

TRANSCRIPT OF PROCEEDINGS BEFORE HONORABLE

JOHN L. PHILLIPS DATE: September 1, 2016 TIME: 8:44 a.m. -

8:50 a.m.

Page 3

“1 P-R-0-C-E-E-D-I-N- G-S

2

3 THE COURT: Good morning.

4 MR. ROSE: Mr. O'Connell is not here, but

5 he's in agreement on the two motions that I filed.

6 THE COURT: All right. So these are agreed

7 orders?

8 MR. ROSE: No, Mr. Feaman has objections, I

9 think.

10 THE COURT : All right. Well, let me take a

11 look at what the motions are and I'll figure out

12 what to do.

13 MR. ROSE: Okay. The easier one first.

14 THE COURT: Easy is good.

15 MR. ROSE: There's two trusts and two

16 estates. We sold some real estate. And there was

17 some personal property in the house - - in the

18 condo when it was sold. Technically, it was owned

19 by the Estate of Simon Bernstein, even though it

20 was in the house that was in the trust just
21 because of the way it was set up. So the deal was
22 we could sell it and we would even up later. So
23 we had everything appraised. And we have a motion
24 that Mr. O'Connell, the PR, and Mr. Bernstein, as
25 the trustee, have agreed to on the amount of the

Page 4

1 even up. So we have a motion in both cases to
2 even up and pay \$12,704 from the Shirley Bernstein
3 trust to the Simon Bernstein estate.

Page 5

1 because there are continuing issues about missing
2 property in this estate, not just jewelry, that I
3 mentioned last week. But the property that was in
4 the condo was insured at the time of Shirley
5 Bernstein's death for a hundred thousand dollars.

6 THE COURT: So you think that the personal

7 representative may have ripped the place off?

8 MR. FEAMAN: Well, it was a previous

9 representative. You heard Mr. Spalina testify in

10 your court in a previous case in December, and

11 Mr. Tescher, they had to resign as personal

12 representatives. And Mr. O'Connell, who is the

13 successor personal representative. So he wasn't
14 around when all of this --

15 THE COURT: Can I ask you this?

16 MR. FEAMAN: Yes, sir.

17 THE COURT: Sounds like you think that
18 somebody has been playing with the assets of the
19 estates.

20 MR. FEAMAN: Yes, sir.

21 THE COURT: And diminishing the value of the
22 estate that's available for your claim?

23 MR. FEAMAN: Yes, sir.

24 THE COURT: What does that have to do with
25 the even-up order that I'm being asked to do today

Page 6

1 which deals with whatever there was in the estate
2 when the property was sold and the distribution to
3 even things up was made? What does that have to
4 do with this?

5 MR. FEAMAN: Yeah, that's why we're gratified
6 that this money is coming. At least this part is
7 coming into the estate.

8 THE COURT: Sounds like you've got something
9 else you want to do to pursue your thoughts that

10 there might have been fraud earlier. But does
11 that have anything to do with this? Or are you
12 okay with me signing this?

13 MR. FEAMAN: Not directly.

14 THE COURT: So you're okay with me signing
15 this?

16 MR. FEAMAN: Yes, sir.

17 THE COURT: Okay. So we're good.

18 MR. ROSE: We're good. Ms. Lewis, we're
19 good?

20 Well, this is easier than I thought.

21 Okay. Well, thanks.

22 It will be interesting to see how that
23 other issue works out. I mean, I understand
24 your concerns about other things. But as far
25 as the even up goes, we'll -- everybody will be

Page 7

1 happily approving that.

2 MR. FEAMAN: I have not -- don't think I've
3 seen the order that you're signing, but ...

4 THE COURT: Here's what it says: The motion
5 is granted. The Shirley trust will pay the
6 personal representative of Simon's estate \$12,457

7 for the sold personal property. And there will be
8 no further or outstanding obligations between
9 these parties.

10 Then the other -- kind of a mirror image
11 of what I just read. The motion is granted;
12 the Shirley trust will pay the personal
13 representative of Simon's estate \$12,457 for
14 the sold personal property. And there will be
15 no further or outstanding obligations between
16 those parties.

17 MR. FEAMAN: Yes, sir.

18 THE COURT: So that leaves open the issues
19 that you're concerned about.

20 MR. FEAMAN: Okay. Very good. Thank you.

21 THE COURT: Okay. Great. Good luck,
22 everybody.”