

IN THE CIRCUIT COURT IN AND FOR THE 15<sup>TH</sup> JUDICIAL CIRCUIT IN AND FOR  
PALM BEACH COUNTY, FLORIDA

IN RE: ESTATE OF:

PROBATE DIVISION

SIMON L. BERNSTEIN,

FILE NO: 502012CP4391XXXXSB

Deceased.

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**PETITION FOR INSTRUCTIONS AND REVIEW OF COMPENSATION OF  
ACCOUNTANTS' FEES & COSTS**

BRIAN M. O'CONNELL, as Successor Personal Representative of the Estate of SIMON L. BERNSTEIN ("Successor Personal Representative" or "Mr. O'Connell" and "Decedent", respectively), hereby files this Petition for Instructions and Review of Compensation of Accountants' Fees and Costs pursuant to Fla. Stat. § 733.6175, and, in support, states as follows:

1. The Decedent, a resident of Palm Beach County, Florida, died on September 12, 2012, with an Estate ("Estate"), subject to probate in the State of Florida, with a total inventory value of \$1,121,325.21. See a copy of the Inventory attached hereto as Exhibit "A."
2. The Will of Mr. Bernstein named two personal representatives, Robert L. Spallina ("Spallina") and Donald R. Tescher ("Tescher").
3. On July 24, 2014, Mr. O'Connell was appointed as the Successor Personal Representative of the Estate.
4. Upon information and belief, CBIZ MHM, LLC ("CBIZ"), an accounting firm, was retained by co-personal representatives, Tescher and Spallina, on behalf of the Estate.
5. According to the invoices submitted by CBIZ, the Estate has incurred approximately \$29,887.75 in fees and costs for the following:
  - Accumulation and analysis of information and preparation of U.S. Fiduciary Tax Return (Form 1041) for 2012 and Form 1040 for 2012

- Numerous communications with Attorney and Curator for information to file a complete and proper tax return;
- Completion of Form 8855;
- Accumulation of information and preparation of Extension Form; and
- Numerous communications with Attorney Robert Spallina, Curator Ben Brown and Ted Bernstein for information necessary to properly prepare the above mentioned return.

See Composite Exhibit "B," attached hereto.

6. Mr. O'Connell requests the Court for instructions regarding payment to CBIZ, and to review the reasonableness of the compensation charged by CBIZ for its services to the Estate for 2012 as set forth on Exhibit "B."

WHEREFORE, BRIAN M. O'CONNELL, as Successor Personal Representative of the Estate of SIMON L. BERNSTEIN, respectfully requests this Court for instructions and to review the reasonableness of the compensation charged by CBIZ MHM, LLC for its accounting services provided to the Estate for 2012 and/or for an Order authorizing the Successor Personal Representative to pay CBIZ MHM, LLC for such services, and for attorneys' fees and costs and any further relief as this Court deems just and proper.

I HEREBY CERTIFY that a true and correct of the foregoing was sent by e-mail service or U.S. Postal Service on the 5 day of May, 2015 to the parties on the attached Service List.



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BRIAN M. O'CONNELL  
Florida Bar No: 308471  
JOIELLE A. FOGLIETTA  
Florida Bar No: 94238  
Ciklin Lubitz Martens & O'Connell  
515 N. Flagler Dr., 20th Floor  
West Palm Beach, FL 33401  
Telephone: 561-832-5900  
Facsimile: 561-833-4209

