

EXHIBIT 3

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SIMON BERNSTEIN IRREVOCABLE)
INSURANCE TRUST DTD 6/21/95,)
by Ted S. Bernstein, its Trustee, Ted S.)
Bernstein, an individual,)
Pamela B. Simon, an individual,)
Jill Iantoni, an individual and Lisa S.)
Friedstein, an individual.)

Plaintiff,)

v.)

HERITAGE UNION LIFE INSURANCE)
COMPANY,)

Defendant,)

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HERITAGE UNION LIFE INSURANCE)
COMPANY)

Counter-Plaintiff)

v.)

SIMON BERNSTEIN IRREVOCABLE)
TRUST DTD 6/21/95)

Counter-Defendant)

and,)

FIRST ARLINGTON NATIONAL BANK)
as Trustee of S.B. Lexington, Inc. Employee)
Death Benefit Trust, UNITED BANK OF)
ILLINOIS, BANK OF AMERICA,)
Successor in interest to LaSalle National)

Case No. 13 cv 3643
Honorable John Robert Blakey
Magistrate Mary M. Rowland

Trust, N.A., SIMON BERNSTEIN TRUST,)
N.A., TED BERNSTEIN, individually and)
as purported Trustee of the Simon Bernstein)
Irrevocable Insurance Trust Dtd 6/21/95,)
and ELIOT BERNSTEIN)

Third-Party Defendants.)

ELIOT IVAN BERNSTEIN,)

Cross-Plaintiff)

v.)

TED BERNSTEIN, individually and)
as alleged Trustee of the Simon Bernstein)
Irrevocable Insurance Trust Dtd, 6/21/95)

Cross-Defendant)

and,)

PAMELA B. SIMON, DAVID B.SIMON,)
both Professionally and Personally)
ADAM SIMON, both Professionally and)
Personally, THE SIMON LAW FIRM,)
TESCHER & SPALLINA, P.A.,)
DONALD TESCHER, both Professionally)
and Personally, ROBERT SPALLINA,)
both Professionally and Personally,)
LISA FRIEDSTEIN, JILL IANTONI)
S.B. LEXINGTON, INC. EMPLOYEE)
DEATH BENEFIT TRUST, S.T.P.)
ENTERPRISES, INC. S.B. LEXINGTON,)
INC., NATIONAL SERVICE)
ASSOCIATION (OF FLORIDA),)
NATIONAL SERVICE ASSOCIATION)
(OF ILLINOIS) AND JOHN AND JANE)
DOES)

Third-Party Defendants.)

AFFIDAVIT OF LISA FRIEDSTEIN

I, Lisa Friedstein, being duly sworn under oath, deposes and states as follows:

1. I am a resident of the City of Highland Park, County of Lake, State of Illinois and am over the age of 18. If I were called and sworn as a witness in the above-captioned matter I could competently and voluntarily testify to the facts set forth in this Affidavit based upon my personal knowledge.
2. My maiden name is Lisa Bernstein. My married name is Lisa Friedstein.
3. I am one of five adult children of Simon Bernstein.
4. When I use the term "Affidavit of Don Sanders" I mean a certain affidavit executed by Don Sanders, Assistant Vice President of Operations for Jackson National Life Insurance Company on April 8, 2014.
5. When I use the term "Capitol Bankers", I mean Capitol Bankers Life Insurance Company.
6. When I use the term "Consenting Children", I mean collectively four of the five adult children of Simon Bernstein, whom are Ted Bernstein, Pamela Simon, Jill Iantoni, and Lisa Friedstein.
7. When I use the term "Heritage", I mean Heritage Union Life Insurance Company.
8. When I use the term "Jackson", I mean Jackson National Life Insurance Company.
9. When I use the term "Insurer", I mean the life insurance company that was the insurer on the risk for the Policy, which started as Capitol Bankers but changed through succession from time to time.
10. When I use the term "Policy", I mean Capitol Bankers Life Insurance Policy No. 1009208 insuring the life of Simon Bernstein.
11. When I use the term "Insured", I mean Simon Bernstein.
12. When I use the term "Owner", I mean the owner of the Policy as reflected on the Insurers' records from time to time.

