

**IN THE CIRCUIT COURT OF THE  
SEVENTEENTH JUDICIAL CIRCUIT, IN  
AND FOR BROWARD COUNTY, FLORIDA**

CASE NO.: 12-034121 (07)

P &S ASSOCIATES, GENERAL PARTNERSHIP,  
a Florida limited 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.

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**PLAINTIFFS' RESPONSE AND MEMORANDA  
IN OPPOSITION TO DEFENDANTS JAMES AND VALERIE  
JUDD'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT**

Plaintiffs, P & S Associates, General Partnership ("P&S"), and S & P Associates, General Partnership ("S&P") (collectively and individually referred to as, the "Partnerships") and Phillip Von Kahle, as Conservator of P&S and S&P (collectively with the Partnerships, the "Plaintiffs"), by and through their undersigned attorneys, file this Response and Memoranda in Opposition to Defendant James and Valerie Judd's ("Defendants") Motion to Dismiss Plaintiff's Complaint (the "Motion").

**BRIEF SUMMARY**

This lawsuit stems from Defendants, and certain other Partners of the Partnerships, receiving and retaining improper distributions from the Partnerships. While some partners lost millions of dollars, Defendants, who invested \$180,000 in S&P, received \$260,000 – a return of approximately 69%. This return was only possible because Defendants received distributions

*Boca Raton Fort Lauderdale Miami Tallahassee*

**BERGER SINGERMAN**  
attorneys at law

350 East Las Olas Boulevard, Suite 1000 Fort Lauderdale, Florida 33301 Telephone 954-525-9900 Facsimile 954-523-2872

that they were not entitled to. A portion of those distributions rightfully belong to the Plaintiffs and should be distributed to the Partners through the court-approved distribution method.

Under the Partnership Agreements, all of the Partners were to receive distributions of profits at least once per year. *See* Section 5.02 of **Exhibits B and C** to the Complaint (emphasis added).<sup>1</sup> If the Partnerships distributed any profits to the Partners, those profits had to be distributed in equal proportion to all Partners depending on each Partner's pro rata share in the Partnerships as of the date of the distribution. *Id.*

After approximately one year of litigation because of, *inter alia*, the improper activities of Michael Sullivan ("Sullivan"), the Partnerships' former Managing General Partner, and others, a Conservator was appointed over the Partnerships. It wasn't until after Sullivan was removed as Managing General Partner in 2012 that an investigation of the Partnerships' books and records revealed that Defendant and certain other partners received improper distributions from the Partnerships. For example, in direct contravention of the plain terms of the Partnership Agreements, Defendant and other partners received, on a net basis, more money than they invested; i.e., "Net Winners." At the same time, other partners (the "Net Losers") received less money than they invested.

In November 2012, after extensive litigation that eventually led to Sullivan's removal in August 2012, Margaret Smith, then Managing Partner of the Partnerships, sent a Demand Letter to Defendants, under Section 10 of the Partnership Agreements, notifying them of the improper distributions that they received and requesting the return of the funds in excess of Defendants'

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<sup>1</sup> The Partnerships' partnership agreements are identical in all material respects and are collectively referred to as the Partnership Agreements. The Partnership Agreements are attached to the Amended Complaint as **Exhibits B and C**, respectively.

investment. However, Defendants and certain other Net Winners refused to comply with the Demand Letter and this action was filed against them in December 2012.

In January 2013, the Conservator was appointed. The Conservator sought to wind up the Partnerships because the Partnerships could no longer function due to protracted litigation regarding their management and the Net Winners' refusal to return the improper distributions received. In October 2013, the Conservator received Court approval to wind up the Partnerships and sent out new Demand Letters to the Net Winners in October 2013, that again requested that the Net Winners return the amounts in excess of their contributions, as required by Fla. Stat. § 620.8807, due to the winding up of the Partnerships' business. Plaintiffs then filed their Amended Complaint against the Net Winners who refused to return those amounts.

Although Plaintiffs filed an Amended Complaint, Defendants continue to rely on the Motion, which seeks to dismiss the original Complaint, or respond to any discovery requests. As set forth below, the Motion should be denied because many of the argument set forth therein have been rendered moot.

### **STANDARD OF REVIEW**

In reviewing a motion to dismiss, the Court must construe the allegations of the complaint "in the light most favorable to plaintiffs and the trial court must not speculate what the true facts may be or what will be proved ultimately in trial of the cause." *Hitt v. North Broward Hosp. Dist.*, 387 So. 2d 482, 483 (Fla. 4th DCA 1980).

