

**IN THE CIRCUIT COURT OF THE 17th JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA**

**CASE NUMBER: 12-034121 CA 07
Complex Litigation Unit**

**PHILIP J. VON KAHLE, as Conservator of P&S ASSOCIATES,
GENERAL PARTNERSHIP, and S&P ASSOCIATES,
GENERAL PARTNERSHIP, MARGARET J. SMITH, as
Managing General Partner of P&S ASSOCIATES, GENERAL
PARTNERSHIP, and S&P ASSOCIATES, GENERAL
PARTNERSHIP, a Florida Limited Partnership,**

Plaintiffs,

vs.

**JANET A. HOOKER CHARITABLE TRUST, a Charitable
Trust, et al.,**

Defendants.

DEFENDANT, ERSICA P. GIANNA'S NOTICE OF FILING

COMES NOW, Defendant, Ersica P. Gianna, an individual and as Trustee ("Gianna"), by and through her undersigned counsel and hereby files a copy of the Affidavit Of Ersica P. Gianna dated March 10, 2014 appended hereto.

I HEREBY CERTIFY that on March 11, 2014, I electronically filed the foregoing document with the Clerk of the Court and I also certify that the foregoing document is being served this day on all counsel of record in the manner specified, either via the Florida Courts E-Filing Portal or in some other authorized manner for those counsel or parties who are not authorized to receive electronic filings.

Rotella Law

A PROFESSIONAL ASSOCIATION

CASE NUMBER: 12-034121 CA 07

Respectfully submitted,

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By: /s/ Gary J. Rotella, Esquire

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IN THE CIRCUIT COURT OF THE 17th JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

CASE NUMBER: 12-034121 CA 07
Complex Litigation Unit

MARGARET J. SMITH, as Managing General Partner of P&S
ASSOCIATES, GENERAL PARTNERSHIP, and S&P
ASSOCIATES, GENERAL PARTNERSHIP, a Florida Limited
Partnership,

Plaintiffs,

vs.

JANET A. HOOKER CHARITABLE TRUST, a Charitable
Trust, et al.,

Defendants.

AFFIDAVIT OF ERSICA P. GIANNA

STATE OF FLORIDA }
 }ss.
COUNTY OF BROWARD }

BEFORE ME, the undersigned authority, personally appeared Ersica P. Gianna, who, first being duly sworn, deposes and states:

1. My name is Ersica P. Gianna. I am over the age of eighteen and I have personal knowledge of the matters set forth below in this Affidavit.

2. On or about November 13, 2012, I received and reviewed correspondence from Margaret S. Smith, as Managing General Partner of S&P Associates, General Partnership, a Florida Limited Partnership (“S&P Associates”), which letter is commonly referred to as a “demand letter”.

me to S&P Associates and distributed from S& P Associates, from December 21, 1992 to October 1, 2008. A copy of the Demand Letter and General Partner Statement is attached as Composite Exhibit "A".

3. The attached demand letter and General Partner Statement are true and correct copies of the documents that I received from Margaret J. Smith, as Managing General Partner of S&P Associates, on or about November 13, 2012.

4. According to the General Partner Statement, no distribution was made or received by me, Ersica P. Gianna, within the last five years.

5. Under penalty of perjury, I state the foregoing is true and correct.

FURTHER AFFIANT SAYETH NAUGHT.

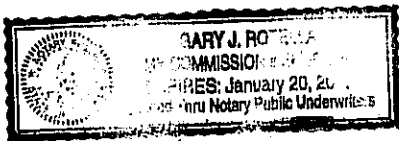
Ersica P. Gianna
ERSICA P. GIANNA

STATE OF FLORIDA }
 }ss.
COUNTY OF BROWARD }

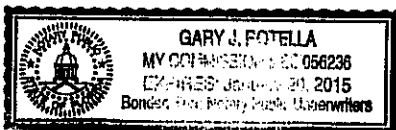
SWORN AND SUBSCRIBED before me this 10th day of March, 2014, by Ersica P. Gianna, who is personally known to me.

My Commission Expires:

[Signature]
Notary Public, State Of Florida



Gary J. Rotella
Printed Name Of Notary Public





GLASSRATNER

November 13, 2012

Ersica Gianna
3101 N.E. 42nd Court
#102
Ft. Lauderdale, FL 33308

Re: **S&P Associates, General Partnership**
Case No.: 12-24051

Dear Sir or Madam:

Please be advised that on August 29, 2012, Michael D. Sullivan resigned and Margaret J. Smith was appointed as Managing General Partner of S&P Associates, General Partnership ("S&P" or the "Partnership"). Pursuant to ¶8.02 of the Amended and Restated Partnership Agreement dated December 1994, "the Managing General Partner [is] authorized and empowered to carry out and implement any and all purposes of the Partnership" including but not limited to (d) "to take any actions and to incur any expense on behalf of the Partnership that may be necessary or advisable in connection with the conduct of the Partnership's affairs".

