

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

CASE NO: 12-34121(07)

Complex Litigation Unit

PHILIP J. VON KAHLE, as Conservator of
P&S ASSOCIATES, GENERAL PARTNERSHIP,
and S&P ASSOCIATES, GENERAL PARTNERSHIP,

Plaintiffs,

vs.

JANET A. HOOKER CHARITABLE TRUST, *et al*,

Defendants.

ANSWER AND COUNTERCLAIM OF DEFENDANTS JUDD

Defendants Judd answer Plaintiff's Third Amended Complaint as follows:

1. Defendants Judd deny the material allegations of the Third Amended Complaint.
2. Defendants Judd are without knowledge as to the allegations of paragraphs 4 through 13 and 15 through 33 and therefore deny same.
3. Defendants Judd deny having been given a copy of the Amended and Restated Partnership Agreement of S & P Associates dated December 21, 1994 (a copy of which is attached as Ex. B to the Third Amended Complaint).
4. Defendant James Judd denies that he signed Ex 1 hereto or any exhibit to the S&P Associates Amended and Restated Partnership Agreement dated December 21, 1994.
5. Defendants Judd admit the allegations of paragraph 39 of the Third Amended Complaint.

6. Defendants Judd are without knowledge as to the allegations of paragraphs 37, 38, 40, 43 through 46, 48, 51, 53 through 55, 57 through 66, 68, 69, 75, 109 and 11 of the Third Amended Complaint and therefore deny same.
7. Defendants Judd deny the allegations of all other paragraphs of the Third Amended Complaint not specifically admitted.

AFFIRMATIVE DEFENSES

1. So as not to be duplicative, Defendants Judd adopt and incorporate herein by reference the affirmative defenses raised by the other Defendants who were partners of S&P Associates.
2. Plaintiffs have not alleged that the S&P Associates Amended and Restated Partnership Agreement dated December 21, 1994 was ever given to Defendants Judd.
3. Plaintiffs have not alleged that Defendant James Judd even signed the Amended and Restated S&P Associates Partnership Agreement, or any exhibit to the Amended and Restated Partnership Agreement of S&P Associates. His signature does not appear on Exhibit 1 hereto.
4. As Managing General Partners of S&P Associates, Sullivan and Powell had an equal fiduciary duty of good faith to all of the partners of S&P Associates and could not choose to favor certain partners to the detriment of other partners. Plaintiffs as Successor Managing Partners of S & P Associates, step into the shoes of Sullivan and Powell and have the same fiduciary duties to all of the partners of S & P Associates and are therefore estopped to take action on behalf of certain partners of S&P Associates against other partners of S&P Associates.

5. Sullivan and Powell, as Managing General Partners of S&P Associates, specifically reported to Defendants Judd that there was “realized gain” on the investments of Defendants Judd for the years 2001, 2002, 2003, 2004, and 2005, which totaled over \$55,000. To the extent that this representation was not true, Plaintiffs as Successor Managing Partners of S&P Associates are bound by these representations and are estopped to disclaim the representations and/or wrongful conduct of Sullivan and Powell as the Managing Partners of S&P Associates.
6. Plaintiffs as Successor Managing Partners of S&P Associates are bound by the agreement of Sullivan and Powell as the Original Managing Partners of S&P Associates that quarterly distributions not actually paid to Defendants Judd on a quarterly basis at 12% were to be deemed “investments” in the S&P Associates General Partnership.
7. There is no allegation that Defendants Judd knew, or were ever aware, of any impropriety by S & P Associates or in the way the funds Defendants Judds were invested by S&P Associates. To the contrary Defendants Judd were specifically assured in writing by S&P Associates from time to time that there was “Realized Gain” on their investment that by September 30, 2005 had exceeded \$55,000.
8. Plaintiffs, as Successor General Partners of S & P Associates, are bound by representations of Sullivan and Powell, the original General Partners, and are estopped to deny the characterization of this money by Sullivan and Powell as the investments of Defendants Judd.
9. Moreover, if the Successor General Partners now assert that the characterization of these funds by the original General Partners was erroneous and/or false, they are estopped to do so.

10. Plaintiffs' claim against Defendants Judd is barred by the applicable statutes of limitations for transactions that pre-dated September 30, 2005.

11. As Successor General Partners to Sullivan and Powell, Plaintiff's claim is barred by the doctrine of unclean hands.

DEFENDANTS JUDDS' COUNTERCLAIM

1. In 200 S&P Associates promised and assured Defendants Judd that they would be entitled "distributions" that would be "reinvested" in the (S&P Associates) Partnership (See Ex. 1 hereto).
2. Over the eight years from July 14, 2000 through 2008 General Partners of S&P Associates repeatedly assured Defendants Judd that there was actual realized gain from their investment, which originally totaled \$180,000 in the year 2000.
3. This "realized gain" was stated in writing by S & P Associates to have exceeded \$55,000 as of September 30, 2005. Plaintiffs, as Successor General Partners of S&P Associates, now appear to assert that the representation of the Original General Partners was false.
4. To the extent that the Successor General Partners of S&P Associates claim that the Original General Partners of S&P Associates falsely represented that there was "realized gain" on the investment of Defendants Judd and that the representation was false, Defendants Judd were defrauded and should recover their full investment together with pre-judgment interest from

July 14, 2000, together with punitive damages.

