

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

Case No: 12-034121(07)
Complex Litigation Unit

P&S ASSOCIATES, GENERAL PARTNERSHIP,
et al.,

Plaintiffs,

vs.

JANET A. HOOKER CHARITABLE TRUST, et
al.,

Defendants.

**PLAINTIFFS' RESPONSE AND OBJECTIONS TO DEFENDANT, JANET B.
MOLCHAN TRUST DTD 05/19/94 FIRST REQUEST FOR ADMISSIONS
FROM PLAINTIFFS**

Pursuant to Florida Rule of Civil Procedure 1.370, Plaintiffs, by and through their undersigned counsel, hereby respond and object to Defendant JANET B. MOLCHAN TRUST DTD 05/19/94 ("Janet Molchan") First Request for Admissions from Plaintiffs:

RESPONSE AND OBJECTIONS TO ADMISSIONS REQUESTED:

1. That the last distribution made by P&S to Janet Molchan occurred in 2001.

Response: Admit.

2. That the last distribution made by P&S to Janet Molchan in 2001 came as a result of her request to close her account with P&S and receive the balance of her capital account with P&S.

Response: Plaintiffs lack sufficient knowledge to admit or deny that the last distribution made by P&S to Janet Molchan in 2001 came as a result of her purported request to

close her account with P&S and receive the balance of her capital account with P&S, because Plaintiffs do not have any documents which relate to the facts or circumstances concerning the last distribution she received aside from a Check for the amount of \$112,643.00, dated on January 24, 2001 which was made payable to Janet B. Molchan and a document which notes a conversation with Janet Molchan where she requested to close her account. Those documents are being held by third parties and/or Janet Molchan and have not been produced to Plaintiffs.

3. That Janet Molchan's request to close her account with P&S and receive the balance of her capital account with P&S constituted an election to "withdraw" as a Partner from P&S within the meaning of Section 9.03 of the P&S Amended and Restated Partnership Agreement.

Response: Plaintiffs object to Request for Admission Number 3 because it calls for a legal conclusion.

4. That P&S provided Janet Molchan with a Schedule K-1 from its U.S. Partnership Form 1065 for tax year 2001 showing that her capital account at year end was \$0.

Response: Admit

5. That P&S did not provide Janet Molchan with a Schedule K-1 from its U.S. Partnership Form 1065 for tax year 2002 or subsequent years.

Response: Plaintiffs lack sufficient knowledge to admit or deny that P&S did not provide Janet Molchan with a Schedule K-1 from its U.S. Partnership Form 1065 for tax year 2002 or subsequent years because Plaintiffs do not have any of the Schedule K-1 forms which were purportedly provided to Janet Molchan during that period, and to the extent those documents exist, they are currently held by third parties, and/or Janet Molchan and such documents have not been produced to Plaintiffs.

6. That Janet Molchan was not a “Partner” in P&S within the meaning of the P&S Amended and Restated Partnership Agreement during 2002 and subsequent years.

Response: Plaintiffs object to Request for Admission Number 6 because it calls for a legal conclusion.

7. That the closing of Janet Molchan’s account at P&S in 2001 constituted her being “dissociated” from P&S within the meaning of Section 620.8601(1) of the Revised Uniform Partnership Act.

Response: Plaintiffs object to Request for Admission Number 7 because it calls for a legal conclusion.

8. That the closing of Janet Molchan’s account at P&S in 2001 did not result in the “dissolution and winding up” of the business of P&S within the meaning of Section 620.8603(1) of the Revised Uniform Partnership Act.

Response: Plaintiffs object to Request for Admission Number 8 because it calls for a legal conclusion

9. That when the last distribution was made by P&S to Janet Molchan in 2001, she was not in “default” or a “defaulting Partner” within the meaning of ARTICLE TEN of the P&S Amended and Restated Partnership Agreement.

Response: Plaintiffs admit that when the last distribution was made by P&S to Janet Molchan in 2001, she was not in “default” or a “defaulting Partner” within the meaning of ARTICLE TEN of the P&S Amended and Restated Partnership Agreement, because Janet Molchan’s default occurred when she refused to comply with the demand letter she received from Margaret Smith in 2012, which constitutes the required notice in ARTICLE TEN of the P&S Amended and Restated Partnership Agreement.

10. That Janet Molchan's withdrawal from P&S and the closing of her account at P&S in 2001 did not constitute an "assignment, transfer or termination of a defaulting Partner's interest" in P&S within the meaning of Section 10.02 of the P&S Amended and Restated Partnership Agreement.

Response: Plaintiffs object to Request for Production Number 10 because it calls for a legal conclusion.

11. That all distributions received by Janet Molchan from P&S were made from monies received by P&S from Bernard L. Madoff Investment Securities, LLC.

Response: Plaintiffs object to Request for Admission Number 11 as irrelevant to the instant proceedings. Regardless of whether funds originated from the Bernard L. Madoff Investment Securities, LLC, the distributions that Janet Molchan received were made in violation of the terms of the P&S's Partnership Agreement, and therefore Molchan is required to remit payment of those funds.

Dated: January 21, 2014

By: s/ Leonard K. Samuels

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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 and regular U.S. mail upon *Pro Se* parties this 21st day of January, 2014, upon the following:

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