

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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**DEFENDANT ALEX MOLCHAN TRUST'S RESPONSES AND OBJECTIONS  
TO PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

Pursuant to Florida Rule of Civil Procedure 1.350, Defendant ALEX MOLCHAN TRUST DTD 05/19/94 hereby responds and/or objects to Plaintiff's First Request for Production of Documents.

**GENERAL RESPONSES AND OBJECTIONS**

1. Defendant submits these responses without conceding the relevancy or materiality of the subject matter of any request.
2. Defendant objects to those requests that seek information neither relevant to this action, nor reasonably calculated to lead to the discovery of admissible evidence.
3. Defendant objects to those requests that seek information exempt from discovery by virtue of its inclusion in any of the following categories:
  - a. Information that embodies or discloses confidential communication between

Defendant and its counsel;

b. Information that represents the work product of attorneys for Defendant in this or related actions or which otherwise reflects the mental impressions, conclusions, opinions or legal theories of those attorneys or their agents; and

c. Information that has been compiled in anticipation of litigation or for trial by or on behalf of Defendant or its counsel.

4. Defendant objects to those requests that are duplicative or cumulative or as to which information may be obtained from another source that is more convenient, less burdensome and less expensive.

5. Defendant objects to those requests that are unnecessarily burdensome and oppressive.

6. Defendant objects to all requests insofar as they call for information about any other non-discoverable matters.

7. After diligent search, the Trustee of the Defendant has been unable to locate any files pertaining to Defendant's investment in P&S; presumably any such files and the documents they might have contained have been lost or destroyed sometime in the last 15 years since the Defendant closed its account at and withdrew as a partner from P&S.

7. Defendant reserves the right to supplement its responses as discovery proceeds.

### **DOCUMENTS REQUESTED**

1. All documents exchanged between Defendant and P&S; 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.

### **RESPONSE:**

Defendant objects to this request where it is vague and overly broad in both time and scope. The request therefore seeks, in part, information that is neither relevant nor

reasonably calculated to lead to the discovery of admissible evidence. Without waiving these objections, and subject to them, Defendant will produce at a mutually convenient time and location all non-privileged documents in its possession, custody and control, if any, relating to the P&S, including those exchanged with the referenced individuals.

2. All documents related to communications between Defendant and P&S; 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.

**RESPONSE:**

Defendant objects to this request where it is vague and overly broad in both time and scope. The request therefore seeks, in part, information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving these objections, and subject to them, Defendant will produce at a mutually convenient time and location all non-privileged documents in its possession, custody and control, if any, relating to the P&S, including the related communications with the referenced individuals.

3. All documents that refer to or reflect the transactions and/or events alleged in the Amended Complaint in this action.

**RESPONSE:**

Defendant will produce all (non-privileged) documents responsive to this request in its possession, custody or control, if any, at a mutually convenient time and location.

4. All documents that reflect payments, distributions, and/or transfers of funds between P&S and Defendant. This request includes without limitation all documents that reflect payments, distributions, and/or transfers of funds made and/or received on behalf of P&S.

**RESPONSE:** Defendant will produce all (non-privileged) documents responsive to this request in its possession, custody or control, if any, at a mutually convenient time and location.

5. All documents that reflect any relationship between Defendant and P&S.

**RESPONSE:**

Defendant objects to this request where it is so vague that Defendant cannot reasonably frame a response. Defendant is aware of no “relationship” that is has or had with P&S, other than investing in the partnership(s) in accordance with controlling partnership agreement.

6. All documents that support the assertion that Plaintiffs failed to bring a lawsuit within the time required under the applicable statutes of limitations for each cause of action asserted in the Amended Complaint.

**RESPONSE:**

Defendant objects to this request to the extent it can be interpreted to impose an obligation upon Defendant to produce documents generated by undersigned counsel and,

thus, protected by the attorney-client privilege and/or work-product doctrine. Without waiving these objections, and subject to them, Defendant will produce all (non-privileged) documents in its possession, custody, or control (and which are not part of the public domain, *e.g.*, press reports), if any, responsive to this request at a mutually convenient time and location.

7. All documents related to distributions, payments, and/or transfers of funds that were received by any partner of P&S.

**RESPONSE:**

Defendant objects to this request to the extent it purports to impose upon Defendant an obligation to produce documents of third parties with whom Defendant is not affiliated and over whom Defendant has no control. Without waiving these objections, and subject to them, to the extent Plaintiff seeks documents related to distributions, payment and/or transfers of funds received by Defendant, Defendant will produce all documents responsive to this request in its possession, custody or control, if any, at a mutually convenient time and location.

