

**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, an individual, and FESTUS AND HELEN  
STACY FOUNDATION, INC., a Florida  
corporation,

Plaintiffs,

v.

MICHAEL D. SULLIVAN, individually,

Defendant.

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**BERGER SINGERMANN LLP'S OMNIBUS RESPONSE TO THE OBJECTIONS TO THE  
CONSERVATOR'S FEE REPORT FILED BY MICHAEL SULLIVAN, BURT MOSS,  
AND STEVEN JACOB**

Berger Singerman LLP ("Berger Singerman") files this Omnibus Response to the  
Objections to the Conservator's Fee Report filed by Michael Sullivan ("Sullivan"), Burt Moss  
("Moss"), and Steven Jacob ("Jacob"). For the reasons stated below, Sullivan's, Moss's, and  
Jacob's objections should be denied, and, in support thereof, Berger Singerman states as follows:

**BACKGROUND**

Berger Singerman's and GlassRatner's relationship with P&S Associates, General  
Partnership ("P&S") and S&P Associates, General Partnership ("S&P") (collectively, the  
"Partnerships") began when Berger Singerman was retained by a group of partners acting for the

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benefit of the Partnerships (the “Organizing Partners”). The Partnerships were formed in approximately 1994 to invest funds that the Partnerships received from its partners with Bernard L. Madoff Investment Securities, LLC (“BLMIS”). However, after BLMIS was exposed as a \$65 billion Ponzi scheme, a discrepancy was found between the funds invested by the partners in the Partnerships and the funds that were invested with Madoff.

As a result, the Organizing Partners retained Berger Singerman – at a reduced rate – in April 2012 to request the books and records of the Partnerships, to determine the reason for the discrepancy, and, if necessary, implement efforts to remove the Managing General Partners. Although the billing rates of Berger Singerman attorneys, at that time, ranged from \$225.00 per hour to \$625.00 per hour, Berger Singerman agreed to cap all attorneys’ fees at a maximum of \$300.00 per hour. The invoices submitted to the Conservator reflect that Berger Singerman continued that deeply discounted hourly fee structure at all times.

Pursuant to the Partnerships’ Partnership Agreements<sup>1</sup>, Sullivan and Greg Powell<sup>2</sup> were the managing general partners of the Partnerships. Beginning in April 2012, Berger Singerman began requesting the Partnerships’ books and records from Sullivan. Only after significant intransigence, Sullivan turned over an incomplete set of documents. Then, with the help of GlassRatner, Berger Singerman undertook an extensive forensic analysis of those documents to determine what caused the discrepancy between the funds invested by the partners and the funds invested with Madoff. The analysis discovered various improprieties that were perpetuated upon the Partnerships and its partners. To prevent further harm, it was decided that Sullivan must be replaced.

<sup>1</sup> The Partnerships’ partnership agreements are identical in all material respects and are collectively referred to as the Partnership Agreements. The Partnership Agreements are attached as **Exhibit A**.

<sup>2</sup> Greg Powell is deceased.

Based on the various improprieties uncovered, special meetings of the Partnerships were held on August 17, 2012 (the “special meetings”) to vote on replacing Sullivan as the Managing General Partner with Margaret J. Smith (“Smith”) – a well-known certified public accountant and certified fraud examiner – and amending the Partnership Agreement to reflect that change. Those meetings required extensive review of the Partnership Agreements and the books and records to ascertain the proper method for calling and conducting a vote to remove Sullivan and the identity of the partners of each Partnership who were entitled to notice and to vote. At the special meetings, a majority of the outstanding Partnership interests voted in favor of replacing Sullivan with Smith and amending the Partnership Agreements to reflect that change. Attached hereto as **Exhibit B** are the minutes of the special meeting of S&P on August 17, 2012; attached hereto as **Exhibit C** are the minutes of the special meeting of P&S on August 17, 2012.

Despite the vote, Sullivan’s strategy of imposing obstacles at every turn continued. He initially refused to step down and challenged the legitimacy of the vote. The Organizing Partners had no choice but to commence the instant litigation against Sullivan to enforce the vote of the Partners and protect the Partnerships. On August 24, 2012, the Organizing Partners commenced a civil action against Sullivan in this Court. That action sought, among other things, temporary injunctive relief to prevent Sullivan from interfering with the operation of the Partnerships or, alternatively, the appointment of a receiver.

Five days after the action was filed, Sullivan, who was represented by counsel, agreed to resign as Managing General Partner. On August 29, 2012, this Court entered an Agreed Order between the Organizing Partners, acting on behalf of the Partnerships, and Sullivan. A copy of the Agreed Order is attached hereto as **Exhibit D**. Pursuant to that order, Sullivan resigned as Managing General Partner and Smith was deemed in his stead to be sole Managing General

Partner of the Partnerships. *Id.* Smith, as managing general partner, was given “full access to all of the Partnership’s books, records, assets and property and will be afforded all of the rights and duties of a Managing General Partner. . .” *Id.* Furthermore, Sullivan agreed that “he does not now and will not in the future challenge the appointment of Ms. Smith as Managing General Partner on August 17, 2012.” *Id.* On August 30, 2012, Smith, as Managing General Partner of the Partnerships, signed an agreement to engage Berger Singerman to act as legal counsel for the Partnerships. That should have been the end of the matter.

Surprisingly, Helen Chaitman (“Chaitman”) and her law firm, Becker & Poliakoff, LLP (“Becker Poliakoff”), refused to honor this Court’s Agreed Order, dragging the Partnerships into further litigation. Prior to his replacement and resignation, Sullivan retained Chaitman and her firm, as counsel to the Partnerships in connection with litigation against the Madoff Trustee. As a result of a settlement agreement reached there, Becker Poliakoff received funds that were to be disbursed to the Partnerships and then to their partners. Nine days after the special meeting electing Smith as Managing General Partner, a lawsuit initiated in Palm Beach County to determine the appropriate manner of distributions to partners (that, through the efforts of Berger Singerman, was transferred to this Court) was amended, without any apparent authority, to include a challenge to the vote electing Smith.

Berger Singerman incurred further fees and expenses on behalf of the Partnerships because Chaitman forced the commencement of additional litigation. By letter dated September 4, 2012, Smith, as Managing General Partner of the Partnerships, terminated Chaitman and Becker Poliakoff as counsel to the Partnerships and demanded that they return all funds belonging to the Partnerships. They refused to do so. Accordingly, on September 7, 2012, the Organizing Partners, through Berger Singerman, filed a motion to compel Sullivan and Chaitman

to immediately relinquish any partnership property that they were holding. On September 13, 2012, this Court heard argument from Berger Singerman on that motion, which Chaitman opposed. The Court deferred consideration of the motion. As a result, Chaitman continued to hold all the Partnerships' funds hostage.

Meanwhile, the former Managing General Partners' defalcations over a 20-year period suggested the Partnerships had claims against those Managing General Partners (like Sullivan), partners who received improper distributions, and other individuals (like Jacob). It was important that the Partnerships have the ability to pursue these potential claims and potentially obtain reimbursement for any monies improperly gained from the Partnerships. Identifying those claims required substantial research, and as of December 2012, the statute of limitations on those claims was potentially drawing to a close.<sup>3</sup> However, without the Partnerships' funds, the Partnerships could not operate and commence litigation against those individuals. Moreover, Chaitman continued to challenge Smith's appointment as Managing General Partner, even though Sullivan had agreed not to do so under the Agreed Order. Accordingly, on November 13, 2013, Berger Singerman filed a Motion to Appoint Receiver through the Organizing Partners seeking that Smith be appointed as receiver to manage P&S and S&P. That motion was inexplicably opposed by Chaitman, who at this point, represented absolutely no one in connection with the underlying proceedings.

Despite the uncertainty as to the outcome of the Motion to Appoint a Receiver, Berger Singerman continued to incur fees and costs on behalf of the Partnerships. Specifically, at the direction of Smith, as Managing General Partner, Berger Singerman prepared, and then filed on December 10, 2012, complaints against those partners who received improper distributions from

<sup>3</sup> The Partnerships do not and have not conceded that the statute of limitations to bring any claims expired in December 2012.

the Partnerships. Berger Singerman additionally prepared, and filed on December 10, 2012, a complaint against various individuals (including Sullivan and Jacob) who appear to have profited improperly from the Partnerships through, *inter alia*, receiving improper “management fees,” “commissions,” or “referral fees.” Without these efforts, the Partnerships’ claims may have lapsed and the Partnerships would potentially not be entitled to any recovery.

The Court agreed that it was necessary to appoint a Conservator for the Partnerships, despite extensive argument in opposition. Berger Singerman incurred considerable expenses in researching, preparing, and pursuing papers to protect the Partnerships’ claims and to appoint a Conservator for the Partnerships. Nonetheless, due to Chaitman’s inexplicable opposition to the Partnerships’ best interests, a morass of ongoing litigation related to the Partnerships remained in the courts of Broward County. Berger Singerman incurred additional fees and costs by working to transfer all such actions to this division. Additionally, Berger Singerman incurred additional fees and costs by preparing the initial draft of the Order Appointing Conservator, which was circulated for comment among the various parties. On January 17, 2013, this Court signed the Order Appointing Conservator (the “Conservator Order”) after comment from the various parties who appeared by counsel (including Moss, Sullivan, and Jacob) – even though Chaitman opposed it.

Without the costs and fees incurred by Berger Singerman on behalf of the Partnerships, a Conservator would not have been appointed, the assets of the Partnerships would have been depleted, and significant litigation opportunities would have dissipated.

On April 1, 2013, the Conservator filed his Conservator’s Fee Report (the “Report”). The Report made a series of recommendations regarding the reasonableness of fees and costs that were incurred on behalf of the Partnerships by various parties. Among the parties that

sought reimbursement for fees and costs are Berger Singerman and GlassRatner. Although Berger Singerman incurred (and is entitled to) \$172,321.71 worth of fees and costs for work related to the Partnerships over the past year, which fees were charged at a significantly reduced rate, Berger Singerman has agreed to an additional 25% discount on these fees, for a total fee request of \$125,000. Similarly, GlassRatner voluntarily reduced their fee request from \$44,675.95 to \$27,552.00 – a write-off of approximately 38%. The Conservator recommended approval of the Berger Singerman's fee request in the amount of \$125,000 and GlassRatner's fee request in the amount of \$27,552.00.

Moss, Jacob, and Sullivan are now objecting to the Conservator's recommendations regarding Berger Singerman and GlassRatner. Moss has set forth 16 meritless objections. Jacob's and Sullivan's objections are largely duplicative of those objections. As set forth below, all their objections should be overruled.

### **First Objection**

Moss's first objection<sup>4</sup> is that the Partnership Agreements contain an arbitration clause and therefore the instant lawsuit should not have been filed against Sullivan in August 2012.

As set forth above, this action was filed against Sullivan almost eight months ago for, *inter alia*, temporary injunctive relief to immediately prevent Sullivan from further harming the Partnerships. The lawsuit was necessary to maintain the status quo of the Partnerships and prevent any further harm because Sullivan was legitimately replaced by Smith as Managing General Partner and he refused to turn over the Partnerships' books and records, as well as access to the Partnerships' bank accounts and other resources. *See Korn v. Ambassador Homes, Inc.*, 546 So. 2d 756, 757 (Fla. 3d DCA 1989) ("a temporary injunction is proper to maintain the

<sup>4</sup> Jacob's and Sullivan's joinder of Moss's objections or their independent objections will be indicated when appropriate.

status quo, as here, pending the outcome of an arbitration claim”); *but see Rath v. Network Mktg., L.C.*, 790 So. 2d 461, 463 (Fla. 4th DCA 2001).

Additionally, even if this action should not have been filed because of any arbitration clause, “a party may waive his contractual right to arbitration by actively participating in a lawsuit or by taking action inconsistent with that right.” *Rath*, 790 So. 2d at 463.

Any right to arbitration was waived by active participation in litigation. When this action was filed, Sullivan was represented by counsel. The Partnerships were also represented by counsel. Any argument that this action should proceed in arbitration should have been made at the appropriate time. It was not. Instead, in response to this action, Sullivan – while represented by counsel – entered into the Agreed Order. By the Agreed Order, Sullivan, *inter alia*, resigned as Managing General Partner of the Partnerships and Sullivan consented to the appointment of Smith as Managing General Partner in his stead. *See* Exhibit D. Since the Agreed Order, Sullivan, various Partners (including Moss and Jacob), the Partnerships themselves, and numerous other law firms representing various parties have been actively engaged in litigation surrounding the Partnerships, and any contractual right to arbitration has been waived.

Moreover, the failure of counsel or any Partner to raise an argument up to this point regarding the propriety of this action in light of any arbitration clause (if one could even have made), and pursue such an argument, is not the fault of Berger Singerman, GlassRatner, or their clients. Nor does such an argument change the fact that any fees incurred through the actions of Berger Singerman and GlassRatner were incurred on behalf of the Partnerships.

### **Second Objection**

Moss’s second objection stems from a misreading of Article 8.03 of the Partnership Agreement, a misreading of Fla. Stat. 620.8401, and a misunderstanding of relevant facts.



First, Moss argues that Article 8.03 prevented the Organizing Partners from initially engaging Berger Singerman and GlassRatner on behalf of the Partnerships because they could not execute an agreement for the Partnership without the consent of the Managing General Partner or all of the other Partners. Sullivan joins this objection. *See* Sullivan Objections ¶ 11.

Article 8.03 states “[W]ithout the prior consent of the Managing General Partners or all of the other partners, no other Partner may act on behalf of the Partnership to: (i) borrow or lend money; (ii) make deliver or accept any commercial paper; (iii) execute any mortgage, security agreement, bond or lease; or (iv) purchase or sell any property for or of the Partnership.”

As set forth above, and contrary to Moss’s and Sullivan’s objection, Article 8.03 does not prevent the Organizing Partners from executing an agreement and taking action to save the Partnerships’ assets on behalf of the Partnerships because the Partnerships could not do so themselves. Article 8.03 does not state that *partners* are prohibited from executing an engagement agreement with Berger Singerman and/or GlassRatner.

Second, Fla. Stat. § 620.8401(10) states that “A difference arising as to a matter in the ordinary course of business of a partnership may be decided by a majority of the partners. An act outside the ordinary course of business of a partnership and an amendment to the partnership agreement may be undertaken only with the consent of all of the partners.” Based on Fla. Stat. § 620.8401(10), Moss argues the “hiring of [Berger Singerman] and [GlassRatner] did not have the approval of all the partners.” Moss Objection ¶ 2. To the extent covered, the Partnership Agreement would govern these matters, and not Fla. Stat. Ann. § 620.8401(10). Nevertheless, there is no prohibition in Fla. Stat. § 620.8401(10) that the Organizing Partners could not initially engage Berger Singerman or GlassRatner by themselves or act for the benefit of the Partnerships.

### **Third Objection**

Moss's third objection is that Berger Singerman and GlassRatner were allegedly engaged improperly by the Organizing Partners because they were not engaged with the consent of the Managing General Partner or all the Partners under Article 8.02 of the Partnership Agreement.

As set forth above, Berger Singerman and GlassRatner were initially retained by the Organizing Partners, not the Partnerships. The Partnership Agreement and Section 8.02(a) do not prevent the Plaintiffs from retaining Berger Singerman and GlassRatner themselves.

#### **Fourth Objection**

Moss's fourth objection is a request to find the Organizing Partners in default of the Partnership Agreement under Article 10.01(b). However, any default under Article 10.01(b) requires "the violation of any of the other provisions of [the Partnership Agreement] *and failure to remedy or cure that violation within (10) days after written notice of the failure from the Managing General Partners*" (emphasis added).

Here, there was no violation of any provisions of the Partnership Agreement. Additionally, any default under 10.01(b) requires, *inter alia*, "written notice of the failure from the Managing General Partners." Because Moss is not the Managing General Partner of the Partnerships, he has no standing to make the written notice required to default any partner of the Partnerships. Accordingly, this "objection" has no merit.

#### **Fifth Objection**

Fifth, Moss argues that Section 14.03 of the Partnership Agreement limits the liability of Partners due to "several factors" and the retention of Berger Singerman and GlassRatner "should be subject to this provision" such that any fees due does not reduce amounts due to the Partners.

Section 14.03 is a provision that limits the liabilities of the Partners for certain good faith actions or omissions. Yet, the Partners are liable under Section 14.03 for acts and/or omissions

involving intentional wrongdoing, fraud, and breaches of fiduciary duties of care and loyalty. In relevant part, it provides:

14.03 THE PARTNERS SHALL HAVE NO LIABILITY TO THE PARTNERSHIP OR TO ANY OTHER PARTNER FOR ANY MISTAKES OR ERRORS IN JUDGMENT, NOR FOR ANY ACT OR OMISSIONS BELIEVED IN GOOD FAITH TO BE WITHIN THE SCOPE OF AUTHORITY CONFERRED BY THIS AGREEMENT. THE PARTNERS SHALL BE LIABLE ONLY FOR ACTS AND/OR OMISSIONS INVOLVING INTENTIONAL WRONGDOING, FRAUD, AND BREACHES OF FIDUCIARY DUTIES OF CARE AND LOYALTY . . .

Here, Moss's proposed interpretation of Section 14.03 would run contrary to numerous other provisions of the Partnership Agreement. For example, if the limitations on the Partners' liability were to prevent the payment of fees and expenses incurred on behalf of the Partnerships, then that provision would necessarily prevent the Managing General Partner from taking actions and incurring expenses that are necessary to carry out the duties of the Partnerships, which the Partnership Agreements authorize. Additionally, Section 12.02 specifically indicates that when distributing assets of the Partnerships upon termination, any outstanding Partnership liabilities are to be paid first, and then distributions of Partners' capital in accordance with their Partnership interest. Accordingly, any fees and costs incurred on behalf of the Partnerships are given precedence over any Partners' claims to the Partnership's assets. Moss seeks to reverse this order. Moss's reading of Article 14.03 is untenable given that it would conflict with a number of other provisions of the Partnership and would make operation of the Partnerships impossible. *See Discover Prop. & Cas. Ins. Co. v. Beach Cars of W. Palm, Inc.*, 929 So. 2d 729, 732 (Fla. 4th DCA 2006) ("If possible, conflicting provisions of a contract are to be read in such a way as to give a reasonable interpretation and effect to all provisions").

### **Sixth Objection**

Moss' sixth objection concerns only GlassRatner. His objection is that Carol Fox, of GlassRatner, did not disclose that she and her family were Partners in S&P during the special meetings, and that she allegedly had four conflicts of interest as a result of that relationship. This objection is wholly without merit.

First, during the special meeting of S&P, Ms. Fox stated "I'm Carol Fox. I'm not a direct partner in S&P, but my children are." *See* Exhibit B at p. 89. Therefore, Ms. Fox disclosed her relationship to S&P, and Moss's objection to the contrary is frivolous.

Next, the first of Moss's four additional alleged conflicts of interest is that Ms. Fox "had a vested interest in the claims of the S&P Partnership as opposed the P&S Partnership. P&S Partners needed to this." Moss Objection ¶ 6. This alleged conflict is meritless. As set forth above, Ms. Fox disclosed her relationship to S&P. Moss admits that Ms. Fox had no "vested interest" in the claims of the P&S Partnership and he has provided no reason why P&S partners needed to separately know her families' relationship to S&P. Nonetheless, Moss was present at both the special meeting of S&P and the special meeting of P&S and was therefore aware of Ms. Fox's relationship to the Partnerships. *See* Exhibits B and C.

The second and fourth alleged conflicts of interest appear to be, in short, that Ms. Fox would be compensated directly if her firm was engaged by the Partnerships and that Ms. Fox was allegedly motivated to recoup her losses in the Partnerships through her fees.

As set forth above, Ms. Fox disclosed her relationship to the Partnerships. Additionally, Ms. Fox introduced herself at both the S&P and P&S meetings, it was disclosed that GlassRatner would be performing the forensic work related to the Partnerships, and Ms. Fox gave a brief summary of the work GlassRatner had performed at that time and their findings. *See* Exhibits B at p. 101 and C at p. 70. Moreover, all those in attendance were given the opportunity to ask

questions, including Moss. *See* Exhibits B and C. Accordingly, Moss and others were on notice at all relevant times of Ms. Fox's relationship to the Partnerships, her relationship to GlassRatner, and her relationship to the work being performed.

The final alleged conflict is that Ms. Fox's hours accounted for 55% of the hours from which GlassRatner was seeking to recover fees and costs. Moss does not indicate why this amount is improper and fails to indicate why any of the time that Ms. Fox spent was unreasonable.

### **Seventh and Eighth Objections**

Moss's seventh and eighth objections again relate to whether Berger Singerman should be compensated for work it did while representing the Organizing Partners.

As stated above, at the time of the special meetings, the Organizing Partners retained Berger Singerman, and not the Partnerships, because Sullivan was still clinging to control of the Partnerships. As set forth above, any costs and fees incurred by Berger Singerman and GlassRatner were incurred on behalf of the Partnerships. That Berger Singerman was initially retained by the Organizing Partners and/or the fact that Berger Singerman initially had a valid attorney-client relationship with the Organizing Partners, does not change this fact.

### **Ninth and Tenth Objections**

Moss's ninth and tenth objections are a challenge to legitimacy of the special meetings that replaced Sullivan with Smith as the Managing General Partner of the Partnerships. Jacob joins in this objection. *See* Jacob Objection ¶ 2.

First, the special meetings were properly conducted and Sullivan was legitimately replaced with Smith as the Managing General Partner of the Partnerships. Based on the various improprieties discovered, the special meetings were held to remove Sullivan as Managing

General Partner and replace him with Smith, and to amend the Partnership Agreements to reflect that change. During the special meeting for each of the Partnerships, a majority of the outstanding Partnership interests voted in favor of replacing Sullivan as the Managing General Partner with Smith and amending the Partnership Agreement to reflect that change. The minutes of the special meetings demonstrate that the election results were proper. *See* Exhibits B and C.

Moss, Jacob, and all other partners of the Partnerships had ample opportunity to challenge the legitimacy of the August 17, 2012 election, and they did not do so. Moss and Jacob attended the special meetings of S&P and P&S and participated in those meetings. *See* Exhibit B at p. 88:20-23 and C at pp. 56:17, 58:20-21. Moreover, it was specifically stated during the special meeting for S&P that the special meeting could be challenged in the appropriate forum. *Id.* at p. 94. No one did so. Moss, Jacob, and others should be estopped from re-litigating these issues more than 8 months after the elections.

Should the Court wish the parties to provide additional information regarding the special meetings, Berger Singerman respectfully requests the opportunity to fully brief this issue.

### **Eleventh Objection**

Moss's eleventh objection is that Berger Singerman's fees are allegedly unreasonable and because "on every occasion that [Moss] attended ranging from the disputed elections on 8/17/2012 to the most recent hearing on 4/18/2013 the Berger, Singerman law firm has had three to five attorneys attending . . ." Moss Objection ¶ 11.

First, there is nothing *per se* unreasonable with multiple attorneys attending and billing for the special meetings, any court conferences, and any hearings. For example, the special meetings required i) litigation attorneys familiar with the findings related to Sullivan and the Partnerships and ii) corporate attorneys familiar with the necessities required to ensure the

legitimacy of those special meetings. Due to the complex nature of these meetings, and the multiple interests involved, there was nothing unusual about multiple attorneys attending. *See In re Marketxt Holdings Corp.*, 06 CIV. 6695 (LBS), 2007 WL 1040422, \*4 (S.D.N.Y. Apr. 3, 2007) (finding fees reasonable because “multiple attorneys were needed at hearings due to the complex nature of the contempt hearing”). Similarly, to the extent that multiple attorneys were present at court hearings, there is nothing unreasonable about this arrangement given the complexity of the court hearings, nor is it “padding the bill.”

Furthermore, as noted above, Berger Singerman’s fees and costs incurred in this action were dramatically reduced. With respect to the special meeting, the hourly rates for two of the attorneys present at the special meetings were reduced by 50% or more because Berger Singerman agreed to cap all attorneys’ fees at a maximum of \$300.00 per hour. Berger Singerman later agreed to reduce the fees it was entitled to even further. The real basis for Defendants’ objections is not any dispute with the fees incurred, but is an attempt to eliminate the people who know the most about the claims against Sullivan and others.

### **Twelfth Objection**

Moss’s twelfth objection relates to the two lawsuits that Berger Singerman filed in December 2012 to preserve the Partnerships’ claims against certain partners and other bad actors in light of the potentially looming statute of limitations. Berger Singerman incurred fees and costs preparing and filing those lawsuits, and Berger Singerman has sought reimbursement from the Partnerships for those fees and costs.

The Conservator recently filed a motion to retain Berger Singerman as counsel for those two lawsuits on a contingency fee basis. That motion is pending before this Court. Moss argues that any attorney’s fees and costs incurred by Berger Singerman related to those two lawsuits

should be subject to the contingency fee agreement and should not be reimbursed on an hourly basis. That result would be inequitable.

As set forth above, aside from the Partnerships' funds that were previously being held hostage by Chaitman, the only remaining assets of the Partnerships were lawsuits that the Partnerships could have filed against certain bad actors and partners who received amounts from the Partnerships that they were not entitled to. The statute of limitations for those lawsuits may have been rapidly drawing to a close in December 2012. The urgency of the situation was even more pressing because Sullivan refused to sign a tolling agreement that would allow the Partnerships to assert claims at a later date.

As a result, and in order to preserve lawsuits for the Partnerships that may potentially recover assets of the Partnerships, Berger Singerman incurred fees and costs -- at a substantially discounted rate -- to prepare and file those lawsuits. That work was not subject to any agreement regarding a contingency fee arrangement. To now subject the fees and costs incurred to prepare those lawsuits to the contingency agreement would be inequitable given that Berger Singerman acted in good faith and prepared those lawsuits for the benefit of the Partnerships.

### **Thirteenth Objection**

Moss's thirteenth objection is not an objection to Berger Singerman's or GlassRatner's applications for reimbursement. Berger Singerman defers to the Conservator on this matter.

### **Fourteenth Objection**

Moss's objection here is that there is no basis for Berger Singerman and GlassRatner to request reimbursement for any fees at all. Jacob joins in this objection. Jacob Objection ¶ 1.

First, the parties previously agreed on the method of seeking reimbursement and determining who would be able to seek reimbursement. The Conservator Order specifically



allows “any accountants, attorneys, consultants and other professionals that have purported to incur costs and fees on behalf of the Partnerships prior to the date of this Order may submit an application . . . to be reimbursed by the Partnerships for those amounts.” Moss, Sullivan, and Jacob were previously represented by the same counsel. Their counsel had the opportunity to review and make comments to the proposed Conservator Order prior to its submission to this Court. They did so without any objections to the final Order that was submitted to this Court. Therefore, they should be estopped from objecting to it now.

Second, Moss argues that the Conservator’s citation to *Florida Patient’s Compensation Fund v. Rowe*, 472 So.2d 1145 (Fla.1985) does not establish that Berger Singerman and GlassRatner are entitled to request attorney’s fees. However, Moss is confusing the issue. That case is not cited to establish any entitlement to request attorney’s fees. Instead, “*Florida Patient’s Compensation Fund v. Rowe*, 472 So.2d 1145 (Fla.1985), sets forth the method that trial courts use for calculating a reasonable attorney’s fee.” *Genser v. Reef Condo. Ass’n, Inc.*, 100 So. 3d 760, 761 (Fla. 4th DCA 2012).

Finally, Moss urges this Court to rely on *Hampton’s Estate v. Fairchild-Florida Const. Co.*, 341 So. 2d 759 (Fla. 1976) to decide if a party is entitled to request attorney’s fees. However, Moss’s own citation to *Hampton’s Estate* supports Berger Singerman’s and GlassRatner’s entitlement to fees here. Any fees incurred on behalf of the Partnerships are properly awardable to Berger Singerman and GlassRatner because the Partnerships have been benefitted by those fees and costs and “equity allows attorneys’ fees from a fund or estate which has been benefitted by the rendering of legal services.” *Id.* at 761.

### **Fifteenth Objection**

Moss argues that GlassRatner is an “expert witness” and that Florida Statutes do not require the award of fee’s for expert witnesses.

As set forth above, GlassRatner’s request for reimbursement is not based on Florida Statute, but is instead based on the Conservator Order, which, as set forth above, specifically includes “any accountants” among the parties who may seek reimbursement from the Partnerships. *See* Conservator Order.

Further, based on their prior approval of the Conservator Order, Moss, Jacob, and Sullivan should be judicially estopped from objecting to GlassRatner’s request for reimbursement of fees pursuant to it now.

#### **Sixteenth Objection**

Moss’s sixteenth objection is that the fees requested by Berger Singerman and GlassRatner are not reasonable and the Conservator has failed to provide proof of applying the standards set forth in *Rowe*. Jacob similarly argues that the fees requested are not reasonable.

Here, the Conservator, as a neutral and independent party, has reviewed Berger Singerman’s and GlassRatner’s fees and determined that they are reasonable. As stated in the Conservator’s Fee Report, the Conservator used the factors set forth in *Rowe* – in conjunction with voluntary reductions in the fees requested from both Berger Singerman and GlassRatner that were described above – to determine that the fees and costs they requested were reasonable. Moss’s and Jacob’s conclusory objections to the contrary are meritless.

Sullivan additionally makes the following objections:

#### **Sullivan Objection 1**

Sullivan argues that based on the caption of this action – which indicates that the Plaintiffs are certain partners in the Partnerships – Berger Singerman and GlassRatner

represented the Plaintiffs, they did not represent the interest of the Partnerships, and therefore they should not be entitled to any fees from the Partnerships (Sullivan Objection ¶¶ 9, 10, 13, 14, 15). Sullivan's objection ignores the relevant facts.

Sullivan refused to cede control of the Partnerships and their books and records after he was validly removed as Managing General Partner after elections at the special meetings. For that reason, this case had to be brought in the name of the Plaintiffs rather than the Partnerships. The fact that certain partners are the Plaintiffs in this action does not change the fact that any costs and fees incurred by Berger Singerman and GlassRatner were incurred on behalf of the Partnerships.

### **Sullivan Objection 2**

Sullivan's second objection is that Smith did not have authority to engage Berger Singerman and GlassRatner (Sullivan Objection ¶¶ 3-8, 11-12) because he – Sullivan – did not review the Partnership Agreements prior to agreeing to the entry of this Court's Agreed Order – even though he was represented by counsel at the time and the Partnership Agreements are the operative documents governing the Partnerships for the past 20 years. He argues that if he had read the Partnership Agreement, he would have known he could not have authorized Smith's appointment as Managing General Partner.

Pursuant to the Agreed Order, *inter alia*, Sullivan resigned as Managing General Partner of the "Partnerships and Smith was deemed in his stead to be sole Managing General Partner of both Partnerships. See Exhibit D. Furthermore, Sullivan agreed that "he does not now and will not in the future challenge the appointment of Ms. Smith as Managing General Partner on August 17, 2012." *Id.*

Sullivan's argument that he did not have the authority to authorize the appointment of

Smith is irrelevant. Smith was properly elected as Managing General Partner of the Partnerships. Smith's election as Managing General Partner was not contingent on Sullivan's consent or authorization. After those elections, Sullivan refused to step down as Managing General Partner or turn over the books and records of the Partnerships. As a result, this action was commenced against him. He then agreed to the Agreed Order under which he consented to Smith being the Managing General Partner. The fact that Sullivan did not read the Partnership Agreement has no bearing on the propriety of the Agreed Order or the fact that Smith was properly elected as Managing General Partner. Moreover, this objection necessarily challenges Smith's appointment as Managing General Partner in violation of the Agreed Order.

### **CONCLUSION**

WHEREFORE, Berger Singerman respectfully requests that the objections of Moss, Sullivan, and Jacob be overruled and denied in their entirety, that the recommendations set forth in the Conservator's Fee Report be adopted with respect to Berger Singerman and GlassRatner, and that the Court grant such other and further relief as the Court deems necessary.

Dated: May 9, 2013

Respectfully Submitted,

BERGER SINGERMAN LLP  
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By: s/LEONARD K. SAMUELS  
Leonard K. Samuels  
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Etan Mark  
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**AMENDED AND RESTATED**  
**PARTNERSHIP AGREEMENT**

This AMENDED & RESTATED Partnership Agreement (the "Agreement") is MADE AND ENTERED INTO THIS 21ST DAY OF DECEMBER, 1994 by and among the party or parties whose names and signatures appear personally or by power of attorney at the end of this Agreement and whose addresses are listed on Exhibit "A" annexed hereto (information regarding other Partners will be furnished to a Partner upon written request) (COLLECTIVELY, THE "PARTNERS"). THE TERM "PARTNER" SHALL ALSO APPLY TO ANY INDIVIDUAL WHO, SUBSEQUENT TO THE DATE OF THIS AGREEMENT, JOINS IN THIS AGREEMENT OR ANY ADDENDUM TO THIS AGREEMENT.

WHEREAS, THE PARTNERS, ENTERED A PARTNERSHIP AGREEMENT DATED DECEMBER 11, 1992, ("PARTNERSHIP AGREEMENT"); AND

WHEREAS, PURSUANT TO ARTICLE THIRTEEN OF THE PARTNERSHIP AGREEMENT, THE PARTNERS RESERVED THE RIGHT TO AMEND OR MODIFY IN WRITING AT ANY TIME THE PARTNERSHIP AGREEMENT; AND

WHEREAS, THE PARTNERS BELIEVE IT TO BE IN THEIR BEST INTEREST AND ALSO THE BEST INTEREST OF THE PARTNERSHIP TO AMEND, REVISE AND RESTATE THE TERMS AND CONDITIONS OF THE PARTNERSHIP AGREEMENT.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES MADE HEREIN AND IN CONSIDERATION OF THE BENEFIT TO BE RECEIVED FROM THE MUTUAL OBSERVANCE OF THE COVENANTS MADE HEREIN, AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, THE PARTNERS AGREE AS FOLLOWS:

Background

The Partners desire to form a general partnership for the purpose of engaging in the business of investing. For and in consideration of the mutual covenants contained herein, the Partners hereby form, create and agree to associate themselves in a general partnership in accordance with the Florida Uniform Partnership Law, on the terms and subject to the conditions set forth below:

ARTICLE ONE

ORGANIZATION

Name

1.01 The activities and business of the partnership shall be conducted under the name S & P Associates, General Partnership (the "Partnership") in Florida, and under any variations of this name that may be necessary to comply with the laws of other states within which the Partnership may do business or make investments.

Organization

1.02 The Partnership shall be organized as a general partnership under the Uniform Partnership Law of the state of Florida. Following the execution of this Agreement, the partners shall execute or cause to be executed and filed any documents or instruments with such authorities that may be necessary or appropriate from time to time to comply with all requirements for the qualification of the Partnership as a general partnership in any jurisdiction.



### **Place of Business and Mailing Address**

1.03 The principle place of business and mailing address of the Partnership shall be located at 6550 North Federal Highway, Suite 210, Ft. Lauderdale, FL 33308, or any such place or places of business that may be designated by the Managing General Partners.

## **ARTICLE TWO**

### **PURPOSE OF THE PARTNERSHIP**

#### **By Consent of Partners**

2.01 The Partnership shall not engage in any business except as provided in this Agreement without prior written consent of all Partners.

2.02 The general purpose of the Partnership is to invest, in cash or on margin, in all types of marketplace securities, including, without limitation, the purchase and sale of and dealing in stocks, bonds, notes and evidences in indebtedness of any person, firm, enterprise, corporation or association, whether domestic or foreign; bills of exchange and commercial paper; any and all other securities of any kind, nature of description; and gold, silver, grain, cotton or other commodities and provisions usually dealt in on exchanges, on the over-the-counter market or otherwise. In general, without limitation of the above securities, to conduct any commodities, future contracts, precious metal, options and other investment vehicles of whatever nature. The Partnership shall have the right to allow OR TERMINATE a specific broker, or brokers, as selected by fifty-one (51) Percent in interest, not in numbers, of the Partners, and allow such broker, or brokers, AS SELECTED BY FIFTY-ONE PERCENT (51%) IN INTEREST, NOT IN NUMBERS, OF THE PARTNERS, to have discretionary investment powers with the investment funds of the Partnership.

## **ARTICLE THREE**

### **DURATION**

#### **Date of Organization**

3.01 The Partnership shall begin on January 1, 1993 and shall continue until dissolved as specifically provided in this Agreement or by applicable law.

## **ARTICLE FOUR**

### **CAPITAL CONTRIBUTIONS**

#### **Initial Contributions**

4.01 The Partners acknowledge that each Partner shall be obligated to contribute and will, on demand, contribute to the Partnership the amount of cash set out opposite the name of each Partner on Exhibit A as an initial capital contribution.

#### **Additional Contributions**

4.02 No Partner shall be required to contribute any capital or lend any funds to the Partnership except as provided in Section 4.01 or as may otherwise be agreed on by all of the Partners.

#### **Contributions Secured**

4.03 Each Partner grants to the Managing General Partners a lien on his or her interest in the Partnership to secure payment of all contributions and the performance of all obligations required or permitted under this agreement.

#### **No Priority**

4.04 No Partner shall have any priority over any other Partner as to allocations of profits, losses, dividends, distributions or returns of capital contributions, and no Partner shall be entitled to withdraw any part of their capital contribution without at least THIRTY (30) DAYS written notice.

#### **Capital Accounts**

4.05 An individual capital account shall be maintained for each Partner. The capital account shall consist of that Partner's initial capital contribution:

- a. increased by his or her additional contributions to capital and by his or her share of Partnership profits transferred to capital; and
- b. decreased by his or her share of partnership losses and by distributions to him or her in reduction of his or her capital.

#### **No Interest on Capital**

No Partner shall be entitled to interest on his or her contribution to capital of the Partnership.

### **ARTICLE FIVE**

#### **ALLOCATIONS AND DISTRIBUTIONS**

##### **Allocation of Profits and Losses**

5.01 The capital gains, capital losses, dividends, interest, margin interest expense, and all other profits and losses attributable to the Partnership shall be allocated among the Partners IN THE RATIO EACH PARTNER'S CAPITAL ACCOUNT BEARS TO THE AGGREGATE TOTAL CAPITAL CONTRIBUTION OF ALL THE PARTNERS ON AN ACTUAL DAILY BASIS COMMENCING ON THE DATE OF EACH PARTNER'S ADMISSION INTO THE PARTNERSHIP AS FOLLOWS: TWENTY PERCENT (20%) TO THE MANAGING GENERAL PARTNERS AND EIGHTY PERCENT (80%) TO THE PARTNERS.

##### **DISTRIBUTIONS**

5.02 Distributions of PROFITS shall be made at least once per year, and may be made at such other time as the Managing General Partners shall in their sole discretion determine, and upon the Partnership's termination. Partners shall also have the election to receive such distributions within ten (10) days after the end of each calendar quarter, or to have such distributions remain in the Partnership, thus increasing the Partner's capital contribution. CASH FLOW SHALL BE DISTRIBUTED AMONG ALL THE PARTNERS, IN THE RATIO EACH PARTNER'S CAPITAL ACCOUNT BEARS TO THE AGGREGATE TOTAL CAPITAL CONTRIBUTION OF ALL THE PARTNERS ON AN ACTUAL DAILY BASIS COMMENCING ON THE DATE OF EACH PARTNER'S ADMISSION INTO THE PARTNERSHIP, FOR ANY FISCAL YEAR AS FOLLOWS: TWENTY PERCENT (20%) TO THE MANAGING GENERAL PARTNERS AND EIGHTY PERCENT (80%) TO THE PARTNERS.

## ARTICLE SIX

### OWNERSHIP OF PARTNERSHIP PROPERTY

#### Title to Partnership Property

6.01 All property acquired by the Partnership shall be owned by and in the name of the Partnership, that ownership being subject to the other terms and conditions of this Agreement. Each Partner expressly waives the right to require partition of any Partnership property or any part of it. The Partners shall execute any documents that may be necessary to reflect the Partnership's ownership of its assets and shall record the same in the public offices that may be necessary or desirable in the discretion of the Managing General Partner.

## ARTICLE SEVEN

### FISCAL MATTERS

#### Title to Partnership Property Accounting

7.01 A complete and accurate inventory OF THE PARTNERSHIP shall be taken BY THE MANAGING GENERAL PARTNERS, and a complete and accurate statement of the condition of the Partnership shall be made and an accounting among the Partners shall be MADE ANNUALLY per fiscal year BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTING FIRM. NOT LATER THAN NINETY (90) DAYS AFTER THE END OF THE PARTNERSHIP'S FISCAL YEAR THE PARTNERSHIP'S INDEPENDENT PUBLIC ACCOUNTING FIRM SHALL TRANSMIT TO THE PARTNERS A COPY OF THE CURRENT PARTNERSHIP TAX RETURN TOGETHER WITH FORM K-1. The profits and losses of the preceding year, to the extent such shall exist and shall not have been divided and paid or distributed previously, shall then be divided and paid or distributed, or otherwise retained by the agreement of the Partners. Distributions SHALL BE made at such time(s) as the General Managing Partners shall in their discretion deem necessary and appropriate.

#### Fiscal Year

7.02 The fiscal year of the Partnership for both accounting and Federal income tax purposes shall begin on January 1 of each year.

#### Books and Records

7.03 PROPER AND COMPLETE BOOKS OF ACCOUNT OF THE BUSINESS OF the Partnership shall be KEPT BY THE MANAGING GENERAL PARTNERS AND maintained at the offices of the Partnership. Proper books and records shall be kept with reference to all Partnership transactions. Each Partner or his or her authorized representative shall have access to AND THE RIGHT TO AUDIT AND /OR REVIEW the Partnership books and records at all reasonable times during business hours.

#### Method of Accounting

7.04 The books of account of the Partnership shall be kept on a cash basis.



#### **Expenses**

7.05 All rents, payments for office supplies, premiums for insurance, professional fees and disbursements, and other expenses incidental to the Partnership business shall be paid out of the Partnership profits or capital and shall, for the purpose of this Agreement, be considered ordinary and necessary expenses of the Partnership deductible before determination of net profits.

### **ARTICLE EIGHT MANAGEMENT AND AUTHORITY**

#### **Management and Control**

8.01 Except as expressly provided in the Agreement, the management and control of the day-to-day operations of the Partnership and the maintenance of the Partnership property shall rest exclusively with the Managing General Partners, Michael D. Sullivan and Greg Powell. Except as provided in Article FIVE Section 5.01, the Managing General Partners shall receive no salary or other compensation for their services as such. The Managing General Partners shall devote as much time as they deem necessary or advisable to the conduct and supervision of the Partnership's business. The Managing General Partners may engage in any activity for personal profit or advantage without the consent of the Partners.

#### **Powers of Managing General Partners**

8.02 The Managing General Partners are authorized and empowered to carry out and implement any and all purposes of the Partnership. In that connection, the powers of the General Managing Partners shall include but shall not be limited to the following:

- a. to engage, fire or terminate personnel, attorneys, accountants or other persons that may be deemed necessary or advisable
- b. to open, maintain and close bank or investment accounts and draw checks, drafts or other orders for the payment of money
- c. to borrow money; to make, issue, accept, endorse and execute promissory notes, drafts, loan agreements and other instruments and evidences of indebtedness on behalf of the Partnership; and to secure the payment of indebtedness by mortgage, hypothecation, pledge or other assignment or arrangement of security interests in all or any part of the property then owned or subsequently acquired by the Partnership.
- d. to take any actions and to incur any expense on behalf of the Partnership that may be necessary or advisable in connection with the conduct of the Partnership's affairs.
- e. to enter into, make and perform any contracts, agreements and other undertakings that may be deemed necessary or advisable for the conducting of the Partnership's affairs
- f. to make such elections under the tax laws of the United States and Florida regarding the treatment of items of Partnership income, gain, loss, deduction or credit and all other matters as they deem appropriate or necessary.
- g. TO ADMIT PARTNERS INTO THE PARTNERSHIP NOT EXCEEDING ONE HUNDRED AND FIFTY (150) PARTNERS UNLESS THE PARTNERS HAVE APPROVED PURSUANT TO SECTION 14.04 THE ADMISSION INTO THE PARTNERSHIP OF MORE THAN ONE HUNDRED AND FIFTY (150) PARTNERS.

### **Restrictions on Partners**

8.03 Without the prior consent of the Managing General Partners or all of the other partners, no other Partner may act on behalf of the Partnership to: (i) borrow or lend money; (ii) make, deliver or accept any commercial paper; (iii) execute any mortgage, security agreement, bond or lease; or (iv) purchase or sell any property for or of the Partnership.

### **Meetings of the Partners**

8.04 The Partners shall hold regular quarterly meetings on the 3rd Tuesday during the months of January, April, July, and October at 1:00 p.m. at the principle office of the Partnership. In the event such Tuesday falls on a declared Holiday, such meeting will take place the next following business day. In addition fifty-one percent (51%) in interest, not in numbers, of the Partners may call a special meeting to be held at any time after the giving of twenty (20) days' notice to all of the Partners. Any Partner may waive notice of or attendance at any meeting of the Partners, may attend by telephone or any other electronic communication device, or may execute a signed written consent to representation by another Partner or representative. At the meeting, Partners WILL REVIEW THE ENGAGEMENT WITH THE PARTNERSHIP OF ANY BROKER OR BROKERS AND shall transact any business that may properly be brought before the meeting. the Partners shall designate someone to keep regular minutes of all the proceedings. the minutes shall be placed in the minute book of the Partnership.

### **Action without Meeting**

8.05 Any action required by statute or by this Agreement to be taken at a meeting of the Partners or any action that may be taken at a meeting of the Partners may be taken without a meeting if a consent in writing, setting forth the action taken or to be taken, shall be signed by all of the Partners entitled to vote with respect to the subject matter of the consent. That consent shall have the same force and effect as a unanimous vote of the Partners. Any signed consent, or a signed copy thereof, shall be placed in the minute book of the Partnership.

