

MATTHEW CARONE, as Trustee for the Carone Marital Trust #2 UTD 1/26/00, Carone Gallery, Inc. Pension Trust, Carone Family Trust, Carone Marital Truste #1 UTD 1/26/00 and Matthew D. Carone Revocable Trust, JAMES JORDAN, as Trustee for the James A. Jordan Living Trust, ELAINE ZIFFER, an individual, and FESTUS AND HELEN STACY FOUNDATION, INC., a Florida Corporation,

IN THE CIRCUIT COURT OF THE  
17<sup>TH</sup> JUDICIAL CIRCUIT IN AND  
FOR BROWARD COUNTY, FLORIDA  
CASE NO. 12-24051 (07)  
COMPLEX LITIGATION UNIT

Plaintiffs,

v.  
MICHAEL D. SULLIVAN, individually,

Defendant.

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**CONSERVATOR’S MOTION FOR AN ORDER GOVERNING SETTLEMENT OF CLAIMS IN RELATED MATTER**

Philip J. Von Kahle (the “Conservator”), as Conservator for P&S Associates, General Partnership (“P&S”) and S&P Associates, General Partnership (“S&P) (together, the “Partnerships”),<sup>1</sup> files this Motion for Order Governing Settlement of Claim In Related Matter, and states in support:

1. In lieu of a full background statement the Conservator relies upon the Court’s familiarity with the above-styled case and related matters pending before this Court.

2. On December 12, 2013, this Court entered its *Order Governing Settlement of Claims in Related Matters* which established a procedure for the Conservator to enter into settlements with parties and non-parties related to claims in the matter titled *P&S Associates, General Partnership and S&P Associates, General Partnership,, Plaintiffs v. Janet A. Hooker Charitable Trust, e. al.*, Case No. 12-034121 (07) (the “Net Winner Suit”) and for distribution of compensation related to same. Through this Motion, the Conservator seeks a similar order in another related matter.

3. Presently, the Partnerships are party plaintiffs in that certain matter styled *P&S Associates, General Partnership and S&P Associates, General Partnership, Plaintiffs v. Michael D. Sullivan, et al.*, Case No. 12-034123 (07) pending before the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, FL(the “Insider Suit”).

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<sup>1</sup> On January 17, 2013, this Court entered its Order Appointing Conservator (the “Conservator Order”).

4. The Conservator has entered into settlement agreements, subject to this Court's approval, with certain parties in the Insider Suit. Public disclosure of such settlements could compromise the Plaintiffs ability to recover amounts through settlement in the future.

5. Therefore, the Conservator requests authority to enter into any settlement related to the claims in the Insider Suit according to the Conservator's business judgment, and that any settlements shall remain confidential in accordance with its terms. To the extent such settlements require Court approval, the Conservator requests that the Court's review be conducted *in camera*.

6. Further, the Conservator requests authority to pay any compensation due to Berger Singerman, LLP and Messana, PA pursuant to their respective engagement agreements upon the Conservator's receipt and clearance of settlement proceeds related to the Insider Suit.

**WHEREFORE**, the Conservator requests that the Court enter an Order in substantially the form as proposed Exhibit "A": (i) authorizing the Conservator to enter into any settlement related to the claims in the Insider Suit according to the Conservator's business judgment; (ii) requiring *in camera* review of settlements related to the Insider Suit; (iii) authorizing the Conservator to pay any compensation due to Berger Singerman, LLP and Messana, PA pursuant to their respective engagement agreements upon the Conservator's receipt and clearance of settlement proceeds related to the Insider Suit; and (iv) granting such other relief as the Court deems just and proper.

Dated: March 28, 2014

MESSANA, P.A.  
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Thomas M. Messana, Esq.  
Florida Bar No. 991422  
Thomas G. Zeichman, Esq.  
Florida Bar No. 99239

Exhibit A  
Proposed Order

MATTHEW CARONE, as Trustee for the Carone Marital Trust #2 UTD 1/26/00, Carone Gallery, Inc. Pension Trust, Carone Family Trust, Carone Marital Truste #1 UTD 1/26/00 and Matthew D. Carone Revocable Trust, JAMES JORDAN, as Trustee for the James A. Jordan Living Trust, ELAINE ZIFFER, an individual, and FESTUS AND HELEN STACY FOUNDATION, INC., a Florida Corporation,

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IN THE CIRCUIT COURT OF THE  
17<sup>TH</sup> JUDICIAL CIRCUIT IN AND  
FOR BROWARD COUNTY, FLORIDA  
CASE NO. 12-24051 (07)  
COMPLEX LITIGATION UNIT

**ORDER GRANTING CONSERVATOR'S MOTION FOR ORDER GOVERNING  
SETTLEMENT OF  
CLAIMS IN RELATED MATTER**

THIS MATTER came before the Court at a Case Management Conference on April 4, 2014 on the *Conservator's Motion for an Order Governing Settlement of Claims in Related Matter* requesting that the Court set forth a procedure governing the Court's approval of any settlement between the parties and/or non-parties related to the claims in the matters titled *Philip J. von Kahle as Conservator of P&S Associates, General Partnership and S&P Associates, General Partnership, Plaintiffs v. Michael D. Sullivan, et al.*, Case No. 12-034123 (07) ("Case No. 12-034123").

The Court having reviewed the record in this case and in Case No. 12-03412, having heard argument and proffer of counsel, being otherwise familiar with the cases, and finding, for the reasons stated on the record, that public disclosure of settlements reach by Plaintiffs in Case No. 12-034123 could compromise the ability of such Plaintiffs to recover amounts through settlement in the future, it is **ORDERED** and **ADJUDGED** as follows:

7. The Plaintiffs in Case No. 12-034123, through the Conservator, shall have and possess the power to enter into any settlement related to the claims in Case No. 12-034123 according to the Conservator's business judgment, and that any settlements shall remain

confidential in accordance with its terms. To the extent a settlement requires Court approval, the Conservator requests that the Court's review be conducted *in camera*. Otherwise, no further Court order approving any such settlement is required.

8. The Conservator shall pay any compensation due to Berger Singerman, LLP and Messana, PA pursuant to their respective engagement agreements upon the Conservator's receipt and clearance of settlement proceeds related to Case No. 12-034123.

Done and ordered in Chambers this \_\_\_\_\_, 2013.

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HONORABLE JEFFREY E. STREITFELD  
Circuit Court Judge

Copies furnished to:  
Thomas M. Messana, Esq. who is directed to serve same upon all interested parties.