SERVICE LIST

<p>Alan B. Rose, Esq. Page, Mrachek, Fitzgerald &amp; Rose, PA. 505 S. Flagler Dr., Suite 600 West Palm Beach, FL 33401 (561) 355-6991 <a href="mailto:arose@mrachek-law.com">arose@mrachek-law.com</a> <a href="mailto:mchandler@mrachek-law.com">mchandler@mrachek-law.com</a> Attorney for Ted S. Bernstein</p>	<p>John P. Morrissey, Esq. 330 Clematis St., Suite 213 West Palm Beach, FL 33401 <a href="mailto:john@jmorrisseylaw.com">john@jmorrisseylaw.com</a> Attorney for Molly Simon et al</p>	<p>Donald R. Tescher, Esq. Robert L. Spallina, Esq. 925 S. Federal Highway, Suite 500 Boca Raton, FL 33432 <a href="mailto:Dtescher@tescherlaw.com">Dtescher@tescherlaw.com</a> <a href="mailto:ddustin@tescherlaw.com">ddustin@tescherlaw.com</a> <a href="mailto:rspallina@tescherspallina.com">rspallina@tescherspallina.com</a> <a href="mailto:kmoran@tescherspallina.com">kmoran@tescherspallina.com</a></p>
<p>Peter Feaman, Esq. Peter M. Feaman, P.A. 3695 Boynton Beach Blvd., Suite 9 Boynton Beach, FL 33436 <a href="mailto:pfeaman@feamanlaw.com">pfeaman@feamanlaw.com</a></p>	<p>Shendell &amp; Pollock, P.L. 2700 N. Military Trail, suite 150 Boca Raton, FL 33431 241-2323 Fax: 241-2330 Gary R. Shendell, Esq. <a href="mailto:gary@shendellpollock.com">gary@shendellpollock.com</a> <a href="mailto:estella@shendellpollock.com">estella@shendellpollock.com</a> <a href="mailto:grs@shendellpollock.com">grs@shendellpollock.com</a> Kenneth S. Pollock, Esq. <a href="mailto:ken@shendellpollock.com">ken@shendellpollock.com</a> <a href="mailto:britt@shendellpollock.com">britt@shendellpollock.com</a> <a href="mailto:grs@shendellpollock.com">grs@shendellpollock.com</a>  Attorney for Tescher and Spallina</p>	<p>Max Friedstein 2142 Churchill Lane Highland Park, IL 60035 Beneficiary</p>
<p>Eliot Bernstein and Joshua, Jacob and Daniel Bernstein, Minors c/o Eliot and Candice Bernstein, Parents and Natural Guardians 2753 N.W. 34<sup>th</sup> St. Boca Raton, FL 33434 <a href="mailto:iviewit@iviewit.tv">iviewit@iviewit.tv</a></p>	<p>Pamela Beth Simon 950 N. Michigan Ave., Apt. 2603 Chicago, IL 60611 <a href="mailto:psimon@stpcorp.com">psimon@stpcorp.com</a></p>	<p>Lisa Friedstein and Carley Friedstein, Minor c/o Jeffrey and Lisa Friedstein Parent and Natural Guardian 2142 Churchill Lane Highland Park, IL 60035 <a href="mailto:Lisa@friedsteins.com">Lisa@friedsteins.com</a> <a href="mailto:Lisa.friedstein@gmail.com">Lisa.friedstein@gmail.com</a> Beneficiary</p>
<p>Jill Iantoni and Julia Iantoni, a Minor c/o Guy and Jill Iantoni, her Parents &amp; Natural Guardians 2101 Magnolia Lane Highland Park, IL 60035 <a href="mailto:jilliantoni@gmail.com">jilliantoni@gmail.com</a></p>		

IN THE CIRCUIT COURT FOR PALM BEACH  
COUNTY, FLORIDA PROBATE DIVISION

IN RE: ESTATE OF

SIMON L. BERNSTEIN  
Deceased.