The Court must "accept all well-pleaded facts and reasonable inferences from those facts as true, and confine [itself] to the allegations within the four corners of the complaint[.]" and a motion to dismiss should be denied when a complaint sufficiently states a cause of action. *Port Marina Condo. Ass'n, Inc. v. Roof Servs., Inc.*, 119 So. 3d 1288, 1290 (Fla. 4th DCA 2013); *see*

also *Fontainebleau Hotel Corp. v. Walters*, 246 So. 2d 563, 565-66 (Fla. 1971) (holding error to dismiss a complaint that contains sufficient allegations to acquaint the defendant with the plaintiff's charge of wrongdoing so that the defendant can intelligently answer the same).

## **ARGUMENT**

### **I.     **THE COMPLAINT WAS PROPERLY SERVED ON DEFENDANTS.****

Defendants contend, without any evidentiary support, that service was improper because “a copy of the Complaint and summons was placed at the doorstep of their house and/or was possibly given to a maid who does not reside at their house.” Motion at 2. Moreover, Defendants’ moved to dismiss the complaint without first moving to quash service, which is procedurally improper.

Even if service of the first Complaint was improper, the alleged defects in service have been cured by service of the Amended Complaint, which was properly served on Defendants’ counsel. Accordingly, Defendants’ contentions concerning service have been rendered moot.

Nonetheless, even if Defendants’ challenge to service was appropriate, they have not made the proper showing to prevail on their motion. To invalidate service of process, Defendants must show, by clear and convincing evidence that service was improper. *Slomowitz v. Walker*, 429 So. 2d 797, 800 (Fla. 4th DCA 1983). A showing of clear and convincing evidence “requires that the evidence must be found to be credible; the facts to which the witnesses testify must be distinctly remembered; the testimony must be precise and explicit and the witnesses must be lacking in confusion as to the issue.” *Id.* “The evidence must be of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established.” *Id.*

Uncorroborated statements that Service of Process was not proper, is insufficient to quash such service. *Slomowitz v. Walker*, 429 So. 2d at 799 (“[A] mere denial by a defendant, unsupported by corroborative evidence or circumstances, is not enough to impeach the return of the official process server.”) (quoting *Ashe v. Spears*, 284 A.2d 207, 210 (Md. 1971)). Further, and since Defendants have refused to provide any responses to Plaintiffs discovery requests, which also seek information concerning the alleged defects in service of process about which they complain, they should not be permitted to introduce evidence on that issue.

Despite Defendants’ contentions, the return of service, demonstrates that service was properly effectuated. (**Exhibit A**). The return of service provides in relevant part that the process server tried to effectuate service upon Valeria Judd who was at her residence, but that Valerie Judd refused to open the door. (Exhibit A at 1). Further, the person effectuating service announced his purpose, and saw Valerie Judd in the back yard. Based on the circumstances presented, the service provided was sufficient. Additionally, the Service Processor knew Valerie Judd because he served her with summons and the complaint in the Interpleader Action (a separate action pending before this Court). A true and correct copy of the return of service in that matter is attached hereto as **Exhibit B**.

“Under Florida law, a person has a legal obligation to accept service of process when service is attempted reasonably.” *Coffin v. Brandau*, 642 F.3d 999, 1007 (11th Cir. 2011) (citing *Haney v. Olin Corp.*, 245 So. 2d 671, 673 (Fla. 4th DCA 1971)). Accordingly, “[a]n officer’s reasonable attempt to effectuate service of process upon a person in his own home, when the person reasonably should know the officer’s identity and purpose, cannot be frustrated by the expedient of the person closing the front door in the officer’s face and willfully refusing to accept service of process.” *Haney*, 245 So. 2d at 673.

As Defendant Valerie Judd intentionally attempted to avoid service, and was reasonably informed of the instant proceedings, she cannot now attempt to quash service. Further, to the extent that service was proper on Defendant Valerie Judd, it was also proper on James Judd because they are married.

**II. THE SECOND AMENDED COMPLAINT  
CORRECTS THE MAJORITY OF DEFICIENCIES  
NOTED IN DEFENDANTS' MOTION.**

Defendants also contend that the Complaint should be dismissed because (1) it does not attach a copy of the signature page of the Partnership Agreements; (2) it fails to allege that James and Valerie Judd signed either Partnership Agreement; (3) it does not specify which partnership Defendants were members of; and (4) it does not state when Defendants received distributions. All of these issues have been rendered moot through amendment. Specifically, Plaintiffs' Second Amended Complaint has a copy of Exhibit A of the Partnership Agreements attached thereto and therefore contains sufficient allegations of their intent to join the Partnerships. Likewise, Plaintiffs Amended Complaint states the date of distributions received, and that Defendants were partners of S&P. Accordingly, the Second Amended Complaint is not facially deficient as Defendants contend.

