

IN THE CIRCUIT COURT IN AND FOR THE 15TH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY, FLORIDA

IN RE: ESTATE OF:

PROBATE DIVISION

SIMON L. BERNSTEIN,

FILE NO: 502012CP4391XXXXNB

Deceased.

**AMENDED OBJECTION TO “ACCOUNTING OF SIMON BERNSTEIN TRUST
BY TED S. BERNSTEIN, SUCCESSOR TRUSTEE” FOR THE TIME PERIOD
OF FEBRUARY 3, 2014 THROUGH MARCH 15, 2015**

BRIAN M. O’CONNELL, as Personal Representative of the Estate of Simon Bernstein (“Personal Representative” and “Estate,” respectively), by and through undersigned counsel, hereby files his Amended Objection to the “Accounting of Simon Bernstein Trust by Ted S. Bernstein, Successor Trustee” for the time period of February 3, 2014 through March 15, 2015” (“Accounting,” “Trust,” and “Ted,” respectively), and objects to the “Accounting,” on the following bases, including but not limited to:

1. On or about March 30, 2014, Ted S. Bernstein served the “Accounting.”
2. The Personal Representative objects to the “Accounting” as it is ambiguous, insufficient, incomplete, and/or incorrect and seeks a more complete and detailed accounting as required under Fla. Stat. 736.08135, Fla. Prob. R. 5.346, and other applicable Florida Law and reserves his right to further object after receipt and examination of same.
3. The “Accounting” does not comply with Fla. R. Prob. 5.346(a), (b), and (c).
4. The “Accounting” does not comply with §736.08135, Florida Statutes.

5. The Personal Representative, at this time, makes the following additional general objections, and reserves his right to further object:

- a. Pursuant to Florida Statute §736.08135(1) – The “Accounting” does not adequately describe the beginning balance and does not adequately disclose the source and/or specific assets of the Trust from the date on which the trustee became accountable;
- b. Pursuant to Florida Statute §736.08135(2)(b) and Fla. Prob. R. 5.346(a)(1)– The “Accounting” fails to show all cash and property transactions and gains and losses realized during the accounting period and/or from commencement of administration;
- c. The “Accounting” does not contain a schedule of assets at the end of the accounting period as is required by Fla. Prob. R. 5.346(a)(2);
- d. Pursuant to Florida Statute §736.08135(2)(c) and Fla. Prob. R. 5.346(b)(4)– The “Accounting” fails to identify the acquisition value or carrying value and the estimated current value and does not contain the two values in the schedule of assets at the end of the accounting period. The “Accounting” fails to list known noncontingent liability(ies) with an estimated current amount of the liability(ies);
- e. Pursuant to Florida Statute §736.08135(2)(d) and Fla. Prob. R. 5.346(b)(6) – The “Accounting” fails to show significant transactions that do not affect the amount for which the trustee is accountable;
- f. The “Accounting” does not contain sufficient information to put interested persons on notice as to all significant transactions affecting the

administration during the accounting periods as is required by Fla. Prob. R. 5.346(b)(3);

- g. Pursuant to Florida Statute §736.08135(2)(e) – The “Accounting” fails to 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; and
- h. Personal Representative objects to the Disbursement to Bruce Stone in the amount of \$7,250.00, as no substantiating documents were provided, thus, the Personal Representative reserves any and all further objections after examination of same.

6. In addition, the Personal Representative objects to the “Accounting” as no substantiating documents were provided, thus the Personal Representative reserves his right to further object after receipt and examination of same.

7. In the abundance of caution, the Personal Representative generally objects to the “transactions during trusteeship of Simon Bernstein, Settlor/Trustee.”

8. Additionally, in the abundance of caution, the Personal Representative generally objects to the “transactions during trusteeship of Donald Tescher and Robert Spallina, as Successor Co-Trustees” and reserves the right to further object. The Personal Representative further objects to any disbursements by and to Donald Tescher and Robert Spallina, as Successor Co-Trustees and/or the disbursements of “Fees- T & S Professional Fees,” and to any other actions that Donald Tescher and/or Robert Spallina may have taken and reserves the right to further object.

WHEREFORE, BRIAN M. O'CONNELL, as Personal Representative of the Estate of Simon Bernstein, by and through undersigned counsel, hereby files his Amended Objection to the "Accounting of Simon Bernstein Trust by Ted S. Bernstein, Successor Trustee" for the time period of February 3, 2014 through March 15, 2015," and requests attorneys' fees and costs and any further relief deemed necessary or proper.

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by e-mail service on the 30th day of, September 2015 to all on the Service List attached.



BRIAN M. O'CONNELL, ESQ.
Florida Bar No: 308471
ASHLEY N. CRISPIN, ESQ.
Florida Bar No: 37495
JOIELLE A. FOGLIETTA, ESQ.
Florida Bar No. 94238
CIKLIN LUBITZ & O'CONNELL
515 N. Flagler Dr., 20th Floor
West Palm Beach, FL 33401
Telephone: 561-832-5900
Facsimile: 561-833-4209
primary e-mail: service@ciklinlubitz.com
secondary e-mail: slobdell@ciklinlubitz.com

SERVICE LIST

<p>Alan B. Rose, Esq. Page, Mrachek, Fitzgerald & Rose, PA. 505 S. Flagler Dr., Suite 600 West Palm Beach, FL 33401 (561) 355-6991 arose@mrachek-law.com mchandler@mrachek-law.com Attorney for Ted S. Bernstein</p>	<p>John P. Morrissey, Esq. 330 Clematis St., Suite 213 West Palm Beach, FL 33401 john@jmorrisseylaw.com 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 Dtescher@tescherlaw.com ddustin@tescherlaw.com rspallina@tescherspallina.com kmoran@tescherspallina.com</p>
<p>Peter Feaman, Esq. Peter M. Feaman, P.A. 3695 Boynton Beach Blvd., Suite 9 Boynton Beach, FL 33436 pfeaman@feamanlaw.com</p>	<p>Shendell & Pollock, P.L. 2700 N. Military Trail, suite 150 Boca Raton, FL 33431 241-2323 Fax: 241-2330 Gary R. Shendell, Esq. gary@shendellpollock.com estella@shendellpollock.com grs@shendellpollock.com Kenneth S. Pollock, Esq. ken@shendellpollock.com britt@shendellpollock.com grs@shendellpollock.com 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. 34th St. Boca Raton, FL 33434 iviewit@iviewit.tv</p>	<p>Pamela Beth Simon 950 N. Michigan Ave., Apt. 2603 Chicago, IL 60611 psimon@stpcorp.com</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 Lisa@friedsteins.com Lisa.friedstein@gmail.com Beneficiary</p>
<p>Jill Iantoni and Julia Iantoni, a Minor c/o Guy and Jill Iantoni, her Parents & Natural Guardians 2101 Magnolia Lane Highland Park, IL 60035 jilliantoni@gmail.com</p>		