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

IN RE:

ESTATE OF SIMON L. BERNSTEIN.

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CASE NO. 502012CP004391XXXXNB-IH

Probate – Judge John L. Phillips

**RESPONSE TO ALLEGED “TRUSTEE'S OMNIBUS STATUS REPORT AND REQUEST FOR CASE MANAGEMENT CONFERENCE” AND PETITION FOR SANCTIONS AND CONTEMPT AGAINST ALAN B. ROSE, ESQ. AND BREACH OF FIDUCIARY DUTIES BY TED (TED) S. BERNSTEIN**

\*\*\*ALL REFERENCES TO ANY ESTATE AND TRUST DOCUMENTS REFERENCED HEREIN ARE NOT VALIDATION OR CONFIRMATION OF THE DOCUMENTS AUTHENTICITY OR FORCE AND EFFECT AS THERE ARE NO ORIGINAL DOCUMENTS AT THIS TIME TO VALIDATE THEM AGAINST, THIS DESPITE A COURT ORDER<sup>1</sup> FOR THE PRIOR CO-PR's and CO-TRUSTEES, ATTORNEYS AT LAW, ROBERT SPALLINA AND DONALD TESCHER, TO TURN OVER ALL RECORDS UPON THEIR RESIGNATION STEEPED IN ADMISSIONS OF FRAUD UPON THE COURT AND FRAUD UPON THE BENEFICIARIES and WHERE FRAUDULENT DOCUMENTS HAVE ALREADY BEEN PROVEN USED IN THESE PROCEEDINGS BY COURT APPOINTED FIDUCIARIES AND COUNSEL.

1. That the following response will deconstruct the toxic, vexatious, improperly filed, slanderous

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<sup>1</sup> Colin Order for Production of Tescher and Spallina Records, etc.  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140218%20ORDER%20COLIN%20TESCHER%20SPALLINA%20TO%20TURN%20OVER%20ALL%20RECORDS%20PRODUCTION%20ON%20PETITION%20FOR%20DISCHARGE%20TESCHER%20SPALLINA%20Case%20502012CP004391XXXXSB%20SIMON.pdf>

and defamatory Omnibus Status Report filed by Alan B. Rose, Esq. on behalf of his client, Ted Stuart Bernstein, the alleged Trustee of the alleged Simon Bernstein Revocable Trust dated May 20, 2008<sup>2</sup> and as alleged Amended & Restated Simon Bernstein Trust dated July 25, 2012<sup>3</sup>.

2. That due to the volume of false and misleading misstatements to the Court in this letter, each paragraph in the pleading will be addressed paragraph by paragraph to set straight the record. The Omnibus filing paragraphs are italicized and indented herein and the responses are regular type font.

### 3. KEVIN OVERVIEW OF DOCUMENT OPENING STATEMENT

4. That Alan B. Rose (“Rose”) filed his Omnibus Status Report after 5pm on the night before the hearing after having over a month to file and giving no one but Judge Phillips an opportunity to read or respond to it. Yet, Judge Phillips conducted the hearing, scheduled not by Rose but by the PR of Simon’s Estate, Brian O’Connell, Esq., based on Rose’s late night filing, giving no one an opportunity to oppose it and basing his entire understanding on the truth of the document prepared by Rose. In Phillips own words,

18 THE COURT: We'll go to the next step.  
19 This is a case management conference. What is  
20 it that I need to do to manage the case? I  
21 received the trustees' status report which is  
22 lengthy and comprehensive. I've read that.  
23 Other than being brought up to speed by  
24 having read that report what else needs to be  
25 resolved to get this case done?<sup>4</sup>

5. That there is an All Writs Petition<sup>5</sup> that was filed with the Florida Supreme Court that was recently transferred to the 4<sup>th</sup> DCA, which alleges that the cases were improperly steered by Judge Martin Colin’s (“Colin”) POST RECUSAL. Colin’s recusal coming one day after denying

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<sup>2</sup> See Simon Bernstein 2008 Trust @ <http://>

<sup>3</sup> See Simon Bernstein 2012 Trust @ <http://>

<sup>4</sup> See Second Hearing of John Phillips Transcript @ <http://>

<sup>5</sup> See All Writs @ <http://>

a Petition for his Disqualification and calling for the Voiding of his Orders for FRAUD ON THE COURT and FRAUD BY THE COURT. Colin steered and obstructed the proper transfer of the cases to the Main Branch with scienter, first to Judge Howard Coates (“Coates”) with knowledge that he would be forced to recuse, due to conflicts of interest with Eliot and Simon Bernstein, which he later did recuse and giving the appearance that the ultimate target of the improper transfer by Colin was Judge John L. Phillips (“Phillips”) and this as part of an elaborate plan to continue the Fraud on the Court, Fraud BY the Court and to attempt to cover up MULTIPLE PROVEN AND ADMITTED FELONY CRIMINAL ACTS COMMITTED BY OFFICERS OF THE COURT AND COURT APPOINTED OFFICERS/LAWYERS/FIDUCIARIES that have marred these cases for over three years. Phillips came into the cases with intent to remove Eliot and his family’s due process rights through an Abuse of Process scheme that included Sham Hearings and the issuance of Sham Orders, which are not reflective of the events that took place in the Sham Hearings, go against three years of Law of the Case and are crafted to remove Eliot and his family rights to Due Process and Procedure. All of these acts were outside the Color of Law, violating the Court’s own Rules and Procedures and State Statutes regarding Due Process and all in order to silence Eliot’s whistleblowing efforts against members of this Court and others and interfere and deflect ongoing criminal investigations against the Officers of the Court and Court Appointed Parties through the issuance of Sham Orders designed to make it appear that Eliot was the cause of the litigation and trouble, not the other way around where Eliot is a VICTIM OF COURT ABUSE through FELONY CRIMINAL ACTS COMMITTED BY THE COURT OFFICERS AND COURT APPOINTED OFFICERS.

6. That at the hearing for the Status Conference, Attorney at Law Peter Feaman, Esq. stated the following to Judge Phillips, who should not have conducted a hearing without first finding if the

cases were transferred improperly to him by Colin by waiting for the appeal of the Colin Disqualification to be final and then determine if improper transfers of the cases were made by Colin's POST RECUSAL interference and Obstruction. To this day the Disqualification of Colin and merits of the Disqualification still have never been heard on the merits even by the Florida Supreme Court and 4<sup>th</sup> DCA. Phillips ignored the pending appeal by Eliot that not only challenged the transfer but sought to VOID all Orders of Judge Colin due to the Conflicts of Interest created as his Court was the scene of proven FRAUD ON HIS COURT committed by Colin's Court Appointed Officers/Lawyers/Fiduciaries who DEPOSITED FORGED AND FRAUDULENTLY NOTARIZED DOCUMENTS WITH THE COURT AND COMMITTED OTHER SERIOUS FELONY CRIMINAL ACTS INVOLVING THE COURT OF COLIN and whereby this caused Colin to become a Material and Fact Witness, especially where his name is on certain alleged Fraudulent Documents and the crimes were committed with him as the presiding Judge and there were new crimes discovered that were alleged to constitute FRAUD by the COLIN ACTING OUTSIDE THE COLOR OF LAW.

7. Attorney Feaman stated to Phillips in the Status hearing the following statement below, attempting to make Phillips aware that the cases were improperly steered by Colin to his Court at the North Branch when they should have been turned over to the Clerk and assigned to the Main Branch per Administrative Order and Phillips wholly ignores Feaman's claim despite accurately identifying Colin's actions as "Judge Shopping" and tells him to appeal Colin's decision as if it does not matter to him if Judge Colin did any wrong in the Post Recusal Steering and Obstruction,

11 THE COURT: This ended up in this division  
12 of the Court because of a recusal from somebody  
13 else in another division of the Court, right?  
14 MR. FEAMAN: That raises an interesting

15 point. Peter Feaman on behalf of William  
16 Stansbury, a creditor of the estate. I was  
17 late coming in. Mr. O'Connell is late. All  
18 the attorneys and the litigants are either in  
19 West Palm or south. I respectfully don't  
20 understand how we ended up here in the north  
21 branch. Should we set it back to the main  
22 branch?

23 THE COURT: No. That would be judge  
24 shopping. When somebody recuses themselves  
25 then it's randomly reassigned. I was verifying

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1 this isn't a case that started out with me.  
2 It's a case that started out with somebody  
3 else.

4 MR. FEAMAN: **Judge Colin, actually,**  
5 **specifically said in his recusal order north**  
6 **branch, which I didn't understand.**

7 THE COURT: That's what the 4th DCA is  
8 for. I'm not here to question some other  
9 judge's order. You won't have me saying he was  
10 wrong. I'm not the appellate judge. If  
11 somebody made a mistake and you all think  
12 there's relief that should be granted to  
13 correct his mistake that's what the 4th is for.  
14 Please have a seat.

15 We're here because somebody else is not  
16 the judge in the case anymore and I am, right?

8. That despite knowing that Eliot had sought an appeal of the transfer to the Florida Supreme Court, a higher appellate court than the 4<sup>th</sup> DCA, that remains undecided, Phillips ignored the pending All Writs and held the improper hearing anyway, knowing the transfer to him was already being questioned as fraudulent and that makes him a Material and Fact Witness to if he was one of the parties Colin had Post Recusal conversations and/or Coates prior to the improper transfer to this Court's North Branch as Colin states he spoke with several unidentified Judges prior to steering the case.
9. Judge Coates who had the case prior to Phillips had already wasted everyone's time and monies to hold a hearing in which he recused himself in the first hearing due to outrageous conflicts of interest and adversity in the matters, in which his former law firm, Proskauer Rose, LLP is a

Counter Defendant in these matters in the Shirley Trust Case and the Oppenheimer Case before this Court. The conflict with Coates is due to the fact that Eliot is pursuing his former law firm Proskauer Rose LLP for a host of very serious Criminal and Civil Violations of Law to deny Eliot and his father's rights to their Intellectual Properties over the last 16 years and converting the royalties to them instead. Knowing full well of the Conflicts of Interest he might have with Eliot far in advance of the Sham Hearing he held, as he was notified by Alan Rose and Brian O'Connell weeks earlier of the potential conflicts, Coates ignoring his conflicts took the cases and the Court's Private and Confidential case files from Colin knowing of the conflict and concealing it. Coates is alleged to have been given the Court's Private and Confidential Case files by Colin with intent to gain an advantage over Eliot who is actively pursuing his claims against Proskauer with State and Federal, Civil, Criminal and Ethical authorities, including in these Estate and Trust actions where Proskauer also is a Counter Defendant in Eliot's Counter Claim before this Court currently.

10. Judge Coates in his first hearing<sup>6</sup> held on June 04, 2015 then Sua Sponte recused after beginning the hearing and at the hearing denying any Conflict of Interest with Eliot or his father due to his past employment at Proskauer and Proskauer having represented the IP companies of the Bernstein's, nor did he find it a conflict or adverse that the Bernstein's are alleging that Proskauer was involved in Fraud and Theft of the IP. Coates feigned he did not know of Eliot or his father's companies and had not been a part of anything to do with them, despite the Proskauer office being directly across the hall from Eliot and his father's companies and despite the fact

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<sup>6</sup> June 04, 2015 Hearing Judge Howard Coates Estate of Simon  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150604%20Hearing%20Transcript%20COATES%20Estate%20of%20Simon%20Bernstein.pdf>

that he was a billing partner on the IP companies accounts<sup>7</sup> and a Partner when Eliot filed a RICO and Antitrust action against Proskauer and others for stealing the Intellectual Properties through complex legal schemes and his case was legally related to a Supreme Court of New York Disciplinary Department Attorney Whistleblower case of Christine C. Anderson by Federal Judge Shira Scheindlin.

11. That Alan Rose weaves a complex set of lies in this Omnibus Motion to perpetrate a continuing Fraud on the new Judge Phillips and spins the truth of the status of the cases in efforts to avoid prosecution and removal of his client Ted Bernstein and himself and those that brought Mr. Rose into these matters, the prior Fiduciaries in the Simon Estate and Simon Trust cases, Ted's former Counsel, who have already been Proven and Admitted to having committed multiple Frauds, including Fraud on the Court and Fraud on the Beneficiaries, Robert L. Spallina, Esq. ("Spallina") and Donald R. Tescher, Esq. ("Tescher")<sup>8</sup> and twist the facts to make it appear that Eliot has done something wrong instead.

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<sup>7</sup> Judge Howard Coates of Proskauer Rose Billing Statement for Iviewit Companies  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/Coates%20Billing%20Iviewit%20Holdings%20as%20Proskauer%20Partner%20on%20Iviewit%20Clean.pdf>

and

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/ProskauerCoatesTriggs.pdf>

<sup>8</sup> Tescher and Spallina have recently been charged by the Securities & Exchange Commission for charges of Insider Trading. See

<http://www.wsj.com/articles/sec-charges-five-with-insider-trading-over-2011-gilead-deal-1443460420>

and

<http://www.sec.gov/litigation/complaints/2015/comp-pr2015-213.pdf>

and

September 28, 2015 SEC Press Release Regarding SPALLINA and TESCHER INSIDER TRADING CHARGES, "SEC Charges Five With Insider Trading, Including Two Attorneys and an Accountant"

<http://www.sec.gov/news/pressrelease/2015-213.html>

AND

September 28, 2015 SEC Government Complaint filed against TESCHER and SPALLINA @

<http://www.sec.gov/litigation/complaints/2015/comp-pr2015-213.pdf>

AND

October 01, 2015 SEC Consent Orders Felony Insider Trading SPALLINA signed September 16, 2015 and TESCHER signed June 15, 2014

<http://www.iviewit.tv/Simon%20and%20Shirley%20Estate/2015%20Spallina%20and%20Tescher%20SEC%20Settlement%20Consent%20Orders%20Insider%20Trading.pdf>

12. That despite whether Eliot is a Serial Killer or not is not of importance to this Court in these matters, what is of important that Alan Rose, Ted Bernstein, Robert Spallina, Donald Tescher and others, acting as either Court Appointed Fiduciaries and/or Court Appointed Attorneys at Law, have committed a series of very serious FELONY CRIMINAL ACTS against not only Eliot's family but this Court by committing Forgery, Fraud on Beneficiaries, Fraud on the Court via Depositing Fraudulent Documents into the Record, Perjury in Official Proceedings, Obstruction and more that have led to intentional delays in inheritancy and caused damages to multiple parties, including the Creditor Stansbury and minor children.
13. That despite these crimes being Proven and Admitted to both the Palm Beach County Sheriff and this Court, the Court has taken absolutely no action to correct the Fraud or Report the Frauds of these Court Appointed Officials, in violation of Attorney Conduct Codes, Judicial Canons and Law.
14. Once these issues are resolved and the cases fully reset with new parties that are not conflicted or adverse to Eliot, the cases continue to Fraud on the Court and Fraud by Court Officers that constitute Obstruction of Justice and more and continue Criminal Actions in the Court to deprive Eliot and others of Due Process.

**TRUSTEE'S OMNIBUS STATUS REPORT AND REQUEST FOR CASE MANAGEMENT CONFERENCE<sup>9</sup>**

*Ted S. Bernstein, as Successor Personal Representative of the Estate of Shirley Bernstein, as Successor Trustee of the Shirley Bernstein Trust, and as Successor Trustee of the Simon Bernstein Trust which is the residuary beneficiary of the Estate, files this Omnibus Case Status Report and Requests a Case Management Conference in all pending matters, in advance of the one-hour Status Conference set for Tuesday, September 15, 2015, at 9:30a.m.*

**RESPONSE:**

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<sup>9</sup> See Rose Omnibus Status Report @ <http://iviewit.tv/Simon%20and%20Shirley%20Estate/20150914%20Trustees%20Omnibus%20Status%20Report%20and%20Request%20for%20Case%20Management%20Conference%20with%20EIB%20COMMENTS.pdf>



15. Ted Bernstein has not been confirmed as the Successor Trustee of the Shirley Bernstein Trust<sup>10</sup> at this time and Successor Trustee of the Simon Bernstein Amended and Restated Trust and Ted Bernstein is not legally qualified to be Successor Trustee of the Shirley Bernstein Trust or Successor Trustee of the Simon Bernstein Trust as he is precluded in the very language of the alleged Simon Bernstein Amended & Restated Trust document from being a successor trustee, which precludes a successor from being related to the issuer, Ted's father Simon Bernstein.
16. Ted in both the Simon and Shirley Trusts, along with his lineal descendants are considered PREDECEASED for all purposes of the Trusts including for disposition of trust assets as further defined herein so that even if were Trustee, his powers would limited in both the Simon and Shirley Trusts from making any dispositions of the Trusts.
17. That it is alleged that as part of the Fraud on the Court and Fraud on the Beneficiaries already Proven in these matters that was committed by Ted's business partners, bedfellows and retained counsel as Fiduciary, Tescher (the Primary Partner on the Bernstein accounts) and Spallina (Tescher's underling) who were acting as Simon's Co-Personal Representatives, Simon's Co-Trustees, Counsel to themselves as Fiduciaries in Simon's Estate and Trusts and counsel to Ted as PR of the Estate of Shirley and ALLEGED Trustee of Shirley's Trust that Ted was inserted illegally into the dispositive documents of Shirley and Simon by Tescher and Spallina and that the dispositive documents of both Simon and Shirley are fraudulently altered to insert Ted to Seize Dominion and Control of the Estate and Trust of Shirley despite the contradictory language of the Trust that precludes him.
18. That it is also alleged that Tescher and Spallina also inserted themselves illegally into Simon's dispositive documents as Co-Trustees and Co-Personal Representatives in an Amended and

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<sup>10</sup> See Shirley Bernstein Trust @ <http://>

Restated Trust done only days before his death allegedly and they have already been allowed to resign (NOTE THE COURT DID NOT REMOVE THEM AND SANCTION THEM) by the Court after admitting to their part in Fraudulently Creating a Shirley Trust document and disseminating to Eliot's minor children's counsel and it was PROVEN that their law firm committed six acts of Forgery for six separate parties on six separate documents, Fraudulently Notarizing the six Forged documents and then Fraudulently depositing them with the Court as part of an elaborate and complex legal fraud scheme to change beneficiaries to include Ted's family Fraudulently as beneficiaries while seizing control of the Estates and Trusts to rob them without accountability or even proper accountings.

19. Ted through his counsel Tescher and Spallina disseminated Fraudulent Trust documents to Eliot's minor children's counsel and others in efforts to perpetrate a Fraud on parties in order to make them believe the beneficiaries were improper parties, including Ted's Family who Ted then sold real estate property in the Shirley Trust and made distributions for over a half million dollars to improper parties and despite the Shirley Trust language that CONSIDERS TED PREDECEASED FOR ALL PURPOSES OF DISPOSITIONS OF THE SHIRLEY TRUST and where dispositions would include selling real estate property and then making distributions to any parties would violate the terms of the trust.
20. Rose represents a client, Ted Bernstein, who is acting as a Successor Trustee in the ALLEGED Simon Bernstein Amended and Restated Trust (allegedly executed only days before his death), yet it is alleged by the new Successor Personal Representative of the Estate of Simon, Brian O'Connell, Esq.<sup>11</sup> that Ted is NOT A VALID TRUSTEE by the language in the alleged Trust.

EXCERPT FROM SIMON BERNSTEIN AMENDED & RESTATED TRUST

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<sup>11</sup> See O'Connell pleading stating as an Affirmative Defense that Ted is not a VALID Trustee @ <http://> Page \_\_\_

3. Successor Trustees Not Provided For. Whenever a successor Trustee or co- Trustee is required and no successor or other functioning mechanism for succession is provided for under the terms of this Trust Agreement , the last serving Trustee or the last person or entity designated to serve as Trustee of the applicable trust may appoint his or her successor, and if none is so appointed, the following persons shall appoint a successor Trustee (who may be one of the persons making the appointment):

a. The remaining Trustees, if any; otherwise,

b. A majority of the permissible current mandatory or discretionary income beneficiaries, including the natural or legal guardians of any beneficiaries who are Disabled.

**A successor Trustee appointed under this subparagraph shall not be a Related or Subordinate Party of the trust. [Emphasis Added]** The appointment will be by a written document executed by such person in the presence of two witnesses and acknowledged before a notary public delivered to the appointed Trustee and to me if I am living and not Disabled or in a valid last Will. Notwithstanding the foregoing, a designation under this Subparagraph of a successor trustee to a corporate or entity trustee shall be limited to a corporate or entity trustee authorized to serve as such under Florida law with assets under trust management of no less than one billion dollars.

21. This language clearly precludes Ted from being a Successor Trustee as he is related to the issuer of the trust Simon Bernstein.
22. That this is not Eliot claiming Ted is NOT a VALID legally serving Trustee but rather a licensed Florida Attorney, Brian O’Connell, Esq., the Personal Representative of the Estate of Simon, who cannot do his job as a Fiduciary in the Simon Estate and interact with the alleged Trustee where he knows the alleged Trustee Ted is acting knowingly illegally and violation of the terms of the Simon Trust and as such is not a valid Trustee as further defined herein.
23. That further Ted is alleged to have been appointed as the Trustee to the Simon Bernstein Amended and Restated Trust by Tescher and Spallina upon their removal as Trustees **after** admitting to fraudulently altering dispositive documents and more and resigning from all Bernstein family matters.
24. That Rose, a licensed Florida attorney knows his client Ted is not qualified as Trustee and that even if he was he is considered predeceased for **ALL** purposes of the Simon Trust and **ALL** Purposes of Disposition of the Shirley Trusts by the very terms of the trusts and yet Rose continues to advance Ted as a valid Trustee in both, as Rose along with Ted are alleged to be a

part of the initial and continued Frauds on the Court and Fraud on the Beneficiaries committed in part by Ted's counsel as Fiduciary.

25. Both Ted and Rose are adverse to parties to certain beneficiaries as they know that if Ted is removed the whole scheme will be exposed as legitimate fiduciaries will replace Ted and have access to documents, records and other materials that have been suppressed, denied and/or destroyed by Ted to continue the cover up of the crimes and continuation of other crimes committed by himself and his former and current substitute counsel.
26. That not only does Eliot see Rose as acting in violation of ethics and law but another Florida Attorney at Law, Peter Feaman, Esq. has also written a letter to Brian O'Connell, Esq.<sup>12</sup> tendered to the Court by Eliot that claims that Ted and Rose are acting outside their Fiduciary duties regarding an Illinois Federal Lawsuit involving a Life Insurance Policy on Simon Bernstein that the Estate has been allowed to intervene in and that Rose and Ted in fact may be violating the rules of professional conduct in conducting Ted's defense.
27. That Feaman has made, as has Eliot, multiple pleadings informing the Court of the Misconduct and Violations of Probate Statute and Rules and Law being committed by Ted as Fiduciary, along with his past and current counsel, as exhibited below and all exhibited URL's are hereby incorporated in entirety by reference herein:

**FEAMAN AND STANSBURY NOTIFICATION TO COURTS AND  
FIDUCIARIES OF CRIMINAL AND CIVIL MISCONDUCT IN COURTS  
AND RELATED FILINGS:**

**Feaman and Stansbury Notification to Criminal authorities of criminal  
misconduct in courts by fiduciaries and counsel:**

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<sup>12</sup> See Feaman Letter Regarding Ted and Rose @ <http://>.

1. Feaman has contacted Florida Law Enforcement
2. Feaman has contacted Federal Agent Michelle Pickels and filed complaint information regarding Spallina et al. with Palm Beach FBI and received no response
3. Feaman has contacted guardian Diane Lewis regarding misconduct
4. Stansbury has filed with Department of Insurance complaint
5. Stansbury has filed with Department of Labor Against Ted Bernstein who was found to have Breached Fiduciary Duties
6. Feaman and Stansbury statement stating no one from law enforcement state or federal has contacted them regarding the complaints filed by Eliot Bernstein that list them as witnesses.