**III. PARAGRAPH 14.03 OF THE PARTNERSHIP  
AGREEMENTS DOES NOT SHIELD DEFENDANT  
FROM LIABILITY.**

Defendants contend that Plaintiffs' claims are barred by Section 14.03 of the Partnership Agreement because it provides that "THE PARTNERS SHALL BE LIABLE ONLY FOR ACTS AND OMISSIONS INVOLVING INTENTIONAL WRONGING, FRAUD, AND BREACHES OF FIDUCIARY DUTIES . . ." However, Defendants' interpretation of the language in Section 14.03 is self-serving, and the ambiguous language of Section 14.03 should instead be interpreted

“in the light most favorable to plaintiffs.” *Hitt v. North Broward Hosp. Dist.*, 387 So. 2d 482, 483 (Fla. 4th DCA 1980).

Here, Plaintiffs’ claims are not precluded by Section 14.03. The Amended Complaint alleges that Sullivan intentionally wronged the Partnerships, and breached his fiduciary obligations to the Partnerships, by making improper distributions to certain Partners, and that the damages sought against Defendants here arose from those breaches and wrongdoings. It was those breaches and wrongdoings that lead to the improper distributions received and retained by Defendants, and the plain text of Section 14.03 states that a Partner may be liable, regardless of who acted intentionally so long as the “acts and/or omissions” “involv[ed]” intentional wrongdoing, fraud, or a breach of fiduciary duties[,]” – as they do here. Further, Defendants themselves intentionally wronged the Plaintiffs when it elected to retain distributions which they would not have otherwise been entitled to by refusing to comply with demand letters that they received in 2012 and 2013. As such, Defendants are not entitled to the protection of Section 14.03. Moreover, the Second Amended Complaint unequivocally alleges that Defendants acted in breach of their fiduciary duties of loyalty and care, by failing to remit payment to Plaintiffs upon receipt of demand or hold the Partnerships’ funds or funds derived from the Partnerships in trust.

In sum, the allegations in the Amended Complaint unequivocally demonstrate that Defendant performed, or that the harm caused by Defendant was sufficiently related to, “acts and omissions involving intentional wronging, fraud, and breaches of fiduciary duties”, such that Defendant may not avoid liability as a result of Section 14.03.

**IV. PLAINTIFFS' REINCORPORATE ALL OTHER  
ARGUMENTS BY REFERENCE.**

Finally, Defendants "adopt and incorporate herein by reference the arguments and authorities pending before this Court in the pending Motions to Dismiss filed by the other Defendants in this case, including the Reply served by Defendant Ettoh, Ltd to Plaintiff's[sic] Response, and the Reply of Defendant Irwig to Plaintiff's [sic] Response."

Because this argument is so broad, and renders Defendants' Motion to Dismiss impermissibly long, Plaintiffs cannot reasonably respond to it. However, to the extent necessary, Plaintiffs hereby incorporate by reference all of the arguments raised in response to any pleadings currently pending before this Court, including but not limited to all papers filed in response to motions filed by the parties referenced by Defendants.

WHEREFORE the Plaintiffs request that this Court enter an order denying Defendants James and Valerie Judd's Motion to Dismiss Plaintiffs' Complaint, together with such other and further relief as the Court may deem just and appropriate under the circumstances.

Dated: January 24, 2014

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By: /s/ Leonard K. Samuels  
Leonard K. Samuels  
Florida Bar No. 501610  
Etan Mark  
Florida Bar No. 720852



## **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 24th day of January, 2014, upon the following:

<b>Counsel</b>	<b>E-mail Address:</b>
Ana Hesny, Esq.	<a href="mailto:ah@assoulineberlowe.com">ah@assoulineberlowe.com</a> ; <a href="mailto:ena@assoulineberlowe.com">ena@assoulineberlowe.com</a>
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Zachary P. Hyman, Esq.	<a href="mailto:zhyman@bergersingerman.com">zhyman@bergersingerman.com</a> ; <a href="mailto:DRT@bergersingerman.com">DRT@bergersingerman.com</a> ; <a href="mailto:clamb@bergersingerman.com">clamb@bergersingerman.com</a>

By: s/ Leonard K. Samuels  
Leonard K. Samuels

5413057-2

***EXHIBIT “A”***

=====

**VERIFIED RETURN OF SERVICE**

IN THE CIRCUIT COURT OF THE 17<sup>TH</sup>  
JUDICIAL CIRCUIT, IN AND FOR  
BROWARD COUNTY, FLORIDA

CASE NO. 12-34121(07)  
Complex Litigation Unit

Margaret Smith, et al.,

Plaintiff,

v.

Janet A Hooker Charitable Trust, et al.,

Defendants.

At the Request of: Michael Moecker & Associates, Inc.

Received by Rogue Intelligence Services Corp. on the 21<sup>th</sup> day of June, 2013.

To be served on: James Judd, 2421 Barcelona Dr. Fort Lauderdale, Florida 33301.

I, Harrison W. Barrus, do hereby affirm that on the 27<sup>th</sup> day of June, 2013 at 6:06 PM, I executed service by delivering a true copy of this Alias Summons, and Complaint in accordance with state statutes in the manner marked below:

☐ INDIVIDUAL SERVICE: service on the within named person.

