

IN THE CIRCUIT COURT OF THE  
17<sup>th</sup> 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.

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**PLAINTIFFS' RESPONSE AND OBJECTIONS TO DEFENDANT SUSAN  
MOLCHAN'S 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 Defendants SUSAN E. MOLCHAN or THOMAS A. WHITEMAN (collectively, "Susan Molchan") First Request for Admissions from Plaintiffs:

**RESPONSE AND OBJECTIONS TO ADMISSIONS REQUESTED:**

1. That the last distribution made by P&S to Susan Molchan occurred in 1999.

Response: Admit.

2. That the last distribution made by P&S to Susan Molchan in 1999 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: Denied.

3. That Susan 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 Susan Molchan with a Schedule K-1 from its U.S. Partnership Form 1065 for tax year 1999 showing that her capital account at year end was \$0.

Response: Admit.

5. That P&S did not provide Susan Molchan with a Schedule K-1 from its U.S. Partnership Form 1065 for tax year 2000 or subsequent years.

Response: Plaintiffs lack sufficient knowledge to admit or deny that P&S provided Susan Molchan with a Schedule K-1 from its U.S. Partnership Form 1065 for tax year 2000 or subsequent years because they do not have possession custody or control of the Schedule K-1 from its U.S. Partnership Form 1065 for tax year 2000 or subsequent years, and to the extent that such documents exist, they are likely being held by third parties, and/or Susan Molchan. To the extent that such documents exist, they have not been produced to Plaintiffs.

6. That Susan Molchan was not a "Partner" in P&S within the meaning of the P&S Amended and Restated Partnership Agreement during 2000 and subsequent years.

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

7. That the closing of Susan Molchan's account at P&S in 1999 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 Susan Molchan's account at P&S in 1999 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 Susan Molchan in 1999, 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 Susan Molchan in 1999, 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 Susan 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 Susan Molchan's withdrawal from P&S and the closing of her account at P&S in 1999 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 Admission Number 10 because it calls for a legal conclusion.

11. That all distributions received by Susan 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 the distributions received by Susan Molchan originated from the Bernard L. Madoff Investment Securities, LLC, the distributions that Susan Molchan received were made in violation of the terms of the P&S' Partnership Agreement, and therefore Molchan is required to remit payment of those funds.

Dated: January 21, 2014

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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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