**Feaman and Stansbury Notification to Courts and Fiduciaries of criminal and civil misconduct in courts:**

1. November 28, 2016 CLAIMANT, WILLIAM E. STANSBURY'S SUMMARY OF ISSUES  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20161128%20Claimant%20Stansbury%20Summary%20of%20Issues%20Simon%20Estate%20Status%20Conference.pdf>
2. November 28, 2016 Stansbury Letter to Judge Scher with copy of Stansbury Summary of issues for Status Conference.pdf  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20161128%20Stansbury%20Letter%20to%20Judge%20Scher%20with%20copy%20of%20Stansbury%20Summary%20of%20issues%20for%20Status%20Conference.pdf>
3. November 28, 2016 Stansbury Motion to Disqualify Alan Rose as Legal Counsel for the Estate of Simon Bernstein Due to Conflict of Interest.pdf  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20161128%20Stansbury%20Motion%20to%20Disqualify%20Alan%20Rose%20as%20Legal%20Counsel%20for%20the%20Estate%20of%20Simon%20Bernstein%20Due%20to%20Conflict%20of%20Interest.pdf>
4. November 15, 2016 Feaman Stansbury FILED IN SHIRLEY TRUST Simon Estate Demand for Accounting as to Missing Personal Property of Estate.pdf

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20161115%20Feaman%20Stansbury%20FILED%20IN%20SHIRLEY%20TRUST%20Simon%20Estate%20Demand%20for%20Accounting%20as%20to%20Missing%20Personal%20Property%20of%20Estate.pdf>

5. August 26, 2016 - Feaman Letter to Judge Phillips regarding Ted and Alan conflicts and more.  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160826%20Feaman%20Letter%20to%20Judge%20Phillips%20re%20Simon%20Estate%20and%20Motion%20for%20Retention%20of%20Counsel%20and%20to%20Appoint%20Ted%20Administrator%20Ad%20Litem.pdf>
6. March 18, 2016 - Stansbury Motion for Protective Order as to Deposition of William Stansbury and Appearance at Evidentiary Hearing / Trial  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160318%20Feaman%20Stansbury%20Motion%20For%20Protective%20Order.pdf>
7. March 03, 2016 - Stansbury Statement Regarding Guardian Ad Litem hearing held improperly by Judge John Phillips to gain predatory guardianship on Eliot's two minor children and one adult child.  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160302%20Signed%20William%20Stansbury%20Amended%20Eliot%20and%20Candice%20Bernstein%20GAL%20issue%203.2.2016.pdf>
8. February 27, 2016 Feaman Letter to Chief Judge Jeffrey Colbath informing him that Judge Martin Colin Violated Administrative Orders when he POST RECUSAL interfered with the court process to transfer the cases and instead steered them in violation of court rules and procedures.  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20160217%20Feaman%20Letter%20to%20Chief%20Judge%20Jeffrey%20Colbath.pdf>
9. December 01, 2015 Petition of Claimant and Creditor William Stansbury to Intervene, notifying the Court of a multitude of reasons for the immediate removal of Ted and his counsel.  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20151201%20Petition%20of%20Claimant%20and%20Creditor%20Stansbury%20to%20Intervene%20Shirley%20Trust%20Feaman.pdf>

10. December 16, 2014 Feaman Letter to Brian O'Connell regarding Conflicts of Interest and more of Ted Bernstein and Alan Rose that should cause the removal of both parties, Ted from fiduciary roles and Alan as counsel for the fiduciary.  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20141216%20Attorney%20Peter%20Feaman%20Letter%20to%20Attorney%20Personal%20Representative%20Brian%20O'Connell%20re%20Ted%20and%20Alan%20Conflicts.pdf>
11. September 19, 2014 Feaman letter to O'Connell regarding missing and unaccounted for assets of the estate.  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140829%20Feaman%20Stansbury%20Letter%20to%20Brian%20O'Connell.pdf>
12. August 29, 2014 Feaman Letter to Successor Personal Representative Brian O'Connell stating assets were being illegally converted and more.  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140829%20Feaman%20Stansbury%20Letter%20to%20Brian%20O'Connell.pdf>
13. August 05, 2014 Feaman Letter to Alan Rose re Using the Grandchildren as Pawns and monies set aside for their schooling.  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140808%20Response%20to%20Motion%20for%20Contempt%20-%20Exhibit%20Feaman%20Letter%20to%20Alan%20Re%20St%20Andrews%20Tuition.pdf>
14. July 29, 2014 Feaman filed "PETITION TO REMOVE TED BERNSTEIN AS SUCCESSOR TRUSTEE OF THE SIMON BERNSTEIN REVOCABLE TRUST"  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140729%20Petition%20to%20Remove%20Ted%20Bernstein%20as%20Successor%20Trustee%20of%20Simon%20Trust%20Stansbury%20Filed.pdf>
15. June 27, 2014 Peter Feaman filing on behalf of William Stansbury, "RESPONSE IN OPPOSITION TO THE APPOINTMENT OF TED BERNSTEIN AS SUCCESSOR PERSONAL REPRESENTATIVE AND MOTION FOR THE APPOINTMENT OF AN INDEPENDENT THIRD

PARTY AS BOTH SUCCESSOR PERSONAL REPRESENTATIVE AND TRUSTEE OF THE SIMON BERNSTEIN TRUST AGREEMENT”

<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140627%20Response%20in%20Opposition%20to%20the%20Appointment%20of%20Ted%20Bernstein%20as%20Successor%20PR%20etc%20filed%20by%20Feaman%20Stansbury.pdf>

16. June 02, 2014 Stansbury Objections to Final Accounting of Co-Personal Representatives Tescher and Spallina.  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140602%20Objection%20to%20Spallina%20Tescher%20Accounting%20Stansbury%20Feaman.pdf>
17. May 22, 2014 “JOINDER IN PETITION FILED BY ELIOT IVAN BERNSTEIN FOR REMOVAL OF TRUSTEE AND FOR TRUST ACCOUNTING” Notifying the Court of criminal and fiduciary misconduct in the Estates and Trusts of Simon and Shirley Bernstein involving Ted Bernstein and his counsel.  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140522StansburyJoinder1.pdf>
18. March 14, 2014 Petition for Admin Ad Litem filed by Feaman  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140314%20Petition%20for%20Administrator%20Ad%20Litem%20Feaman%20Stansbury.pdf>
19. March 14, 2014 Feaman Letter to Curator Benjamin Brown, Esq. regarding fraud in Illinois Insurance Litigation involving Spallina fraudulent application for Life Insurance and Ted Bernstein and Robert Spallina’s fraudulent representation as alleged Trustee of a lost trust that neither possesses that filed a Federal Court action using said non-existent trust.  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140304%20Stansbury%20Letter%20to%20Curator.pdf>
20. February 11, 2014 “RESPONSE IN OPPOSITION TO MOTION FOR APPOINTMENT OF TED BERNSTEIN AS CURATOR AND MOTION FOR THE APPOINTMENT OF ELIOT BERNSTEIN AS CURATOR OR SUCCESSOR PERSONAL REPRESENTATIVE OR, IN THE ALTERNATIVE, FOR APPOINTMENT OF AN INDEPENDENT THIRD



PARTY AS SUCCESSOR PERSONAL REPRESENTATIVE OR CURATOR.” Outlines to conduct serious Misconduct in the Shirley Estate and Shirley Trust by Fiduciaries and Counsel, Ted Bernstein, Donald Tescher, Robert Spallina et al.  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20140217%20Stansbury%20Response%20in%20Opposition.pdf>

21. October 17, 2013 Feaman filed “Motion to Intervene” notifying court of misconduct of fiduciaries  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20131017%20Stansbury%20Motion%20to%20Intervene%20Shirley%20Estate%20from%20record.pdf>

22. June 20, 2012 Letter from Peter Feaman to Ted Bernstein regarding allegations of fraud, check fraud, mail fraud and more by Ted Bernstein.  
<http://iviewit.tv/Simon%20and%20Shirley%20Estate/20120620%20Feaman%20Stansbury%20Letter%20to%20Ted%20re%20Lawsuit.pdf>

28. The cases start with the law firm of Tescher & Spallina, PA representing Ted Bernstein as Fiduciary in the Shirley Bernstein Estate case to having been found in the initial hearing in the matters on September 13, 2014 (one year to the date after Simon’s death and a sick day for Colin to have picked to have the initial Emergency Motion heard after months of delay for the family) to have submitted the Fraudulent Documents to the Court, beneficiaries, creditors and other parties, via Mail and Wire Fraud. The series of documents includes but is not limited to, a WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE for six parties. All were fraudulently created, fraudulently notarized and forged for each party, including POST MORTEM FORGERY of Simon’s signature and used as part of an elaborate Fraud on the Court to further a Fraud on Beneficiaries

and Creditors.

29. That the law firm Tescher & Spallina PA's Legal Assistant and Notary Public, a one Kimberly Moran, was arrested and convicted for her part in the crime and at the time of her interview with the Palm Beach County Sheriff investigators and in court before Judge Martin Colin on September 13, 2014, Spallina claimed he knew of no other problems in the Estates and Trusts of Simon and Shirley Bernstein at that time and Judge Colin allowed he and Tescher to continue as fiduciaries without sanctions or reporting the crimes of their law firm to the proper authorities.
30. Several months later however, after Colin allowed Tescher and Spallina to continue to operate as his Court Appointed Fiduciaries and Counsel in the matters despite their law firm's proven criminal acts before his Court and allowed them to continue to file repeated slanderous, toxic, vexatious pleadings to smear and defame Eliot for his exposing their crimes, Spallina, in a second interrogation by Palm Beach County Sheriff Investigators<sup>13</sup> this time calling him directly to be interviewed then admitted that he and his partner discussed how to make their client, friend and business partner Ted and his family beneficiaries of Shirley's IRREVOCABLE Trust where they were considered predeceased prior to the trust becoming irrevocable and where thereby forever barred from becoming part of the beneficiary class. When Tescher and Spallina determined due to the IRREVOCABLE nature of her Trust once she had died with Ted and his sister Pam and their families excluded that it could not legally be done, Spallina claimed to PBSO that he took it upon himself after consult with Tescher to then ILLEGALLY and FRAUDULENTLY ALTER a Shirley Trust document in efforts to include Ted and his sister Pamela's families as Beneficiaries by inserting a fraudulent Shirley Trust and propounded this fraud on Eliot, his children's counsel, Christine Yates of Tripp Scott law firm and the Court.

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<sup>13</sup> See Palm Beach County Sheriff Investigation Report @ <http://>

31. That the Florida Governor Rick Scott's Notary Division has already found that the ALLEGED 2012 Will and alleged Amended and Restated Trust of Simon (both done allegedly 48 days prior to his death) by Tescher & Spallina, PA are also improperly notarized and disciplinary actions were taken against another Notary, Ted's personal assistant, a one Lindsay Baxley aka Lindsay Giles by Governor Scott's notary division.
32. That Eliot has filed pleadings for hearings to determine the Validity and Construction of the dispositive documents dating back to May of 2013 in his initial pleadings with the Court and it is alleged that the dispositive documents and other documents are not only Fraudulently created and Forged to change Beneficiaries but more importantly were altered to change the Fiduciaries to Tescher, Spallina and Ted, enabling them to illegally seize Dominion and Control of the Fiduciary roles illegally and begin to loot the estates in a host of criminal acts to deny whoever the Beneficiaries are determined to be of their inheritances, targeting the Eliot Bernstein Family particularly. The Court should understand that it is not important who the Beneficiaries are if the alleged fiduciaries have robbed the estates and trusts and left nothing to the beneficiaries. Once the Fiduciary roles were locked up there was no accountability of the Fiduciaries and no accounting from the Fiduciaries and virtually the entire Probate and Trust Codes were violated by the Fiduciaries and Counsel to commit the frauds through abuse of process and then cover them through further abuse of process.

### **Introduction**

*The overarching issue in these cases is Eliot Bernstein. He is not named as a beneficiary of anything; yet he alone has derailed these proceedings for more than two years and has harassed and attacked the prior judges, fiduciaries and their counsel. (See, by way of example only, Exhibit A) His demands have caused the former curator and now the PR to incur far in excess of \$100,000 in unnecessary fees, pursuing his agenda not their own. With regard to Judge Colin's final action before recusing himself, Eliot's delay of the Trust's sale of real estate is going on six months, and already his objections and "appeal" to the Florida Supreme Court have cost the Trust more than \$125,000. These sums are not insignificant in this case – these are relatively small trusts and*

*estates which likely will have between \$1 million to \$2 million left to distribute in the end. Even less with every billable hour incurred, especially if things continue on their current path.*

**RESPONSE:**

33. The overarching issue with the cases is not Eliot Bernstein but rather the Frauds committed by the action of Alan B. Rose's client, Ted Bernstein, the alleged Trustee and his former counsel, Tescher and Spallina and those they engaged and retained, including but not limited to, Rose, John Pankauski, Esq., Mark Manceri, Esq., Jon Swergold, Esq. and John Morrissey, Esq. all recruited to Aid and Abet in the Fraudulent activity. The Court can see from review of the Colin court record that without the Fraudulent activity, including Fraud on the Court, Fraud on the Beneficiaries and Fraud on the Interested Parties, including Creditor William Stansbury, none of these cases would be necessary and the Estates and Trusts would have been disbursed legally.
34. That all costs, time and efforts of all injured parties is directly due to these crimes, of which Eliot Bernstein had nothing to do with other than exposing the Lawyers, Fiduciaries and Court Officials involved, including Rose.
35. Despite Rose's false and misleading statements in his Omnibus Status, Eliot Bernstein is named a Beneficiary of the Shirley Trust through the Eliot Bernstein Family Trust that is a one-third Beneficiary of the Shirley Trust, along with two out of three of his sisters. Ted and his sister Pamela Simon were both wholly disinherited and considered PREDECEASED with their Lineal Descendants at the time of Shirley's death when her trust became IRREVOCABLE.
36. Eliot Bernstein through the Eliot Bernstein Family Trust is also a one-third beneficiary of the Simon Bernstein Trust created in 2008, as again Ted and his sister Pamela Simon and their lineal descendants were considered PREDECEASED.
37. That Eliot was not attempted to be carved out as a Beneficiary until the ALLEGED and challenged 2012 Will and Amended & Restated Trust of Simon, allegedly executed 48 days prior

to Simon's death when his mental and physical state are questioned as well if he even signed these documents or they are further Fraudulently created.

38. From the 2008 Will of Shirley Bernstein, Eliot is a child of Shirley that is a Personal Property Beneficiary thereby making Rose's claim that Eliot is not a Beneficiary of anything in the Estate and Trusts of Simon and Shirley Bernstein materially false and misleading.

### **WILL OF SHIRLEY BERNSTEIN<sup>14</sup>**

I, SHIRLEY BERNSTEIN, of Palm Beach County, Florida, hereby revoke all my prior Wills and Codicils and make this Will. My spouse is SIMON L. BERNSTEIN ("SIMON"). My children are TED S. BERNSTEIN ("TED"), PAMELA B. SIMON, **ELIOT BERNSTEIN**, JILL IANTONI and LISA S. FRIEDSTEIN.

#### **ARTICLE I. TANGIBLE PERSONAL PROPERTY**

I give such items of my tangible personal property to such persons as I may designate in a separate written memorandum prepared for this purpose. I give to SIMON, if SIMON survives me, my personal effects, jewelry, collections, household furnishings and equipment, automobiles and all other non-business tangible personal property other than cash, not effectively disposed of by such memorandum, and if SIMON does not survive me, **I give this property to my children who survive me**, divided among them as they agree, or if they fail to agree, divided among them by my Personal Representatives in as nearly equal shares as practical, and if neither SIMON nor any child of mine survives me, this property shall pass with the residue of my estate.

39. From the 2008 Shirley Bernstein Trust Agreement it is also factually clear that Eliot is a child of Shirley Bernstein that is a one third Beneficiary of the Trust as Ted, Pam and their lineal descendants are considered predeceased, thereby making Rose's claim that Eliot is not a Beneficiary of anything in the Estate and Trusts of Simon and Shirley Bernstein materially false and misleading.

### **SHIRLEY BERNSTEIN TRUST AGREEMENT<sup>15</sup>**

#### **E. Definitions. In this Agreement,**

1. Children, Lineal Descendants. The terms "child," "children" and "lineal descendant" mean only persons whose relationship to the ancestor designated is created entirely by or through (a) legitimate births occurring during the marriage of the joint biological parents to each other, (b) children and their

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<sup>14</sup> See Will of Shirley Bernstein @ <http://>

<sup>15</sup> See Shirley Bernstein Trust @ <http://>

lineal descendants arising from surrogate births and/or third party donors when (i) the child is raised from or near the time of birth by a married couple (other than a same sex married couple) through the pendency of such marriage, (ii) one of such couple is the designated ancestor, and (iii) to the best knowledge of the Trustee both members of such couple participated in the decision to have such child, and (c) lawful adoptions of minors under the age of twelve years. No such child or lineal descendant loses his or her status as such through adoption by another person. **Notwithstanding the foregoing, as I have adequately provided for them during my lifetime, for purposes of the dispositions made under this Trust, my children, TED S. BERNSTEIN ("TED") and PAMELA B. SIMON ("PAM"), and their respective lineal descendants shall be deemed to have predeceased the survivor of my spouse and me,** provided, however, if my children, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN, and their lineal descendants all predecease the survivor of my spouse and me, then TED and PAM, and their respective lineal descendants shall not be deemed to have predeceased me and shall be eligible beneficiaries for purposes of the dispositions made hereunder.

E. Disposition of Trusts Upon Death of Survivor of My Spouse and Me. Upon the death of the survivor of my spouse and me,

1. **Limited Power.** My spouse (if my spouse survives me) may appoint the Marital Trust and Family Trust (except any part added by disclaimer from the Marital Trust and proceeds of insurance policies on my spouse's life) to or for the benefit of one or more of my lineal descendants and their spouses;

2. **Disposition of Balance.** Any parts of the Marital Trust and the Family Trust my spouse does not or cannot effectively appoint (including any additions upon my spouse's death), or all of the Family Trust if my spouse did not survive me, shall be divided among and held in separate Trusts for my **lineal descendants** then living, per stirpes. Any assets allocated under this Subparagraph II.D. to my children (**as that term is defined under this Trust**), shall be distributed to the then serving Trustees of each of their respective Family Trusts, established by my spouse as grantor on even date herewith (the "Family Trusts" which term includes any successor trust thereto), to be held and administered as provided under said Trusts. The provisions of the Family Trusts are incorporated herein by reference, and if any of the Family Trusts are not then in existence and it is necessary to accomplish the foregoing dispositions, the current Trustee of this Trust is directed to take such action to establish or reconstitute such applicable trust(s), or if the Trustee is unable to do so, said assets shall be held in separate trusts for such lineal descendants and administered as provided in Subparagraph II.E. below. **Each of my lineal descendants for whom a separate Trust is held hereunder shall hereinafter be referred to as a "beneficiary,"** with their separate trusts to be administered as provided in Subparagraph ILE. below.

F. **Trusts for Beneficiaries.** The Trustee shall pay to a beneficiary the net income of such beneficiary's trust. The Trustee shall pay to the beneficiary and the beneficiary's children, such amounts of the principal of such beneficiary's trust as is proper for the Welfare of such individuals. After a beneficiary has reached any one or more of the following birthdays, the beneficiary may withdraw the principal of his or her separate trust at any time or times, not to exceed in the aggregate 1/3 in value after the beneficiary's 25th birthday, 1/2 in value (after deducting any amount previously subject to withdrawal but not actually withdrawn) after the beneficiary's 30th birthday, and the balance after the beneficiary's 35th birthday, provided that the withdrawal powers described in this sentence shall not apply to any child of mine as beneficiary of a separate trust. The value of each trust shall be its value as of the first exercise of each withdrawal right, plus the value of any subsequent addition as of the date of addition. The right of withdrawal shall be a privilege which may be exercised only voluntarily and shall not include an involuntary exercise. If a beneficiary dies with assets remaining in his or her separate trust, upon the beneficiary's death the beneficiary may appoint his or her trust to or for the benefit of one or more of my lineal descendants and their spouses (excluding from said class, however, such beneficiary and such beneficiary's creditors, estate, and creditors of such beneficiary's estate). Any part of his or her trust such beneficiary does not effectively appoint shall upon his or her death be divided among and held in separate Trusts for the following persons:

1. for his or her lineal descendants then living, per stirpes; or

2. if he or she leaves no lineal descendant then living, per stirpes for the lineal descendants then living of his or her nearest ancestor (among me and my lineal descendants) with a lineal descendant then living who is also a lineal descendant of my spouse.

A trust for a lineal descendant of mine shall be held under this paragraph, or if a trust is then so held, shall be added to such trust.

40. From the 2008 Will of Simon Bernstein it is clear that Eliot is a child of Simon's that is a Personal Property Beneficiary of the Will thereby making Rose's claim that Eliot is not a Beneficiary of anything materially false and misleading..

#### 2008 WILL OF SIMON L. BERNSTEIN<sup>16</sup>

I, SIMON L. BERNSTEIN, of Palm Beach County, Florida, hereby revoke all my prior Wills and Codicils and make this Will. My spouse is SHIRLEY BERNSTEIN ("SHIRLEY"). My children are TED S. BERNSTEIN ("TED"), PAMELA B. SIMON, **ELIOT BERNSTEIN**, JILL IANTONI and LISA S. FRIEDSTEIN.

#### ARTICLE I. TANGIBLE PERSONAL PROPERTY

I give such items of my tangible personal property to such persons as I may designate in a separate written memorandum prepared for this purpose. I give to SHIRLEY, if SHIRLEY survives me, my personal effects, jewelry, collections, household furnishings and equipment, automobiles and all other non-business tangible personal property other than cash, not effectively disposed of by such memorandum, and if SHIRLEY does not survive me, **I give this property to my children who survive me**, divided among them as they agree, or if they fail to agree, divided among them by my Personal Representatives in as nearly equal shares as practical, and if neither SHIRLEY nor any child of mine survives me, this property shall pass with the residue of my estate.

41. From the ALLEGED 2012 Simon Bernstein Will it is clear that Eliot is a child of Simon's that is a Personal Property Beneficiary of the Will thereby making Rose's claim that Eliot is not a Beneficiary of anything materially false and misleading..

#### 2012 WILL OF SIMON BERNSTEIN<sup>17</sup>

I, SIMON L. BERNSTEIN, of Palm Beach County, Florida, hereby revoke all my prior Wills and Codicils and make this Will. I am a widower, but in the event that I marry subsequent to the execution of this Will, I specifically make no provision for my spouse. My children are TED S. BERNSTEIN, PAMELA B. SIMON, **ELIOT BERNSTEIN**, JILL IANTONI and LISA S. FRIEDSTEIN.

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<sup>16</sup> See 2008 Will of Simon Bernstein @ <http://>

<sup>17</sup> See ALLEGED 2012 Will of Simon Bernstein @ <http://>

## ARTICLE I. TANGIBLE PERSONAL PROPERTY

I give such items of my tangible personal property to such persons as I may designate in a separate written memorandum prepared for this purpose. **I give to my children who survive me**, divided among them as they agree, or if they fail to agree, divided among them by my Personal Representatives in as nearly equal shares as practical my personal effects, jewelry, collections, household furnishings and equipment, automobiles and all other non-business tangible personal property other than cash, not effectively disposed of by such memorandum, and if no child of mine survives me, this property shall pass with the residue of my estate.

42. From the 2008 Simon L. Bernstein Trust Agreement it is clear that Eliot is a child of Simon that is a one third Beneficiary of the Trust thereby making Rose's claim that Eliot is not a Beneficiary of anything materially false and misleading.

### 2008 SIMON L. BERNSTEIN TRUST AGREEMENT<sup>18</sup>

This Trust Agreement is dated this 20<sup>th</sup> day of May, 2008, and is between SIMON L. BERNSTEIN, of Palm Beach County, Florida referred to in the first person, as settler, and SIMON L. BERNSTEIN, of Palm Beach County, and SIMON L. BERNSTEIN'S successors, as trustee (referred to as the "Trustee," which term more particularly refers to all individuals and entities serving as trustee of a trust created hereunder during the time of such service, whether alone or as co-trustees, and whether originally serving or as a successor trustee). Said Trustee acknowledges receipt of the property described in the Attachment to this Agreement, and agrees to hold said property and all additions, in trust, as provided in this Agreement.

E. Definitions. In this Agreement,

1. Children, Lineal Descendants. The terms "child," "children" and "lineal descendant" mean only persons whose relationship to the ancestor designated is created entirely by or through (a) legitimate births occurring during the marriage of the joint biological parents to each other, (b) children and their lineal descendants arising from surrogate births and/or third party donors when (i) the child is raised from or near the time of birth by a married couple (other than a same sex married couple) through the pendency of such marriage, (ii) one of such couple is the designated ancestor, and (iii) to the best knowledge of the Trustee both members of such couple participated in the decision to have such child, and (c) lawful adoptions of minors under the age of twelve years. No such child or lineal descendant loses his or her status as such through adoption by another person. **Notwithstanding the foregoing, as I have adequately provided for them during my lifetime, for purposes of the dispositions made under this Trust, my children, TED S. BERNSTEIN ("TED") and PAMELA B. SIMON ("PAM"), and their respective lineal descendants shall be deemed to have predeceased the survivor of my spouse and me**, provided, however, if my children, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN, and their lineal descendants all predecease the survivor of my spouse and me, then TED and PAM, and their respective lineal descendants shall not be deemed to have predeceased me and shall be eligible beneficiaries for purposes of the dispositions made hereunder.

D. **Disposition of Trusts Upon Death of Survivor of My Spouse and Me**. Upon the death of the survivor of my spouse and me,

1. **Limited Power**. My spouse (if my spouse survives me) may appoint the Marital Trust and Family Trust (except any part added by disclaimer from the Marital Trust and proceeds of insurance policies on my spouse's life) to or for the benefit of one or more of my lineal descendants and their spouses;
2. **Disposition of Balance**. Any parts of the Marital Trust and the Family Trust my

<sup>18</sup> See ALLEGED 2008 Simon Bernstein Trust @ <http://>



spouse does not or cannot effectively appoint (including any additions upon my spouse's death), or all of the Family Trust if my spouse did not survive me, shall be divided among and held in separate Trusts for my **lineal descendants** then living, per stirpes. Any assets allocated under this Subparagraph II.D. to my children (**as that term is defined under this Trust**), shall be distributed to the then serving Trustees of each of their respective Family Trusts, established by my spouse as grantor on even date herewith (the "Family Trusts" which term includes any successor trust thereto), to be held and administered as provided under said Trusts. The provisions of the Family Trusts are incorporated herein by reference, and if any of the Family Trusts are not then in existence and it is necessary to accomplish the foregoing dispositions, the current Trustee of this Trust is directed to take such action to establish or reconstitute such applicable trust(s), or if the Trustee is unable to do so, said assets shall be held in separate trusts for such lineal descendants and administered as provided in Subparagraph II.E. below. **Each of my lineal descendants for whom a separate Trust is held hereunder shall hereinafter be referred to as a "beneficiary,"** with their separate trusts to be administered as provided in Subparagraph ILE. below.