### **Death, Removal or Appointment of Managing General Partner**

8.06 ANY MANAGING GENERAL PARTNER MAY BE REMOVED WITH OR WITHOUT CAUSE AS DETERMINED BY THE AFFIRMATIVE VOTE OF FIFTY-ONE PERCENT (51%) in interest, not in numbers, of Partners. In the event of any such removal, the removed Managing General Partner shall not be relieved of his obligations OR LIABILITIES to the Partnership and to the other Partners resulting from the events, actions, or transactions occurring during the period in which such remove Managing General Partner served as a Managing General Partner. From and after the effective date of such removal, however, the removed Managing General Partner may be deemed to be a Partner, shall forfeit all rights and obligations of a Managing General Partner, and thereafter shall have the same rights and obligations as a Partner. A MANAGING GENERAL PARTNER SHALL BE APPOINTED BY THE AFFIRMATIVE VOTE OF FIFTY-ONE PERCENT (51%) IN INTEREST, NOT IN NUMBERS, OF THE PARTNERS. THE PARTNERSHIP SHALL HAVE AS MANY MANAGING GENERAL PARTNERS AS THE PARTNERS BY THE AFFIRMATIVE VOTE OF FIFTY-ONE (51%) IN INTEREST, NOT IN NUMBERS, OF THE PARTNERS SHALL DETERMINE TO BE IN THE BEST INTEREST OF THE PARTNERSHIP. ON THE DEATH OR INCOMPETENCY OF A MANAGING GENERAL PARTNER, ANY CO-MANAGING GENERAL PARTNER SHALL CONTINUE AS THE MANAGING GENERAL PARTNER OR, IF THERE SHALL BE NO CO-MANAGING GENERAL PARTNER, THEN THE PARTNERS SHALL, WITHIN TEN (10) DAYS OF SUCH DEATH OR DECLARATION OF INCOMPETENCY, APPOINT A NEW MANAGING GENERAL PARTNER IN ACCORDANCE WITH THE TERMS PROVIDED IN THIS AGREEMENT.

## ARTICLE NINE

### TRANSFERS AND ASSIGNMENTS No Transfer of Assignment Without Consent

9.01 No Partner's interest may be transferred or assigned without the express written consent of fifty-one percent (51%) in interest, not in number, of the Partners provided, however, that a Partner's interest may be transferred or assigned to a party who at the time of the transfer or assignment is a Partner. Any transferee or assignee to whom an interest in the Partnership has been transferred or assigned and who is not at the time of the transfer or assignment to a party to this Agreement shall be entitled to receive, in accordance with the terms of the transfer or assignment, the net profits to which the assigning Partner would otherwise be entitled. Except as provided in the preceding sentence, the transferee or assignee shall not be a Partner and shall not have any of the rights of the Partner, unless and until the transferee or assignee shall have (i) received the approval of the Partners as provided IN THIS AGREEMENT, and (ii) accepted and assumed, in writing, the terms and conditions of this Agreement.

### Death or Incompetency of Partner

9.02 Neither the death or incompetency of a Partner shall cause the dissolution of the Partnership. On the death or incompetency of any Partner, the Partnership business shall be continued and the surviving Partners shall have the option to allow the assets of the deceased or incompetent Partner to continue in the deceased or incompetent Partner's HEIR'S OR SUCCESSOR'S place, or to terminate the deceased or incompetent partner's interest and return to the estate his or her interest in the partnership.

B. If the surviving Partners elect to allow the estate of a deceased Partner to continue in the deceased Partner's place, the estate shall be bound by the terms and provisions of this Agreement. However, in the event that the interest of a deceased Partners does not pass in trust or passes to more than one heir or devisees or, on termination of a trust, is distributed to more than one beneficiary, then the Partnership shall have the right to terminate immediately the deceased Partner's interest in the Partnership. In that event, the Partnership shall return to the deceased Partner's heirs, devisees or beneficiaries, in cash, the value of the Partnership interest as calculated in ARTICLE ELEVEN as of the date of termination.

### Withdrawals of Partners

9.03 Any Partner may withdraw from the Partnership at any given time; provided, however, that the withdrawing Partner shall give at least thirty (30) days written notice. THE PARTNERSHIP SHALL, WITHIN THIRTY (30) DAYS OF RECEIVING NOTICE OF THE PARTNER'S WITHDRAWAL, PAY the withdrawing Partner, in cash, the value of his or her Partnership interest as calculated in ARTICLE ELEVEN as of the date of withdrawal. the withdrawing Partner or his or her legal representative shall execute such documents and take further actions as shall reasonable be required to effectuate the termination of the withdrawing Partner's interest in the Partnership.

## ARTICLE TEN

### TERMINATION OF PARTNERS

#### Events of Default

10.01 The following events shall be deemed to be defaults by a Partner:

- a. the failure to make when due any contribution or advance required to be made under the terms of this agreement and continuing that failure for a period of ten (10) days after written notice of the failure from the Managing general Partners.
- b. the violation of any of the other provisions of this Agreement and failure to remedy or cure that violation within (10) days after written notice of the failure from the Managing General Partners.
- c. THE INSTITUTION OF PROCEEDINGS UNDER ANY LAW OF THE UNITED STATES OR OF ANY STATE FOR THE RELIEF OF DEBTORS, FILING A VOLUNTARY PETITION IN BANKRUPTCY OR FOR AN ARRANGEMENT OR REORGANIZATION OR ADJUDICATION TO BE INSOLVENT OR A BANKRUPT, MAKING AN ASSIGNMENT FOR THE BENEFIT OF CREDITORS.
- d. SUFFERING TO BE SEIZED BY A RECEIVER, TRUSTEE, OR OTHER OFFER APPOINTED BY ANY COURT OR ANY SHERIFF, CONSTABLE, MARSHALL OR OTHER SIMILAR GOVERNMENT OFFICER, UNDER LEGAL AUTHORITY, ANY SUBSTANTIAL PORTION OF ITS ASSETS OR ALL OR ANY PART OF ANY INTEREST THE PARTNER MAY HAVE IN THIS PARTNERSHIP AND SUCH IS HELD IN SUCH OFFICER'S POSSESSION FOR A PERIOD OF THIRTY (30) DAYS OR LONGER.
- e. the appointment of a receiver for all or substantially all of the Partner's assets and the failure to have the receiver discharged within ninety (90) days after the appointment.
- f. the bringing of any legal action against the Partner by his or her creditor(s), resulting in litigation that, in the opinion of the General Managing Partners or fifty-one (51) percent in interest, not in numbers, of the other Partners, creates a real and substantial risk of involvement of the Partnership property.
- g. THE COMMITTING OR PARTICIPATION IN AN INJURIOUS ACT OF FRAUD, GROSS NEGLIGENCE, MISREPRESENTATION, EMBEZZLEMENT OR DISHONESTY AGAINST THE PARTNERSHIP, OR COMMITTING OR PARTICIPATING IN ANY OTHER INJURIOUS ACT OR OMISSION WANTONLY, WILLFULLY, RECKLESSLY, OR IN A MANNER WHICH WAS GROSSLY NEGLIGENT AGAINST THE PARTNERSHIP, MONETARILY OR OTHERWISE, OR BEING CONVICTED OF ANY ACT OR ACTS CONSTITUTING A FELONY OR MISDEMEANOR, OTHER THAN TRAFFIC VIOLATIONS, UNDER THE LAWS OF THE UNITED STATES OR ANY STATE THEREOF.

10.02 On the occurrence of an event of a default by a Partner, fifty-one (51) percent in interest, not in numbers, or more of the other Partners shall have the right to elect to terminate the interest of the defaulting Partner without affecting a termination of the Partnership. This election may be made at any time within one (1) year from the date of default, on giving the defaulting Partner five (5) days written notice of the election, provided the default is continuing on the date the notice is given. The defaulting Partner's interest shall be returned to him or her in accordance with the provisions of ARTICLE ELEVEN OF THIS AGREEMENT.

The defaulting Partner's Partnership interest shall be reduced by the aggregate amount of any

outstanding debts of the defaulting Partner to the Partnership and also by all damages caused to the Partnership by the default of the defaulting Partner.

On return to the defaulting Partner of his or her interest in the Partnership, the defaulting Partner shall have no further interest in the Partnership or its business or assets and the defaulting Partner shall execute and deliver as required any assignments or other instruments that may be necessary to evidence and fully AND effectively transfer the interest of the defaulting Partner to the non-defaulting Partners. If the appropriate instruments are not delivered, after notice by the Managing General Partner that the interest is available to the defaulting Partner, the Managing General Partner may tender delivery of the interest to the defaulting Partner and execute, as the defaulting Partner's POWER OF ATTORNEY, any instruments AS ABOVE REFERENCED. All parties agree that the General Managing Partners shall not have any individual liability for any actions taken in connection HERETO.

No assignment, transfer OR TERMINATION of a defaulting Partner's INTEREST as provided in this Agreement shall relieve the defaulting Partner from any personal liability for outstanding indebtedness, liabilities, liens or obligations relating to the Partnership that may exist on the date of the assignment, transfer OR TERMINATION. The default of any Partner under this Agreement shall not relieve any other Partner from his, her or its interest in the Partnership.

#### Foreclosure for Default

10.03 If a Partner is in default under the terms of this Agreement, the lien provided for in Article four, Section 4.03 may be foreclosed by the Managing General Partner at the option of fifty-one (51) percent IN INTEREST, NOT IN NUMBERS, of the non-defaulting Partners.

#### Transfer by Attorney-in-Fact

10.04 Each Partner makes, constitutes, and appoints the Managing General Partners as the Partner's attorney-in-fact in the event that the Partner becomes a defaulting Partner whose interest in the Partnership has been foreclosed in the manner prescribed in this Article Ten. On foreclosure, the Managing General Partners are authorized and allowed to execute and deliver a full assignment or other transfer of the defaulting partner's interest in the Partnership and at the Managing General Partners shall have no liability to any person for making the assignment or transfer.

#### Additional Effects of Default

10.05 Pursuit of any of the remedies permitted by this Article Ten shall not preclude pursuit of any other remedies allowed by law, nor shall pursuit of any remedy provided in this Agreement constitute a forfeiture or waiver of any amount due to the PARTNERSHIP OR remaining partners or of any damages accruing to IT OR them by reason of the violation of any of the terms, provisions and covenants contained in this Agreement.

### ARTICLE ELEVEN VALUATION OF PARTNERSHIP INTERESTS Purchase Price of Partnership Interests

11.01 The full purchase price of the Partnership interest of a deceased, incompetent, withdrawn or terminated Partner shall be an amount equal to the Partner's capital and income accounts as they appear on the Partnership books on the date of death, incompetence, withdrawal or termination and adjusted to include the Partner's distributive share of any Partnership net profits or losses not previously credited to or charged against the income and capital accounts. In determining the amount payable under this Section, no value shall be attributed to the goodwill of the Partnership, and adequate provision shall be made for any existing contingent liabilities of the Partnership.

## ARTICLE TWELVE

### TERMINATION OF THE PARTNERSHIP

#### Termination Events

12.01 The Partnership SHALL be terminated AND DISSOLVED UPON THE FIRST TO OCCUR OF THE FOLLOWING:

- a. UPON THE SALE OF ALL OR SUBSTANTIALLY ALL OF THE ASSETS OF THE PARTNERSHIP, UNLESS SUCH ASSETS ARE REPLACED BY SIMILAR ASSETS WITHIN A REASONABLE TIME FOR THE PURPOSE OF CONTINUING THE PARTNERSHIP BUSINESS;
- b. at any time on the WRITTEN affirmative vote of AT LEAST fifty-one (51) percent in interest, not in numbers, of the Partners; AND
- c. except as otherwise provided in this Agreement, on the occurrence of any other event that under the Uniform Partnership Law would require the dissolution of general Partnership.

#### Distribution of Assets

12.02 On termination, the Partnership' business shall be wound up as timely as in practical under the circumstances; the Partnership's assets shall be applied as follows: (i) first to payment of the outstanding Partnership liabilities; (ii) then to a return of the Partner's capital in accordance with their Partnership interests. Any remainder shall be distributed according to the terms of Article Five; provided, however, that the Managing General Partners may retain a reserve in the amount they determine advisable for any contingent liability until such time as that liability is satisfied or discharged. If the Partner's capital has been returned, then the balance of the reserve shall be distributed in accordance with Article Five, otherwise, capital shall be returned in accordance with their Partnership interests, and then any remaining sums shall be distributed in accordance with Article Five.

## ARTICLE THIRTEEN

### AMENDMENTS

#### In Writing

13.01 Subject to the provisions of Article 8.01 and 8.02, this Agreement, except with respect to vested rights of any Partner, may be amended or modified in writing at any time by the agreement of Partners owning collectively at least fifty-one (51) percent in interest, not in numbers, in the Partnership.

## ARTICLE FOURTEEN

### MISCELLANEOUS

#### Partners

14.01 THE PARTNERSHIP MAY ADMIT AS A PARTNER ANY CORPORATION, INCLUDING AN ELECTING SMALL BUSINESS CORPORATION ("S CORPORATION") AS THAT TERM IS DEFINED IN THE INTERNAL REVENUE CODE OF 1986, AS AMENDED ("IRC"), CERTAIN EMPLOYEE BENEFIT PLANS INCLUDING PENSION PLANS, AND CERTAIN TAX EXEMPT ORGANIZATIONS, INCLUDING INDIVIDUAL RETIREMENT ACCOUNTS ("IRA"), AS DEFINED IN THE IRC. IT WILL BE THE OBLIGATION OF ANY CORPORATE, BENEFIT PLAN, OR TAX EXEMPT ENTITY PARTNER TO COMPLY WITH ALL STATE AND FEDERAL LAWS, RULES AND REGULATIONS GOVERNING ITS EXISTENCE AS IT RELATES TO BECOMING A PARTNER IN THE PARTNERSHIP. WHETHER OR NOT AN ENTITY CAN BECOME A PARTNER OF THE PARTNERSHIP, WILL DEPEND UPON ITS CHARACTER AND LOCAL LAW. EACH PARTNER, IF NOT AN INDIVIDUAL, SHOULD CONSULT WITH THEIR OWN ATTORNEY AS TO ANY LIMITATIONS OR QUALIFICATIONS OF BEING A PARTNER IN THE PARTNERSHIP. THE PARTNERSHIP SHALL HAVE NO DUTY TO INQUIRE AND SHALL HAVE THE RIGHT TO ASSUME THAT ANY ENTITY APPLYING AND BECOMING A PARTNER IN THE PARTNERSHIP IS IN FACT UNDER ITS GOVERNING LAWS, ENTITLED TO BE A PARTNER IN THE PARTNERSHIP. THE PARTNERSHIP SHALL HAVE NO DUTY TO INQUIRE AND SHALL HAVE THE RIGHT TO ASSUME THAT ANY ENTITY APPLYING AND BECOMING A PARTNER IN THE PARTNERSHIP IS IN FACT UNDER ITS GOVERNING LAWS, ENTITLED TO BE A PARTNER IN THE PARTNERSHIP.

FURTHERMORE, A PARTNER, IF OTHER THAN AN INDIVIDUAL, WILL BE REQUIRED TO DESIGNATE TO THE MANAGING GENERAL PARTNER PRIOR TO ADMITTANCE IN THE PARTNERSHIP, A PERSON UPON WHOM ALL NOTICES RELATING TO THE PARTNERSHIP AND SHALL BE THE ONLY PERSON ON BEHALF OF THE PARTNER THE PARTNERSHIP WILL BE REQUIRED TO BE BOUND BY AND COMMUNICATE WITH WHEN NECESSARY. FURTHERMORE, AND IN THIS REGARD, ALL DISTRIBUTIONS TO BE MADE TO THE PARTNER PURSUANT TO THIS SECTION AND THIS AGREEMENT SHALL BE MADE ONLY TO THE PARTNER'S REPRESENTATIVE, IF NOT AN INDIVIDUAL, AND THE PARTNERSHIP SHALL NOT BE OBLIGATED TO MAKE DISTRIBUTIONS TO ANY OTHER PERSON WHO HAS AN INTEREST IN A PARTNER. PAYMENT TO SUCH PARTNER'S REPRESENTATIVE SHALL EXTINGUISH ALL LIABILITIES THE PARTNERSHIP MAY HAVE TO SUCH PARTNER.

#### IRA ACCOUNTS

14.02 NOTICE IS HEREBY GIVEN TO ANY PARTNER CONSISTING OF AN IRA ACCOUNT THAT THE PARTNERSHIP IS NOT ACTION AS A FIDUCIARY ON BEHALF OF THE IRA ACCOUNT.

#### LIMITATIONS ON LIABILITY

14.03 THE PARTNERS SHALL HAVE NO LIABILITY TO THE PARTNERSHIP OR TO ANY OTHER PARTNER FOR ANY MISTAKES OR ERRORS IN JUDGMENT, NOR FOR ANY ACT OR OMISSIONS BELIEVED IN GOOD FAITH TO BE WITHIN THE SCOPE OF AUTHORITY CONFERRED BY THIS AGREEMENT. THE PARTNERS SHALL BE LIABLE ONLY FOR ACTS AND/OR OMISSIONS INVOLVING INTENTIONAL WRONGDOING, FRAUD, AND BREACHES OF FIDUCIARY DUTIES OF CARE AND LOYALTY. ACTIONS OR OMISSIONS TAKEN IN RELIANCE UPON THE ADVICE OF LEGAL COUNSEL APPROVED BY FIFTY-ONE PERCENT (51%)

IN INTEREST, NOT IN NUMBERS, OF THE PARTNERS AS BEING WITHIN THE SCOPE CONFERRED BY THIS AGREEMENT SHALL BE CONCLUSIVE EVIDENCE OF GOOD FAITH; HOWEVER, THE PARTNERS SHALL NOT BE REQUIRED TO PROCURE SUCH ADVICE TO BE ENTITLED TO THE BENEFIT OF THIS SECTION. THE PARTNERS HAVE THE RESPONSIBILITY TO DISCHARGE THEIR FIDUCIARY DUTIES OF CARE AND LOYALTY AND THOSE ENUMERATED IN THIS AGREEMENT CONSISTENTLY WITH THE OBLIGATION OF GOOD FAITH AND FAIR DEALING.

#### Additional Partners

14.04 THE PARTNERSHIP MAY ADMIT UP TO ONE HUNDRED AND FIFTY (150) PARTNERS INTO THE PARTNERSHIP IN ACCORDANCE WITH SECTION 8.02. THE PARTNERSHIP SHALL HAVE THE RIGHT TO ADMIT MORE THAN ONE HUNDRED AND FIFTY (150) PARTNERS INTO THE PARTNERSHIP ONLY BY THE EXPRESS WRITTEN CONSENT OF FIFTY-ONE PERCENT (51%) IN INTEREST, NOT IN NUMBER, OF THE PARTNERS. ANY NEW OR ADDITIONAL PARTNER SHALL ACCEPT AND ASSUME IN WRITING THE TERMS AND CONDITIONS OF THIS AGREEMENT.

#### SUITABILITY

14.05 EACH PARTNER REPRESENTS TO THE PARTNERSHIP THAT IF THE PARTNER IS NOT AN ACCREDITED INVESTOR, AS DEFINED IN THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT") (AS DEFINED BELOW), THAT THEY WILL NOTIFY THE MANAGING GENERAL PARTNERS IN WRITING WITHIN TEN (10) DAYS FROM THE DATE OF THAT PARTNER'S ADMISSION INTO THE PARTNERSHIP. AN ACCREDITED INVESTOR AS DEFINED IN THE ACT IS: A NATURAL PERSON WHO HAD INDIVIDUAL INCOME OF MORE THAN \$200,000.00 IN EACH OF THE MOST RECENT TWO (2) YEARS OR JOINT INCOME WITH THEIR SPOUSE IN EXCESS OF \$300,000.00 IN EACH OF THE MOST RECENT TWO (2) YEARS AND REASONABLY EXPECTS TO REACH THAT SAME INCOME LEVEL FOR THE CURRENT YEAR; A NATURAL PERSON WHOSE INDIVIDUAL NET WORTH (I.E., TOTAL ASSETS IN EXCESS OF TOTAL LIABILITIES), OR JOINT NET WORTH WITH THEIR SPOUSE, AT THE TIME OF ADMISSION INTO THE PARTNERSHIP IS IN EXCESS OF \$1,000,000.00; A TRUST, WHICH TRUST HAS TOTAL ASSETS IN EXCESS OF \$5,000,000.00, WHICH IS NOT FORMED FOR THE SPECIFIC PURPOSE OF ACQUIRING THE PARTNERSHIP INTEREST HEREIN AND WHOSE INVESTMENT IS DIRECTED BY A SOPHISTICATED PERSON WHO HAS SUCH KNOWLEDGE AND EXPERIENCE IN FINANCIAL AND BUSINESS MATTERS THAT HE IS CAPABLE OF EVALUATING THE MERITS AND RISKS INVOLVED IN BECOMING A PARTNER; ANY ORGANIZATION DESCRIBED IN SECTION 501(c)(3) OF THE IRC, CORPORATION, MASSACHUSETTS OR SIMILAR BUSINESS TRUST, OR PARTNERSHIP, NOT FORMED FOR THE SPECIFIC PURPOSE OF ACQUIRING THE PARTNERSHIP INTEREST HEREIN, WITH TOTAL ASSETS IN EXCESS OF \$5,000,000.00; ANY PRIVATE BUSINESS DEVELOPMENT COMPANY AS DEFINED IN SECTION 3(a)(2) OF THE ACT OR ANY SAVINGS AND LOAN ASSOCIATION OR OTHER INSTITUTION AS DEFINED IN SECTION 3(a)(5) (A) OF THE ACT, WHETHER ACTING IN ITS INDIVIDUAL OR FIDUCIARY CAPACITY; ANY BROKER-DEALER REGISTERED PURSUANT TO SECTION 15 OR SECTION 2(13) OF THE ACT; ANY INVESTMENT COMPANY REGISTERED UNDER THE INVESTMENT COMPANY ACT OF 1940 OR A BUSINESS DEVELOPMENT COMPANY AS DEFINED IN SECTION 2(a)(48) OF THE ACT; ANY SMALL BUSINESS INVESTMENT COMPANY LICENSED BY THE U.S. SMALL BUSINESS ADMINISTRATION UNDER SECTION 301(c) OR (d) OF THE SMALL BUSINESS INVESTMENT ACT OF 1958; ANY PLAN ESTABLISHED AND MAINTAINED BY A STATE, ITS POLITICAL SUBDIVISION, OR ANY AGENCY OR INSTRUMENTALITY OF A STATE OR ITS POLITICAL SUBDIVISIONS, FOR THE BENEFIT OF ITS EMPLOYEES, IF SUCH PLAN HAS TOTAL ASSETS IN EXCESS OF \$5,000,000; ANY EMPLOYEE BENEFIT PLAN WITHIN THE MEANING OF



THE EMPLOYEE RETIREMENT INCOME SECURITIES ACT OF 1974, IF THE INVESTMENT DECISION IS MADE BY A PLAN FIDUCIARY, AS DEFINED IN SECTION 3(21) OF SUCH ACT, WHICH IS EITHER A BANK, SAVINGS AND LOAN ASSOCIATION, INSURANCE COMPANY, OR REGISTERED INVESTMENT ADVISOR, OR IF THE EMPLOYEE BENEFIT PLAN HAS TOTAL ASSETS IN EXCESS OF \$5,000,000.00, OR, IF A SELF-DIRECTED PLAN, WITH INVESTMENT DECISIONS MADE SOLELY BY PERSONS THAT ARE ACCREDITED INVESTORS; AND, ANY ENTITY WHICH ALL OF THE EQUITY OWNERS ARE ACCREDITED INVESTORS AS DEFINED ABOVE.

#### Notices

14.06 Unless otherwise provided herein, any notice or other communication herein required or permitted to be given shall be in writing and may be personally served, telecopies, telexed or sent by United States mail and shall be deemed to have been given when delivered in person, or upon receipt of telecopy or telex or three (3) business days after depositing it in the United States mail, registered or certified, when postage prepaid and properly addressed. For purposes thereof, the addresses of the parties hereto are as set forth in Exhibit "A" and may be changed if specified in writing and delivered in accordance with the terms of this Agreement.

#### FLORIDA LAW TO APPLY

14.07 THIS AGREEMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF FLORIDA WITHOUT REGARD TO THE PRINCIPLES OF CONFLICT OF LAWS.

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#### Disputes

14.08 The Partners shall make a good faith effort to settle any dispute or claim arising under this Agreement. If, however, the Partners shall fail to resolve a dispute or claim, the Partners shall submit it to arbitration before the Florida office of the American Arbitration Association. In any arbitration, the Federal rules of Civil Procedure and the Federal rules of Evidence, as then existing, shall apply. Judgment on any arbitration awards may be entered by any court of competent jurisdiction.

#### Headings

14.09 Section headings used in this Agreement are included herein for convenience or reference only and shall not constitute a part of this Agreement for any other purpose or be given any substantive effect.

#### Parties Bound

14.10 This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns when permitted by this Agreement.

#### Severability

14.11 In case any one or more of the provisions contained in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, that invalid, illegal or unenforceable provisions shall not affect any other provision contained IN THIS AGREEMENT.

#### **Counterparts**

14.12 This Agreement and any amendments, waivers, consents or supplements may be executed in any number of counterparts each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute by one and the same instrument.

#### **Gender and Number**

14.13 Whenever the context shall require, all words in this Agreement in the male gender shall be deemed to include the female or neuter gender AND VICE VERSA, AND all singular words shall include the plural, and all plural words shall include the singular.

#### **Prior Agreements Superseded**

14.14 This Agreement supersedes any prior understandings or written or oral agreements among the parties respecting the subject matter contained herein.

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)

*Douglas A. Shattuck*

Date: *December 9, 1999*

Date: \_\_\_\_\_

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.

EXHIBIT A (Title of Your Account)

Name, Address  
Telephone # and Fax #

Soc. Sec. # or  
Federal ID#

Capital Contribution

Festus Stacy Foundation

59-6698852

\$ 100,000.00

6550 N. Federal Hwy.

Suite 250

Ft. Lauderdale, FL 33308

Tel: 954-776-3386

Fax: 954-776-6469

FESTUS STACY FDN TWO TR  
8560 N FEDERAL HWY 250  
FT LAUDERDALE, FL 33308

EMMA Endowment  
Management Account

0551

25-83/440

DATE

December 9, 1999

\$ 100,000.00

100 DOLLARS IN

BY Merrill Lynch

BANK ONE BANK ONE COLUMBIA, VA

FOR *Christina*

100055111 10410008041 0411711357831

*Stephen A. Reynolds*

## **AMENDED AND RESTATED PARTNERSHIP AGREEMENT**

This AMENDED & RESTATED Partnership Agreement (the "Agreement") is MADE AND ENTERED INTO THIS 21ST DAY OF DECEMBER, 1994 by and among the party or parties whose names and signatures appear personally or by power of attorney at the end of this Agreement and whose addresses are listed on Exhibit "A" annexed hereto (information regarding other Partners will be furnished to a Partner upon written request) (COLLECTIVELY, THE "PARTNERS"). THE TERM "PARTNER" SHALL ALSO APPLY TO ANY INDIVIDUAL WHO, SUBSEQUENT TO THE DATE OF THIS AGREEMENT, JOINS IN THIS AGREEMENT OR ANY ADDENDUM TO THIS AGREEMENT.

WHEREAS, THE PARTNERS, ENTERED A PARTNERSHIP AGREEMENT DATED DECEMBER 11, 1992, ("PARTNERSHIP AGREEMENT"); AND

WHEREAS, PURSUANT TO ARTICLE THIRTEEN OF THE PARTNERSHIP AGREEMENT, THE PARTNERS RESERVED THE RIGHT TO AMEND OR MODIFY IN WRITING AT ANY TIME THE PARTNERSHIP AGREEMENT; AND

WHEREAS, THE PARTNERS BELIEVE IT TO BE IN THEIR BEST INTEREST AND ALSO THE BEST INTEREST OF THE PARTNERSHIP TO AMEND, REVISE AND RESTATE THE TERMS AND CONDITIONS OF THE PARTNERSHIP AGREEMENT.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES MADE HEREIN AND IN CONSIDERATION OF THE BENEFIT TO BE RECEIVED FROM THE MUTUAL OBSERVANCE OF THE COVENANTS MADE HEREIN, AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, THE PARTNERS AGREE AS FOLLOWS:

### **Background**

The Partners desire to form a general partnership for the purpose of engaging in the business of investing. For and in consideration of the mutual covenants contained herein, the Partners hereby form, create and agree to associate themselves in a general partnership in accordance with the Florida Uniform Partnership Law, on the terms and subject to the conditions set forth below:

### **ARTICLE ONE**

#### **ORGANIZATION**

##### **Name**

1.01 The activities and business of the partnership shall be conducted under the name P & S Associates, General Partnership (the "Partnership") in Florida, and under any variations of this name that may be necessary to comply with the laws of other states within which the Partnership may do business or make investments.

##### **Organization**

1.02 The Partnership shall be organized as a general partnership under the Uniform Partnership Law of the state of Florida. Following the execution of this Agreement, the partners shall execute or cause to be executed and filed any documents or instruments with such authorities that may be necessary or appropriate from time to time to comply with all requirements for the qualification of the Partnership as a general partnership in any jurisdiction.

#### Place of Business and Mailing Address

1.03 The principle place of business and mailing address of the Partnership shall be located at 6550 North Federal Highway, Suite 210, Ft. Lauderdale, FL 33308, or any such place or places of business that may be designated by the Managing General Partners.

### ARTICLE TWO

#### PURPOSE OF THE PARTNERSHIP

##### By Consent of Partners

2.01 The Partnership shall not engage in any business except as provided in this Agreement without prior written consent of all Partners.

2.02 The general purpose of the Partnership is to invest, in cash or on margin, in all types of marketplace securities, including, without limitation, the purchase and sale of and dealing in stocks, bonds, notes and evidences in indebtedness of any person, firm, enterprise, corporation or association, whether domestic or foreign; bills of exchange and commercial paper; any and all other securities of any kind, nature of description; and gold, silver, grain, cotton or other commodities and provisions usually dealt in on exchanges, on the over-the-counter market or otherwise. In general, without limitation of the above securities, to conduct any commodities, future contracts, precious metal, options and other investment vehicles of whatever nature. The Partnership shall have the right to allow OR TERMINATE a specific broker, or brokers, as selected by fifty-one (51) Percent in interest, not in numbers, of the Partners, and allow such broker, or brokers, AS SELECTED BY FIFTY-ONE PERCENT (51%) IN INTEREST, NOT IN NUMBERS, OF THE PARTNERS, to have discretionary investment powers with the investment funds of the Partnership.

### ARTICLE THREE

#### DURATION

##### Date of Organization

3.01 The Partnership shall begin on January 1, 1993 and shall continue until dissolved as specifically provided in this Agreement or by applicable law.

### ARTICLE FOUR

#### CAPITAL CONTRIBUTIONS

##### Initial Contributions

4.01 The Partners acknowledge that each Partner shall be obligated to contribute and will, on demand, contribute to the Partnership the amount of cash set out opposite the name of each Partner on Exhibit A as an initial capital contribution.

##### Additional Contributions

4.02 No Partner shall be required to contribute any capital or lend any funds to the Partnership except as provided in Section 4.01 or as may otherwise be agreed on by all of the Partners.

#### Contributions Secured

4.03 Each Partner grants to the Managing General Partners a lien on his or her interest in the Partnership to secure payment of all contributions and the performance of all obligations required or permitted under this agreement.

#### No Priority

4.04 No Partner shall have any priority over any other Partner as to allocations of profits, losses, dividends, distributions or returns of capital contributions, and no Partner shall be entitled to withdraw any part of their capital contribution without at least THIRTY (30) DAYS written notice.

#### Capital Accounts

4.05 An individual capital account shall be maintained for each Partner. The capital account shall consist of that Partner's initial capital contribution:

- a. increased by his or her additional contributions to capital and by his or her share of Partnership profits transferred to capital; and
- b. decreased by his or her share of partnership losses and by distributions to him or her in reduction of his or her capital.

#### No Interest on Capital

No Partner shall be entitled to interest on his or her contribution to capital of the Partnership.

### ARTICLE FIVE

#### ALLOCATIONS AND DISTRIBUTIONS

##### Allocation of Profits and Losses

5.01 The capital gains, capital losses, dividends, interest, margin interest expense, and all other profits and losses attributable to the Partnership shall be allocated among the Partners IN THE RATIO EACH PARTNER'S CAPITAL ACCOUNT BEARS TO THE AGGREGATE TOTAL CAPITAL CONTRIBUTION OF ALL THE PARTNERS ON AN ACTUAL DAILY BASIS COMMENCING ON THE DATE OF EACH PARTNER'S ADMISSION INTO THE PARTNERSHIP AS FOLLOWS: TWENTY PERCENT (20%) TO THE MANAGING GENERAL PARTNERS AND EIGHTY PERCENT (80%) TO THE PARTNERS.

##### DISTRIBUTIONS

5.02 Distributions of PROFITS shall be made at least once per year, and may be made at such other time as the Managing General Partners shall in their sole discretion determine, and upon the Partnership's termination. Partners shall also have the election to receive such distributions within ten (10) days after the end of each calendar quarter, or to have such distributions remain in the Partnership, thus increasing the Partner's capital contribution. CASH FLOW SHALL BE DISTRIBUTED AMONG ALL THE PARTNERS, IN THE RATIO EACH PARTNER'S CAPITAL ACCOUNT BEARS TO THE AGGREGATE TOTAL CAPITAL CONTRIBUTION OF ALL THE PARTNERS ON AN ACTUAL DAILY BASIS COMMENCING ON THE DATE OF EACH PARTNER'S ADMISSION INTO THE PARTNERSHIP, FOR ANY FISCAL YEAR AS FOLLOWS: TWENTY PERCENT (20%) TO THE MANAGING GENERAL PARTNERS AND EIGHTY PERCENT (80%) TO THE PARTNERS.

## ARTICLE SIX

### OWNERSHIP OF PARTNERSHIP PROPERTY Title to Partnership Property

6.01 All property acquired by the Partnership shall be owned by and in the name of the Partnership, that ownership being subject to the other terms and conditions of this Agreement. Each Partner expressly waives the right to require partition of any Partnership property or any part of it. The Partners shall execute any documents that may be necessary to reflect the Partnership's ownership of its assets and shall record the same in the public offices that may be necessary or desirable in the discretion of the Managing General Partner.

## ARTICLE SEVEN

### FISCAL MATTERS

#### Title to Partnership Property Accounting

7.01 A complete and accurate inventory OF THE PARTNERSHIP shall be taken BY THE MANAGING GENERAL PARTNERS, and a complete and accurate statement of the condition of the Partnership shall be made and an accounting among the Partners shall be MADE ANNUALLY per fiscal year BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTING FIRM. NOT LATER THAN NINETY (90) DAYS AFTER THE END OF THE PARTNERSHIP'S FISCAL YEAR THE PARTNERSHIP'S INDEPENDENT PUBLIC ACCOUNTING FIRM SHALL TRANSMIT TO THE PARTNERS A COPY OF THE CURRENT PARTNERSHIP TAX RETURN TOGETHER WITH FORM K-1. The profits and losses of the preceding year, to the extent such shall exist and shall not have been divided and paid or distributed previously, shall then be divided and paid or distributed, or otherwise retained by the agreement of the Partners. Distributions SHALL BE made at such time(s) as the General Managing Partners shall in their discretion deem necessary and appropriate.

#### Fiscal Year

7.02 The fiscal year of the Partnership for both accounting and Federal income tax purposes shall begin on January 1 of each year.

#### Books and Records

7.03 PROPER AND COMPLETE BOOKS OF ACCOUNT OF THE BUSINESS OF the Partnership shall be KEPT BY THE MANAGING GENERAL PARTNERS AND maintained at the offices of the Partnership. Proper books and records shall be kept with reference to all Partnership transactions. Each Partner or his or her authorized representative shall have access to AND THE RIGHT TO AUDIT AND /OR REVIEW the Partnership books and records at all reasonable times during business hours.

#### Method of Accounting

7.04 The books of account of the Partnership shall be kept on a cash basis.



#### Expenses

7.05 All rents, payments for office supplies, premiums for insurance, professional fees and disbursements, and other expenses incidental to the Partnership business shall be paid out of the Partnership profits or capital and shall, for the purpose of this Agreement, be considered ordinary and necessary expenses of the Partnership deductible before determination of net profits.

### ARTICLE EIGHT MANAGEMENT AND AUTHORITY

#### Management and Control

8.01 Except as expressly provided in the Agreement, the management and control of the day-to-day operations of the Partnership and the maintenance of the Partnership property shall rest exclusively with the Managing General Partners, Michael D. Sullivan and Greg Powell. Except as provided in Article FIVE Section 5.01, the Managing General Partners shall receive no salary or other compensation for their services as such. The Managing General Partners shall devote as much time as they deem necessary or advisable to the conduct and supervision of the Partnership's business. The Managing General Partners may engage in any activity for personal profit or advantage without the consent of the Partners.

#### Powers of Managing General Partners

8.02 The Managing General Partners are authorized and empowered to carry out and implement any and all purposes of the Partnership. In that connection, the powers of the General Managing Partners shall include but shall not be limited to the following:

- a. to engage, fire or terminate personnel, attorneys, accountants or other persons that may be deemed necessary or advisable
- b. to open, maintain and close bank or investment accounts and draw checks, drafts or other orders for the payment of money
- c. to borrow money; to make, issue, accept, endorse and execute promissory notes, drafts, loan agreements and other instruments and evidences of indebtedness on behalf of the Partnership; and to secure the payment of indebtedness by mortgage, hypothecation, pledge or other assignment or arrangement of security interests in all or any part of the property then owned or subsequently acquired by the Partnership.
- d. to take any actions and to incur any expense on behalf of the Partnership that may be necessary or advisable in connection with the conduct of the Partnership's affairs.
- e. to enter into, make and perform any contracts, agreements and other undertakings that may be deemed necessary or advisable for the conducting of the Partnership's affairs
- f. to make such elections under the tax laws of the United States and Florida regarding the treatment of items of Partnership income, gain, loss, deduction or credit and all other matters as they deem appropriate or necessary.
- g. TO ADMIT PARTNERS INTO THE PARTNERSHIP NOT EXCEEDING ONE HUNDRED AND FIFTY (150) PARTNERS UNLESS THE PARTNERS HAVE APPROVED PURSUANT TO SECTION 14.04 THE ADMISSION INTO THE PARTNERSHIP OF MORE THAN ONE HUNDRED AND FIFTY (150) PARTNERS.

#### Restrictions on Partners

8.03 Without the prior consent of the Managing General Partners or all of the other partners, no other Partner may act on behalf of the Partnership to: (i) borrow or lend money; (ii) make, deliver or accept any commercial paper; (iii) execute any mortgage, security agreement, bond or lease; or (iv) purchase or sell any property for or of the Partnership.

#### Meetings of the Partners

8.04 The Partners shall hold regular quarterly meetings on the 3rd Tuesday during the months of January, April, July, and October at 1:00 p.m. at the principle office of the Partnership. In the event such Tuesday falls on a declared Holiday, such meeting will take place the next following business day. In addition fifty-one percent (51%) in interest, not in numbers, of the Partners may call a special meeting to be held at any time after the giving of twenty (20) days' notice to all of the Partners. Any Partner may waive notice of or attendance at any meeting of the Partners, may attend by telephone or any other electronic communication device, or may execute a signed written consent to representation by another Partner or representative. At the meeting, Partners WILL REVIEW THE ENGAGEMENT WITH THE PARTNERSHIP OF ANY BROKER OR BROKERS AND shall transact any business that may properly be brought before the meeting. the Partners shall designate someone to keep regular minutes of all the proceedings. the minutes shall be placed in the minute book of the Partnership.

#### Action without Meeting

8.05 Any action required by statute or by this Agreement to be taken at a meeting of the Partners or any action that may be taken at a meeting of the Partners may be taken without a meeting if a consent in writing, setting forth the action taken or to be taken, shall be signed by all of the Partners entitled to vote with respect to the subject matter of the consent. That consent shall have the same force and effect as a unanimous vote of the Partners. Any signed consent, or a signed copy thereof, shall be placed in the minute book of the Partnership.

#### Death, Removal or Appointment of Managing General Partner

8.06 ANY MANAGING GENERAL PARTNER MAY BE REMOVED WITH OR WITHOUT CAUSE AS DETERMINED BY THE AFFIRMATIVE VOTE OF FIFTY-ONE PERCENT (51%) in interest, not in numbers, of Partners. In the event of any such removal, the removed Managing General Partner shall not be relieved of his obligations OR LIABILITIES to the Partnership and to the other Partners resulting from the events, actions, or transactions occurring during the period in which such removed Managing General Partner served as a Managing General Partner. From and after the effective date of such removal, however, the removed Managing General Partner may be deemed to be a Partner, shall forfeit all rights and obligations of a Managing General Partner, and thereafter shall have the same rights and obligations as a Partner. A MANAGING GENERAL PARTNER SHALL BE APPOINTED BY THE AFFIRMATIVE VOTE OF FIFTY-ONE PERCENT (51%) IN INTEREST, NOT IN NUMBERS, OF THE PARTNERS. THE PARTNERSHIP SHALL HAVE AS MANY MANAGING GENERAL PARTNERS AS THE PARTNERS BY THE AFFIRMATIVE VOTE OF FIFTY-ONE (51%) IN INTEREST, NOT IN NUMBERS, OF THE PARTNERS SHALL DETERMINE TO BE IN THE BEST INTEREST OF THE PARTNERSHIP. ON THE DEATH OR INCOMPETENCY OF A MANAGING GENERAL PARTNER, ANY CO-MANAGING GENERAL PARTNER SHALL CONTINUE AS THE MANAGING GENERAL PARTNER OR, IF THERE SHALL BE NO CO-MANAGING GENERAL PARTNER, THEN THE PARTNERS SHALL, WITHIN TEN (10) DAYS OF SUCH DEATH OR DECLARATION OF INCOMPETENCY, APPOINT A NEW MANAGING GENERAL PARTNER IN ACCORDANCE WITH THE TERMS PROVIDED IN THIS AGREEMENT.

## ARTICLE NINE

### TRANSFERS AND ASSIGNMENTS No Transfer of Assignment Without Consent

9.01 No Partner's interest may be transferred or assigned without the express written consent of fifty-one percent (51%) in interest, not in number, of the Partners provided, however, that a Partner's interest may be transferred or assigned to a party who at the time of the transfer or assignment is a Partner. Any transferee or assignee to whom an interest in the Partnership has been transferred or assigned and who is not at the time of the transfer or assignment to a party to this Agreement shall be entitled to receive, in accordance with the terms of the transfer or assignment, the net profits to which the assigning Partner would otherwise be entitled. Except as provided in the preceding sentence, the transferee or assignee shall not be a Partner and shall not have any of the rights of the Partner, unless and until the transferee or assignee shall have (i) received the approval of the Partners as provided IN THIS AGREEMENT, and (ii) accepted and assumed, in writing, the terms and conditions of this Agreement.

### Death or Incompetency of Partner

9.02 Neither the death or incompetency of a Partner shall cause the dissolution of the Partnership. On the death or incompetency of any Partner, the Partnership business shall be continued and the surviving Partners shall have the option to allow the assets of the deceased or incompetent Partner to continue in the deceased or incompetent Partner's HEIR'S OR SUCCESSOR'S place, or to terminate the deceased or incompetent partner's interest and return to the estate his or her interest in the partnership.

B. If the surviving Partners elect to allow the estate of a deceased Partner to continue in the deceased Partner's place, the estate shall be bound by the terms and provisions of this Agreement. However, in the event that the interest of a deceased Partners does not pass in trust or passes to more than one heir or devise or, on termination of a trust, is distributed to more than one beneficiary, then the Partnership shall have the right to terminate immediately the deceased Partner's interest in the Partnership. In that event, the Partnership shall return to the deceased Partner's heirs, devisees or beneficiaries, in cash, the value of the Partnership interest as calculated in ARTICLE ELEVEN as of the date of termination.

### Withdrawals of Partners

9.03 Any Partner may withdraw from the Partnership at any given time; provided, however, that the withdrawing Partner shall give at least thirty (30) days written notice. THE PARTNERSHIP SHALL, WITHIN THIRTY (30) DAYS OF RECEIVING NOTICE OF THE PARTNER'S WITHDRAWAL, PAY the withdrawing Partner, in cash, the value of his or her Partnership interest as calculated in ARTICLE ELEVEN as of the date of withdrawal. the withdrawing Partner or his or her legal representative shall execute such documents and take further actions as shall reasonable be required to effectuate the termination of the withdrawing Partner's interest in the Partnership.

## ARTICLE TEN

### TERMINATION OF PARTNERS

#### Events of Default

10.01 The following events shall be deemed to be defaults by a Partner:

a. the failure to make when due any contribution or advance required to be made under the terms of this agreement and continuing that failure for a period of ten (10) days after written notice of the failure from the Managing general Partners,

b. the violation of any of the other provisions of this Agreement and failure to remedy or cure that violation within (10) days after written notice of the failure from the Managing General Partners.

c. THE INSTITUTION OF PROCEEDINGS UNDER ANY LAW OF THE UNITED STATES OR OF ANY STATE FOR THE RELIEF OF DEBTORS, FILING A VOLUNTARY PETITION IN BANKRUPTCY OR FOR AN ARRANGEMENT OR REORGANIZATION OR ADJUDICATION TO BE INSOLVENT OR A BANKRUPT, MAKING AN ASSIGNMENT FOR THE BENEFIT OF CREDITORS.

d. SUFFERING TO BE SEIZED BY A RECEIVER, TRUSTEE, OR OTHER OFFER APPOINTED BY ANY COURT OR ANY SHERIFF, CONSTABLE, MARSHALL OR OTHER SIMILAR GOVERNMENT OFFICER, UNDER LEGAL AUTHORITY, ANY SUBSTANTIAL PORTION OF ITS ASSETS OR ALL OR ANY PART OF ANY INTEREST THE PARTNER MAY HAVE IN THIS PARTNERSHIP AND SUCH IS HELD IN SUCH OFFICER'S POSSESSION FOR A PERIOD OF THIRTY (30) DAYS OR LONGER.

e. the appointment of a receiver for all or substantially all of the Partner's assets and the failure to have the receiver discharged within ninety (90) days after the appointment.

f. the bringing of any legal action against the Partner by his or her creditor(s), resulting in litigation that, in the opinion of the General Managing Partners or fifty-one (51) percent in interest, not in numbers, of the other Partners, creates a real and substantial risk of involvement of the Partnership property.

g. THE COMMITTING OR PARTICIPATION IN AN INJURIOUS ACT OF FRAUD, GROSS NEGLIGENCE, MISREPRESENTATION, EMBEZZLEMENT OR DISHONESTY AGAINST THE PARTNERSHIP, OR COMMITTING OR PARTICIPATING IN ANY OTHER INJURIOUS ACT OR OMISSION WANTONLY, WILLFULLY, RECKLESSLY, OR IN A MANNER WHICH WAS GROSSLY NEGLIGENT AGAINST THE PARTNERSHIP, MONETARILY OR OTHERWISE, OR BEING CONVICTED OF ANY ACT OR ACTS CONSTITUTING A FELONY OR MISDEMEANOR, OTHER THAN TRAFFIC VIOLATIONS, UNDER THE LAWS OF THE UNITED STATES OR ANY STATE THEREOF.