Wherefore Defendants Judd pray for entry of judgment against S & P Associates for their original investment plus prejudgment interest from July 2000.

Dated this 26th day of March, 2014

/s/Julian H. Kreeger
JULIAN H. KREEGER, P.A.
Florida Bar No. 098595
Attorneys Ad Litem for the minor
Offices at Grand Bay Plaza
2665 Bayshore Drive
Suite 220-14
Miami, Florida 33133
Telephone: 305-373-3101
Facsimile: 305-381-8734

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via Electronic Mail upon Leonard Samuels, Esq. of BergerSingerman and counsel identified below registered to receive electronic notifications and regular U.S. mail upon Pro Se parties this 26th day of March, 2014 upon the following:

Notice has been electronically mailed to:

Counsel E-mail Address:

Ana Hesny, Esq. ah@assoulineberlowe.com; ena@assoulineberlowe.com
Eric N. Assouline, Esq. ena@assoulineberlowe.com; ah@assoulineberlowe.com
Annette M. Urena, Esq. aurenadkdr.com; cmackey@dkdr.com; service-amu@dkdr.com
Daniel W Matlow, Esq. dmatlow@danmatlow.com; assistant@danmatlow.com
Debra D. Klingsberg, Esq. dklingsberg@huntgross.com
Robert J. Hunt, Esq. bobbhunt@huntgross.com
Joanne Wilcomes, Esq. jwilcomes@mccarter.com
Evan Frederick, Esq. efrederick@mccaberabin.com
Etan Mark, Esq. emark@bergersingerman.com; drt@bergersingerman.com; lyun@bergersingerman.com
Evan H Frederick, Esq. efrederick@mccaberabin.com; janet@mccaberabin.com; beth@mccaberabin.com
B. Lieberman, Esq. blieberman@messana-law.com
Jonathan Thomas Lieber, Esq. jlieber@dobinlaw.com
Mariaelena Gayo-Guitian, Esq. mguitian@gjb-law.com
Barry P. Gruher, Esq. bgruher@gjb-law.com
William G. Salim, Jr., Esq. wsalim@mmslaw.com

Domenica Frasca, Esq. dfrasca@mayersohnlaw.com; service@mayersohnlaw.com
Joseph P Klapholz, Esq. jklap@klapholzpa.com; dml@klapholzpa.com
Joseph P. Klapholz, Esq. jklap@klapholzpa.com; dml@klapholzpa.com;
Julian H Kreeger, Esq. juliankreeger@gmail.com
L Andrew S Riccio, Esq. ena@assoulineberlowe.com; ah@assoulineberlowe.com
Leonard K. Samuels, Esq. lsamuels@bergersingerman.com; vleon@bergersingerman.com;
drt@bergersingerman.com.
Marc S Dobin, Esq. service@dobinlaw.com; mdobin@dobinlaw.com;
Michael C Foster, Esq. mfoster@dkdr.com; cmackey@dkdr.com; kdominguez@dkdr.com
Michael Casey, Esq. mcasey666@gmail.com
Richard T. Woulfe, Esq. pleadings.RTW@bunnellwoulfe.com
Michael R. Casey, Esq. mcasey666@gmail.com
Brett Lieberman, Esq. blieberman@messana-law.com
Marc Dobin, Esq. service@dobinlaw.com
Peter Herman, Esq. PGH@trippscott.com
Robert J Hunt, Esq. bobhunt@huntgross.com; sharon@huntgross.com; eservice@huntgross.com
Ryon M McCabe, Esq. rmccabe@mccaberabin.com; janet@mccaberabin.com; beth@mccaberabin.com
Steven D. Weber, Esq. sweber@bergersingerman.com; lwebster@bergersingerman.com;
drt@bergersingerman.com
Thomas J. Goodwin, Esq. tgoodwin@mccarter.com; nwendt@mccarter.com;jwilcomes@mccarter.com
Thomas L Abrams, Esq. tabrams@tabramslaw.com; fcolumbo@tabramslaw.com
Thomas M. Messana, Esq. tmessana@messana-law.com; tmessana@bellsouth.net;
mwslawfirm@gmail.com
Zachary P Hyman, Esq. zhyman@bergersingerman.com; DRT@bergersingerman.com;
clamb@bergersingerman.com.

By: /s/Julian H. Kreeger
JULIAN H. KREEGER
F.B.N.: 098595

Complete #1, #2, and Exhibit A and mail this page only with check made payable to "S&P Associates, G/P" to:

**S & P ASSOCIATES, General Partnership
c/o SULLIVAN & POWELL
6550 N. Federal Hwy., Suite 210
Ft. Lauderdale, FL 33308-1404**

- 1) The parties hereto have executed this Agreement by the signature and date set forth below.
(sign and date)

James Judd

Date: _____

Date: 7/14/2000

Date: _____

Date: _____

- 2) **Please check one of the following:**

I elect to receive my distributions on a quarterly basis (payable at 12%).

I elect to have my quarterly distribution reinvested in the Partnership.

*paid
7/24/00*

EXHIBIT A (Title of Your Account)

Name, Address
Telephone # and Fax #

Soc. Sec. # or
Federal ID#

Capital Contribution

James Judd + Valerie
Bruce Judd
2421 Barcelona Drive
Ft Lauderdale FL
33301

944-28-4582

100 K

tel 954 467 2721

123-62-3565

954 462-2334