

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

File No. 50 2012 CP004391XXXXSB  
Probate Division

IN RE: ESTATE OF SIMON L. BERNSTEIN  
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CURATOR'S MOTION FOR INSTRUCTIONS REGARDING  
AUTHORITY TO LIQUIDATE IRA

CURATOR'S MOTION TO INSPECT AND TAKE POSSESSION  
OF ESTATE TANGIBLE PERSONAL PROPERTY

DATE TAKEN: Thursday, June 19, 2014

TIME: 8:45 a.m. - 9:45 a.m.

PLACE: PALM BEACH SOUTH COUNTY COURTHOUSE  
200 West Atlantic Avenue  
Delray Beach, Florida 33444

BEFORE: HONORABLE MARTIN COLIN, CIRCUIT JUDGE

HEARING TAKEN BEFORE:

LISA GREENWELL, Court Reporter

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1 APPEARANCE ON BEHALF OF THE CURATOR  
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 7  
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 24 ALSO PRESENT  
 25 ELIOT BERNSTEIN, pro se  
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1 with it, it's just putting into writing what my  
 2 rulings is.  
 3 If I find that anyone tries to argue to  
 4 rework the order, the merits of the order, the  
 5 subject, today, this morning, there will be  
 6 sanctions granted, okay.  
 7 So you say on behalf of your side that these  
 8 orders represent what I ruled?  
 9 MR. ROSE: I submit -- yes.  
 10 THE COURT: And everyone else agrees it's  
 11 what I ruled except for Mr. Eliot Bernstein?  
 12 MR. ELIOT BERNSTEIN: Correct.  
 13 THE COURT: And you say I ruled this?  
 14 MR. ELIOT BERNSTEIN: I said that I was --  
 15 we were tricked by Mr. Rose on some of that stuff  
 16 that needs to be reheard. I put in an objection  
 17 to --  
 18 THE COURT: That's not what I'm asking.  
 19 That's not the purpose of this exercise.  
 20 I gave --  
 21 MR. ELIOT BERNSTEIN: The order --  
 22 THE COURT: I announced what the purpose of  
 23 this was. If you proceed and try to do anything  
 24 other than tell me that this is not what  
 25 I ruled --

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1 (Thereupon, the following proceedings were  
 2 had:)  
 3 MR. ROSE: Morning, Your Honor.  
 4 THE COURT: Hi. What do you have?  
 5 MR. ROSE: We have three orders from last  
 6 weeks hearings that I submitted to all counsel.  
 7 Mr. Eliot Bernstein has an objection to all three  
 8 orders.  
 9 If I may, these were Motions to Compel,  
 10 fairly simple -- may I approach with the orders.  
 11 MR. ROYER: Mr. Bernstein has some  
 12 objection, I believe.  
 13 THE COURT: Okay.  
 14 MR. ROSE: Just three different orders.  
 15 THE COURT: So I ruled on these matters,  
 16 right?  
 17 MR. ROSE: You ruled on the matters and no  
 18 other counsel has objected to the form  
 19 of the orders.  
 20 Mr. Eliot Bernstein has some objections that  
 21 he's e-mailed to me in a lengthy e-mail.  
 22 THE COURT: So here's the way this works  
 23 everyone; I enter an order, someone becomes a  
 24 scrivener and writes out what an I ruled. It's  
 25 not a chance to change it, not a chance to argue

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1 MR. ELIOT BERNSTEIN: I have an order on it.  
 2 I don't mind --  
 3 THE COURT: You're not doing me a favor by  
 4 telling me that.  
 5 MR. ELIOT BERNSTEIN: Listen, I'm putting in  
 6 the objection the minute you sign that, that it  
 7 was -- so use it for my objection right here.  
 8 THE COURT: Well, I have to have -- if you  
 9 want to have something reheard --  
 10 MR. ELIOT BERNSTEIN: Here's the problem --  
 11 THE COURT: -- you have to enter an order.  
 12 Listen to me.  
 13 MR. ELIOT BERNSTEIN: Okay.  
 14 THE COURT: Okay. You have to have an order  
 15 entered to have an rehearing on it.  
 16 MR. ELIOT BERNSTEIN: Okay. I get that.  
 17 But here's my problem, he is submitting orders  
 18 and he's got adverse interest in this case that  
 19 legally preclude him from acting in these  
 20 capacities --  
 21 THE COURT: No, that's not true because if I  
 22 ask him to be a scrivener and write an order on  
 23 that I order, that's not task that's here.  
 24 MR. ELIOT BERNSTEIN: But he's legally  
 25 barred from representing when he has adverse

