IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR

PALM BEACH COUNTY, FLORIDA CASE NO. : 502012CP004391XXXXNB IH

***CERTIFIED COPY***

IN RE:

ESTATE OF SIMON L. BERNSTEIN,

Deceased.

TRANSCRIPT OF PROCEEDINGS BEFORE HONORABLE JOHN L. PHILLIPS

DATE: September 1, 2016

TIME: 8:44 a.m. - 8:50 a.m.

PLEASANTON & MARSAA COURT REPORTING 561.963.9700

1 APPEARING ON BEHALF OF WILLIAM E. STANSBURY:

2 PETER M. FEAMAN, P.A.

3695 BOYNTON BEACH BOULEVARD, SUITE 9

3 BOYNTON BEACH, FL 33436 By: PETER M. FEAMAN, ESQ.

4

APPEARING ON BEHALF OF TED BERNSTEIN:

5

PAGE, MRACHEK, FITZGERALD ROSE

6 KONOPKA & DOW, P.A.

505 SOUTH FLAGLER DRIVE, SUITE 600

7 WEST PALM BEACH, FL 33401 By: ALAN B. ROSE, ESQ.

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1. BE IT REMEMBERED, that the following
2. proceedings were taken in the above-styled cause before
3. the Honorable JOHN L. PHILLIPS, at the Palm Beach County
4. Courthouse, 3188 PGA Boulevard, Courtroom 3, in the City
5. of Palm Beach Gardens, County of Palm Beach, State of

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| 17 | Florida, | on September 1, 2016, to wit: |
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PLEASANTON & MARSAA COURT REPORTING 561 .963.9700

1 P-R-0-C-E-E-D-I-N- G-S

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* 1. THE COURT: Good morning.
  2. 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.

1. THE COURT : All right. Well, let me take a
2. look at what the motions are and I'll figure out
3. what to do.
4. MR. ROSE: Okay. The easier one first.
5. THE COURT: Easy is good.
6. MR. ROSE: There's two trusts and two
7. estates. We sold some real estate. And there was
8. some personal property in the house - - in the
9. condo when it was sold. Technically, it was owned
10. by the Estate of Simon Bernstein, even though it

2 0 was in the house that was in the trust just

1. because of the way it was set up. So the deal was
2. we could sell it and we would even up later. So
3. we had everything appraised. And we have a motion
4. that Mr. O'Connell, the PR, and Mr. Bernstein, as
5. the trustee, have agreed to on the amount of the

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

THE COURT: Okay. Let me take a look at what you've got, and then I'll hear from the other side.

MR. ROSE: Okay. This is the motion and the order in the trust. And Mr. O'Connell suggested we file the same motion with the same order in estate so we have covered both sides.

THE COURT : Okay. And what objection is there to the proposed order that would even up the distribution from the sale?

MR. FEAMAN: Good morning, Your Honor. Peter Feaman on behalf of William Stansbury.

Mr. Stansbury is a claimant against the estate.

You may recall he has a separate action pending in division AA against the estate for a significant claim.

We are glad, Your Honor, that this additional money is coming into the estate.

THE COURT : There you go.

MR. FEAMAN: Because that helps our position.

And we're sorry, however, that the personal representative' s representative is not here

PLEASANTON & MARSAA COURT REPORTING 561.963.9700

* 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

1. representative. You heard Mr. Spalina testify in
2. your court in a previous case in December, and
3. Mr. Tescher, they had to resign as personal
4. representatives. And Mr. O'Connell, who is the
5. successor personal representative. So he wasn't
6. around when all of this - -
7. THE COURT : Can I ask you this?
8. MR. FEAMAN: Yes, sir.
9. THE COURT : Sounds like you think that
10. somebody has been playing with the assets of the
11. estates.

2 0 MR. FEAMAN: Yes, sir.

1. THE COURT : And diminishing the value of the
2. estate that's available for your claim?

23 MR. FEAMAN: Yes, sir.

2 4 THE COURT: What does that have to do with

25 the even-up order that I'm being asked to do today

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

1. that this money is coming. At least this part is
2. coming into the estate.



