

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

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

P&S ASSOCIATES, GENERAL PARTNERSHIP,
et. al.,
Plaintiffs,

vs.
MICHAEL D. SULLIVAN,
et al.,
Defendants.

_____ /

**PLAINTIFFS' RESPONSE TO DEFENDANT FRANK AVELLINO'S
MOTION TO COMPEL THE PRODUCTION OF DOCUMENTS**

Plaintiffs, by and through the undersigned counsel, hereby file this Response to Defendant Frank Avellino's ("Avellino") Motion to Compel Plaintiffs to Produce Documents (the "Motion") and in support thereof state:

1. Plaintiffs received more than 10,000 e-mails from Michael D. Sullivan pursuant to the settlement agreement with him. To ensure that Avellino was provided with the discovery sought, while protecting their right to assert privileges, Plaintiffs reviewed more than 10,000 documents and provided Avellino with a comprehensive privilege log.

2. Plaintiffs have also allowed Avellino's counsel to inspect the Partnerships' books and records and have produced thousands of other documents to Avellino which were produced by third parties.

3. Avellino, on the other hand, has attempted to prevent Plaintiffs from receiving meaningful discovery. In fact, almost every time Plaintiffs seek to compel Avellino, Avellino

files a reciprocal motion to compel, and claims that Plaintiffs have not produced documents despite the efforts taken by Plaintiffs to provide Avellino with discovery.

4. The instant Motion exemplifies Avellino's conduct. While Plaintiffs' Motion to Compel the Production of Documents from Avellino was pending, Avellino, in violation of Fla. R. Civ. P. 1.380(a)(2), filed the Motion without having a meet and confer with Plaintiffs or attempting to resolve the issues presented by the Motion in good faith.

5. In the Motion, Avellino claims that because Plaintiffs have alleged that he received improper management fees and was in control of the Partnerships, that they have waived the accountant client and attorney-client privilege.

6. Despite Avellino's contention, the fact that privileged information may be relevant to Avellino's case, Plaintiffs have not interjected issues into this case which require a waiver of the accountant client or attorney client privilege.

7. For example, Avellino claimed in his Motion that:

Plaintiffs' claims against Avellino hinge on their theory that Avellino managed and controlled Michael Sullivan ("Sullivan") and the Partnerships, including dictating the structure and management of the Partnerships. Specifically Plaintiffs have alleged that Sullivan was used as a front man under the wishes and control of Avellino and Michael Bienes; Avellino, through, 2008, provided advice on how to structure the Partnerships; discussed the Partnerships' affairs with Sullivan, met with the Partnerships accountants; served intermediaries between partners and the Partnerships; gave the Partnerships advice about converting the Partnerships into an LLC; and Sullivan had no control over the Partnerships and relied on Avellino.

Motion at 1 (internal citations omitted).

8. Despite Avellino's contention, Plaintiffs have produced non-privileged documents which show that Avellino was in control of the Partnerships. **Exhibit "A"**. Plaintiffs also have produced non-privileged documents which show that Avellino gave Sullivan advice on how to structure the Partnerships (**Exhibit "B"**); that Avellino discussed the Partnerships affairs with

Sullivan (**Exhibit “C”**); met with the Partnerships accountants (**Exhibit “D”**); and gave the Partnerships advice about converting the Partnerships into an LLC (**Exhibit “B”**).

9. Avellino’s argument that communications between the Partnerships and their account are necessary to show how management fees were calculated is a red herring, as documents produced by Avellino reveal that he was aware of what Sullivan was doing with Management fees. **Exhibit “E”**. Avellino also regularly received account statements concerning the Partnerships. **Composite Exhibit “F”**.

10. Even if non-privileged documents and information supporting Plaintiffs allegations had not been produced, none of the allegations described above inject issues pertaining to otherwise privileged documents and communications into this matter.

11. While the fact that communications exchanged between the Partnerships and their accountants may relate to the instant action, Plaintiffs have not interjected any issues relating to their accountants or their accountants’ conduct into the instant litigation.

12. The fact that Defendants have raised the statute of limitations as a defense also does not establish that Plaintiffs have waived their right to assert privileges. *Choice Rest. Acquisition Ltd. v. Whitley, Inc.*, 816 So. 2d 1165, 1167 (Fla. 4th DCA 2002).

13. For example, in *Choice Rest. Acquisition Ltd. v. Whitley, Inc.*, 816 So. 2d 1165, 1167 (Fla. 4th DCA 2002), the defendant sought communications between an accountant and his client (the plaintiff) to establish that the plaintiff failed to conduct due diligence. The Fourth District Court of Appeal upheld the accountant client privilege because “a court cannot justify finding waiver of the privilege merely because the information sought is needed by the opposing party to provide information helpful . . . for the defense of a cause of action.”

