

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

**Case No: 12-034123(07)
Complex Litigation Unit**

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,

v.

STEVEN JACOB, ET AL.,

Defendants.

_____ /

**PLAINTIFFS' FOURTH SET OF INTERROGATORIES
TO DEFENDANT FRANK AVELLINO**

Plaintiffs, P&S Associates, General Partnership (“P&S”), S&P Associates, General Partnership (“S&P”) and Philip Von Kahle as Conservator on behalf of P&S and S&P (“Conservator”) (collectively and individually referred to as, the “Partnerships” or “Plaintiffs”), by and through their undersigned attorneys, pursuant to Fla.R.Civ.P., R.1.340, request that Defendant Frank Avellino (“Defendant”), answer each of the following interrogatories set forth below separately and fully in writing, under oath, within the time period set forth in the Florida Rules of Civil Procedure.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 26, 2016, a copy of the foregoing was filed with the Clerk of the Court via the E-filing Portal, and served via Electronic Mail by the E-filing Portal upon:

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By: s/Leonard K. Samuels

DEFINITIONS AND INSTRUCTIONS:

The following definitions shall apply to this First Set of Interrogatories:

A. “You”, “Your”, or “Defendant” as used herein means Frank Avellino and includes any and all agents, employees, servants, attorneys and any other person or entity acting or purporting to act on his behalf, including but not limited to 27 Cliff, LLC.

B. “P&S” as used herein means Plaintiff P&S Associates, General Partnership, and includes any and all agents, employees, servants, officers, directors, attorneys and any other person or entity acting or purporting to act on its behalf.

C. “S&P” as used herein means Plaintiff S&P Associates, General Partnership, and includes any and all agents, employees, servants, officers, directors, attorneys and any other person or entity acting or purporting to act on its behalf.

D. Unless otherwise specified herein, the time frame for each interrogatory is from and including January 1, 1992 to the present.

E. “Person” as used herein means any natural person or any entity, including without limitation any individual, firm, corporation, company, joint venture, trust, tenancy, association, partnership, business, agency, department, bureau, board, commission, or any other form of public, private or legal entity.

F. Any reference herein to any public or private company, partnership, association, or other entity includes such entity’s subsidiaries and affiliates, as well as the present and former directors, officers, employees, attorneys, agents and anyone acting on behalf of, at the direction of, or under the control of the entity, its subsidiaries or its affiliates.

G. “Related to”, “relating to”, “referring to” or “references” as used herein means containing, constituting, showing, mentioning, reflecting, evidencing, discussing, or pertaining in any way, directly or indirectly, to the subject matter identified in the Request, and includes any documents supporting, denying, underlying or used in the preparation of any document called for by each Request.

H. “Document(s)” as used herein means any written, printed, graphic or recorded matter and any other object or tangible thing, including, without limitation, the original and all non-identical copies and drafts (including all copies and drafts that are different on the basis of revisions, strikeouts, additions, marginalia of any kind, highlighting, comments, or other distinguishing characteristics whether written, printed, tangible, or electronic) of any of the following: correspondence; memoranda; notes; minutes; advertising and press releases; transcripts; affidavits; summaries; calendar, journal or diary entries; recordings, whether audio, video, digital, magnetic, or other; surveys, tables, charts or other spreadsheet or statistical compilations; ledgers and other financial records or statements; and any and all computer data including electronic mail, electronic records, electronic documents and any other electronically or computer stored data (including text, graphics, audio and/or video), whether or not ever printed or displayed, and whether stored on hard drive, server or mainframe. The term

“document(s)” shall also include the files in which any responsive documents are maintained, including file folders and file jackets. The meaning of “document(s)” shall be construed as broadly as permitted by the Florida Rules of Civil Procedure.

I. “Identify” as used herein shall mean:

(i) when used in reference to an individual, to state his full name, his present or last known address, his telephone number, the full name and present or last known address of his employer or business, and his position with such employer or business.