E. **Trusts for Beneficiaries.** The Trustee shall pay to a beneficiary the net income of such beneficiary's trust. The Trustee shall pay to the beneficiary and the beneficiary's children, such amounts of the principal of such beneficiary's trust as is proper for the Welfare of such individuals. After a beneficiary has reached any one or more of the following birthdays, the beneficiary may withdraw the principal of his or her separate trust at any time or times, not to exceed in the aggregate 1/3 in value after the beneficiary's 25th birthday, 1/2 in value (after deducting any amount previously subject to withdrawal but not actually withdrawn) after the beneficiary's 30th birthday, and the balance after the beneficiary's 35th birthday, provided that the withdrawal powers described in this sentence shall not apply to any child of mine as beneficiary of a separate trust. The value of each trust shall be its value as of the first exercise of each withdrawal right, plus the value of any subsequent addition as of the date of addition. The right of withdrawal shall be a privilege which may be exercised only voluntarily and shall not include an involuntary exercise. If a beneficiary dies with assets remaining in his or her separate trust, upon the beneficiary's death the beneficiary may appoint his or her trust to or for the benefit of one or more of my lineal descendants and their spouses (excluding from said class, however, such beneficiary and such beneficiary's creditors, estate, and creditors of such beneficiary's estate). Any part of his or her trust such beneficiary does not effectively appoint shall upon his or her death be divided among and held in separate Trusts for the following persons:

1. for his or her lineal descendants then living, per stirpes; or
  2. if he or she leaves no lineal descendant then living, per stirpes for the lineal descendants then living of his or her nearest ancestor (among me and my lineal descendants) with a lineal descendant then living who is also a lineal descendant of my spouse.
- A trust for a lineal descendant of mine shall be held under this paragraph, or if a trust is then so held, shall be added to such trust.

43. Simon Amended & Restated Trust 2012 - From the ALLEGED 2012 Simon Bernstein Amended and Restated Trust Agreement it is clear that Eliot is a child of Simon that is claimed to be Predeceased and not a Beneficiary of the Trust along with all of his siblings, however his children would be either 1/3 Beneficiaries if 10 grandchildren are deemed beneficiaries or 1/2 of six children are deemed to be the Beneficiaries if these documents are proven Valid after they can be compared to the Original documents, which have not been produced despite a Court Order to produce them. That the only grandchildren who have separate trusts held hereunder as

the language claims, would be the grandchildren under the three family trusts created with the Original Trust, namely the Eliot, Jill and Lisa Family Trusts and their children would then be the only surviving grandchildren as Grandchildren was defined in the 2008 Original Trust, which has Ted and Pam's lineal descendants considered predeceased. Eliot would still be considered a Beneficiary of the Original Trust for standing purposes and capable of challenging the documents and trustees despite Phillips Order claiming Eliot is not a Beneficiary.

### **2012 SIMON L. BERNSTEIN AMENDED AND RESTATED TRUST**<sup>19</sup>

#### **E. Definitions. In this Agreement,**

1. Children. Lineal Descendants. The terms "child," "children" and "lineal descendant" mean only persons whose relationship to the ancestor designated is created entirely by or through (a) legitimate births occurring during the marriage of the joint biological parents to each other, (b) children and their lineal descendants arising from surrogate births and/or third party donors when (i) the child is raised from or near the time of birth by a married couple (other than a same sex married couple) through the pendency of such marriage, (ii) one of such couple is the designated ancestor, and (iii) to the best knowledge of the Trustee both members of such couple participated in the decision to have such child, and (c) lawful adoptions of minors under the age of twelve years. No such child or lineal descendant loses his or her status as such through adoption by another person. Notwithstanding the foregoing, as I have adequately provided for them during my lifetime, for purposes of the dispositions made under this Trust, my children, TED S. BERNSTEIN ("TED") and PAMELA B. SIMON ("PAM"), and their respective lineal descendants shall be deemed to have predeceased the survivor of my spouse and me, provided, however, if my children, **ELIOT BERNSTEIN**, JILL IANTONI and LISA S. FRIEDSTEIN, and their lineal descendants all predecease the survivor of my spouse and me, then TED and PAM, and their respective lineal descendants shall not be deemed to have predeceased me and shall be eligible beneficiaries for purposes of the dispositions made hereunder.

44. That one can see that in virtually every case, Eliot is and always was a Beneficiary but Rose must attempt to mislead the Court that somehow Eliot is not a Beneficiary to try and have his rights removed and so pleads repeated falsities on the Court and continues to pervert the record with scienter in efforts to perpetrate further the FRAUD ON THE COURT and FRAUD ON THE BENEFICIARIES of his predecessors Tescher and Spallina et al.
45. That contrary to Rose's claim that Eliot is to blame for the delay and costs in the proceedings, Eliot is NOT the cause of the three years of litigation that has resulted in the Estates and Trusts

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<sup>19</sup> See ALLEGED 2012 Simon Trust @ <http://>

cases, yet Rose attempts to further mislead the Court in his pleading.

46. That Eliot's "attacks" on the lawyers and judges has led to the exposure of crimes committed by the law firm's he attacked, leading to the removal of Fiduciaries and their Counsel but again Rose attempts to twist the truth and further mislead the Court and attempt to continue the Fraud on the Court by stating Eliot is the cause of the problems in these matters not the Frauds of Ted, Spallina, Tescher, Rose, Pankauski, Manceri, Morrissey et al.
47. The "Exhibit A" blog post that Rose refers to in the above paragraph is not written by Eliot Bernstein and Rose is fully aware of this but again tries to claim that it written and hosted by Eliot to mislead the Court with scienter.
48. Eliot's actions did not lead to the need for a Curator or Successor Trustee or the costs associated with having them enter the cases, it was directly due to Tescher and Spallina's being removed from the proceedings as Counsel and Fiduciaries, after ADMITTING to FRAUD.
49. After Tescher and Spallina's removal it was necessary to have a Curator and new PR and Trustee involved in both Simon and Shirley's Estate matters, which led to many hearings at massive costs to the injured parties, the Trusts and Estates, in order to replace them with a Curator and then new PR in the Simon Estate case, a new Simon Trustee and new counsel, Rose, for Ted in the Estate and Trust of Shirley.
50. Much of the work done since the time the Curator and new PR became involved and work done by Eliot and Peter Feaman, Esq. have been in efforts to have Ted removed as alleged Successor Trustee of Simon's Trust and alleged Successor of Shirley's Trust.
51. The new PR of the Estate Brain O'Connell, Esq., Peter Feaman, Esq. and Eliot have repeatedly Petitioned and informed the Court that Ted is acting as a NOT VALID Trustee of the Simon Amended & Restated Trust and may have been fraudulently inserted into the dispositive

documents of Shirley. In other words Ted is acting fraudulently as an imposter Trustee who is not now qualified to be a Trustee and thus making it impossible to administer the Estate of Simon for all parties involved having to deal with a knowingly fraudulent actor as Trustee violating the very terms of the Trust.

52. That contrary to Rose's claims about Eliot wasting time and monies of the Curator and new PR, it is clear from the record that Eliot's interactions with both the Curator and Successor Trustee are primarily attempting to secure records and accounting information that remains secreted and denied to Eliot and the PR as of this date, due to Ted's continued involvement and Ted's continued violations of Probate Rules and Statutes.
53. Much of the costs of the Curator and Successor PR have been wasted in conversations with Alan Rose on behalf of his client Ted and in the case of the Successor PR Brian O'Connell, Esq. and these costs are incurred through interactions with a NOT VALID Trustee according to O'Connell.
54. Wherein the delay in sale of real property referred to by Rose stems from a Court order of Judge Colin whereby it was found that Alan Rose and Ted Bernstein had failed to notify Beneficiaries and Interested Parties of the sale of Simon's home in an undisclosed transaction with undisclosed terms and conditions of the sale and Judge Colin, not Eliot, ceased the proposed sale.
55. Again, all these costs that resulted from the attempted home sale are solely incurred by the failure of the Fiduciary Ted and his counsel Rose to follow Probate Rules and Statutes and continuing Breaches of Fiduciary Duties.
56. Rose's estimation in his statement above of the value of the Estates and Trusts, years after the decedents deaths, exhibits another glaring Violation of Probate Rules and Statutes by the alleged Fiduciary Ted Bernstein and the former Fiduciaries, Tescher and Spallina, in that NO

ACCOUNTINGS have been provided for Shirley's Trust or Shirley's Estate in almost five years as required and in Simon Trust three years and thus there is no accurate precise number to the value of the Estates and Trusts.

57. In fact, in the one accounting for Simon's Trust recently submitted by Ted Bernstein after almost three years, the accounting does not start with an opening balance done after the decedent's death and instead starts almost three years after his death.
58. The prior accountings by Tescher and Spallina that were required 60 days after their removal for the fraud were never done and when Ted supposedly was anointed as Successor Trustee to Spallina and Tescher by Tescher and Spallina as they were removed was never requested by Ted in order to cover up for his former counsels thefts and fraud.
59. The accounting violations are serious Violations of Probate Rules and Statutes and Generally Accepted Accounting Principles and are a major Breach of Fiduciary Duties of Tescher, Spallina and Ted, all resulting in further and ongoing damages to the injured parties.
60. That the hearings that followed Colin's Order to stay the sale of the Primary Residence were due to the attempt to sell the house without notice to Beneficiaries or Interested Parties and with removal proceedings pending and this resulted in the need for hearings ordered by Colin. Again all these costs due to further Breaches of Fiduciary Duties by Ted and Legal Breaches of Ethics and Law by Rose, for his involvement in advancing these continued Frauds on the Court and Frauds on the Beneficiaries. The record of the hearings reflect these as the facts around the case but yet Rose attempts again to spin and blame it on Eliot with no evidence or without putting forth the record and transcripts of the hearings.
61. Further, Colin himself when confronted by Alan at the first hearing on the sale of the property about allowing for a sale stated the following:

13 MR. ROSE: We didn't share the appraisal  
14 because, frankly, we were concerned it would be  
15 public and that would defeat their chance of  
16 selling it.  
17 THE COURT: I'm not -- look, nothing is easy  
18 here. It's not going to get easier until we can  
19 get hearings where I can start to knock off some  
20 of the issues, which is what I have been saying  
21 now like a broken record.  
22 At some point, either Eliot is going to be  
23 sustained on his positions or he's going to be  
24 overruled, but one way or the other, we can put  
25 some of this stuff to rest. **The problem is we're**  
**1 doing all of this business with some of the metes [matters]**  
**2 of the case still up in the air where I haven't**  
**3 been able to adjudicate; the claims that Ted**  
**4 should be removed; the claims that there's**  
**5 wrongdoing beyond Spallina and Tescher, the trust**  
**6 is not valid.** I mean, give me a chance to rule on  
7 that, because once I rule on that, then the matter  
8 is over with on those and you'll know one way or  
9 the other what to do.<sup>20</sup>

62. That Colin made the claim that he needed to hold certain hearings before continuing to do further business, stating he sounded like a broken record that included REMOVING TED, FURTHER FRAUD BEYOND TESCHER AND SPALLINA already proven, that the very trust that Ted is operating under is NOT VALID, etc. Despite making such proclamation on the record of the order that things legally had to be done and heard, coming three years into Colin's continued cover up and allowance of all sorts of financial transactions, hearings, etc. to be had without first determining the issues he claims must be heard first and which would make logical sense, such as, correcting the fraud, having validity hearings, removal proceedings, etc. All of these items must be done before transactions and distributions are consummated and despite his own wisdom, Colin then remarkably went against his own words on the record and in the next hearing regarding Simon's home, allowed for the sale of the home without holding any of the necessary hearings first to make such transaction legal and proper. These were part of the reasons that

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<sup>20</sup> See Hearing Transcript – First Home Sale Hearing @ <http://>

Colin's disqualification was immediately sought for, which led to his Sua Sponte Recusal the day after denying his disqualification, all before the 4<sup>th</sup> DCA as of an October 13, 2015 transfer from the Supreme Court of Florida.

63. Due to this and other matters concerning Fraud by the Court, a Petition for All Writs was filed with the Florida Supreme Court to overturn Colin's Sua Sponte Recusal and demand Disqualification and Voiding All Prior Orders issued as part of a Fraud on the Court and Fraud by the Court.
64. It should be noted in contrast to Rose's statement above that the "final act" of Judge Colin before his Sua Sponte recusal was regarding Simon's home sale, in reality the "final act" was actually the day before his recusal denying the Petition for Disqualification of himself based on allegations of Fraud on the Court, Fraud by the Court and Fraud on the Beneficiaries and Interested Parties that occurred in his Court. Fraud that he not only failed to act upon and rectify but continued aiding and abetting the frauds using the Court to Deny Eliot Due Process and protecting his Court Officials instead, including his Court appointed Attorneys at Law and Fiduciaries who committed the criminal acts.
65. Colin improperly allowed the cases to move forward from the start without first dealing with, the Frauds and Fraudsters by immediately taking them out, which would have forced his own immediate Disqualification since the crime occurred in his Court with his Court Appointed Officers and Fiduciaries.
66. Colin ignoring his mandatory disqualification in cases in which he will be a material and fact witness allowed the cases to move forward, without first securing the proper documents and all records and assets once Fraud on the Court and Fraud on the Beneficiaries was discovered and determining if the Dispositive documents were even valid. Without holding immediate hearings

regarding the Validity of the Fiduciaries in the wake of proven Fraud on the Court by the Fiduciaries and their counsel. Without holding hearings regarding who the correct Beneficiaries were due to the Fraud before doing anything with asset sales or distributions. Without securing the assets once Fraud was established. Without demanding statutorily required accountings. Without holding fair and impartial hearings against the Fiduciaries and Attorneys at Law involved in the Fraud to remove them, as how could the hearings be fair when Colin was adjudicating fraud committed by his officers that he appointed, in his Court.

67. That Rose fails to inform the Court that ALL costs that are being incurred to the Trusts, Estates, Beneficiaries and other Interested Parties are considered to be due to the damage caused by the Frauds committed by the Fiduciaries and Attorneys at Law that committed the crimes and this is the reason for the resulting need for Beneficiaries and others to get counsel, the reason for the courts to be used for hearing after hearing, the reason for Sheriff's costs, the reason for State Attorney costs, the reason for Governor Rick Scott Notary Public Division costs, the reason for Federal investigatory costs, the reason for an Illinois Federal Court Cost, the need for a Curator, the need for a Successor PR and Trustee, etc. All costs to be paid not by Eliot but by those who have caused these damages.
68. That the Attorney's fees already billed to the Estates and Trusts to commit Fraudulent acts will be Disgorged from the parties who billed the Estates and Trusts Fraudulently as already put forth in pleadings filed by Brian O'Connell Esq., Eliot and others in objections to accounting and inventories provided and unheard at this time. All these costs are further damages to the injured parties. In no way has Eliot been the cause for any of the costs, he is merely an injured party.
69. Further, Rose as a formally served Counter Defendant in these matters is alleged in Counter Complaints filed to be an integral part of committing the Frauds on the Court, Fraud on the



Beneficiaries and others already proven in these cases and those further alleged and under ongoing investigations. Thus, all Rose's costs will also be recovered and damages assessed for his role in the Conspiratorial Criminal Acts that have taken place and the Frauds he continues to advance, including misusing the Courts with Toxic and Vexatious and Fraudulent filings and Violating Probate Rules & Statutes, Law and Ethical Rules.

*For reasons which will become apparent to the Court, although these matters should be fully concluded by now – Shirley died first, nearly five years ago, and Simon followed nearly three years ago – it feels like we still are closer to the starting line than the finish line. The sole reason for the lack of progress is their disinherited son, Eliot Bernstein.*

**RESPONSE:**

70. That First off Eliot is not a disinherited son by Shirley Bernstein, as when she died the Eliot Bernstein Family Trust was a one-third beneficiary of the Shirley Trust, which became IRREVOCABLE upon her death as stated in the Shirley Trust already exhibited herein and only due to the Frauds proven, admitted and alleged and through Fraudulent documents submitted in the matters to the Court have the beneficiaries come into question, the fiduciaries came into question, as well as, the very Validity, Authenticity and Construction of the Dispositive documents.
71. Where the Governor Rick Scott has already found that documents attempting to disinherit Eliot in Simon's ALLEGED 2012 Amended & Restated Trust allegedly signed 48 days prior to Simon's death, with Spallina and Moran as the only witnesses, both who have admitted to fraud and Spallina recently guilty of Felony Insider Trading on a client's information and the documents unbelievably are again improperly notarized, this time by Baxley aka Giles and the Governor's office has taken action against Baxley in these matters and the documents are still being investigated as wholly fraudulent.
72. That Alan Rose is knowledgeable of these crimes of his colleagues Tescher and Spallina and Ted

who recruited him and the costs that have resulted to Eliot and others and yet attempts to spin the truth to the newly appointed Judge Phillips in efforts to hide and conceal the Fraud and the true cause of why the matter is before him in the first place.

73. Phillips claiming he is “stupid” in the hearings already heard in bad faith while pending a decision if the cases were moved inappropriately to him in the first place and acts as if he has read nothing in the docket after months and in his second Status Hearing he just goes along with Rose’s story in the Omnibus Status that was submitted after 5pm the night before the hearing, precluding Eliot and others from responding to the wholly false claims. As one can see from this Response to the Omnibus drivel there are already so many false claims and flat out misstatements to respond to, it compares to writing a novella to unravel the truth of each line.

*If the Court were to appoint a guardian ad litem ("Guardian") for Eliot's three kids, who are beneficiaries of both trusts, everything else could be resolved quickly and easily between the remaining parties. Instead, while Eliot continues to turn the courtroom into his private circus and continues his online attacks, the limited assets in these estates and trusts continue to dwindle. This has been going on far too long, and now that this Court is overseeing these matters, Footnote 1 Eliot must be stopped before it is too late to salvage anything for the beneficiaries.*

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*Footnote 1*

*In Re: Estate of Simon L. Bernstein, Case #502012CP004391XXXXNB; In Re: Estate of Shirley Bernstein, Case #502011CP000653XXXXNB; Eliot Bernstein, etc., et al. v. Ted Stuart Bernstein, etc., et al.,*

*Case #502015CP001162XXXXNB;*

*Ted Bernstein, etc., et al. v. Alexandra Bernstein, et al., Case #502014CP003698XXXXNB;*

*Oppenheimer Trust Co. v. Eliot Bernstein, et al., Case #502014CP002815XXXXNB.*

**RESPONSE:**

74. Rose fails to mention to this Court and in fact lies at the second hearing and states there have been no guardianship pleadings or hearings in the Simon and Shirley cases for a Guardian for

Eliot and his children, see Exhibit \_\_\_\_\_ - 2<sup>nd</sup> Phillips Status Hearing. Rose is fully cognizant he filed and had heard several pleadings regarding guardianship and was denied by Judge Colin as there was absolutely no basis for a Guardian as already exhibited herein. From the hearing transcript before Phillips Rose states,

10 THE COURT: Is there a motion for  
11 appointment of a GAL? Has a motion been filed  
12 by someone?  
13 MR. ROSE: I think the -- my understanding  
14 is the beneficiaries were about to file one. I  
15 don't think they filed yet. There is a pending  
16 motion to appoint an attorney for the children.  
17 It's sort of a similar issue. Maybe  
18 Mr. O'Connell can -- it's on one of his lists  
19 of motions.

...

14 THE COURT: Okay. Great. This is the way  
15 I intend to proceed -- I love Marty Colin.  
16 This guy is a judge that's been around a long  
17 time. I know him. He's an entirely different  
18 guy than me. I expect that your experience  
19 with Judge Colin has been different than  
20 sitting here with me. Am I right? I never  
21 appeared in front of him as a judge -- I never  
22 appeared in front of him while he's a judge and  
23 while I was a lawyer. He appeared in front of  
24 me while he was a lawyer and I was a judge. I  
25 don't know how he is as a judge but I am pretty

1 sure he's a different guy than me. Nice guy.  
2 I like him. But we're different judges. Your  
3 experiences with Judge Colin, put them aside.  
4 You're having an experience with me now. We  
5 have to do it the way I do it or else I'll mess  
6 up.

7 The second thing I have on my list of  
8 things to ask you about that I've been jotting  
9 down here is this request for guardian ad  
10 litem. I think I remember asking and being  
11 told that no one has filed a formal request for  
12 appointment of a guardian ad litem; is that  
13 correct?

14 MR. O'CONNELL: Correct.

15 MR. ROSE: In these four cases no one has  
16 done that yet.

75. Colin stated in an ORDER approximately a year earlier regarding the Guardianship sought by

Rose et al., “In addition, to the extent that it would be necessary, the Court waives any requirement for the appointment of a guardian ad litem and further finds that, in respect to the Agreement and this Order, the Agreement is in the best interests of the minor children **and that Eliot and Candice Bernstein adequately represent the interests of their minor children [emphasis added].**” See Exhibit Colin Order

76. Despite knowing there is no need for a Guardianship, Rose needs to attempt to gain control of Eliot and his children, through a PREDATORY Guardianship used to silence their rights, not as a protective guardianship. In fact, if Eliot were to need a Guardian, all the children, including Ted would need Guardians. Where the only thing Eliot’s children need is counsel paid for by the parties who have caused the need for counsel and from a look at the second hearing of Phillips exhibited herein, Phillips denied hearings to provide the minor children counsel, already a sign that he is prejudiced and more.
77. One look at the cases dockets and the Court could see that multiple attempts have been made by Rose et al. to try and gain guardianship, have Eliot held in contempt and all have failed repeatedly and many were filed by the Fiduciaries and the Attorneys at Law that were directly involved in the Fraud on the Court and Fraud on the Beneficiaries, Tescher and Spallina and Ted’s other counsel, including but not limited to, Mark Manceri, Esq. and John Pankauski, Esq. who have all resigned as Ted’s counsel citing “irreconcilable differences” and more with Ted.
78. Contrary to Rose’s knowingly false claim, Eliot’s children are not Beneficiaries under the Shirley Bernstein Trust as of the date December 08, 2010 when it became IRREVOCABLE with Ted Bernstein, Pamela Bernstein Simon and their lineal descendants considered predeceased for all purposes of the Shirley Trust, thereby leaving only Eliot Jill and Lisa trusts as Beneficiaries and set in stone as of her death.

79. That per Robert Spallina who drafted the alleged documents with his partner in crime Tescher, when under interrogation by Palm Beach County Sheriff officers stated to Detective Ryan Miller,

“SPALLINA REITERATED THAT HER [SHIRLEY] DOCUMENTS READ THAT UPON SIMON'S DEATH, EVERYTHING (HER ASSETS) WENT TO JILL, LISA, AND ELIOT.”

Further Spallina states to Detective Miller,

“HE [SPALLINA] SAID SIMON TOLD HIM THAT HE WANTED TO MAKE THE NECESSARY CHANGES TO HAVE BOTH TRUSTS READ THAT THE 10 GRANDCHILDREN WERE THE BENEFICIARIES. HE TOLD ME THAT HE TOLD SIMON (SI AS HE CALLS HIM) THAT HE COULD NOT MAKE THOSE CHANGES TO SHIRLEY'S TRUST BECAUSE SHE HAD WROTE TED AND PAM AND THEIR CHILDREN AS PREDECEASED IN HER TRUST. SPALLINA REITERATED THAT SIMON CAN DO WHATEVER HE WANTS WITH HIS ESTATE, BUT ALL HE CAN DO WITH SHIRLEY'S TRUST IS GIVE IT TO LISA, JILL, AND ELIOT'S CHILDREN.”<sup>21</sup>

80. Yet, Alan Rose continues to attempt to perpetrate this Fraud on the Court and claim that Eliot is not a Beneficiary of anything in efforts to try and eliminate Eliot rights to due process, as Eliot is now the bane of his existence. If Eliot is successful in having prosecuted both the civil and criminal charges brought against Rose et al. than Rose may lose not only assets but be criminally tried and this creates adversity with Eliot and his family, Beneficiaries any way and one of the many reasons why Rose can no longer represent parties unbiasedly, other than himself Pro Se in the Counter Complaints or with counsel.

81. Rose is also being pursued in a number of State and Federal, Civil and Criminal Ongoing Complaints due to his alleged direct involvement in continuing the Frauds on the Court and Frauds on the Beneficiaries and other alleged Felonious acts and his serious Breaches of his

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<sup>21</sup> See Spallina PBSO Investigation Report @ <http://> Page \_\_\_

Ethical Rules and Regulations and Law, including his filing of these repeated Vexatious and Slanderous filings.

*By way of brief background, in 2008, Simon and Shirley created their estate plan and executed mirror image documents. Their plan was simple and typical of a long-term marriage – the surviving spouse would receive everything for life, and the limited right to decide who to benefit when he or she died. The residuary of each Estate passed to a Revocable Trust. The surviving spouse was the sole successor trustee and beneficiary for life, and was granted a limited power of appointment. Simon, as the survivor, had the sole and absolute right to do whatever he pleased with his own assets, and also possessed a limited power to appoint the assets remaining in the Shirley Trust to any of Shirley's lineal descendant or their spouse.*

**RESPONSE:**

82. The statement above is factually incorrect as in Simon and Shirley's estate plans, there were assets put into a Shirley Trust before she died and when she died the Trust became IRREVOCABLE and the Beneficiary Class was set in stone as the Eliot Bernstein Family Trust, the Jill Iantoni Family Trust and the Lisa Friedstein Family Trust as already exhibited herein.
83. What assets in total are in the Shirley Trust is still unknown due to the Missing Accounting for the Shirley Trust for FIVE years in Violation of Probate Rules and Statutes.
84. In Simon and Shirley's estate plans the surviving spouse would NOT receive everything for life as Rose claims. Most everything was put in Trust already spare a few million dollars of Personal Properties, with the surviving spouse having limited access to a small portion of the interest for living expenses etc. and Trustee fees.
85. Simon as the surviving spouse had no right to decide who would benefit from Shirley's Trust as the Beneficiary Class was determined forever once it became IRREVOCABLE and Simon, no matter what he wanted to do with assets in the Shirley Trust, had no legal power to add or subtract Beneficiaries or change the Beneficiaries, his limited power was merely to adjust the balances if necessitated and only between the Beneficiary Class Members.
86. The misstatements of Rose's to make it appear that Simon could add or subtract Beneficiaries

with some kind of Special Power are another fundamental misdirection of the facts by Rose to the Court with scienter. It is essential that Rose try and con the Court to believe this lie that Simon could add new Beneficiaries, as his client Ted already has made sale and distributions of assets acting as the ALLEGED Trustee, which are alleged converted illegally to improper parties.

