

IN THE CIRCUIT COURT OF THE 15th JUDICIAL CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA

ADAM SHAPIRO,

Plaintiff,

CASE NO.

-v-

SHERRI GUGGENHEIM;

Defendant.

_____ /

VERIFIED COMPLAINT

Plaintiff, ADAM SHAPIRO, by and through his undersigned counsel, hereby file this Verified Complaint, and in support thereof state as follows:

1. This is an action at law and in equity in excess of \$50,000.00 for jurisdictional purposes.

2. Plaintiff, ADAM SHAPIRO ("Adam"), is the son of Beryl Shapiro (the "decedent"), is a resident of North Carolina, and is otherwise *sui juris*.

3. Defendant, SHERRI GUGGENHEIM ("Sherri"), is the daughter of the decedent, is a resident of Florida, and is otherwise *sui juris*.

4. Venue is proper in Palm Beach County, Florida, and the Court has jurisdiction over the parties and subject matter due to the following:

- a. The decedent was a resident of Palm Beach County, Florida during all material times;

ADRIAN PHILIP THOMAS PA

Las Olas Square - 515 East Las Olas Boulevard, Suite 1050, Fort Lauderdale, Florida 33301
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www.florida-probate-lawyer.com

- b. Sherri committed tortious acts in Palm Beach County, Florida regarding accounts belonging to the decedent; and
- c. The decedent's estate is currently pending in Palm Beach County, Florida;
- d. Sherri is residing in Palm Beach County, Florida.

GENERAL NARRATIVE

- 5. The decedent had two children: Adam and Sherri.
- 6. For the entirety of her life, the decedent intended to provide equally for Adam and Sherri upon her death.
- 7. The decedent owned real property in Boca Raton (specifically 22645 Caravelle Circle, Boca Raton, FL).
- 8. On August 26, 2019, the decedent executed a Last Will and Testament that included the following material provisions:
 - a. Both Adam and Sherri were nominated to serve as co-Personal Representatives;
 - b. Both Adam and Sherri were equal, 50-50 specific devisees of the decedent's above-referenced real property; and
 - c. Both Adam and Sherri were equal, 50-50 beneficiaries of the decedent's residuary estate.

A copy the decedent's Last Will and Testament dated August 26, 2019 is attached hereto as **Exhibit "A"**.

ADRIAN PHILIP THOMAS^{P.A.}

9. This Last Will and Testament was never revoked or otherwise altered, evidencing the decedent's true testamentary plan to provide equally for her children.

10. Furthermore, the decedent maintained at least three investment accounts at Charles Schwab; the accounts were previously held at TD Ameritrade, which has since been merged with Charles Schwab (hereinafter the "investment accounts").

11. The investment accounts had account numbers ending in [REDACTED] 9622, and 7791 (with the account ending in [REDACTED] being considered the "Parent Account" for summary purposes according to TD Ameritrade). The combined total of the investment accounts was in excess of \$1.2 million as of June 2023.

12. Nevertheless, Churchill Management Group was the decedent's financial advisor and maintained and invested the investment accounts for the benefit of the decedent.

13. In keeping with the decedent's longstanding intention to provide all of her assets equally amongst her two children, the above investment accounts were transfer-on-death to Adam and Sherri equally. A copy of a December 3, 2019 confirmation letter from Churchill Management Group reflecting the beneficiary designation is attached hereto as Exhibit "B".

14. Unfortunately, the decedent's health (both physically and cognitively) began to wane significantly.

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15. The decedent had been battling cancer for approximately 10 years and subsequently had surgery to remove the cancerous tumor. As a result, she was being prescribed various, potent prescription medications.

16. Moreover, she began suffering from significant vision, hearing loss, and was required to use a walker. In or around 2022, the decedent stopped driving as she was physically and/or mentally unable to do so.

17. In addition, the decedent had improperly (and in contradiction with her former habits) refusing much of her medical care from her primary care physician. This was the same time that she had been suffering from multiple compression fractures of her spine and undertook several kyphoplasty procedures. As a result, the decedent was suffering from chronic back and nerve pain, which resulted in her being prescribed potent pain medications that suppressed her appetite and effectively sedated her.