(ii) when used in reference to a corporation, partnership, unincorporated association, or other entity, to state its full name and its present or last known address, and fully describe the business or activity in which the entity is engaged.

(iii) when used in reference to a document, to state the date, author, type of document, the person or persons to whom it or copies of it were sent, and its present or last known location and custodian. If any document was, but is no longer, in your possession or custody or subject to your control, state what disposition was made of it, the date of such disposition, and the reason for such disposition.

(iv) when used in reference to a statement, a representation, a directive or other information, state the time and date it was made, the location where it was made, the location where it was received (if other than the location where it was made), and the nature and specific content of it, and identify each person to whom it was made, each person present when it was made or received, and each person having care custody or control or it in any form.

J. “Describe” as used herein means to explain with full particularity any and all responsive facts, acts, occurrences, omissions, information, and other responsive detail, including, without limitation, the following:

(i) The identity of each and every person who has knowledge of the fact, act, occurrence, omission, information or detail;

(ii) The date of each fact, act, omission or occurrence;

(iii) A narrative description of each fact, act, occurrence, omission, information or detail; and

(iv) The identity of each and every document related to the fact, act, occurrence, omission, information or detail.

K. As used herein, the conjunctions “and” and “or” shall be interpreted in each instance as meaning “and/or” so as to encompass the broader of the two possible constructions, and shall not be interpreted disjunctively so as to exclude any information or documents otherwise within the scope of any Interrogatory.

L. Any pronouns used herein, shall include and be read and applied as to encompass the alternative forms of the pronoun, whether masculine, feminine, neuter, singular or plural, and

shall not be interpreted so as to exclude any information or documents otherwise within the scope of the Interrogatory.

M. The singular form of a noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronoun, and vice versa.

N. If you object to identifying a document or communication on the basis of privilege, for each and every such document and communication specify:

- (i) The type or nature of the document or communication;
- (ii) The general subject matter of the document or communication;
- (iii) The date of the document or communication;
- (iv) The author, addressee, and any other recipient of the document or communication; and
- (v) The basis on which you contend you are entitled to refuse to identify the document or communication.

O. If you cannot answer any Interrogatory after conducting a reasonable investigation, you should so state; however, you must answer to the extent you can, stating what information you do have, what information you cannot provide, and stating what efforts you have made to obtain the unknown information.

INTERROGATORIES

Interrogatory No. 1: Identify all statements made by Michael Sullivan which relate to your assertion in Your Eighth Affirmative Defense that You “were told by Sullivan, the managing partner of the Partnerships, that to the extent monies were paid to Avellino they came from management fees which Sullivan properly earned,” prior to December 8, 2008.

Response:

Interrogatory No. 2: Please identify each Person believed or known by You, Your agents or Your attorneys to have any knowledge concerning the subject matter, allegations or facts in the pleadings, filed in this action. For each Person identified, state the substance of their knowledge with particularity the relationship to You and the source of that Person’s knowledge.

Response:

Interrogatory No. 3: Please state the name and address of all witness you expect to call to testify at trial, including expert witnesses. For each witness disclosed, please provide a summary of the testimony to be provided.

Response:

Interrogatory No. 4: Identify and describe any statement, in detail, that you contend is an admission against interest by Plaintiffs. As to each such statement, state the substance of each statement, the place and date when the statement was made, and identify the person making the statement, the person to whom it was made, and all documents concerning the statement.

Response:

Interrogatory No. 5: Identify all facts which support your Affirmative defenses in connection with this matter.

Response:

ACKNOWLEDGEMENT

By: _____

Title: _____

STATE OF _____)

) SS:

COUNTY OF _____)

BEFORE ME, the undersigned authority, personally appeared _____ as _____ of Defendant Frank Avellino who, being first duly sworn, deposes and states that the answers to the foregoing Interrogatories are true and correct.

SWORN TO AND SUBSCRIBED before me, this _____ day of _____, 2016, by _____, who is _____ personally known to me or _____ has produced _____ as identification.

Notary Public, State of
Commission No.

(SEAL)
My Commission Expires: