

**IN THE CIRCUIT COURT OF THE  
SEVENTEENTH JUDICIAL  
CIRCUIT, IN AND FOR BROWARD  
COUNTY, FLORIDA**  
CASE NO.: 12-24051 (07)  
COMPLEX LITIGATION UNIT

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

Plaintiffs,

v.

MICHAEL D. SULLIVAN, individually,

Defendant.

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**CONSERVATOR'S FEE REPORT**

**Brief Summary**

The Conservator analyzed each of the applications received from the various Applicants. The Conservator's analysis was essentially two-fold: (i) determine whether the charges were properly chargeable to the Partnerships; and (ii) determine whether the fees and costs sought were reasonable.

The fees and costs sought through application totaled \$501,052.54. The Conservator's recommends and the Applicants have agreed to allowed fees and costs totaling \$350,253.28. This represents a savings in fees and costs for the Partnerships of approximately \$150,799.24 (approximately thirty percent (30%) reduction).

Through this Report, the Conservator requests a court hearing to approve this Report and the recommendations provided herein.

**Background**

On January 17, 2013, this Court entered its Order Appointing Conservator (the "Conservator Order"). The Conservator Order appointed Philip Von Kahle as Conservator ("Conservator") of S&P

Associates, General Partnership (“S&P) and P&S Associates, General Partnership (“P&S”) (the “Partnerships”).

Among other things, the Conservator has been tasked with evaluating fee applications of the various professionals who purported to incur fees and costs on behalf of the Partnerships. To date, the Conservator has received fee applications from the following professionals:

- Berger Singerman, LLP;
- Rice, Pugatch, Robinson & Schiller, LLP;
- Becker & Poliakoff, LLP;
- Deutsch Rotbart & Associates, P.A.; and
- GlassRatner Advisory & Capital Group, LLC (the “Applicants”).

The Conservator also received certain invoices from It Figures Bookkeeping, Inc. (“It Figures”) and Steven F. Jacob (“Jacob”) requesting payment for fees.

**Fee Applications**

<b>Applicant</b>	<b>Fees and Costs Sought</b>	<b>Suggested Allowable</b>
Rice, Pugatch, Robinson & Schiller, P.A.	\$ 31,806.76	\$ 25,000.00
Berger Singerman, LLP	\$ 172,321.71	\$ 125,000.00
Becker & Poliakoff, LLP	\$ 150,383.32	\$150,383.32
Deutsch Rotbart & Associates, P.A.	\$ 26,317.96	\$ 22,317.96
GlassRatner Advisory & Capital Group, LLC	\$ 44,675.95	\$ 27,552.00
Steven F. Jacob	\$ 43,000.00	-
It Figures Bookkeeping, LLC	\$ 950.00	-
Hathaway	\$ 31,596.84 <sup>1</sup>	-

*Applicants*

**Rice, Pugatch, Robinson & Schiller, P.A. (“Rice”):** Based on, among other things a review of Rice’s fee application and the factors considered by *Florida Patient's Compensation Fund v. Rowe*, 472 So. 2d 1145 (Fla. 1985), the Conservator requested and Rice agreed to a voluntary reduction of their fee request from \$31,806.76 to \$25,000.00.

**Berger Singerman, LLP (“Berger”):** Based on, among other things, a review of Berger’s fee application and factors considered by *Florida Patient's Compensation Fund v. Rowe*, 472 So. 2d

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<sup>1</sup>Upon information and belief Hathaway may have a claim against the Partnerships. However, Hathaway failed to file an application as required by the Conservator Order.

1145 (Fla. 1985), specifically the voluntarily reduced hourly rate charged by Berger, the Conservator requested and Berger agreed to a final reduction of their fee request from \$172,321.71 to \$125,000.00.<sup>2</sup>

**Becker & Poliakoff, LLP (“Becker”):** Based on, among other things, Becker’s fee application and the factors considered by *Florida Patient's Compensation Fund v. Rowe*, 472 So. 2d 1145 (Fla. 1985), specifically the amount involved and results achieved<sup>3</sup> by Becker, the Conservator has determined that Becker’s fee request is reasonable and recommends approval of the total fee request of \$150,383.32.

**Deutsch Rotbart & Associates, P.A. (“Rotbart”):** Based on, among other things, the factors considered by *Florida Patient's Compensation Fund v. Rowe*, 472 So. 2d 1145 (Fla. 1985), the Conservator requested and Rotbart agreed to a voluntary reduction of their fee request from \$ 26,317.96 to \$22,317.96.

**GlassRatner Advisory & Capital Group, LLC (“GlassRatner”):** Based upon, among other things, the information provided in GlassRatner’s fee application and the factors considered by *Florida Patient's Compensation Fund v. Rowe*, 472 So. 2d 1145 (Fla. 1985), the Conservator requested and GlassRatner agreed to a voluntary reduction of their fee request from \$44,675.95 to \$27,552.00.

**Jacob, It Figures, and Hathaway:** The Conservator Order required all professionals seeking fees and costs from the Partnerships to file applications with the Conservator requesting such fees and documenting their reasonableness. As of the date of the instant report, Jacob, It Figures and Hathaway

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<sup>2</sup> Additionally, Berger has agreed to represent the Partnerships in certain presently pending litigation on a contingency fee basis. Such representation will be the subject of a separate application for employment.

<sup>3</sup> Through, among other things, Becker’s efforts, the Partnerships were granted an allowed claim in the Madoff case and were issued, to date, approximately \$5,336,893 in distributions.

have failed to provide the Conservator sufficient documentation to make a recommendation as to the reasonableness of their requests.

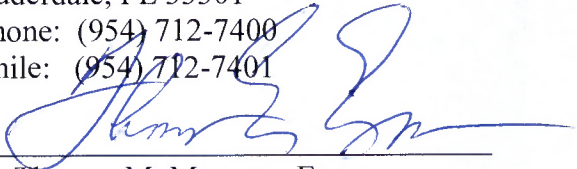
Solely on that basis, the Conservator objects to the fee applications of Jacob, It Figures, and Hathaway. Subject to Court review, the Conservator would still consider the applications for fees and costs of Jacob, It Figures, and Hathaway once adequate documentation is properly presented.

WHEREFORE, the Conservator respectfully requests that this Court: (i) authorize the Conservator to make distributions to each of the Applicants in the amounts recommended herein out of the Partnerships' assets, such distributions being allocated to each of the Partnerships based on their current assets; (ii) find that the fees and costs recommended by the Conservator for each of the Applicants are reasonable considering the factors of *Florida Patient's Compensation Fund v. Rowe*, 472 So. 2d 1145 (Fla. 1985); (iii) consider extending the deadline for timely submissions of fee applications required by the Conservator Order to permit Jacob, It Figures and Hathaway to submit fee applications and all supporting documents necessary for the Conservator to properly analyze such applications; and (iv) for any further relief that this Court deems necessary and appropriate.

Dated: April 1, 2013

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