

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.

_____ /

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

Pursuant to Florida Rule of Civil Procedure 1.350, Defendant SUSAN MOLCHAN 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. 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 Associates, General Partnership and/or P&S Associates, General Partnership (collectively the “Partnerships”), and 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 Associates, General Partnership and/or P&S Associates, General Partnership (collectively the “Partnerships”), and 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 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 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(s).

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 and not produced by Plaintiff) 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 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 “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 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) 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) 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) 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) 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.

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 28TH 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:

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