

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

PROBATE DIVISION

CASE NO.: 502014CP002815XXXXNB (IH)

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

Petitioner,

vs.

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

Respondents.

PETITIONER'S MOTION FOR ENTRY OF FINAL JUDGMENT

Petitioner, Oppenheimer Trust Company of Delaware ("Oppenheimer"), by and through its undersigned attorneys, moves for the entry of final judgment on its Petition For Instructions, Approval Of Final Accounting, Release And Discharge ("Petition") consistent with the Guardian *Ad Litem's* Response, Report and Recommendation filed on May 11, 2016, and states:

1. This action relates to three trusts for minors, each with liquid assets of approximately \$2,000. *See Final Accountings previously filed with the Court.*

2. Oppenheimer was forced to file this action because the natural guardians of the minor beneficiaries refused to designate a successor trustee upon Oppenheimer's resignation.¹

3. In Count I of its Petition, Oppenheimer requested that the Court "either (i) appoint a successor trustee to whom Oppenheimer may deliver the Trust property or (ii) terminate the Trusts and permit Oppenheimer to deliver the Trust property to Eliot and Candice Bernstein, as the natural guardians of the Trusts' beneficiaries." In Count II of its Petition, Oppenheimer requested approval of its final accountings, and a release and discharge as trustee.

4. Pursuant to this Court's Order, the Guardian *Ad Litem*, Diana Lewis (the "GAL"), filed a Report and Recommendation on May 11, 2016 (the "GAL Report"). As reflected in the GAL Report, the GAL does not object to the relief sought by Oppenheimer in Count I or Count II. Accordingly, Oppenheimer requests the entry of final judgment on its Petition. A copy of the proposed final judgment is attached hereto as Exhibit "A."

WHEREFORE, Oppenheimer requests the entry of final judgment in its favor, together with such other relief as is just and proper.

Respectfully submitted,

GUNSTER, YOAKLEY & STEWART, P.A.
Counsel for Petitioner
777 South Flagler Drive, Suite 500 East
West Palm Beach, FL 33401
Telephone: (561) 650-0545
Facsimile: (561) 655-5677

By: /s/Steven A. Lessne
Steven A. Lessne, Esq.
Florida Bar No. 107514
slessne@gunster.com

¹ As the Court previously recognized in granting Oppenheimer partial summary judgment as to Count I, Oppenheimer effectively resigned as Trustee of the Grandchildren Trusts effective as of May 26, 2014. See *Omnibus Order dated November 7, 2014*.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via e-mail to all parties on the below Service List this 16th day of May, 2016.

/s/ Steven A. Lessne

SERVICE LIST

Diana Lewis
ADR & Mediation Services, LLC
2765 Tecumseh Drive
West Palm Beach, FL 33409
dzlewis@aol.com

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

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

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

PROBATE DIVISION

CASE NO.: 502014CP002815XXXXNB (IH)

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

Petitioner,

vs.

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

Respondents.

FINAL JUDGMENT

THIS CAUSE came before the Court upon the Motion For Entry Of Final Judgment (the “Motion”) filed by Petitioner, Oppenheimer Trust Company Of Delaware (“Oppenheimer”), in its capacity as the resigned trustee of three irrevocable trusts settled by Simon Bernstein on September 7, 2006 for the benefit of his grandchildren, Joshua, Jake and Daniel Bernstein (the “Grandchildren Trusts”). Having considered the Motion, the May 11, 2016 Report and Recommendation of the grandchildren’s Guardian *Ad Litem*, Diana Lewis (the “GAL”), and being otherwise duly advised in the premises, it is hereupon

ORDERED AND ADJUDGED as follows:

Exhibit "A"

1. Final judgment is hereby entered in Oppenheimer's favor as to Count I of its Petition For Instructions, Approval Of Final Accounting, Release And Discharge ("Petition"). The Grandchildren Trusts are hereby terminated and, as proposed by Oppenheimer in its Plan of Distribution of Trust Assets, Oppenheimer shall distribute the liquid assets of the Grandchildren Trusts (approximately \$6,500) to the Palm Beach County Tax Collector to partially pay the property taxes due on the real property owned by Bernstein Family Realty, LLC ("BFR"), an asset wholly owned by the Grandchildren Trusts.¹ Oppenheimer shall distribute the remainder of the assets (the Grandchildren Trusts' interests in BFR and LIC Holdings, Inc.) as follows:

2. Final judgment is hereby entered in Oppenheimer's favor as to Count II of its Petition. Oppenheimer's accountings, as supplemented and amended, are approved in full. Oppenheimer and its former and current agents, employees and attorneys, together with Oppenheimer's parent and subsidiary companies, and all of their successors and assigns, are hereby released and discharged of all duties, claims, demands and liabilities arising out of or related to the Grandchildren Trusts or their assets.

DONE AND ORDERED in Chambers, Palm Beach County, Florida on _____, 2016.

Hon. John L. Phillips, Circuit Judge

¹ According to the Palm Beach County Tax Collector's records, BFR owes over \$13,000 in property taxes related to the home occupied by the grandchildren, including for a tax certificate sold to satisfy unpaid 2014 property taxes. The assets of the trust are insufficient to pay the property taxes in full.

Copies furnished to:

Oppenheimer Trust Company of Delaware
c/o Steven A. Lessne, Esq.
Gunster, Yoakley & Stewart, P.A.
4855 Technology Way, Suite 630
Boca Raton, FL 33431

Joshua, Jacob (Jake) and Daniel Bernstein
c/o Diana Lewis, their Guardian *Ad Litem*
ADR & Mediation Services, LLC
2765 Tecumseh Drive
West Palm Beach, FL 33409
dzlewis@aol.com