10.02 On the occurrence of an event of a default by a Partner, fifty-one (51) percent in interest, not in numbers, or more of the other Partners shall have the right to elect to terminate the interest of the defaulting Partner without affecting a termination of the Partnership. This election may be made at any time within one (1) year from the date of default, on giving the defaulting Partner five (5) days written notice of the election, provided the default is continuing on the date the notice is given. The defaulting Partner's interest shall be returned to him or her in accordance with the provisions of ARTICLE ELEVEN OF THIS AGREEMENT.

The defaulting Partner's Partnership interest shall be reduced by the aggregate amount of any

outstanding debts of the defaulting Partner to the Partnership and also by all damages caused to the Partnership by the default of the defaulting Partner.

On return to the defaulting Partner of his or her interest in the Partnership, the defaulting Partner shall have no further interest in the Partnership or its business or assets and the defaulting Partner shall execute and deliver as required any assignments or other instruments that may be necessary to evidence and fully AND effectively transfer the interest of the defaulting Partner to the non-defaulting Partners. If the appropriate instruments are not delivered, after notice by the Managing General Partner that the interest is available to the defaulting Partner, the Managing General Partner may tender delivery of the interest to the defaulting Partner and execute, as the defaulting Partner's POWER OF ATTORNEY, any instruments AS ABOVE REFERENCED. All parties agree that the General Managing Partners shall not have any individual liability for any actions taken in connection HERETO.

No assignment, transfer OR TERMINATION of a defaulting Partner's INTEREST as provided in this Agreement shall relieve the defaulting Partner from any personal liability for outstanding indebtedness, liabilities, liens or obligations relating to the Partnership that may exist on the date of the assignment, transfer OR TERMINATION. The default of any Partner under this Agreement shall not relieve any other Partner from his, her or its interest in the Partnership.

#### Foreclosure for Default

10.03 If a Partner is in default under the terms of this Agreement, the lien provided for in Article four, Section 4.03 may be foreclosed by the Managing General Partner at the option of fifty-one (51) percent IN INTEREST, NOT IN NUMBERS, of the non-defaulting Partners.

#### Transfer by Attorney-in-Fact

10.04 Each Partner makes, constitutes, and appoints the Managing General Partners as the Partner's attorney-in-fact in the event that the Partner becomes a defaulting Partner whose interest in the Partnership has been foreclosed in the manner prescribed in this Article Ten. On foreclosure, the Managing General Partners are authorized and allowed to execute and deliver a full assignment or other transfer of the defaulting partner's interest in the Partnership and at the Managing General Partners shall have no liability to any person for making the assignment or transfer.

#### Additional Effects of Default

10.05 Pursuit of any of the remedies permitted by this Article Ten shall not preclude pursuit of any other remedies allowed by law, nor shall pursuit of any remedy provided in this Agreement constitute a forfeiture or waiver of any amount due to the PARTNERSHIP OR remaining partners or of any damages accruing to IT OR them by reason of the violation of any of the terms, provisions and covenants contained in this Agreement.

### ARTICLE ELEVEN VALUATION OF PARTNERSHIP INTERESTS Purchase Price of Partnership Interests

11.01 The full purchase price of the Partnership interest of a deceased, incompetent, withdrawn or terminated Partner shall be an amount equal to the Partner's capital and income accounts as they appear on the Partnership books on the date of death, incompetence, withdrawal or termination and adjusted to include the Partner's distributive share of any Partnership net profits or losses not previously credited to or charged against the income and capital accounts. In determining the amount payable under this Section, no value shall be attributed to the goodwill of the Partnership, and adequate provision shall be made for any existing contingent liabilities of the Partnership.

## ARTICLE TWELVE

### TERMINATION OF THE PARTNERSHIP

#### Termination Events

12.01 The Partnership SHALL be terminated AND DISSOLVED UPON THE FIRST TO OCCUR OF THE FOLLOWING:

a. UPON THE SALE OF ALL OR SUBSTANTIALLY ALL OF THE ASSETS OF THE PARTNERSHIP, UNLESS SUCH ASSETS ARE REPLACED BY SIMILAR ASSETS WITHIN A REASONABLE TIME FOR THE PURPOSE OF CONTINUING THE PARTNERSHIP BUSINESS;

b. at any time on the WRITTEN affirmative vote of AT LEAST fifty-one (51) percent in interest, not in numbers, of the Partners; AND

c. except as otherwise provided in this Agreement, on the occurrence of any other event that under the Uniform Partnership Law would require the dissolution of general Partnership.

#### Distribution of Assets

12.02 On termination, the Partnership' business shall be wound up as timely as in practical under the circumstances; the Partnership's assets shall be applied as follows: (i) first to payment of the outstanding Partnership liabilities; (ii) then to a return of the Partner's capital in accordance with their Partnership interests. Any remainder shall be distributed according to the terms of Article Five; provided, however, that the Managing General Partners may retain a reserve in the amount they determine advisable for any contingent liability until such time as that liability is satisfied or discharged. If the Partner's capital has been returned, then the balance of the reserve shall be distributed in accordance with Article Five, otherwise, capital shall be returned in accordance with their Partnership interests, and then any remaining sums shall be distributed in accordance with Article Five.

## ARTICLE THIRTEEN

### AMENDMENTS

#### In Writing

13.01 Subject to the provisions of Article 8.01 and 8.02, this Agreement, except with respect to vested rights of any Partner, may be amended or modified in writing at any time by the agreement of Partners owning collectively at least fifty-one (51) percent in interest, not in numbers, in the Partnership.

## ARTICLE FOURTEEN

### MISCELLANEOUS

#### Partners

14.01 THE PARTNERSHIP MAY ADMIT AS A PARTNER ANY CORPORATION, INCLUDING AN ELECTING SMALL BUSINESS CORPORATION ("S CORPORATION") AS THAT TERM IS DEFINED IN THE INTERNAL REVENUE CODE OF 1986, AS AMENDED ("IRC"), CERTAIN EMPLOYEE BENEFIT PLANS INCLUDING PENSION PLANS, AND CERTAIN TAX EXEMPT ORGANIZATIONS, INCLUDING INDIVIDUAL RETIREMENT ACCOUNTS ("IRA"), AS DEFINED IN THE IRC. IT WILL BE THE OBLIGATION OF ANY CORPORATE, BENEFIT PLAN, OR TAX EXEMPT ENTITY PARTNER TO COMPLY WITH ALL STATE AND FEDERAL LAWS, RULES AND REGULATIONS GOVERNING ITS EXISTENCE AS IT RELATES TO BECOMING A PARTNER IN THE PARTNERSHIP. WHETHER OR NOT AN ENTITY CAN BECOME A PARTNER OF THE PARTNERSHIP, WILL DEPEND UPON ITS CHARACTER AND LOCAL LAW. EACH PARTNER, IF NOT AN INDIVIDUAL, SHOULD CONSULT WITH THEIR OWN ATTORNEY AS TO ANY LIMITATIONS OR QUALIFICATIONS OF BEING A PARTNER IN THE PARTNERSHIP. THE PARTNERSHIP SHALL HAVE NO DUTY TO INQUIRE AND SHALL HAVE THE RIGHT TO ASSUME THAT ANY ENTITY APPLYING AND BECOMING A PARTNER IN THE PARTNERSHIP IS IN FACT UNDER ITS GOVERNING LAWS, ENTITLED TO BE A PARTNER IN THE PARTNERSHIP. THE PARTNERSHIP SHALL HAVE NO DUTY TO INQUIRE AND SHALL HAVE THE RIGHT TO ASSUME THAT ANY ENTITY APPLYING AND BECOMING A PARTNER IN THE PARTNERSHIP IS IN FACT UNDER ITS GOVERNING LAWS, ENTITLED TO BE A PARTNER IN THE PARTNERSHIP.

FURTHERMORE, A PARTNER, IF OTHER THAN AN INDIVIDUAL, WILL BE REQUIRED TO DESIGNATE TO THE MANAGING GENERAL PARTNER PRIOR TO ADMITTANCE IN THE PARTNERSHIP, A PERSON UPON WHOM ALL NOTICES RELATING TO THE PARTNERSHIP AND SHALL BE THE ONLY PERSON ON BEHALF OF THE PARTNER THE PARTNERSHIP WILL BE REQUIRED TO BE BOUND BY AND COMMUNICATE WITH WHEN NECESSARY, FURTHERMORE, AND IN THIS REGARD, ALL DISTRIBUTIONS TO BE MADE TO THE PARTNER PURSUANT TO THIS SECTION AND THIS AGREEMENT SHALL BE MADE ONLY TO THE PARTNER'S REPRESENTATIVE, IF NOT AN INDIVIDUAL, AND THE PARTNERSHIP SHALL NOT BE OBLIGATED TO MAKE DISTRIBUTIONS TO ANY OTHER PERSON WHO HAS AN INTEREST IN A PARTNER. PAYMENT TO SUCH PARTNER'S REPRESENTATIVE SHALL EXTINGUISH ALL LIABILITIES THE PARTNERSHIP MAY HAVE TO SUCH PARTNER.

#### IRA ACCOUNTS

14.02 NOTICE IS HEREBY GIVEN TO ANY PARTNER CONSISTING OF AN IRA ACCOUNT THAT THE PARTNERSHIP IS NOT ACTION AS A FIDUCIARY ON BEHALF OF THE IRA ACCOUNT.

#### LIMITATIONS ON LIABILITY

14.03 THE PARTNERS SHALL HAVE NO LIABILITY TO THE PARTNERSHIP OR TO ANY OTHER PARTNER FOR ANY MISTAKES OR ERRORS IN JUDGMENT, NOR FOR ANY ACT OR OMISSIONS BELIEVED IN GOOD FAITH TO BE WITHIN THE SCOPE OF AUTHORITY CONFERRED BY THIS AGREEMENT. THE PARTNERS SHALL BE LIABLE ONLY FOR ACTS AND/OR OMISSIONS INVOLVING INTENTIONAL WRONGDOING, FRAUD, AND BREACHES OF FIDUCIARY DUTIES OF CARE AND LOYALTY. ACTIONS OR OMISSIONS TAKEN IN RELIANCE UPON THE ADVICE OF LEGAL COUNSEL APPROVED BY FIFTY-ONE PERCENT (51%)

IN INTEREST, NOT IN NUMBERS, OF THE PARTNERS AS BEING WITHIN THE SCOPE CONFERRED BY THIS AGREEMENT SHALL BE CONCLUSIVE EVIDENCE OF GOOD FAITH; HOWEVER, THE PARTNERS SHALL NOT BE REQUIRED TO PROCURE SUCH ADVICE TO BE ENTITLED TO THE BENEFIT OF THIS SECTION. THE PARTNERS HAVE THE RESPONSIBILITY TO DISCHARGE THEIR FIDUCIARY DUTIES OF CARE AND LOYALTY AND THOSE ENUMERATED IN THIS AGREEMENT CONSISTENTLY WITH THE OBLIGATION OF GOOD FAITH AND FAIR DEALING.

#### Additional Partners

14.04 THE PARTNERSHIP MAY ADMIT UP TO ONE HUNDRED AND FIFTY (150) PARTNERS INTO THE PARTNERSHIP IN ACCORDANCE WITH SECTION 8.02. THE PARTNERSHIP SHALL HAVE THE RIGHT TO ADMIT MORE THAN ONE HUNDRED AND FIFTY (150) PARTNERS INTO THE PARTNERSHIP ONLY BY THE EXPRESS WRITTEN CONSENT OF FIFTY-ONE PERCENT (51%) IN INTEREST, NOT IN NUMBER, OF THE PARTNERS. ANY NEW OR ADDITIONAL PARTNER SHALL ACCEPT AND ASSUME IN WRITING THE TERMS AND CONDITIONS OF THIS AGREEMENT.

#### SUITABILITY

14.05 EACH PARTNER REPRESENTS TO THE PARTNERSHIP THAT IF THE PARTNER IS NOT AN ACCREDITED INVESTOR, AS DEFINED IN THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT") (AS DEFINED BELOW), THAT THEY WILL NOTIFY THE MANAGING GENERAL PARTNERS IN WRITING WITHIN TEN (10) DAYS FROM THE DATE OF THAT PARTNER'S ADMISSION INTO THE PARTNERSHIP. AN ACCREDITED INVESTOR AS DEFINED IN THE ACT IS: A NATURAL PERSON WHO HAD INDIVIDUAL INCOME OF MORE THAN \$200,000.00 IN EACH OF THE MOST RECENT TWO (2) YEARS OR JOINT INCOME WITH THEIR SPOUSE IN EXCESS OF \$300,000.00 IN EACH OF THE MOST RECENT TWO (2) YEARS AND REASONABLY EXPECTS TO REACH THAT SAME INCOME LEVEL FOR THE CURRENT YEAR; A NATURAL PERSON WHOSE INDIVIDUAL NET WORTH (I.E., TOTAL ASSETS IN EXCESS OF TOTAL LIABILITIES), OR JOINT NET WORTH WITH THEIR SPOUSE, AT THE TIME OF ADMISSION INTO THE PARTNERSHIP IS IN EXCESS OF \$1,000,000.00; A TRUST, WHICH TRUST HAS TOTAL ASSETS IN EXCESS OF \$5,000,000.00, WHICH IS NOT FORMED FOR THE SPECIFIC PURPOSE OF ACQUIRING THE PARTNERSHIP INTEREST HEREIN AND WHOSE INVESTMENT IS DIRECTED BY A SOPHISTICATED PERSON WHO HAS SUCH KNOWLEDGE AND EXPERIENCE IN FINANCIAL AND BUSINESS MATTERS THAT HE IS CAPABLE OF EVALUATING THE MERITS AND RISKS INVOLVED IN BECOMING A PARTNER; ANY ORGANIZATION DESCRIBED IN SECTION 501(c)(3) OF THE IRC, CORPORATION, MASSACHUSETTS OR SIMILAR BUSINESS TRUST, OR PARTNERSHIP, NOT FORMED FOR THE SPECIFIC PURPOSE OF ACQUIRING THE PARTNERSHIP INTEREST HEREIN, WITH TOTAL ASSETS IN EXCESS OF \$5,000,000.00; ANY PRIVATE BUSINESS DEVELOPMENT COMPANY AS DEFINED IN SECTION 3(a)(2) OF THE ACT OR ANY SAVINGS AND LOAN ASSOCIATION OR OTHER INSTITUTION AS DEFINED IN SECTION 3(a)(5) (A) OF THE ACT, WHETHER ACTING IN ITS INDIVIDUAL OR FIDUCIARY CAPACITY; ANY BROKER-DEALER REGISTERED PURSUANT TO SECTION 15 OR SECTION 2(13) OF THE ACT; ANY INVESTMENT COMPANY REGISTERED UNDER THE INVESTMENT COMPANY ACT OF 1940 OR A BUSINESS DEVELOPMENT COMPANY AS DEFINED IN SECTION 2(a)(48) OF THE ACT; ANY SMALL BUSINESS INVESTMENT COMPANY LICENSED BY THE U.S. SMALL BUSINESS ADMINISTRATION UNDER SECTION 301(c) OR (d) OF THE SMALL BUSINESS INVESTMENT ACT OF 1958; ANY PLAN ESTABLISHED AND MAINTAINED BY A STATE, ITS POLITICAL SUBDIVISION, OR ANY AGENCY OR INSTRUMENTALITY OF A STATE OR ITS POLITICAL SUBDIVISIONS, FOR THE BENEFIT OF ITS EMPLOYEES, IF SUCH PLAN HAS TOTAL ASSETS IN EXCESS OF \$5,000,000; ANY EMPLOYEE BENEFIT PLAN WITHIN THE MEANING OF



THE EMPLOYEE RETIREMENT INCOME SECURITIES ACT OF 1974, IF THE INVESTMENT DECISION IS MADE BY A PLAN FIDUCIARY, AS DEFINED IN SECTION 3(21) OF SUCH ACT, WHICH IS EITHER A BANK, SAVINGS AND LOAN ASSOCIATION, INSURANCE COMPANY, OR REGISTERED INVESTMENT ADVISOR, OR IF THE EMPLOYEE BENEFIT PLAN HAS TOTAL ASSETS IN EXCESS OF \$5,000,000.00, OR, IF A SELF-DIRECTED PLAN, WITH INVESTMENT DECISIONS MADE SOLELY BY PERSONS THAT ARE ACCREDITED INVESTORS; AND, ANY ENTITY WHICH ALL OF THE EQUITY OWNERS ARE ACCREDITED INVESTORS AS DEFINED ABOVE.

#### Notices

14.06 Unless otherwise provided herein, any notice or other communication herein required or permitted to be given shall be in writing and may be personally served, telecopied, telexed or sent by United States mail and shall be deemed to have been given when delivered in person, or upon receipt of telecopy or telex or three (3) business days after depositing it in the United States mail, registered or certified, when postage prepaid and properly addressed. For purposes thereof, the addresses of the parties hereto are as set forth in Exhibit "A" and may be changed if specified in writing and delivered in accordance with the terms of this Agreement.

#### FLORIDA LAW TO APPLY

14.07 THIS AGREEMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF FLORIDA WITHOUT REGARD TO THE PRINCIPLES OF CONFLICT OF LAWS.

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#### Disputes

14.08 The Partners shall make a good faith effort to settle any dispute or claim arising under this Agreement. If, however, the Partners shall fail to resolve a dispute or claim, the Partners shall submit it to arbitration before the Florida office of the American Arbitration Association. In any arbitration, the Federal rules of Civil Procedure and the Federal rules of Evidence, as then existing, shall apply. Judgment on any arbitration awards may be entered by any court of competent jurisdiction.

#### Headings

14.09 Section headings used in this Agreement are included herein for convenience or reference only and shall not constitute a part of this Agreement for any other purpose or be given any substantive effect.

#### Parties Bound

14.10 This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns when permitted by this Agreement.

#### Severability

14.11 In case any one or more of the provisions contained in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, that invalid, illegal or unenforceable provisions shall not affect any other provision contained IN THIS AGREEMENT.

#### **Counterparts**

**14.12** This Agreement and any amendments, waivers, consents or supplements may be executed in any number of counterparts each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute by one and the same instrument.

#### **Gender and Number**

**14.13** Wherever the context shall require, all words in this Agreement in the male gender shall be deemed to include the female or neuter gender AND VICE VERSA, AND all singular words shall include the plural, and all plural words shall include the singular.

#### **Prior Agreements Superseded**

**14.14** This Agreement supersedes any prior understandings or written or oral agreements among the parties respecting the subject matter contained herein.

MINUTES OF THE  
SPECIAL MEETING OF PARTNERS OF  
S&P ASSOCIATES

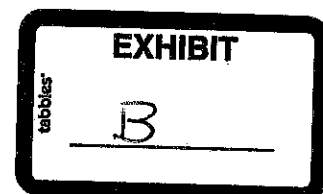
A special meeting of S&P Associates (the "Partnership") was held on August 17, 2012 at 10:00 a.m., at 350 East Las Olas Blvd., Suite 1000, Ft. Lauderdale, FL 33301.

Brett Stepelton, a partner designee, presided over the meeting as Chairman. David Black, an attorney with Berger Singerman LLP ("Berger Singerman"), counsel for some of the partners calling the meeting, acted as Secretary of the meeting. Marci Shaffer, with the office of Berger Singerman, acted as Inspector of Elections.

Mr. Stepelton called the meeting to order, noted that Ms. Shaffer had been appointed as Inspector of Elections, and then appointed Mr. Black as Secretary of the meeting.

Ms. Shaffer handed Mr. Black the sign in sheet indicating all of those present at the meeting, a copy of which is attached to these minutes as Exhibit A.

Mr. Black then asked all non-partners in attendance to state their name. The following individuals introduced themselves: David Black, Marci Shaffer, Margaret Smith, Carol Fox, Etan Mark, Leonard Samuels, Chad



Pugatch, Robert Rubin, Patrick Kelly, Paul Singerman, and Morris Brown.

Mr. Black next asked whether any person in attendance had not received a copy of the Rules and Procedures of the meeting. There being no response, Mr. Black moved on to summarizing the Rules and Procedures of the meeting. Specifically, he pointed out that:

- anyone who had not previously handed in a proxy, or would like to change his or her vote, should ask the inspector of elections to receive a ballot,
- he would read the motions coming before the meeting and then entertain discussion prior to bringing them to a vote,
- only people listed as partners in the Inspector of Elections' roster, or their designees, as well as the current managing general partner, would be allowed to speak at the meeting during the discussion period – one person would be allowed to speak at a time, after being called upon by him,
- discussion would be limited to 5 minutes per speaker and anyone who refuses to cease discussion after 5 minutes after admonition from him would be removed by Officer Boehm for trespassing,
- after the discussion period, he would submit the motion to a

vote and direct ballots to be returned to the Inspector of Elections, and

- if more than one person sought to vote a partner's interest, the Inspector of Elections would determine which vote to accept.

Mr. Black then announced that the Inspector of Elections had reported that a quorum was present, and that the meeting was duly qualified to transact business.

Mr. Black next announced the motions before the partners at the meeting, namely:

- to replace Michael D. Sullivan as Managing General Partner with Margaret J. Smith, and
- if the first motion passes, to amend the partnership agreement of S&P Associates to reflect the change in Managing General Partners.

Mr. Black noted that if prior to voting on the motions before the meeting anyone would like to comment in accordance with the Rules and Procedures for the meeting, they should raise their hand and wait to be called upon by him.

At that point, Chad Pugatch, counsel for the Partnership, asked if 51 percent of the vote had been received in order to call the meeting. Mr.

Black responded that 51 percent had been received and evidence of that vote was attached to the notice of special meeting delivered to the partners. Mr. Pugatch then asked how the vote was calculated for SPJ, and Mr. Black confirmed that a majority in interest of the partnership in SPJ voted on behalf of SPJ to vote its interest to call the meeting.

Thereafter, Steve Jacob asked how and when the percentages were calculated. Mr. Black responded that the interests of each partner was considered and once over 51 percent of the interests voting in favor was attained, the meeting was called. Mr. Jacob then asked as of what date the partnership interests were determined, to which Mr. Black responded that it was the date the notice was made. Carol Fox responded, noting that the net equity method of accounting – cash in, cash out – was used to determine the interests in the Partnership.