87. Ted made these dispositions despite allegedly being told by his counsel at the time, Spallina, to not make distributions to certain Improper Beneficiaries, which included Ted's family and his sister Pamela Simon's family, who were both disinherited entirely.
88. Despite Ted's counsel Spallina's advice he made the distributions anyway, now if Rose cannot try and reconstruct the Shirley Trust to fit the crime of adding improperly beneficiaries, Ted and Alan, for knowingly advancing this fraudulent scheme to the Court and Beneficiaries and Interested Parties may do time when prosecuted. See Exhibit \_\_\_\_\_ -SPALLINA PBSO

STATEMENTS RE TED AND DISTRIBUTIONS MAY HAVE ALREADY MENTIONED  
HEREIN.

89. Rose fails to state to the Court that Eliot is a Beneficiary under the alleged 2008 and 2012 Wills of Simon and Shirley's Estates and that after any assets are distributed to the Beneficiaries of the Will, the residuary estate assets flow into an IRREVOCABLE Shirley's Trust, which already had assets put in it prior to Shirley's death and where Simon was merely a Trustee of the Shirley Trust once she died for the benefit of the defined Beneficiary Class.
90. Rose states "*Simon, as the survivor, had the sole and absolute right to do whatever he pleased with his own assets, and also possessed a limited power to appoint the assets remaining in the Shirley Trust to any of Shirley's lineal descendant or their spouse.*" Where Rose knows that the assets in Shirley's Trust were IRREVOCABLY deemed to be only to three of the five children,

as Ted and his sister Pamela Simon AND THEIR LINEAL DESCENDANTS were considered predeceased for ALL PURPOSES OF THE SHIRLEY TRUST.

91. Despite Rose's contention, Simon was not a Beneficiary of the Shirley Trust, he was only a Trustee and had no power to add or subtract anyone once the Trust became IRREVOCABLE and Beneficiary Class designated and established permanently at the time of Shirley's death. That Ted knew this and made the distributions anyway and Eliot would not accept the improper conversions of funds to his children (until the beneficiaries were determined by the Court due to the Fraud that caused dispute as to who the Beneficiaries are. That Rose attempts to twist that to somehow claim that Eliot is doing something wrong, when it appears the only legal thing to do. The Court should note that when taking the distributions or sometime thereafter, the parties who did take them signed documents to return the monies if they were found improperly distributed.

*When Shirley died, Simon was PR, successor Trustee, and sole beneficiary of her estate and trust. He apparently did as he pleased with her estate and her assets, and shared virtually no information about Shirley's assets or finances with any of his children. The Shirley Estate was opened in early 2011, and by early 2012 Simon wanted to close it. He had taken all of her assets, as was his right, and he requested that each of his children sign a waiver of accounting etc. to close the estate. It is undisputed that each child signed a Waiver – Eliot was the first to sign. Shirley's estate would have been closed long ago except Judge Colin required Waivers to be notarized and the six Waivers in this case (one by Simon and one by each of the five children) were not notarized. So the Waivers were rejected by the Court, and Simon had died before the last Waiver was signed. Rather than move the Court to overlook the notary requirement, someone in the office of Simon's counsel falsely traced the original signatures onto a new Waiver document and falsely put a notary stamp. The irony here is that while the Court had rejected all six of the original, **authentic** Waivers; the Court accepted the false ones and closed the Estate.*<sup>Footnote 2</sup>

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Footnote 2

*The only persons to benefit from closing Shirley's estate were the beneficiaries. The lawyers whose employee falsely notarized the document stood to gain nothing, and stood only to lose legal fees to be earned administering and closing the estate. But they clearly and inexcusably erred.*

**RESPONSE:**

92. Again, Simon Bernstein was not a Beneficiary of Shirley's Estate or Shirley's Trust, merely a



Trustee. The Beneficiaries of Shirley's Estate through her Will were the five children of Shirley for her Personal Property and for whatever was not put into Trust already or at the time of her death and any residual flowed in the Shirley Trust. The beneficiaries of Shirley's IRREVOCABLE TRUST at the time of death were the Eliot, Jill and Lisa Bernstein family trusts and remains so today.

93. Rose states that "apparently" Simon did as he pleased with Shirley's Estate assets but it is unclear if he is alleging that Simon performed his duties as Personal Representative and Trustee regarding Shirley's assets, as all records of Simon's remain missing and secreted at this time in regard to Simon's actions as they are controlled by Tescher, Spallina and Ted to this day.
94. Also, looking at the Will of Shirley one notes the Codicil that should be attached is missing regarding her bequeathment of certain items. When looking at her inventory which claims \$25,000.00 there would appear to be nothing really there to bequeath. However, Shirley died with millions of dollars of Personal Properties, including her jewelry worth several million dollars, a Bentley fully paid in cash, artwork and furnishings, ALL which do not appear on her inventory, while Rose alleges that it passed to Simon. Any Personal Properties of Shirley's passed to Simon would have had to be listed first on the inventory of Shirley and then transferred to Simon. With no taxes in the year of her death on transfer why would her Personal Properties not appear at all on her inventory and instead have been transferred illegally to Simon when they could have simply been inventoried on Shirley's Inventory and transferred to Simon tax free. It is alleged that Simon did a proper inventory and other accounting for Shirley but Spallina and Tescher replaced that inventory with a crummy false inventory that wholly misrepresents the assets and was only delivered allegedly to a Florida Tax department and not the Beneficiaries.

95. The reason the inventorying crime is alleged to have occurred is that in failing to list Shirley's inventory before transfer to Simon it is impossible to determine what went missing from Shirley to Simon in the transfer and it is alleged that millions of dollars of furnishings, art work, jewelry and clothing was part of the missing items. Currently there are ongoing investigations into the missing Personal Properties and new charges are soon to be filed for new items found missing after a recent Court Ordered Re-Inventorying.
96. The alleged Inventory that Simon is alleged to have filed with the Court, which was never served to any Beneficiaries by Simon or his counsel Tescher and Spallina, is already challenged as being another wholly fraudulent document in these cases records.
97. Other documents in Shirley's Estate still remain under ongoing investigations as to their Validity and Authenticity and are already alleged as fraudulent.
98. Simon did not take all Shirley's assets as his own after her death and he merely administered them for the Beneficiaries as a Trustee and had certain rights to limited amounts as a spouse if necessary. Rose misleads the Court again trying to state that Simon had full rights to the assets in the Shirley Trust to do as he pleased, which is wholly false.
99. Simon did not take Shirley's assets as his own and then ask his children if they would sign waivers of accountings to close her Estate. Simon had not closed the Estate of Shirley at the time of his death. Simon held a meeting in May of 2012 due to pressure levied upon him to make changes in his estate plans by his two disinherited children, as Ted and Pamela Simon were extremely upset and vowed to not let Simon see their children, which came after their being tipped off by Tescher and Spallina after Shirley died that their parents had wholly disinherited them and their lineal descendants. This led to an extortion of Simon, where Ted and Pamela began leveraging the abandonment of their children and themselves from Simon to try and force

him to make changes to his estate plan or never see their children again.

100. The tip off by Spallina enraged both Ted and Pam who began to pressure Simon along with Ted's friends and business partners, Tescher and Spallina, to either make changes or else and Simon held a meeting in May 2012 to determine if Eliot, Jill and Lisa would be amenable to making a change in his estate plan as they were the only Beneficiaries of Simon and Shirley's Estate plans, which at the time left everything to the Eliot, Jill and Lisa Bernstein Family Trusts and Simon inquired if they would instead leave their inheritances to the ten grandchildren.
101. Eliot had consented to whatever Simon wanted to do but stipulated at the meeting that he wanted full documentation of his interests in the Shirley and Simon Trusts and Wills before consenting to anything, waiving anything or acknowledging receipt of anything and where Spallina and Tescher promised to send over the documents and inventory and send any amended documents they were going to do for review and approval PRIOR to any full consent granted to any contemplated changes.
102. Shortly after the meeting, Tescher and Spallina mailed each child a (i) WAIVER OF ACCOUNTING AND PORTIONS OF PETITION FOR DISCHARGE; (ii) WAIVER OF SERVICE OF PETITION FOR DISCHARGE; AND (iii) RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE.
103. The document had all three documents combined and where it did not contain any notarization and where the RECEIPT OF BENEFICIARY AND CONSENT TO DISCHARGE is required to be notarized by Florida State Law and the two waivers also were required to be notarized allegedly by Judge Colin's alleged local rule change he had just instituted prior to the Waivers being submitted fraudulently to his court by the law firm Tescher & Spallina, PA.
104. Upon signing the document Eliot hand wrote on the Waiver directly and sent in an email the

following language to Tescher and Spallina stating that he did not sign the consent and waivers with knowledge of what he was consenting and waiving due to missing documents which would allow such legal consent but stated he was signing for the time being in efforts to ease the “STRESS” that was causing Simon to want to even consider the changes, the documents promised to Eliot as Beneficiary never came, even after Simon’s death and Eliot therefore never consented or waived anything legally as was later determined by Judge Colin.

**From:** Eliot Ivan Bernstein [mailto:iviewit@iviewit.tv]  
**Sent:** Thursday, May 17, 2012 9:10 AM  
**To:** Robert L. Spallina, Esq. ~ Attorney at Law @ Tescher & Spallina, P.A. (rspallina@tescherspallina.com)  
**Cc:** 'Simon Bernstein'; 'Caroline Prochotska Rogers, Esquire (caroline@cprogers.com)'; Michele M. Mulrooney ~ Partner @ Venable LLP (mmulrooney@Venable.com); 'Andy Dietz'; 'Donna Dietz'  
**Subject:** Estate of Shirley Bernstein

Sorry, I had Robert Spallina’s email address wrong in the first email.

**PRIVATE & CONFIDENTIAL**

May 17, 2012

Robert L. Spallina, Esq.  
Tescher & Spallina, P.A.  
Boca Village Corporate Center I  
4855 Technology Way  
Suite 720  
Boca Raton, FL 33431

Hi Robert ~ attached is the Waiver of Accounting and Portions of Petition For Discharge; Waiver of Service of Petition for Discharge; and Receipt of Beneficiary and Consent to Discharge. **As I mentioned in the phone call, I have not seen any of the underlying estate documents or my mother’s will at this point, yet I sign this document after our family call so that my father can be released of his duties as Personal Representative and put whatever matters that were causing him stress to rest.** For my trustees I would like the following individuals in the following order to be trustees:

1. Caroline Prochatska Rogers, Esq.  
3500 North Lake Shore Drive  
17th Floor  
Chicago, IL 60657  
(773) 804-9400 ext 19  
[caroline@cprogers.com](mailto:caroline@cprogers.com)
2. Michele M. Mulrooney, Esq.  
[mmulrooney@Venable.com](mailto:mmulrooney@Venable.com)  
(will get new address shortly)

3. Andrew & Donna Dietz  
2002 Circle Drive  
Hermosa Beach, California 90254  
(310) 410-0936 ext1271  
[andyd@rockitcargo.com](mailto:andyd@rockitcargo.com)

Please send copies of all estate documents to Caroline and Michele and if my dad would like them to keep the information private and confidential, including from me, until some later point in time, you can arrange that with them directly with my approval granted herein. Please also reply to this email to confirm receipt, a hard copy of my signed document will be sent via mail. Thank you for your efforts on behalf of my family ~ Eliot

Eliot I. Bernstein  
Inventor

105. Rose again misleads the Court with scienter when he states “*Shirley's estate would have been closed long ago except Judge Colin required Waivers to be notarized and the six Waivers in this case (one by Simon and one by each of the five children) were not notarized.*” This statement fails to state that Shirley’s Estate WAS CLOSED long ago but through a very sophisticated legal crime using a Fraud on the Court to facilitate and achieve the crime.
106. Simon’s identity was used illegally while he was DEAD to act as the Personal Representative of Shirley’s Estate by Tescher and Spallina to close the Estate of Shirley as if Simon were alive at the time of the closing.
107. Colin approved this macabre closing of the Estate of Shirley by Simon four months after he was deceased and when Colin first heard admissions by Spallina in the first hearing in the Estates on September 13, 2013<sup>22</sup> in the matters, he acted as if he had just discovered the Fraud on his Court committed by the Officers of his Court and by his Court Appointed Fiduciaries.
108. Colin’s surprise was despite Eliot filing his initial Emergency pleading in May 2013 months earlier, which exposed the Fraudulent and Forged documents submitted to the Court and other

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<sup>22</sup> See September 13, 2013 Hearing Judge Martin Colin @ <http://>

evidence of other crimes and where in a veiled threat to the perpetrators upon learning of their crimes Colin stated to Ted, Tescher and Spallina that he had enough evidence at that time to “read them all their Miranda Rights” twice and then ORDERED THE SHIRLEY ESTATE TO BE REOPENED, see the September 13, Hearing Transcript already evidenced herein.

109. At that point, knowing the crime occurred in his Court and his name was all over the documents involved in the crimes committed by his Court Appointed Officers and Fiduciaries who would all have to be questioned about the crimes, including Colin himself as material and fact witness now to felony crimes on the Court, should have immediately forced Colin to Disqualify himself of the matters and turned cases over to a non-conflicted court house and judge after turning it over to the Chief Administrative Judge.
110. Instead Colin violated his ethical Judicial Canons and Law and handled the cases involving him and his Court and began a series of proceedings all while his recusal was mandatory and thus his actions, and each and every one of them forward were acts OUTSIDE THE COLOR OF LAW and designed to deny due process to Eliot while letting the wrongdoers out the door and continuing the fraud on Eliot and others.
111. That the prior Waivers signed were then discovered to be Forged and Fraudulent and therefore they were Voided by Colin and no waivers remain on file legally submitted to the Court by all parties to again close the Estate of Shirley without a full and formal accounting. Without the Waivers Alan is well aware that a full and formal accounting must be done in order to close the Estate again, a fact Rose leaves out of his Omnibus Status, as again, the accounting is now over 5 years overdue from the statutorily required accountings.
112. Without Eliot willing to sign a new waiver, after discovering all the frauds going on, Judge Colin after reopening the Estate remarkably appointed Ted as Successor PR of the newly reopened

Estate of Shirley, despite having just threatened to read him his Miranda Rights and where Ted without Waivers ever granted to him as PR was required by law to produce an accounting in order to close of the Estate of Shirley 60 days after his acceptance of his Letters, which Ted has failed to produce in violation of Probate Rules and Statutes for now over three years.

113. In the following statement Rose again intentionally misleads the Court and states, *“Rather than move the Court to overlook the notary requirement, someone in the office of Simon's counsel falsely traced the original signatures onto a new Waiver document and falsely put a notary stamp.”* First off the Court did not and could not overlook the legally required notarization of the Receipt of Beneficiary and Consent to Discharge as pointed out to Colin and Spallina in an ExParte Memo from Astroid Limozine Colin’s Case Manager<sup>23</sup>.
114. New waivers would have had to been secured from all parties that were notarized fraudulently to close the Estate ILLEGALLY the first time.
115. Rose knows that the *“someone”* is a person named Kimberly Moran, who was the Legal Assistant and Notary Public for the law firm Tescher & Spallina, PA, Ted’s former counsel, former Co-Personal Representatives of the Simon Estate, Co-Trustees of the Simon Trust, Counsel to themselves in their Fiduciary Capacities in Simon’s Estate and Trust and Counsel to Ted as the alleged Personal Representative of the Shirley Estate and Ted as the alleged Trustee of the Shirley Trust.
116. Moran has also witnessed hosts of other documents with Spallina and where both have now admitted to felony misconduct in altering or creating fraudulent documents.
117. Rose also knows that Moran first stated to Governor Rick Scott’s Notary Division that she only affixed an improper notarization to the Waiver documents that were rejected by the Court and

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<sup>23</sup> See ExParte Memo on DATE @ <http://>

then when the Governor transferred the case to the Palm Beach County Sheriff and under a criminal investigation by investigators she then changed her sworn statement and admitted that she allegedly recreated the documents entirely and then FORGED (not traced) the signatures for six separate parties on six separate documents, including POST MORTEM for Simon.

118. Rose also knows that Moran did not falsely put a notary stamp on the documents but rather admitted to FRAUDULENTLY AFFIXING A NOTARY STAMP TO HER WHOLE CLOTH FRAUDULENTLY FORGED DOCUMENTS.

119. The following statement is an admission by Rose that there was a Fraud Upon the Court but again trying to water down the criminal acts of his friends and colleagues who recruited him into these matters, Tescher and Spallina, *“The irony here is that while the Court had rejected all six of the original, authentic Waivers; the Court accepted the false ones and closed the Estate.”* Here Rose means to say that the signed Waivers and Receipts were returned because the Receipts lacked the legally requisite notarizations and that after fraudulently creating new Waivers and Receipts and forging six parties names, the forged documents were the used fraudulently in part to close the Estate of Shirley, fraudulently used to try and change beneficiaries and were successful in being docketed as a FRAUD ON THE COURT, Fraud on the Beneficiaries and Interested Parties, which was successful and Colin approved the documents and signed off on the Estate, again making him a material and fact witness.

120. The crime would have remained successful until of course Eliot discovered that his deceased father’s name was forged and his identity illegally used POST MORTEM to close his deceased mother’s Estate improperly and illegally and brought it to both the civil and criminal authorities thereby exposing this FRAUD ON THE COURT also used the fraudulent documents to seize Dominion and Control of the Estates and Trusts by seizing the fiduciary roles and creating a



block to any accountability of the conspirators.

121. Once the fraud was in place with the conspirators working together using the Court to facilitate the crimes, they began a series of grave robbing crimes committed by the Attorneys at Law and Fiduciaries involved.
122. Rose admits in his Omnibus Status that one child, Jill Iantoni did not sign a Waiver and Receipt until after Simon passed away, yet he fails to state that Simon also is alleged while dead to have submitted to the Court another signed and notarized document to close Shirley's Estate, a **Full Waiver, see Exhibit \_\_\_\_\_**, whereby under penalty of perjury Simon is alleged to have stated that he had all the children's waivers in hand when the document was posited with the Court months after his death by Simon as if he were still alive and acting as PR and where he had never seen Iantoni's Waiver and Receipt as it did not come until after he died.
123. Iantoni's Waiver was never requested prior to Simon's death by any party as Simon had already decided to not make any changes to his or Shirley's dispositive documents as he could not do it legally and the relationship between Ted and Pamela only grew worse after the May meeting.
124. Further, making this Full Waiver document subject to review for Fraud, the Full Waiver was allegedly signed by Simon in April 2012, a month before the meeting to discuss possibly making changes to his estate planning documents and where the Waivers and Receipts had not even been sent to the children making it impossible for Simon at the time he allegedly signed the document to have honestly claimed that he had in his possession signed Waivers from his children necessary to close the Estate without an accounting.
125. In the first hearing scheduled by Colin on September 13, 2013, exactly one year after Simon's passing, and a tough day for Beneficiaries to go to court at Colin's request, he stated when discovering this document fraud used to close the Estate and with nothing to do with Moran, he

stated for a second time in the hearing that he had enough evidence to again read Ted, Tescher and Spallina their Miranda Warnings as he did when discovering the Moran forgeries, as here it became evident that Simon was used while dead to close Shirley's Estate illegally by Tescher and Spallina.

126. The Court should note that while Colin stated on the record that he had enough to read Miranda Rights for the Fraud on the Court he discovered, however Colin has no jurisdiction to read anyone their Miranda Rights and thus this was a veiled threat that he never acted on to have anyone with authority arrest the criminals and instead let them continue the Fraud on the Court and aided and abetted the continuation of the fraud and the cover up for his Court appointed officers and himself.

127. Footnote 2 is wholly false and misleading to the Court, "*The only persons to benefit from closing Shirley's estate were the beneficiaries. The lawyers whose employee falsely notarized the document stood to gain nothing, and stood only to lose legal fees to be earned administering and closing the estate. But they clearly and inexcusably erred.*" This statement fails to state that Tescher and Spallina did not "err" but rather committed felony criminal fraudulent acts and where they and their client, business partner and friend, Ted Bernstein (who brought them into the family convincing his father to use them to do some estate planning work so he could be referred business by Tescher. It appears that commissions may have been paid to Tescher through his company Two Oaks Consulting, LLC.

128. By seizing the fiduciary roles in the Estates and Trusts of both Simon and Shirley Bernstein, Spallina and Tescher had pecuniary gains from their fiduciary roles and then used the illegally gained control of the Estates and Trusts to rob and loot them in a variety of various crimes, including withholding estate and trust documents, withholding financial information, failing to

account, making undisclosed transactions and distributions to themselves and others and were part of the theft of millions of dollars of Personal Properties and virtually violating the entire probate rules and statutes and civil and criminal laws to achieve these ends that benefited, Ted, Pamela, Tescher, Spallina et al.

129. One must ask, when Simon died as PR with Shirley's Estate still open, if Ted was as alleged by Rose the Successor PR to the Estate of Shirley at the time, why Tescher and Spallina did not file Successor PR papers for Ted, have him approved by the Court and issued Letters of Administration and let Ted get new fully executed Waivers from beneficiaries and thereby close the Estate legally? Why? Why? Why? Why would Moran commit felony criminal acts instead of coming forth with the problem and resolving the Waivers legally?
130. Why would Spallina, like Rose in his Omnibus pleading, attempt to claim the fraud was limited in scope to a one off lapse of reason of Moran, all the while concealing that Spallina himself had committed another non related alteration of a Shirley Trust document that he later admits he did, after denying to authorities that he knew of nothing other than Moran fraud?
131. Why would Spallina and Rose not be forthright with the Court that they illegally used Simon to close the Estate of Shirley through Fraud on the Court using a dead person as if an acting living PR?
132. The answers to these questions are complex, as one must understand to seize control of Shirley and Simon's assets they had to make it appear that Simon had changed his and Shirley's Estates and Trusts after the May 2012 meeting with his children prior to his death, which he did not. Had Simon, an expert himself in Estate and Trust planning, owner of a half dozen or more Trust Administration companies, insurance planner for billionaires and millionaires throughout his career, inventor of two nationally syndicated insurance planning vehicles, 501 C(9) Death

Benefit VEBA Trusts and Arbitrage Life Insurance Payment System also known as Premium Financing, with sales in the billions of dollars of commissionable premiums, wanted to change his estate plans they would have been meticulously signed and executed with no chance for interpretation, he was one of the best planners in the insurance industry.

133. The facts are clear, at the time of Simon's death, he had not even closed Shirley's Estate and nor had Tescher and Spallina sent the interests and documents to the beneficiaries Eliot, Jill and Lisa Family Trusts as they claimed they would before any changes were made because Simon determined not only that he could not make changes legally but that he did not want to make any changes, especially since the relationship between Simon and his two children, Ted and Pamela, had only grown worse after the May 2012 meeting lasting until the day he died.
134. To execute the POST MORTEM CHANGES ILLEGALLY the first thing that had to be done was to illegally gain Dominion and Control of the Fiduciary Roles and to do that Tescher and Spallina simply stated they were the Co-Personal Representatives and Co-Trustees for Simon in new documents they alleged he executed and that Ted was the PR and Trustee of Shirley and with this lock on the fiduciary roles, they could then refuse to give dispositive documents to beneficiaries or pick and choose documents to give or not give, forcing Eliot to seek legal counsel to get the documents owed to him and his children as Beneficiaries.
135. Next in order to perfect the crime they needed to make it appear that Simon had closed Shirley's Estate while he was alive, so they could then claim that Simon, while alive and having closed the Estate of Shirley then executed a magical power of appointment that would allow him to change Shirley's Irrevocable Trust Beneficiaries and add new parties he chose, not Shirley.
136. Then with the keys to the kingdom in hand, Ted, Pamela, Tescher, Spallina et al. could begin to loot the Estate and Trusts and with full Dominion and Control there were no checks and balances

on the fiduciaries, there was no one who could gain access to the accounts and information and trusts and wills without having a legal battle and Colin despite being aware of the fraud and problems did absolutely nothing to stop it or regulate it according to his Judicial Canons and law.

137. Knowing that Eliot's family lifeblood of funds had been set and protected by Simon and Shirley through the Estate and Trust plans, when Eliot raised issues like requesting the documents they attempted to starve him out and deny him funds and inheritancy in an extortion scheme.
138. When Eliot retained counsel trouble began to brew and Spallina in an effort to perpetrate a fraud on Eliot and his children and their counsel, admits to Palm Beach County Sheriff deputies that he after concurring with Tescher he fraudulently altered a Shirley Trust document to the benefit of Ted and Pamela's families and sent it via mail and wire to Christine C. Yates, Esq. of Tripp Scott law firm. This fraud in efforts to convince Yates and Eliot's family to believe the dispositive documents stated Ted and Pam's children were beneficiaries of Shirley's Irrevocable Trust in a document Shirley allegedly did while alive, yet this again was another separate POST MORTEM FRAUDULENT DOCUMENT done by the fiduciaries and counsel Tescher and Spallina.
139. This fraud has now thrown all the dispositive documents into question and created a new class of potential beneficiaries fueled by the fraudulent and forged documents, creating dispute and the need for now forensic document and forensic accounting to be done.
140. Once the dispositive documents were sent to Yates, it appeared that there were several sets of fraudulent documents that appeared, including an alleged Will and Amended & Restated Trust done only days before Simon's death and where again the Governor Rick Scott's Notary Public division found them further improperly notarized, not by Moran this time but by a one Lindsay Baxley aka Lindsay Giles, Ted's personal secretary/ The documents witnessed only by Moran

and Spallina, who now stand as NOT credible witnesses to anything having admitted to felony crimes.

