

IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT, IN AND FOR
BROWARD COUNTY, FLORIDA

CASE NO.: 12-034121 (07)

P &S ASSOCIATES, GENERAL PARTNERSHIP,
and S&P ASSOCIATES, GENERAL
PARTNERSHIP, a Florida limited partnership, *et*
al.,

Plaintiffs,

v.

JANET A. HOOKER CHARITABLE TRUST, a
charitable trust, *et al.*,

Defendants.

**DEFENDANT ERISCA GIANNA'S ANSWERS AND OBJECTIONS TO PLAINTIFFS'
FIRST SET OF INTERROGATORIES TO DEFENDANT ERISCA P. GIANNA**

Defendant Ersica P. Gianna ("Gianna") provides the following Answers and Objections to Plaintiffs, P&S Associates, General Partnership ("P&S"), S&P Associates, General Partnership ("S&P") and Philip Von Kahle as Conservator on behalf of P&S and S&P ("Conservator") (collectively and individually referred to as, the "Partnerships" or "Plaintiffs").

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via Electronic Mail upon counsel identified below registered to receive electronic notifications this 17th day of January, 2014 upon the following:

Notice has been electronically mailed to:

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GENERAL OBJECTIONS

Defendant Gianna objects to any interrogatories to the extent they call for attorney client privileged information.

Defendant Gianna objects to the extent these interrogatories call for information that is unknown to Gianna due to her age at eighty nine years old.

INTERROGATORIES, OBJECTIONS, AND ANSWERS

Interrogatory No. 1: Identify all persons with knowledge of any of the facts alleged in the Amended Complaint and/or in any pleadings (including without limitation any motions) You filed with the Court, including the specific matters of which each such person has knowledge.

Response:

OBJECTION. Gianna does not know who are all the persons with knowledge of any of the facts alleged in the Amended Complaint and/or in any pleadings (including without limitation any motions) that Gianna filed with the Court. Notwithstanding said objection, Gianna has personal knowledge as to her own personal investments. The only other person that Gianna recalls having personal knowledge as to these investments is Michael Sullivan.

Interrogatory No. 2: State all facts and/or circumstances under which You received any payments, distributions, and/or transfers of funds from S&P.

Response:

It is understanding that any payments, distributions, and/or transfers that I received were based upon my partnership investment from 1993. All I knew of the investments was learned through Michael Sullivan.

Interrogatory No. 3: State all facts and/or circumstances under which You made any payments, distributions, and/or transfers of funds to S&P.

Response:

I made several investments (which you may call transfers, but not payments or distributions), over time beginning in 1993.

Interrogatory No. 4: Identify all communications between Defendant and S&P; Michael D. Sullivan; Steven Jacob; Michael D. Sullivan & Associates, Inc., a Florida Corporation; Steven F. Jacob, CPA & Associates, Inc.; Frank Avellino; Michael Bienes; Kelco Foundation, Inc. a Florida Non Profit Corporation; and/or Vincent T. Kelly. For each communication identified, state all facts and/or circumstances surrounding that communication.

Response:

OBJECTION. Gianna objects to the form of this interrogatory, in that it is asking respondent to identify “all communications” with nine different individuals or entities and such a request should constitute nine different interrogatories. Notwithstanding said objection, Gianna states that the only individual and/or entity listed above that she recalls is Michael Sullivan. Vincent Kelly is the name of my church pastor, but Gianna does not know if that is the same person. Either way, Gianna never spoke to Pastor Kelly about her investments.

Interrogatory No. 5: State all facts and/or circumstances that led to any investment by You in S&P.

Response:

Gianna states that the facts and/or circumstances that led to her investment was in or about 1993, when she was going through her divorce, she consulted with Micahel Sullivan regarding tax issues. Later, Mr. Sullivan informed Gianna of the existence of the S&P investment and based upon the trust that Gianna had in Mr. Sullivan Gianna invested.

Interrogatory No. 6: State all facts and/or circumstances that indicate that Plaintiffs failed to file the Complaint within the time required under the applicable statutes of limitations for each cause of action asserted in the Amended Complaint as alleged in Your Motion to Dismiss.

Response:

OBJECTION. Gianna objects to this interrogatory in that it calls for a legal conclusion, i.e. a discussion regarding the grounds upon which a motion to dismiss was filed.

Interrogatory No. 7: Were you aware of any payment, distribution, and/or transfer of funds received by any partner of S&P prior to the filing of the Complaint in this action? For each payment, distribution, and/or transfer of funds to a partner of S&P that You were aware of prior to the filing of the Complaint in this action, identify the name of the partner who received that payment, distribution, and/or transfer of funds, when You became aware of that payment, distribution, and/or transfer of funds, and the circumstances under which You became aware of it.