14. As in *Choice*, the fact that communications between the Partnerships and their accountants and/or attorneys may support Avellino's defenses does not constitute a waiver of the accountant-client privilege. *See Volpe v. Conroy, Simberg & Ganon, P.A.*, 720 So.2d 537 (Fla. 4th DCA 1998) (attorney/client privilege upheld in legal malpractice case even though defendant claimed that privileged information was necessary for the defendant to demonstrate that the plaintiff had not reasonably relied on legal advice); *Cuillo v. Cuillo*, 621 So.2d 460 (Fla. 4th DCA 1993) (wife's communications to attorney who represented her when antenuptial agreement was signed, which allegedly revealed wife's knowledge of misrepresentations made by husband regarding nature and extent of his assets, were protected by attorney-client privilege and not discoverable in subsequent action to invalidate agreement based on husband's fraud; Florida statute providing that attorney-client privilege does not apply when services of lawyer are sought or obtained to enable client to commit fraud did not apply); *Long v. Murphy*, 663 So.2d 1370 (Fla. 5th DCA 1995) (finding that claims of fraud and misrepresentation during negotiation for buying and terminating plaintiff's interest in a dealership did not waive the privilege for communications with attorneys during the negotiations, even though the information would have been relevant to the issue of reasonable reliance).

15. Avellino also seeks communications exchanged between Steven Jacob and Michael Sullivan and argues that those documents cannot be protected by a common interest and/or joint defense privilege because neither Jacob nor Sullivan are attorneys. Notwithstanding the fact that Avellino has asserted a privilege as it relates to e-mails exchanged between only he and Bienes, his assertion is without merit, because a significant number of e-mails contain communications from the Partnerships attorneys.

16. Jacob acted as the Partnerships' accountant and bookkeeper. Jacob provided services to the Partnerships which included but were not limited to preparing the Partnerships' quarterly statement. Jacob also worked closely with Sullivan and was, in his capacity as the managing general partner of Guardian Angel Trust, LLC, and SPJ, Investments, Ltd., a partner of the Partnerships.

17. Jacob also worked with Sullivan in connection with the Partnerships efforts to recover money from SIPA, and in connection with other Partnership affairs. Jacobs helped Sullivan maintain the books and records of the Partnerships and regularly communicated with partners of the Partnerships on the Partnerships' behalf.

18. Because of Jacob's relationship with the Partnerships and conduct there is little question that communications exchanged between he and Sullivan are protected by the attorney-client privilege and/or joint defense privilege.

19. The fact that the Partnerships later sued Jacob does not waive the privilege for communications exchanged between them and Jacob prior to the initiation of a lawsuit. *See Choice Rest. Acquisition Ltd. v. Whitley, Inc.*, 816 So. 2d 1165, 1167 (Fla. 4th DCA 2002) ("The attorney-client privilege is not 'waived by bringing or filing suit'") (internal citations omitted).

20. Finally, it is premature for the Court to conduct an *in camera* review or appoint a special master based on Avellino's claims that entries on Plaintiffs' privilege log are either vague, or reveal that documents are not privileged.

21. Although Avellino filed the Motion without conferring with Plaintiffs, as is required by Fla. R. Civ. P. 1.380(a)(2), Plaintiffs agreed to discuss the Motion with Plaintiffs prior to filing this response in an attempt to narrow the issues presented by the Motion.

22. Plaintiffs have requested that Avellino identify all entries on their privilege log which he claims are vague or reveal that a document is not privileged, and have offered to revise their privilege log to the extent necessary based on Avellino's identification of entries.

23. However, counsel for Avellino refused to identify allegedly deficient entries or attempt to resolve the issues presented by the Motion in good faith, prior to bringing them to the Court's attention. A true and correct copy of correspondence between the parties is attached hereto as **Composite Exhibit "G"**.

24. Accordingly, the Motion must be denied.

WHEREFORE Plaintiffs request that this Court enter an order denying the Motion, together with such other and further relief as the Court may deem just and appropriate under the circumstances.

Dated: March 11, 2016

Respectfully submitted,

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

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And

MESSANA, P.A.

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Ft. Lauderdale, FL 33301

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Facsimile: (954) 712-7401

By: /s/ Thomas M. Messana

Thomas M. Messana, Esq.

Florida Bar No. 991422

Thomas G. Zeichman

Florida Bar No. 99239

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 11, 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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Fax: 954-762-2554
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Attorneys for Defendant, Frank Avellino

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mraymond@broadandcassel.com
jetra@braodandcassel.com
ccavallo@broadandcassel.com
Attorneys for Defendant, Michael Bienes

By: s/Leonard K. Samuels
Leonard K. Samuels

EXHIBIT A

Confidential Document
Michael D. Sullivan & Associates, Inc.

Port Royale Financial Center, Suite 210
6550 North Federal Highway
Fort Lauderdale, FL 33308

Michael D. Sullivan
0088

Telephone 954-492-

0069

Fax 954-938-

Susan H. Moss, E.A.
mail: Gop9401@aol.com

e-

June 18, 2013

Dear Bette Anne:

Over the Holiday I will let you know what I will do over the next 5 years. Please forgive me if I sound angry but everything seems to point to me being the bad guy. Somehow all the money I have brought into the business to pay for the life style you have enjoyed does not even enter into this equation! It seems I get to do all the hard work, minus my best friend and partner while everyone else just goes on with life as usual.

As I continue to pray, I will be able to finalize this with you within the next 30 days. I will base my gift to you over a 5 year period as long as certain life and market conditions continue as the have.

BA, know this, I will never leave you without. I should not have to justify this but I feel I cannot do enough to satisfy you.

Right off the bat you should be completely aware that the gift of this business was only given to me not Greg. It came from a close friend in my church, Frank Avellino. He came to me alone as an individual. Most of the people who came into our partnership were friends of our church. I was reminded constantly by Frank that this was my gift alone.

Because Greg was my closest friend and partner I wanted to share the gift I had been given with him. And I did for 11 years. We have all been blessed.

Greg has been called home to be as we know, is in a glorious fife, one we all long for. My goal with this letter is to clear up some of the apparent confusion you have regarding compensation as evidenced in your letter to me.

You stated that you thought you were not going to have any financial problem. I cannot unfortunately guarantee that for a number of reasons. If something happens to the stock market, to our investors, to Frank our contact or myself this investment partnership could change drastically. this is a very fragile business with no certain guarantees. You must deal with the real possibility of this taking place.

If something were to happen to me, death or grave illness, the business in effect would be closed. You have no idea or apparently never understood just how important my relationship to this business is. I am the person who deals with the main source, Frank Avellino. He has given and entrusted to me this gift and can take it back at any time and earn the entire commissions for himself. BA, 95% of all the business ever generated through this company came in through my efforts alone. I am not boasting but this is what the Lord dealt to me.

Basically all the investors are from my contacts or personal relationships that I have nurtured thought the years.

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In most business firms the partner who brings in the money makes significantly more money. The income producers are the key to any business.

In no way shape or form is any of this to take anything away from Greg. He was my best friend and together we make each other complete. I am simply pointing out facts you need to be aware of.

I felt in your heart there was a time that you felt when Greg was called home that you would be a partner in this business. I don't know where you got that idea but that could and would never happen. For one thing Frank Avellino would never have allowed it. Greg was my only partner and it would be inconceivable to have anyone else fill his roll. Both of us knew that and that is one of the reasons in the partnership agreement all decisions would be left to the surviving partner in the event of a death.

As I look at your expenses you sent me it appears you want me to keep up two homes and operate everything as if Greg was still here and working. I would like nothing more than to have Greg still here.

This is a working business not a monthly ATM. This business requires constant work and care.

Bette Anne at some point you will have to make some changes in your lifestyle. I told you that I would help support you and I want to make sure we both know just what is reasonable and what God would bless. There must be boundaries of with a beginning and ending to help you move on with your life. This is only healthy for you. You must rely on yourself for your own self esteem. But still know I will always be there to help you along the way.

I want you to know that I have talked to five strong Christian brother both in business and pastors. Each one of them not knowing what the others have advised have all given me basically the same advice. Each one of them knew my special relationship with Greg.

You stated in your letter that all the hard work Greg had done should count for something. Greg was a hard worker and enjoyed the fruits of our business as have you and your children over these last few years. However this last year as you know Greg worked no more that 20 days - making a total of 150 hours and took a large compensation for this. He was able to complete his work in 150 in a year that we had the most clients we have ever had. If he did this last year what do you think the work load was for him in prior years with less clients?

Greg worked on so many other things ministry, church retreats not just business. Greg loved to be in the office all day. He loved to "piddle around". The bulk of his daily effort were not spent on S&P.

Greg was the very best friend and worker and was a true witness to his disciple, methodicalness, but all his time was not spent on business related work.

You also said, I do not know where your peace come from. For the last 20 years (through toe Lord) I have made enough contacts, nurtured clients that have helped pay for four of your houses, boats, cabins, multiple wedding reception, vacation tickets and good times for the children. You have not missed a pay check since Greg passed away. I sleep well knowing these thins I have done honoring God. You may not like how things are happening and may never like them but Greg knew why it was to happen. That is one of the reasons out of all the many people in your families he appointed me as the executor of his will. I know all the facts.

You made the comment that you have to crawl to me for money. Please do not try and make me feel that I have not helped you. The truth is tat there was no estate planning done nor was there sufficient life insurance left to you. Why Greg did not do better planning is beyond me. I have made sure over the years that my family is provided for if anything were to happen to me as they can not count on proceed form this business. This discussion about your needing money, crawling to me and what I am going to to support you should have taken place with Greg and a financial advisor not me. But I will honor Greg and God with helping you.