<p style="text-align: right;">6</p> <p>1 interest.</p> <p>2 THE COURT: That's your position on that.</p> <p>3 MR. ELIOT BERNSTEIN: No, that's the Bar</p> <p>4 rules, that's the law.</p> <p>5 THE COURT: But I told him to write</p> <p>6 an order -- I told him write an order on what</p> <p>7 I've done.</p> <p>8 MR. ELIOT BERNSTEIN: I know, but he's</p> <p>9 acting out of his capacities --</p> <p>10 THE COURT: Okay. That's your version of</p> <p>11 it.</p> <p>12 MR. ELIOT BERNSTEIN: No, that's --</p> <p>13 THE COURT: I don't deal with bar things</p> <p>14 here, I'm dealing --</p> <p>15 MR. ELIOT BERNSTEIN: It's law. He's not</p> <p>16 qualified.</p> <p>17 THE COURT: Mr. Bernstein, you're not</p> <p>18 listening, okay. If I ask a lawyer to put into</p> <p>19 writing that which I order and they do that, then</p> <p>20 they're doing the right thing because that's what</p> <p>21 I've asked them to do.</p> <p>22 We don't the have here in State Court clerks</p> <p>23 to write out my order, so I need the lawyers to</p> <p>24 write what I announce. I asked him to do it.</p> <p>25 MR. ELIOT BERNSTEIN: Well, I've also asked</p>	<p style="text-align: right;">8</p> <p>1 first.</p> <p>2 MR. ROSE: Sorry.</p> <p>3 MR. BROWN: I have two motions, Your Honor.</p> <p>4 One is a Motion For Instructions Regarding</p> <p>5 Authority to Liquidate an IRA. The Estate,</p> <p>6 through a series of occurrences, ended up with</p> <p>7 the Decedent's IRA. It's at about 541,000. It</p> <p>8 holds equity. Although it is performing very</p> <p>9 well, it should be converted to cash.</p> <p>10 It's not appropriate for the Estate to hold</p> <p>11 an IRA -- I don't believe it's appropriate for</p> <p>12 the Estate to hold an IRA that's holding equities</p> <p>13 that could --</p> <p>14 THE COURT: Okay. Let's me hear from anyone</p> <p>15 else your position on this starting from my left</p> <p>16 to right, I'll catch everybody.</p> <p>17 MR. ROYER: Jeff Royer, counsel for William</p> <p>18 Stansbury. We have no objection for.</p> <p>19 MR. ROSE: We have no objection to</p> <p>20 liquidating the IRA.</p> <p>21 MR. ELIOT BERNSTEIN: I do have an</p> <p>22 objection.</p> <p>23 THE COURT: Okay. What is it?</p> <p>24 MR. ELIOT BERNSTEIN: Well, Ben was going to</p> <p>25 get some information that appears that the</p>
<p style="text-align: right;">7</p> <p>1 that you have adverse interest in these matters</p> <p>2 and you shouldn't be ruling on the case under</p> <p>3 law.</p> <p>4 THE COURT: Okay. I am not sure what you're</p> <p>5 getting at. You can put whatever you want in</p> <p>6 writing.</p> <p>7 Your participation in this hearing this</p> <p>8 morning, listen to me, it's over with. If you</p> <p>9 speak again because you're now -- you're pro se</p> <p>10 but you are violating some rules of decency and</p> <p>11 civility.</p> <p>12 Don't speak again unless I speak to you. If</p> <p>13 you speak again, I'm going to take action against</p> <p>14 you that will be adverse to you immediately by my</p> <p>15 bailiff. Understand what I said, yes or no, it's</p> <p>16 all you can say?</p> <p>17 MR. ELIOT BERNSTEIN: Yes.</p> <p>18 THE COURT: Okay, that's one.</p> <p>19 Okay. Come on up. All three are right</p> <p>20 here.</p> <p>21 What else in this case, anything else?</p> <p>22 MR. ROSE: We have a Motion to Continue this</p> <p>23 hearing is set for July the 11th.</p> <p>24 MR. BROWN: Judge, I noticed mine first.</p> <p>25 THE COURT: Okay. Whoever noticed things</p>	<p style="text-align: right;">9</p> <p>1 beneficiary is lost, it's bizarre. Again, we have</p> <p>2 another missing beneficiary on behalf of the</p> <p>3 Estates that could be a part of the furtherance</p> <p>4 of fraud.</p> <p>5 We're waiting for the JP Morgan statements</p> <p>6 Ben was going to get. We haven't got 'em yet.</p> <p>7 Until all that's decided, this IRA might be</p> <p>8 to a beneficiary and the covering up of the</p> <p>9 beneficiary might be part of the furtherance of a</p> <p>10 frauds that have already occurred to try to</p> <p>11 change beneficiaries in this case in this court</p> <p>12 before Your Honor by the same people, I believe.</p> <p>13 THE COURT: Okay. So is this -- is there a</p> <p>14 beneficiary on the IRA form?</p> <p>15 MR. BROWN: We're not able to locate,</p> <p>16 apparently, a beneficiary form. That's why the</p> <p>17 Estate ended up with the IRA. But this has --</p> <p>18 this is --</p> <p>19 THE COURT: So who --</p> <p>20 MR. BROWN: -- this is not a distribution --</p> <p>21 THE COURT: No, I understand that.</p> <p>22 MR. BROWN: -- this is just to divert cash.</p> <p>23 THE COURT: All right. But are you going to</p> <p>24 keep the cash segregated in the Estate account</p> <p>25 and not be used for any other purpose without</p>

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1 order of the Court so in case a beneficiary of  
 2 this IRA can be found, then the beneficiary would  
 3 be entitled to the IRA as opposed to the Estate?  
 4 MR. BROWN: That's correct. And Your Honor,  
 5 it would actually stay in the IRA because once  
 6 it's converted to cash, if it starts getting  
 7 distributed then it's taxed. So that's why it's  
 8 only to convert to cash.  
 9 THE COURT: Okay. But stay there, not used  
 10 without court order.  
 11 MR. BROWN: Correct.  
 12 THE COURT: Is that --  
 13 MR. ELIOT BERNSTEIN: If you're good with  
 14 it, I'm good with that.  
 15 THE COURT: Okay, that's fine. As long as  
 16 it stays that way.  
 17 MR. BROWN: I'll just need to write on the  
 18 easel that.  
 19 THE COURT: I'm all right with that as long  
 20 as it's -- so you folks do your due diligence.  
 21 If you find a beneficiary, then the beneficiary  
 22 will make a claim to it, but it will be held  
 23 intact.  
 24 MR. ELIOT BERNSTEIN: By the way, Your  
 25 Honor, that aspect was also not put into the

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1 inventory of the Estate till after Tescher &  
 2 Spallina were being, you know, investigated and  
 3 their notary arrested for forgery and fraudulent  
 4 notarizations and all that nonsense, and so it  
 5 appears that this is might, also, be part of a  
 6 fraud, not just a missing beneficiary.  
 7 THE COURT: Well, it is what it is --  
 8 MR. ELIOT BERNSTEIN: Okay.  
 9 THE COURT: -- and anyone can do what they  
 10 think they need to do with it.  
 11 MR. ELIOT BERNSTEIN: Okay. So it's stated  
 12 for the record.  
 13 THE COURT: Okay.  
 14 MR. BROWN: So I'll include in the order  
 15 it's to stay intact in the IRA until further  
 16 order of the Court.  
 17 THE COURT: Okay.  
 18 MR. BROWN: My other motion is to inspect  
 19 and take possession. This is mostly an appraisal  
 20 so don't worry.  
 21 THE COURT: Okay.  
 22 MR. BROWN: There's tangible personal  
 23 property that belongs to the Estate. It's  
 24 located now in the Decedent's residence which is  
 25 owned by the Decedent's Irrevocable Trust.