Response:

Gianna has no specific first hand knowledge of any partner receiving any payment, distribution, and/or transfer of funds prior to the filing of the Complaint in this action,

other than herself and possibly, if he was a partner, Mr. Sullivan. These distributions were received once a quarter.

Interrogatory No. 8: Prior to the filing of the Complaint in this action, identify all partners of S&P that were aware of any payment, distribution, and/or transfer of funds that You received from S&P. For each partner of S&P identified, state when You believe that partner of S&P became aware of the payment, distribution, and/or transfer of funds that You received from S&P and the circumstances under which that partner of S&P became aware of it.

Response:

Gianna has no specific first hand knowledge of any partner's knowledge as to whether or not Gianna received any payment, distribution, and/or transfer of funds prior to the filing of the Complaint in this action, other than herself and, if he was a partner, Michael Sullivan.

Interrogatory No. 9: Identify all persons who supplied information used in answering these interrogatories. For each person identified, state the interrogatory for which the person furnished the answer or supplied the information incorporated in the answer, and the source of the person's answer or information.

Response:

No one supplied me with information, which was used in answering these interrogatories other than Gianna.

Interrogatory No. 1 : Identify by name, address, phone number and e-mail address any person expected to testify at trial in this action, for any purpose.

Response:

At this time, Gianna is still investigating the case and, besides herself, Michael Sullivan, the Conservator, and all of Plaintiff's witnesses, she has not yet formulated the identity person expected to testify at trial in this action for any purpose.

Interrogatory No. 11: Please set out the facts and subject matter on which each person identified in response to Interrogatory No. 10 above is expected to testify.

Response:

At this time, Gianna is still investigating the case. Notwithstanding, Gianna and Mr. Sullivan will discuss Gianna's investment. The Conservator will provide details as to the Plaintiff's case. Additional evidence will be elicited from Plaintiff's witnesses regarding the subject matter they will address.

Interrogatory No. 12: Have you ever requested or received accounting and/or investment advice concerning your investment in S&P. If so, please state the name of the person or entity which provided such advice and the nature of the advice provided.

Response:

No. I never requested or received accounting and/or investment advice concerning my investment in S&P. However, I did consult with Michael Sullivan regarding this investment.

Interrogatory No. 13: Please state the nature of the investments made by S&P, when you first became aware of the nature of the investments made by S&P, and the facts and circumstances under which you first became aware of the nature of the investments made by S&P.

Response:

Gianna learned of the S&P investment in or about 1993, when she was going through her divorce. At that time, Gianna consulted with Mr. Sullivan regarding tax issues. Later, Mr. Sullivan informed Gianna of the existence of the S&P investment and based upon the trust that Gianna had in Mr. Sullivan Gianna invested her life savings into the investment.

Interrogatory No. 14: Please state all of the facts and/or circumstances concerning your decision to not comply with the Demand Letter You that You received in November of 2012 from Margaret Smith and the Demand Letter that You received in October 2013.

Response:

OBJECTION. Gianna objects to this interrogatory in that it calls for information that is attorney client privileged. After receiving these demand letters, I discussed it with my attorney. The subject of these discussions are privileged.

Interrogatory No. 15: Please state all the terms of your investment in S&P?

Response:

My understanding is that the terms of my investment were governed by the investment documents, which, are attached to the Amended Complaint. All Gianna knows is that she received checks on a quarterly basis.

Interrogatory No. 16: Please state all of the facts and circumstances which led to your alleged dissociation from S&P.

Response:

OBJECTION. Plaintiff is presuming facts not set forth in the Complaint or the Amended Complaint. It is Gianna's understanding that she has not disassociated with the partnership.

Interrogatory No. 17: Please state all of the facts and circumstances which indicate that You did not act intentionally or engage in any wrongful conduct as alleged in your Motion to Dismiss.

Response:

OBJECTION. Gianna objects to this interrogatory on several grounds. First, the interrogatory is vague and ambiguous. Second, no new facts are alleged by Gianna in the Motion to Dismiss. The only facts asserted are by the Plaintiff. Third, the Motion to Dismiss does not contain an answer or affirmative defense, which would admit or deny any allegations regarding Gianna's conduct.

Interrogatory No. 18: Identify the facts and circumstances concerning the Demand Letter You received from Margaret Smith in November, 2012.

Response:

OBJECTION. Gianna objects to this interrogatory in that the Demand Letter mentioned in this interrogatory was not authored by Gianna. Margaret Smith signed the November 2 12 Demand Letter and would best know the subject matter of the letter she authored.

