

EXHIBIT 2

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

COMPLEX LITIGATION UNIT

CASE NO: 12-034123(07)

P&S ASSOCIATES, GENERAL PARTNERSHIP, a
Florida limited partnership; and S&P
ASSOCIATES, GENERAL PARTNERSHIP, a
Florida limited partnership; PHILIP
VON KAHLE as Conservator of P&S
ASSOCIATES, GENERAL PARTNERSHIP, a
Florida limited partnership; and S&P
ASSOCIATES, GENERAL PARTNERSHP, a
Florida limited partnership,

Plaintiffs,

v

MICHAEL D. SULLIVAN, an individual,
STEVEN JACOB, an individual, MICHAEL D.
SULLIVAN & ASSOCIATES, INC., a Florida
corporation, STEVEN F. JACOB, CPA &
ASSOCIATES, INC., a Florida
corporation, FRANK AVELLINO, an
individual, MICHAEL BIENES, an
individual, KELKO FOUNDATION, INC., a
Florida non profit corporation, and
VINCENT T. KELLY, an individual,

Defendants.

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Deposition of MICHAEL D. SULLIVAN
(Volume I)

Tuesday, December 1, 2015
One Financial Plaza, Suite 2700
Fort Lauderdale, Florida 33394
10:16 a.m. - 1:25 p.m.

Reported by:
Lisa Mudrick, RPR, FPR
Notary Public, State of Florida

1 Q. When you say you got a check back, did you
2 receive back all of the funds that you had invested
3 in A&B?

4 A. Yes.

10:52:44 5 Q. Do you know whether or not the other
6 individuals that you had mentioned before that
7 invested with A&B, do you recall whether or not or
8 know whether or not they received all their funds
9 back?

10:52:55 10 A. Best of my knowledge they got every nickel
11 back.

12 Q. Okay. Now, after you got your money back
13 did you have any discussions with anyone about
14 investing directly with Madoff?

10:53:10 15 A. I went ahead and I asked Mr. Frank if
16 there was any way I could go ahead and I wanted to
17 do my own investments with Madoff. I says, is that
18 a possibility.

19 Q. And do you recall what his response was?

10:53:30 20 A. Yeah. He pretty much wanted really
21 nothing to do with that. He told me I was -- and
22 these are all in just very generic terms, very
23 generic -- I pretty much was on my own.

24 Q. Were there of these other individuals that
10:53:46 25 you had mentioned before that you had discussed

1 that ultimately invest with A&B and got their money
2 back --

3 A. Uh-huh.

4 Q. -- did you have any discussions with any
10:53:54 5 of them about investing in Madoff?

6 A. Yeah. After this all happened I says,
7 gee, wouldn't this be a great idea, I am thinking
8 as a business entrepreneur right now, if we could
9 get a -- my partner and myself get a business and
10:54:12 10 go ahead and get an SEC attorney and do the same
11 thing in fact that they were doing.

12 Q. They being?

13 A. Avellino, A&B, Avellino and Bienes.

14 Q. And did that ultimately lead to the
10:54:27 15 formation of P&S and S&P?

16 A. It did.

17 Q. What involvement, if any, did Mr. Avellino
18 have in your decision to set up that business?

19 A. Nothing.

10:54:39 20 Q. What involvement at all did Mr. Avellino
21 have in the actual setting up of that business?

22 A. None.

23 Q. Is that equally true with regard to
24 Mr. Bienes?

10:54:49 25 A. Correct.

1 Q. What about other than the foundation, did
2 any of the other investors/general partners request
3 to inspect the books and records?

4 A. They did. There was this group in Boca
11:08:12 5 Raton, they would come in from year to year. God,
6 I just can't remember the names of the people. But
7 we did have those from time to time. Somebody was
8 there, they wanted the records, they were right
9 there, we just put them in the conference room and
11:08:25 10 showed them what they wanted.

11 Q. How did it come about that S&P and P&S
12 obtained additional investors?

13 A. Well, Greg and I went ahead and, you know,
14 we contacted various people that we knew. And
11:09:03 15 there was a point in time where either Frank or
16 Mike would say, hey, this is somebody that called
17 us and said they want to invest with you. They
18 gave them my name, and we would contact those.
19 Usually they would contact us.