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1 There have been questions raised as to  
 2 whether or not some of the tangible personal  
 3 property when the Decedent died was located in a  
 4 condominium that was then told sold and the  
 5 property was purportedly sent to the residence,  
 6 so there's some question as to whether or not all  
 7 that property that's on the appraisal is now  
 8 located in the residence which is in St. Andrews  
 9 Country Club.  
 10 So we called the appraiser and asked how  
 11 much would it be for you to go into the residence  
 12 at St. Andrews Country Club and simply do an  
 13 inventory of your appraised items. And he said  
 14 about \$500 unless things are boxed up and very  
 15 inaccessible.  
 16 THE COURT: So he's appraised the items  
 17 already?  
 18 MR. BROWN: This is Robert Hittle is his  
 19 name. He said about \$500 if everything is  
 20 accessible.  
 21 THE COURT: Well, what I'm getting at is,  
 22 this which you've attached to your motion is the  
 23 appraisal?  
 24 MR. BROWN: Correct. Which list all the  
 25 items.

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1 THE COURT: So the question is, did you  
 2 inventory of where those items are now?  
 3 MR. BROWN: To do an inventory to make sure  
 4 they're there at the residence. And then once we  
 5 make that determination, then what I would  
 6 envision the Court doing is just entering an  
 7 order requiring whoever the trustee is, make sure  
 8 those items stay there pending further order of  
 9 the Court because storing them to be expensive.  
 10 THE COURT: Are all the items -- so you are  
 11 no the sure whether all the items that are on  
 12 this appraisal are in the St. Andrews home or  
 13 not?  
 14 MR. BROWN: I'm absolutely not sure and I am  
 15 not qualified to walk in there and try to figure  
 16 it out.  
 17 THE COURT: So where -- But here it says,  
 18 I'm looking quickly at the appraisal, where the  
 19 items were when he did the appraisal.  
 20 MR. BROWN: Right.  
 21 THE COURT: So they're not there any longer?  
 22 MR. BROWN: Some of them -- the Decedent had  
 23 a condo on the beach, I believe, and had the  
 24 house in St. Andrews. Some of them were in the  
 25 condo, some of them were in the house.

<p style="text-align: right;">14</p> <p>1 When the condo was sold --</p> <p>2 THE COURT: Okay.</p> <p>3 MR. BROWN: -- during the --</p> <p>4 THE COURT: So they either got moved to the</p> <p>5 house or they're somewhere else?</p> <p>6 MR. BROWN: Correct.</p> <p>7 THE COURT: Okay. All right. Left to</p> <p>8 right, what do you say about the motion?</p> <p>9 MR. ROYER: No objection.</p> <p>10 MR. ROSE: We have some objection to this.</p> <p>11 THE COURT: Okay.</p> <p>12 MR. ROSE: Okay. The first thing is, this</p> <p>13 is an Eliot Bernstein motivated motion. All this</p> <p>14 stuff was inventoried in both properties.</p> <p>15 It's an issue that the prior personal</p> <p>16 representatives had looked into and in one sense,</p> <p>17 if Eliot wants to pay the \$500 for another</p> <p>18 appraisal, that's fine, but --</p> <p>19 THE COURT: No. But he doesn't want an</p> <p>20 appraisal.</p> <p>21 MR. ROSE: I mean, he wants the appraiser to</p> <p>22 go out and inventory it at a cost of, at a</p> <p>23 minimum, of \$500 which we think if Eliot wants to</p> <p>24 have an inventory, he should bear the expense of</p> <p>25 it.</p>	<p style="text-align: right;">16</p> <p>1 adverse.</p> <p>2 And second, we need a new appraiser. I saw</p> <p>3 that --</p> <p>4 THE COURT: That's not the motion, though.</p> <p>5 MR. ELIOT BERNSTEIN: No, I know, but in --</p> <p>6 just for record.</p> <p>7 THE COURT: Well, no, but I don't want to</p> <p>8 deal with an item that's not before of me.</p> <p>9 MR. ELIOT BERNSTEIN: I don't want you to</p> <p>10 rule on an appraiser going back there of the same</p> <p>11 guy.</p> <p>12 THE COURT: Okay, that's the motion. So I'm</p> <p>13 asking what your position is.</p> <p>14 MR. ELIOT BERNSTEIN: I'm telling you why</p> <p>15 we're objecting to that.</p> <p>16 THE COURT: Okay.</p> <p>17 MR. ELIOT BERNSTEIN: Stansbury's attorneys</p> <p>18 had put in that they question the appraisals on</p> <p>19 these items and I do to.</p> <p>20 We believe we found some evidence that there</p> <p>21 might be fencing of jewels in some of the</p> <p>22 appraisals done by the former PR's who are</p> <p>23 involved in frauding documents, forging</p> <p>24 documents, all that good stuff.</p> <p>25 And so now we found out, reported it to the</p>
<p style="text-align: right;">15</p> <p>1 This is all -- the items were in two</p> <p>2 different residences, the residence --</p> <p>3 THE COURT: So the items that were in the</p> <p>4 home are purportedly still there. The items that</p> <p>5 are in the condominium, is that the issue, now</p> <p>6 that the condo's been sold, where are those</p> <p>7 items?</p> <p>8 MR. ROSE: Some of the items, some furniture</p> <p>9 was left at the condo when it was sold. There</p> <p>10 may be some allocation issue at some point to do</p> <p>11 between the money that should go to the Estate</p> <p>12 and the money should go to the Trust.</p> <p>13 It may not matter at the end of the day</p> <p>14 because the ten beneficiaries are the same in</p> <p>15 both. I think the prior PR's decided to table</p> <p>16 the issue 'til a later date. We will get a new</p> <p>17 PR at some point. Maybe the new PR should take</p> <p>18 this up.</p> <p>19 You know, my client has --</p> <p>20 THE COURT: Okay. I understand your</p> <p>21 position.</p> <p>22 MR. ROSE: Okay.</p> <p>23 THE COURT: Okay. Eliot, what do you say?</p> <p>24 MR. ELIOT BERNSTEIN: Well, first that his</p> <p>25 position is argued improperly because he's</p>	<p style="text-align: right;">17</p> <p>1 police, they have condo investigations of this</p> <p>2 stuff, and so Ben Brown, you know, didn't</p> <p>3 know -- when we looked at the record they</p> <p>4 submitted, which is shotty, there's not a single</p> <p>5 thing that says they paid for moving costs of any</p> <p>6 furniture to the St. Andrews home and Ben</p> <p>7 couldn't find it either. And, you know, we -- I</p> <p>8 said we do and this is what he did.</p> <p>9 So you know, I support that it be done but</p> <p>10 by a different appraiser that's qualified.</p> <p>11 THE COURT: Well, I don't know that you need</p> <p>12 an appraiser to do an inventory.</p> <p>13 MR. ELIOT BERNSTEIN: Okay, the inventory,</p> <p>14 correct.</p> <p>15 THE COURT: Because it's not going to be</p> <p>16 appraised. Basically what you're saying is,</p> <p>17 here's the appraisal. They have, you know, a</p> <p>18 bunch of items --</p> <p>19 MR. ELIOT BERNSTEIN: But anything involved</p> <p>20 in the past.</p> <p>21 THE COURT: Where are those items, that's</p> <p>22 the question, Mr. Brown?</p> <p>23 MR. BROWN: The question is, whether the</p> <p>24 items are there at 77020 Lyons Head and whether</p> <p>25 or not they're the same items that appear on the</p>