18. In Thanksgiving 2023, Adam visited the decedent, observed her status, and noticed that a change in her mental status. She was highly agitated, appeared to be under the influence of narcotics (presumably caused by the side effects of her prescription medications), and was primarily bound to her bed at the time. Adam was advised that the decedent was sleeping the majority of the day.

19. During this time period, the family had discussions with the decedent's treating physician's about whether hospice care would be beneficial for her. Ultimately, the decedent began hospice care with Trustbridge.

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20. At some point prior to her death, a change was made to the beneficiary designation for the investment accounts.

21. Completely in contrast with the decedent longstanding intention to provide equally to both Adam and Sherri upon her death, a purported change of beneficiary designation was purportedly provided in connection with the investment accounts that made Sherri the sole, transfer-on-death beneficiary.

22. During this time period, Sherri had moved-in to the decedent's house in Boca Raton and began controlling her affairs.

23. During all material times, Sherri maintained a position of trust and confidence with the decedent as her daughter and as agent under a durable power of attorney.

24. Upon information and belief, Sherri became the sole beneficiary of the investment accounts to the detriment of Adam.

25. Upon information and belief, Sherri had conversations with the decedent about making her the sole transfer-on-death beneficiary of the investment accounts.

26. Upon information and belief, Sherri was present when this purported change of beneficiary designation was executed and submitted.

27. Upon information and belief, Sherri would make inappropriate comments about Adam to the decedent in an effort to destroy the love and affection that existed

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between them. Sherri would make these comments as a means of improperly coercing and influencing the decedent provide for her more financially upon the decedent's death.

28. During all material times, there existed a significant gap in the mental strength between Sherri and the decedent that Sherri used in order to manipulate and coerce the decedent into eliminating Adam as a beneficiary of the investment accounts.

29. Ultimately, the decedent died on January 31, 2024 in Palm Beach County, Florida.

30. On the same date as the decedent death, Sherri transferred \$93,000 from the decedent's Wells Fargo account (which Sherri was on for the purposes of convenience only) into her own personal account.

31. In addition, the next day, Sherri effectively went on a shopping spree using the decedent's assets to buy herself clothing and go to a nail salon for approximately \$1,000.

32. Sherri's actions during the time period of the decedent's death are emblematic of how she viewed the decedent as a financial tool during the time period when she was purportedly made the sole transfer-on-death beneficiary of the investment accounts.

33. At the time of filing of the instant action, Adam is not in possession of the change of beneficiary designation for the investment accounts (although he has been

ADRIAN PHILIP THOMAS^{PA}

advised that he is no longer a beneficiary of same). Nevertheless, this change of beneficiary designation will be requested and obtained in discovery in this matter.

**COUNT I - INVALIDITY OF PURPORTED TRUST AMENDMENT DUE TO
UNDUE INFLUENCE**

34. Adam restates paragraphs 1 through 33 as though fully rewritten herein.

35. The change of beneficiary designation for the investment accounts should be declared void as it was procured by undue influence on the part of Sherri.

36. The undue influence exerted by Sherri upon the decedent amounted to over persuasion, duress, coercion, and/or artful or fraudulent contrivances to such an extent that there was a destruction of her free agency and will power.

37. As referenced above, Sherri became the sole beneficiary of the investment accounts to the detriment of Adam.

38. During all material times, Sherri maintained a position of trust and confidence with the decedent, which she used to cause the destruction of the decedent's longstanding plan to provide equally for her children upon his death.

39. Sherrie was active in the procurement of the purported change of beneficiary designation for the investment accounts as referenced above.

40. As a result of the above, the change of beneficiary designation for the investment accounts should be deemed invalid and void.

WHEREFORE, Plaintiff, Adam Shapiro, respectfully requests that this Court enter an Order:

ADRIAN PHILIP THOMAS^{PA}

- a. Declaring the changes to the purported change of beneficiary designation for the investment accounts to be invalid on the basis of undue influence;
- b. For attorney's fees and costs; and
- c. For any such other and further relief that this Court deems just and proper.

COUNT II - TORTIOUS INTERFERENCE WITH EXPECTANCY

41. Adam restates paragraphs 1 through 33 as though fully rewritten herein.

42. The decedent had a longstanding expectancy for Adam to be a 50% beneficiary of the investment accounts upon her death.

43. Sherri intentionally interfered with that expectancy by tortiously causing the execution of the purported change of beneficiary designation as referenced above.

