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

Case No. 502014CP003698XXXXSB

In Re: Hon. Martin Colin

Shirley Bernstein Trust

Agreement, dated, May 20, 2008,

Deceased.

Eliot Ivan Bernstein, Individually;

Eliot IVAN Bernstein in his capacity as

Natural Guardian of his minor children,

Joshua, Jacob and Daniel;

and as beneficiary of the Shirley

Bernstein Trust dated May 20, 2008, as

amended and Eliot IVAN Bernstein

as Trustee of the Eliot Bernstein Family

Trust dated May 20, 2008,

Counter Plaintiffs,

v.

Tescher & Spallina, P.A., and all Partners Associates and of Counsel;

Robert L. Spallina, Esq., Personally;

Robert L. Spallina, Esq., Professionally;

Donald R. Tescher, Esq., Personally;

Donald R. Tescher, Esq., Professionally;

Gutter Chaves Josepher Rubin Forman Fleisher Miller, P.A.;

Theodore Stuart Bernstein, Individually;

Theodore Stuart Bernstein, as alleged Trustee of the Shirley Trust;

Theodore Bernstein as Personal Representative of the Shirley Estate;

Lisa Sue Friedstein, Individually;

Jill Marla Iantoni, Individually;

Pamela Beth Simon, Individually;

Mark Manceri, Esq., Personally;

Mark Manceri, Esq., Professionally;

Mark R. Manceri, P.A., and all Partners, Associates and of Counsel;

Page, Mrachek, Fitzgerald & Rose, P.A., and all Partners Associates and of Counsel;

Alan B. Rose, Esq. – Personally;

Alan B. Rose, Esq. – Professionally;

Pankauski Law Firm PLLC, and all Partners, Associates and of Counsel;

John J. Pankauski, Esq. – Personally;

John J. Pankauski, Esq. – Professionally;

Kimberly Francis Moran – Personally;

Kimberly Francis Moran – Professionally;

Lindsay Baxley aka Lindsay Giles – Personally;

Lindsay Baxley aka Lindsay Giles – Professionally;

“Simon L. Bernstein Amended and Restated Trust Agreement” Dated July 25, 2012;

Simon Bernstein Trust Agreement Dated May 20th 2008;

Shirley Bernstein Trust Agreement Dated May 20th 2008;

The Estate of Simon Bernstein;

The Estate of Shirley Bernstein;

SIMON L. BERNSTEIN IRREVOCABLE TRUST AGREEMENT (2008);

SIMON BERNSTEIN IRREVOCABLE TRUST U/A 9/7/06;

SHIRLEY BERNSTEIN IRREVOCABLE TRUST U/A 9/7/06;

SHIRLEY BERNSTEIN IRREVOCABLE TRUST AGREEMENT (2008);

SIMON BERNSTEIN IRREVOCABLE INSURANCE TRUST DATED 6/21/1995;

SIMON BERNSTEIN 2000 INSURANCE TRUST (dated August 15, 2000);

SHIRLEY BERNSTEIN 2000 INSURANCE TRUST (DATED AUGUST 15, 2000);

Trust f/b/o Joshua Bernstein under the Simon L. Bernstein Trust dtd 9/13/2012;

Trust f/b/o Daniel Bernstein under the Simon L. Bernstein Trust dtd 9/13/2012;

Trust f/b/o Jake Bernstein under the Simon L. Bernstein Trust dtd 9/13/2012;

ELIOT BERNSTEIN FAMILY TRUST DATED MAY 20, 2008;

DANIEL BERNSTEIN IRREVOCABLE TRUST DATED SEPTEMBER 7, 2006;

JAKE BERNSTEIN IRREVOCABLE TRUST DATED SEPTEMBER 7, 2006;

JOSHUA Z. BERNSTEIN IRREVOCABLE TRUST DATED SEPTEMBER 7, 2006;

DANIEL BERNSTEIN IRREVOCABLE TRUST 07-JUL-10 049738;

JAKE BERNSTEIN IRREVOCABLE TRUST 07-JUL-10 0497381;

JOSHUA Z BERNSTEIN IRREVOCABLE TRUST 07-JUL-10 0497381;

John and Jane Doe’s (1-5000),

Counter Defendants.

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**motion TO COMPEL TRUST ACCOUNTING UNDER FLORIDA STATUTE 736.0813 and 736.0813**

COMES NOW, Eliot Ivan Bernstein (“Eliot” or “Plaintiff), PRO SE, and Eliot as Guardians for his three minor children and hereby files this “MOTION TO COMPEL TRUST ACCOUNTING UNDER FLORIDA STATUTE 736.0813 AND 736.0813” and in support thereof states, as follows:

1. That the current alleged Successor Trustee, Ted Bernstein has violated Florida Statute 736.0813 1(a), by failing to within 60 days provide beneficiaries notice of the trust, the full name and address of the trustee, and that the fiduciary lawyer-client privilege in s. 90.5021 applies with respect to the trustee and any attorney employed by the trustee.

Florida Statute 736.0813Duty to inform and account.—The trustee shall keep the qualified beneficiaries of the trust reasonably informed of the trust and its administration.