<p style="text-align: right;">18</p> <p>1 appraisal.</p> <p>2 The reason we called Mr. Hittle is because</p> <p>3 he's the one who actually looked at them,</p> <p>4 photographed them and described the items on the</p> <p>5 appraisal.</p> <p>6 THE COURT: If he'll do it for a maximum, a</p> <p>7 maximum not a minimum, a maximum of \$500 I'll</p> <p>8 allow it.</p> <p>9 MR. ELIOT BERNSTEIN: Can we get someone</p> <p>10 else --</p> <p>11 THE COURT: No, he can do it because he's</p> <p>12 the one who can identify --</p> <p>13 MR. ELIOT BERNSTEIN: But he's involved with</p> <p>14 the prior guys --</p> <p>15 THE COURT: But here's the thing, it's going</p> <p>16 to cost more to have some one clean and I rather,</p> <p>17 you know, use the money more wisely and allow him</p> <p>18 just to identify.</p> <p>19 So he can do this, but Mr. Brown, someone</p> <p>20 else has to be present when he does this.</p> <p>21 MR. ELIOT BERNSTEIN: Can I be there?</p> <p>22 THE COURT: Okay. Well --</p> <p>23 MR. ELIOT BERNSTEIN: I haven't been to my</p> <p>24 parent's home since they locked me out.</p> <p>25 MR. BROWN: If I'm there it's \$350 an hour,</p>	<p style="text-align: right;">20</p> <p>1 in the prior frauds in advancing these schemes on</p> <p>2 the court and everybody else to get</p> <p>3 beneficiaries --</p> <p>4 THE COURT: Okay, here's what I will allow.</p> <p>5 So, on the date of the appointment for this</p> <p>6 fellow to go to the house, the house, I assume,</p> <p>7 is locked. Ted Bernstein has the key?</p> <p>8 MR. ROSE: Yes.</p> <p>9 THE COURT: Okay. All right. So Eliot, you</p> <p>10 can be there as well.</p> <p>11 MR. ELIOT BERNSTEIN: Thank you.</p> <p>12 THE COURT: But not to go in the house,</p> <p>13 okay. So you can watch the appraiser go in</p> <p>14 there --</p> <p>15 MR. ELIOT BERNSTEIN: Okay.</p> <p>16 THE COURT: -- he'll do his thing, he'll</p> <p>17 come out. And assuming he's not carrying boxes</p> <p>18 of items, it's probably a good idea he's not</p> <p>19 stealing anything from inside, okay, because</p> <p>20 that's the question. I mean, but he can do --</p> <p>21 Okay. You can write that in the order. You</p> <p>22 both can watch to make sure he doesn't prolong</p> <p>23 any items in there.</p> <p>24 MR. BROWN: I'll write that.</p> <p>25 THE COURT: Yeah, write that in. Have fun.</p>
<p style="text-align: right;">19</p> <p>1 so it defeats the purpose.</p> <p>2 THE COURT: Okay.</p> <p>3 MR. ROSE: We object to the</p> <p>4 Eliot Bernstein --</p> <p>5 THE COURT: Yeah, I rather not have an</p> <p>6 active party there.</p> <p>7 MR. ELIOT BERNSTEIN: Can I be there as a</p> <p>8 witness?</p> <p>9 THE COURT: But here's the thing, if you're</p> <p>10 there, then they're going to want someone to be</p> <p>11 there and all of sudden, it's going to be a show.</p> <p>12 MR. ELIOT BERNSTEIN: I don't mind.</p> <p>13 THE COURT: I'm trying to avoid that from</p> <p>14 happening.</p> <p>15 MR. ELIOT BERNSTEIN: I know, but I'm trying</p> <p>16 to avoid further fraud.</p> <p>17 MR. ROSE: Your Honor, may I?</p> <p>18 Mr. Bernstein, Ted Bernstein who's the Trustee of</p> <p>19 the trust that owns the house will unlock the</p> <p>20 door and stay outside.</p> <p>21 And this gentleman's a professional. I</p> <p>22 think we could trust him to go inventory it last</p> <p>23 time and I think if we let him in by himself, I</p> <p>24 don't think he's going to it steal anything.</p> <p>25 MR. ELIOT BERNSTEIN: He's directly involved</p>	<p style="text-align: right;">21</p> <p>1 What else?</p> <p>2 MR. ROSE: We have a Motion to Continue.</p> <p>3 There's some hearings set for July 11th. I</p> <p>4 addressed it at the prior hearing. There was</p> <p>5 some confusion, so I withdraw the order I was</p> <p>6 going to submit and start from scratch.</p> <p>7 There's two hearings on July 11th. One is</p> <p>8 Eliot's Motion For Trust Construction in the</p> <p>9 Shirley Trust and one is his objections to the</p> <p>10 accountings of Tescher &amp; Spallina.</p> <p>11 THE COURT: In the Simon Trust?</p> <p>12 MR. ROSE: In the Simon Trust -- in the</p> <p>13 Simon Estate.</p> <p>14 Tescher &amp; Spallina are unavailable for those</p> <p>15 days. I've obtained on behalf of Ted as the</p> <p>16 Trustee of his father's trust an extension to</p> <p>17 obtain -- to make objections until time after</p> <p>18 the -- sometime after the PR is appointed because</p> <p>19 the PR is the one who really should prosecute the</p> <p>20 objections. So we've asked to continue those</p> <p>21 hearings.</p> <p>22 Everyone was in agreement. And I did bring</p> <p>23 it last week, thought it was an agreement.</p> <p>24 Mr. Bernstein objected. So I withdraw what we</p> <p>25 did last week and now we're just formally asking</p>