44. Sherri caused this destruction in the decedent's testamentary plan and Adam has been damaged as a result.

45. Adam has no adequate probate remedy to address the allegations pled herein.

WHEREFORE, Plaintiff, Adam Shapiro, respectfully requests that this Court enter an Order:

- a. For entry of Final Judgment against Sherri Guggenheim including pre and post judgment interest;
- b. For attorney's fees and costs; and
- c. For any such other and further relief that this Court deems just and proper.

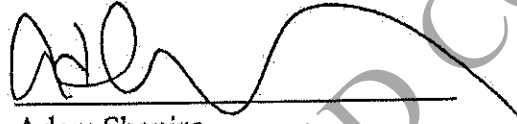
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JURY DEMAND

Pursuant to Article I, Section 22, Florida Constitution, Plaintiff hereby request a trial by jury on all appropriate causes of action.

VERIFICATION

I hereby declare, under penalties of perjury, that the facts contained herein are true and correct to the best of my knowledge and belief.


Adam Shapiro

ADRIAN PHILIP THOMAS, PA
Counsel for Plaintiff
Las Olas Square, Suite 1050
515 E. Las Olas Blvd.
Fort Lauderdale, FL 33301
(954) 764-7273 - Telephone
(954) 764-7274 - Facsimile
Legal-service@aptpa.com

By: /s/ Victor D. Orihuela
Victor D. Orihuela, Esquire
Florida Bar No. 70174

ADRIAN PHILIP THOMAS PA

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www.florida-probate-lawyer.com

LAST WILL AND TESTAMENT

OF

BERYL SHAPIRO

I, **BERYL SHAPIRO**, a resident of Boca Raton, County of Palm Beach, State of Florida, being of sound mind and memory, do hereby make, publish and declare this to be my Last Will and Testament, and do hereby revoke, cancel and annul any former Wills and Testaments, including Codicils thereto, by me at any time made.

ARTICLE I.

For the purposes of identification, I am a widowed woman and I have two (2) adult children who are: **SHERRI BETH GUGGENHEIM** of Chadds Ford, Pennsylvania, and **DR. G. ADAM SHAPIRO** of Cornelius, North Carolina.

ARTICLE II.

I hereby nominate and appoint my son, **DR. G. ADAM SHAPIRO** and my daughter, **SHERRI BETH GUGGENHEIM** as Co-Personal Representatives of my estate. I direct that no bond or other security be required of my Personal Representative or Trustees, for the faithful performances of the duties of their respective offices.



Will of BERYL SHAPIRO

-1-

BS
Initials

ARTICLE III.

Upon my death, I wish to be given a proper funeral and interment in the mausoleum located at Beth El Synagogue in which pre-arrangements have already been made. My Personal Representative shall have the discretion and authority to choose and make such additional arrangements, and also to select a suitable stone, marker or other memorial to be erected at my interment site. The cost of all funeral, interment and memorial expenses shall be paid without limit from my residuary estate.

ARTICLE IV.

I direct that all of my last illness, funeral and testamentary expenses be paid as soon after my death as is practicable, and shall become a charge upon and be paid from the residue and remainder of my estate. All estate or inheritance taxes including any interest and penalties thereon, shall be considered a testamentary expense.

ARTICLE V.

I give, in accordance with a written statement which I may have prepared pursuant to Florida Law (Florida Probate Code Section 732.515), all of my clothing, jewelry, automobiles, collections, tools, books, papers, and other tangible personal property of every kind and description whatsoever, together with any insurance thereon, which I own at the time of my death, but not including tangible personal property used in a trade or business in which I am engaged at the time of my death and not including tangible property which my Personal Representative, in his or her discretion, determines that I held primarily for investment or appreciative purposes. My Personal Representative may assume no such written statement exists if none is found within thirty (30) days after admission of this Will to probate.

ARTICLE VI.

All of the rest, residue and remainder of my estate, whether real, personal or mixed, in possession or in expectancy, of whatsoever kind and nature and whatsoever situated, I give and devise as follows:

A. Specific Bequests

(1) My real property located at 22645 Caravelle Circle, Boca Raton, Florida, shall be equally divided between by son, **DR. G. ADAM SHAPIRO**, and my daughter, **SHERRI BETH GUGGENHEIM**, provided they survive me. Should either of my children be deceased, then that child's share shall be equally distributed to my grandchildren, **JENNIFER RUBENSTEIN** and **JOSEPH GUGGENHEIM**, both of Chadds Ford, Pennsylvania, and **HARPER HOPE SHAPIRO** of Cornelius, North Carolina, or to the survivor(s) among them.