FILE NO: 502012CP004391XXXXSB

**INVENTORY BY BRIAN M. O'CONNELL, AS  
SUCCESSOR PERSONAL REPRESENTATIVE**

The undersigned Successor Personal Representative of the estate of SIMON L. BERNSTEIN, deceased, who died September 12, 2012 submits this inventory of all the property of the estate, that has come into the hands, possession, control, or knowledge of this Personal Representative:<sup>1</sup>

REAL ESTATE IN FLORIDA – Exempt (Protected) Homestead: NONE

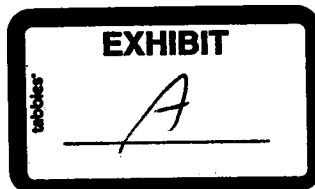
REAL ESTATE IN FLORIDA – Non Exempt Homestead: NONE

*(Whether or not homestead property is exempt from the claims of creditors, is properly devised and is a probate asset may have to be determined by appropriate proceedings.)*

OTHER REAL ESTATE IN FLORIDA: NONE

Total Real Estate in Florida – Except Exempt (Protected) Homestead \$ 0.00

<sup>1</sup> This Inventory reports all assets which have come into the possession and knowledge of the undersigned as Successor Personal Representative as of this date. The undersigned plans on conducting discovery as to possible additional assets and an Amended Inventory will be filed, if necessary.



PERSONAL PROPERTY WHEREVER LOCATED:

Description	Estimated Fair Market Value
Sabadell Bank – estate checking account # 15346	\$ 11,735.84
JP Morgan – estate checking account	25,531.59
JP Morgan – estate inherited IRA account # 8004	559,217.78
Promissory Note dated July 1, 2008, payable to Decedent by Bernstein Family Realty LLC	365,000.00
Jewelry (as of 5/14/13 appraisal by A. Matteini & Co.)	63,205.00
Furniture & furnishings (as of 1/22/13 appraisal by Robert A. Hittel)	51,135.00
Reimbursements owed to the Estate by Bernstein Family Realty LLC for expenses and legal fees per Schedule D of the T&S Accounting and per Schedule E of the Amended Accounting of Curator	25,500.00
Reimbursements owed to the Estate by the Simon Bernstein Insurance Trust for legal fees per Schedule D of the T&S Accounting and per Schedule E of the Amended Accounting of Curator	20,000.00
LIC Holdings, Inc. (Company stock held at corporate office per Schedule E of the Amended Accounting of Curator)	Unknown
Objection to the Final Accounting of Personal Representative for the time period of September 13, 2012 through February 28, 2014, dated August 13, 2014	Unknown
Claim for insurance proceeds pending under <u>Simon Bernstein Irrevocable Trust DTD 6/21/95 v. Heritage Union Life Insurance Company</u> , Case Number 13 cv 3643 (N.D. Ill., E. Div.)	Unknown
Total Personal Property – Wherever Located	\$1,121,325.21

TOTAL OF ALL PERSONAL PROPERTY AND FLORIDA REAL ESTATE

(Except exempt (protected) homestead)

\$ 1,121,325.21

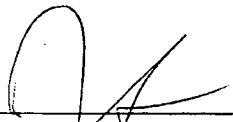
All real estate located outside the State of Florida owned by the decedent of which the Personal Representative is aware, if any, is described on a schedule attached hereto, [If none, so indicate]

NONE KNOWN AT THIS TIME.

*NOTICE: Each residuary beneficiary in a testate estate or heir in an intestate estate has the right to request a written explanation of how the inventory value of any asset was determined, including whether the Personal Representative obtained an independent appraisal for that asset and, if so, a copy of the appraisal. Any other beneficiary may request this information regarding all assets distributed to or proposed to be distributed to that beneficiary.*

Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true to the best of my knowledge and belief.

Signed on December 1, 2014.