11:09:31 20 Q. With regard to running the business of P&S
21 and S&P --

22 A. Uh-huh.

23 Q. -- who was involved in running the
24 business?

11:09:40 25 A. Greg ran most of the business. I would

1 page one --

2 A. Right.

3 Q. -- let me just read it, the first sentence
4 of it. "Partnership funds were never paid to

13:19:35 5 Avellino and Bienes or anyone else."

6 A. Uh-huh.

7 Q. "Avellino and Bienes have never had any
8 control over the partnerships."

9 A. Uh-huh.

13:19:45 10 Q. Now, the "partnership funds were never
11 paid to Avellino and Bienes or anyone else."

12 A. Correct.

13 MR. SAMUELS: Object to the form of the
14 question.

13:19:51 15 BY MR. WOODFIELD:

16 Q. What did you mean by that?

17 A. We never took money from S&P and P&S and
18 gave it to any partner, entity or anything else.
19 That money, in fact any money paid to third parties
13:20:03 20 came through my profit MDS Associates, never
21 through S&P and P&S.

22 I believe this letter was written after a
23 bunch of slanderous allegations that were made to
24 me, in this mockery of me in this lawsuit.

13:20:22 25 Q. And your statement, "Avellino and Bienes

1 their ten percent, their fee back. It's only the
2 case of the Kelco Foundation.

13:22:29 3 Q. Okay. So further on down when this
4 sentence, the first sentence of a bullet point that
5 states "No commissions were paid from partnership
6 assets" --

7 A. Uh-huh.

8 Q. -- is that again referring to your prior
9 testimony that any commissions, or whatever term
10 was utilized, was paid from your management fee?

11 A. Correct.

12 Q. And do the books and records of the
13 company support that to your knowledge?

14 A. Yes, they do.

13:23:06 15 Q. You notice down on at the bottom of
16 page -- no, they are unnumbered pages, but it's
17 page two.

18 A. Uh-huh.

19 Q. If you would look at that last paragraph?

13:23:22 20 A. Uh-huh.

21 Q. You see where it states in there that
22 they, which is referring to the individuals who
23 reviewed the books and records for the Stacy
24 Foundation --

13:23:31 25 A. Uh-huh.

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VON KAHLE as Conservator of P&S
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Florida limited partnership; and S&P
ASSOCIATES, GENERAL PARTNERSHP, a
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v

MICHAEL D. SULLIVAN, an individual,
STEVEN JACOB, an individual, MICHAEL D.
SULLIVAN & ASSOCIATES, INC., a Florida
corporation, STEVEN F. JACOB, CPA &
ASSOCIATES, INC., a Florida
corporation, FRANK AVELLINO, an
individual, MICHAEL BIENES, an
individual, KELKO FOUNDATION, INC., a
Florida non profit corporation, and
VINCENT T. KELLY, an individual,

Defendants.

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Deposition of MICHAEL D. SULLIVAN
(Volume II)

Thursday, December 17, 2015
One Financial Plaza, Suite 2700
Fort Lauderdale, Florida 33394
9:55 a.m. - 12:45 p.m.

Reported by:
Lisa Mudrick, RPR, FPR
Notary Public, State of Florida

1 BY MR. WOODFIELD:

2 Q. Mr. Sullivan, do you recall at any time
3 referring to the business of S&P and P&S as being a
4 gift?

10:08:31 5 A. Yes.

6 Q. And what's your recollection of that?

7 A. I always thought this whole process and
8 being involved with Madoff actually was a gift.
9 You know, at that time who Madoff was and what was
10:08:47 10 going on, it was just an ultimate blessing to go
11 ahead and have.

12 So, yeah, to me this was a gift just for
13 me having the opportunity to have an account with
14 Madoff. It's not something I ever thought would
10:09:02 15 happen. It just happened to work out. So, yes,
16 this is in the general term, not breaking out into
17 every mind process and thought, this certainly
18 isn't a dissertation or a thesis or an exegesis on
19 the statement. It was just something that came off
10:09:19 20 from the -- you know, these aren't letters that you
21 write you are thinking you are going to be at some
22 deposition at some point in time going over
23 everything. I mean, that's ridiculous. So, yeah,
24 everything, all the money was a gift.

10:09:32 25 Q. In that same paragraph you've got a

1 sentence that says, "I was reminded constantly by
2 Frank that this was my gift alone."

3 A. Uh-huh.

4 Q. Do you recall making any statement such as
10:09:43 5 that at any point in time?

6 A. Yeah. Greg and I had had really
7 discussions. And one of the things I had to be
8 careful were the kids coming along at their young
9 age and trying to call Madoff or do anything.