☒ SUBSTITUTE SERVICE: by serving Valeria Judd.

☐ POSTED SERVICE: after attempting service on \_\_\_ / \_\_\_ / \_\_\_ at \_\_\_ and \_\_\_ / \_\_\_ / \_\_\_ at \_\_\_ service was posted in a conspicuous place on the property described herein.

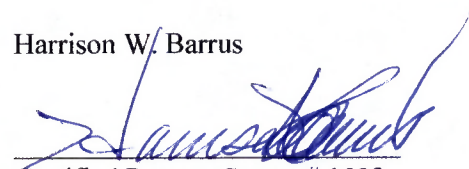
☐ NON SERVICE: see comments below.

**Comments:** Valeria was in the back yard. I could see her through the windows. Refused to answer the door.

I certify that I am over the age of 18 and have no interest in the above action and that I am a Special process server in good standing in the judicial circuit in which the process was served.

Notary not required pursuant to Florida Statute § 92.525.

Harrison W. Barrus

  
Certified Process Server # 1322  
Affidavit Date: 06/28/2013

IN THE CIRCUIT COURT FOR THE  
SEVENTEENTH JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY,  
FLORIDA

MARGARET SMITH, et al.,

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vs.

JANET A. HOOKER CHARITABLE TRUST, et al.,

Defendants.

Case No. 12-34121(07)  
Complex Litigation Unit

*1322*  
*6:06pm*  
*6-27-13*  
*Valeria*

**ALIAS SUMMONS**

**The State of Florida:**  
To Each Sheriff of the State:

**YOU ARE HEREBY COMMANDED** to serve this Summons and a copy of the Complaint in this action on Defendant:

**James Judd**  
**2421 Barcelona Drive**  
**Fort Lauderdale, FL 33301-1504**

Each defendant is required to serve written defenses to the Complaint on the attorneys for Philip J. Von Kahle, the Conservator of the P & S Associates, General Partnership and the S & P Associates, General Partnership ("Plaintiff's Attorney"), to wit, whose address is:

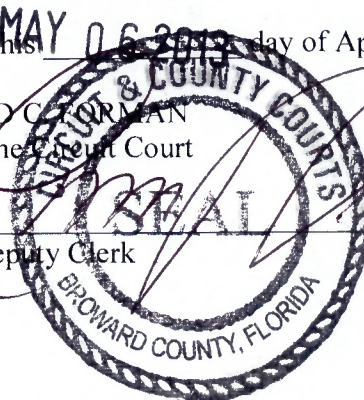
**Thomas M. Messana, Esq.**  
**Messana, P.A.**  
**401 East Las Olas Boulevard, Suite 1400**  
**Fort Lauderdale, Florida 33301**  
**954-712-7400**

within **twenty (20) days** after service of this summons on that defendant, exclusive of the day of service, and to file the original of the defenses with the Clerk of this Court either before service of the Plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint or petition.

WITNESS my hand and the seal of said Court this 06 day of April, 2013.

HOWARD C. COLEMAN  
Clerk of the Circuit Court

By: \_\_\_\_\_  
Deputy Clerk





### IMPORTANT

A lawsuit has been filed against you. You have twenty (20) calendar days after this Summons is served on you to file a written response to the attached Complaint with the Clerk of this Court. A phone call will not protect you. Your written response, including the case number given above and the names of the parties, must be filed if you want the court to hear your side of the case. If you do not file your response on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning from the are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

If you choose to file a written response yourself, at the same time you file your written response to the court you must also mail or take a copy of your written response to the "plaintiff's attorney" named herein.

### IMPORTANTE

Usted ha sido demandado legalmente. Tiene 20 Dias, contados a partir del recibo de esta notificacion, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada telefonica no lo protegera. Si usted desea que el tribunal considere su defensa, debe presentar su respuesta por escrito, incluyendo el numero del caso y los nombres de las partes interesadas. Si usted no contesta la demanda a tiempo, podiese perder el caso y podria ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitos legales. Si lo desea, puede consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la guia telefonica.

Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, debera usted enviar por correo o entregar una copia de su respuesta a la personal denominada abajo como "Plaintiff/Plaintiff's Attorney" (Demandante o Abogado del Demandante).

### IMPORTANT

Des poursuites judiciaires ont ete entreprises contre vous. Vous avez 20 jours consecutifs a partir de la date de l'assignation de cette citation pour déposer une reponse ecrite a la plainte ci-jointe aupres de ce tribunal. Un simple coup de telephone est insuffisant pour vous proteger. Vous etes oblige de déposer votre reponse ecrite, avec mention du numero de dossier ci-dessus et du nom des parties nommees ici, si vous souhaitez que le tribunal entende votre cause. Si vous ne deposez pas votre reponse ecrite dans le delai requis, vous risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent etre saisis par la suite, sans aucun preavis ulterieur du tribunal. Il y a d'autre obligations juridiques et vous pouvez requerir les services immediats d'un avocat. Si vous ne connaissez pas d'avocat, vous pourriez telephoner a un service de reference d'avocats ou a un bureau d'assistance juridique (figurant a l'annuaire de telephones).

