and
		5. granting any further relief as the Court deems just and proper.

**EXHIBIT A – LIST OF UNACCOUNTED FOR ASSETS**

**LIST OF BUSINESS ENTITIES INFORMATION REQUESTED FOR FROM PRIOR PR’S / EXECUTORS and SUCCESSORS**

1. ALPS (Arbitrage Life Payment System)
2. Arbitrage International Holdings, LLC
3. Arbitrage International Management LLC
4. Arbitrage International Management LLC
5. Arbitrage International Marketing, Inc.
6. Arbitrage International Marketing, Inc.
7. Bernstein & Associates, Inc.
8. Bernstein Family Investments, LLLP dated May 20, 2008
9. Bernstein Holdings, LLC dated May 20, 2008.
10. Bernstein Family Realty LLC
11. Bernstein Simon and Shirley – A company in Boca Raton, FL.
12. Cambridge Associates Of Indiana, Inc.
13. Cambridge Companies
14. Cambridge Financing Company
15. LIC Holdings, Inc.
16. Life Insurance Concepts
17. Life Insurance Concepts Inc.
18. Life Insurance Concepts, LLC
19. Life Insurance Connection Inc.
20. Life Insurance Innovations, Inc.
21. National Service Association, Inc.
22. National Service Association, Inc.
23. National Service Corporation
24. National Service Corporation (Florida)
25. NSA, Inc.
26. S.T.P. Enterprises S.T.P. Enterprises (Buyout Agreements and Non-Compete, etc.)
27. SB Lexington. Inc.
28. S.B. Lexington Inc. Death Benefit Plan United Bank of Illinois NA. (ein 363479122)
29. Shirley Bernstein Family Foundation Inc. and Deborah Bernstein involvement
30. Simon and Shirley Bernstein (company or Foundation?)
31. Syracuse Partners Incorporated
32. Telenet Systems, Inc.
33. Telenet Systems, LLC
34. Total Brokerage Solutions LLC
35. TSB Holdings, LLC

**IVIEWIT COMPANIES STOCK & PATENT INTEREST HOLDINGS**

1. I.C., Inc.
2. I.C., Inc. – FL
3. Iviewit Corporation
4. Iviewit Corporation – FL
5. Iviewit Holdings, Inc. – DL
6. Iviewit Holdings, Inc. – DL (yes, two identically named Delaware companies)
7. Iviewit Holdings, Inc. – FL (yes, three identically named)
8. Iviewit LLC – DL
9. Iviewit Technologies, Inc. – DL
10. Iviewit, Inc. – DL
11. Iviewit, Inc. – FL
12. Iviewit.com LLC – DL
13. Iviewit.com, Inc. – DL
14. Iviewit.com, Inc. – FL
15. Uview.com, Inc. – DL
16. Uviewit Holdings, Inc. – DL

**LIST OF OTHER ASSETS UNACCOUNTED FOR**

1. Sabadell account (ending 7176)
2. JP Morgan account (ending 5220)
3. Wells Fargo Interest Payment (HELOC)
4. Multiple Legacy Bank Accounts
5. Stanford Bank Accounts, transferred to Oppenheimer, transferred to JP Morgan
6. SB Lexington VEBA Plan and Trust
7. S.B. Lexington Inc. Death Benefit Plan United Bank of Illinois NA (ein 363479122)
8. Simon Bernstein Trust, NA
9. Stanford Lawsuit Settlement for approximately 1% of Simon’s holdings at Stanford that were held in Certificates of Deposit
10. 2013 Kia Soul
11. 2007 = Simon Bernstein and Shirley Bernstein JT TEN (Mellon Bank NY)
12. 2007= Simon Bernstein TOD Dated 2/27/07 (Pershing LLC)
13. 2008 = Bernstein Family Investments LLLP loan purpose account (Pershing LLC)
14. 2009 and 2010= Simon Bernstein TOD (Oppenheimer)
15. Sabadell
16. Citibank
17. Wells Fargo
18. Legacy
19. JP Morgan