Chad Pugatch then stated that he was challenging the calculation of the 51 percent vote necessary to call the meeting.

Leonard Samuels then spoke. He explained that Berger Singerman is representing a group of investors who have lost millions of dollars in their investments in the Partnership. He explained that Ms. Smith (the proposed replacement as Managing General Partner) is not only a certified public accountant, but also an expert in business valuations and a certified fraud

examiner. He noted that many partners have expressed concern regarding the management of the Partnership; as an example, he referenced the lawsuit filed by the trustee for the estate of Bernie Madoff that makes certain allegations that are very significant and troubling, such as Avellino's and Bienes's attempt to find front men for the use of new partnerships to continue to funnel money to BLMIS. Mr. Samuels explained that Avellino and Bienes are not allowed to sell securities because they have been barred from doing so by the SEC. Yet, Mr. Samuels explained, it is not the job of the trustee of the Madoff case to investigate and potentially prosecute these claims; rather, it is the job of the Managing General Partner of the Partnership, and Mr. Sullivan is in no position to either assess those claims or look at those claims.

Mr. Samuels then noted that, after a forensic accounting of the Partnership's books and records had occurred, it was discovered that:

- millions of dollars were not accounted for that apparently were not invested in the Madoff funds, and
- Michael D. Sullivan & Associates received over 3.8 million dollars in fees, while another entity named Sullivan and Powell received almost 2 million dollars in fees.

Mr. Samuels also noted that Michael D. Sullivan & Associates

received over 1.7 million dollars in fees from S&P Associates, with nearly \$750,000 of that being distributed to an entity called the Kelco Foundation, and over \$600,000 to Sullivan & Associates. Mr. Samuels noted that these fees totaled almost 8 million dollars. Mr. Samuels then explained that tens of thousands of dollars were earmarked for distribution to Messrs. Avellino and Bienes. Finally, Mr. Samuels noted that the intent of the proposals was to enable the partners to recover as much money for the Partnership as possible for distribution among the partners. Finally, he asserted that his clients do not believe Mr. Sullivan is the appropriate person to achieve that goal.

Mr. Pugatch clarified that his silence in connection with Mr. Samuels's statement did not indicate that Mr. Sullivan agrees with any of those allegations.

Mr. Black then asked if anyone else would like to speak, and Ms. Fox indicated she would like to do so. Ms. Fox mentioned that she was a senior managing director in the Miami office of Glass Ratner Advisory & Capital Group, a certified public accountant, certified fraud examiner, and certified insolvency and restructure advisory, who, for over a decade has investigated and/or testified on matters involving white collar crime and investor fraud in cases as large as one billion dollars under management.



Ms. Fox continued by expanding on Mr. Samuels's comments regarding Messrs. Avellino and Bienes, noting that management calculations prepared on behalf of the Partnership specifically reference amounts due and accrued on behalf of "A and B" on account of them bringing in investors including, but not limited to, James Jordan, Matthew Carone, and Elaine Ziffer. Ms. Fox noted that, because these fees were not paid directly from the Partnership, but rather through passthrough entities that paid those accrued management fees to Messrs. Avellino and Bienes, a further investigation is required relating to potential recoveries from Michael D. Sullivan & Associates and/or Michael Sullivan, personally. Ms. Fox then explained that correspondence contained in the Partnership files indicate that at least Mr. Avellino was consulted with respect to, and directed, numerous Partnership decisions from inception through the lifespan of the Partnership. Ms. Fox then noted that while she had not received complete banking records for the Partnership, complete banking records for P&S Associates indicate that P&S Associates received \$26.9 million of investor funds, but only \$22 million was invested in BLIMS, leaving a discrepancy of \$4 million. Ms. Fox then explained that with the limited banking records she did receive for the Partnership, approximately \$64 million was received by the Partnership, yet only \$41.7 million was

invested in Madoff, leaving a potential discrepancy of \$22.3 million.

Ms. Fox concluded by noting that banking records of P&S Associates show that from 1994 to 2008, fifty checks totaling more than \$745,000 were disbursed to Kelco Foundation, a not-for-profit entity founded by Monsignor Vincent Kelly, which fees directly related to the introduction of at least 19 investors to P&S Associates by Monsignor Kelly. Ms. Fox stated that these management fees were treated as charitable contributions on the tax returns of P&S Associates however they were passed through to investors in their K-1s as "expenses related to portfolio income."

Mr. Black then called on Steve Jacob, who asked in what way the new Managing General Partner plans to bring more money back to the Partnership.

Scott Holloway then asked what the cost and benefit, as well as the timeframe, is with the proposed new engagement. Etan Mark responded that in light of the significant concerns raised by the forensic review done thus far, the goal is to gain full access to the books and records and, following that, ascertain what the next steps should be. Mr. Mark noted that because millions of dollars are unaccounted for, there is a need to determine where that money went so as to determine what steps should be taken to recover it. Mr. Mark concluded by stating that his client's do not

consider Mr. Sullivan as the person to take those steps.

Mr. Holloway then asked what the estimated timeframe and cost for such next steps would be. Mr. Singerman explained that the cost and timeframe will be directly related to how hard the current Managing General Partner fights and delays the partners' attempt to gain access to the records. Mr. Singerman then estimated that if the current Managing General Partner were fully cooperative, he expected to be able to have a report for the partners in as little as 35 to 45 days. Mr. Holloway then stated that irrespective of the outcome of the pending vote, all partners should work together in a collegial manner.

Mr. Samuels then noted that new management would not need to begin their review "from scratch" since forensic accounting had already taken place.

Mr. Black then asked if any other person wished to speak. There being none, Mr. Black announced that the discussion period was over.

At this time, Mr. Black noted that if anyone had not handed in a proxy or would like to change their vote, they should so indicate and the Inspector of Elections would either collect their proxy or provide a ballot to them.

After distribution of ballots and proxies by the Inspector of Elections, Mr. Black announced that the polls were open.

Various partners and proxies then completed ballots and submitted ballots and proxies to the Inspector of Elections. Mr. Black then asked if there was any registered partner present who was entitled to vote and who wanted to vote but had not yet signed a proxy or ballot. There being no affirmative responses, Mr. Black closed the polls, at which time the Inspector of Elections tallied the votes in favor of and against the proposals.

After a short break, Mr. Stepelton called the meeting back to order, then asked Mr. Black to proceed.

Mr. Black then announced that he had been advised by the Inspector of Elections of the voting results and that the Partnership's partners had replaced Michael D. Sullivan as Managing General Partner with Margaret J. Smith and voted to amend the partnership agreement of the Partnership to reflect the change in Managing General Partners, which amendment would be included with the minutes of this meeting.

Mr. Black then stated that Michael Sullivan:

- should provide Margaret Smith with all information she requires to facilitate the transition to her as Managing General Partner,
- was being put on notice that Ms. Smith's designee would arrive at the partnership's office at 1 p.m. that afternoon in order to

take possession of S&P Associates' files, computers, records, and assets,

- should not remove any files, records, or assets of the partnership prior to Ms. Smith or her designee taking possession or control of same, and
- should have no further involvement with the affairs of S&P Associates.

Thereafter, Mr. Pugatch asked Mr. Black if he was going to report the actual vote, and Mr. Black noted that the over 70 percent of the partnership interests were voted in favor of the proposals, and that the individual votes would be reported in the meeting minutes.

Mr. Black adjourned the meeting at approximately 10:47 a.m.

A copy of the vote results, certified by the Inspector of Elections, is attached to these minutes as Exhibit B.<sup>1</sup>

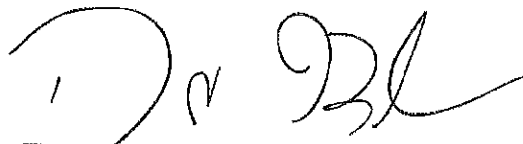
A copy of the transcript from the meeting, certified by the meeting's

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<sup>1</sup> Those ballots and proxies are attached to these meeting minutes as Exhibit B. The proxies of John and Lois Combs, Ersica Gianna, Gregg Wallick, Harvey and Yvonne Powell, Phillip Hocott, Edward Jacobs, Rosemary Leo Sullivan, Katherine Astley, and Evelyn Willis were not counted because, under the net equity method of accounting which was employed to determine partnership interests, these individuals have received a full return of their investment and therefore have no further interest in the Partnership. The proxy of Bruce Aymes was not counted because it was received on Monday August 21, three days after the meeting. The proxy of Bette Anne Peltzer was not counted because Bette Anne Peltzer does not hold any record partnership interest in the Partnership. The ballot of Burt Moss was not counted because Burt Moss does not hold any record partnership interest in the Partnership. The ballot of Steve Jacob for SPJ, Ltd. was not counted because (i) there is no partner in the Partnership named SPJ, Ltd. and (ii) assuming Mr. Jacob was attempting to complete a ballot on behalf of SPJ Investments, Ltd., the Inspector of Elections had already received a proxy on behalf of SPJ Investments, Ltd. from a majority of the partners in interest in SPJ Investments, Ltd.

stenographer – Suzanne Dunay Siegel – is attached to these minutes as Exhibit C.

A copy of the amendment to the partnership agreement of the Partnership is attached to these minutes as Exhibit D.

  
Secretary of the Meeting

Approved:

  
Chairman of the Meeting

EXHIBIT A  
Sign In Sheet

(see attached)

S & P ASSOCIATES  
SPECIAL MEETING OF PARTNERS  
FRIDAY, AUGUST 17, 2012  
SIGN IN

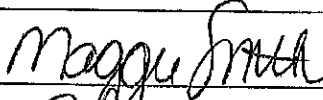

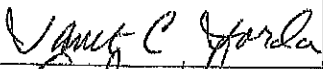

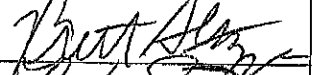
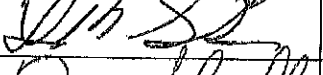
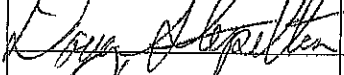
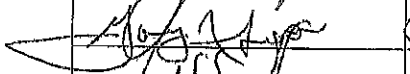




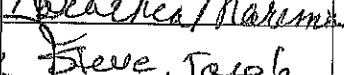


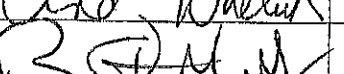
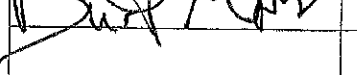
SIGNATURE	PRINTED NAME	PARTNER	OTHER & CAPACITY
	Maggie Smith	-	Other
	Carol Fox	✓	Financial Advisor
	Janet Jordan	✓	
	ETAN MARK		attorney
	Brent Stynes	✓	
	Leonard & Susan		Attorney
	Doug STEPELTON		
	GARY CHADMA	✓	
	Scott W Holloway	✓	
	Chad Rygatch		A Attorney
	Roda + Robin		Attorney
	VIRLEE STEPELTON	✓	
	DOROTHEA MAREMA	✓	
	Steve Jacob	✓	
	Wayne HORWITZ		HOWARD & JOYCE HORWITZ TRUSTEE FOR
	Cindy WALLICK	✓	
	Burt MOSS	✓	



EXHIBIT B  
Vote Results

(see attached)

**S & P ASSOCIATES**

**Special Meeting of the Partners held on August 17, 2012**

**Certificate of Inspector of Elections**

Date of Special Meeting

August 17, 2012

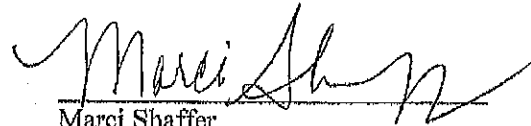
Total Partnership Interests present by proxy or in person: 94.35%

I, Marci Shaffer being the Inspector of Elections of the Special Meeting of the Partners of S & P Associates held on Friday, August 17, 2012 at 10:00 a.m. at the offices of Berger Singerman LLP, 350 E. Las Olas Blvd., Suite 1000, Ft. Lauderdale, FL 33301, do hereby certify that the results of voting at said meeting were as follows after my examination of all the proxies and ballots presented to the meeting:

For removal, election and amending the Partnership Agreement: 70.83%

Against removal and amending the Partnership Agreement: 23.52%

Dated: August 17, 2012



Marci Shaffer  
Inspector of Elections of Special  
Meeting of Partners of S & P  
Associates

# S & P Associates

August 17, 2012 Meeting Vote Results\* \*\*

Investor Name	Percentage Interest	Proxy or Ballot Received In-Favor	Proxy or Ballot Received Against
SPJ Investments, Ltd.	28.43%	X	
Festus and Helen Stacy Foundation, Inc.	23.45%	X	
Bond, Roger G. & Terry A.	7.44%	X	
Wallick, Cindy	4.56%	X	
Eldridge Family Limited Partnership	2.60%	X	
Barbara B. Fox, Trustee	0.70%	X	
Podwill, Michael J.	0.50%	X	
Alice B. Iuen Revocable Trust	0.48%	X	
Marvin F. Iuen, Trustee	0.42%	X	
Podwill, Robert R. & Gall	0.35%	X	
Ralph C. Fox, TTEE U/A DTD 3/19/93	0.25%	X	
Fox Family Partnership	0.21%	X	
Beverly B. Lewis	0.05%		X
Ann M. Sullivan	0.07%		
Paul H. Mueller	0.68%		X
Bette Anne Powell	0.32%		
Scott W. Holloway Revocable Trust	0.32%		X
Margaret Lipworth & Donna Moss	0.31%	X	
Irwin B. & Mary N. Reed, Trustees	0.21%		
Barbara Aymes	0.34%		
Martin L. Braun	0.02%		
Gary R. Chapman - IRA	0.01%	X	
Kathryn and/or Angela Silecchia	0.00%		
Denise A. Cram	0.04%		X
Howard H. & Joyce Horwitz Trustees	0.20%	X	
Joseph A. Spelzio	0.57%		X
Johanna Wills Clark	0.11%		
Jack B. & Barbara Wirick	0.16%		
Wallace Goodman	0.57%		
Adam S. Holloway	0.65%		X
Christie C. McGarey	0.01%		X
Susan M. Michaelson	0.11%		
Karen Newman	0.04%		X
Louis S. and Darlene O'Neal	0.20%		X
Mary S. Haslam	0.11%		X
Alicia N. Holloway Revocable Trust	0.04%		X
Deborah Fellman Revocable Trust	0.10%		
Marguerite & Steven Marinaro	0.44%		X (proxy states P&S, not S&P)
Paul & Tina Paolozzi	0.22%		
Glen O. & Barbara J. Powell	0.04%		X
James E. Yonge, Trustee	0.44%	X	
Kim D. Janicek, Custodian			
Cody F. Janicek	0.03%		X
Robert & Dorothy Henley	0.03%		X
Saul Rosen	0.24%		X
Richard P. & Dora F. Long	0.45%		X
Kathryn L. Babcock	0.04%		
George & Sybil Wirick	0.20%		
Helen F. Holt Revocable Trust	0.40%		
Guardian Angel Trust, LLC	19.37%		X

## S & P Associates

### August 17, 2012 Meeting Vote Results\* \*\*

Investor Name	Percentage Interest	Proxy or Ballot Received in Favor	Proxy or Ballot Received Against
Margaret B. Gwinn	0.15%		
Jess L. and/or Alice B. Taylor	0.26%	X	
James R. & Kathleen M. Walsh	0.85%		
Kathy G. Walsh	0.36%		
Kristina Anne Holloway	0.02%		
Wallick Family Educational Trust	0.24%		
Dorothea V. Marema	0.15%		X
Ruth J. Brown Revocable Trust	0.22%	X	
Gayle Hinerman	0.04%		X
Rose Orfino	1.10%		
Patricia & Eduardo Hidalgo	0.05%		
Christie C. McGarey	0.01%		X
Catherine McGarey	0.01%		X
<b>Total</b>		<b>70.83%</b>	<b>23.52%</b>

\*Proxies from the following individuals not counted:

Bette Anne Peltzer  
John and Lois Combs  
Ersica Glanna  
Gregg Wallick  
Harvey and Yvonne Powell  
Phillip Hocott  
Edward Jacobs  
Rosemary Leo Sullivan  
Katherine Astley  
Bruce Aymes  
Evelyn Willis

\*\*Ballots from the following individuals not counted:

Steve Jacob for SPJ, Ltd  
Burt Moss

BALLOT

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby cast the following vote on the following question presented at the Meeting of the partners of the Partnership held on August 17, 2012:

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: X

Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: X

Against: \_\_\_\_\_

By: [Signature]  
Name: GARY S. PARRIS  
Title: PARTNER

8/17/12  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

BALLOT

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby cast the following vote on the following question presented at the Meeting of the partners of the Partnership held on August 17, 2012:

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ✓

Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ✓

Against: \_\_\_\_\_

By: [Signature]

Name: WAYNE HORWITZ

Title: TRUSTEE FOR HOWARD & JOYCE LIVING TRUST

8-17-12  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

BALLOT

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby cast the following vote on the following question presented at the Meeting of the partners of the Partnership held on August 17, 2012:

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ✓

Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ✓

Against: \_\_\_\_\_

By: Janet Jordan

Name: Janet Jordan

Title: Proxy

8/17/12  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

The vote evidenced by this ballot is taken on behalf of all proxies that (i) name me as proxy and (ii) direct me to vote in favor of the foregoing resolution.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: X Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: X Against: \_\_\_\_\_

By: Acice B. Taylor

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: 7/23/12

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.



## PROXY

## SPECIAL MEETING OF THE PARTNERS OF S &amp; P ASSOCIATES

August 17, 2012

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The Proxy Holder(s) shall cast a vote for or against the following proposals.

## Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ✓

Against: \_\_\_\_\_

## Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ✓

Against: \_\_\_\_\_

Marvin F. Iuen  
Marvin F. Iuen, Trustee

\_\_\_\_\_  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

## PROXY

## SPECIAL MEETING OF THE PARTNERS OF S &amp; P ASSOCIATES

August 17, 2012

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The Proxy Holder(s) shall cast a vote for or against the following proposals.

## Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ☒ \_\_\_\_\_

Against: \_\_\_\_\_

## Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ☒ \_\_\_\_\_

Against: \_\_\_\_\_

  
Alice B. Iuen Revocable Trust

\_\_\_\_\_  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

## PROXY

## SPECIAL MEETING OF THE PARTNERS OF S &amp; P ASSOCIATES

August 17, 2012

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## Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ☒Against: ☐

## Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ☒Against: ☐

Robert R. Podwill

  
Gail Podwill

Date

Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

EXHIBIT

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

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For: ☒

Against: ☐

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ☒

Against: ☐

Michael J. Podwill  
Michael J. Podwill

Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

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Proposal Number 1:

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For: ✓

Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ✓

Against: \_\_\_\_\_

By: MARGARET LIPWORTH-BECKER  
Name:  
Title:

08/13/2012  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

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For: ☒

Against: ☐

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ☒

Against: ☐

By: 

Name: Donna L. Moss

Title:

Date:

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

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Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: X Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: X Against: \_\_\_\_\_

Fox Family Partnership

By: C. L. Fox

Name: Caryl L. Fox

Title: General Partner, Fox Family Partnership

\_\_\_\_\_  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

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For: X Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: X Against: \_\_\_\_\_

Ralph C. Fox, TTEE U/A DTD 3/19/93 (Ralph C. Fox is deceased)

\_\_\_\_\_  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.



PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

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AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: X Against: \_\_\_\_\_

Barbara B. Fox, Trustee  
Barbara B. Fox, Trustee

\_\_\_\_\_  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

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Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ☒

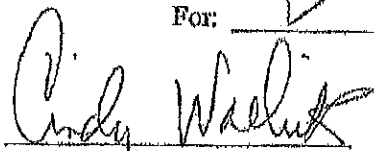
Against: ☐

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ☒

Against: ☐

  
Cindy Wallick

Date \_\_\_\_\_

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

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Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ✓

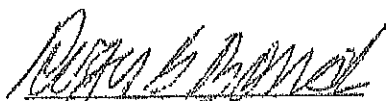
Against: \_\_\_\_\_

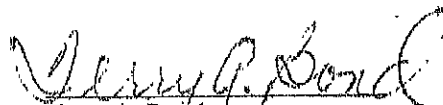
Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ✓

Against: \_\_\_\_\_

  
Roger G. Bond

  
Terry A. Bond

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

## PROXY

## SPECIAL MEETING OF THE PARTNERS OF S &amp; P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

## Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ☒Against: ☐

## Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ☒Against: ☐

Festus and Helen Stacy Foundation, Inc.

By: Brett A. Stetson

Name:

Title: Trustee / V.P. of operationsDate:                     

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: X Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: X Against: \_\_\_\_\_

By: [Signature]  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: July 24, 2012

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ✓ Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ✓ Against: \_\_\_\_\_

By: Ruth J. Brown

Name: RUTH J. BROWN

Title: Trustee, Ruth J. Brown Revocable Trust

X

Date \_\_\_\_\_

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ✓

Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ✓

Against: \_\_\_\_\_

Eldridge Family Limited Partnership

By: Laurence L. Eldridge  
Name: LAURENCE L. ELDRIDGE  
Title: GENERAL PARTNER

\_\_\_\_\_  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ✓ Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ✓ Against: \_\_\_\_\_

SPJ Investments, Ltd.

[signatures begin on following page]

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.



PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ✓ Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ✓ Against: \_\_\_\_\_

[Signatures follow on next page]

*James A. Jordan*

## PROXY

## SPECIAL MEETING OF THE PARTNERS OF S &amp; P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

## Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

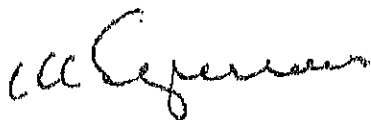
For: ✓ Against: \_\_\_\_\_

## Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ✓ Against: \_\_\_\_\_

(Signatures follow on next page)



MARVIN SEPERSON

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ☒

Against: ☐


Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ☒

Against: ☐

[Signatures follow on next page]

  
Kathryn Babcock

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For:           ✓          

Against:                     

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For:           ✓          

Against:                     

[Signatures follow on next page]

*Densel L Raines*

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ✓

Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ✓

Against: \_\_\_\_\_

[Signatures follow on next page]

*Cindy Waelick*

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ✓

Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ✓

Against: \_\_\_\_\_

[Signatures follow on next page]



SEAN Stepelton

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ☒

Against: ☐

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ☒

Against: ☐

[Signatures follow on next page]

X Butt Stepten

4431688-1

## PROXY

## SPECIAL MEETING OF THE PARTNERS OF S &amp; P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

## Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

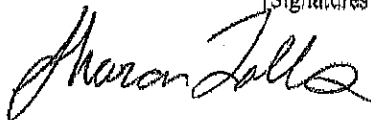
For: ☒Against: ☐

## Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ☒Against: ☐

[Signatures follow on next page]





PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ✓ Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ✓ Against: \_\_\_\_\_

[Signatures follow on next page]

*Gary Bizzell*  
GARY BIZZELL

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S. & P. Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person,

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ✓ S.P. Against: \_\_\_\_\_  
Sharon A. Tiner

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ✓ S.P. Against: \_\_\_\_\_  
Sharon A. Tiner  
[Signatures follow on next page]

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_ Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_ Against: \_\_\_\_\_

[Signatures follow on next page]

J Stepelton

Jennifer Stepelton

BALLOT

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby cast the following vote on the following question presented at the Meeting of the partners of the Partnership held on August 17, 2012:

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: ✓

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: ✓

By: Vanet Varden

Name:

Title:

8/17/12  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

The vote evidenced by this ballot is taken  
on behalf of all proxies that I name  
as proxy & direct me to vote  
against the foregoing resolution

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: AK

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: AK

By: [Signature]

Name: ROBERT HENLEY

Title: \_\_\_\_\_

Date: 8-4-2012

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: X \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: X \_\_\_\_\_

Against: \_\_\_\_\_

By: BEVERLY LEWIS  
Name: Beverly Lewis  
Title: \_\_\_\_\_

8-5-12  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: X

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: X

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: X

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: X

By: [Signature]  
Name: Gary Hinerman  
Title: Partner  
8/16/12  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.



PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: ✓

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: ✓

By: Mark J. Rosen  
Name:  
Title:  
8/10/12  
Date

sole intestate heir  
of Saul Rosen  
deceased 7/18/12

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: X

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: X

By: Karen Turner  
Name:  
Title:  
8/7/12  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

BALLOT

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby cast the following vote on the following question presented at the Meeting of the partners of the Partnership held on August 17, 2012:

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER .

For: \_\_\_\_\_

Against: X

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: \_\_\_\_\_

By: Steve Jacob - Guardian Angel Trust, LLC

Name:

Title: GM

Date

8/17/12

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

BALLOT

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby cast the following vote on the following question presented at the Meeting of the partners of the Partnership held on August 17, 2012:

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_ Against: X

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_ Against: \_\_\_\_\_

By: Steve J. Cobb

Name:

Title: Partner

8/17/12

Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Susan Moss and Steven Jacob (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_ Against: X

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_ Against: X

THIS RECALLS ALL PRIOR PROXIES MADE 08/11/2012

By: Mary S Haslam  
Name: MARY S. HASLAM  
Title: \_\_\_\_\_

Date: 08/11/2012

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Susan Moss and Steven Jacob (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: X

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: X

By: Alexia W. Flannery, Trustee  
Name: Alexia W. Flannery, Trustee  
Title: Trustee

Date: 8/12/2012

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Susan Moss and Steven Jacob (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: X

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: X

By: Adam S. Holloway  
Name: Adam S. Holloway  
Title: \_\_\_\_\_

Date: 8/17/12

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Susan Moss and Steven Jacob (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: X

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: X

By: [Signature]

Name: Scott W. Hollaway

Title: Partner

Date: 8/16/12

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.



PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Susan Moss and Steven Jacob (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_ Against: ✓

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_ Against: \_\_\_\_\_

By: Paul H. Mueller  
Name: Paul H. Mueller  
Title: \_\_\_\_\_

Date: 05. August 2012

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Susan Moss and Steven Jacob (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_ Against: ✓

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_ Against: ✓

By: \_\_\_\_\_  
Name: Sarah J. Powell  
Title: Mrs. J. Powell

Date: 8/7/12

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

Glen O Powell - Deceased

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Susan Moss and Steven Jacob (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: X

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: X

By: \_\_\_\_\_

Name: Denise Cram

Title: \_\_\_\_\_

Date: 8-9-12

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Susan Moss and Steven Jacob (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: X

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: X

By: [Signature]  
Name: CATHERINE MCGARELY  
Title: \_\_\_\_\_

Date: 8/9/12

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Susan Moss and Steven Jacob (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: ✓

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: ✓

By: CHASE MCGARRY  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Robert Chase McGarry)

Date: 8/9/12

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Susan Moss and Steven Jacob (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: X

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: X

By: \_\_\_\_\_  
Name: Christie C. McGarry  
Title: \_\_\_\_\_

Date: 8/8/12

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Susan Moss and Steven Jacob (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_ Against: ✓

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_ Against: ✓

By: Louis S. O'Neal AND Darlene O'Neal  
Name: LOUIS S. O'NEAL DARLENE O'NEAL  
Title: PARTNER PARTNER

Date: August 6, 2012

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Susan Moss and Steven Jacob (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: X

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: X

By: Richard Blane Dora T. Long  
Name: RICHARD P. LONG, DORA P. LONG  
Title: PARTNER(S)

THIS RESCINDS ALL  
PRIOR PROXIES  
RPL DFL

Date: August 9, 2012

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.



PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Susan Moss and Steven Jacob (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_ Against: ✓

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_ Against: ✓

By: Kim D. Janicek, Custodian for Cody F. Janicek  
Name: Kim D. Janicek  
Title: \_\_\_\_\_

Date: 8/8/12

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

## PROXY

## SPECIAL MEETING OF THE PARTNERS OF S &amp; P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Susan Moss and Steven Jacob (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

## Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: ✓

## Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: ✓

\*\*\* THIS RECALLS ALL PRIOR PROXIES" SM \*\*\*

By: Steven Marinaro  
Name: Steven Marinaro  
Title: Husband

Marguerite A. Marinaro  
Marguerite A. Marinaro  
Wife

Date: 8/14/2012

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Susan Moss and Steven Jacob (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: ✓

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: ✓

By: \_\_\_\_\_

Name: Michael Maruma

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

BALLOT

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby cast the following vote on the following question presented at the Meeting of the partners of the Partnership held on August 17, 2012:

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: X

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: \_\_\_\_\_

By: Steve Jacob Gr SPT, Ltd

Name:

Title: Partner Managing General Partner

8/17/12

Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

BALLOT

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby cast the following vote on the following question presented at the Meeting of the partners of the Partnership held on August 17, 2012:

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: ✓

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: ✓

By: Bert Moll

Name:

Title:

Date

8/17/2012

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of S & P Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Susan Moss and Steven Jacob (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_ Against: ✓

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_ Against: ✓

By: Bette Anne Peltzer  
Name: Bette Anne Peltzer  
Title: Mrs.

Date: 08.06.12

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

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The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_ Against: X

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_ Against: X

By: \_\_\_\_\_  
Name: JOHN F & LOIS COMBS  
Title: \_\_\_\_\_



Date: 08/06/12

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

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The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_ Against: ✓

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_ Against: \_\_\_\_\_

By: Ernest P. Giannas  
Name: ERNEST P. GIANNAS  
Title: \_\_\_\_\_

Date: Aug 6 - 2012 -

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.



PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

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The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_


Against: X 

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: X 

By:   
Name: Gregory W. Smith  
Title: President

Date: 8/13/2012

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

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The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_ Against: X \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_ Against: X \_\_\_\_\_

By: HARVEY + YVONNE POWELL  
Name: Harvey Powell  
Title: \_\_\_\_\_

Date: 8-7-12

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

ORIGINAL

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

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The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: ✓ P.A.H.

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: ✓ P.A.H.

By: PHILLIP A. HOCOTT  
Name: Phillip A. Hocott  
Title: \_\_\_\_\_

Date: AUGUST 8, 2012

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

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The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

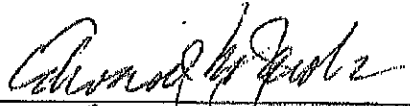
AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_ Against: ✓

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_ Against: ✓

By:   
Name: EDWARD M. JACOBS  
Title: PARTNER OF S & P ASSOCIATES

Date: 8/7/2012

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

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The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_ Against: ✓

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_ Against: ✓

By: Rosemary Leo Sullivan  
Name: ROSEMARY LEO SULLIVAN  
Title: \_\_\_\_\_

Date: Aug 7 - 2012

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

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The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_ Against: X

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_ Against: X

By: Katherine F. Astley  
Name: Katherine F. Astley  
Title: \_\_\_\_\_

Date: 8/10/12

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

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The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: ☒ \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: ☒ \_\_\_\_\_

By: Evelyn L. Willis  
Name: Evelyn L. Willis  
Title: August 10, 2012 - Partner

Date: August 10, 2012

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

EXHIBIT C  
Transcript of Meeting

(see attached)



S&P ASSOCIATES  
SPECIAL MEETING OF PARTNERS

350 E. Las Olas Blvd.  
Suite 1000  
Ft. Lauderdale, Florida  
Friday, 10:00 a.m.  
August 17, 2012

## 1        APPEARANCES:

2                BRETT STEPELTON, Chairman.

3                DAVID BLACK, Secretary.

4                MARCI SHAFFER, Inspector of Elections.

5                PATRICIA BOEHM, Police Officer.

6

## 7        ALSO PRESENT:

8                Margaret SMITH

9                CAROL FOX

10               JANET JORDAN

11               ETAN MARK

12               LEONARD SAMUELS

13               DOUG STEPELTON

14               GARY CHAPMAN

15               SCOTT HOLLOWAY

16               CHAD PUGATCH

17               ROBERT RUBIN

18               VIRLEE STEPELTON

19               DOROTHEA MAREMA

20               STEVE JACOB

21               WAYNE HORWITZ

22               CINDY WALLICK

23               BURT MOSS

24               PAUL SINGERMAN

25               MORRIS BROWN

1 MR. STEPELTON: If I can have everyone's  
2 attention.

3 Good morning ladies and gentlemen, and  
4 welcome to the August 17, 2012 special meeting of the  
5 partners of S&P Associates.

6 I am Brett Stepleton, the chairman of the  
7 special meeting.

8 At this time this S&P special meeting of  
9 partners will come to order.

10 Marci Shaffer has been appointed as  
11 inspector of elections of this meeting.

12 I'm appointing David Black as secretary of  
13 the meeting.

14 David, please proceed.

15 MR. BLACK: Thank you.

16 At this time I would like anyone who is not  
17 a partner in S&P Associates to introduce themselves.

18 As Brett mentioned, I'm David Black from  
19 Berger Singerman.

20 MS. FOX: I'm Carol Fox. I'm not a direct  
21 partner in S&P, but my children are.

22 MR. SAMUELS: Lenny Samuels, Berger  
23 Singerman.

24 MR. MARK: Etan Mark, Berger Singerman.

25 MR. BROWN: Morrie Brown, Berger Singerman.

1 MR. KELLY: Patrick Kelly, Stacey  
2 Foundation.

3 MR. SINGERMAN: I'm Paul Singerman with  
4 Berger Singerman.

5 MS. SMITH: I'm Maggie Smith -- Glass  
6 Ratner.

7 MR. RUBIN: I'm Robert Rubin, partner in  
8 Becker & Poliakoff, Helen Chaitman's partner.

9 MR. PUGATACH: Chad Pugatch -- Rice,  
10 Pugatch, Robinson & Schiller -- partnership counsel  
11 on behalf of the current managing partner.

12 MS. SHAFFER: Marci Shaffer, Berger  
13 Singerman, inspector of elections.

14 MR. BLACK: Thank you all.

15 I'll now summarize the rules and procedures  
16 that you all received upon entry.

17 To confirm, does anyone still require a  
18 copy of the rules and procedures?

19 Okay.

20 Anyone who has not previously handed in a  
21 proxy or would like to change his or her vote must  
22 see the inspector of elections to receive a ballot.

23 After I read the motions before the  
24 partners I'll entertain discussion prior to that  
25 vote.

1           Only people noted as partners in the  
2           inspector of elections roster or their designees, as  
3           well as the current managing general partner or his  
4           designee, may speak at the meeting during that  
5           discussion period. One person may speak at a time,  
6           after being called upon by me.

7           Discussion is limited to five minutes per  
8           speaker, and anyone who refuses to cease discussion  
9           after five minutes after admonition from me will be  
10          removed by Officer Boehm for trespassing.

11          After the discussion period I'll call the  
12          vote and direct ballots to be returned to the  
13          inspector of elections.

14          If more than one person seeks to vote a  
15          partner's interest the inspector of elections will  
16          determine which vote to accept.

17          I've been informed by the inspector of  
18          elections that a quorum is present, and I declare  
19          this meeting is duly qualified to transact business.

20          The following proposals are before the  
21          partners in this meeting: First, to replace Michael  
22          D. Sullivan as managing general partner with Margaret  
23          J. Smith.

24          Two, if proposal number one passes, to  
25          amend the partnership agreement of S&P Associates to

1 reflect the change in managing general partner.

2 If prior to voting on the foregoing  
3 proposals anyone would like to comment in accordance  
4 with the rules and procedures for this meeting,  
5 please raise your hand and wait to be called upon by  
6 me.

7 If you'd like, once called upon you can use  
8 the podium.

9 Would anyone like to discuss at this time?

10 MR. PUGATCH: (Indicating).

11 MR. BLACK: Sir?

12 MR. PUGATCH: Chad Pugatch again.

13 These are in the nature of questions, and  
14 just in order to protect the integrity of the process  
15 we would like to make sure that we proceed  
16 accordingly.

17 According to paragraph I think it's 8.04  
18 of the partnership agreement it required a 51 percent  
19 vote, or at least quorum, in order to call the  
20 special meeting, and we've not seen evidence that  
21 there was a 51 percent number obtained in order to  
22 call the meeting.

23 So before you get into a vote as to the  
24 51 percent, we'd just like you to put on record for  
25 the purpose of the meeting what you have to show that

1       there was a proper amount of votes to call the  
2       meeting.

3               MR. BLACK: Thank you.

4               You are correct that 51 percent of the vote  
5       is required to call this special meeting. 51 percent  
6       of the vote was received. It was evidenced in the  
7       notice of special meeting delivered to all the  
8       partners, and we'll deliver that after the meeting in  
9       conjunction with the meeting minutes.

10              MR. PUGATCH: It was our understanding in  
11       looking at what was attached to the notice that you  
12       counted in the 51 percent certain votes that were  
13       limited partners of SPJ and were not directly  
14       partners of S&P.

15              If that is the case we'd like an  
16       explanation as to how those people are qualified in  
17       order to be part of the 51 percent majority.

18              MR. BLACK: You're correct. A majority of  
19       the partnership in interest in SPJ voted on behalf of  
20       SPJ to vote its interest to call this meeting.

21              MR. PUGATCH: SPJ is a limited partnership,  
22       and, therefore, only the general partners of the  
23       partnership are qualified to act on behalf of the  
24       partnership.

25              What is the response on that?

1           MR. BLACK: We determined the vote of SPJ,  
2           as I stated, and if you'd like to challenge that you  
3           can find the appropriate forum to do so.

4           Any other questions?

5           MR. PUGATCH: Do you have a forum prepared  
6           for challenging?

7           MR. BLACK: I'm sure you can find one.

8           Do you have any other questions?

9           MR. PUGATCH: No other questions on that  
10          level.

11          MR. BLACK: Anyone else?

12          Yes.

13          MR. JACOB: Steve Jacob.

14          How were the percentages calculated? What  
15          method was used?

16          MR. BLACK: We determined who the partners  
17          were, what interest they had, and once we reached  
18          51 percent of those interests voted, that passed.

19          MR. JACOB: I apologize, but was it as of  
20          yesterday or when your letter went out? Was it based  
21          on a last statement balance before Madoff?

22          How did you determine that percentage? Is  
23          it a mix of different things?

24          MR. BLACK: It was the partnership interest  
25          in place when the notice was made.



1 MS. FOX: May I speak?

2 MR. BLACK: Sure.

3 MS. FOX: Steve, to answer your question,  
4 the interest in the partnership was based on the net  
5 equity method of accounting -- cash in, cash out --  
6 as of -- that's currently in the partnership.

7 Does that answer your question?

8 MR. JACOB: It answers the question of how  
9 you determined it, yes.

10 MR. BLACK: Would anyone else like to  
11 speak?

12 MR. PUGATCH: David, just to clarify, you  
13 said that we need to file a form.

14 I'm not sure where the procedures come from  
15 that says you need to file a form. We have a court  
16 reporter present who is recording all of this.

17 I was just saying on behalf of the current  
18 managing partner we do challenge the calculation of  
19 the 51 percent necessary to call the meeting on the  
20 basis that limited partners of SPJ were not entitled  
21 to participate in this vote and that only the general  
22 partners of SPJ were entitled to vote on behalf of  
23 the limited partnership.

24 MR. BLACK: Noted. Thank you.

25 MR. SINGERMAN: Just to be clear, Chad, he

1       referred to the word "forum" not "form."

2               MR. PUGATCH: Okay. I apologize. I  
3       thought he said "form" -- F-O-R-M.

4               If this is the appropriate forum, I have  
5       just exercised that right to at least place that  
6       position of record.

7               MR. BLACK: Thank you for that  
8       clarification, Paul.

9               MR. SAMUELS: I'd like to say a few words.  
10       Good morning, and thank you all for  
11       attending this very important meeting.

12               My name is Leonard Samuels, and our law  
13       firm, Berger Singerman, represents a group of  
14       investors who have lost millions of dollars in their  
15       investments in the S&P partnership.

16               As previously stated, the purpose of this  
17       meeting is to vote to replace the managing partner  
18       of the partnership, Mr. Michael Sullivan, and the  
19       proposal is to replace Mr. Sullivan with Ms. Margaret  
20       Smith, a CPA with the firm of Glass Ratner.

21               Ms. Smith is not only a certified public  
22       accountant, but also an expert in business valuations  
23       and a certified fraud examiner and we believe would  
24       be very appropriate for the position.

25               I've read the recent correspondence from

1       Mr. Sullivan suggesting that there isn't a lot to be  
2       done -- just the wind down.

3               Well, we disagree and believe there is a  
4       lot to be done to make people whole in this  
5       situation.

6               For example, there's a lawsuit that's been  
7       filed on July 25th, presumably at the direction of  
8       Mr. Sullivan, which seeks a declaration from the  
9       Court as to how the money is to be distributed, and  
10      that must be dealt with, and very important issues  
11      need to be resolved there.

12              In the interim there are concerns  
13      expressed by many partners about the management of  
14      the partnership. Many of you have seen the lawsuit  
15      filed by the trustee for the estate of Bernie Madoff  
16      that makes certain allegations that are very  
17      significant and troubling.

18              In a section of the lawsuit it talks about  
19      Avellino's and Bienes' attempt to find front men for  
20      the use of new partnerships to continue to funnel  
21      money to BLMIS.

22              Mr. Avellino and Mr. Bienes are not allowed  
23      to sell securities. They've been barred by the SEC  
24      from doing this, and they're not allowed to  
25      participate in such actions.

1                   Again, these are allegations made by  
2                   Mr. Picard in the Madoff litigation.

3                   I raise this point only to say that we're  
4                   not the only ones concerned with the management of  
5                   the partnership -- that these concerns have been  
6                   raised by others who have looked at this situation.

7                   But it's not Mr. Picard's job to  
8                   investigate and potentially prosecute these claims.  
9                   It's the job of the managing general partner of the  
10                  partnership, and Mr. Sullivan appears to be in no  
11                  position to either assess those claims or look at  
12                  those claims.

13                  Extensive forensic accounting work has  
14                  already been done and paid for by my client to  
15                  conduct a careful review of the books and records  
16                  of the partnership that have been provided.

17                  There have been no electronic records  
18                  provided, which we find somewhat astonishing in  
19                  today's day and age, but, in any event, we don't  
20                  want to get into into too many details in what your  
21                  findings are, but there is an exhaustive review that  
22                  has revealed significant lapses in connection with  
23                  the management of the partnerships.

24                  There are millions of dollars that were not  
25                  accounted for that apparently were not invested in

1 the Madoff funds.

2 The forensic accounting also showed that  
3 in the S&P partnership Michael D. Sullivan &  
4 Associates received over 3.8 million dollars in fees.

5 Another entity called Sullivan & Powell  
6 received almost 2 million dollars in fees.

7 Although the P&S partnership is not  
8 meeting at this moment, it's worth noting that  
9 Michael Sullivan & Associates received over 1.7  
10 million dollars in fees.

11 In connection with that, nearly \$750,000  
12 was distributed to an entity called the Kelco  
13 Foundation, and over \$600,000 was distributed to  
14 Sullivan & Associates.

15 Again, this is based upon the preliminary  
16 forensic review that has taken place, so that's  
17 nearly 8 million dollars we're talking about and,  
18 according to the partnership records, tens of  
19 thousands of dollars, like I said, were earmarked  
20 for distribution in Mr. Avellino and Bienes.

21 This is not a ploy to run up attorneys'  
22 fees to the detriment of the partnership. It's worth  
23 noting that my clients have lost collectively many  
24 millions of dollars, and they're motivated by one  
25 goal, and that is to recover as much money for the

1       partnerships as possible for distribution among the  
2       partners.

3               My clients do not believe that Mr. Sullivan  
4       is the appropriate person to achieve that goal, and  
5       for that reason on behalf of my clients we would seek  
6       the removal and vote in favor of the removal of  
7       Mr. Sullivan as the managing partner.

8               Thank you.

9               MR. PUGATCH: May I briefly just state  
10      that I don't want by silence here to have that create  
11      the indication that Mr. Sullivan agrees with any of  
12      the allegations. I'm not here to refute them or to  
13      otherwise act on his behalf in that regard.

14              I'm simply here for purposes on behalf of  
15      the partnership of preserving the integrity of the  
16      process, so I just don't want by my silence to have  
17      that count as any kind of admission or acquiescence  
18      by him.

19              MR. BLACK: Can you confirm for the record  
20      who you represent?

21              MR. PUGATCH: Chad Pugatch on behalf of the  
22      partnership at the representation and request of the  
23      current managing general partner.

24              MR. BLACK: Thank you.

25              Anyone else who would like to speak before

1 the vote is taken?

2 MS. FOX: I would.

3 MR. BLACK: Sure.

4 MS. FOX: Thank you.

5 Good morning. I'm Carol Fox. I'm a senior  
6 managing director in the Miami office of Glass Ratner  
7 Advisory & Capital Group. With me here today is  
8 Margaret Smith, the proposed new general managing  
9 partner.

10 Ms. Smith will make her introduction  
11 shortly.

12 My introduction is as follows: I am a  
13 certified public accountant, certified fraud  
14 examiner, certified insolvency and restructure  
15 advisor. For over a decade I have investigated  
16 and/or testified on matters involving white collar  
17 crime and investor fraud in cases as large as  
18 one billion dollars under management.

19 I'd like to briefly expand on Mr. Samuel's  
20 points regarding Mr. Avellino's and Mr. Bienes'  
21 involvement in the partnership as well as the  
22 discrepancy in the funds that were not invested in  
23 BLMIS, or Madoff, so if you'll just bear with me a  
24 moment.

25 With regard to Mr. Avellino and

1 Mr. Bienes, management calculations prepared on  
2 behalf of S&P and P&S specifically reference amounts  
3 due and accrued on behalf of "A and B" on behalf of  
4 investors including, but not limited to, James  
5 Jordan, Matthew Carone and Elaine Ziffer.

6 These fees were not paid directly from the  
7 partnerships. Nonetheless, the passthrough entities  
8 that paid these accrued management fees to Avellino  
9 and Bienes requires a further investigation via  
10 analysis of books and records of potentially Michael  
11 D. Sullivan & Associates and/or Michael Sullivan,  
12 personally.

13 Additionally, correspondence contained in  
14 the partnership files indicates that at least  
15 Mr. Avellino was consulted on and directed numerous  
16 partnership decisions from inception through the  
17 lifespan of the partnerships.

18 With regard to the funds that were not  
19 invested in Madoff we have complete banking records  
20 with regard to P&S, and we were able to determine  
21 that 26.9 million of investor funds were received by  
22 P&S.