  
94238  
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ASHLEY N. CRISPIN  
Florida Bar # 37495  
CIKLIN, LUBITZ, MARTENS, & O'CONNELL  
515 North Flagler Drive, 20<sup>th</sup> Floor  
West Palm Beach, FL 33401  
Telephone No. (561) 832-5900  
Facsimile: (561) 833-4209  
Primary e-mail: [service@ciklinlubitz.com](mailto:service@ciklinlubitz.com)  
Secondary email: [probateservice@ciklinlubitz.com](mailto:probateservice@ciklinlubitz.com)

  
\_\_\_\_\_  
BRIAN M. O'CONNELL  
Successor Personal Representative

[Print or Type Names Under All Signature Lines]



CBIZ MHM, LLC

Simon Bernstein Estate (1040)  
c/o Ciklin Lubitz Martens & O'Connell  
Attn: Brian O'Connell  
515 North Flager Drive, 20th Floor  
West Palm Beach, FL 33401

Invoice No. 117692  
Date 07/09/2014  
Client No. 4001350.0  
Total Amount Due \$ 11,397.80

TO INSURE PROPER CREDIT, PLEASE WRITE INVOICE NUMBER ON CHECK

**Professional Services Rendered Through June 30, 2014**

Accumulation and analysis of information and preparation of U.S. Fiduciary Tax Return (Form 1041) for 2012.

Numerous communications with Attorney and Curator for information to file a complete and proper tax return.

\$ 11,397.80

0 - 30	31 - 60	61 - 90	91 - 120	Over 120	Balance
11,397.80	0.00	0.00	0.00	0.00	11,397.80

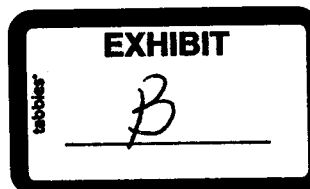
Invoice Due Upon Receipt  
Payments Received Are Posted Through Above Invoice Date

Client Name: Simon Bernstein Estate (1040)  
Invoice No.: 117692

Client No: 4001350  
Invoice Date: 07/09/2014

**Make check payable to: CBIZ MHM, LLC**  
Remit payment to: PO Box 953152, St. Louis, MO 63195-3152  
Ph: 561.994.5050 ~ F: 561.241.0071 ~ www.cbizsouthflorida.com

*A finance charge of 1.5% per month will be added to any unpaid balance over 60 days from invoice date.*





CBIZ MHM, LLC

Estate of Simon Bernstein (1041)
c/o Ciklin Lubitz Martens & O'Connell
Attn: Brian O'Connell
515 North Flager Drive, 20th Floor
West Palm Beach, FL 33401

Invoice No. 117691
Date 07/09/2014
Client No. 4001350.101
Total Amount Due \$ 18,489.95

TO INSURE PROPER CREDIT, PLEASE WRITE INVOICE NUMBER ON CHECK

Professional Services Rendered Through June 30, 2014

Accumulation and analysis of information and preparation of U.S. Fiduciary Tax Return (Form 1041) for 2012.

Completion of Form 8855.

Accumulation of information and preparation of Extension Form.

Numerous communications with Attorney Robert Spallina, Curator Ben Brown and Ted Bernstein for information necessary to properly prepare the above mentioned return.

\$ 18,489.95

Table with 6 columns: 0 - 30, 31 - 60, 61 - 90, 91 - 120, Over 120, Balance. Values: 18,489.95, 0.00, 0.00, 0.00, 0.00, 18,489.95

Invoice Due Upon Receipt
Payments Received Are Posted Through Above Invoice Date

Client Name: Estate of Simon Bernstein (1041)
Invoice No.: 117691

Client No: 4001350
Invoice Date: 07/09/2014

Make check payable to: CBIZ MHM, LLC
Remit payment to: PO Box 953152, St. Louis, MO 63195-3152
Ph: 561.994.5050 ~ F: 561.241.0071 ~ www.cbizsouthflorida.com

A finance charge of 1.5% per month will be added to any unpaid balance over 60 days from invoice date.