**List of Intellectual properties**

1. 09/630,939 System & Method for Providing an Enhanced Digital Image File
2. PCT/US00/21211 System & Method for Providing an Enhanced Digital Image File
3. 75/725,802 THE CLICK HEARD 'ROUND THE WORLD June 8, 1999 FILED July 27, 2004
4. 09/630,939 System & Method for Providing an Enhanced Digital Image File
5. PCT/US00/15602 System & Method for Video Playback Over a Network
6. 75/725,805 IVIEWIT "YOUR THIRD EYE TO THE WORLD" June 8, 1999 FILED July 27, 2004
7. 09/630,939 System & Method for Providing an Enhanced Digital Image File
8. PCT/US00/15406 System & Method for Playing a Digital Video File
	1. 15406 Part 1 Attachment
	2. 15406 Part 2 Attachment
	3. 15406 Part 3 Attachment
9. 75/725,806 IVIEWIT "YOUR THIRD EYE TO THE WORLD" June 8, 1999 FILED July 27, 2004
10. 09/522,721 Apparatus & Method for Producing Enhanced Digital Images
11. PCT US00/15408 System & Method for Streaming an Enhanced Digital Video File
12. 75/725,807 IVIEWIT 'YOUR THIRD EYE TO THE WORLD" (THIS MARK IS MISSING PROPER QUOTES June 8, 1999 FILED July 27, 2004
13. 09/587,734 System & Method for Providing an Enhanced Digital Video File
14. PCT/US00/15405 System & Method for Providing an Enhanced Digital Video File
15. 75/725,808 IVIEWIT "YOUR THIRD EYE TO THE WORLD June 8, 1999 FILED July 27, 2004
16. 09/587,734 System & Method for Providing an Enhanced Digital Video File
17. PCT US00/07772 Apparatus & Method for Producing Enhanced Digital Images
18. 75/725,809 IVIEWIT "YOUR THIRD EYE TO THE WORLD June 8, 1999 FILED July 27, 2004
19. 09/587,026 System & Method for Playing a Digital Video File
20. EPO 00938126.0 System & Method for Streaming an Enhanced Digital Video File
21. 75/725,810 IVIEWIT "YOUR THIRD EYE TO THE WORLD June 8, 1999 FILED July 27, 2004
22. 09/587,730 System & Method for Streaming an Enhanced Digital Video File
23. EPO 00944619.6 System & Method for Streaming an Enhanced Digital Video File
24. 75/725,816 IVIEWIT.COM June 8, 1999 FILED July 27, 2004
25. 60/223,344 Zoom & Pan Using a Digital Camera
26. EPO 00955352.0 System & Method for Providing an Enhanced Digital Image File
27. 75/725,816 IVIEWIT June 8, 1999 FILED July 27, 2004
28. 60/233,341 Zoom & Pan Imaging Design Tool
29. Japan 2001 502364 System & Method for Streaming an Enhanced Digital Video File
30. 75/725,817 IVIEWIT.COM June 8, 1999 FILED July 27, 2004
31. 60,169,559 Apparatus and Method for Producing Enhanced Video Images and/or Video Files
32. Japan 2001 502362 System & Method for Streaming an Enhanced Digital Video File
33. 75/725,817 IVIEWIT June 8, 1999 FILED July 27, 2004
34. 60/155,404 Apparatus & Method for Producing Enhanced Video Images and/or Video Files
35. Japan 2001 514379 System & Method for Providing an Enhanced Digital Image File
36. 75/725,818 IVIEWIT.COM June 8, 1999 FILED July 27, 2004
37. 60/149,737 Apparatus and Method for Producing Enhanced Digital Images and/or Digital Video Files
38. Korea PCT US00 15408
39. 75/725,819 THE CLICK HEARD 'ROUND THE WORLD June 8, 1999 FILED July 27, 2004
40. 60/146,726 Apparatus & Method for Producing Enhanced Digital Images
41. 75/725,819 IVIEWIT.COM June 8, 1999 FILED July 27, 2004
42. 60/141,440 Apparatus & Method for Providing and/or transmitting Video Data and/or Information in a Communication Network
43. 75/725,820 IVIEWIT.COM June 8, 1999 FILED July 27, 2004
44. 60/137,921 Apparatus & Method for Playing Video Files Across the Internet
45. 75/725,821 IVIEWIT June 8, 1999 FILED July 27, 2004
46. 60/137,297 Apparatus & Method for Producing Enhanced Video Images
47. 75/725,821 THE CLICK HEARD 'ROUND THE WORLD June 8, 1999 FILED July 27, 2004
48. 60/125,824 Apparatus & Method for Producing Enhanced Digital Images
49. 75/725,822 IVIEWIT June 8, 1999 FILED July 27, 2004
50. 75/725,823 IVIEWIT June 8, 1999 FILED July 27, 2004
51. 75/725,823 THE CLICK HEARD 'ROUND THE WORLD June 8, 1999 FILED July 27, 2004
52. 76/037,700 IVIEWIT.COM May 1, 2000 FILED July 27, 2004
53. 76/037,701 A SITE FOR SORE EYES May 1, 2000 FILED July 27, 2004
54. 76/037,702 A SITE FOR SORE EYES May 1, 2000 FILED July 27, 2004
55. 76/037,703 IVIEWIT May 1, 2000 FILED July 27, 2004
56. 76/037,843 IVIEWIT LOGO May 1, 2000 FILED July 27, 2004
57. 76/037,844 May 1, 2000 FILED July 27, 2004

INSURANCE COMPANIES SIMON HAD CONTRACTS WITH

1. Lincoln Benefit Life and Allstate
2. TransAmerica Life
3. American General
4. American National
5. John Hancock
6. Allianz
7. Banner Life commissions
8. William Penn Life
9. Security Life of Denver and Reliastar are now Voya Financial
10. Mass Mutual
11. Phoenix Life

Licensee Details

**12/8/2013**

**Demographic Information**

|  |  |
| --- | --- |
| **Name of Licensee**:  | BERNSTEIN, SIMON L |
| **License #**:  | A020560 |
| **Business Location**:  | BOCA RATON, FLORIDA |

Types and Classes of Valid Licenses

|  |  |  |
| --- | --- | --- |
| **Type** | **Original Issue Date** | **Qualifying Appointment** |
| LIFE & HEALTH(0218) | 4/23/2004 | YES |

Types and Classes of Active Appointments

LIFE & HEALTH(0218)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Company Name** | **Original Issue Date** | **Exp Date** | **Type** | **County** |
| JOHN HANCOCK LIFE INSURANCE COMPANY U.S.A. | 12/8/2004 | 12/31/2014 | STATE | Palm Beach |
| BANNER LIFE INSURANCE COMPANY | 6/1/2010 | 12/31/2014 | STATE | Palm Beach |
| ALLIANZ LIFE INSURANCE COMPANY OF NORTH AMERICA | 4/7/2010 | 12/31/2014 | STATE | Palm Beach |
| AMERICAN GENERAL LIFE INSURANCE COMPANY | 7/20/2004 | 12/31/2014 | STATE | Palm Beach |
| AMERICAN NATIONAL INSURANCE COMPANY | 4/22/2010 | 12/31/2014 | STATE | Palm Beach |
| RELIASTAR LIFE INSURANCE COMPANY | 6/23/2011 | 12/31/2013 | STATE | Palm Beach |
| SECURITY LIFE OF DENVER INSURANCE COMPANY | 6/23/2011 | 12/31/2013 | STATE | Palm Beach |