

IN THE CIRCUIT COURT FOR THE  
17TH JUDICIAL CIRCUIT 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  
PARTNERSHIP, a Florida limited partnership,

Plaintiffs,

vs.

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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**DEFENDANT MICHEAL BIENES'  
OBJECTION TO PLAINTIFF'S NOTICE OF INTENT TO  
SERVE SUBPOENA DUCES TECUM WITH DEPOSITION TO DIANNE BIENES**

Defendant, Michael Bienes ("Bienes"), pursuant to Rule 1.351, Florida Rules of Civil Procedure, objects to Plaintiff's Notice of Intent to Serve Subpoena *Duces Tecum* With Deposition to Dianne Bienes (the "Subpoena") on the grounds that it: (a) seeks documents,

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materials or electronically stored information (“ESI”) concerning the private financial information of both Dianne Bienes, who is a not even a party to this lawsuit, and of Michael Bienes, both of which are protected from disclosure by Florida’s Constitution; (b) is overbroad and unduly burdensome in that the Subpoena requests nearly two dozen categories of documents, materials and ESI the retrieval of which (assuming for the sake of argument it even exists and is in the possession, custody or control of Mrs. Bienes) would require the hiring or retention of costly professionals; (iii) seeks information which is protected by a recognized privilege or immunity from disclosure pursuant to applicable law; and (iv) otherwise calls for disclosure of information that is irrelevant and not likely to lead to the discovery of admissible evidence.

**WHEREFORE**, Defendant, Michael Bienes, requests that the Court enter an Order sustaining his objections to the Subpoena, denying Plaintiff’s request to issue the Subpoena, and awarding any such other and further relief as the Court deems just and proper.

Dated this 23rd day of February, 2015.

Respectfully submitted,

/s/ Jonathan Etra

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*Counsel for Defendant, Michael Bienes*

## CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on February 23, 2015, this notice and the aforementioned interrogatories were served via E-mail to: **(i)** Thomas E. Messina, Esq., Thomas Zeichman, Esq., Messina, P.A., 401 East Las Olas Boulevard, Suite 1400, Ft. Lauderdale, FL 33301 ([tmessana@messana-law.com](mailto:tmessana@messana-law.com), [tzeichman@messana-law.com](mailto:tzeichman@messana-law.com)) (Counsel for Plaintiffs); **(ii)** Leonard K. Samuels, Esq., Etan Mark, Esq., Steven D. Weber, Esq., Zachary P. Hyman, Esq., Berger Singerman LLP, 350 East Las Olas Boulevard, Suite 1000, Fort Lauderdale, FL 33301 ([lsamuels@bergersingerman.com](mailto:lsamuels@bergersingerman.com), [emark@bergersingerman.com](mailto:emark@bergersingerman.com), [sweber@bergersingerman.com](mailto:sweber@bergersingerman.com), [zhyman@bergersingerman.com](mailto:zhyman@bergersingerman.com)) (Counsel for Plaintiff Margaret Smith); **(iii)** Peter G. Herman, Esq., Tripp Scott, 110 S.E. 6<sup>th</sup> Street, 15<sup>th</sup> Floor, Ft. Lauderdale, FL 33301 ([pgh@trippscott.com](mailto:pgh@trippscott.com)) (Counsel for Steven Jacob and Steven F. Jacob CPA and Associates); **(iv)** Paul V. DeBianchi, Esq., Paul V. DeBianchi, P.A., 111 S.E. 12<sup>th</sup> Street, Ft. Lauderdale, FL 33316 ([Debianchi236@bellsouth.net](mailto:Debianchi236@bellsouth.net)); **(v)** Gary A. Woodfield, Esq., Haile, Shaw & Pfaffenberger, P.A., 660 U.S. Highway One, Third Floor, North Palm Beach, FL 33408 ([gwoodfield@haileshaw.com](mailto:gwoodfield@haileshaw.com), [bpetroni@haileshaw.com](mailto:bpetroni@haileshaw.com), [eservice@haileshaw.com](mailto:eservice@haileshaw.com)) (Counsel for Defendant Frank Avellino); **(vi)** Harry Winderman, Esq., One Boca Place, 2255 Glades Road, Boca Raton, FL 33431 ([harry4334@hotmail.com](mailto:harry4334@hotmail.com)); **(vii)** Matthew Triggs, Esq., Andrew Thomson, Esq. Proskauer Rose LLP, 2255 Glades Road, Suite 421 Atrium, Boca Raton, FL 33431 ([mtriggs@proskauer.com](mailto:mtriggs@proskauer.com), [athomson@proskauer.com](mailto:athomson@proskauer.com), [florida.litigation@proskauer.com](mailto:florida.litigation@proskauer.com)); **(viii)** Robert J. Hunt, Esq., Debra D. Klingsberg, Esq., Hunt & Gross, P.A., 185 Spanish River Boulevard, Suite 220, Boca Raton, FL 33431 ([bobhunt@huntgross.com](mailto:bobhunt@huntgross.com), [dklingsberger@huntgross.com](mailto:dklingsberger@huntgross.com), [eService@huntgross.com](mailto:eService@huntgross.com), [Sharon@huntgross.com](mailto:Sharon@huntgross.com)); and via Regular U.S. Mail to: **(ix)** Michael D. Sullivan & Associates, Inc., 6550 N. Federal Highway, Suite 210, Ft. Lauderdale, FL 33308 (pro se) and **(x)** Michael Sullivan, 2590 N.E. 41<sup>st</sup> Street, Ft. Lauderdale, FL 33308 (pro se).

/s/ Jonathan Etra

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Jonathan Etra