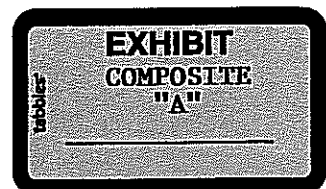
Review of the Partnership books and records as of December 31, 2008 indicates you received funds in excess of contributions totaling **\$159,339.71**. Enclosed for your reference as **Exhibit A** is the detail of the funds contributed and funds disbursed from your capital account from December 1992 through December 2008. The immediate return of funds totaling **\$159,339.71** to S&P is hereby requested.

To encourage a speedy and effective resolution of this matter prior to the commencement of litigation against you, we will accept **\$143,405.74** in full satisfaction of the amount claimed, if paid within 10 calendar days of the date of this letter. This represents a 10% discount of the amount which the Partnership may sue you for if this matter is not resolved as set forth above.

Accordingly, we demand payment of **\$143,405.74** in immediately available U.S. funds within 10 calendar days of the date of this letter, payable to:

Berger Singerman, LLP Trust Account
Attn: Etan Mark, Esq.
1450 Brickell Avenue
Suite 1900
Miami, FL 33131

In the absence of a timely, conforming payment, Berger Singerman, on behalf of S&P, will take appropriate action, including the filing of a Complaint seeking recovery of all sums due, plus interest and costs of collection.

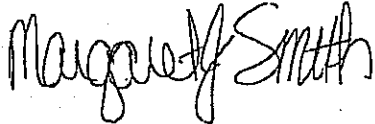


November 13, 2012

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Be assured that we want to treat everyone fairly and to minimize the cost of responding to this demand letter for return of funds. Should you wish to do so, we are willing to schedule a call or meeting with you to discuss this matter. However, because time is of the essence, and to avoid litigation, we must receive either payment, a request for a timely call or meeting or an explanation (including copies of all cancelled checks, wire transfer advices and relevant agreements) of why you do not owe the sum demanded within 10 calendar days of this letter. If we elect to forbear from the commencement of litigation, entry into an acceptable tolling agreement may be required. To discuss this matter further, you may contact me via email at msmith@glassratner.com or by phone at 305-358-6092.

Sincerely,

A handwritten signature in black ink that reads "Margaret J. Smith". The signature is written in a cursive, flowing style.