I legally owe you no money. We both know that. If I died first this business would have been dissolved within a year and the accounts given to other parties. I want to give you enough money for a few years but this again will be restricted to what the future holds. The business could be worth nothing if I die, the market crashes or Frank or Bernie dies. All of our financial lives cud change overnight. Everything is only for a season of time.

Confidential Document

If I wanted to keep all the money BA I just would after all I am the only one doing the work. The monies I send you are not part of an agreement as Greg and I had none. These are gifts to you.

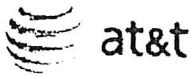
If I did not have a written agreement with Greg who was my partner for 20 years, I will not have one with someone who is not my partner. The money I send to you are not of "all the hard work" that you feel is owed to Greg but are sent to you out of Christian friendship and love. Both Greg and I lived by faith.

Finally, you said Greg told one of his children if he died you would have no financial concerns. If you sold one of your homes and put the proceeds in the investment you would have one house free and clear and have over 400K earning a nice yearly income. I am sure Greg was thinking in those terms.

You also stated it was hard to believe that Greg and I had no business agreement. I find it hard to believe that you would think there was an agreement when you and he had never discussed your own financial plans in the event of his death. May I remind you that you are still receiving his pay check.

EXHIBIT B

Confidential Document



[Print] [Close]

From: FrankNanc@aol.com
 To: mdsassoc@bellsouth.net
 Subject: Re: answer question for me
 Date: Monday, October 27, 2008 11:31:28 AM

Michael,
 Start with calling Jodi Crupi at BLM. Tell her you are changing to an LLC using the same partnership name. She should be able to instruct you or refer you to someone else. Basically, you will be using the same Fed ID number. The telephone number at BLM 212.230.2424.
 Let me know what you find out to change.

In a message dated 10/27/2008 12:18:40 P.M. Eastern Daylight Time, mdsassoc@bellsouth.net writes:

Frank I was hoping to change our account from a general partnership to a L.L.C. Who should I contact at BLM? Is it okay to do this?
 Thanks

Michael Sullivan
 (p) (954) 492-0088
 (f) (954) 938-0069

6550 North Federal Highway
 Suite 210
 Fort Lauderdale FL 33308

"The information transmitted herein is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer."

Any views expressed in this message are those of the individual sender, except where the sender specifies and with authority, states them to be the views of MDS Associates.

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Exhibit C

S&P Associates, General Partnership
c/o Sullivan & Powell

Port Royale Financial Center, Suite 210
6550 North Federal Highway
Fort Lauderdale, FL 33308

Michael D. Sullivan
Susan H. Moss, E.A.

Telephone 954-492-0088
Fax 954-938-0069

10/28/08

Jodi Crupi
Bernard L. Madoff
Investment Securities LLC
885 Third Avenue
New York, NY 10022

Dear Jodi:

We have two accounts with Madoff Securities, S&P Associates General Partnership - Account # 1-ZA874-3-0 and P&S Associates General Partnership - Account # 1-ZA873-3-0.

We want to change from a General Partnership to an LLC for both of these accounts. The names and Federal Identification Numbers would remain the same. Per our conversation with you yesterday you instructed us to request the necessary forms to complete this change.

We also would like to replace Greg Powell's name with mine, Michael D. Sullivan, as the primary contact person on all accounts. Please let us know what we need to do to effect these changes.

If you have any questions please contact us by phone or email at Investit@bellsouth.net. Thank you and congratulations on 25 years with the firm!

Sincerely,

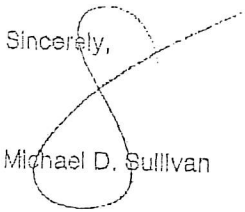

Michael D. Sullivan

EXHIBIT C

Subj: **Pledge of Investments- Paragon Ventures, Ltd. (Donald Kahn)**
Date: Tuesday, July 6, 2004 10:16:50 AM
To: franknanc@aol.com

Dear Frank,

We received a Pledge and Guarantee Agreement from Jane Dee at Europlan Financial Services for Paragon Ventures, Ltd. They are requesting both Tom and myself sign the agreement to pledge the investments in P&S Associates and Strattham Partners to Bankhaus Carl Spangler & Co Aktiengesellschaft.

We have sent a copy of the agreement to one of our attorney's for review. Please let me know where we can Fax you a copy.

Hope all is well with both you and Nancy.

Best Regards,

Michael

(Confidential Document)

Subj: **Re: Pledge of Investments- Paragon Ventures, Ltd.
(Donald Kahn)**
Date: Tuesday, July 6, 2004 3:53:09 PM
From: FrankNanc
To: Gop9401

Dear Michael,

I hope all is well.

There is no need to fax me a copy and no need to consult with the attorney.