Si vous choisissez de déposer vous-meme une reponse ecrite, il vous faudra egalement, en meme temps que cette formalite, faire parvenir ou expedier une copie de votre reponse ecrite au "Plaintiff/Plaintiff's Attorney" (Plaignant ou a son avocat) nomme ci-dessous.

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☐ ( ) SUBSTITUTE SERVICE: by serving .

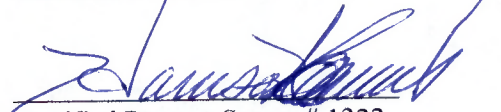
☐ ( ) POSTED SERVICE: after attempting service on \_\_\_ / \_\_\_ / \_\_\_ at \_\_\_ and \_\_\_ / \_\_\_ / \_\_\_ at \_\_\_ service was posted in a conspicuous place on the property described herein.

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**Comments:** Valeria was in the back yard. I could see her through the windows. Refused to answer the door.

I certify that I am over the age of 18 and have no interest in the above action and that I am a Special process server in good standing in the judicial circuit in which the process was served.  
Notary not required pursuant to Florida Statute § 92.525.

Harrison W. Barrus



Certified Process Server # 1322

Affidavit Date: 06/28/2013

IN THE CIRCUIT COURT FOR THE  
SEVENTEENTH JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY,  
FLORIDA

MARGARET SMITH, et al.,

Case No. 12-34121(07)  
Complex Litigation Unit

Plaintiffs,

vs.

JANET A. HOOKER CHARITABLE TRUST, et al.,

Defendants.

7/13/13  
6:06  
6-27-13

**ALIAS SUMMONS**

**The State of Florida:**

To Each Sheriff of the State:

**YOU ARE HEREBY COMMANDED** to serve this Summons and a copy of the Complaint in this action on Defendant:

**Valeria Bruce Judd  
2421 Barcelona Drive  
Fort Lauderdale, FL 33301-1504**

Each defendant is required to serve written defenses to the Complaint on the attorneys for Philip J. Von Kahle, the Conservator of the P & S Associates, General Partnership and the S & P Associates, General Partnership ("Plaintiff's Attorney"), to wit, whose address is:

**Thomas M. Messana, Esq.  
Messana, P.A.  
401 East Las Olas Boulevard, Suite 1400  
Fort Lauderdale, Florida 33301  
954-712-7400**

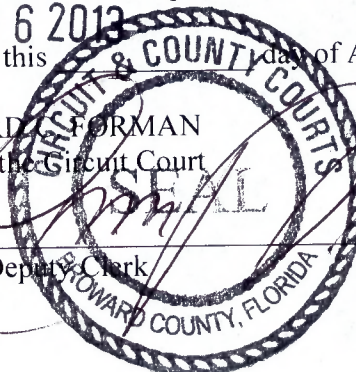
within **twenty (20) days** after service of this summons on that defendant, exclusive of the day of service, and to file the original of the defenses with the Clerk of this Court either before service of the Plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint or petition.

WITNESS my hand and the seal of said Court this **MAY 06 2013** day of April, 2013.

HOWARD FORMAN  
Clerk of the Circuit Court

By:

Deputy Clerk





### IMPORTANT

A lawsuit has been filed against you. You have twenty (20) calendar days after this Summons is served on you to file a written response to the attached Complaint with the Clerk of this Court. A phone call will not protect you. Your written response, including the case number given above and the names of the parties, must be filed if you want the court to hear your side of the case. If you do not file your response on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning from the are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

If you choose to file a written response yourself, at the same time you file your written response to the court you must also mail or take a copy of your written response to the "plaintiff's attorney" named herein.

### IMPORTANTE

Usted ha sido demandado legalmente. Tiene 20 Dias, contados a partir del recibo de esta notificacion, para contestar la demanda adjunta. por escrito, y presentarla ante este tribunal. Una llamada telefonica no lo protegera. Si usted desea que el tribunal considere su defensa, debe presentar su respuesta por escrito. incluyendo el numero del caso y los nombres de las partes interesadas. Si usted no contesta la demanda a tiempo, podiese perder el caso y podria ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitos legales. Si lo desea, puede consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la guia telefonica.

Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, debera usted enviar por correo o entregar una copia de su respuesta a la personal denominada abajo como "Plaintiff/Plaintiff's Attorney" (Demandante o Abogado del Demandante).