(1) The trustee’s duty to inform and account includes, but is not limited to, the following:

(a) Within 60 days after acceptance of the trust, the trustee shall give notice to the qualified beneficiaries of the acceptance of the trust, the full name and address of the trustee, and that the fiduciary lawyer-client privilege in s. 90.5021 applies with respect to the trustee and any attorney employed by the trustee.

1. That the current alleged Successor Trustee, Ted Bernstein has violated Florida Statute 736.0813 1(b), by failing to within 60 days provide beneficiaries notice of the trust, the identity of the settlor(s), the right to request a copy of the trust instrument, the right to accountings under this section and that the fiduciary lawyer-client privilege in s. 90.5021 applies with respect to the trustee and any attorney employed by the trustee.

Florida Statute 736. (1) (b)

Within 60 days after the date the trustee acquires knowledge of the creation of an irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise, the trustee shall give notice to the qualified beneficiaries of the trust’s existence, the identity of the settlor or settlors, the right to request a copy of the trust instrument, the right to accountings under this section, and that the fiduciary lawyer-client privilege in s. 90.5021 applies with respect to the trustee and any attorney employed by the trustee.

1. That the current alleged Successor Trustee, Ted Bernstein has violated Florida Statute 736.0813 1(c), by failing to provide beneficiaries with a complete copy of the trust instrument despite repeated written and oral requests. Further, inspection of the original trust document has been denied despite Tescher and Spallina admitting that their law firm ALTERED POST MORTEM a document in the Shirley Bernstein Trust and that their law firm, Tescher & Spallina PA further Fraudulently Notarized and Forged POST MORTEM documents for Simon to use (WHILE DEAD) to close the estate of Shirley and then deposited such fraudulently notarized and forged documents with this Court and with beneficiaries. Further, the alleged copy of Shirley’s Trust document tendered untimely is missing codicils, schedules, addendums and more.

Florida Statute 736. (1) (c)

Upon reasonable request, the trustee shall provide a qualified beneficiary with a complete copy of the trust instrument.

1. That the current alleged Successor Trustee, Ted Bernstein has violated Florida Statute 736.0813 1(d), by failing to provide beneficiaries with a trust accounting as set in s. 736.08135 from the date of last accounting, which there has been none since December 08, 2010 when Ted began acting as Successor Trustee. No accounting was done annually by the Ted. No accounting was done on the change of the trustee from Simon Bernstein to Ted, of which transfer of trusteeship was also done unethically and in violation of Trust statutes and rules.

Florida Statute 736. (1) (d)

A trustee of an irrevocable trust shall provide a trust accounting, as set forth in s. 736.08135, from the date of the last accounting or, if none, from the date on which the trustee became accountable, to each qualified beneficiary at least annually and on termination of the trust or on change of the trustee.

1. That the current alleged Successor Trustee, Ted Bernstein has violated Florida Statute 736.0813 1(e), by failing to provide beneficiaries with relevant information about the assets and liabilities of the trust and the particulars relating to administration and have refused repeated written and oral demands to comply with this section.

Florida Statute 736. (1)

(e) Upon reasonable request, the trustee shall provide a qualified beneficiary with relevant information about the assets and liabilities of the trust and the particulars relating to administration.

1. That the current alleged Successor Trustee, Ted Bernstein has violated Florida Statute 736.08135 (1), by failing to provide beneficiaries a reasonably understandable report from the date of last accounting, which there is none and from the date the trustees became accountable and thus there was no disclosure whatsoever of the trust corpus.

736.08135 Trust accountings states,

(1) A trust accounting must be a reasonably understandable report from the date of the last accounting or, if none, from the date on which the trustee became accountable, that adequately discloses the information required in subsection (2).

1. That on DATE Ted Bernstein began acting as the alleged Successor Trustee of the Shirley Trust, despite language in the trust that precludes him from acting as Trustee.

 WHEREFORE, Eliot requests that this Court enter an order,

1. TO COMPEL TRUST ACCOUNTING UNDER FLORIDA STATUTE 736.0813 AND 736.0813
2. For legal fees of Eliot Bernstein Pro Se,
3. Any other remedies this Court finds apropos.

Filed on Thursday, January 29, 2015

Eliot Bernstein, Pro Se, Individually and as legal guardian on behalf of his three minor children.

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**CERTIFICATE OF SERVICE**

 I, ELIOT IVAN BERNSTEIN, HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by email to all parties on the following Service List, Thursday, January 29, 2015.

Eliot Bernstein, Pro Se, Individually and as legal guardian on behalf of his three minor children

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**SERVICE LIST**

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**ORDER GRANTING MOTION TO COMPEL TRUST ACCOUNTING UNDER FLORIDA STATUTE 736.0813 AND 736.0813**

**UPON CONSIDERATION OF ThIS MATTER** for a MOTION TO COMPEL TRUST ACCOUNTING UNDER FLORIDA STATUTE 736.0813 AND 736.0813, it is hereby

**ORDERED AND ADJUDGED** that the MOTION TO COMPEL TRUST ACCOUNTING UNDER FLORIDA STATUTE 736.0813 AND 736.0813 is hereby \_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**DONE AND ORDERED** in Chambers, at Palm Beach County, Florida, on this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2015.

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**HON. MARTIN COLIN**