

**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, an individual, STEVEN F.  
JACOB, CPA & ASSOCIATES, INC., a Florida  
corporation, FRANK AVELLINO, an individual,  
and MICHAEL BIENES, an individual,  
STEVEN JACOB, et al.,

Defendants.

---

**PLAINTIFFS' THIRD 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, on or before March 4, 2016.

Respectfully submitted,

BERGER SINGERMAN LLP  
*Attorneys for Plaintiffs*  
350 East Las Olas Blvd, Suite 1000  
Fort Lauderdale, FL 33301  
Telephone: (954) 525-9900  
Direct: (954) 712-5138  
Facsimile: (954) 523-2872

By: s/ LEONARD K. SAMUELS  
Leonard K. Samuels  
Florida Bar No. 501610  
[lsamuels@bergersingerman.com](mailto:lsamuels@bergersingerman.com)  
Zachary P. Hyman  
Florida Bar No. 98581  
[zhyman@bergersingerman.com](mailto:zhyman@bergersingerman.com)

and

MESSANA, P.A.  
Attorneys for Plaintiffs  
401 East Las Olas Boulevard, Suite 1400  
Ft. Lauderdale, FL 33301  
Telephone: (954) 712-7400  
Facsimile: (954) 712-7401

By: /s/ Thomas M. Messana  
Thomas M. Messana, Esq.  
Florida Bar No. 991422  
[tmessana@messana-law.com](mailto:tmessana@messana-law.com)  
Brett D. Lieberman, Esq.  
Florida Bar No. 69583  
[blieberman@messana-law.com](mailto:blieberman@messana-law.com)  
Thomas G. Zeichman, Esq.  
Florida Bar No. 99239  
[tzeichman@messana-law.com](mailto:tzeichman@messana-law.com)

**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:

Peter G. Herman, Esq.  
1401 E. Broward Blvd. Suite 206  
Fort Lauderdale, FL 33301  
Tel: 954-315-4874  
Fax: 954-762-2554  
PGH@thlglaw.com  
ServicePGH@thlglaw.com  
***Attorneys for Steven Jacob; Steven F. Jacob  
CPA & Associates, Inc.***

Gary A. Woodfield, Esq.  
Haile, Shaw & Pfaffenberger, P.A.  
660 U.S. Highway One, Third Floor  
North Palm Beach, FL 33408  
Tel.: 561-627-8100  
Fax. 561-622-7603  
gwoodfield@haileshaw.com  
bpetroni@haileshaw.com  
eservices@haileshaw.com  
***Attorneys for Defendant, Frank Avellino***

Thomas M. Messina, Esq.  
Messana, P.A.  
401 East Las Olas Boulevard, Suite 1400  
Fort Lauderdale, FL 33301  
Tel.: 954-712-7400  
Fax: 954-712-7401  
tmessana@messana-law.com  
***Attorneys for Plaintiff***

Jonathan Etra, Esq.  
Christopher Cavallo, Esq.  
Mark F. Raymond, Esq.  
Broad and Cassel  
One Biscayne Tower, 21<sup>st</sup> Floor  
2 South Biscayne Boulevard  
Miami, FL 33131  
Tel.: 305-373-9400  
Fax.: 305-373-9443  
mraymond@broadandcassel.com  
jetra@braodandcassel.com  
ccavallo@broadandcassel.com  
***Attorneys for Defendant, Michael Bienes***

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 documents and communications which relate to or otherwise evidence any efforts to retain or preserve of evidence in connection with litigation being pursued against You from 2008 to the present.

**Response:**

**Interrogatory No. 2:** Please identify any efforts or actions undertaken by You to ensure that evidence in connection with litigation being pursued against You from 2008 to the present is preserved or properly retained, and is not destroyed.

**Response:**

**Interrogatory No. 3:** Please state, with specificity, all actions undertaken by You to locate and/or produce documents in response to any request for production or subpoena issued to You in connection with litigation being pursued against You from 2008 to the present.

**Response:**