B. Residuary

(1) **Fifty Percent (50%)** to my daughter, **SHERRI BETH GUGGENHEIM**, provided she survives me. In the event she is deceased, then her share shall be distributed equally among her children, **JENNIFER RUBENSTEIN** and **JOSEPH GUGGENHEIM**, both of Chadds Ford, Pennsylvania, *per stirpes*.

(2) **Fifty Percent (50%)** to my son, **DR. G. ADAM SHAPIRO**, provided he survives me. In the event he is deceased, then his share shall be distributed to his daughter, **HARPER HOPE SHAPIRO** of Cornelius, North Carolina. In the event she does not survive me, then her share shall be equally distributed to my daughter's children, **JENNIFER RUBENSTEIN** and **JOSEPH GUGGENHEIM**, both of Chadds Ford, Pennsylvania, *per stirpes*.

ARTICLE VII.

I hereby give full power and authority to my Personal Representative, in addition to the powers conferred by law, in my Personal Representative's discretion, without any leave or order of Court, or other judicial proceedings:

(1) To sell all or any part either of the real or personal property, or both, at any time belonging to my estate, at public or private sale, for cash or on terms.

(2) To borrow money and to pledge, mortgage, or otherwise encumber all or any part of the real or personal property, or both, belonging to my estate, even for terms beyond the expected administration of my estate.

(3) To pay expenses in the judgment of my Personal Representative that are reasonable for the delivery of gifts.

(4) To make distributions to the beneficiaries named herein either in kind or otherwise, and to distribute to any beneficiary an undivided interest in any property, real or personal. The distribution of a gift to a donee who is a minor at the time of distribution may be made to a custodian for the minor under the Florida Uniform Transfers to Minors Act. If there is none, such custodian may be appointed by my Personal Representative, and any party serving as Personal Representative may be appointed as custodian.

(5) To elect any of the settlement options available under policies of life insurance which may be payable to my estate or to my Personal Representative.

ARTICLE VIII.

I authorize my Personal Representative to elect (a) to value my gross estate for Federal estate tax purposes as of the date of my death, or as of the alternate valuation date as allowed for such

purposes, and (b) to claim as income tax deductions expenses that would otherwise qualify as estate tax deductions; and I authorize my Personal Representative to make such adjustments or apportionment with respect thereto as my Personal Representative may deem equitable.

ARTICLE IX.

If any beneficiary under this Will and I shall die under such circumstances that there is reasonable doubt as to who died first, I direct that such beneficiary shall be conclusively deemed not to have survived me.

[THIS SPACE INTENTIONALLY LEFT BLANK]

NOT A CERTIFIED COPY

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 26 day of August,

2019.

Beryl Shapiro
BERYL SHAPIRO, Testatrix

The foregoing instrument, was, on the day and year above written, subscribed to by BERYL SHAPIRO, the above-named Testatrix, and by her signed, sealed, published and declared to be her Last Will and Testament, in our presence, who thereupon at her request and in her presence and in the presence of each other have hereunto subscribed our names as attesting witnesses thereto.

[Signature]
Witness #1
Print Name: Misti Barber

20283 St Rd 7 #400
Address
Boca Raton FL 33498

[Signature]
Witness #2
Print Name: Lenanda Videna

20283 St Rd 7
Address
Boca Raton FL 33498

NOT A CERTIFIED COPY

PROOF OF WILL

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

We, **BERYL SHAPIRO**, Misti Barber and Fernanda Medeiros, the Testatrix and witnesses respectively, whose names are signed to the attached or foregoing instrument, having been sworn, declared to the undersigned officer that the Testatrix, in the presence of witnesses, signed the instrument as her Last Will and Testament that she signed, and that each of the witnesses, in the presence of the Testatrix and in the presence of each other, signed the Will as a witness.

Beryl Shapiro
BERYL SHAPIRO, TESTATRIX

[Signature]
WITNESS #1

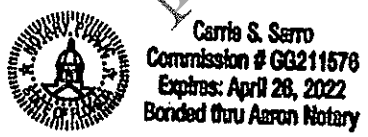
[Signature]
WITNESS #2

SUBSCRIBED AND SWORN TO before me on August 26, 2019, by **BERYL SHAPIRO**, the Testatrix, who [] is personally known to me, or, [] has produced FL Drivers License as identification; and

Misti Barber, Witness, who
[] is personally known to me, or,
[] has produced FL Drivers License as identification; and

Fernanda Medeiros, Witness, who
[] is personally known to me, or,
[] has produced FL Drivers License as identification.

[Signature]
Notary Public
State of Florida at Large



SEPARATE WRITING FOR TANGIBLE PERSONAL PROPERTY

I have executed a Last Will and Testament that refers to a separate writing in accordance with the provisions of Florida Probate Code §732.515 or successor statute. I hereby give and bequeath the following items of my tangible personal property, to the respective persons named if I am possessed of this property or have a power of appointment over this property at the time of my death:

NAME OF BENEFICIARY

DESCRIPTION OF ITEM

I stipulate that the jewelry I leave to my daughter Shari Beth Guggenbaum is NOT to be sold but passed down as a legacy to all subsequent generations

Pearl Shaped Diamond	Shari Beth Guggenbaum
wedding Band Ring	Shari Beth Guggenbaum
Engagement Ring	Shari Beth Guggenbaum
Diamond Earrings	Shari Beth Guggenbaum
Pearls & Ruby necklace	Shari Beth Guggenbaum

Executed at Osceola Palms Fla. on 8/6/19
(location) (date)

Shari Beth Guggenbaum
(Signature)

(NOTE: You may not give money, real property or property used in a trade or business by this instrument under the law.)

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NAME OF BENEFICIARY

DESCRIPTION OF ITEM

I leave to my son Adam Shapiro the following with the stipulation that he give the following to my granddaughter Harper Hope Shapiro when she becomes (18) eighteen years old. In the event he has other children the same stipulation at his discretion also at (18) eighteen years old.

Trellion Diamond

6 Adam Shapiro

Gold Watch

6 Adam Shapiro

Diamond & Sapphire Bracelet

6 Adam Shapiro

Gold COIN

6 Adam Shapiro

Executed at Boca Raton, Fla on 8/6/19
 (location) (date)

Beryl Shapiro
 (Signature)

(NOTE: You may not give money, real property or property used in a trade or business by this instrument under the law.)

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NAME OF BENEFICIARY

DESCRIPTION OF ITEM

all antique Jewellery Costume Jewellery -	(watch, pocket, etc) <u>Divide</u> Sherri Beth Guggenbeim & Adam Shapiro
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Paloma Picasso Heart Necklace	Harper Hope Shapiro
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Rolex Watch	Jennifer Rubenstein
-------------	---------------------

Daniel Yurman Bracelets	Meggan Shapiro
----------------------------	----------------

Executed at Deerpton Fla, on 8/6/19.
(location) (date)

Lorrel Shapiro
(Signature)

(NOTE: You may not give money, real property or property used in a trade or business by this instrument under the law.)

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NAME OF BENEFICIARY

DESCRIPTION OF ITEM

Executed at _____, on _____.

(location)

(date)

(Signature)

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DESCRIPTION OF ITEM

Executed at _____, on _____
(location) (date)

(Signature)

(NOTE: You may not give money, real property or property used in a trade or business by this instrument under the law.)

Churchill Management Group



December 3, 2019

Ms. Beryl Shapiro
22645 Caravelle Cir
Boca Raton, FL 33433

Dear Beryl:

Per your request, below you will find the Beneficiary Designation information for your three managed accounts.

Account Title	Account Number	Beneficiary
BERYL SHAPIRO TOD #1	██████████	ADAM SHAPIRO 50% SHERRI GUGGENHEIM 50%
BERYL SHAPIRO TOD #2	xxxxx9620	ADAM SHAPIRO 50% SHERRI GUGGENHEIM 50%
BERYL SHAPIRO TOD #3	xxxxx7791	ADAM SHAPIRO 50% SHERRI GUGGENHEIM 50%

Of course, if you have any questions or comments, please do not hesitate to call Garrett Alabado or me at any time.

Best regards,

CHURCHILL MANAGEMENT GROUP

Tina Vartanian

Tina Vartanian
Relationship Associate
TV/cg