There is no way that the investments for S&P or Strattham can be pledged. The underlying securities for both partnerships are traded on a daily basis and cannot be subjugated in any form. Furthermore, Paragon is a partner of the GP and not an investor of certain securities. Without any further legal opinion we cannot pledge the securities under any circumstances. It seems that Jane Dee or Donald Kahn are not aware of this restriction or the mode of conducting this form of investment. They should be informed that you are in no position to pledge any of these securities. If Donald cannot operate under these restrictions he should take his money back. It is simple and to the point.

By the way, Nancy and I are in Nantucket and will be traveling from July 12th to July 22nd when we return back to the island. You can always reach me by cell phone at 954-614-0467.

Best regards,

Frank

EXHIBIT D



**Ahearn
Jasco +
Company**

February 4, 1994

P & S Associates General Partnership
Attention: Mr. Greg Powell
225 N. Federal Highway, Suite 600
Pompano Beach, FL 33062

Acct. #J-40870

FOR PROFESSIONAL SERVICES RENDERED:

- Progress Billing for Tax Services Rendered in Connection with the Preparation of Federal Form 1065 for the Year Ended December 31, 1993 Including Review of Client Data and Initial Set-Up of Tax Return Information.
- Meeting at Client's Office with Mike Sullivan, Greg Powell and Frank Avelino Regarding Partner Reports, Form 1065 and Other Matters.

TOTAL AMOUNT DUE FOR THE ABOVE PROFESSIONAL SERVICES

\$ 350.00

2/17 #1060

"To Ensure Proper Credit, Please Write Your Account Number On Your Check."

EXHIBIT E

FRANK AVELLINO
27 CLIFF ROAD
NANTUCKET, MASSACHUSETTS 02554-3639
Telephone: (508) 325-7042; Fax: (508) 325-7070

June 5, 2000

Greg Powell
Sullivan & Powell

Tel: 954-492-0088
Fax: 954-566-9700

Dear Greg,

Thank you for responding with the list.

The two names I recognize on the P&S Associates list is John Crowley (Michael and Dianne's friend) and of course, Carone Pension Trust.

As for the S&P list the accounts attributable to our old accounts are:

Vania P. Alves
Patricia Hidalgo
Stanley & Emilie Leonardi (Dianne's uncle)

The other accounts like Scott Holloway, Dick Wills etc. were never part of my old accounts.

In summary, the P&S accounts with Msgr. Kelly may be the only accounts we may have some claims on. Since you only take half of the management income and give the other half to charity I do not see how this can be negotiated.

Please feel free to call me should you have any questions.

Sincerely,

Frank Avellino

AVELLINO_P&S000001

P&S Associates, General Partnership 6/5/2000

Dorothy K.	Bulger	74,000.00
Holy Ghost	Central Account	260,000.00
Holy Ghost	Congress	4,000.00
Robin Leueen	Costa	130,937.06
Robin Leueen	Costa	49,131.47
John J.	Crowley	65,000.00
Centro de	da Juventude (CCJ)	70,698.23
Kelco	Foundation	23,850.68
Paul J.	Frank	100,000.00
Congregation	Holy Ghost	200,000.00
Holy Ghost	Ireland Inc.	117,344.09
Holy Ghost	Ireland/Kinema	60,000.00
Rev. Msgr.	Kelly	10,000.00
Rev. Msgr.	Kelly	30,000.00
Janet B.	Molchan	125,700.00
Janet E.	Molchan	60,000.00
Holy Ghost	Mombasa	113,000.00
Abraham and	Newman	85,000.00
Mary Ellen	Nickens	100,000.00
Holy Ghost	Pastoral Juvenil	52,069.00
Caróna	Pension Trust	100,000.00
Edith	Rosen	30,000.00
Paroquia de	Santa Luzia	20,000.00
Projeto	Sao Miguel Paulista	48,000.00
Susan M. &	Shaheen	41,560.97
Pamela S.	Snedeker	70,000.00
Alma L.	Snedeker	39,000.00
Pamela S.	Snedeker	170,000.00
Holy Ghost	SouthWest Brazil	343,000.00
Solutions in	Tax, Inc.	892.00