<p style="text-align: right;">22</p> <p>1 you to continue those hearings for a variety of 2 reasons. 3 One is, we have two hours set aside. We 4 have to have, maybe, half a day or a day trial on 5 a Trust Instruction Action or maybe more, there's 6 other parties involved and the objections to the 7 accounting are going to take a long time. 8 What we've asked you to do because there's a 9 myriad of -- 10 THE COURT: Let me just -- 11 MR. ROSE: We have to have status 12 conference -- 13 THE COURT: One of the problems is that 14 Eliot says he can't get hearing dates. And so, 15 at least, what you're telling me is set on July 16 11th, one of those matters is his Motion For 17 Trust Construction, so why can't that be heard? 18 MR. ROSE: Well, it's going to take a day or 19 two to have that heard. We need discovery. 20 We'd asked for -- what I'd suggest is, if we 21 have a status conference on that day, we can go 22 through all the motions that are pending and 23 figure out what actually needs to be heard, 24 what's agreed upon and, you know, set the case to 25 where it's manageable.</p>	<p style="text-align: right;">24</p> <p>1 would like to know that. 2 MR. BROWN: Okay. I probably have a copy of 3 it. 4 MR. ROSE: It is in the Simon Estate. So 5 we have in the Simon Estate, they's a document 6 that wants to construe as the Shirley 7 Bernstein Trust, it's 8 MR. ELIOT BERNSTEIN: No. 9 THE COURT: I just heard Eliot say this has 10 nothing to do with the Shirley Bernstein Estate. 11 This is Petition For Construction of Testament 12 Trust of Removal of Trustee And Trust Accounting 13 in the Simon case. That's what it pertains to, 14 all about Simon? 15 MR. ELIOT BERNSTEIN: I thought so. 16 THE COURT: Well, we have -- as far as the 17 accounting goes, there's been an accounting, 18 there are objections to the accounting, I have to 19 hear that, so -- 20 MR. ELIOT BERNSTEIN: No trust accounting, 21 neither Estate. God knows how many rules that 22 violated. 23 THE COURT: I am not sure why I can't hear 24 this motion. I mean, assuming -- I mean, he 25 obviously has to make sure everyone's served and</p>
<p style="text-align: right;">23</p> <p>1 To have the Trust Construction, first of 2 all, it's filed in the wrong case. I don't know 3 if it's been properly noticed to everybody -- 4 THE COURT: That, I don't know. I know you 5 tell me there's a hearing date. Beyond that, I 6 don't know whether it's done properly or not, but 7 that's a matter in the Shirley's case. 8 MR. ROSE: That's in the -- Yeah, I filed it 9 this Motion to Continue in both cases. 10 THE COURT: No. But Eliot's Trust 11 Construction motion is in the Shirley Bernstein 12 case? 13 MR. ROSE: Correct. In the Shirley 14 Bernstein Estate, it's merely construed as the 15 Shirley Bernstein Trust, it's not properly -- 16 THE COURT: Do you have a copy of your 17 motion that's set? 18 MR. ELIOT BERNSTEIN: No, but it's in Simon, 19 you can look it up on the record. I have a 20 docket here. 21 THE COURT: So is it in Simon's Trust case 22 or -- Simon's Estate or Shirley's Estate? 23 MR. ROSE: The Trust Construction, I think, 24 is in Shirley's Estate. 25 THE COURT: And they say no. So I kind of</p>	<p style="text-align: right;">25</p> <p>1 it has to be done pursuant to the rules. 2 Okay. I'm going to hear this motion. 3 MR. ROSE: There is -- 4 THE COURT: But the hearing, at the same 5 time on the objections to the accounting, we're 6 not going to do that because we're never going to 7 have time. This will take two hours in and of 8 itself anyway and it's -- You know, it's just not 9 helpful to try to squeeze things in. 10 Mr. Brown, what do you say? 11 MR. BROWN: Well, my suggestion is, Your 12 Honor, I had tried to set the Motion to Appoint 13 Personal Representative for July 16th. 14 THE COURT: Okay. 15 MR. BROWN: And I think that Mr. Glasko and 16 Mr. Feaman have issues with July 16th, but 17 July 11th would be clear. 18 And it makes sense to go ahead and have the 19 Motion to Remove the Trustee, who's 20 Ted Bernstein, and petition to appoint -- the 21 competing petitions to appoint the personal 22 representative -- 23 THE COURT: All right. I like that idea 24 because I think we need to get a PR in here if we 25 can.</p>