10:09:58 10 I think it's important to understand as we
11 are going through this, we are living in a
12 pre-Madoff crash, and how sensitive businesses are.
13 And unless you look at this in the terms of, you
14 know, being involved in a, what you think is a real
10:10:13 15 business at that time, yeah, I mean, I had to do
16 what I needed to do to make sure this business kept
17 running. And to me, that served as a threat.

18 Q. In the third paragraph from the bottom of
19 this letter --

10:10:31 20 A. Uh-huh.

21 Q. -- the one that begins "you stated that,"
22 do you see that paragraph?

23 A. Yes.

24 Q. And if you would look at the second
10:10:36 25 line --

1 Q. Okay. Do you have any recollection as you
2 sit here today as to at any point in time you
3 providing -- stating to anyone that Frank, what
4 Frank's role was in the business at the time it was
10:11:51 5 operating?

6 A. I probably made various statements to all
7 different people. But I cannot -- if someone asked
8 me a question, I honestly answered the question. I
9 couldn't tell you. I mean, I could have been asked
10:12:03 10 ten, 20, 30 times. I have no idea.

11 Q. Do you recall at any time telling anyone
12 that Frank Avellino was the main source of this
13 business?

14 MR. SAMUELS: Object to the form of the
10:12:14 15 question.

16 THE WITNESS: Well, he wasn't, so I don't
17 know. Maybe someone asked the question a
18 certain way or they, you know, posed the
19 question a certain way. I can't -- I don't
10:12:30 20 know. I can't tell you.

21 BY MR. WOODFIELD:

22 Q. Looking at the second paragraph up from
23 the bottom --

24 A. Yes.

10:12:34 25 Q. -- Mr. Sullivan, that begins "if something

1 were to happen to me."

2 A. Yes.

3 Q. Do you see that?

4 A. Yes.

10:12:39 5 Q. If you would, go down to the second line.

6 A. Yes.

7 Q. At the end of that line --

8 A. Yes.

9 Q. -- if you could just read that sentence to
10:12:46 10 yourself that begins "I am the person who." Do you
11 see that?

12 A. Uh-huh. Uh-huh, I do.

13 Q. Do you have any recollection at any time
14 having any discussion with anyone about that Frank
10:12:59 15 Avellino was referring to him as the main source?

16 A. Uh-huh.

17 Q. And that he entrusted this gift to you?

18 A. Uh-huh.

19 Q. And could take it back?

10:13:06 20 A. Uh-huh.

21 Q. Do you have any recollection of ever
22 saying anything like that?

23 A. No, I don't.

24 Q. Do you have any understanding as you sit
10:13:17 25 here today what was meant by that in this letter?

1 A. I had told -- I know somebody asked me
2 what happens if I were to go ahead and pass away or
3 to die or something, what in fact would happen to
4 this or who they would call. And Frank was a dear
10:13:34 5 friend of mine. I mean, I have known him for a
6 long time. And I think if questions come up, since
7 he knew Madoff and had his own accounts with
8 Madoff, they knew that I knew him, they knew I knew
9 him from church, I would have wanted people to go
10:13:50 10 ahead and ask Frank if they had any questions.

11 Because Greg had already passed away, and there was
12 nobody else to call but Frank. So it was kind of
13 more for protection thing for people, you know, not
14 to worry, in other words, where is the money going
10:14:04 15 to end up, is someone just going to run away and
16 take it. So it was just there for that reason.

17 Q. Do you ever recall having any discussions
18 with Frank Avellino that in which he said he could
19 take this business away from you?

10:14:27 20 A. There was a statement that was made one
21 time definitively that if there was any
22 indications -- both Michael and Frank had people
23 and friends that were investors in here. I think
24 if they felt and there was any suspicious activity
10:14:56 25 or monies weren't being paid or things not

1 happening, I wouldn't put it past them to go ahead
2 and tell Madoff something is wrong, without any
3 question. That's probably what I meant by that
4 statement.

10:15:16 5 Q. So having talked about some of the
6 sentences in this letter, again, as we sit here
7 today, is your recollection refreshed at all as to
8 your writing this letter to Bette Anne?

9 A. The thought processes and the things that
10:15:35 10 I was thinking at that time align with some of the
11 thoughts on there. Whether I explained them one
12 hundred percent or not, I can't tell you. I didn't
13 sit down and write a 15-page letter of everything
14 that I meant. They were no more than summary
10:15:52 15 statements.