Frank A.
 FAX 508-325-7070
 4 Pages TOTAL

P&S
 Assoc. pg 1 of 1

S&P Associates, General Partnership 6/5/2000

pg 1 of 3

Ettoh Ltd.		250,000.00	Solutions in Tax,		26,000.00
SPJ Investments,		335,186.12	Richard D. & Ann R. Akins		8,900.00
Vanja P.	Alves	49,000.00	Katherine F.	Astley	64,000.00
Barbara	Aymes	90,000.00	Kathryn L.	Babcock	10,000.00
Sylvia M.	Barbosa	54,728.07	Grace P.	Barcroft,	200,000.00
Dolores	Barone	55,000.00	Mary M.	Barrows,	30,000.00
Ada S.	Bickel	80,000.00	Roger G. & Terry A. Bond		300,000.00
Laurel & William	Bonhage	143,000.00	Carl & Annette	Boschetti	25,000.00
Martin L. & Gloria	Braun	8,000.00	James R. & Ruth J. Brown		50,000.00
Denise B.	Bryan	37,000.00	Walter M. & Brenda Buckley		225,000.00
James	Caplinger	140,000.00	James	Caplinger	5,616.29
Gary R.	Chapman	1,915.00	Gary R.	Chapman	67,000.00
Leon	Chase	20,000.00	John & Lois	Combs	150,000.00
Dave & Melanie	Cooksey	4,000.00	Janet	Cooper	800.00
Marina P.	Correia	33,000.00	Denise A.	Cram	10,000.00
James & Brigitte	Crowe	10,000.00	Sally	Dickman	30,000.00
Leo & Mary	Dunham,	10,000.00	Esther	Fellman	50,000.00
Morton	Fellman	50,000.00	Deborah	Fellman	30,000.00
Hampton	Financial	238,700.00	Ralph C.	Fox	271,627.47
Carol L.	Fox	16,597.00	Carol L.	Fox	15,456.57
Carol L.	Fox	15,000.00	Ersica P.	Glanna	195,000.00
Wallace M.	Goodman	76,467.47	Lila R.	Goodman	58,999.32
Wallace M.	Goodman	70,061.41	David & Gertrude	Gordon	47,000.00
Jesse, Lois or	Goss	48,705.19	Elizabeth S.	Harris	5,000.00
Mary S.	Haslam	25,000.00	Robert H. & Dorothy Henley		6,000.00
Patricia	Hidalgo	100,000.00	Phillip A. & Jolene	Hocott	60,276.85
Phillip A.	Hocott	452,991.14	Jolene O.	Hocott	123,331.38
Scott W.	Holloway	220,960.33	Adam S.	Holloway	30,000.00
Alicia N.	Holloway	10,128.07	Vernie M.	Holloway,	104,000.00
Zelda G.	Holloway,	137,917.84	Howard H. & Joyce	Horwitz,	20,000.00

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SULLIVAN POWELL

PAGE 03

Sair Associates, General Partnership

6/5/2000

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Joan L.	Hughes	75,525.19	Lawrence	Hughes	252,048.28
Direct Resource	Inc.	45,480.50	R.G. Bond &	Inc.	100,000.00
Millie	Irwig	60,000.00	Herbert	Irwig	25,000.00
Millie	Irwig	25,000.00	Aaron T. & Lynette	Ishikawa,	37,800.00
Alice B.	Iuen	20,000.00	Edward M. & Phyllis	Jacobs	60,000.00
Kim D.	Janicek,	6,774.95	Jack	Kleinmann	157,323.37
C. Paul & Rose M.	Lambert	90,000.00	Rosemary	Leo-Sullivan	29,500.00
Stanley & Emilie	Leonardi	70,000.00	Beverly B.	Lewis	50,000.00
Nancy V.	Lozito	20,000.00	Dorothea V.	Marema	13,346.70
Rita M.	Marema	18,000.00	Theresa	Mataragas	28,000.00
Christie C.	McGarey	4,477.36	Catharine B.	McGarey	4,555.69
Robert B. Chase	McGarey	9,050.00	Louise	McIlvaine,	143,706.93
Louise	McIlvaine,	54,099.37	Dr. Edward D.	Michaelson	5,000.00
Susan M. Serafini	Michaelson	25,000.00	Martha	Mohr-Franta	225,000.00
Paul H.	Mueller	141,687.63	Karen	Newman	10,000.00
Louis S. & Darlene	O'Neal	45,000.00	Marcio S.	Oliveira	24,000.00
Rose	Orofino	25,000.00	Paul & Tina	Paolozzi	38,000.00
JS&P, General	Partnership	1,180,265.51	Beverly J.	Payne	20,000.00
Robert R. & Gail	Podwill	60,000.00	Jeffrey W.	Possner	20,000.00
Joan M.	Possner	7,000.00	Greg and/or Bette	Powell	59,100.00
Harvey L. & Yvonne	Powell	25,500.00	Bette Anne	Powell	10,452.65
Glen O. & Barbara J.	Powell	20,000.00	Paul A.	Profe, Rev.	200,000.00
Edna A.	Profe, Rev.	225,000.00	Irwin B. & Mary N.	Reed	40,000.00
Mildred R.	Richardson	90,000.00	Edith	Rosen	70,000.00
Lynn	Rosen	34,000.00	Sam	Rosen	80,000.00
Garry & Nancy A.R.	Rothbaum	10,000.00	Phil & Mica	Roughton	25,000.00
Lucille	Rowlette	105,000.00	ASH & KAH Educ.	S. Holloway	29,263.05
Carmelo & Bertha	Santamaria	50,000.00	Angela M.	Silecchia	85,000.00
Kathryn and/or	Silecchia	35,757.50	Kathryn &/or	Silecchia	5,000.00
Lisa I. & Jeffrey S.	Silwa	16,404.01	Catharine B. &	Smith	185,000.00