141. Therefore the fraudulent documents did benefit parties contrary to Rose's lie to the Court that they did not, including allegedly in the gains made from the missing and stolen assets worth millions of dollars. Due to the frauds Ted and Pam's family now stood to inherit 40% of the Estates and Trusts where prior to the crimes Rose alleges are victimless, they received 0%.
142. Once again, it is important for the Court to take Notice that whom the beneficiaries are ultimately is of little importance if the fiduciaries have failed to account for the assets and stolen off with them instead and left no records, as is the case already regarding personal properties, insurance policies, IRA's, pensions, securities involved in these matters where the PR's and Trustees are claiming now there are missing and lost beneficiaries of IRA's, insurance policies, business records and more.
143. Already, there are claims that Simon and Shirley were basically broke by Rose and left nothing but again there is no tangible legal accountings put forth to back these meritless claims Rose asserts to the Court in prayer that a stupid or drunk judge may buy into his false claims. Of course, certified tax returns remain missing for over three years now after requests and demands were made over two years ago by the now deceased Curator Benjamin Brown, Esq. and his replacement PR, Brian O'Connell, Esq., which would help in determining Simon and Shirley's worths.

*Shirley had appointed her eldest child, Ted, to succeed Simon after his death. Soon thereafter, Eliot learned that his parents left behind only a small fortune – then estimated at less than \$4 million, to be split among ten grandchildren. Eliot had been expecting for himself a sizeable share of what he believed would be \$100 million; instead he got nothing and his children stood to inherit a tiny fraction of what Eliot expected and hoped for. After learning of his poor fortune, Eliot embarked on a mission to destroy everyone involved with this, starting with his father's lawyers and his older brother Ted, acting as a fiduciary appointed by his mother, and anyone else who stands in his way.*

**RESPONSE:**

144. That the Will and Trust for Shirley Bernstein have been challenged for validity and construction. Due to the fact that Tescher and Spallina have committed fraud with dispositive documents and lied to the court and criminal authorities of their acts until they were forced to admit their crimes, all documents are questioned at this time and it will not be believed or relied upon until forensic document analysis is properly done on the original documents which have remain suppressed, denied and intentionally secreted from beneficiaries by Spallina, Tescher, Ted and Rose and where the validity of Ted as a Successor is challenged until such time that non conflicted parties can analyze the documents, which remain missing and not produced to beneficiaries or the courts.
145. That if as Rose claims in his Omnibus Motion that Simon and Shirley's dispositive documents were mirrored, then after finally receiving upon the court ordered production of Tescher and Spallina, the alleged original Simon Trust document of 2008 that he did with Shirley has a one William Stansbury (the Creditor in these matters) as the Successor, not Ted Bernstein. This challenges the claim of Rose that the documents were mirrored. There are other significant differences that exist between the alleged copies of Shirley's Trust and Simon's Trust done in 2008.
146. Further confounding the story that Shirley chose Ted as a Successor is the fact that Ted was considered Predeceased for all Purposes of the Shirley Trust, including dispositions, which would make the construction impossible with Ted as a fiduciary as Ted is dead and unable to make dispositions. The combination of factors surrounding Ted being alleged a Successor make it appear that this hijacking of the fiduciary roles was done through further fraudulent alteration of documents.

147. Eliot has never learned that his parents left behind a small fortune this is Alan Rose's claim only and there is no defined time as to when Eliot learned this supposed information, soon after what one might ask of Rose?
148. Rose claims Eliot learned the Estate and Trusts were estimated to be four million dollars but fails to say who estimated this and how. The Court should also question why there would be estimates of the values instead of fully accounted for values, especially now five years after Shirley's death and three after Simon, where again there is no accounting for either the Shirley Estate or Shirley Trust in violation of probate rules and statutes and the accountings for Simon have been challenged by all parties as inadequate and more.
149. Eliot did not learn the Estates and Trusts were to be divided between 10 grandchildren, in fact, his father had told him that the idea to change anything in he and Shirley's plans was not going forward for several reasons including his continued strained relations with Ted and Pam, which steadily got worse up to his death. When Eliot questioned the alleged changes to beneficiaries and fiduciaries from the ALLEGED Fiduciaries, he was refused documentation to prove it and still has been denied the original documents for review and forensic analysis. When Eliot received partial documentation attempting to prove such claims, well, it was discovered that there were forged, fraudulently altered and fraudulently notarized documents, which now call into question the legitimacy of all documents, including the several thousand pages of production that was Court Ordered from Tescher and Spallina.
150. Eliot has never learned anything about the value of the Estates and Trusts as proper and legal accountings were not timely put forth in violation of probate rules and statutes and if there was nothing to hide and very little value as Rose claims accountings should have been a breeze.
151. After Eliot learned that Tescher and Spallina would not tender dispositive documents to



beneficiaries, failed on accountings, were missing trusts, insurance trusts, IRA beneficiaries and more, Eliot retained counsel only to discover criminal acts had taken place by his brother Ted and his close personal friends, business partners and bedfellows, Tescher and Spallina and others. At the time of discovering the criminal acts Eliot exposed the crimes of Ted, Tescher, Spallina et al. and this is what Rose attempts to spin as an attack on the fiduciaries and counsel who committed the crimes and brought Rose into the affairs to aid and abet the criminal acts.

152. Rose fails to state that he is alleged to be a central party to the criminal acts, that he has been sued as a Counter Defendant in two counter complaints and he has been reported to criminal authorities for his part in the crimes and his continued criminal acts, including continuing to perpetrate a fraud on the court, a fraud on criminal investigators and fraud on the beneficiaries and interested parties.
153. It should be noted by the Court that Ted Bernstein was NOT appointed as a Successor Trustee in either Simon's 2008 (alleged mirrored to Shirley's but the Successor is a different party) Will or Trust or his alleged 2012 Will or Amended & Restated Trust. Ted became a Successor Trustee for Simon's Trust allegedly when Tescher and Spallina were removed from the proceedings when they were discovered to have committed FRAUD UPON THE COURT and FRAUD UPON THE BENEFICIARIES and this deceitful successorship that violates the language in the ALLEGED Simon 2012 Trust is an attempt to both continue the fraud, conceal the fraud, deny parties access to records that could expose the fraud and continue to fail to put forth accountings that could reveal the extent of the thefts.
154. Tescher and Spallina, allegedly (as no documents were sent to the court or beneficiaries to confirm this), as their last act on the way out the door appointed Ted as their Successor Trustee, without Court approval and where Ted had previously made court efforts to become the Curator

and Successor PR of Simon's Estate where he was denied and advised to withdraw his Petition in one instance by Martin Colin as he approached the Court to plead his Petition, like a bride left at the altar, Ted and his minion of lawyers fled the courtroom without argument and at great cost to everyone, including 7-10 lawyers and allowed a new PR, Brian O'Connell to instead be elected.

155. The alleged insertion of Ted as a Successor Trustee to Simon's alleged 2012 Amended & Restated Trust by Spallina & Tescher contradicted the alleged language in the trust regarding a Successor Trustee, which clearly states the successor cannot be a related party to the issuer and where again Ted is considered Predeceased for all purposes of dispositions of the trust, the language Spallina & Tescher claim to have drafted and executed and yet defied this in allegedly appointing Ted.
156. This fraudulent insertion of Ted has allowed the frauds to continue and have allowed the cover up of the crimes to continue and have continued to deny beneficiaries legal accountings and key financial information and access to records and assets, as Ted has not and will not investigate his friends, his former acting attorneys at law representing him as an alleged fiduciary and business partners, who he brought into the Bernstein family, Tescher and Spallina and who committed crimes to benefit Ted's family primarily.
157. Ted would also be forced to investigate himself and this adversity with the matters makes his acting as Trustee, even if he were named successor, impossible as he would be breaching his fiduciary duties as he is not now qualified due to his conflicts, involvement in the frauds, his adversity to beneficiaries and more and Ted has not been qualified since the frauds were discovered that directly benefited his family committed by he and his counsel.
158. That Rose is correct and anyone who has aided and abetted in the commission of the crimes or continues to commit fraud will be hunted down by Eliot for prosecution by the authorities, to the

fullest extent of the law, including Rose, any judges involved, etc.

159. That Ted Bernstein declared on the day his father died that his father may have been murdered by poisoning and attempted to pin such crime on Simon's girlfriend, Maritza Puccio but it appears now that if Simon was poisoned it may have been by others using Puccio as a patsy, a fall gal in the event poison screens were performed at the time of death.
160. Ted also contacted Palm Beach Medical Examiner and ordered up an autopsy on the day his father died, which failed, despite being told by Ted that Simon may have been poisoned, to run a heavy metal toxicity report during the autopsy.
161. It was not until over a year after Simon's death, when Eliot finally was released a copy of the autopsy report was it discovered the coroner had failed to run a heavy metal test for poison and one was then conducted. Shockingly, considering the allegations that had been reported to Palm Beach County Sheriff Investigators, the Palm Beach County Medical Examiner and the Del Ray Beach Hospital on the day Simon died of his poisoning, the heavy metal report came back with several elevated poison levels, including arsenic.
162. If it is concluded after further investigation that Simon was poisoned, Alan, Ted, et al. can be certain Eliot will plead with the prosecutors for the death penalty for those involved and maximum sentences criminally for those that aided and abetted. Alan can bet his life on this.

*The starting point for Eliot, beyond simply complaining that someone must have stolen the rest of his parents' \$100 million, was the notary of the Waiver form. Although Eliot signed the Waiver, he knew it had not been notarized, so he complained about this issue. The Shirley Estate was reopened; the Will specified that Ted Bernstein <sup>Footnote 3</sup> be the successor PR; and Ted has been trying to re-close the estate ever since; so far with no luck.*

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*Footnote 3*

*Ted is the oldest of Simon's and Shirley's five children; lives in Palm Beach County; worked essentially as equal partner with Simon in businesses from the early 2000s through Simon's death. The other family members are three daughters who live in*

*Chicago. Since the death of his father in September, 2012, Ted has faithfully carried out his duties as Trustee. Ted is not a beneficiary of any of these trusts and estates, and stands to gain nothing personally. Indeed, none of the five children are beneficiaries, as all of their parents' wealth was left to ten grandchildren.*

**RESPONSE:**

163. With no accountings produced or demanded in the Colin court where Simon and Shirley's assets cannot be properly accounted for, this excluding Simon's 30% interest in the Intellectual Properties of Eliot may make the Estates and Trust's to be worth billions, certainly providing ample motive for the crimes committed and possibly murder. The starting point for Eliot was not the FRAUDULENT AND FORGED waivers done POST MORTEM for his father and done without his knowledge for his own Waiver, the starting point was the absolute secrecy surrounding the dispositive documents and accountings that led to discovering these fraudulent documents.
164. Eliot complained about the Notarization when he discovered that the Court had returned the Waiver and Receipts after his father had passed and learned that his father was alleged to have then notarized his while dead, Rose again attempting to spin the truth.
165. Eliot also knew that he had never met Kimberly Moran and thus could not have notarized the document he was alleged to have signed and notarized with her. Eliot knew that not only were the documents fraudulently notarized but that they were forged, despite Moran's initial statement to the Governor Rick Scott's Notary Public Division that she only affixed a fraudulent notary on the documents Eliot and his father allegedly signed.
166. After the Governor's office referred the fraudulent documents for further investigation and prosecution to the Palm Beach County Sheriff investigators and Moran was subsequently questioned did she change her first sworn to under penalty of perjury statement to the Governor and admitted to PBSO that she had in fact wholly created the documents from whole cloth and

forged the parties signatures and then fraudulently notarized her forgeries. She was then arrested and prosecuted for her fraud, not however for the forgeries, yet.

167. That from this starting point it was then later learned that Spallina had fraudulently altered a Shirley Trust document, also not prosecuted, yet, but under ongoing investigation and internal affairs review.
168. It was then learned from the Illinois Federal lawsuit before Honorable Judge John R. Blakey that Spallina had fraudulently filed an insurance death claim as the Trustee for a Trust that he has claimed to never possess or have seen.
169. Spallina could not produce the trust he claimed to be Trustee of when demanded to do so by the insurance company, who subsequently denied the claim for his failure to produce the alleged dispositive document.
170. It was also learned from the production documents from one of the carriers involved in the litigation that Spallina appears to have impersonated himself as the Trustee of LaSalle National Trust Company to the insurer when filing the claim, LaSalle being the Primary Beneficiary of the policy (the "policy" has also has not been produced at this time by ANY party) and the missing trust alleged to be the contingent beneficiary and thus Spallina impersonated both to cover all bases.
171. The denied insurance claim then led to Ted filing a lawsuit now acting as the Trustee of the trust that Spallina claimed to be Trustee for when filing the death benefit claim, a trust that Ted has not been able to produce a single executed copy of to the Illinois Federal Court in now three years and again Ted and Spallina et al. have intentionally interfered with expectancies of the beneficiaries in the commission of this federal insurance and banking fraud.
172. The lawsuit in Illinois was filed by Ted's brother in law David B. Simon, Esq. who is Pamela

Simon's husband, intentionally and with scienter excluding Eliot as a party and this lawsuit that appears part of a fraud to steal the benefits then landed in Federal Court in Illinois under the Honorable Justice John Robert Blakey, Esq. for Breach of Contract, as Ted claimed the insurance company breached their contract for failure to pay the Spallina unsupported death benefit claim that was DENIED.

173. The insurance company, Jackson National then responded to the lawsuit and sued Eliot as third party defendant, alerting Eliot of the attempt to cash in on the policy through this complex legal scam being perpetrated on a Federal Court with Ted acting as Trustee of a trust that does not legally exist.

174. It was learned that Ted had sold a condominium in the Shirley Trust without disclosing any transactional details to Beneficiaries pre or post transaction and then made distributions knowingly to Improper Beneficiaries, including his family.

175. Then it was learned that IRA's that were initially claimed to have millions of dollars in them were missing documentation and beneficiaries and still do as of this date with JP Morgan.

176. Then it was learned that Personal Property had been stolen by Ted, Tescher, Spallina, Rose and others, which remains under ongoing investigation and after a Court Ordered RE-Inventorying it appears that large amounts of Personal Properties were fraudulently conveyed.

177. Then it was learned that an Inventory for Shirley appeared to have been done fraudulently, failing to account for any of Shirley's Personal Property assets and the Inventory was never served to Beneficiaries and wholly falsified. All of Shirley's Personal Property that is alleged to have been passed to Simon was never inventoried in her Estate first and distributed according to her Will and Codicils.

178. Then it was learned that an Inventory for Simon was grossly understated and that legal billings

were higher than the inventoried amount of the Estate, whereby Spallina and Tescher once their gross overbilling was exposed suddenly, a year later added over a million dollars in assets in an Amended Inventory, which has also been challenged as fraudulent in these matters.

179. Then it was learned that Spallina, Tescher, Ted and others were violating a plethora of probate codes and statutes and breaching their fiduciary duties and legal ethical responsibilities and law by failing to account timely, failing to produce documents to Beneficiaries and producing what are now alleged to be further fraudulent documents.
180. Contrary to Rose's statement, the ending point has not been reached and there are many more crimes that are alleged and those under ongoing investigations and instead Eliot's starting point appears only to have just begun as new fraud appears to have been uncovered in recently discovered documents and new state and federal criminal complaints will be filed timely and so the end is not quite the bitter end yet.
181. The Shirley Estate was reopened as stated already herein due to Fraud and despite the pining of Alan Rose in his frivolous, fraudulent and vexatious Omnibus Status pleading of fist pounding lies to attempt to continue the Fraud on the Court by claiming her Estate has remained open as due to some fault of Eliot, the truth again is that without Waivers, Ted has to produce the legally required accounting of the Estate and never did in breach of his fiduciary duties and his untimeliness is another violation of Probate Rules and Statutes.
182. Ted has not been trying to close the Estate of Shirley ever since it was reopened or he would have and where it is unclear what "luck" has to do with closing an estate according to Rose but his failure to follow Probate Rules and Procedures is the primary cause of the Estate of Shirley remaining open and hearings on the fraudulent Inventory must also be held and of course Ted's qualification now to close the Estate as an unfit perhaps fraudulent fiduciary for his failures to

comply with Probate Rules and Statutes.

183. Footnote 3 again misleads the Court to think that Ted has no interest and thus is a non-conflicted and non-adverse fiduciary however the claim is only partially true. First off, Ted and his sister Pamela are not beneficiaries under any interpretation of Beneficiaries presented thus far in these matters, as in ALL instances they are considered predeceased for ALL purposes of the trusts and dispositions of the trusts.
184. In one instance however, due to the fraudulent documents tendered, Ted and Pam's children may be beneficiaries depending on the validity and construction hearings that now must be held DUE TO THE FRAUDS and herein Ted's conflicts and adverse interests are beyond obvious and make him further an unqualified fiduciary because if Ted and Alan are unsuccessful in arguing for the grandchildren as beneficiaries, Ted and Pam's families still will receive 0% interest in the Estates and Trusts, if successful their families will inherit roughly 40%, which puts Ted in direct adversity and conflict with the other beneficiaries who may lose 40%.
185. The Adverse Interests and Conflicts should have forced Ted to resign as alleged Trustee in these matters, yet he refuses and despite knowing of the conflicts and adversity, Ted's counsel Alan continues to file pleadings to argue issues like construction where he is well aware of the conflicts of interest and adverse interests that make it impossible for Ted to argue and thereby Rose further violates the Rules Regulating the Florida Bar members putting forth knowingly improper filings.
186. Ted is also conflicted and adverse with Eliot and his family and refuses to investigate his friends, his former lawyers and business partners, Tescher and Spallina and since discovering fraud has done nothing as a fiduciary to protect the Beneficiaries, whomever they turn out to be, from the fraudulent acts and instead Ted has spent almost all of his time trying to shift the focus of the



problems to Eliot instead utilizing massive amounts of Estate and Trust monies on a Legal Defense Team, including Ted's own attorneys who later claim that Ted is misusing trust funds to defend himself as further defined herein.

187. Ted further for example has failed to demand accountings from Tescher and Spallina upon their removal, accountings required by law 60 days after their termination for the Simon Trust.
188. Ted then instead tried to start an accounting for Simon with a beginning balance that starts almost three years after Simon's death with no prior accounting of the assets and in violation of Probate Rules, Statutes and Generally Accepted Accounting Principles and more.
189. 100 million dollars or more may have been stolen during the three years and no one would know as there is a massive accounting gap. Ted was forced by Judge Colin to tender accountings to Eliot before selling the home of his father, as Eliot petitioned the Court that he may want to buy the home but could not determine if he could as he had no idea of the value of his family's inheritance, since at that time, NO ACCOUNTINGS had been tendered for the Simon Trust or the Shirley Trust and the Shirley Estate and the Simon Estate Accounting has been challenged by all parties.
190. As of this date, almost five years after Shirley's death, Ted has failed to provide an accounting for Shirley's Trust in violation of Probate Rules and Statutes.
191. Without the accountings that are statutorily overdue by years, Eliot still cannot ascertain what his family's interests are and this is another reason why Judge Martin Colin should not have allowed the home to be sold prior to Eliot receiving this vital information and part of the reason his disqualification was demanded, as well as, for other Frauds on the Court and Fraud by the Court that were occurring in courtroom. Colin then Sua Sponte recused the day after he denied the Disqualification Motion filed against himself as Legally Insufficient, which exposed much of the

Fraud in the Court, Fraud on the Court and Fraud by the Court.

192. Ted, contrary to Rose's claim to the Court that Ted has no interests in the trust, Ted does have other interest in the Trust in that first his family has either 0% interest or 40% interest. Also the alleged documents give him fiduciary control over the Estate of Shirley and trust of Shirley and Tescher and Spallina gave him improper fiduciary control over Simon when they were removed and in these fiducial positions, Ted is not only making money but may also be robbing the Estates and Trusts to his gain.
193. Ted who is angered with his sister Pam at their exclusion from their parents estate plans is alleged to have conspired with his friends and his lawyers, Tescher, Spallina, Mark Manceri, Esq., John Pankauski, Esq., Jon Swergold, Esq., John Morrissey, Esq. and others to have fabricated documents to seize Dominion and Control of the Estates and thereby allow them to rob and rape the assets of Simon and Shirley, providing no accountings, no documents and no transparency to Beneficiaries and Interested Parties. This interest in the fiduciary role has allowed documents not only to be fabricated but key trusts and beneficiary designations of other assets to suddenly all be missing or lost or suppressed and denied.
194. Ted has done nothing to forensically to examine documents since discovering Fraud by his former attorneys that benefited himself and has refused repeated requests and production requests to turn over records of businesses, accountings and more, for to do so would lead to the uncovering of the crimes of Tescher and Spallina et al. and himself and put him prison possibly.
195. Rose lies again to the court when he states that all of the parents' wealth was left to the 10 grandchildren. Again, when Shirley died and her trust became IRREVOCABLE and the Beneficiary Class was defined at that time permanently as three of five of her children, through the Eliot, Jill and Lisa Bernstein family trusts.

196. Rose also fails to state to the Court that the contention that Simon made changes to his plan days before he died to change Shirley's Beneficiaries Post Mortem in an IRREVOCABLE TRUST from the Eliot, Jill and Lisa family trusts are ALL challenged for validity and construction and so far it does not look good for these alleged dispositive documents, already confirmed by the Governor Rick Scott Notary Public division as having been improperly notarized and some admittedly fraudulent.

*Eliot now is the self-proclaimed detector of fraud and fabricated documents, and is crusading against what he perceives to be corruption in the court system. His circus will continue until either (i) the money runs out and all the professionals go home; or (ii) the Court stops him by appointing a guardian ad litem and requiring him to cease, desist, and remove the harassing internet nonsense about judges, PRs, Trustees and their lawyers.*

**RESPONSE:**

197. Eliot is factually the detector of fraud and fabricated documents in these matters and it was he, his wife and his counsel who detected and exposed the Frauds occurring on the Court and the Beneficiaries and Interested Parties.

198. The "circus" Alan Rose refers to is the one created by him and his client Ted and their friends and associates Tescher and Spallina et al. who Ted has wasted untold millions paying trying to continue to the Fraud and Evade Prosecution. If the money runs as Rose contends paying for Ted's counsel who committed crimes and Ted's defense counsel trying to defend the crimes, these fees will ALL be assessed later and damages sought and it is unclear how the money will run out as no one knows how much money there is without statutorily required accountings that have not been timely produced.

199. Alan Rose, again is confused as the Internet posts he refers to are done by one Crystal Cox and Investigative Blogger who Eliot has no business relationship with. In trying to hold Eliot in contempt of court and to remove the blogs with Judge Colin, Alan Rose was denied any chance

of forcing Eliot to somehow remove Crystal Cox's blogs but he tries again with the new Judge Phillips hoping he is stupid or asleep. **See Exhibit Nevada Federal Court case decision**

*Ted has tried to sell the Trust's real estate and distribute monies to the intended beneficiaries. He has been thwarted at every turn, and viciously attacked on the internet as well, solely by Eliot. Every aspect of this case is on display at <http://tedbernsteinreport.blogspot.com/> or <http://tedbernsteininsurance.blogspot.com/>, with Ted being accused of "massive fraud, forgery and alleged murder." Eliot leaves no one out of his trashing internet harassment, including Judge Colin. It is difficult to find any professional (lawyer or accountant) willing to submit to such abuse by agreeing to work on these matters. That appears to be Eliot's plan, which must be stopped.*

## **RESPONSE:**

200. Again, Alan Rose knows that Eliot is not the owner or producer of the blogs cited and that they are Crystal Cox's blogs but again tries to mislead the Court with scienter.

*The Court may be wondering "Who is Eliot Bernstein?" and "Why is he doing this?" It is an important question, as Eliot is the proverbial elephant in this room. Eliot appears to be disillusioned and disappointed due to his apparent belief that he would inherit tens of millions when his parent's died, but in the end their fortune was modest and they left none of it to him: "[Eliot].*

*. . . shall be deemed to have predeceased me as I have adequately provided for [him] during my lifetime." <sup>Footnote 4</sup> Eliot now apparently is without income or assets, or at least claims to be in numerous indigency filings he makes with courts to avoid paying filing fees. But while his parents were alive he lived the life of Riley <sup>Footnote 5</sup> – he lived and continues to live expense free in a home his parents bought and renovated for him; his parents paid him over \$100,000 annually in health insurance and living expenses <sup>Footnote 6</sup>; and his parents while alive apparently paid more than \$75,000 per year to send Eliot's three boys to a Boca Raton private school.*

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Footnote 4

Simon L. Bernstein Amended and Restated Trust Agreement dated 7/25/2012 at 6.

Footnote 5

*"The expression, 'Living the life of Riley' suggests an ideal contented life, possibly living on someone else's money, time or work. Rather than a negative freeloading or golddigging aspect, it implies that someone is kept or advantaged."*  
[en.wikipedia.org/wiki/The\\_Life\\_of\\_Riley](http://en.wikipedia.org/wiki/The_Life_of_Riley)

Footnote 6

*Pursuant to a written contract entered on or about August 15, 2007, Simon and Shirley agreed to make advances to Eliot of a portion of his inheritance, in the amount of \$100,000 per year. As preconditions for this arrangement, Eliot could not "harass or*

*threaten to sue or initiate litigation with anyone in the family at any time" and had to allow his parents the opportunity to visit their grandchildren at least four times a year. In June 2008, the parents also purchased a home for him in Boca Raton, titled in the name of an LLC, and encumbered by a \$365,000 second mortgage which is one of the largest assets in the estate.*

**RESPONSE:**

201. This claim by Rose that Eliot is again somehow to blame for the courtroom Fraud and Fraud on the Beneficiaries and Interested Parties as these costs and any related and subsequent costs of exposing the fraud, having it prosecuted and costs of having to repeatedly for three years attempt to get statutorily required accountings and documentation that has been repeatedly refused by the fiduciaries involved is assessed as damages to the already injured parties and not Eliot.
202. Again, Rose tries to claim that the value of the Estates is modest etc. but these are only guesstimates by Rose as again the statutorily required accountings have not been produced in years and thus a Breach of Fiduciary Duties required by law is exposed in his claim that he does not know the EXACT value at this time and wants the Court to accept his fabricated estimate.
203. In real estate alone owned by Simon and Shirley, at the time of his death, Simon had just listed the properties as worth six million dollars and there was no encumbrances upon them. Real estate that Ted in undisclosed fire sale transactions is attempting to sell for two million, all the while in an up real estate market since Simon's death and with two of the hottest property addresses in South Florida, again a sign of his incompetence as a fiduciary. It should be noted that Ted has had a long history of IRS tax liens, a bankruptcy, evictions, business evictions and several failed business ventures that left him flat broke and living with his children in his parent's home for several years.
204. Again Rose tries to claim that Eliot is the disgruntled party here and where Eliot and his children are Beneficiaries in any scenario put forth thus far by every party and it is Ted and his sister

Pamela who are disgruntled, were disinherited from their parents estate plans entirely and with their lineal descendants and not just for financial reasons but because of other significant reasons whereby their parents were disgusted with them and through disinheritance sent them a strong message of disapproval of their actions unto others.