### IMPORTANT

Des poursuites judiciaires ont ete entreprises contre vous. Vous avez 20 jours consecutifs a partir de la date de l'assignation de cette citation pour deposer une reponse ecrite a la plainte ci-jointe aupres de ce tribunal. Un simple coup de telephone est insuffisant pour vous proteger. Vous etes oblige de deposer votre reponse ecrite, avec mention du numero de dossier ci-dessus et du nom des parties nommees ici, si vous souhaitez que le tribunal entende votre cause. Si vous ne deposez pas votre reponse ecrite dans le delai requis, vous risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent etre saisis par la suite, sans aucun preavis ulterieur du tribunal. Il y a d'autre obligations juridiques et vous pouvez requerir les services immediats d'un avocat. Si vous ne connaissez pas d'avocat, vous pourriez telephoner a un service de reference d'avocats ou a un bureau d'assistance juridique (figurant a l'annuaire de telephones).

Si vous choisissez de deposer vous-meme une reponse ecrite, il vous faudra egalement, en meme temps que cette formalite, faire parvenir ou expedier une copie de votre reponse ecrite au "Plaintiff/Plaintiff's Attorney" (Plaignant ou a son avocat) nomme ci-dessous.

***EXHIBIT “B”***

=====

**VERIFIED RETURN OF SERVICE**

IN THE CIRCUIT COURT OF THE 17<sup>TH</sup>  
JUDICIAL CIRCUIT, IN AND FOR  
BROWARD COUNTY, FLORIDA

CASE NO. 12-028324 (07)  
Complex Litigation Unit

P&S Associates, General Partnership and  
S&P Associates, General Partnership,

Plaintiff,

v.

Roberta P. Alves, Et Al.

Defendants.

At the Request of: Michael Moecker & Associates, Inc.

Received by Rogue Intelligence Services Corp. on the 20<sup>th</sup> day of May, 2013.

To be served on: Valeria Bruce Judd 2421 Barcelona Drive, Fort Lauderdale, Florida 33301

I, Harrison W. Barrus, do hereby affirm that on the 27<sup>th</sup> day of May, 2013 at 7:00 AM, I executed service by delivering a true copy of this Summons, and Second Amended Complaint in accordance with state statutes in the manner marked below:

☒ (X) INDIVIDUAL SERVICE: service on the within named person.

☐ ( ) SUBSTITUTE SERVICE:

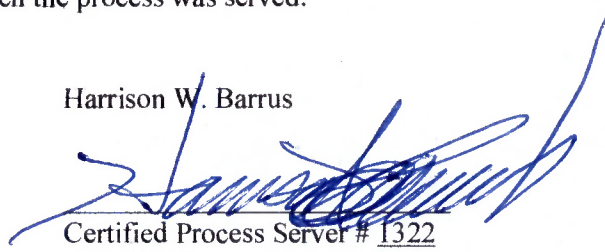
☐ ( ) POSTED SERVICE: after attempting service on \_\_\_ / \_\_\_ / \_\_\_ at \_\_\_ and \_\_\_ / \_\_\_ / \_\_\_ at \_\_\_ service was posted in a conspicuous place on the property described herein.

☐ ( ) NON SERVICE: see comments below.

**Comments:**

I certify that I am over the age of 18 and have no interest in the above action and that I am a Special process server in good standing in the judicial circuit in which the process was served.  
Notary not required pursuant to Florida Statute § 92.525.

Harrison W. Barrus

  
Certified Process Server # 1322  
Affidavit Date: 05-27-2013

IN THE CIRCUIT COURT OF THE 17<sup>th</sup>  
JUDICIAL CIRCUIT, IN AND FOR  
BROWARD COUNTY, FLORIDA

P & S ASSOCIATES, GENERAL  
PARTNERSHIP and S & P ASSOCIATES,  
GENERAL PARTNERSHIP,

CASE NO. 12-028324 (07)  
Complex Litigation Unit

Plaintiff,

v.

ROBERTA P. ALVES, ET AL.,

Defendants.

*1322*  
*1st* 5-20-13  
12:58 PM

*2nd* 5-21-13  
4:20 PM

**CIVIL ACTION SUMMONS ON SECOND AMENDED COMPLAINT**

*3rd* 5-23-13  
7:49 PM

The State of Florida:  
To Each Sheriff of the State:

**YOU ARE HEREBY COMMANDED** to serve this Summons and a copy of the Second  
Amended Complaint in this action on Defendant:

*4th*  
5-27-13  
7:00 AM

**Valeria Bruce Judd  
2421 Barcelona Drive  
Fort Lauderdale, FL 33301**

Each defendant is required to serve written defenses to the Second Amended Complaint on the attorneys for Philip J. Von Kahle, the Conservator of the P & S Associates, General Partnership and S & P Associates, General Partnership ("Plaintiff's Attorney"), to wit, whose address is

**Thomas M. Messana, Esq.  
Messana, P.A.  
401 East Las Olas Boulevard, Suite 1400  
Fort Lauderdale, Florida 33301  
954-712-7431**

within **twenty (20) days** after service of this summons on that defendant, exclusive of the day of service, and to file the original of the defenses with the Clerk of this Court either before service of the Plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint or petition.

