

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

P& S ASSOCIATES, General Partnership,
et al.,

Plaintiffs,

Case No. 12-034121 (07)
Complex Litigation Unit

v.

JANET A. HOOKER CHARITABLE
TRUST, et al.,

Defendants.

**ETTOH, LTD.'S ANSWER, AFFIRMATIVE DEFENSES
AND DEMAND FOR JURY TRIAL**

ETTOH, LTD. (“Ettoh”), through the undersigned counsel and pursuant to Florida Rules of Civil Procedure 1.110 and 1.140, and other applicable law, hereby Answers the Third Amended Complaint, asserts its affirmative defense and demands a jury trial, stating as follows:

1. Ettoh denies the allegations contained in paragraph 1 of the Third Amended Complaint.

2. Ettoh admits the allegations contained in paragraph 2 of the Third Amended Complaint.

3. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 3 of the Third Amended Complaint.

4. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 4 of the Third Amended Complaint.

5. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 5 of the Third Amended Complaint.

6. Ettoh admits that it is a Florida limited partnership. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the remaining allegations contained in paragraph 6 of the Third Amended Complaint.

7. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 7 of the Third Amended Complaint.

8. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 8 of the Third Amended Complaint.

9. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 9 of the Third Amended Complaint.

10. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 10 of the Third Amended Complaint.

11. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 11 of the Third Amended Complaint.

12. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 12 of the Third Amended Complaint.

13. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 13 of the Third Amended Complaint.

14. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 14 of the Third Amended Complaint.

15. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 15 of the Third Amended Complaint.

16. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 16 of the Third Amended Complaint.

17. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 17 of the Third Amended Complaint.

18. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 18 of the Third Amended Complaint.

19. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 19 of the Third Amended Complaint.

20. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 20 of the Third Amended Complaint.

21. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 21 of the Third Amended Complaint.

22. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 22 of the Third Amended Complaint.

23. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 23 of the Third Amended Complaint.

24. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 24 of the Third Amended Complaint.

25. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 25 of the Third Amended Complaint.

26. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 26 of the Third Amended Complaint.

27. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 27 of the Third Amended Complaint.

28. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 28 of the Third Amended Complaint.

29. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 29 of the Third Amended Complaint.

30. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 30 of the Third Amended Complaint.

31. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 31 of the Third Amended Complaint.

32. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 32 of the Third Amended Complaint.

33. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 33 of the Third Amended Complaint.

34. Ettoh admits that venue is proper, but otherwise denies the allegations contained in paragraph 34 of the Third Amended Complaint.

35. Ettoh admits the allegations contained in paragraph 35 of the Third Amended Complaint. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in the footnote attached to paragraph 35 of the Third Amended Complaint.

36. Ettoh admits the allegations contained in paragraph 36 of the Third Amended Complaint.

37. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 37 of the Third Amended Complaint.

38. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 38 of the Third Amended Complaint.

39. Ettoh admits that Sullivan and Powell were Managing General Partners within the terms of the Partnership Agreements, but denies knowledge or information sufficient to form a belief with regard to the truth of the remaining allegations contained in paragraph 39 of the Third Amended Complaint.

40. Ettoh denies that the quote/summary of the language of the Partnership Agreements is complete, and, therefore, Ettoh denies that such quote/summary is accurate and denies the allegations contained in paragraph 40 of the Third Amended Complaint. Ettoh defers to such Partnership Agreements as the best evidence of their terms.

41. Ettoh denies that the quote/summary of the language of the Partnership Agreements is complete, and, therefore, Ettoh denies that such quote/summary is accurate and denies the allegations contained in paragraph 41 of the Third Amended Complaint. Ettoh defers to such Partnership Agreements as the best evidence of their terms.

42. Ettoh denies that the quote/summary of the language of the Partnership Agreements is complete, and, therefore, Ettoh denies that such quote/summary is accurate and denies the allegations contained in paragraph 42 of the Third Amended Complaint. Ettoh defers to such Partnership Agreements as the best evidence of their terms.

43. Ettoh denies that the quote/summary of the language of the Partnership Agreements is complete, and, therefore, Ettoh denies that such quote/summary is accurate and denies the allegations contained in paragraph 43 of the Third Amended Complaint. Ettoh defers to such Partnership Agreements as the best evidence of their terms.

44. Ettoh denies that the quote/summary of the language of the Partnership Agreements is complete, and, therefore, Ettoh denies that such quote/summary is accurate and denies the allegations contained in paragraph 44 of the Third Amended Complaint. Ettoh defers to such Partnership Agreements as the best evidence of their terms.

45. Ettoh denies that the quote/summary of the language of the Partnership Agreements is complete, and, therefore, Ettoh denies that such quote/summary is accurate and denies the allegations contained in paragraph 45 of the Third Amended Complaint. Ettoh defers to such Partnership Agreements as the best evidence of their terms.

46. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 46 of the Third Amended Complaint.

47. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 47 of the Third Amended Complaint.

48. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 48 of the Third Amended Complaint.

49. Ettoh denies the allegations contained in paragraph 49 of the Third Amended Complaint.

50. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 50 of the Third Amended Complaint.

51. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 51 of the Third Amended Complaint.

52. Ettoh denies the allegations contained in paragraph 52 of the Third Amended Complaint.

53. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 53 of the Third Amended Complaint.

54. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 54 of the Third Amended Complaint.

55. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 55 of the Third Amended Complaint.

56. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 56 of the Third Amended Complaint.

57. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 57 of the Third Amended Complaint.

58. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 58 of the Third Amended Complaint.

59. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 59 of the Third Amended Complaint.

60. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 60 of the Third Amended Complaint.

61. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 61 of the Third Amended Complaint.

62. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 62 of the Third Amended Complaint.

63. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 63 of the Third Amended Complaint.

64. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 64 of the Third Amended Complaint.

65. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 65 of the Third Amended Complaint.

66. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 66 of the Third Amended Complaint.

67. Ettoh denies the allegations contained in paragraph 67 of the Third Amended Complaint.

68. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 68 of the Third Amended Complaint.

69. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 69 of the Third Amended Complaint.

70. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 70 of the Third Amended Complaint.

71. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 71 of the Third Amended Complaint.

72. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 72 of the Third Amended Complaint.

COUNT I

73. Ettoh adopts and incorporates by reference its responses to paragraphs 1 through 72 as if fully set forth herein.

74. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 74 of the Third Amended Complaint.

75. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 75 of the Third Amended Complaint.

76. Ettoh denies the allegations contained in paragraph 76 of the Third Amended Complaint.

77. Ettoh denies the allegations contained in paragraph 77 of the Third Amended Complaint.

78. Ettoh denies the allegations contained in paragraph 78 of the Third Amended Complaint.

79. Ettoh denies the allegations contained in paragraph 79 of the Third Amended Complaint.

80. Ettoh denies the allegations contained in paragraph 80 of the Third Amended Complaint.

81. Ettoh denies the allegations contained in paragraph 81 of the Third Amended Complaint.

COUNT II

82. Ettoh adopts and incorporates by reference its responses to paragraphs 1 through 72 as if fully set forth herein.

83. Ettoh denies the allegations contained in paragraph 83 of the Third Amended Complaint.

84. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 84 of the Third Amended Complaint.

85. Ettoh denies the allegations contained in paragraph 85 of the Third Amended Complaint.

86. Ettoh denies the allegations contained in paragraph 86 of the Third Amended Complaint.

87. Ettoh denies the allegations contained in paragraph 87 of the Third Amended Complaint.

88. Ettoh denies the allegations contained in paragraph 88 of the Third Amended Complaint.

COUNT III

89. Ettoh adopts and incorporates by reference its responses to paragraphs 1 through 72 as if fully set forth herein.

90. Ettoh admits that it made an investment pursuant to one or more of the Partnership Agreements, but otherwise denies the allegations contained in paragraph 90 of the Third Amended Complaint.

91. Ettoh denies the allegations contained in paragraph 91 of the Third Amended Complaint.

92. Ettoh denies the allegations contained in paragraph 92 of the Third Amended Complaint.

93. Ettoh denies the allegations contained in paragraph 93 of the Third Amended Complaint.

94. Ettoh denies the allegations contained in paragraph 94 of the Third Amended Complaint.

COUNT IV

95. Ettoh adopts and incorporates by reference its responses to paragraphs 1 through 34, 41, 46, 48, 50, 51, 53, 54 through 64 and 62 through 72 as if fully set forth herein.

96. Ettoh denies the allegations contained in paragraph 96 of the Third Amended Complaint.

97. Ettoh denies the allegations contained in paragraph 97 of the Third Amended Complaint.

98. Ettoh denies the allegations contained in paragraph 98 of the Third Amended Complaint.

99. Ettoh denies the allegations contained in paragraph 99 of the Third Amended Complaint.

100. Ettoh denies the allegations contained in paragraph 100 of the Third Amended Complaint.

101. Ettoh denies the allegations contained in paragraph 101 of the Third Amended Complaint.

COUNT V

102. Ettoh adopts and incorporates by reference its responses to paragraphs 1 through 34, 39, 41, 46, 48, 50, 51, 53, 54 through 64, and 67 through 72 as if fully set forth herein.

103. Ettoh denies the allegations contained in paragraph 103 of the Third Amended Complaint.

104. Ettoh denies the allegations contained in paragraph 104 of the Third Amended Complaint.

105. Ettoh denies the allegations contained in paragraph 105 of the Third Amended Complaint.

106. Ettoh denies the allegations contained in paragraph 106 of the Third Amended Complaint.

107. Ettoh denies the allegations contained in paragraph 107 of the Third Amended Complaint.

108. Ettoh denies the allegations contained in paragraph 108 of the Third Amended Complaint.

COUNT IV

109. Ettoh adopts and incorporates by reference its responses to paragraphs 1 through 72 as if fully set forth herein.

110. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 110 of the Third Amended Complaint.

111. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 111 of the Third Amended Complaint.

112. Ettoh denies the allegations contained in paragraph 112 of the Third Amended Complaint.

113. Ettoh denies the allegations contained in paragraph 113 of the Third Amended Complaint.

114. Ettoh denies the allegations contained in paragraph 114 of the Third Amended Complaint.

COUNT VII

115. Ettoh adopts and incorporates by reference its responses to paragraphs 1 through 72 as if fully set forth herein.

116. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 116 of the Third Amended Complaint.

117. Ettoh denies knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 117 of the Third Amended Complaint.

118. Ettoh denies the allegations contained in paragraph 118 of the Third Amended Complaint.

119. Ettoh denies the allegations contained in paragraph 119 of the Third Amended Complaint.

120. Ettoh denies the allegations contained in paragraph 120 of the Third Amended Complaint.

AFFIRMATIVE DEFENSES

First Affirmative Defense

121. Each and every cause of action set forth in the Third Amended Complaint is barred by the limitation on liability contained in ¶ 14.03, of the controlling Partnership Agreements.

Second Affirmative Defense

122. Each and every cause of action set forth in the Third Amended Complaint is time barred; the controlling statutes of limitations have expired.

Third Affirmative Defense

123. Each and every cause of action set forth in the Third Amended Complaint is barred by the equitable doctrine of laches.

Fourth Affirmative Defense

124. Counts IV and V of the Third Amended Complaint rely on quasi-contractual theories that are barred by the existence of an express contract concerning the identical subject matter; Counts IV and V thus fail to state a cause of action upon which relief can be granted.

Fifth Affirmative Defense

125. Each and every cause of action in the Third Amended Complaint is barred by the doctrine of *in pari delicto*, where the Plaintiff stands in the shoes of the Managing General Partner(s) of the Partnerships and Plaintiff alleges that such Managing General Partner(s) engaged in fraud in making the transfers at issue.

Sixth Affirmative Defense

126. Each and every cause of action set forth in the Third Amended Complaint is barred by the equitable doctrine of unclean hands, for the reasons set forth in the Fifth Affirmative Defense.

Seventh Affirmative Defense

127. Ettoh adopts and incorporates by reference such affirmative defenses as are asserted by the other Defendants in this lawsuit.

RESERVATION OF RIGHTS AND GENERAL DENIAL

128. Ettoh denies each and every allegation contained in the Third Amended Complaint that is not specifically admitted, and demands strict proof thereof. Ettoh reserves its right to supplement or amend this Answer and Affirmative Defenses as discovery progresses.

DEMAND FOR JURY TRIAL

129. Ettoh demands trial by jury of all issues triable as of right by jury.

Dated this 12th day of March, 2014.

Respectfully submitted,

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By: /s/ Michael C. Foster
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via email this 12th day of March, 2014 to all counsel on the attached Service List.

/s/ Michael C. Foster
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