8 THE COURT : Sounds like you've got something

1. else you want to do to pursue your thoughts that
2. there might have been fraud earlier. But does
3. that have anything to do with this? Or are you
4. okay with me signing this?
5. MR. FEAMAN: Not directly.
6. THE COURT: So you're okay with me signing
7. this?
8. MR. FEAMAN: Yes, sir.
9. THE COURT: Okay. So we're good.
10. MR. ROSE: We're good. Ms. Lewis, we're
11. good?
12. Well, this is easier than I thought.
13. Okay. Well, thanks.
14. It will be interesting to see how that
15. other issue works out. I mean, I understand
16. your concerns about other things. But as far
17. as the even up goes, we'll - - everybody will be
    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

1. is granted. The Shirley trust will pay the
2. personal representative of Simon's estate $12,457
3. for the sold personal property. And there will be
4. no further or outstanding obligations between
5. these parties.
6. Then the other - - kind of a mirror image
7. of what I just read. The motion is granted;
8. the Shirley trust will pay the personal
9. representative of Simon's estate $12,457 for
10. the sold personal property. And there will be
11. no further or outstanding obligations between
12. those parties.
13. MR. FEAMAN: Yes, sir.
14. THE COURT : So that leaves open the issues
15. that you're concerned about.
16. MR. FEAMAN: Okay. Very good. Thank you.
17. THE COURT : Okay. Great. Good luck,
18. everybody.

23 MR. ROSE: We had one other motion that - - I

1. don't know - - again, limited opposition. Here's
2. the motion and the order. But I can tell you in
3. 30 seconds the motion.
4. Mr. Feaman's client has a lawsuit against
5. the estate. The personal representative,
6. Mr. O'Connell, has decided he wanted to retain

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| 5 | my law firm because I've handled | this |
| 6 | litigation for a year and a half | before his |

1. appointment. And he also wanted to appoint my
2. client, Ted Bernstein, who's the trustee in the
3. beneficiary of his estate as the administrator
4. ad litem to oversee the defense of the case to
5. save money. Because Ted will do it for free.
6. He was an officer of the company. He's been
7. defending the case when he was a party,
8. although he's been released. And we're very
9. concerned with the cost and expense. So having
10. Mr. Bernstein serve as the administrator, he's
11. the logical person to do it since he was a
12. party. He was a partner in the business. He
13. is the trustee of the - -
14. THE COURT : Well, what's the problem?
15. MR. ROSE: Mr. Feaman's objecting to it. He
16. wants to choose who defends the company against
17. the claim - - who defends the estate in the claim
18. that his client has brought against the estate.
19. Mr. O'Connell and all the beneficiaries want it to
    1. be as we've put it in the motion.
    2. THE COURT: Okay. So what's the objection?

3 MR. FEAMAN: My position is being

4 misrepresented, respectfully, by opposing counsel.

5 THE COURT: Okay.

6 MR. FEAMAN: My client does not want to

1. choose who comes in as administrator ad litem. My
2. client objects to the particular individual of Ted
3. Bernstein coming in as administrator ad litem.

10 THE COURT: This is an evidentiary matter.

1. So just set it for an evidentiary hearing and
2. we'll figure it out. Or somebody else will figure
3. it out.
4. MR. FEAMAN: Yes, sir.
5. MR. ROSE: Can we agree that the part that's
6. unopposed would be that our firm can be retained
7. by the estate? Because we want to get the
8. litigation moving. And then we would defer the
9. other part for an evidentiary hearing.

2 0 THE COURT : Is that okay?

1. MR. FEAMAN: I don't think, honestly, Your
2. Honor, in candor with the court, that
3. Mr. Stansbury could be in a position to take a
4. position on that one way or the other as to who
5. the estate wants to pick as counsel to defend them

1 in that lawsuit.

1. THE COURT : I agree with you. I agree with
2. you.

4 MR. ROSE: The only other thing, unless

1. Mr. O'Connell, who is not here, has any objection
2. to that, I'll submit - - I'll revise the order and
3. submit it to you.

8 THE COURT: Let me give this back to you so I

1. don't get it mixed up and accidently sign it. If
2. you would send it in with just a short
3. recollection letter so I won't forget.
4. MR. ROSE: And I'll circulate the proposed
5. order that covers that to everybody before I
6. submit it to Your Honor.
7. THE COURT: Okay. All right. Well, good
8. luck.
9. MR. FEAMAN: Thank you, Your Honor.

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1. (Thereupon, the proceedings were
2. concluded at 8:50 a.m. )

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1 C E R T I F I C A T E

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3 THE STATE OF FLORIDA COUNTY OF PALM BEACH.

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1. I, DAVID L. MARSAA, Professional Reporter,
2. State of Florida at large, certify that I was
3. authorized to and did stenographically report the
4. foregoing proceedings and that the transcript is a
5. true and complete record of my stenographic notes.
6. Dated this 7th day of September, 2016. 12



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DAVID L. MARSAA, COURT REPORTER

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