13. When I use the term "Policy Proceeds", I mean the amount that was payable by the Insurer under the Policy upon the death of the insured.
14. When I use the term "Proceeds on Deposit", I mean the amount that was actually deposited by the Insurer with the Registry of the Court pursuant to the Insurers' Complaint for Interpleader.
15. When I use the term "Policy Records", I mean the records of the Insurer relating to the Policy as produced by the Insurer during the Litigation.
16. When I use the term "Litigation", I mean the above-captioned litigation.
17. When I use the term "VEBA", I am referring to the S.B. Lexington Employee Death Benefit Trust.
18. I have had an opportunity to consult with my attorney, and review the documents produced by all parties in the above-referenced litigation.
19. I have also reviewed the Affidavit of Don Sanders.
20. I have reviewed the Insurer's records regarding the amount of the death benefit, and have reviewed the receipt for the deposit of the Policy Proceeds with the Registry of the Court in the amount of \$1,703,567.09. I have no dispute or objection to the amount deposited as the Policy Proceeds.
21. I concur with the statements of Don Sanders in his Affidavit that the last beneficiary designation submitted by the Policy Owner and acknowledged by the Insurer prior to the death of the Insured marked as Bates No. JCK000370. The primary beneficiary designation is "LaSalle National Trust, N.A., Trustee", and the contingent beneficiary is "Simon Bernstein Irrevocable Insurance Trust dated June 21, 1995".
22. I concur with Ted Bernstein and the documentation submitted by Plaintiffs in support of our motion for summary judgment with regard to the existence and terms of the Bernstein Trust, and Ted Bernstein's role as trustee.

23. Based on the foregoing, I am in agreement regarding the following facts, and the intent of our father, Simon Bernstein, with regard to the Policy proceeds:

- a) At the time of Simon Bernstein's death, Simon Bernstein was the owner of the Policy;
- b) In June of 1995, Simon Bernstein formed the Simon Bernstein Irrevocable Insurance Trust Dated June 21, 1995;
- c) In November of 1995, the VEBA as Owner submitted a Request to the Insurer designating the VEBA as primary beneficiary, and the Bernstein Trust as second or contingent beneficiary.
- d) In 1998: (i) S.B. Lexington, Inc. was voluntarily dissolved; (ii) the VEBA was terminated and (iii) the VEBA as Owner submitted a change of Owner to the Insurer designating Simon Bernstein as Owner of the Policy.
- e) On the date of Simon Bernstein's death, Simon Bernstein was the Owner of the Policy and the sole surviving beneficiary of the Policy was the contingent beneficiary, the Bernstein Trust;
- f) Following the death of my mother, Shirley Bernstein, and according to the drafts of the Bernstein Trust and the intent of Simon Bernstein, Ted Bernstein was appointed to act as successor Trustee;
- g) Each of the Consenting Children have signified their consent to a court appointment of Ted Bernstein as Trustee.
- h) The beneficiary of the Policy Proceeds is the Bernstein Trust;
- i) The beneficiaries of the Bernstein Trust are the five adult children (including Eliot, the non-consenting child) to share equally, twenty percent each;
- j) The sole asset of the Bernstein Trust is the Policy Proceeds, and the distribution of such proceeds to the five children of Simon Bernstein and any administrative matters related to the termination of the Trust are the only remaining acts required of the Trustee.
- k) The four consenting children of Simon Bernstein agree that upon entry of a judgment in favor of the Plaintiffs declaring that the Bernstein Trust is beneficiary of the Policy Proceeds, counsel for Bernstein Trust, Adam M. Simon, shall be authorized to present the judgment to the Registry and have the Registry distribute the Policy Proceeds in a check payable as follows:

“The Simon Law Firm Client Trust f/b/o Simon Bernstein Irrevocable Insurance Trust Dated June 21, 1995”.

l) The Policy Proceeds shall then be deposited to The Simon Law Firm Client Trust Account and shall be disbursed as follows:

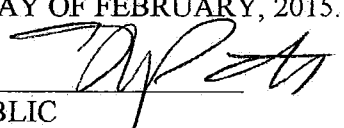
- i) First to the payment of attorney Adam M. Simon’s fees and costs;
- ii) Retention of \$5,000.00 in the Simon Law Client Trust Account for the benefit of the Bernstein Trust in order to pay for any professional expenses, i.e. accounting or legal, related to the final distribution of the Trust Assets and termination of trust. Any remaining balance after payment of such expenses shall be distributed to the five adult children in equal shares.
- iii) The balance to be split equally among the five adult children of Simon Bernstein.
- iv) Each Beneficiary that receives a share of the Policy proceeds shall execute and deliver to the Trustee (or Adam M. Simon) a receipt for such payment received.
- v) Along with the distributions, the Trustee shall provide each beneficiary with a final accounting of the distributions made from the Policy Proceeds.

FURTHER AFFIANT SAYETH NAUGHT.

Dated: FEBRUARY 5, 2015


LISA FRIEDSTEIN

SUBSCRIBED AND SWORN TO BEFORE ME
THIS 5 DAY OF FEBRUARY, 2015.


NOTARY PUBLIC
County of Lake, IL