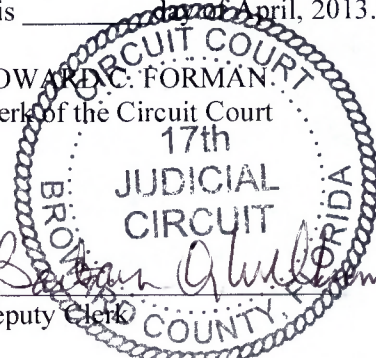
WITNESS my hand and the Seal of said Court this \_\_\_\_\_ day of April, 2013.

**MAY 07 2013**

HOWARD C. FORMAN, Jr.  
Clerk of the Circuit Court

By:

Deputy Clerk





### IMPORTANT

A lawsuit has been filed against you. You have twenty (20) calendar days after this Summons is served on you to file a written response to the attached Complaint with the Clerk of this Court. A phone call will not protect you. Your written response, including the case number given above and the names of the parties, must be filed if you want the court to hear your side of the case. If you do not file your response on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning from the court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

If you choose to file a written response yourself, at the same time you file your written response to the court you must also mail or take a copy of your written response to the "plaintiff's attorney" named herein.

### IMPORTANTE

Usted ha sido demandado legalmente. Tiene 20 Dias, contados a partir del recibo de esta notificacion, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada telefonica no lo protegera. Si usted desea que el tribunal considere su defensa, debe presentar su respuesta por escrito, incluyendo el numero del caso y los nombres de las partes interesadas. Si usted no contesta la demanda a tiempo, podiese perder el caso y podria ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitos legales. Si lo desea, puede consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la guia telefonica.

Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, debera usted enviar por correo o entregar una copia de su respuesta a la personal denominada abajo como "Plaintiff/Plaintiff's Attorney" (Demandante o Abogado del Demandante).

### IMPORTANT

Des poursuites judiciaires ont ete entreprises contre vous. Vous avez 20 jours consecutifs a partir de la date de l'assignation de cette citation pour depoter une reponse ecrite a la plainte ci-jointe aupres de ce tribunal. Un simple coup de telephone est insuffisant pour vous proteger. Vous etes oblige de depoter votre reponse ecrite, avec mention du numero de dossier ci-dessus et du nom des parties nommees ici, si vous souhaitez que le tribunal entende votre cause. Si vous ne deposez pas votre reponse ecrite dans le relai requis, vous risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent etre saisis par la suite, sans aucun preavis ulterieur du tribunal. Il y a d'autre obligations juridiques et vous pouvez requerir les services immediats d'un avocat. Si vous ne connaissez pas d'avocat, vous pourriez telephoner a un service de reference d'avocats ou a un bureau d'assistance juridique (figurant a l'annuaire de telephones).

Si vous choisissez de depoter vous-meme une reponse ecrite, il vous faudra egalement, en meme temps que cette formalite, faire parvenir ou expedier une copie de votre reponse ecrite au "Plaintiff/Plaintiff's Attorney" (Plaignant ou a son avocat) nomme ci-dessous.

**VERIFIED RETURN OF SERVICE**

IN THE CIRCUIT COURT OF THE 17<sup>TH</sup>  
JUDICIAL CIRCUIT, IN AND FOR  
BROWARD COUNTY, FLORIDA

CASE NO. 12-028324 (07)  
Complex Litigation Unit

P&S Associates, General Partnership and  
S&P Associates, General Partnership,

Plaintiff,

v.

Roberta P. Alves, Et Al.

Defendants.

At the Request of: Michael Moecker & Associates, Inc.

Received by Rogue Intelligence Services Corp. on the 20<sup>th</sup> day of May, 2013.

To be served on: James Judd 2421 Barcelona Drive, Fort Lauderdale, Florida 33301

I, Harrison W. Barrus, do hereby affirm that on the 27<sup>th</sup> day of May, 2013 at 7:00 AM, I executed service by delivering a true copy of this Summons, and Second Amended Complaint in accordance with state statutes in the manner marked below:

☐ INDIVIDUAL SERVICE: service on the within named person.

☒ SUBSTITUTE SERVICE: Valeria Bruce Judd (spouse)

☐ POSTED SERVICE: after attempting service on \_\_\_ / \_\_\_ / \_\_\_ at \_\_\_ and \_\_\_ / \_\_\_ / \_\_\_ at \_\_\_ service was posted in a conspicuous place on the property described herein.

☐ NON SERVICE: see comments below.