<p style="text-align: right;">26</p> <p>1 MR. BROWN: I agree.  2 THE COURT: Okay. Any reason we can't do  3 both of those on that date?  4 MR. ELIOT BERNSTEIN: Well, Your Honor --  5 THE COURT: Well, because if I remove a  6 trustee, I need someone to fill the blank there,  7 I need a PR.  8 MR. ROSE: That's not going to be a two-hour  9 trial, that's going to be an all day affair, at  10 least.  11 THE COURT: Okay.  12 MR. ROSE: And --  13 THE COURT: All right.  14 MR. ROSE: This is my concern; we have --  15 there was a block of time on July 16th. And I  16 suggested that -- everyone agreed last week,  17 other than Eliot, that it made sense to have a  18 status conference.  19 THE COURT: Hold on. Let me take a look at  20 my calendar and see that time because I want to  21 make sure we have enough time to finish this.  22 Okay. I can give you three-and-a-half hours  23 on that day.  24 MR. ROYER: Your Honor, if I may,  25 Mr. Feaman is in mediation on that day.</p>	<p style="text-align: right;">28</p> <p>1 which we have a half a day. We just have to  2 bifurcate it that day.  3 MR. ROSE: Okay.  4 THE COURT: So I'm going to deal with this  5 Petition For Construction and Removal. We're not  6 doing accountings and then we're going to deal  7 with the appointment of the PR in consecutive  8 time, so those two matters will take care of  9 those two days. Hold on one second, let me sign  10 this.  11 Okay. What else? Anything else from you?  12 MR. ROSE: Well, we still have to have a  13 status conference.  14 THE COURT: We'll discuss that. I mean,  15 yeah, before you all leave, at some point we'll  16 status.  17 Yes?  18 MR. ELIOT BERNSTEIN: Okay, I object.  19 THE COURT: To what part?  20 MR. ELIOT BERNSTEIN: To everything he said  21 because he's adverse.  22 THE COURT: He didn't say anything to object  23 to. He just said can we have a status  24 conference.  25 MR. ELIOT BERNSTEIN: I object to some of</p>
<p style="text-align: right;">27</p> <p>1 THE COURT: On the 11th?  2 MR. ROYER: He was just on the calendar on  3 the 11th.  4 THE COURT: But everybody -- You know, I'm  5 not going to get a day where someone doesn't have  6 something, that's the problem.  7 MR. BROWN: Your Honor, respectfully,  8 Mr. Feaman, he has a dog in the fight in the form  9 of Mr. Stansbury, but he's not asking  10 to be -- Mr. Stansbury is not asking to be  11 Trustee nor is he asking to be personal  12 representative.  13 THE COURT: Yeah, I'm not too concerned  14 about him in this hearing.  15 MR. ROSE: I think he has filed a motion to  16 appoint Eliot Bernstein as personal  17 representative.  18 MR. ROYER: It's Eliot's motion.  19 THE COURT: So I have scheduled now on the  20 16th for half a day the Petition to Appoint PR.  21 MR. BROWN: Correct.  22 THE COURT: So why don't we do this, we're  23 going to start these hearings on the 11th. I'll  24 give you three-and-a-half hours.  25 If we don't finish, we move over to the 16th</p>	<p style="text-align: right;">29</p> <p>1 the stuff he put in the record.  2 THE COURT: Yeah. But now I'm giving you  3 the hearing.  4 MR. ELIOT BERNSTEIN: Because it's false.  5 THE COURT: But this is UMC, I am not taking  6 testimony.  7 MR. ELIOT BERNSTEIN: Okay, gotcha. The  8 only thing I want that I think is important  9 first, is that you hear if he is adverse --  10 THE COURT: I'm going to hear everything  11 that the rules allow.  12 MR. ELIOT BERNSTEIN: Okay.  13 THE COURT: Someone will call a witness,  14 we'll have a hearing.  15 MR. ELIOT BERNSTEIN: No, no. My question,  16 I put in motions saying that his adverse interest  17 and cannot represent it any party as counsel  18 because he's a direct fact and material witness,  19 is involved in the perpetration of the  20 frauded (sic) document, he's been police  21 investigations --  22 THE COURT: Is there a formal Motion to  23 Disqualify?  24 MR. ELIOT BERNSTEIN: Yeah, it's all on  25 there. It's the one I asked you to disqualify</p>