Estate of Simon Bernstein  
Invoice# 117691 dated 7/9/2014

Date	Employee	Cat	Memo
12/10/2013	THIERMAN	TAX	talk Linda, go through files to make sure all assets, call with Broker to go over all accounts at JP Morgan, emails
12/11/2013	THIERMAN	TAX	emails, talk to Robert Spallina re variety of issues-see emails; research re estimated tax filing requirements for trusts that received distributions from estate for 2013.
12/12/2013	DEROSA/L	TAX	Organize information, prepare schedule of JPM account showing deposits and withdrawals
12/12/2013	DEROSA/L	TAX	Prepare 1041, go over return w/Abby
12/12/2013	THIERMAN	TAX	extension; go over issues with Marc
12/13/2013	DEROSA/L	TAX	Print extension and instruction letter, give to Kelli to track and mail
12/13/2013	THIERMAN	TAX	check on extension
12/16/2013	DEROSA/L	TAX	Verify that extension was mailed Friday, track down proof of mailing.
12/20/2013	DEROSA/L	TAX	Add additional information to tax return, start to clear review points, start to clear diagnostics
1/23/2014	MESSURI	TAX	Telephone call with Ted re spallina issues. Discussed with staff to not communicate with Tescher & Spallina
3/25/2014	MESSURI	TAX	email to Ted re status of things
4/10/2014	MESSURI	TAX	email response to new atty. met with abby re email
4/21/2014	MESSURI	TAX	Discuss with Aby prior to conf call with new atty
4/22/2014	MESSURI	TAX	Telephone call with Ted & atty re questions to finalize returns (1040 & 1041)
4/29/2014	THIERMAN	TAX	email Robert Spallina and copy Ben Brown re open items for 1041 and 1040.
4/29/2014	MESSURI	TAX	met with Abby on issues
4/29/2014	DEROSA/L	TAX	Look for 2012 tax information, check with Anthony and Abby. Discuss form 8855 with Abby and print information sent by curator.
4/30/2014	DEROSA/L	TAX	Sort thru workpapers, make changes t tax return; Prepare form 8855 for Abby to send to Curator for filing
4/30/2014	THIERMAN	TAX	Form 8855 send to ben brown
5/1/2014	THIERMAN	TAX	8855 - email from curator
5/5/2014	DEROSA/L	TAX	Start to organize workpapers
5/8/2014	MESSURI	TAX	discuss ith Abby & email to Ted Form for his signature
5/8/2014	DEROSA/L	ACCT	Organize all data, add barcodes for scanning, make additional changes to return send return to scanning. Discuss some open items with Abby and make phone call with Abby to Robert Spallina regarding questionable expenses.
5/9/2014	DEROSA/L	ACCT	Go thru Accounting of Personal Representative and determine if there were any additional expenses that need to be included on tax return.

Estate of Simon Bernstein  
Invoice# 117691 dated 7/9/2014

Date	Employee	Cat	Memo
5/12/2014	DEROSA/L	TAX	Prepare schedules of expenss received from attorneys in their final accounting. Make changes to the return, send to Abby for final review. Several phone calls and discussions w/Abby regarding changes.
5/12/2014	LEWIS	TAX	assist Abby
5/13/2014	MESSURI	TAX	Review Comments
5/13/2014	THIERMAN	TAX	talk Marc, talk Robert Spallina, talk Ben Brown; issues re capital account, expenses from accounting; updating return 8855
5/15/2014	PERGAMENT	TAX	Return Processing
5/15/2014	PERGAMENT	TAX	Return Processing
5/16/2014	MESSURI	TAX	prepare tax return backup to send to atty. Per Abby Request
5/16/2014	THIERMAN	TAX	workpapers
5/20/2014	MESSURI	TAX	met with abby re estate & docs to proivde to curator
6/5/2014	MESSURI	TAX	Email 2012 w/p's to curator ben Brown
6/9/2014	MESSURI	TAX	email to mark re curator request for returns. emial to curator to confirm returns he is requesting.
6/9/2014	THIERMAN	TAX	re prior year returns
6/10/2014	MESSURI	TAX	Email to Ben Brown copies of 2007 - 2011 Form 100 for Simon & Shirley
6/24/2014	THIERMAN	TAX	email from Ben Brown- email to Anthony re IRA
		Total Hours	80.60
		Total Billing	18,489.95