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S&P Associates, General Partnership 6/5/2000

Pg 3 of 3

Joseph A.	Speizio	130,000.00	Ann M.	Sullivan	340,526.28
Michael D. & L. Gail	Sullivan	42,000.00	Ann M. & Michael D.	Sullivan	108,239.66
Michael D. & L. Gail	Sullivan	40,000.00	Mary Jo	Sullivan	5,000.00
Marilyn A.	Swiger	1,000.00	Vivianne	Walker	45,506.21
Cindy	Wallick	129,500.00	Gregg	Wallick	429,400.00
Alvin S. & Evelyn K.	Weaver	10,000.00	Jennifer J.	Weber	324,630.64
Anne W.	Wensel	123,287.28	Richard F. & Betté	West	39,000.00
Elsa	Williams	170,000.00	Dr. John I.	Williams,	50,000.00
Evelyn L.	Wills	15,000.00	Johanna	Wills	8,600.00
Eileen W. & Richard	Wills, Jr.	20,000.00	Jack B. & Barbara	Wirick	12,000.00
Mark D.	Wirick	29,590.50	Hans & Ruth	Wirtz	84,000.00
James E.	Yonge, trustee	100,000.00	Elisabeth M.	Zittel	10,000.00

SULLIVAN & POWELL

2004

P&S ACCOUNTS	Account Balance 12/31/2004	
Carone Pension Plan	474,986	
James Jordan Trust	400,000	
Carone Marital Trust	511,000	
Carone Marital Trust	630,000	
Carone Revocable Trust	150,486	
Paragon Ventures	0	5,000,000 Was returned
Elaine Ziffer	1,000,000	
Carone Family Trust	335,000	
Total	3,501,472	

Management fee	115,153.18	MB	FA
	50% 57,576.59		
	50%	28,788.30	28,788.30

S&P Accounts

Vania Alves	76,769	
James Judd	180,000	
Hooker Trust (Donald Kahn)	117,981	4,000,000 Was returned
James Jordan IRA	3,060,250	
Fernando Esteban IRA	19,226	
Margaret Esteban IRA	547,717	
Total	4,001,943	

Management fee	105,909.07	
	50% 52,954.54	
	50%	26,477.27 26,477.27
Total		55,265.57 55,265.57

Gross Annualized Percentage Rates (by year)

S&P Assoc. P&S Assoc.
(Fr. Kelly's group)

<u>Year ending</u>	<u>Gross %</u>	<u>Gross %</u>
1993	16.58	16.74
1994	14.91	16.42
1995	17.92	17.66
1996	18.36	18.51
1997	20.56	21.46
1998	18.61	19.89
1999	18.33	* ~21.32

*1999 records at CPA, so don't have an exact figure

Average 17.90 18.85

S&P Associates, Gen. Partnership - Net Annualized Percentage Rates

<u>Qtr ending</u>	<u>% (NET)</u>
3/31/93	18.85
6/30/93	15.82
9/30/93	12.56
<u>12/31/93</u>	<u>13.26</u>
3/31/94	13.66
6/30/94	11.95
9/30/94	12.30
<u>12/31/94</u>	<u>11.41</u>
3/31/95	12.37
6/30/95	14.36
9/30/95	13.71
<u>12/31/95</u>	<u>13.95</u>
3/31/96	13.74
6/30/96	13.11
9/30/96	13.79
<u>12/31/96</u>	<u>14.36</u>
3/31/97	18.11
6/30/97	20.30
9/30/97	17.42
<u>12/31/97</u>	<u>16.10</u>
3/31/98	16.87
6/30/98	17.06
9/30/98	14.32
<u>12/31/98</u>	<u>14.54</u>
03/31/99	18.68
06/30/99	17.36
09/30/99	14.55
<u>12/31/99</u>	<u>14.32</u>
<u>Average NET Return 1993-1999</u>	<u>13.99</u>

COMPOSITE EXHIBIT F

From: mdsassoc@bellsouth.net
Sent: Wednesday, April 23, 2008 8:36 AM
To: frank <franknanc@aol.com>
Subject:
Attach: 1stqtravellino.tif

Dear Frank,

Attached are the reports for 1st quarter for both P&S and S&P partners.
Gross for P&S was 3.33% and S&P was 6.80%.

Hope all is well with you and Nancy. Mike told me you are going to Spain soon . Have a wonderful trip! Look forward to hearing from you when you return.

Travel Grace,
Susan

From: mdsassoc@bellsouth.net
Sent: Thursday, July 17, 2008 9:33 AM
To: Frank <franknanc@aol.com>; frank <franknanc@aol.com>
Subject: P&S & S&P 2nd Qtr reports
Attach: 2ndqtrreportsAvellino.tif

Dear Frank,

Hope your summer is going well. I hope your a lot cooler than we are!!
Can't believe it is already July.