<p style="text-align: right;">30</p> <p>1 for the same reasons.  2 THE COURT: I don't represent anybody, so it  3 couldn't be for the same reasons.  4 MR. ELIOT BERNSTEIN: Well, under adverse  5 interest.  6 THE COURT: Okay. Do you have a Motion to  7 Disqualify from him?  8 MR. ROSE: I was going at that approach,  9 without comment. This was filed --  10 THE COURT: Yeah. So let me review it for  11 legal sufficiency, that's what I have to do. All  12 right.  13 MR. ELIOT BERNSTEIN: Sir, I voluntarily ask  14 you to disqualify because you have adverse  15 interest if you're a material and fact witness,  16 your name's on a bunch of documents --  17 THE COURT: Okay. I'll look at this motion  18 when I get off the bench at some point and I'll  19 either rule on it based upon its sufficiency or  20 I'll set it for hearing.  21 MR. ELIOT BERNSTEIN: Okay. But then --  22 okay.  23 THE COURT: But right now we have these  24 hearings dates.  25 MR. ELIOT BERNSTEIN: Before any hearing</p>	<p style="text-align: right;">32</p> <p>1 that. Okay.  2 MR. ELIOT BERNSTEIN: He should voluntarily  3 leave. I mean, he has bar rules and judicial --  4 THE COURT: Mr. Bernstein, this is UMC. We  5 have a big crowd here.  6 MR. ELIOT BERNSTEIN: Okay.  7 THE COURT: All right. I'll rule on this  8 and then -- was there a prior motion to  9 disqualify me?  10 MR. ELIOT BERNSTEIN: No.  11 THE COURT: Okay. So the rule is different  12 when there's a successive motion.  13 MR. ELIOT BERNSTEIN: The bottom line is,  14 that before we have those hearings on the 11th or  15 16th, or whatever you just said, we have to hear  16 if the counsel and the Judge are legally  17 qualified --  18 THE COURT: I just told you I'm going to  19 rule on this in the next day or two.  20 MR. ELIOT BERNSTEIN: You know they were  21 involved.  22 THE COURT: Mr. Bernstein, you are starting  23 to move past what the UMC allows me to do.  24 MR. ELIOT BERNSTEIN: Okay.  25 THE COURT: File something in writing and</p>
<p style="text-align: right;">31</p> <p>1 happen, we you need --  2 THE COURT: I'll rule on this before the  3 11th?  4 MR. ELIOT BERNSTEIN: That's for you. It's  5 got a little bit of him. You want me to file a  6 separate motion --  7 THE COURT: This one is for -- hold on.  8 MR. ELIOT BERNSTEIN: In fact, Your Honor,  9 this document they're trying to become privileged  10 that's not between attorneys and clients is a  11 threatening letter that talks about legal abusive  12 strategies --  13 THE COURT: Okay. Slow down one second. I  14 thought this motion had to do with Mr. Rose, it  15 doesn't, this has to do with me.  16 MR. ELIOT BERNSTEIN: Yes.  17 THE COURT: Okay.  18 MR. ROSE: Right.  19 MR. ELIOT BERNSTEIN: But it does deal with  20 him, Your Honor.  21 THE COURT: Is there another motion that  22 deals separately with him?  23 MR. ELIOT BERNSTEIN: No, but if you want,  24 I'll do it.  25 THE COURT: No. Sure -- no, I'm not inviting</p>	<p style="text-align: right;">33</p> <p>1 I'll look at it.  2 MR. ELIOT BERNSTEIN: I will. You got it.  3 THE COURT: Okay. Let me have the orders.  4 Okay, bye. Next case.  5 Write out the orders to make room --  6 MR. ELIOT BERNSTEIN: By the way, Your  7 Honor, part of this is my family's in danger.  8 That privileged letter that he's trying to hide  9 from your eyes and federal investigators and  10 everybody else, is a letter that talks about  11 using abusive legal strategies to harass me and  12 my father's friends -- listen.  13 THE COURT: No, no, stop, stop.  14 MR. ELIOT BERNSTEIN: Okay.  15 THE COURT: You're beyond what UMC allows to  16 you do.  17 MR. BROWN: That is an e-mail that Eliot  18 wrote to me and I told him that I would give you,  19 talks about Mr. Rose's duty to disqualify  20 himself.  21 THE COURT: Okay.  22 MR. BROWN: That one I'm going to need the  23 original to certify JP Morgan. And this is the  24 other one, that I do not need back, just a copy.  25 Thank you, Judge.</p>

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1 THE COURT: Okay. Thanks.  
2 (Thereupon, the hearing was concluded.)  
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1 CERTIFICATE OF REPORTER  
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4 STATE OF FLORIDA )  
 ) SS:  
5 COUNTY OF WEST PALM BEACH )  
6  
7  
8 I, LISA GREENWELL, Court Reporter, do hereby  
certify that I was authorized to and did  
9 stenographically report the HEARING before the  
Honorable Martin Colin, that a review of the transcript  
10 was requested; and that the foregoing transcript Pages 1  
through 35 is a true record of my stenographic notes.  
11  
12  
13 I FURTHER CERTIFY that I am not a relative,  
employee, or attorney, or counsel of any of the parties,  
nor am I a relative or employee of any of the parties'  
14 attorney or counsel connected with the action, nor am I  
financially interested in the action.  
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17  
18 Dated this 1st day of July, 2014  
19  
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21 \_\_\_\_\_  
LISA GREENWELL, Court Reporter  
Bailey & Associates  
22 500 East Broward Boulevard  
Suite 1700  
23 Fort Lauderdale, Florida 33394  
24  
25

