

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.—

9. That Ted has failed to provide an understandable accounting. 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 statutorily required accounting and supporting evidence to present an accounting for the Trust's assets since the time Simon died to present.
10. There is no prior accounting of Simon's Trust as the former Co-Trustees, TESCHER and SPALLINA, 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).

(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.

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:

11. That Ted within 60 days 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.

12. 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, Ted has failed to provide proof of the actual trust. That in Eliot's deposition, Alan Rose, Esq. claimed that neither Ted nor he was 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.

13. 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.**

14. 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.

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

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.

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

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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

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 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

**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 HAVE ANY QUESTIONS, PLEASE CONSULT YOUR ATTORNEY.

15. That Ted S. Bernstein is not a valid and legal Successor Trustee and according to the language of the alleged Trust presented to beneficiaries, the Successor Trustee cannot be a related party and Ted is considered predeceased for all purposes of the Trust and Dispositions made thereunder.
16. That the alleged 2012 Simon Trust accounted for has been found to be improperly notarized and has serious other defects that make the document invalid and Ted has failed to provide a full and complete set of original Simon Trust documents for beneficiaries and forensic analysis to be performed on.
17. That the accounting provided for by the alleged Successor Trustee Ted fails to properly account for the assets of Simon Bernstein and items have been reported Stolen to Palm Beach County Sheriff Investigators, where Ted Bernstein is one of several alleged perpetrators of stolen assets under ongoing investigation.

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

18. 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:

- a. "Starting Balance"; and
- b. "Assets on Hand at Close of Accounting Period."

I. Starting Balance Assets per Inventory or on Hand at Close of Last Accounting Period

Income	Principal	Total
	\$30,177.17	\$30,177.17

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

20. The following items listed 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.

	Income	Principal	Total
II. Receipts	\$0	\$0	\$0

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

	Income	Principal	Total
III. Disbursements	\$0	(\$7,250.00)	(\$7,250.00)

22. Objector objects to “Distributions” as no substantiating documents were provided, thus the Objector reserves any and all further objections after examination of same.

III. Distributions	Income	Principal	Total
	\$0	\$0	\$0

23. 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.

IV. Capital Transactions and Adjustments	Income	Principal	Total
	\$0	\$0	\$0

24. 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.

V. Assets of Hand at Close of Accounting Period	Income	Principal	Total
	\$0	\$22,927.17	\$22,927.17

25. 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.

26. That Objector objects to 1, as it does not comply with Generally Accepted Accounting Principles as the interest in the LLLP are undisclosed and undefined as there is no way of knowing what the LLLP is composed of and why the assets are illiquid and the values undetermined 2 ½ years after the decedents death.

27. That Objector objects to 2, as there is no prior history of the JP Morgan Account and changes

to account since the time of the decedent's death due to the failure of the Alleged Fiduciary Ted to secure prior accountings from his former counsel and discharged Co-Trustees, Tescher and Spallina.

28. That Objector objects to 3, as the Simon Bernstein Trust is not the sole beneficiary of the Simon Bernstein Estate, as the children of Simon Bernstein are beneficiaries of Personal Properties of the Estate per the Will.

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

29. 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.

Accounting:

1.	Interest in Bernstein Family Investments, LLLP	
	No known activity	
	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

30. Objector objects to "No known activity" above 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.

31. That Objector objects to the “Value” of BFI, LLLP assets and the approximated value as this does not comply with Generally Accepted Accounting Principles as the interests in BFI and the LLLP are undisclosed and undefined and there is no way of knowing what BFI and the LLLP are composed of and why unidentified assets are illiquid and the values undetermined 2 ½ years after the decedents death.
32. That Objector objects to “Est. range” as it does not comply with Generally Accepted Accounting Principles as it is an estimate with no supporting documents to show how the estimate was derived and no appraisal or other method used to determine such estimate.
33. Objector objects to “Funds from JP Morgan Account” as no substantiating documents were provided, thus the Objector reserves any and all further objections after examination of same.
34. Objector objects to “Starting Balance,” “Additions,” “Expenses,” “Ending Balance,” and “Ending Balance at JP Morgan” as no substantiating documents were provided and no historical information is available due to the Alleged Trustee Ted’s failure to demand the statutorily required accounting from the resigning former Co-Trustees, Tescher and Spallina, thus the Objector reserves any and all further objections after examination of same.
35. Objector objects to Fees and Costs paid to Expert Witness Fee: Bruce Stone (\$ 7,250.00) as such fees did not 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.
36. Objector objects to “Mrachek-Law IOTA” as no substantiating documents were provided and no historical information is available due to the Alleged Trustee Ted’s failure to demand the

statutorily required accounting from the resigning former Co-Trustees, Tescher and Spallina, thus the Objector reserves any and all further objections after examination of same.

2 Funds from JP Morgan Account:

Starting balance:	\$30,177.17
Additions:	\$0
Expenses:	
11/19/2014	
Expert Witness Fee: Bruce Stone	(\$ 7,250.00)
Ending balance 3-18-15	\$22,927.17*
* Balance at JP Morgan	\$10,000.00
Balance in Mrachek-Law IOTA	\$12,927.17

37. Objector objects to “Additional Information” below as no substantiating documents were provided and no historical information is available due to the Alleged Trustee Ted’s failure to demand the statutorily required accounting from the resigning former Co-Trustees, Tescher and Spallina, thus the Objector reserves any and all further objections after examination of same.

38. That while demonstrating knowledge of missing accounting for Trust assets by former fiduciaries, Ted has done nothing to secure such accountings. That this failure to account is alleged to be due to theft of enormous amounts of assets from the Estates and Trusts of both Simon and Shirley Bernstein, thus the Objector reserves any and all further objections after examination of same.

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.

39. That Ted claims no knowledge of transactions done during trusteeship of Simon Bernstein and Ted has failed as a fiduciary to disclose records of Simon Bernstein that would show any transactions done by Simon and continues a pattern and practice of fraud on the beneficiaries through the suppression of all of Simon's financial records and tax returns, thus the Objector reserves any and all further objections after examination of same..

Transactions during trusteeship of Simon Bernstein, Settlor/Trustees

No knowledge. Settlor-Trustee deceased.

40. That Objector Objects to all entries in "Transactions during trusteeship of Donald Tescher and Robert Spallina, as Successor Co-Trustees" as while Ted claims to have no accounting from the former removed Successor Co-Trustees, TESCHER and SPALLINA, Ted's accounting attempts to reconcile assets during the time they served with no supporting accounting or documentation, thus the Objector reserves any and all further objections after examination of same.

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	<u>199,000.00</u>

Ending Value: see above