8. All documents related to any investment advice or accounting advice Defendant received in relation to P&S; including without limitation any documents provided to investment advisors and any reports produced by such investment advisors.

**RESPONSE:**

Defendant objects to this request to the extent it seeks documents protected by the accountant-client privilege. Without waiving this objection, and subject to it, Defendant is not aware of any documents in its possession, custody or control providing it with “investment advice” relative to the partnership(s).

9. All documents related to the decision by Defendant to invest in P&S.

**RESPONSE:**

Defendant will produce all documents responsive to this request in its possession, custody or control, if any, at a mutually convenient time and location.

10. All documents that support Your alleged entitlement to retain any payments, distributions, and/or transfers of funds from P&S.

**RESPONSE:**

Defendant objects to this request to the extent it can be interpreted to impose an obligation upon Defendant to produce documents generated by undersigned counsel and, thus, protected by the attorney-client privilege and/or work-product doctrine. Without waiving these objections, and subject to them, Defendant will produce all (non-privileged) documents in its possession, custody, or control (and which are not part of the public domain, *e.g.*, press reports), if any, responsive to this request at a mutually convenient time and location.

11. All documents that relate to Your decision not to comply with the demand letter sent to You in November 2012 and the demand letter sent to You in October 2013.

**RESPONSE:**

Defendant objects to this request to the extent it can be interpreted to impose an obligation upon Defendant to produce documents generated by undersigned counsel and, thus, protected by the attorney-client privilege and/or work-product doctrine. Without waiving these objections, and subject to them, Defendant will produce all (non-privileged) documents in its possession, custody, or control (and which are not part of the public domain, *e.g.*, press reports), if any, responsive to this request at a mutually convenient time and location.

12. All documents that support the assertion that You received all payments, distributions, and/or transfers of funds from P&S in accordance with the Partnership Agreements.

**RESPONSE:**

Defendant objects to this request to the extent it can be interpreted to impose an obligation upon Defendant to produce documents generated by undersigned counsel and, thus, protected by the attorney-client privilege and/or work-product doctrine. Without waiving these objections, and subject to them, Defendant will produce all (non-privileged) documents in its possession, custody, or control (and which are not part of the public domain, *e.g.*, press reports), if any, responsive to this request at a mutually convenient time and location.

13. All documents related to the terms of Your investment in P&S.

**RESPONSE:**

Defendant objects to this request to the extent it can be interpreted to impose an obligation upon Defendant to produce documents generated by undersigned counsel and, thus, protected by the attorney-client privilege and/or work-product doctrine. Without waiving these objections, and subject to them, Defendant will produce all (non-privileged) documents in its possession, custody, or control (and which are not part of the public domain, *e.g.*, press reports), if any, responsive to this request at a mutually convenient time and location.

14. All documents that relate to communications between You and other investors in the Partnerships, including but not limited to any defendant whose name contains the word "Molchan."

**RESPONSE:**

Defendant objects to this request where it is overly broad in time and scope and therefore seeks information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving these objections, and subject to them, Defendant will produce at a mutually convenient time and location all non-privileged documents in its possession, custody and control, if any, relating to the P&S Associates, General Partnership and/or P&S Associates, General Partnership (collectively the "Partnerships"), and including the referenced individuals.

Dated this 28<sup>TH</sup> day of January 2014.



## CERTIFICATE OF SERVICE

THE UNDERSIGNED HEREBY CERTIFIES that on the 28th day of January 2014

a true and correct copy of the foregoing was SENT VIA E-MAIL to:

LEONARD K. SAMUELS, Esq., ETAN MARK, Esq., and STEVEN D. WEBER, Esq., c/o Berger Singerman, Attorneys for Plaintiffs, 350 East Las Olas Boulevard, Suite 1000, Fort Lauderdale, Florida 33301: [lsamuels@bergersingerman.com](mailto:lsamuels@bergersingerman.com); [emark@bergersingerman.com](mailto:emark@bergersingerman.com); [sweber@bergersingerman.com](mailto:sweber@bergersingerman.com); [DRT@bergersingerman.com](mailto:DRT@bergersingerman.com); [VLeon@bergersingerman.com](mailto:VLeon@bergersingerman.com); ERIC N. ASSOULINE, Esq., c/o Assouline & Berlowe, P.A., Attorneys for Ersica P. Gianna, 213 E. Sheridan Street, Suite 3, Dania Beach, Florida 33004: [ena@assoulineberlowe.com](mailto:ena@assoulineberlowe.com); and [ah@assoulineberlowe.com](mailto:ah@assoulineberlowe.com); JULIAN H. KREEGER, Esq., Attorneys for James Bruce Judd and Valeria Judd, 2665 S. Bayshore Drive, Suite 220-14, Miami, Florida 33133-5402: [juliankreeger@gmail.com](mailto:juliankreeger@gmail.com); JOSEPH P. KLAPHOLZ, Esq., Attorney for Abraham Newman, Rita Newman & Gertrude Gordon, c/o Joseph P. Klapholz, P.A., 2500 Hollywood Boulevard, Suite 212, Hollywood, Florida 33020: [jklap@klapholzpa.com](mailto:jklap@klapholzpa.com); [dml@klapholzpa.com](mailto:dml@klapholzpa.com); PETER G. HERMAN, Esq., c/o Tripp Scott Law Offices, 110 S.E. Sixth Street, Suite 1500, Fort Lauderdale, Florida 33301: [PGH@trippscott.com](mailto:PGH@trippscott.com); MICHAEL C. FOSTER, Esq., and ANNETTE M. URENA, Esq., c/o Daniels Kashtan, 4000 Ponce de Leon Blvd., Suite 800, Coral Gables, Florida 33146: [Mfoster@dkdr.com](mailto:Mfoster@dkdr.com); [aurena@dkdr.com](mailto:aurena@dkdr.com); MARC S. DOBIN, Esq. c/o Dobin Law Group, 500 University Blvd., Suite 205, Jupiter, Florida 33458: [service@DobinLaw.com](mailto:service@DobinLaw.com); THOMAS M. MESSANA, Esq., and BRETT LIEBERMAN, Esq., c/o Messana P.A., 401 East Las Olas Blvd., Suite 1400, Fort Lauderdale, Florida 33301: [tmessana@messana-law.com](mailto:tmessana@messana-law.com); [blieberman@messana-law.com](mailto:blieberman@messana-law.com); RICHARD T. WOLFE, Esq., c/o Bunnell & Woulfe, P.A., One Financial Plaza, Suite 1000, 100 S.E. Third Avenue, Fort Lauderdale, Florida 33394: [Pleadings.RTW@bunnellwoulfe.com](mailto:Pleadings.RTW@bunnellwoulfe.com); THOMAS L. ABRAMS, Esq., 1776 N. Pine Island Road, Suite 309, Plantation, Florida, 33322: [tabrams@tabramslaw.com](mailto:tabrams@tabramslaw.com); DANIEL W. MATLOW, Esq., Attorney for Defendant (Herbert Irwig Revocable Trust), Emerald Lake Corporate Park, 3109 Stirling Road, Suite 101, Fort Lauderdale, FL 33312 [dmatlow@danmatlow.com](mailto:dmatlow@danmatlow.com), [assistant@danmatlow.com](mailto:assistant@danmatlow.com); DOMENICA FRASCA, Esq., Mayersohn Law Group, P.A., Attorney for Francis J. Mahoney, Jr. PR Estate of May Ellen Nickens, 101 N.E. Third Avenue, Suite 1250, Fort Lauderdale, FL 33301 [dfrasca@mayersohnlaw.com](mailto:dfrasca@mayersohnlaw.com); MARIAELENA GAYO- GUITIAN, Esq., Genovese Joblove & Battista, P.A., Attorneys for Festus & Helen Stacy Foundation, Inc., 200 East Broward Boulevard, Suite 1110, Fort Lauderdale, FL 33301 [mguitian@gjb-law.com](mailto:mguitian@gjb-law.com); ROBERT J. HUNT, Esq., Hunt & Gross, PA, Attorneys for Hampton Financial Group, Inc., 185 Spanish River Boulevard, Suite 220, Boca Raton, FL 33431-4230 [eservice@huntgross.com](mailto:eservice@huntgross.com), [bobhunt@huntgross.com](mailto:bobhunt@huntgross.com), [Sharon@huntgross.com](mailto:Sharon@huntgross.com); JASON S. OLETSKY, Esq. Akerman Senterfitt, Attorney for Kathleen Walsh, Las Olas Centre II, 350 E. Las Olas Boulevard, Suite 1600, Fort Lauderdale, FL 33301 [jason.oletsky@akerman.com](mailto:jason.oletsky@akerman.com), [Ashley.sawyer@akerman.com](mailto:Ashley.sawyer@akerman.com); CARL F. SCHOEPPL, Esq., Schoeppel & Burkem P.A., Attorneys for But Moss, 4651 North Federal Highway,

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