<hr/> <p style="text-align: center;"><u>§</u></p> <p><b>\$350</b> 18:25</p> <p><b>\$500</b> 12:14,19 14:17,23 18:7</p> <hr/> <p style="text-align: center;"><u>1</u></p> <p><b>1</b> 35:10</p> <p><b>11th</b> 7:23 21:3,7 22:16 25:17 27:1,3,23 31:3 32:14</p> <p><b>16th</b> 25:13,16 26:15 27:20,25 32:15</p> <p><b>1700</b> 35:22</p> <p><b>19</b> 1:15</p> <p><b>1st</b> 35:17</p> <hr/> <p style="text-align: center;"><u>2</u></p> <p><b>200</b> 1:17</p> <p><b>2012</b> 1:4</p> <p><b>2014</b> 1:15 35:17</p> <p><b>2753</b> 2:24</p> <hr/> <p style="text-align: center;"><u>3</u></p> <p><b>33394</b> 35:23</p> <p><b>33401</b> 2:5,12</p> <p><b>33434</b> 2:24</p> <p><b>33436</b> 2:19</p> <p><b>33444</b> 1:18</p> <p><b>334th</b> 2:24</p> <p><b>35</b> 35:10</p> <p><b>3695</b> 2:18</p> <hr/> <p style="text-align: center;"><u>4</u></p> <p><b>401</b> 2:4</p> <hr/> <p style="text-align: center;"><u>5</u></p> <p><b>50</b> 1:4</p> <p><b>500</b> 35:22</p> <p><b>505</b> 2:11</p> <p><b>541,000</b> 8:7</p> <hr/> <p style="text-align: center;"><u>6</u></p> <p><b>600</b> 2:12</p> <p><b>625</b> 2:4</p> <hr/> <p style="text-align: center;"><u>7</u></p> <p><b>77020</b> 17:24</p>	<hr/> <p style="text-align: center;"><u>8</u></p> <p><b>8:45</b> 1:16</p> <hr/> <p style="text-align: center;"><u>9</u></p> <p><b>9</b> 2:19</p> <p><b>9:45</b> 1:16</p> <hr/> <p style="text-align: center;"><u>A</u></p> <p><b>a.m</b> 1:16</p> <p><b>able</b> 9:15</p> <p><b>absolutely</b> 13:14</p> <p><b>abusive</b> 31:11 33:11</p> <p><b>accessible</b> 12:20</p> <p><b>account</b> 9:24</p> <p><b>accounting</b> 22:7 24:12,17,18,20 25:5</p> <p><b>accountings</b> 21:10 28:6</p> <p><b>acting</b> 5:19 6:9</p> <p><b>action</b> 7:13 22:5 35:14</p> <p><b>active</b> 19:6</p> <p><b>actually</b> 10:5 18:3 22:23</p> <p><b>addressed</b> 21:4</p> <p><b>advancing</b> 20:1</p> <p><b>adverse</b> 5:18,25 7:1,14 16:1 28:21 29:9,16 30:4,14</p> <p><b>affair</b> 26:9</p> <p><b>against</b> 7:13</p> <p><b>agreed</b> 22:24 26:16</p> <p><b>agreement</b> 21:22,23</p> <p><b>ahead</b> 25:18</p> <p><b>ALAN</b> 2:9</p> <p><b>allocation</b> 15:10</p> <p><b>allow</b> 18:8,17 20:4 29:11</p> <p><b>allows</b> 32:23 33:15</p> <p><b>already</b> 9:10 12:17</p> <p><b>am</b> 7:4 13:14 24:23 29:5</p>	<p>35:12,13,14</p> <p><b>Andrews</b> 12:8,12 13:12,24 17:6</p> <p><b>announce</b> 6:24</p> <p><b>announced</b> 4:22</p> <p><b>anybody</b> 30:2</p> <p><b>anyone</b> 4:3 8:14 11:9</p> <p><b>anything</b> 4:23 7:21 17:19 19:24 20:19 28:11,22</p> <p><b>anyway</b> 25:8</p> <p><b>apparently</b> 9:16</p> <p><b>appear</b> 17:25</p> <p><b>APPEARANCE</b> 2:1,7,15</p> <p><b>appears</b> 8:25 11:5</p> <p><b>appoint</b> 25:12,20,21 27:16,20</p> <p><b>appointed</b> 21:18</p> <p><b>appointment</b> 20:5 28:7</p> <p><b>appraisal</b> 11:19 12:7,23 13:12,18,19 14:18,20 17:17 18:1,5</p> <p><b>appraisals</b> 16:18,22</p> <p><b>appraised</b> 12:13,16 17:16</p> <p><b>appraiser</b> 12:10 14:21 16:2,10 17:10,12 20:13</p> <p><b>approach</b> 3:10 30:8</p> <p><b>appropriate</b> 8:10,11</p> <p><b>argue</b> 3:25 4:3</p> <p><b>argued</b> 15:25</p> <p><b>arrested</b> 11:3</p> <p><b>aside</b> 22:3</p> <p><b>aspect</b> 10:25</p> <p><b>Associates</b> 35:21</p> <p><b>assume</b> 20:6</p> <p><b>assuming</b> 20:17 24:24</p> <p><b>Atlantic</b> 1:17</p>	<p><b>attached</b> 12:22</p> <p><b>attorney</b> 35:13,14</p> <p><b>attorneys</b> 16:17 31:10</p> <p><b>Authority</b> 1:10 8:5</p> <p><b>authorized</b> 35:8</p> <p><b>Avenue</b> 1:17</p> <p><b>avoid</b> 19:13,16</p> <hr/> <p style="text-align: center;"><u>B</u></p> <p><b>Bailey</b> 35:21</p> <p><b>bailiff</b> 7:15</p> <p><b>bar</b> 6:3,13 32:3</p> <p><b>barred</b> 5:25</p> <p><b>based</b> 30:19</p> <p><b>Basically</b> 17:16</p> <p><b>beach</b> 1:2,17,18 2:5,12,18,19 13:23 35:5</p> <p><b>bear</b> 14:24</p> <p><b>become</b> 31:9</p> <p><b>becomes</b> 3:23</p> <p><b>behalf</b> 2:1,7,15 4:7 9:2 21:15</p> <p><b>believe</b> 3:12 8:11 9:12 13:23 16:20</p> <p><b>belongs</b> 11:23</p> <p><b>Ben</b> 8:24 9:6 17:2,6</p> <p><b>bench</b> 30:18</p> <p><b>beneficiaries</b> 9:11 15:14 20:3</p> <p><b>beneficiary</b> 9:1,2,8,9,14,16 10:1,2,21 11:6</p> <p><b>BENJAMIN</b> 2:2</p> <p><b>Bernstein</b> 1:7 2:7,23 3:7,11,20 4:11,12,14,21 5:1,5,10,13,16, 24 6:3,8,12,15,17, 25 7:17 8:21,24 10:13,24 11:8,11 14:13 15:24 16:5,9,14,17 17:13,19 18:9,13,21,23</p>
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