205. Eliot and his children receive in the current Beneficiary options to be determined either approximately  $1/3^{\text{rd}}$  or  $3/10^{\text{th}}$  of the assets and in one case scenario, if the children of only Eliot, Jill and Lisa are determined to have an interest in Shirley's IRREVOCABLE trust they may receive  $1/2$  of Shirley's Trust, as only the children of Eliot, Jill and Lisa can included as Ted and Pam and their lineal descendants are considered predeceased in Shirley's Trust at the time it became IRREVOCABLE and any changes Simon is alleged to have made would only apply to them.
206. Eliot's life and finances were taken care of by Simon and Shirley Bernstein as Rose states but he fails to state the reasons for this living situation as again it will expose many truths that Rose attempts to evade. First off, Eliot worked in his own companies that he ran and sold insurance for Simon for over 20 years, bringing Simon some of his largest clients, including billionaires Marvin Davis and Donald Bren (the real King of real estate finance, not Trump) and many large national law firms and their clients. Further, Eliot's relationship with a one John E. Cookman Jr., led to Simon obtaining close to a billion dollars of premium financing from leading banks, Chase, ABN and others. Eliot was also the leading sales person for the family businesses for virtually his entire time working with them.
207. When Simon sold the business to Pamela he had Eliot signed into an agreement with the company to provide a LIFETIME  $1/2^{\text{pt}}$  commission on all Arbitrage Life Premiums sold by the company, including a commission deal for all agents Eliot had recruited and his own agencies.

However, upon consummating the deal with his daughter and her husband, David B. Simon, Esq. Simon was swindled by his own daughter out of half of the business value that was to be paid him in the form of a buyout non-compete agreement that upon acquiring the stock Pam and her husband then refused to honor and pay.

208. This breach of their contract and deal with Simon led to Pamela and her husband both being disinherited entirely, with their lineal descendants from the Estates and Trusts of Simon and Shirley in 2001 Estate planning documents done by Proskauer Rose, LLP. Where Pamela and David were both silver spoon fed by Simon since after graduating college, as both of them worked for Simon almost instantly after graduation and the Simon Law Firm of David Simon and his brother, Adam were housed in Simon's insurance agencies and Simon was the bulk of their business. After acquiring the business and failing to live up to their contract and deal, Pamela and David told Simon to sue them if he was unhappy, so Pam acquired the business in this deal and lost her parents over the deal, other than a very superficial and infrequent visit for a holiday over the next decade.
209. Pamela also failed to honor Eliot's signed insurance contract and reneged on that as well, leaving Eliot with no recourse but to either sue or notify carriers and clients of Pamela's highly unethical business acumen and the danger it was putting the carriers and their life insurance policies on many clients in. Upon sending over a letter to Pamela and David Simon that was drafted to notify the insurance carriers, the agents and clients of Pam's refusal to honor her contract with Eliot and John E. Cookman Jr., David Simon, Esq. and Pamela sued Eliot to try and stop the dissemination of the letter to all parties exposing what she had done to her father and to Eliot, his agents and clients.
210. Eliot filed a Counter Complaint and provided evidence to the West Palm Beach Civil Court that

he was owed several million dollars in damages. The case was getting ready for trial and at a status hearing the judge advised Pamela's counsel that he had reviewed the matters and evidence presented and felt that Pam had breached the contract and it would be best for them to try and settle.

211. David Simon and Pamela then attacked Eliot to Shirley Bernstein who was sick at the time with heart troubles and cancer trying to have her force Eliot to withdraw his complaint before trial. Eliot was contacted by Simon Bernstein who asked Eliot to withdraw from the action for the benefit of his mother and Eliot did.
212. Simon then stated that he was setting aside funds in an amount equal to approximately six million dollars that would cover Eliot's lost interests in the businesses he helped build for 20 years due to the intolerable behavior and greed of his own daughter and the fact that he relied upon Eliot's contracted lifetime override as his compensation Eliot was to receive versus the stock Pamela and David Simon were getting. The Court may wonder why Pamela is so quite in these proceedings.
213. The monies would be held by Simon and Shirley and would be distributed through their estate plans upon their death and would be there in the event of emergencies for the family, etc. The monies would accrue interest and the reason for Simon holding the monies is that Eliot's life had taken a very serious and dangerous threat from some very deranged but powerful foes over him and Simon's Intellectual Property rights. For a more complete story on how the technologies have affected the Bernstein family see [II Federal Court Case Filing @ http:](#)
214. That Eliot's life became not only threatened but endangered when his car blew up, blowing the hood entirely off and three cars next to it were incinerated too, for graphic images see the homepage at [www.iviewit.tv](http://www.iviewit.tv) .



215. That when the car blew up it was Ted who was the last person who was in possession of the vehicle to have it towed to a body shop for a battery replacement but on the way to have AAA pick it up, Ted cancelled the pickup, cancelled his AAA membership and ordered a new tow truck company to pick it up and deliver it to an auto body shop. It was there that the car was first robbed and tipped on its side and all of the electrical wires removed, leaving however the stereo and TV. The car was then transported to Master Auto where hours before Eliot's wife and children were to pick it up after months in service it blew up in the early AM before Eliot's wife picked it up and one look at the images and if they were in the vehicle they would have been incinerated too.
216. After the bombing Ted suddenly became not only wealthy overnight, able to move into a six million dollar home but Ted then became very best friends and bedfellows with virtually everyone Eliot and his father were alleging were involved in the Intellectual Property thefts.
217. Here again, in regards to the technologies, Simon precluded Ted and his daughter Pamela from having any interests in the technologies or companies due to their already strained relations with Simon and Shirley.
218. Jill Iantoni and her husband moved from Chicago and worked at Iviewit and were shareholders and Lisa Friedstein and her husband Jeffery Friedstein were shareholders as well, Jeff also was an inventor with Eliot of a Patent Pending (SUSPENDED BY USPTO DUE TO INVESTIGATIONS INTO FRAUD ON THE UNITED STATES PATENT AND TRADEMARK OFFICE and more) remote controlled low bandwidth imaging and video communication system.
219. That Eliot due to these life threatening dangers and litigations including a RICO an ANTITRUST lawsuit and multiple state and federal criminal complaints filed against the very

powerful law firms involved, including but not limited to, Proskauer Rose LLP, Foley & Lardner LLP and Greenberg Traurig, all with ties to the Estate and Trust cases before this Court and all Counter Defendants in two stayed Counter Complaints by Martin Colin, Simon had conferred with Eliot on how to best protect his family while these events unfolded in the courts and with authorities.

220. That it was decided that the transfer in wealth for Eliot from his parents, excluding the monies set aside for Eliot's interest in the family insurance business would funnel through to his children versus him to evade any chance of the defendants in the lawsuits making any claims to Eliot's monies. That assets would be put in trusts for Eliot's children, with Eliot overseeing the monies and using the interest to fund his family's needs for years to come, Simon and Shirley had already funded Eliot's three minor children's private school educations and colleges separately (as he had done for all the grandchildren), monies which appear again to be unaccounted for and missing at this time since their deaths.
221. In 2006 after the car bombing, the Eliot Bernstein Family Trust was established and several trusts were created for each of Eliot's three children, according to plans. A separate realty company was established to maintain properties in trust for the children, Bernstein Family Realty LLC and this company was to pay and maintain all of the bills of Eliot and his children and was funded by both Simon and Shirley from that point forward.
222. Separate vehicles were created to make sure at death and transfer of the assets there would be no delays in inheritance, as they knew without these funds Eliot's family would be starved out and so Bernstein Family Investments LLLP and Bernstein Family Holdings, LLC (see [http://](#)) and other trusts and entities were created to make sure nothing could go wrong with the planning for Eliot and his family.

223. There is also a Wilmington Trust that had three million in it shortly before Simon died and apparently the funds are missing from that entity as well.
224. There are also the Simon Bernstein Trust NA and a former VEBA trust that are missing and are alleged to hold assets as well but again no records can be gained from the fiduciary Ted or the prior fiduciaries Tescher and Spallina who are alleged to have stolen off with assets and are attempting to conceal the records.
225. There is a Buy/Sell Agreement that was in Simon's 2008 Trust between Ted and Simon and the documents are missing.
226. There is a Simon Bernstein Trust, NA that is the contingent beneficiary according to insurance companies records of a MISSING life insurance policy that is also suppressed and/or denied.
227. The "Elephant in the Room" is Eliot and he and his father's Intellectual Property Rights where royalties may be in the billions. However, the "Elephant in the Room" that has hampered the cases since inception are the stream of Frauds committed by the Fiduciaries and Attorneys at Law that was not rectified by the Court and instead aided and abetted by the Court for three years.
228. The statements about Eliot's appearing to be disillusioned are merely hearsay of Alan Rose's that appear to attempt to slander Eliot to make it appear that Eliot is pursuing the criminal acts and thefts for reasons other than noble ones, which are to seek out the truth and pave the way for Justice.
229. Where Rose attempts to cite language that disinherits Eliot from his "parents" estate plans comes only from Simon's ALLEGED Amended and Restated Trust and where Rose fails to put the original 2008 language where Eliot is a 1/3<sup>rd</sup> beneficiary and explain to the Court that Simon's 2012 documents are challenged for validity and construction and already have been found to be

improperly notarized.

230. Further, Rose attempts to use the language to imply Shirley's Trust language was similar to Simon's regarding Eliot being disinherited but nowhere in Shirley's document does such language exist and in fact it makes Eliot's family a one third beneficiary IRREVOCABLY at the time of her death. These misstatements further intending with scienter to prejudice and mislead the Court through flat out lies and false statements worthy of sanctions by this Court as a continued Fraud on the Court by Rose on behalf of his client Ted.
231. Eliot has been without income since the early 2000's when the Intellectual Property Thefts by his former Intellectual Property Attorneys, Proskauer, Foley & Lardner et al. were discovered and a gun fight began with Eliot in the middle.
232. Alan Rose is fully aware that without the income stream that was set aside by Simon and Shirley to fund Eliot and his family's life through two moves cross country overnight due to death threats and a car bomb, prepare his legal defenses for his intellectual property cases Pro Se, since it has been impossible to get competent legal counsel to represent him that has not been interfered with or that is willing to take on large law firms, judges and others involved in the thefts of the Intellectual Properties, Eliot and his family would be in grave danger. Yet, despite knowing this Ted has intentionally and with scienter interfered with Eliot's inheritance since day one with his Counsel.
233. Alan Rose is aware that Simon and Shirley bought Eliot's children, not Eliot a home but further misrepresents this to the Court to slight Eliot in his fairy tale story.
234. Alan Rose is aware that Eliot's children home is not expense free and that Bernstein Family Realty LLC that his client Ted took over management from Oppenheimer Trust Company of New Jersey, in an illegal transfer of management, currently before the Court in the Oppenheimer

case related to the children's trust as cited in the Counter Complaint that was stayed by Judge Colin and remains stayed at this time, has monthly expenses of approximately 10-15 thousand dollars without including the costs of school.

235. That Ted and Alan have used the fact that Eliot could not suddenly pay the expenses that were paid by Simon and Shirley through BFR while they were living and their estate plans had prepared to fund for many years to come through Bernstein Family Investments LLLP, Bernstein Family Realty and Bernstein Holdings, LLC.
236. That INTENTIONALLY WITH SCIENTER ILLEGALLY INTERFERING WITH EXPECTANCIES AND INHERITANCES, Rose, Spallina, Tescher and Ted cut Eliot's family off income without warning and caused massive damages to Eliot's family. Knowing they were in trouble with PBSO, once Moran was contacted they then further used this intentional financial damage inflicted to try and extort Eliot to accept the documents and accept the improper distributions that Ted and others had taken, as reported to PBSO in formal charges filed for extortion, in effort to gain an implied consent to their crimes by forcing Eliot to take knowingly improper distributions as Ted and his sister Pamela did and thereby losing his rights to pursue the crimes.
237. Each effort to make Eliot take distributions has come with an attempt to secure unlimited waivers for Ted, Spallina, Tescher and Rose, acceptance of the dispositive documents, acceptance of Ted as a valid Trustee and more.
238. The language in the Agreement referenced by Alan Rose regarding litigation with the family is there because at that time Eliot was litigating his Intellectual Property case and was pursuing his brother Ted's involvement in the car bombing and IP thefts, his sister Pam's involvement in the release of highly sensitive investigatory information to one of the Defendants in the RICO, Foley

& Lardner, and, involvement of Goldman Sachs in the IP thefts where his brother in law Jeff Friedstein worked.

239. Simon and Shirley wanted Eliot to remove them from any litigation, which Eliot subsequently did for them. As the agreement reflects, Eliot was not barred from counter suing them, as the only suit amongst family members was where Pam and her husband sued Eliot to try and restrain him from notifying clients and others of their renegeing on Simon's deal and renegeing on Eliot's deal in the insurance business.
240. The Agreement that was reached was never truly executed upon by Simon and Shirley as Eliot did not receive any gifts or monies from Simon and Shirley, instead the monies were paid to the children through their company BFR, their trusts and gifts.
241. Simon and Shirley did set up trusts and funded them for Eliot's three children to attend private schools and paid for it while alive and had pre-funded school to take each child through high school and four years of college. Were it not for Alan Rose and Ted FAILING TO FOLLOW A COURT ORDER to pay for the school and the arrears that accrued after Simon's death due to Spallina and Tescher failing to fund the schools as intended for in the estate plans, the children's schooling would have continued as planned by Simon and Shirley. However, all three children were evicted from school on the second day of the 2014 school year and forced to go elsewhere due to Ted and Alan's intentional and with scienter Breach of Fiduciary duties and Contempt of a Court Order, which caused massive damages to each child and their futures.
242. That again, in Footnote 6, Rose misstates to the Court that Simon and Shirley bought Eliot a home in an LLC but again Rose knows the home was purchased in an LLC owned by Eliot's children and held in the children's trusts.
243. Rose also knows that Tescher and Spallina drafted a bogus 2<sup>nd</sup> Mortgage with Simon Bernstein

that was never intended to be taken over by the estate of Simon. In fact, upon doing an initial inventory of Simon's estate, Tescher and Spallina failed to list the mortgage as an asset of the estate, despite having drafted the mortgage themselves. It was not until Eliot filed with the Court that the amount Tescher and Spallina had billed to the Estate of Simon was more than the worth of the Estate they claimed that suddenly, Tescher and Spallina filed with the Court an Amended Inventory, adding Eliot's children mortgage with Simon as an asset of the Estate and additionally added another 600-700 thousand dollars to make the fees they charged look appropriate to the value of the Estate they initially listed.

244. Also included in the Amended Inventory was an IRA account that they then claimed the Beneficiary was missing from the documents and thus it should go to the Estate but records have not been fully forthcoming regarding these accounts to fully ascertain what happened with the Beneficiaries chosen by Simon and Shirley with JP Morgan.

*Eliot, now flat-broke with no visible means of supporting himself, has decided to avenge the loss of his inheritance by punishing everyone associated with these trusts and estates, even suing his father's estate for Eliot's living expenses after his father died. He has been prolific in filing motions, complaints, responses and objections in these proceedings. The net result of his legal filings has been nothing but a loss for the grandchildren – after three years of him searching, there are no additional assets to be found. All of his considerable efforts simply have delayed the progress of the case and **dramatically** increased the expense in these modest trusts and estates.*

**RESPONSE:**

245. Eliot and his family are flat broke because of the INTENTIONAL AND WITH SCIENTER ILLEGAL INTERFERENCE WITH INHERITANCES caused by Ted, Alan Rose, Donald Tescher, Robert Spallina et al.

246. Eliot sued the Estate for expenses related to school and living expenses for the children that were found by Judge Colin after hearings relating to the expenses to be potentially owed back to Eliot since Tescher and Spallina had fraudulently turned over bills in Simon's name, such as the

school tuitions to Eliot to pay when his father died.

247. Further, Tescher and Spallina had arranged with Oppenheimer to use trust funds of the children for these expenses that they stated they would pay back to the trusts once they worked out the Estates and paid off creditors. Once the funds were depleted, Tescher and Spallina refused Oppenheimer's request for the funds back, as they were now adverse to Eliot as the Sheriff had already showed up regarding the Moran felony crimes.
248. Eliot in Court showed that Spallina and Tescher knew Simon was obligated to pay the school tuitions by contract and intentionally misused the children's trust funds and Judge Colin determined the actions to be a Fraud on Eliot and allowed an extension of his claims due to the intentional and with scienter Fraud and allowed to be scheduled hearings for the monies to be recovered to proceed and at which time remain pending before the Court. But again, Rose, desperate to spin the truth and avoid prosecution for his direct involvement in this Fraud tries to intentionally mislead the Court.
249. Eliot has had to file pleading after pleading to try and resolve the Frauds, secure documents and accountings that were statutorily due, many which remain pled but not heard by the Court and all these pleadings and costs are directly due to Tescher, Spallina, Ted and Rose et al. and their efforts to keep ALL information from Beneficiaries and Interested Parties in order to cover up their crimes.
250. Eliot had to spend considerable time initially dealing with Tescher, Spallina, Ted, Manceri, Rose and Pankauski's frivolous, vexatious and sanctionable filings that were filed against him by Spallina and Tescher et al. in efforts to defame and smear Eliot to the Court while concealing their criminal acts from the Court. Months where they tried to pin the Fraud on the sole act of Moran their fall girl and claiming to know of nothing else wrong, yet knowing they had



committed other Frauds and Illegally changed Beneficiaries and made distributions to improper parties knowingly.

251. Months of hearings for example to get a birthday gift from Simon to Eliot's son Josh of a KIA automobile worth approximately 15 thousand dollars returned to Josh so he could drive it. After a year of pleadings and hearings whereby the Estate tried to claim the car as Simon's, despite letters from Ted and other family members congratulating Josh on the car gift from Simon and pictures of his birthday party with the car wrapped in bows, Ted and his counsel on the day of the hearing to determine the title, surrendered their pleadings and gave the car to Josh a year after forcing him to leave it sitting untitled and uninsured. The total cost of counsel to the Estate and others for these hearings has been estimated to be over 60 thousand dollars.
252. Rose again admits that no accountings have been done as he tries to sell the Estates values as minimal in his Omnibus Status Report without any definite numbers supporting his claims and since no accountings have been provided timely or that are not challenged on numerous grounds at this time by Eliot, the Estate new PR O'Connell and the Creditor Stansbury, again his claim is merely smoke from his pipe dream.
253. Rose's statement shows that Eliot has had to search for assets and in fact, contrary to Rose's claim, Eliot has found missing assets and filed criminal complaints regarding several of them that remain under ongoing investigations. The question here is why would Eliot have to search if the legally required transparency to the Estate and Trust records were provided? All of these costs billed to the Estate by Ted's counsel Rose attempts to claim as due to Eliot's actions when he is fully aware that they are further damages done to the Beneficiaries from the frauds that have occurred on the Court and the Beneficiaries by Tescher, Spallina, Ted, Rose et al. and will be clawed back from the parties that truly caused the costs.

254. If as Rose states the Estates and Trusts have a modest worth, why have accountings been failed to be provided to beneficiaries, why are the records missing and what is his claim based upon other than his continued pipe dream.

*For the past three years, Eliot has questioned and viciously challenged virtually every action taken by the fiduciaries, has continued to harass and threaten (including repeatedly threatening persons involved in this estate or end up in prison), and when none of that worked, has taken to the internet blogosphere to trash and tarnish the reputations of everyone involved. This is a tragedy of significant proportion to the ten grandchildren of Simon and Shirley Bernstein, the sole beneficiaries of their wealth. The fiduciaries and beneficiaries of Simon and Shirley Bernstein are trapped in Eliot's game, being played at no cost to him but at a very high price to the beneficiaries. Three of these ten grandchildren are Eliot's kids, but he acts as if he rather burn all of the remaining money than let his kids settle for 30% of what remains.*

**RESPONSE:**

255. Eliot has questioned and viciously challenged everything and every action taken by the Fiduciaries and their Counsel, including Alan Rose, is one of the few correct statements in Rose's Omnibus Status Report and where multiple frauds on the Courts, Beneficiaries, Interested Parties and others has been uncovered, investigated, prosecuted and more and there are still more crimes to be investigated and are ongoing at this time. Eliot will continue to challenge everything Ted and Alan do, as Ted has breached virtually all of his fiducial duties and Rose continues to violate the Rules of Professional Conduct and law.

256. Rose again misleads the Court that Eliot has done an Internet campaign against individuals when he is fully aware that the exhibits and citations he references were done by Investigative Blogger Crystal Cox, not Eliot but again repeat a lie long enough and perhaps someone will believe you.

257. Again despite how many times Rose repeats his lies they do not become any truer and so it is reiterated again that Simon and Shirley did NOT leave everything to the grandchildren, only Simon MAY have and that has been challenged but again if you mislead the Court enough perhaps a stupid judge will come along and buy the story without any review of the record

surrounding the cases, which clearly disprove almost all of the lies contained in Rose's vexatious, toxic and sanctionable Omnibus filing.

258. Rose attempts to spin the Court to believe that all of this cost for everyone, including the Courts, the Palm Beach County Sheriff Office, the Palm Beach County Medical Examiner, the Federal Bureau of Investigation, the SEC, the Creditor Stansbury and Eliot and his family are due to Eliot by simply stating such and failing to provide the Court with the truth of the matter or any evidence to support this nonsense. All these costs will be clawed back and disgorged from the parties who cost all these people and entities time and monies due to their Felony Criminal Misconduct, Breach of Fiduciary Duties, Fraud on the Courts, Fraud on the Beneficiaries and more.
259. The Court should note that despite Rose being a Counter Complainant in these matters, despite repeated requests for his law firms liability carrier per statute Rose has refused to reveal this information and violated the statute requiring such disclosure, this may implicate that Rose has failed to notify his carrier and may be committing further Insurance Fraud.
260. Eliot is not playing any games and the costs have been staggering to him to uncover the many Frauds, expose them, have them prosecuted and will seek these monies in damages from Tescher, Spallina, Rose, Ted, Pankauski, Swergold, Manceri, Moran, Baxley et al. who have perpetrated these crimes.
261. Eliot did not burn the house down as Rose insinuates, again with no basis in fact, instead Ted and his minion of attorneys at law have robbed the house blind before anyone could start a fire, having the real estate sealed off the first week claiming it was a possible murder scene and locking Beneficiaries out entirely, Eliot has not been to either of the properties since the death of his father, while Ted and his sister Pamela have robbed the places, aided and abetted not only by

Ted's counsel but by the Colin Court.

262. Again, Eliot does not care if Eliot or his kids get 30% of the assets, the question is after the thefts of the fiduciaries and other crimes alleged, will anything be left to get 30% of and the answer is no but again this will only serve as further damages caused against them and Eliot and his family will seek full treble damages for the losses.

**Status of Significant Current and Pending Motions:**

*SHIRLEY ESTATE:*

*Motion to Re-Close Estate*

*Eliot's Objections to Estate Inventory and Accounting*

*SHIRLEY TRUST*

*Count II of Complaint to Determine Validity/Authenticity of Trusts and Wills Count I of Complaint for Construction of Trust*

*Petition to Remove Ted S. Bernstein as Trustee*

*Eliot's Counterclaim against numerous lawyers and others (currently stayed)*

*Professional/Fiduciary Fees and Potential Claims vs. Former Counsel Distribute Assets to Beneficiaries of Trust*

*Motion to Compel Trust Accounting*

*SIMON ESTATE*

*Resolve claim of claimant, William Stansbury Resolve claim of claimant, Eliot Bernstein*

*Resolve interpleader litigation in Illinois relating to Life Insurance Objections to Accounting and Potential Claims vs. Former PR/Counsel Discharge PR and Distribute Assets to Trust*

*SIMON TRUST*

*Petition to Remove Ted S. Bernstein as Trustee Professional/Fiduciary Fees*

*Distribute Assets to 10 Grandchildren as Beneficiaries of Trust*

**RESPONSE:**

263. One look at the record and one can see that there are many motions and petitions filed by Eliot that still need to be heard first filed since May 2013 but before listing a more sane and rational list of proceedings to ensure fair and impartial due process, Petitioner will go through Alan's list and explain the errors of his attempt to shut down the proceedings before dealing with any of the ongoing Frauds, Violations of Fiduciary Duties, Damages to injured parties or the crimes he is alleged participating in.

264. Under Shirley's Estate, Rose claims to need to reclose the Estate and states that Eliot's

challenges to the Inventory and Accounting must be done first. However, this will be impossible as there has been NO accounting produced in Shirley's Estate and Rose is well aware of this fact that violates Probate Rules and Statutes.

265. Also Rose fails to notify the Court that before anything can be done the challenges to Ted's fiduciary capacity must first be established as valid at this time, despite whether it is claimed that he was a named successor, he is not now qualified to be a fiduciary and must be removed according to Probate Rules and Statutes.

266. Next, the Will has been contested for Validity and Construction and where the question of if Ted can argue as a qualified fiduciary would first have to be answered and if removed, all Ted's prior pleadings will be stricken as with the wasteful pleadings of Tescher and Spallina, mainly designed as an assault on Eliot.

267. There are many other motions and petitions filed since May of 2013 that remain unheard and those should be heard and dealt with by the Court prior to any closing of the Estate, in the Order they were filed in, by the time the Court hears those, including the many motions and petitions to remove Ted, it is most likely that Ted's pleadings will never be heard and what Attorney at Law Peter Feaman, Esq. may have meant in the second hearing with Judge Phillips when he said that the HEARING TO REMOVE TED SHOULD BE HEARD FIRST, as further defined herein.

268. Under Shirley's Trust column Rose's order of hearings again is intentionally misleading to the Court in efforts to FIX everything without due process afforded. First, Ted would need to be determined a qualified fiduciary capable of arguing a construction hearing, which it is alleged in multiple pleadings that he is not. To hear a construction or validity claim first with an UNQUALIFIED FIDUCIARY would lead most definitely to a reversal of any Order issued where the unqualified fiduciary steered or prejudiced the hearings and thus would culminate in a

HUGE waste of everyone's time, efforts and monies. If there is nothing to hide, Ted should embrace a hearing on his qualifications and not evade them as he has done with tremendous legal costs to everyone.

269. Second, Ted cannot argue for construction or validity of Shirley's Trust because he Conflicted and Adverse to Beneficiaries, as if he does not have construction determined the way he would like, his family is wholly disinherited and this makes him unqualified to argue construction or validity.
270. Third, accountings must be produced by Ted and any successor chosen when he is removed and where Ted has failed to do accountings for now over three years in violation of Probate Rules and Statutes.
271. Fourth, Ted cannot argue or be involved in the disgorgement of fees from professionals for he is one of the fiduciaries who is alleged to have been directly involved in the fraudulent activities, it was his retained Attorneys at Law that he brought to his father and mother to secure business for himself whose fees are now sought back due to their crimes and it was Ted's family that directly benefited from the fraudulent billings. Damages will also be sought from Ted and Rose for their continued Frauds, including all Court and Legal Fees.
272. Ted and Alan are both Counter Defendants in the STAYED Counter Complaints filed in these matters by Eliot and are therefore further Adverse and Conflicted in their Fiduciary and Professional capacities.
273. For Simon's Estate the Validity and Construction of the Trust must be heard first and if not valid then a hearing on the PR Brian O'Connell's Validity must be heard.
274. For Simon's Estate the accountings of Tescher and Spallina have been challenged and must be heard before anything else can proceed forward.

275. For Simon's Estate the Inventories have been challenged and this must be heard.
276. For Simon's Estate the Validity of Ted as a Trustee has been challenged by the PR Brian O'Connell and Eliot and Ted's removal hearing must be heard to determine if he is a NOT VALID Trustee as claimed by O'Connell, Feaman and Eliot and determine if all Ted's acts are fraudulent.
277. In regard to Simon's Trust the hearing to remove Ted should proceed first after other housekeeping is performed to ensure fair and impartial due process.
278. Second should be Construction and Validity of the Trust.
279. Third, determination of what documents rule and who the Beneficiaries are.
280. In all matters, the removal of Ted Stuart Bernstein is one of the first items that must be addressed as very serious accusations by Attorney Brian O'Connell and Attorney Peter Feaman make the actions of Ted and his counsel in these matters the first priority, as anything heard that precedes the removal hearing would be overturned if it is then found that Ted was acting fraudulently in any of the cases and was an integral part of the fraud of his former retained counsel as alleged, especially where it was Ted who brought Spallina and Tescher into the family for estate planning in order to get referrals for life insurance business from Tescher and Spallina, his close personal friends, counsel and business partners.
281. Eliot has drafted a list of what needs to be done prior to holding hearings and the first hearings listed below.

### **STATUS CONFERENCE - ORDER FOR HEARINGS**

1. Determine Non Conflicted Venue – Federal/State, if Federal transfer cases to Federal Court, all of them, Simon Estate has already intervened and been accepted in the Federal Court under Judge Robert Blakey, if State with Federal Monitor oversight to restrict further state run fraud on the court.

2. Reset all probate/trust cases due to Fraud on the Court and Fraud by the Court as prescribed by law and strike all previous orders, remove invalid pleadings filed by parties involved in the fraud on the court and fraud on the beneficiaries et al.
3. Remove all parties involved directly or retained by any party involved in the prior fraud on the court, including but not limited to Alan B. Rose, Esq. and Ted S. Bernstein both directly involved and benefiting from the prior fraud on the court and both involved directly with the fraud perpetrated by Tescher and Spallina et al.
4. Remove all cases out of Palm Beach county, possibly state, perhaps have judge from other state or fed monitor of state court hear proceedings to parse the multiple conflicts.
5. Return ALL assets and personal properties of Simon and Shirley Bernstein to the court, including home and condo sold and any other tangible personal property or distributions made.
6. Have Spallina Tescher et al. involved in the fraud return all fees and put up bonding or other sources of funding for Court costs, attorney fees for innocent injured parties from the fraud now necessitating these legal costs and to fund for independent forensic document examination and forensic accountings caused by their intentional interference with expectancies and causing adversity and turmoil between parties.
7. Immediate court ordered production of all parties involved in the fraud of all documents, accounts, records of any sort, including the courts records, all certified, including but not limited to:
  - a. Depositions, Interrogatories, etc. paid for by bad actors
  - b. As Tescher and Spallina have provide upon their COURT ORDERED production of records after the court learned of their admitted fraudulent alteration of a Shirley Trust document to Palm Beach County Sheriff investigators, NO original documents, including but not limited to, all the Dispositive Documents they alleged to have executed with Simon and Shirley, the court should immediately seize all of their records and demand the original documents. It is alleged that virtually all of the records (approximately 9000 pages) of production produced by Tescher and Spallina are fraudulent and were carefully crafted for months after their law firm was found committing fraud on the court and fraud on the beneficiaries to try and cover up their crimes further. It should be noted in the first hearing before Judge Colin, when he infamously stated that he had enough evidence at that time to read attorneys at law and fiduciaries Tescher and Spallina and their client, alleged fiduciary Ted Bernstein, their Miranda warnings, that attorney Spallina stated after admitting that documents had been submitted to the Court and others that were fraudulently notarized, including Post Mortem for Simon, that he knew of nothing else in the cases wrong at the time or done



fraudulently. Yet several months later, while being investigated by Palm Beach County Sheriff investigators admitted to fraudulently altering himself, after discussions with his partner Donald R. Tescher, Esq, a Shirley Trust document. This concealment of the truth, along with Colin's allowing attorneys and fiduciaries involved in the original fraudulent activity to continue, turned into almost two years of proceedings attempting to demonize Eliot Bernstein as the cause and seek guardians and contempt proceedings and more, all bleeding the Estates and Trusts in court costs and attorney fees with scienter.

- c. All of Simon Bernstein's business records and properties remain missing and unaccounted for and must be returned to the Court and distributed to the beneficiaries, fiduciaries and interested parties for examination
- d. Parties needing to produce all records and assets at this time, include but are not limited to, Alan B. Rose, Ted Bernstein, Gerald Lewin, Proskauer Rose LLP, Foley & Lardner LLP (including Hopkins Sutter documents acquired by Foley & Lardner ) Steven Lessne, Esq., Brian O'Connell, Esq., Judge Martin Colin, Judge David French, Judge Howard Coates, Judge John Phillips, Steven Greenwald, Esq., Traci Kratish, Esq., Oppenheimer Trust Company of New Jersey, Oppenheimer Trust Company of Delaware, JP Morgan, Heritage Union Life Insurance Company and all successors, LaSalle National Trust Company and others.
8. The Court must demand untampered with, signed and verified IRS certified tax returns for Simon and Shirley including for all companies owned, trusts, etc.
9. Distribute immediate Emergency funds to Eliot and his family who have been harmed for three years with no caveats attached to the funds other than to be reduced fairly when beneficiaries are determined and construction hearings completed.
10. Hold hearings to remove Ted Bernstein, Alan Rose, Esq. and John Morrissey, Esq. as Fiduciaries and/or Counsel
11. Hold Will and Trust Construction hearings after hearings to remove Ted, as it would be wasteful to everyone to hold construction hearings where fiduciaries with adverse interests and conflicts are allowed to argue before the court and pervert the record and then have to overturn such rulings and proceedings conducted with fraudulent fiduciaries and counsel acting in violation of law and ethics rules.
  - . Have hearings to determine new successor trustees. Corporate Trustee with Eliot as a Co-trustee to save legal costs by accessing records that have been suppressed and insure no further fraud occurs)
  - a. Determine Authenticity
  - b. Determine Beneficiaries

12. Start with Eliot first Petition, since default by all parties, all reliefs granted and proceed through Petitions and Motions in the order they were filed.

Matters to be Filed if Needed

*The above is a short list of items that could be accomplished quickly and easily if Eliot were not involved. Now is the time to appoint a Guardian. And, once there is a Guardian in place and up to speed, the Court can decide what else needs to be done to close the administration, while some funds still remain available. Left to Eliot's devices, the pursuit of his agenda and conspiracy theories will end only when the money runs out. The choice is very clear: Is Eliot or the court-appointed fiduciaries going to run this estate? <sup>Footnote 7</sup> If there is a Guardian appointed, almost all of the above-listed "pending issues" can be avoided because a Guardian likely would be willing to mediate and likely settle the controversies given the amounts in dispute. Eliot has no interest in letting anything go or in negotiating, advising on several occasions that he does not negotiate with "terrorists."*

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*Footnote 7*

*In a related case, Oppenheimer moved for appointment of a Guardian. It is a compelling Motion. Judge Colin deferred. It is anticipated that some of the beneficiaries here will be filing a similar motion, as will the Trustee. Now, or at some point in near future, this Court needs to consider such an appointment, before it is too late.*

**RESPONSE:**

282. Alan Rose's attempt to seek a guardian for Eliot is laughable if not so serious of an attempt to Fraud the Court again and harass Eliot, all in efforts to neutralize and silence Eliot who is pursuing Rose and Ted by attempting to have a PRISON GUARD for them.
283. Rose lied to the Court of Judge Phillips in a second status conference hearing when he claimed that no guardianship pleadings were filed in the cases and where he is fully knowledgeable that he himself pled for Eliot to have a Guardian only a year earlier in the matters and despite a best effort to spew his vermin at Eliot, even Judge Colin could find no cause for guardianship or contempt.
284. Several attempts were made by prior attorneys Tescher and Spallina prior to admitting their fraud and being removed to get a Guardian for Eliot and his children and these were all abandoned

after it was determined that they may need PRISON GUARDS instead for their criminal misconduct.

285. Colin stated on the record in a hearing attempting to have a Guardian for Eliot's children, "In addition, to the extent that it would be necessary, the Court waives any requirement for the appointment of a guardian ad litem and further finds that, in respect to the Agreement and this Order, the Agreement is in the best interests of the minor children **and that Eliot and Candice Bernstein adequately represent the interests of their minor children [emphasis added].**"

286. Of course, in the contrary view of Eliot, Brian O'Connell, Esq. and Peter Feaman, Esq., is that as soon as the hearings to remove Ted are held, if Ted is found to be a NOT VALID or NOT NOW QUALIFIED Trustee than the proceedings will be free of further Fraud and can move quickly to discover the extent of the Frauds, secure all records, find where the missing assets are, gain accountings, distribute assets to proper parties and more. In the words of Attorney at Law Peter Feaman, Esq. at the second hearing:

12 THE COURT: All right. Does anybody else  
13 seated at the tables have any objection?  
14 MR. FEAMAN: May it please the Court.  
15 Peter Feaman on behalf of William Stansbury.  
16 He's a \$2.5 million creditor of the estate of  
17 Simon Bernstein.  
18 We're here in the estate of Simon  
19 Bernstein and it's the position of  
20 Mr. Stansbury that a removal of Ted Bernstein  
21 as successor trustee should be heard first.  
22 THE COURT: Okay. Why?  
23 MR. FEAMAN: The reason for that is if  
24 that issue is determined one way or the other  
25 we believe that is the linchpin to then  
00017  
1 resolving probably all the other issues in this  
2 case.  
3 THE COURT: The trustee believes the issue  
4 to resolving many of the issues is to determine  
5 whether Eliot -- I'm using first names, I'm  
6 sorry. Is it Mr. Bernstein, Eliot Bernstein?  
7 MR. ELIOT BERNSTEIN: You can call me  
8 Eliot.  
9 THE COURT: Okay. I don't mean to be

10           disrespectful. I don't want to do that.  
11           The trustee's thought is that resolving  
12           whether Eliot has any standing to be involved  
13           in the litigation is key. You're saying that's  
14           not key, it's something else that's key? What  
15           else is it that you're suggesting is the key  
16           issue to be resolved?  
17           MR. FEAMAN: Because that's the Shirley  
18           Bernstein trust. The matter that is before  
19           Your Honor today is the estate of Simon  
20           Bernstein, and Simon Bernstein had a separate  
21           trust which was different from the Shirley  
22           Bernstein trust and the -- most of the assets  
23           are in the Simon Bernstein trust which then had  
24           the pour-over will into -- most of the assets  
25           are in the Simon Bernstein estate and then had  
00018  
1           the pour-over will into the trust and that's --  
2           that's the matter that is the most significant,  
3           in my humble opinion, that is before Your Honor  
4           is the Simon Bernstein estate and the Simon  
5           Bernstein trust. It's the opinion of  
6           Mr. Stansbury that Mr. Ted Bernstein, as a  
7           successor trustee to the Simon Bernstein trust,  
8           should be heard first.

287. The truth is that if Ted is not removed the Estates and Trusts will be further fraudulently diminished, assets will remain unknown, costs to everyone will increase dramatically, decisions rendered with Ted would be overturned, distributions made by Ted will have to be returned (as is already the case on approximately one million dollars distributed to improper parties) and the costs of Ted and his minion of attorneys will only increase and further damage all parties involved.

288. It should be noted that Ted has only been appointed by Judge Colin in the Shirley Estate before many of the crimes were known and uncovered and his other fiduciary roles are self-proclaimed or transferred to him when his close friends, business associates and his retained counsel, Tescher and Spallina, appointed Ted as Successor to them in the Simon Trust on the way out the door after admitting the Fraud their law firm committed, an appointment which contradicts the very language of the Simon Trust they drafted that precludes related parties from becoming a

successor.

289. In regard to Judge Colin's appointment of Ted to PR of the Estate of Shirley, this was done immediately after the first hearing where Colin had just learned of the Frauds being committed by Ted and his counsel but thought it was limited to the Moran Frauds and Forgeries.
290. Once Colin reopened the Estate of Shirley due to the Fraud of Ted's counsel, Tescher and Spallina argued that Ted was a named Trustee in the Will, which was already being challenged for Construction and Validity but which remain unheard since May 2013 when Eliot filed pleading to have them reviewed after discovering the initial fraud. Pleadings have been filed to remove Ted as he is not now qualified to be a PR even if he were named in the alleged documents or appointed by Colin.
291. Further, upon the removal of Tescher and Spallina, Ted made a bid to become the PR of Simon's Estate but at that time many other things were unfolding, including the admission by Spallina that he and his partner decided to alter a Shirley Trust document to benefit their client Ted by inserting his family as Beneficiaries and then distributed the document as part of a Fraud on the Beneficiaries and their counsel and more. First Colin denied Ted becoming the temporary Curator when he made a bid for that spot and instead Benjamin Brown, Esq. was nominated.
292. Then when Brown's term as Curator was over and he refused to continue to become PR despite Colin's best efforts to force him to stay, Ted made a plead to become the successor PR and Colin strongly urged Ted and his counsel, Rose and Pankauski to withdraw the pleading or face severe sanctions if they lost at the hearing. After much debate between Ted and his counsel, they withdrew their frivolous pleading and conceded to Brian O'Connell becoming the Successor PR of the Estate of Simon at the scheduled hearing, again wasting everyone's time, including approximately 7-10 lawyers travel time and time filing responses.

293. Judge Colin, in a bizarre realization in the final hearings before his Sua Sponte recusal on the day after his denying Eliot's Petition for Disqualification that further exposed not only the Frauds on the Court but Frauds BY the Court, stated:

17 THE COURT: I'm not -- look, nothing is easy  
18 here. It's not going to get easier until we can  
19 get hearings where I can start to knock off some  
20 of the issues, which is what I have been saying  
21 now like a broken record.  
22 At some point, either Eliot is going to be  
23 sustained on his positions or he's going to be  
24 overruled, but one way or the other, we can put  
25 some of this stuff to rest. **The problem is we're**  
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54  
**1 doing all of this business with some of the metes [matters]  
2 of the case still up in the air where I haven't  
3 been able to adjudicate; the claims that Ted  
4 should be removed; the claims that there's  
5 wrongdoing beyond Spallina and Tescher, the trust  
6 is not valid. I mean, give me a chance to rule on  
7 that, because once I rule on that, then the matter  
8 is over with on those and you'll know one way or  
9 the other what to do.**  
10 Do you understand what I'm saying? I think  
11 we have hearing time coming up. Let's use that,  
12 you know, prioritize hearings on this case. So as  
13 soon as we can, I'll give it to you.  
14 MR. ROSE: I appreciate that.

294. That while Judge Colin recognized that nothing could be achieved without hearings to remove Ted and Construction and Validity of the Dispositive Documents held first before anything could be done as far as sales and distributions of assets or virtually anything else he acted against his own words and began to let Ted make sales of assets.

295. After learning that Eliot was pursuing issues that challenged what the Court had been doing all along without first having these essential hearings first and instead moving and selling assets prior to knowing the validity of the documents, having them constructed to determine who the true and proper beneficiaries are and the validity of Ted as a Fiduciary, Colin continued to

attempt to sell properties, transfer assets and more and allowed Ted to continue despite protests from all other parties involved. Where Colin's actions have now been construed in an All Writ Petition as Aiding and Abetting the Frauds on his Court where Colin should have never been handling the cases in the first place due once he discovered the Fraud occurred in his Court and his direct involvement in the Fraudulent Documents and these facts made him a witness and conflicted with the matters, especially where it was his Court appointed Officers, Attorneys at Law and Fiduciaries who had committed the crimes in his Court. These facts made Colin a material and fact witness and possible suspect himself in the crimes, all of which should have forced him by Law and Judicial Canons to tender his immediate voluntary disqualification but instead he choose to ignore these Laws and Rules and hear the cases and every action he did thus was OUTSIDE THE COLOR OF LAW and is being sought to be stricken as FRAUD BY THE COURT.

296. That while Rose attempts to mislead the Court that a Guardian for Eliot's children would resolve everything, in fact, it would do very little to resolve anything, as Eliot, a Beneficiary and Interested Party would still have standing to pursue his pleadings.

*Importantly, in addition to considering whether to appoint a Guardian as a suitable representative for Eliot's children, the Trustee believes the Court immediately should impose a confidentiality order on these proceedings to prevent further internet bombardment and harassment of professionals, fiduciaries, and this Court. This case involves minor grandchildren and young adult grandchildren **who are the sole beneficiaries of Simon and Shirley Bernstein** – there should be nothing on the internet about this private civil matter. And, if it is not stopped, a Guardian no doubt will become the next victim, as might this Court in the event it should ever rule against Eliot on a significant matter. Also, the beneficiaries believe that Eliot's threats are causing the successor PR, Brian O'Connell, to take steps which cause unnecessary expense, solely to appease Eliot.*

### **RESPONSE:**

297. That again, Rose having failed in his attempts in Judge Colin's Court to have the proceedings held in a dark courtroom with no press or blogging and deny Eliot and others their First

Amendment Rights, he again tries to sway the Court of Phillips to stop the press. A major reason for Rose's attempt is the bad press he himself is receiving across the Internet for his direct involvement in the Frauds on the Court and Beneficiaries and does not want the world to see what he is doing.

298. Again, Rose pounds his fists in his Omnibus pleading in efforts to convince Judge Phillips Court that the grandchildren are the Beneficiaries of the Estates and Trusts, which is not the case as already proven herein and whereby most likely the documents attempting to change Beneficiaries in both Simon and Shirley will be voided due to further frauds.

299. This is not a private civil matter as Rose claims but rather a public hearing but again Rose attempts to mislead the Court to achieve an impossible end of removing the public's rights to access information regarding the proceedings in a desperate attempt to con this new Court to somehow deny Constitutionally protected rights.

300. That while Rose claims the Beneficiaries are claiming that Eliot's threats are causing the PR to have unnecessary costs, Rose fails to state what Beneficiaries have made these claims and to whom and so this is most likely merely fable.

*For example, Eliot, who claims he cannot afford a lawyer, has engaged a systematic effort to make it difficult for Ted to retain professionals. Eliot somehow got the Clerk of the Court to add onto the docket sheet the word "Respondent" after the names of all lawyers in these cases. After doing that, Eliot advised that the undersigned is a party to the case and should hire his own lawyer and withdraw due to the conflict of interest. When the harassment did not work, he moved to disqualify counsel, which was heard and denied at an evidentiary hearing on July 11, 2014. Next, he filed a Counterclaim against the undersigned personally and professionally, and against my law firm for legal malpractice, even though he is not our client and has no standing to do so.*  
*Footnote 8 This was done not to assert a legitimate claim, but solely in an attempt to force our withdrawal. It seems that when a lawyer appears to take adverse positions to Eliot, Eliot demands that the lawyer cease representing the party and withdraw due to serious conflicts of interest:*

*[I] "remind you again that you and your client Ted are defendants who have been formally served process in related matters to these and your continued representation without counsel appears to be conflicted and more"; "in your capacity as defendant*

*. . . do you have counsel yet that I may contact"; "will you be representing yourself pro se"; "I have you served formally already as a partner in your firm and wondered as the firm is also sued if you have their counsel's name and yet will the partners, et al. be representing themselves or*



*have individual counsel"; "please take a lesson from all of Ted's former counsel . . . and resign as his counsel in these continued frauds and frauds on the Courts (state and federal) for irreconcilable differences as they did, as it appears you are only compounding problems for yourself, the beneficiaries, the Courts and others."*

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*Footnote 8*

*Judge Colin stayed Eliot's counterclaims and, eventually, entered an Order prohibiting Eliot from filing any paper without first sending it to the Court for review. For the sake of apparent fairness, the Court imposed the same requirement on all parties, that no new motions or claims be filed without first being submitted to Judge Colin for review.*

**RESPONSE:**

301. That from the records it is apparent that Ted has had trouble retaining counsel due to irreconcilable differences with his Counsel. From Alan Rose's Exhibit A, we find an excerpt of an email from Ted to Eliot whereby he sent a letter he was writing to Alan Rose and within it Ted claims,

If John [Ted's Attorney John J. Pankauski, Esq.] does not want to tangle with Eliot, remove John immediately. I am sorry to be this blunt, but I do not want to address the John issue again.

**If he is not 100% in support of me as trustee, including how I have protected myself with trust assets and will continue doing so** as necessary, and being aggressive and forceful, if need be, with eliot, remove him as counsel.

I do not want to spend another unnecessary dollar with counsel that is not going to zealously defend me as trustee and protect trust assets.

I cannot be more decisive re this and I say this with no animosity - simply for efficiency sake **and my best interest.**

302. From this statement of Ted's it is clear that his own counsel does not support the actions of Ted, especially in regard to his assault on Eliot. Further, it becomes apparent that Ted is alleged by John Pankauski, Esq., his counsel, to be **MISUSING TRUST FUNDS** to defend himself inappropriately and that Ted, not liking his own counsel's advice, choses to have him fired by Rose for his legal advice.

303. Also it should be noted that Ted claims his own best interests are what matters, not the best

interests of the Beneficiaries, Interested Parties and Creditors. That Ted's misuse of Trust funds to defend himself may also violate Probate Rules and Statutes, especially where Ted is using the money to defend himself in proceedings that are for his removal for breaches, etc.

304. While Alan Rose attempts to spin Ted's continued losing his counsel or inability to retain replacement counsel or an accountant is due to Eliot, Rose fails to notice the Court that Ted's counsel, Tescher and Spallina also withdrew from representing Ted, along with surrendering all their fiduciary roles in the matters and again this was due to the Fraud on the Court and Fraud on the Beneficiaries that benefited mainly Ted and his sister Pamela's families who were otherwise considered predeceased.
305. Further, Ted has had all the following lawyers he wasted Estates and Trusts monies on cease representing him citing irreconcilable differences with TED, including but not limited to, Jon Swergold, Esq. of Greenberg Traurig, Mark Manceri, Esq. and John Pankauski, Esq, and again all ado about Ted and nothing in their withdrawals citing anything to do with Eliot but again Rose in desperation paints a false image for the Court, hoping Judge Phillips will buy the pack of lies.
306. Rose again tries to manipulate the Court to believe that Eliot "somehow" got a clerk to add lawyers names as Respondents to the Docket when one can clearly see that Eliot filed Petitions naming several of the attorneys involved directly in the frauds as Respondents and then Eliot filed two Counter Complaints in the matters adding certain other attorneys involved, including but not limited to Rose, as Counter Defendants and thus why their names were added to the docket.
307. Eliot advised Rose to seek counsel and report his status as Counter Defendant to his liability carriers as would be required by an honest attorney. When Eliot asked for the carriers of Rose

and his law firm according to statute, Rose has refused repeatedly to provide this information and may be committing Insurance Fraud in the process. The Court should take Judicial Notice of this failure and possible violation of law. Here again, through lying and misstating the record and facts, Rose hopes to lure Phillips into taking a stance against Eliot and his family.

308. While Judge Colin did hear pleadings to remove counsel including Rose, again Judge Colin was not a fair and impartial arbitrator of those hearings, as he was having to decide the fate of attorneys at law that are acting as Officers of his Court, involved in a Fraud on his Court and the Beneficiaries and that he was directly implicated in, his denial of the perfectly pled pleadings to remove counsel is further evidence of his Aiding and Abetting the conspirators of the Fraud that he claims are his personal friends.

309. That Eliot filed Counter Complaints including Rose as a Defendant as Rose is alleged to have Aided and Abetted and participated in the Fraud on the Court and Beneficiaries and continues to do so and so there are many more counts than merely his malpractice issues.

310. Footnote 8 offers yet another sleight of hand to mislead the Court where Rose attempts to claim that Judge Colin stayed the Counter Complaints and precluded Eliot from filing pleadings without his consent first. Where the record reflects that Judge Colin ordered this not do to Eliot's filing of pleadings but all parties, yet Rose tries to twist this fact to make it appear that the Order was directed at Eliot and he was only included to appease Colin.

*In an e-mail Mr. Bernstein further advised the undersigned: "you were involved ground floor in the schemes and advancing me taking fraudulent distributions and more since . . . I will notify the Florida Bar in your ongoing complaint with their offices . . . and other state and federal authorities."*

**RESPONSE:**

311. True and Eliot did notify authorities both State and Federal of Alan Rose's involvement in the criminal acts alleged.

*The attacks are most vicious against Ted Bernstein, who was left behind in charge of the business he and Simon started together, and who became the fiduciary under the terms of Shirley's will and trust. Anyone who "googles" Ted Bernstein hits blogs run by Eliot and his colleague. Insurance is a trust business; many of Ted's clients are law firms representing clients in estate and wealth planning. All one need do is Google the name Ted Bernstein and on the front page is the Ted Bernstein report (<http://tedbernsteinreport.blogspot.com/>), accusing Ted of "massive fraud and forgery."*

## **RESPONSE:**

312. That while again Rose is aware that Eliot does not run blogs or have any colleagues he runs blogs with and Rose has tried this claim repeatedly before Judge Colin and failed to make an winning argument, here again, he hopes that a new Judge may be blind to the record in the cases. In fact, in the last hearing Rose attempted to have blogs removed and Eliot charged with contempt both charges were denied and where Rose was further given a Nevada Federal Ruling that stated in part:

6. Genuine issues of material fact preclude summary judgment on claim 9 for Civil Conspiracy.

Plaintiffs' ninth claim alleges that Bernstein and Cox colluded to register the domain names containing the entirety or part of the Randazzas' names to violate their rights. To state a valid claim for civil conspiracy, a plaintiff must show: (1) defendants, by acting in concert, intended to accomplish an unlawful objective for the purpose of harming the plaintiff; and (2) the plaintiff sustained damages as a result. "A civil conspiracy claim operates to extend, beyond the active<sup>52</sup> wrongdoer, liability in tort to actors who have merely assisted, encouraged or planned the wrongdoer's acts."<sup>53</sup> Genuine issues of material fact also preclude entry of judgment in the Randazzas' favor on this theory. They have not demonstrated by admissible evidence that Cox and Bernstein acted in concert.

The only admissible evidence on this point is a blog post purportedly written by Cox.

Plaintiffs claim that Cox "states that Bernstein is her business partner." However, the proffered<sup>54</sup> evidence does not compel that conclusion. The blog post refers in different places to the website MarcRandazza.me, that Bernstein is a co-defendant in this case, and that Cox and her business partner have been customers of

Godaddy Inc. for several years. The blog does not, as Plaintiffs<sup>55</sup> suggest, identify or definitely reflect that Eliot Bernstein is the business partner Cox is referring to in the post. And, even if Bernstein were the partner Cox mentions, the post does not prove that Bernstein and Cox colluded to violate Plaintiffs' rights. For that reason, summary judgment on this claim is also not available.<sup>24</sup>

313. As to Ted having his business hurt, the Court should be aware that Ted has had continued business failings and bankruptcies throughout his career, along with tax liens and lawsuits that allege Ted is involved in very serious wrongdoings, including by Simon's friend and partner, the Creditor in the Estate, William Stansbury, who alleges Ted committed fraud that damaged him in the millions of dollars.
314. Ted is also currently being sued by another of Simon's close personal and business friends, a one Marvin Schiller, who again is alleging very serious allegations of fraud against Ted.
315. The Court should be aware that Ted was recently sued by his landlords and evicted for failure to pay rents and where the complaint states that while Ted was collecting subleased rents he was not paying those over to the landlord in addition to his own rent payments.
316. Had it not been for Simon investing several million dollars in businesses to get Ted off drugs, out of his house with his kids and back on his feet after his horrific divorce, Ted would still be loafing from his parents as he did for several years during the late 90's early 2000's.
317. Most of Ted's clients came from Simon's friends or quite bizarrely from the defendants in Eliot's RICO and ANTITRUST action who Ted became close with immediately after the car bombing of his brother.

*Ted has tried to ignore the onslaught of Eliot's cyber attacks. Judge Colin was aware of them, but did not fully appreciate the magnitude or effectiveness of this information in harming Ted. Although Judge Colin too was a target of the attacks, as a sitting jurist not running a business built on trust relationships, he may not have appreciated the severity of these issues. Indeed, at a*

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<sup>24</sup> See Order from Nevada Federal Court @ <http://>

*recent hearing, Judge Colin wondered who in the world would see any of this nonsense on the internet. What this Court needs to understand as we move forward is that, in this day and age, everyone about to engage in a significant transaction "googles" the other side, and regardless of the fact that no one might randomly stumble on this false information, everyone who googles Ted Bernstein finds this nonsense almost instantly. It is having a very harmful and negative effect on Ted Bernstein's ability to conduct his business affairs, and destroyed any chance of trying to sustain the companies Ted and Simon started.*

**RESPONSE:**

318. Judge Colin laughed at Rose as he attempted to make this argument to remove a blogger Crystal Cox's blogs regarding Ted, Rose and himself and basically informed Alan there was nothing he could do to Eliot to force Cox to remove her posts, which Rose had tried to convince the Court to extort Cox by finding Eliot in contempt to force Cox to remove her blogs.
319. Further, Ted Bernstein, Alan Rose, Judge Colin have legal rights they can exercise if they feel criminally or civilly wronged, for example, file slander and defamation lawsuits against those they feel have posted bad or wrong information regarding them, etc. However, in each attempt to even make the claim to remove the materials by Rose, it has not been due to journalistic integrity being breached or false information, rather arguments based on the effect the bad press about their actions is doing to them.
320. Ted's claims that he is having trouble sustaining businesses he and Simon started are impossible for this Court to ascertain as true as all of Simon's business interests are missing and unaccounted for at this time.
321. Ted has repeatedly failed to account for the businesses and on information and belief he is currently under investigation by the Department of Labor regarding complaints filed by former employees and others regarding monies apparently missing from qualified pension plans and more.
322. Beneficiaries have been virtually left in the dark as to how Ted has run the companies into the

ground or in fact stolen from them while suppressing Simon's interests from beneficiaries and interested parties. The 2008 Trust of Simon refers to a buy/sell agreement being executed to buyout the businesses when Simon died but this document remains missing.

*Before agreeing to serve in this case, there was no negative press on Ted or internet "blogs" tarnishing his reputation. No one who agrees to serve as a fiduciary should be forced to put up with any such attacks, nor to be pressured to deviate from the decedent's wishes by either giving in to Eliot's demands or resigning from this important duty. And, the only family member who opposes Ted serving is Eliot – the others simply want this administration process to conclude.*

**RESPONSE:**

323. That as stated herein, Ted's removal is requested not only by Eliot but by the PR in the Estate of Simon, Brian O'Connell, Esq. and by the Creditor, William Stansbury and counsel Peter Feaman, Esq. The rest of Rose's statement appears hearsay as it is unclear if he is making representation on behalf of other beneficiaries when not serving as their counsel.

*These attacks branch out to each new person who steps in Eliot's way, and are expected to shortly include Brian O'Connell, PR, once he too is forced to take action adverse to Eliot. Ted has had difficulty retaining an accountant to help in these estates, because no amount of fee is worth being attacked online or sued simply for performing professional services. Ted already has attempted to curtail these attacks, but now will be filing formal motions to appoint a guardian ad litem and to stop the internet harassment of professionals. The Court needs to be aware of this critical issue as the case moves forward, and we believe should address these issues first.*

**RESPONSE:**

324. Petitioner is unclear if Rose is now speaking from inside his own head as to Eliot's actions and the PR Brian O'Connell's actions forward in efforts to sell this crap to a stupid or complicit judge.

325. Ted has failed to perform an accounting timely for anything and should have already been sanctioned and removed for this grossest of gross violations of Probate Rules and Statutes.

326. Ted is unable most likely to get an accountant to sign off as any such accounting now would be steeped in fraud but Alan attempts to spin this fairy fable again in hopes of a stupid or complicit judge.

*As a final point on the Shirley Bernstein Trust, this Court needs to be aware of what is occurring right now. When Ted became successor trustee after his father's death, there were two primary assets in the Trusts: (i) an oceanfront condo; and (ii) a single family residence which was his parents' homestead. The condo was sold in an arm's length sale, through a highly-reputable real estate broker. Eliot continues to threaten some litigation to clawback the property, and refused to accept for his children the partial interim distribution the Trustee elected to make to each of the ten beneficiaries. In mid-March 2015, the Trustee finally obtained a contract to sell the remaining property, a single family home in a country club community. The house was on the market for over 1,000 days. The offer accepted was the first in excess of a million dollars and was by far the highest and best offer ever received for the property. The buyer wanted to pay \$1.1 million, all cash, and close quickly, because the country club equity membership fee was increasing by \$30,000. Because it is a large home in a country club, the monthly carrying costs are very high. Eliot objected to the sale, and Judge Colin agreed to delay the sale so Eliot could obtain an independent appraisal or provide competent evidence to support his claim that the house was being sold in a fire sale fashion. At the evidentiary hearing in May, Eliot produced no witnesses and no admissible evidence. Judge Colin entered a final order approving the sale on May 6, 2015, and the closing was set for June 10th. The delay between March 31st and June 10th cost the Trust at least \$75,000.*

**RESPONSE:**

327. That without proper timely statutorily required accountings, Alan Rose's claim to what is in the Shirley Trust is just speculative and imaginative, not based on any factual information provided to the Court or Beneficiaries and Interested Parties as required by Probate Rules and Statutes.
328. The Condo was sold with no transactional information provided to Beneficiaries as to this date. Further, at the time of the sale and a distribution there was still a Creditor to the Trust and Estate of Shirley, William Stansbury, which may be further a Violation of Probate Rules and Statutes.
329. Further, at the time of the sale, Ted had not been appointed as PR to Shirley's Estate, as the Estate had been Fraudulently closed by a dead Simon and no successor therefore chosen, yet Ted signed a Florida Tax form as the alleged PR of the Estate of Shirley prior to Colin reopening the Estate and issuing Letters of Testamentary.
330. Ted was also aware that allegations of Fraud were being made at the time of the sale and distribution and that Eliot and his counsel were requesting that no transactions take place on any properties or with any assets until Beneficiaries received all the documentation requested and



investigators had a chance to review the claims.

331. Ted was also advised by his counsel Spallina, according to Spallina's PBSO statements to not make distributions of the monies but ignored such counsel and made improper distributions to improper Beneficiaries, including his family.
332. The transaction was not arm's length and in fact the real estate agent, John Palletto is a client of Ted's and Ted's wife Deborah Logan Bernstein was an agent of Palletto's.
333. Again Rose tries to claim that the 10 grandchildren are the Beneficiaries of the Shirley Trust and again, no matter how many times he repeats this falsehood it remains untrue, the only beneficiaries of the Shirley Trust are Eliot, Jill and Lisa family trusts, Ted and his sister Pamela and their lineal descendants are all considered predeceased, for good reason, at the time of her death and when the trust became IRREVOCABLE, no matter what Simon desired at any later time this Beneficiary Class could neither be added or subtracted from.
334. Eliot has refused to take improper distributions to even his children, despite their desperate needs as this would make him part of a criminal act and Eliot would take the distributions if there were no strings or preconditions attached, no releases of liability, waiver of any implied consent, etc. but the only way the trustee will release the monies is if Eliot accepts a multitude of conditions that would release Ted, Alan, Spallina, Tescher et al from liabilities and approve the documents as is, this attempt to force Eliot to take it or leave it on their terms has been reported as extortion to the proper authorities.
335. Alan Rose forgets to inform the Court that in the March 2015 proposed sale of the Primary Residence of Simon, Rose and his client Ted failed to notify anyone of the sale and it was only by a Zillow Alert that Eliot learned that the house was being sold. This sale despite the fact that Eliot had given to Colin for approval a Lis Penden to file per his Order that all filings had to be

approved first by him on or about October 2014 and upon learning of the devious unannounced sale Eliot was forced to file the Lis Penden without Colin's approval, which had not come at that time several months after he took it for review. Eliot was forced to file additional motions to stop the sale until full disclosure of the transaction was made by the fiduciaries.

336. The Court record from the two hearings on the home sale shows that Judge Colin at the first hearing delayed the sale due to the failure of the fiduciary to notify anyone of the sale or transaction details and he then set up an evidentiary hearing to follow and demanded that Beneficiaries receive all the documents, which again full disclosure was not made as Colin refused to allow Beneficiaries to know who the buyer was and precluded anyone from notifying the buyer of the Lis Penden or litigation surrounding the home.
337. Judge Colin at the first hearing also learned that NO accountings had been tendered in either the Simon or Shirley Estate and Trusts, a fact that had been pled for almost three years and that Eliot could not determine the worth of his inheritance and thus could not determine if he and his family wanted to buy the home and Judge Colin stated that Eliot would have to know prior to any sale what his inheritance was worth to determine if he wanted a first right to buy the home at the same value.
338. Rose is correct and at the evidentiary hearing Eliot was unable to produce witnesses and could not afford an independent appraiser, again due to the intentional delay in his inheritance due to the Frauds and financial strain he was put in with intent and Judge Colin therefore approved the sale of the home at a fire sale price, whereby Eliot still had not received full disclosure and all the transaction details and had never received the accountings to determine his inheritance value.
339. Judge Colin further had refused to allow Eliot to disclose to the buyer of the property notice of the litigation surrounding the home sale and this hiding of the litigation from the buyer defied

disclosure laws and made the transaction steeped in further Fraud. In fact, if Ted is later determined to be a not qualified fiduciary and is removed then all of the transactions Ted did while acting in his faux roles may be subject to clawback by the injured parties.

340. In the first hearing regarding the sale of the home Colin went even further by stating that he could not determine if the house could be sold or when until he held certain hearings first to determine if Ted was qualified as fiduciary and if the documents being operated under were valid and yet, despite not holding those hearings first before any sale he then at the second hearing ignored his own advice and allowed the sale.

341. Any costs for the delay of the sale or loss of the sale would be the fault of Alan Rose and Ted who failed to notify Beneficiaries of the transaction and tried to sneak the sale through without any transparency. Further, it was learned at the second hearing on the home, that the realtor Palletto had failed to disclose to the buyer the litigation surrounding the property and who stated he would not tell a buyer anything that would not make the home sell and again this appeared to defy real estate disclosure laws, especially where Palletto was sent a copy of the Lis Penden's held by Judge Colin on or about October 2014 and prior to the proposed sale.

*Eliot did not timely appeal the sale order, but on June 10, 2015, the date of the projected closing, filed a Petition for All Writs with the Florida Supreme Court. The transaction still cannot close until that Petition is resolved. To date, and despite the fact that he produced no evidence to support his assertion that the property was being sold too cheaply, and despite the fact that he is not a beneficiary of the trust, Eliot's obstinance and disregard has cost the Trust far more than \$125,000 and counting in actual cash lost due to extra sale expenses, carrying costs, repair costs, and the legal fees incurred solely to get a simple real estate transaction closed. And there remains no end in sight.*

**RESPONSE:**

342. Again, Alan misleads the Court that Eliot is not a Beneficiary of the Shirley Trust when in fact he is a one third Beneficiary through the Eliot Bernstein Family Trust created under the Shirley Trust. Eliot did have a real estate broker evaluate the property but when asked to testify he

stated that he did not want to get involved because of a relationship with Alan Rose.

343. Eliot also brought in real estate reports as Exhibits that showed the house was heavily undervalued at Ted's sale price but Colin would not accept them as reliable reports despite they are MLS reports and a Zillow Report. Colin stated Zillow was not acceptable as the prices were normally over the true value and Rose agreed, yet Ted has listed his home for sale recently and listed it far above the Zillow estimate not far below it.

*Despite the best efforts of the Trustee and counsel, the need to react to Eliot has been driving this case, dictating its pace and dictating which issues get heard, to the exclusion of all of the other beneficiaries and their best interests. There are two simple but significant issues which must be addressed before we can make any progress in the Shirley Bernstein side of the equation. First, the Court must consider how to re-close Shirley's Estate which has no assets. (There are prior Waivers signed by all potential beneficiaries, including Eliot Bernstein, and in the past five-plus years, nothing new has been found.) In particular, because Simon outlived Shirley and was thus alive at the time of her bequests to him, Eliot is not a beneficiary of Shirley's estate. The belts and suspenders of getting a waiver from him, which he admittedly signed, should not overshadow the fact that the empty estate simply should be closed.*

**RESPONSE:**

344. Again, Rose misleads the Court to make it sound like Eliot has caused problems, not the attorneys Rose was working with as Ted's counsel, Tescher and Spallina, who have committed Fraud, in fact, in the whole Omnibus Motion Rose does not address the damages caused by Tescher, Spallina and Ted by committing multiple Frauds on the Court and Beneficiaries and again tries desperately to shift the burden to protect himself and his colleagues whom he Aided and Abetted in the crimes alleged and proven against the fiduciaries and where Rose and Ted continue to perpetrate Fraud on the Court and Fraud on the Beneficiaries.

345. Again, despite Rose's claim that Eliot is not a Beneficiary, Eliot is a Beneficiary of both the Shirley Estate and Simon Estate and the Shirley Trust and most likely after validity hearings, will remain a Beneficiary of the Simon Trust.

346. Alan misleads the Court again in portraying why the Estate of Shirley has not closed and that is

because with no waivers from all parties, the accounting must now be full and formally done to close the Estate as proscribed by Probate Rules and Statutes and ordered by Colin. Despite Colin's Ordering an Accounting for Shirley's Estate upon reopening the Estate, Ted again has failed to account and violated Probate Rules and Statutes in so doing, again intentionally and with scienter delaying and interfering with Expectancies.

*Second, because Eliot alone contests Simon's exercise of his power of appointment over the funds in the Shirley Bernstein Trust, and unless the matter can be resolved with a rational Guardian for Eliot's kids, some Trust Construction Action is needed. That action has been filed, as a one-count Complaint, and names as defendants all 14 potential beneficiaries. Eliot Bernstein is named solely because he is a potential beneficiary and is the parent and natural guardian of three of the other potential beneficiaries. This is not a personal attack on him; it simply is a legal issue which needs to be resolved by the Court through a trial. The trial affects everyone, not simply Eliot Bernstein. Those two issues must be resolved, and once they are, the Shirley Bernstein Trust can begin the process of final wind down and distribution once the remaining assets are liquidated. Those two things must happen and without them we will go nowhere, other than continuing to burn money fulfilling the visions, delusions and fantasies of Eliot Bernstein.*

#### **RESPONSE:**

347. Here again Rose tries to mislead the Court and virtually contradicts himself, perhaps by accident, in admitting that "*Eliot Bernstein is named solely because **he is a potential beneficiary** and is the parent and natural guardian of three of the other potential beneficiaries.*" This statement is an utter about face to his prior repeated false claims to this Court that Eliot is not a Beneficiary, failing each time to state that Eliot is actually a Beneficiary of the Estates and Trusts.
348. Rose fails to notify the Court that he and his client Ted should not be filing anything with the Shirley Trust, especially regarding Construction issues or Validity issues due to their conflicts of interests and adverse interests in the matters. Whereby if Rose cannot convince a Court to change Shirley's IRREVOCABLE Trust, Post Mortem, then he and his client may be charged with Felony Fraud, Conversion (for assets already distributed to improper parties) and more. Where if they fail to make the argument that Shirley's IRREVOCABLE TRUST could be

changed then Ted's family will receive nothing and this possess significant Conflicts and Adversity problems with the other Beneficiaries.

### **Conclusion**

*There is not enough room in this filing nor would one expect this Court to have the patience to learn the entire tragedy. The purpose of this summary is to focus the Court on where we started, and where we have been for the past three years. The Court must decide where we need to go to from here to close the administration of these estates and trusts, and distribute what little wealth will remain to Simon and Shirley's grandchildren. There is documentary evidence and testimony of witnesses with competent and relevant evidence to support the assertions set forth herein. In stark contrast, almost four years after Simon's death there are no documents, evidence or credible testimony to support the assertions of Eliot Bernstein. Eliot might be smart and clever, and skilled in maneuvering through the court systems. One would have to at least have some experience litigating to file papers as lengthy and often as he does. It is unclear if this is real or a game to him,<sup>9</sup> but what is absolutely clear is: **Eliot will not inherit any money, and his kids will not inherit enough to sustain his lifestyle.***

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#### Footnote 9

*Through nearly three years of litigation here, Eliot has been given the benefit of the doubt many times, and it remains unclear how much of what he files he actually believes. For example, Eliot has asserted in recent court filings: his minivan was car bombed; his father was murdered; and he needs to be placed into the federal witness protection program as a whistle blower who has been exposing judicial corruption throughout the land. He has demanded emergency loans, despite the fact that he has turned down several distributions the Trustee tried to make for his kids' benefit.*

### **RESPONSE:**

349. One need not read anything but the record to learn of the travesty caused on the Bernstein family by primarily Ted Bernstein and Pamela Simon and their minion of Estate and Trust financed attorneys who have committed Fraud and more in efforts to change dispositive documents and rob the Estates and Trusts, which again, in any scenario, the two of them were entirely disinherited.
350. The only parties to have benefited from the Fraud on the Court are Ted, Pamela and their minion of Attorneys at Law who from the very start have Breached Fiduciary Duties, Violated Law and Ethics Rules and caused so much heartache and pain to Eliot and his minor children.

351. There has been no documentary evidence or witnesses that support any of the claims in Rose's diatribe of lies and deceit contained in his Omnibus Status, whereas Eliot has presented his cases relating to these matters to State and Federal, Civil and Criminal authorities with enough evidence to expose the fraud and have it both prosecuted and investigated and from new evidence obtained in the matters there will be another wave of criminal and civil complaints filed regarding what appears to be further evidence of Fraud and Theft and more.
352. That Rose's Omnibus Status is exactly the type of assault on Eliot that Spallina and Tescher attempted for months to pull on the court of Martin Colin packed with lies and disinformation, which despite their best efforts repeatedly failed to shift the blame for the events to Eliot, while all the while lying to the Court and Authorities and denying that they had committed any wrongdoings and that it was all the big bad Eliot's fault.
353. Months and months of baseless pleadings designed to misuse Estate and Trust assets left after the looting and leave the Beneficiaries, according to their version, minor children, while Ted, Pamela and their attorneys robbed the Estates and Trusts and provided no accountings and absolutely no transparency, denying Beneficiaries their rights under law.
354. In regard to Footnote 9, as Alan and Ted are well aware Eliot's minivan was blown up and blew up three cars next to it only hours before Eliot's wife and children were to be in it.



355. As Alan is well aware, his client Ted Bernstein contacted Palm Beach County Sheriff Investigators, the DelRay Beach Hospital Staff and the Palm Beach County Medical Examiner on the day his father died and claimed that he believed that Simon's girlfriend Maritza Puccio, whom Ted openly despised had somehow poisoned his father.

356. That in a deposition in the Illinois Federal Court insurance case related to these cases, Ted claimed that he did not make the calls, however, a Palm Beach County Sheriff Report regarding the incident, [see Exhibit \[redacted\]](#), hospital records from the night Simon died showing Ted had told hospital personnel his father may have been murdered, [see Exhibit \[redacted\]](#) and investigation audio recording of Ted's interrogation from PBSO and the Medical Examiner Report, see [Exhibit \[redacted\]](#)



[REDACTED], all reveal that Ted was fully aware that he made the claim that his father may have been murdered that day, leading him to order an investigation and autopsy based on his claims of a possible murder.

357. Eliot has not yet claimed that his father was murdered but with mounting evidence of criminal activity by the Fiduciaries and Attorneys involved in these matters it is becoming more and more feasible that Simon may have been murdered, especially when viewing the coroner's heavy metal tests, which reveal elevated levels of three toxins, including arsenic, see Exhibit [REDACTED].
358. In regard to Alan's claim that Eliot is refusing distributions, as already stated herein, Eliot is willing to take the funds with no strings attached, no release of liabilities, no conditions or implied consent but despite knowing the damage occurring to the three children daily for three years, Ted and Alan have refused to release funds for these critical issues damaging the lives of Eliot's minor children, his wife and himself.
359. Ted and Alan both violated a Court Order to pay St. Andrews school tuition for Eliot's three minor children leading to them being thrown out school on the second day and unable to get into another school without missing weeks of school and this has ruined their educations that Simon and Shirley had provided for and harmed their emotional wellbeing.

*Although very sad, what is important here is that the Court put an end to Eliot's involvement in this case and order him to remove all of the blogs he and Crystal Cox have created that refer to these matters or the judiciary, fiduciaries or professionals involved. Eliot lacks standing because he is not a beneficiary of either Simon's or Shirley's trusts. He has demonstrated no desire to serve the best interest of his children. Now is the time for the Court to take back control from Eliot.*

**RESPONSE:**

360. What is important here is the Court do nothing prior to determining if Ted is qualified to be a fiduciary and make any arguments to the Court, since if he is not deemed a fit fiduciary then Ted Bernstein and his sister Pamela have ABSOLUTELY NO INTEREST in the Estates and Trusts,

their children are all adults and administration can proceed without interference, records can be obtained from State and Federal agencies to begin to piece together the facts.

**CONCLUSION:**

361. KRH

362. That ALL Uniform Resource Locators (URL's) are fully incorporated by reference herein and Eliot urges the Court to print these documents in the event of future hacking of the documents that correspond to the URL's.

363.