**Comments:**

I certify that I am over the age of 18 and have no interest in the above action and that I am a Special process server in good standing in the judicial circuit in which the process was served.

Notary not required pursuant to Florida Statute § 92.525.

Harrison W. Barrus

  
Certified Process Server # 1322

Affidavit Date: 05-27-2013

IN THE CIRCUIT COURT OF THE 17<sup>th</sup>  
JUDICIAL CIRCUIT, IN AND FOR  
BROWARD COUNTY, FLORIDA

P & S ASSOCIATES, GENERAL  
PARTNERSHIP and S & P ASSOCIATES,  
GENERAL PARTNERSHIP,

CASE NO. 12-028324 (07)  
Complex Litigation Unit

Plaintiff,

v.

ROBERTA P. ALVES, ET AL.,

Defendants.

**CIVIL ACTION SUMMONS ON SECOND AMENDED COMPLAINT**

The State of Florida:  
To Each Sheriff of the State:

**YOU ARE HEREBY COMMANDED** to serve this Summons and a copy of the Second  
Amended Complaint in this action on Defendant:

**James Judd**  
**2421 Barcelona Drive**  
**Fort Lauderdale, FL 33301**

Each defendant is required to serve written defenses to the Second Amended Complaint on  
the attorneys for Philip J. Von Kahle, the Conservator of the P & S Associates, General Partnership  
and S & P Associates, General Partnership ("Plaintiff's Attorney"), to wit, whose address is

**Thomas M. Messana, Esq.**  
**Messana, P.A.**  
**401 East Las Olas Boulevard, Suite 1400**  
**Fort Lauderdale, Florida 33301**  
**954-712-7431**

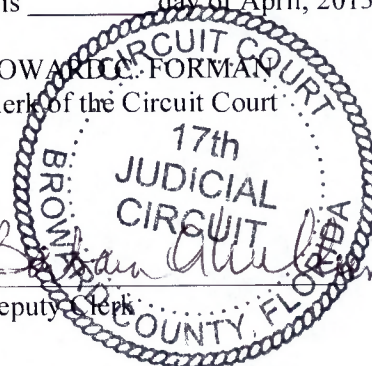
within **twenty (20) days** after service of this summons on that defendant, exclusive of the day of  
service, and to file the original of the defenses with the Clerk of this Court either before service of  
the Plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be  
entered against that defendant for the relief demanded in the complaint or petition.

WITNESS my hand and the Seal of said Court this \_\_\_\_\_ day of April, 2013.

**MAY 07 2013**

HOWARD L. FORMAN  
Clerk of the Circuit Court

By:   
Deputy Clerk



*Handwritten notes:*  
201322  
1<sup>st</sup> 5-20-13 12:58 PM  
2<sup>nd</sup> 5-21-13 4:20 PM  
3<sup>rd</sup> 5-23-13 7:49 PM  
4<sup>th</sup> 5-27-13 7:00 AM  
Valeria



### **IMPORTANT**

A lawsuit has been filed against you. You have twenty (20) calendar days after this Summons is served on you to file a written response to the attached Complaint with the Clerk of this Court. A phone call will not protect you. Your written response, including the case number given above and the names of the parties, must be filed if you want the court to hear your side of the case. If you do not file your response on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning from the court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

If you choose to file a written response yourself, at the same time you file your written response to the court you must also mail or take a copy of your written response to the "plaintiff's attorney" named herein.

### **IMPORTANTE**

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Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, debera usted enviar por correo o entregar una copia de su respuesta a la personal denominada abajo como "Plaintiff/Plaintiff's Attorney" (Demandante o Abogado del Demandante).

### **IMPORTANT**

Des poursuites judiciaires ont ete entreprises contre vous. Vous avez 20 jours consecutifs a partir de la date de l'assignation de cette citation pour déposer une reponse ecrite a la plainte ci-jointe aupres de ce tribunal. Un simple coup de telephone est insuffisant pour vous proteger. Vous etes oblige de déposer votre reponse ecrite, avec mention du numero de dossier ci-dessus et du nom des parties nommees ici, si vous souhaitez que le tribunal entende votre cause. Si vous ne deposez pas votre reponse ecrite dans le delai requis, vous risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent etre saisis par la suite, sans aucun preavis ulterieur du tribunal. Il y a d'autres obligations juridiques et vous pouvez requerir les services immediats d'un avocat. Si vous ne connaissez pas d'avocat, vous pourriez telephoner a un service de reference d'avocats ou a un bureau d'assistance juridique (figurant a l'annuaire de telephones).

Si vous choisissez de déposer vous-meme une reponse ecrite, il vous faudra egalement, en meme temps que cette formalite, faire parvenir ou expedier une copie de votre reponse ecrite au "Plaintiff/Plaintiff's Attorney" (Plaignant ou a son avocat) nomme ci-dessous.