16 I do not write long things. I am not a
17 writer by nature. This was just something I busted
18 out at the time, once again, definitively to keep
19 the children and anybody else away from coming in
10:16:05 20 and calling Madoff and stopping the business.
21 That's why this letter specifically was written,
22 that letter alone.

23 Q. And when you say children, you are
24 referring to --

25 A. Yes.

1 A. Yes.

2 Q. -- the sentence that begins "if something
3 happens." Would you just read that to yourself for
4 a moment?

10:10:42 5 A. Oh, "you stated that you thought," is that
6 which one?

7 Q. Right. And then the next line down --

8 A. Yes.

9 Q. -- the sentence that begins "if something
10:10:50 10 happens."

11 A. "Happens to the stock market."

12 Q. Just read that to yourself.

13 A. Okay.

14 Q. Now, having read that, does it refresh
10:11:03 15 your recollection at all if at any point in time
16 you recall having any discussions with anyone about
17 how this investment could drastically change if
18 something happened to the stock market, to your
19 investors, to Frank?

10:11:20 20 A. You know, when you are in this you think,
21 gee, what happens, is something going to happen to
22 Bernie, is something going to happen to the stock
23 market, is something going to happen to me, I mean,
24 all sorts. Can I definitively tell you what I
10:11:32 25 meant by that? I can't.

1 took place?

2 A. About an hour.

3 Q. Do you know whether or not in the books
4 and records that they inspected that it reflected
10:26:27 5 payments made to Avellino, Bienes, Father Kelly and
6 others?

7 A. I have no idea.

8 Q. Did the books and records that were --
9 that existed as of 2008 reflect those payments made
10:26:41 10 to others?

11 A. They wouldn't have in the S&P P&S records.
12 They would have been involved in the MD -- I forgot
13 the name of my company -- MDS Associates. Those
14 would have been made out of MDS, not in the S&P and
10:26:56 15 P&S records.

16 Q. Do you know whether or not those records,
17 records of this other entity, were made available
18 for inspection?

19 A. I don't know. I have no idea. I don't
10:27:05 20 think they would have. I don't know why I would
21 have put my personal stuff, because I had my
22 personal business and my personal stuff all was
23 intertwined in MDS.

24 Q. But would the books and records of S&P and
10:27:20 25 P&S reflect the management fee that was paid to you

1 and Mr. Powell?

2 A. They would have been on every single
3 report that was ever issued out of our office. It
4 was put on the statement how much our management
10:27:36 5 fee was. If somebody got a statement, it had our
6 management fee on there.

7 Q. And was the management fee calculated
8 pursuant to the terms of the partnership agreement?

9 A. Correct.

10:27:49 10 MR. SAMUELS: Object to the form of the
11 question.

12 BY MR. WOODFIELD:

13 Q. If you would turn to page 37.

14 A. Uh-huh.

10:28:10 15 Q. Let me just quote a portion of this
16 response on page 37. "Defendants Avellino and
17 Bienes were active in the management of the
18 partnerships."

19 Is that an accurate statement?

10:28:28 20 A. That's a lie.

21 Q. In the next line down a portion of the
22 statement, a portion of that response states,
23 "Sullivan prevented general partners from assessing
24 all of the books and records of the partnerships to
10:28:43 25 conceal defendants' involvements in the

1 partnerships."

2 Is that an accurate statement?

3 A. It's a lie. I think it's important to
4 remember so we all have clarity on this, once
10:29:03 5 again, because everyone needs to understand. The
6 P&S and S&P books were here. My personal records
7 on MDS are not a part of the S&P P&S records. If
8 somebody asked me anything, I wouldn't lie to them;
9 I would tell them the truth. There's no reason to
10:29:19 10 do this. So it was right on there. I mean, I
11 don't know if anyone asked, but I doubt they would
12 have. I don't know why they would have wanted to.

13 Q. With regard to the books and records of
14 the partnerships, so as we sit here today up until
10:30:18 15 the time let's say when these lawsuits were
16 started --

17 A. Uh-huh.

18 Q. -- other than the foundation which you
19 have testified to, do you recall at any point in
10:30:26 20 time any other time where a general partner
21 requested to review the books and records?

22 A. Yeah. I said that the last time we were
23 here. Other people would come in if they want.
24 There was that group out of Boca. They would have
10:30:39 25 nothing to do. They would bring their bagels and