Margaret J. Smith
msmith@glassratner.com

S & P Associates, General Partnership

General Partner Statement - Cash Basis

Bank	Account	Transferor/ Transferee	Statement Clearing Date	Check #	General Partner	Funds Received	Funds Disbursed	Net Funds Received (Disbursed)
S.O.A	8665		12/21/92	110	Gianna, Ersica	\$ 100,000.00	\$ -	
S.O.A	8665		04/19/93	1006	Gianna, Ersica	-	2,288.49	
S.O.A	8665		07/26/93	1018	Gianna, Ersica	-	3,057.16	
S.O.A	8665		10/19/93	1033	Gianna, Ersica	-	3,126.83	
S.O.A	8665		01/12/94	1045	Gianna, Ersica	-	3,088.88	
S.O.A	8665		03/25/94		Gianna, Ersica	95,000.00	-	
S.O.A	8665		04/11/94	1079	Gianna, Ersica	-	2,887.09	
S.O.A	8665		07/12/94	1105	Gianna, Ersica	-	5,883.65	
S.O.A	8665		10/12/94	1133	Gianna, Ersica	-	5,933.75	
S.O.A	8665		01/06/95	1161	Gianna, Ersica	-	5,947.18	
S.O.A	8665		04/03/95	1191	Gianna, Ersica	-	5,781.95	
S.O.A	8665		07/03/95	1314	Gianna, Ersica	-	5,857.32	
S.O.A	8665		10/04/95	1352	Gianna, Ersica	-	5,974.74	
S.O.A	8665		01/03/96	1913	Gianna, Ersica	-	5,984.69	
S.O.A	8665		04/02/96	1953	Gianna, Ersica	-	5,918.18	
S.O.A	8665		07/05/96	1993	Gianna, Ersica	-	5,042.93	
S.O.A	8665		10/01/96	2035	Gianna, Ersica	-	5,987.47	
S.O.A	8665		12/31/96	2082	Gianna, Ersica	-	6,020.74	
S.O.A	8665		04/02/97	2124	Gianna, Ersica	-	5,927.50	
S.O.A	8665		07/03/97	2171	Gianna, Ersica	-	6,100.77	
S.O.A	8665		10/03/97	2224	Gianna, Ersica	-	6,314.48	
S.O.A	8665		01/08/98	2278	Gianna, Ersica	-	6,288.82	
S.O.A	8665		04/02/98	2327	Gianna, Ersica	-	6,127.82	
S.O.A	8665		07/02/98	2390	Gianna, Ersica	-	6,270.30	
ST	8665		10/02/98	3031	Gianna, Ersica	-	6,410.72	
ST	8665		01/05/99	3092	Gianna, Ersica	-	6,345.49	
ST	8665		04/02/99	3168	Gianna, Ersica	-	6,233.86	
ST	8665		07/02/99	3241	Gianna, Ersica	-	6,408.86	
ST	8665		10/14/99	3334	Gianna, Ersica	-	6,530.24	
ST	8665		01/04/00	3422	Gianna, Ersica	-	6,464.88	
ST	8665		04/03/00	3518	Gianna, Ersica	-	6,379.88	
ST	8665		07/03/00	3623	Gianna, Ersica	-	6,457.84	
ST	8665		10/05/00	3720	Gianna, Ersica	-	6,485.99	
ST	8665		01/04/01	3808	Gianna, Ersica	-	6,395.27	
ST	8665		04/03/01	3890	Gianna, Ersica	-	6,198.87	
ST	8665		07/03/01	3988	Gianna, Ersica	-	6,267.24	
ST	8665		10/03/01	4093	Gianna, Ersica	-	6,272.83	
ST	8665		01/03/02	4182	Gianna, Ersica	-	6,218.49	
ST	8665		04/03/02	4277	Gianna, Ersica	-	6,138.02	
ST	8665		07/03/02	4378	Gianna, Ersica	-	6,033.08	
ST	8665		10/03/02	4450	Gianna, Ersica	-	6,074.21	
ST	8665		01/06/03	4530	Gianna, Ersica	-	6,110.26	
ST	8665		04/03/03	4616	Gianna, Ersica	-	5,886.35	
ST	8665		07/07/03	4887	Gianna, Ersica	-	5,913.87	
ST	8665		10/03/03	4749	Gianna, Ersica	-	5,853.19	
ST	8665		01/31/04	4803	Gianna, Ersica	-	5,837.97	
BB&T	0379		04/05/04	5008	Gianna, Ersica	-	5,758.84	
BB&T	0379		07/08/04	5058	Gianna, Ersica	-	5,667.22	
BB&T	0379		10/05/04	5114	Gianna, Ersica	-	5,652.25	
BB&T	0379		01/03/05	5154	Gianna, Ersica	-	5,801.71	
BB&T	0379		04/08/05	5204	Gianna, Ersica	-	5,509.52	
BB&T	0379		07/06/05	5269	Gianna, Ersica	-	5,448.85	
BB&T	0379		10/04/05	5315	Gianna, Ersica	-	5,366.58	
BB&T	0379		01/09/06	5356	Gianna, Ersica	-	5,280.28	
BB&T	0379		04/04/06	5407	Gianna, Ersica	-	5,293.11	
BB&T	0379		07/03/06	5468	Gianna, Ersica	-	5,262.35	
BB&T	0379		10/04/06	5500	Gianna, Ersica	-	5,238.19	
BB&T	0379		01/02/07	5550	Gianna, Ersica	-	5,224.21	
BB&T	0379		04/02/07	5609	Gianna, Ersica	-	5,186.52	
BB&T	0379		07/03/07	5661	Gianna, Ersica	-	5,136.37	
BB&T	0379		10/02/07	5715	Gianna, Ersica	-	5,110.55	
BB&T	0379		01/03/08	5768	Gianna, Ersica	-	5,046.76	
BB&T	0379		04/02/08	5838	Gianna, Ersica	-	4,997.11	
BB&T	0379		07/02/08	5888	Gianna, Ersica	-	4,914.01	
BB&T	0379		10/01/08	5947	Gianna, Ersica	-	4,884.35	
Gianna, Ersica Total						\$ 195,000.00	\$ 354,339.71	\$ (159,339.71)