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December 1, 2014

Via Facsimile

The Honorable Martin H. Colin
South County Courthouse
200 W Atlantic Ave.
Delray Beach, FL 33444

Re: *In Re: Estate of Shirley Bernstein*
Case No. 502011CP000653XXXXSB

In Re: Estate of Simon L. Bernstein
Case No.: 502012CP004391

Dear Judge Colin:

I am writing to enclose alternate proposed orders for the hearing held on November 14, 2014. I prepared and circulated a draft order which I believe is consistent with the Court's ruling, and today received Eliot Bernstein's revisions. The proposed orders are markedly different, so I have attached (i) the Successor Personal Representative's proposed order and (ii) Eliot's proposed order, for Your Honor's consideration.

I also write briefly in response to Eliot Bernstein's letter dated November 24, 2014. Although we do not wish to engage in a letter writing campaign, Eliot Bernstein's letter is inappropriate in several regards. First, this Court already has granted Eliot Bernstein permission to file an independent action for the removal of Ted S. Bernstein as Trustee. That was addressed at a prior hearing and Your Honor already has given permission for a new filing, and certain of the parties, including myself as counsel for Ted S. Bernstein, have agreed to accept service. Thus, the latest letter is unnecessary and also improperly misrepresents the Court's instructions, as the Court did not state that it would offer Eliot Bernstein help to make sure his filings are right.

Second, the remainder of the letter is inappropriate argument, and misstates this Court's prior rulings. The Court has ordered that one specific claim, relating to the validity of the testamentary documents, be severed and tried before the remainder of the claims in the Shirley Bernstein Trust Construction litigation. The Court has not entered any other ruling as to the order in which various issues may be heard, contrary to Eliot's assertion that he gets to choose which motions get heard first.

Judge Colin
December 1, 2014
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We appreciate Your Honor's time and attention to this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Alan B. Rose', with a stylized, cursive script.

Alan B. Rose

ABR/mbc

cc: All parties listed on the Service List

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SUCCESSOR PR's PROPOSED ORDER

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

IN RE:

Case No. 502011CP000653XXXXSB

ESTATE OF SHIRLEY BERNSTEIN,

Deceased.

Division: IY

**ORDER DENYING IN PART AND DEFERRING IN PART ON
PETITION TO RE-CLOSE ESTATE AND SETTING HEARINGS**

THIS CAUSE came before the Court for hearing on November 14, 2014, upon the *Petition to Re-Close Estate Based upon Prior Signed Waivers and for Discharge of Successor Personal Representative* ("Petition") filed by Ted S. Bernstein, as Successor Trustee of the Simon L. Bernstein Trust ("Trustee"). The Court, having reviewed the Petition and the record, having heard argument, and being fully advised in the premises, hereby ORDERS AND ADJUDGES that:

1. The Petition is denied in part and deferred in part.
2. To the extent that the Petition seeks to re-close the Estate based upon Eliot Bernstein's prior Waiver of Accounting etc., the Petition is DENIED. In all other respects, ruling on the Petition is DEFERRED.
3. To the extent that Eliot Bernstein claims that the Inventory filed in this case is incomplete or inaccurate, the Court will schedule an evidentiary hearing at which time Eliot Bernstein shall have the burden of proving: (i) that assets owned by Shirley Bernstein at the time of her death that should have been listed on her Inventory were not listed, and establishing the value of any and all assets which were listed or which should have been listed on the Inventory; and (ii) that assets owned by Shirley Bernstein at the time of her death were taken improperly and never came into the possession of Simon L. Bernstein.

4. The Court will set a hearing on those issues identified in paragraph 3, and also will set a separate and earlier hearing to address the outstanding discovery requests made by Eliot Bernstein to which objections were raised.

5. Upon ruling the issues set forth in paragraph 3, the Court will consider the remainder of the Petition seeking the discharge of Ted S. Bernstein, as Successor Personal Representative of the Estate of Shirley Bernstein, and the re-closure of the estate.

DONE AND ORDERED in Chambers, in Palm Beach County, Florida, this ____ day of November, 2014.

Martin H. Colin
CIRCUIT COURT JUDGE

cc: All parties on the attached service list

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ELIOT BERNSTEIN'S PROPOSED ORDER

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

IN RE:

Case No. 502011CP000653XXXXSB

ESTATE OF SHIRLEY BERNSTEIN,

Deceased.

Division: IY

**ORDER DENYING PETITION TO
RE-CLOSE ESTATE AND SETTING HEARINGS**

THIS CAUSE came before the Court for hearing on November 14, 2014, upon the *Petition to Re-Close Estate Based upon Prior Signed Waivers and for Discharge of Successor Personal Representative* ("Petition") filed by Ted S. Bernstein, as Successor Trustee of the Simon L. Bernstein Trust ("Trustee"). The Court, having reviewed the Petition and the record, having heard argument, and being fully advised in the premises, hereby ORDERS AND ADJUDGES that:

1. The Petition is denied.
2. The Court will schedule an evidentiary hearing for Eliot Bernstein to challenge the Inventory of Shirley.
3. The Court will set a hearing to address the outstanding discovery requests made by Eliot Bernstein to which objections were raised.

DONE AND ORDERED in Chambers, in Palm Beach County, Florida, this ___ day of November, 2014.

Martin H. Colin
CIRCUIT COURT JUDGE

cc: All parties on the attached service list

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