Second quarter reports were mailed and attached are copies for you. P&S results were fantastic! Looking forward to another great quarter. Have a wonderful summer. My best to Nancy.

Best Regards,
Susan

COMPOSITE EXHIBIT G

Zachary P. Hyman

From: Gary Woodfield <gwoodfield@haileshaw.com>
Sent: Tuesday, March 01, 2016 5:05 PM
To: Zachary P. Hyman; Steven D. Weber; Leonard K. Samuels; tmessana@messana-law.com; tzeichman@messana-law.com
Subject: RE: Defendants' Motion to compel

I do not intend to withdraw the motion and will set it for hearing on March 16. Please advise when you are available for a meet and confer on the motion. I am not available on March 10. I will get dates and get back to you.

Gary Woodfield, Esq.
Haile, Shaw & Pfaffenberger, P.A.
660 U.S. Highway One, Third Floor
North Palm Beach, FL 33408
Telephone: (561) 627-8100
Facsimile: (561) 622-7603
Email: gwoodfield@haileshaw.com

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From: Zachary P. Hyman [<mailto:ZHyman@bergersingerman.com>]
Sent: Tuesday, March 01, 2016 2:38 PM
To: Gary Woodfield; Steven D. Weber; Leonard K. Samuels; tmessana@messana-law.com; tzeichman@messana-law.com
Subject: RE: Defendants' Motion to compel

Gary,
Pursuant to Florida Rule of Civil Procedure 1.380(a)(2), you were required to certify that you had a meet and confer in good faith before filing the Motion. If you would like to have a meet and confer, please withdraw the Motion.

Additionally, please let me know if your client is available for deposition on March 10.
Thank you,
Zach

From: Gary Woodfield [<mailto:gwoodfield@haileshaw.com>]
Sent: Monday, February 29, 2016 12:54 PM
To: Steven D. Weber; Leonard K. Samuels; Zachary P. Hyman; tmessana@messana-law.com; tzeichman@messana-law.com
Subject: Defendants' Motion to compel

Zachary P. Hyman

From: Zachary P. Hyman
Sent: Friday, March 11, 2016 2:19 PM
To: 'Gary Woodfield'; tzeichman@messana-law.com; Leonard K. Samuels
Cc: Michelle L. Albrecht; Michel O. Weisz
Subject: RE: Avellino deposition

Gary,
Can we do the 18th?

Additionally, the below confirms the substance of the conversation we had earlier:

1. You have agreed to respond to the Third Set of Interrogatories by the end of the day on March 14. Can you arrange to get them to us before the hearing?
2. Likewise, you told me that you have sent us the withheld Sullivan e-mails to us by regular mail. We'd request that you scan them to us so we have them before the hearing.
3. Assuming the 18th works for Avellino's deposition, that motion is resolved.
4. We will agree to produce the Sullivan and Holloway statements, provided that (i) the production does not constitute a waiver of any other privileges; (ii) we can use those documents as evidence; and (iii) we retain the right to question the witnesses on those statements. Once you manifest your agreement to the offer, I'll send you the transcripts.
5. We discussed a procedure to address the issue of how our privilege log is not descriptive enough if the Court does not find a waiver as you've requested. I suggested that you provide a list of the documents whose descriptions are insufficient to us and we will provide you with more information.
6. I offered to let you produce Avellino and Bienes' redacted tax returns to address the financial records issue, provided it was without prejudice to seek further documents. You declined to do that.

If you'd like to give me a call to discuss any additional issues, please feel free.

Thanks,

Zach

From: Gary Woodfield [<mailto:gwoodfield@haileshaw.com>]
Sent: Friday, March 11, 2016 1:49 PM
To: Zachary P. Hyman; tzeichman@messana-law.com; Leonard K. Samuels
Subject: RE: Avellino deposition

The 17th is now out. Get back to me when you can. Thanks.

Gary Woodfield, Esq.
Haile, Shaw & Pfaffenberger, P.A.
660 U.S. Highway One, Third Floor
North Palm Beach, FL 33408
Telephone: (561) 627-8100
Facsimile: (561) 622-7603
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From: Gary Woodfield
Sent: Friday, March 11, 2016 10:57 AM
To: Zachary P. Hyman; tzeichman@messana-law.com; Leonard K. Samuels
Subject: Avellino deposition

Frank and I are available for his deposition on March 16, 17, 18, 24 or 25. Let us know what works for you. Answers to the third set of interrogatories for Avellino and Bienes should be filed by the end of the day, March 14.

Gary Woodfield, Esq.
Haile, Shaw & Pfaffenberger, P.A.
660 U.S. Highway One, Third Floor
North Palm Beach, FL 33408
Telephone: (561) 627-8100
Facsimile: (561) 622-7603
Email: gwoodfield@haileshaw.com

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