23 On the other side, 22.8 million dollars was  
24 invested in BLMIS, leaving a discrepancy of  
25 four million dollars.



1           We do not have complete banking records  
2           with regard to S&P, and are missing in the aggregate  
3           over various periods of time the accumulation of two  
4           years' worth of records.

5           Nonetheless, it's important to note that  
6           based on the investor register maintained for S&P  
7           approximately 64 million dollars was received in  
8           funds by S&P, and of that amount 41.7 million dollars  
9           was invested in Madoff, leaving a discrepancy of  
10          22.3 million dollars potentially.

11          So with respect to those two points, that  
12          is upon what our analysis is founded.

13          Also, with regard to Kelco Foundation --  
14          and I'll finally close with that -- review of the  
15          banking records of P&S show that starting in June,  
16          1994 and continuing through October, 2008 fifty  
17          checks totaling \$745,000 were disbursed to Kelco  
18          Foundation, a not for profit entity founded by  
19          Monsignor Vincent Kelly.

20          These fees directly related to the  
21          introduction of at least 19 investors to P&S by  
22          Monsignor Kelly.

23          These management fees were treated as  
24          charitable contributions on the tax return of P&S,  
25          and passed through to investors on their K-1s as,

1 quote, expenses related to portfolio income.

2 Are there any questions?

3 Thank you.

4 MR. BLACK: Is there anyone else who would  
5 like to speak?

6 MR. GREEN: (Indicating).

7 MR. BLACK: You have one minute remaining  
8 of your five.

9 MR. JACOB: I apologize, because I thought  
10 I only asked one very short question.

11 MR. BLACK: The discussion surrounding your  
12 question took four minutes.

13 MR. JACOB: Thank you.

14 My question is simply: What is the new  
15 managing partner proposing as to bringing more money  
16 to the partnership that was stated?

17 We've not heard a single idea of that, so  
18 that's my question.

19 We're hearing what they feel is wrong, but  
20 there's nothing there to state they they can bring  
21 more money into the partnership.

22 MR. BLACK: Your question is stated.

23 If anyone would like to answer that,  
24 they're welcome to, but they're not required to.

25 Would anyone else like to speak?

1 MR. HOLLOWAY: Yes. My name is Scott  
2 Holloway. I'm a partner.

3 We're general partners, and as general  
4 partners any business decision that we make is all  
5 collegiately and done together as a partnership,  
6 typically not filled with a room of lawyers and such.

7 Going to the positive, I acknowledge and  
8 appreciate the goal of recovering the maximum  
9 dollars. I think all of us want that.

10 Wouldn't you agree? That's what we're all  
11 about.

12 So my question is: What is the business  
13 plan with the proposed engagement of the new managing  
14 partner? What's the cost/benefit? What is the  
15 timeframe? And what expectations should we as  
16 partners have with respect to the engagement of the  
17 new professionals that are proposed, or will be  
18 proposed, by and under the new managing general  
19 partner?

20 I think that's a pretty legitimate  
21 question, because it's not only how much money is  
22 recovered, but on a net basis I think is what really  
23 counts.

24 MR. BLACK: Thank you.

25 If anyone would like to respond to that,

1       they're welcome to.

2               MR. MARK: I'm happy to.

3               Etan Mark with the law firm of Berger  
4       Singerman. I think it's a very fair question.

5               We have not yet had the benefit of the full  
6       review of all the books and records -- that point has  
7       been made a couple of times now -- so the question  
8       is: What are the next steps once we get in these  
9       professionals, and I think that as Mr. Samuels'  
10      presentation made clear, and as Ms. Fox' presentation  
11      made clear, based on our review of what we've seen to  
12      date there are significant concerns as to how the  
13      partnerships have been managed, so our intention is:  
14      Once we can gainful access to the books and records  
15      to review the books and records, and at that point  
16      ascertain what those next steps are.

17              There's millions of dollars that are  
18      unaccounted for. That's a fact. So we need to  
19      figure out where that money went and take the  
20      appropriate steps to recover that money, whether  
21      it's additional lawsuits, whether it's demands on  
22      individuals, whether it's demands on the foundation,  
23      whatever it is to do to get that money into the  
24      estate needs to be done, and it's our view very  
25      simply that Mr. Sullivan is not the person to do

1       that.

2                   MR. HOLLOWAY:  I thank you for that  
3       response.

4                   Do you have a ballpark idea as to timeframe  
5       and price tag on this?  I understand there's initial  
6       findings that you have to go through and then it's a  
7       go or no go -- maybe things are proven up or clarity  
8       has come to the situation and we don't have to move  
9       forward -- but, I mean, are we talking one month?  
10      One year?  Five years?

11                  What's the best guess on this from Berger  
12      Singerman?

13                  MR. SINGERMAN:  I think that, sir, is a  
14      completely legitimate and in principle a fair  
15      question.

16                  I've spent my entire career working in or  
17      around matters like this, and the best answer that  
18      I can give you is the time and cost that will be  
19      expended in exploring the issues that have caused  
20      concern for your partners around the table is most  
21      directly related to how hard the putative current  
22      general management will fight, and the delays,  
23      roadblocks, obstacles and expense they will cause  
24      the other partners to incur in getting access to the  
25      records to get you the answers.

1           Doing the forensic accounting with the team  
2           from Glass Ratner that has been selected will be  
3           prompt, it will be efficient, and it will be right.

4           The question is how much time and money  
5           will be spent getting the information that the  
6           professionals need to undertake the forensic  
7           accounting.

8           It would be impossible to give you a close  
9           estimate without knowing what's going to happen after  
10          today, assuming that the vote carries and that the  
11          existing management is displaced.

12          If we hear from the current management of  
13          Mr. Pugatch's client: "Okay, I understand. Where do  
14          you want me to meet? I'll go to the bank and change  
15          the signature cards at the bank. Here's the keys to  
16          the offices. Here's all the pass codes to the  
17          computer programs. Here's my laptop. Here's  
18          whatever you need because I, too, want the light of  
19          day to shine on the past several years' management,"  
20          then I think we can get back to you in as little as  
21          35 to 45 days with a pretty darned good sense of what  
22          the next steps are likely to be and whether there are  
23          any next steps that are appropriate.

24          If the reaction is different, then I think  
25          it would be pretty hard to give a precise answer.

1 Do you think that's fair?

2 MR. HOLLOWAY: I appreciate it. It's a  
3 fair response, and my comment to my partners here in  
4 this room is that that being the case -- and it makes  
5 total sense -- that it's incumbent upon all of us to  
6 seek clarity as quickly as possible in a collegial  
7 manner, whether it's with our existing managing  
8 partner or a new managing partner.

9 Whatever the outcome is, it's with clarity  
10 and congeniality and kindness that we need to pursue  
11 the facts, and let's get those facts, and I'm not so  
12 sure that we have to do it with a new managing  
13 general partner, mostly from a cost/benefit and  
14 getting them ramped up -- the folks -- I saw your  
15 credentials, great credentials really, but once you  
16 come on in, let's get started right now in the most  
17 cost effective manner. That's all I'm saying.

18 We do need answers -- that is true -- and  
19 let's do it in the most cost effective, kindest way  
20 we can possibly can.

21 MR. BLACK: Your five minutes is up.

22 MR. SAMUELS: The only thing I'd like to  
23 say is there has been some forensic work done already  
24 by my clients, as I pointed out in my initial  
25 comments, and the comments I made are based upon some

1 of the records we've reviewed already, so it's not  
2 as though the new management would be starting from  
3 scratch in that process.

4 MS. FOX: I have one minute left. Right?

5 MR. BLACK: No. You don't. Sorry.

6 MS. FOX: Sorry.

7 MR. BLACK: Would anyone else like to speak  
8 who has not already used up their five minutes?

9 Okay. This concludes the discussion period.

10 Once again, if anyone has not handed in a  
11 proxy or would like to change his or her vote, please  
12 so indicate and the inspector of elections will  
13 either collect your proxy or provide a ballot to you.

14 If you have submitted a proxy card and you  
15 do not wish to change your vote, you do not need to  
16 do anything at this point.

17 MR. HORWITZ: (Indicating).

18 MR. BLACK: Yes?

19 MR. HORWITZ: I need a proxy card.

20 My name is Wayne Horwitz. I'm the Trustee  
21 for my parents, Howard and Joyce Horowitz, living  
22 trust.

23 MR. BLACK: Thank you.

24 Anyone else who entered the meeting late  
25 or who otherwise did not register with the inspector



1 of elections, please do that now during the voting  
2 period.

3 (Short break)

4 THE COURT: This is the final call for the  
5 vote.

6 Is there any registered partner present  
7 today who is entitled to vote and who wants to vote  
8 but has not yet signed a proxy or ballot?

9 Then I declare the polls closed while the  
10 inspector of elections reviews the proxies and  
11 ballots received.

12 Thank you.

13 (Short Break)

14 MR. STEPELTON: If I can have everyone's  
15 attention, we're going to call the meeting back to  
16 order.

17 David?

18 MR. BLACK: Thank you.

19 The meeting is called back to order.

20 The inspector of elections has provided  
21 me with the voting results, and I report that the  
22 partners have replaced Michael D. Sullivan as  
23 managing general partner with Margaret J. Smith,  
24 and voted to amend the partnership agreement of  
25 S&P Associates to reflect the change in managing

1       general partners, which amendment will be included  
2       with the minutes of this meeting.

3               Michael Sullivan shall provide Margaret  
4       Smith with all information she requires to facilitate  
5       the transition to her as managing general partner.

6               Michael Sullivan is hereby notified that  
7       Ms. Smith's designee will arrive at the partnership's  
8       office at 1:00 p.m. today in order to take possession  
9       of S&P Associates' files, computers, records and  
10       assets.

11              Michael Sullivan shall not remove any  
12       files, records or assets of the partnership prior  
13       to Ms. Smith or her designee taking possession or  
14       control of same, and Mr. Sullivan shall have no  
15       further involvement with the affairs of S&P  
16       Associates.

17              There being no further business to come  
18       before this meeting, I now declare this special  
19       meeting of the partners of S&P Associates adjourned.

20              Thank you.

21              MR. PUGATCH: Are you going to report the  
22       actual vote?

23              MR. BLACK: We had over 70 percent of the  
24       vote.

25              Those people voting in favor of the meeting

1       (sic) will be reported in the meeting minutes in due  
2       course.

3               MR. PUGATCH: Both partnerships?

4               MR. BLACK: This is just the meeting of S&P  
5       Associates.

6               MR. BLACK: Thank you.

7               MS. WALLICK: Don't you think a clap is in  
8       order? Hot dog.

9               (Whereupon, at 10:47 a.m. the meeting was  
10      adjourned)

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## 1 CERTIFICATE OF REPORTER

2  
3 STATE OF FLORIDA )4 COUNTY OF DADE )  
5

6 I, Suzanne Dunay Siegel, do hereby certify  
7 that a board meeting of S&P Associates took place on  
8 Friday, August 17, 2012, that I was authorized to and  
9 did report in shorthand the proceedings in said  
10 meeting; and that the foregoing pages, numbered from  
11 1 to 27, inclusive, constitute a true and correct  
12 transcription of my shorthand report of said  
13 proceedings.

14 IN WITNESS WHEREOF, I have hereunto affixed  
15 my hand this 20th day of August 2012.

16 *Suzanne Dunay Siegel*17  
18 Suzanne Dunay Siegel  
19  
20  
21  
22  
23  
24  
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**EXHIBIT D**  
**Amendment**

**AMENDMENT TO**  
**AMENDED AND RESTATED PARTNERSHIP AGREEMENT**

THIS AMENDMENT TO AMENDED AND RESTATED PARTNERSHIP AGREEMENT (this "Amendment") is effective as of August 17, 2012 ("Effective Date").

Preliminary Statement

The Amended and Restated Partnership Agreement (the "Agreement") of S & P Associates (the "Partnership") is dated December 21, 1994.

The Partnership held a special meeting on August 17, 2012 and voted to (i) replace Michael D. Sullivan as Managing General Partner with Margaret J. Smith and (ii) amend the Agreement of the Partnership to reflect the change in Managing General Partners.

**NOW, THEREFORE**, the Agreement of the Partnership is amended as follows:

Section 8.01. The first sentence of Section 8.01 of the Agreement is hereby deleted in its entirety and replaced with the following:

"Except as expressly provided in the Agreement, the management and control of the day-to-day operations of the Partnership and the maintenance of the Partnership property shall rest exclusively with the Managing General Partner, Margaret J. Smith; notwithstanding anything herein to the contrary, all references to Managing General Partners in the Agreement shall mean Margaret J. Smith."

MINUTES OF THE  
SPECIAL MEETING OF PARTNERS OF  
P&S ASSOCIATES

A special meeting of P&S Associates (the "Partnership") was held on August 17, 2012 at 11:00 a.m., at 350 East Las Olas Blvd., Suite 1000, Ft. Lauderdale, FL 33301.

Brett Stepelton, a partner designee, presided over the meeting as Chairman. David Black, an attorney with Berger Singerman LLP ("Berger Singerman"), counsel for some of the partners calling the meeting, acted as Secretary of the meeting. Marci Shaffer, with the office of Berger Singerman, acted as Inspector of Elections.

Mr. Stepelton called the meeting to order, noted that Ms. Shaffer had been appointed as Inspector of Elections, and then appointed Mr. Black as Secretary of the meeting.

Ms. Shaffer handed Mr. Black the sign in sheet indicating all of those present at the meeting, a copy of which is attached to these minutes as Exhibit A.

Mr. Black then asked all non-partners in attendance to state their name. The following individuals introduced themselves: David Black, Marci Shaffer, Margaret Smith, Carol Fox, Etan Mark, Leonard Samuels, Wayne



Horwitz, Francis Mahoney, Doug Stepelton, Chad Pugatch, Robert Rubin, Patrick Kelly, Steve Jacob, Virlee Stepelton, Andy Ziffer, and Morris Brown.

Mr. Black next asked whether any person in attendance had not received a copy of the Rules and Procedures of the meeting. There being no response, Mr. Black moved on to summarizing the Rules and Procedures of the meeting. Specifically, he pointed out that:

- anyone who had not previously handed in a proxy, or would like to change his or her vote, should ask the inspector of elections to receive a ballot,
- he would read the motions coming before the meeting and then entertain discussion prior to bringing them to a vote,
- only people listed as partners in the Inspector of Elections' roster, or their designees, as well as the current managing general partner, would be allowed to speak at the meeting during the discussion period – one person would be allowed to speak at a time, after being called upon by him,
- discussion would be limited to 5 minutes per speaker and anyone who refuses to cease discussion after 5 minutes after admonition from him would be removed by Officer Boehm for trespassing,

- after the discussion period, he would submit the motion to a vote and direct ballots to be returned to the Inspector of Elections, and
- if more than one person sought to vote a partner's interest, the Inspector of Elections would determine which vote to accept.

Mr. Black then announced that the Inspector of Elections had reported that a quorum was present, and that the meeting was duly qualified to transact business.

Mr. Black next announced the motions before the partners at the meeting, namely:

- to replace Michael D. Sullivan as Managing General Partner with Margaret J. Smith, and
- if the first motion passes, to amend the partnership agreement of S&P Associates to reflect the change in Managing General Partners.

Mr. Black noted that if prior to voting on the motions before the meeting anyone would like to comment in accordance with the Rules and Procedures for the meeting, they should raise their hand and wait to be called upon by him.

At that point, Burt Moss asked how much it would cost to have "you"



pursue something that may be worthless and what "you" have done to determine the chance of recovery. Etan Mark from Berger Singerman responded that Berger Singerman and Glass Ratner have conducted extensive forensic accounting of the books and records of the Partnership, resulting in the discovery that millions of dollars are unaccounted for in the Partnership and S&P Associates. Mr. Mark continued that Mr. Sullivan is not the appropriate person to oversee the required next steps, so his clients hope to appoint a Managing General Partner that is qualified to ascertain which next steps are in the best interests of the Partnership's partners.

Mr. Moss then asked how much the proposed course of action would cost. Paul Singerman from Berger Singerman responded that the time required to pursue the steps mentioned by Mr. Mark depend nearly entirely on whether the current Managing General Partner cooperates with the proposed Managing General Partner (Ms. Smith) and her team, assuming the partners vote in favor of Mr. Sullivan's replacement with Ms. Smith. Mr. Singerman then stated that in the event Ms. Smith is greeted by Mr. Sullivan in a collaborative manner and she is afforded access to books and records, then he expects he would be able to provide advice as to next steps in 30 to 45 days. Mr. Singerman then noted that if Mr. Sullivan attempts to inhibit access to the required information, the process would

take longer and cost more money.

Mr. Moss then responded that he understood from Mr. Sullivan that there were no other documents to provide. Mr. Singerman stated that his team disagreed with that assertion.

At that point, Mr. Black asked whether anyone else would like to speak and Chad Pugatch, counsel for the Partnership, indicated he did. Mr. Pugatch asked if 51 percent of the vote had been received in order to call the meeting and what methodology was used in order to calculate the interest of each partner. Mr. Black responded that 51 percent had been received and then asked Carol Fox to respond to the question regarding methodology. Ms. Fox responded that the net equity method – cash in, cash out – was used to determine the interests in the Partnership.

Mr. Pugatch then asked if that meant “net winners” were not factored into the vote. Mr. Black confirmed that under the net equity method, people who had already received all of their money back from the Partnership were no longer partners in the Partnership.

Leonard Samuels from Berger Singerman then indicated that he would like to speak. He explained that Berger Singerman is representing a group of investors who have lost millions of dollars in their investments in the Partnership. He explained that Ms. Smith (the proposed replacement

as Managing General Partner) is not only a certified public accountant, but also an expert in business valuations and a certified fraud examiner. He noted that many partners have expressed concern regarding the management of the Partnership; as an example, he referenced the lawsuit filed by the trustee for the estate of Bernie Madoff that makes certain allegations that are very significant and troubling, such as Avellino's and Bienes's attempt to find front men for the use of new partnerships to continue to funnel money to BLMIS. Mr. Samuels explained that Avellino and Bienes are not allowed to sell securities because they have been barred from doing so by the SEC. Yet, Mr. Samuels explained, it is not the job of the trustee of the Madoff case to investigate and potentially prosecute these claims; rather, it is the job of the Managing General Partner of the Partnership, and Mr. Sullivan is in no position to either assess those claims or look at those claims.

Mr. Samuels then noted that, after a forensic accounting of the Partnership's books and records had occurred, it was discovered that:

- millions of dollars were not accounted for that apparently were not invested, and
- Michael D. Sullivan & Associates received over 3.8 million dollars in fees, while another entity named Sullivan and Powell

received almost 2 million dollars in fees.

Mr. Samuels also noted that Michael D. Sullivan & Associates received over 1.7 million dollars in fees, with nearly \$750,000 of that being distributed to an entity called the Kelco Foundation, and over \$600,000 to Sullivan & Associates. Mr. Samuels noted that these fees totaled almost 8 million dollars. Mr. Samuels then explained that tens of thousands of dollars were earmarked for distribution to Messrs. Avellino and Bienes. Finally, Mr. Samuels noted that the intent of the proposals was to enable the partners to recover as much money for the Partnership as possible for distribution among the partners. Finally, he asserted that his clients do not believe Mr. Sullivan is the appropriate person to achieve that goal.

At that point, Mr. Black asked if anyone else would like to speak, and Ms. Fox indicated she would like to do so. Ms. Fox mentioned that she was a senior managing director of Glass Ratner Advisory & Capital, a certified public accountant, certified fraud examiner, and certified in insolvency and restructuring, who has investigated and/or testified on matters involving white collar crime and investor fraud in cases as large as one billion dollars under management.

Ms. Fox then explained that according to the Partnership's banking records, the Partnership received \$26.9 million of investor funds, but only

\$22 million was invested in BLIMS, leaving a discrepancy of \$4 million. Ms. Fox then noted that, with the limited banking records she received for S&P Associates, approximately \$64 million was received by S&P Associates, yet only \$41.7 million was invested in BLMIS, leaving a potential discrepancy of \$22.3 million unaccounted for.

Ms. Fox continued by expanding on Mr. Samuels's comments regarding Messrs. Avellino and Bienes, noting that management calculations prepared on behalf of the Partnership specifically reference amounts due and accrued on behalf of "A and B" on account of them bringing in investors including, but not limited to, James Jordan, Matthew Carone, and Elaine Ziffer. Ms. Fox noted that, because these fees were not paid directly from the Partnership, but rather through passthrough entities that paid those accrued management fees to Messrs. Avellino and Bienes, a further investigation is required relating to potential recoveries from Michael D. Sullivan & Associates and/or Michael Sullivan, personally. Ms. Fox reiterated Mr. Samuels's comment that, in the aggregate, entities controlled by Michael D. Sullivan and Associates received almost \$8 million in management fees. Ms. Fox then explained that correspondence contained in the Partnership files indicate that at least Mr. Avellino was consulted with respect to, and directed, numerous Partnership decisions

from inception through the lifespan of the Partnership.

Ms. Fox then noted that banking records of the Partnership show that from 1994 to 2008, sixty checks totaling more than \$745,000 were disbursed to Kelco Foundation, a foundation founded by Monsignor Vincent Kelly, which fees directly related to the introduction of at least 19 investors to the Partnership by Monsignor Kelly. Ms. Fox stated that these management fees were treated as charitable contributions on the tax returns of P&S Associates however they were passed through to investors in their K-1s as "expenses related to portfolio income."

Ms. Fox then concluded by pointing out that, even based on the 2009 tax returns and investors' investments as reflected on the 2009 tax return, over 51 percent of the vote was attained.

Mr. Jacob then asked Ms. Fox if the report she mentioned would be available to all partners. Mr. Samuels noted that since the report was done on behalf of his clients under the auspices of attorney/client privilege, it would not be available at that time.

At that time, Mr. Black asked if anyone else would like to speak, and Mr. Mark stated that he wished for a clarification regarding Mr. Pugatch's question about the net winners. At that point, Mr. Black confirmed that the vote of net winners was not considered.

Francis Mahoney stated that he had been told months prior that if Mr. Sullivan was not removed as Managing General Partner by the end of the year, a certain amount of money in escrow would not be distributed to the Partnership. Mr. Mahoney then asked if anyone could expound on that issue. No one responded to this question.

Mr. Black then asked if anyone else would like to speak, and Steve Jacob stated he would. Mr. Jacob asked for an estimated dollar amount that it would cost to pursue the steps proposed by the proponents of Mr. Sullivan's removal and replacement. Mr. Singerman began to answer Mr. Jacob's question, but Mr. Jacob then chose not to have Mr. Singerman continue.

Mr. Black then asked if any other person wished to speak. There being none, Mr. Black announced that the discussion period was over.

At this time, Mr. Black noted that if anyone had not handed in a proxy or would like to change their vote, they should so indicate and the Inspector of Elections would either collect their proxy or provide a ballot to them.

After distribution of ballots and proxies by the Inspector of Elections, Mr. Black reiterated the specific motions before the meeting and announced that the polls were open.

While the polls were open, Mr. Moss noted that he has dealt with

lawyers in this matter and, each time, it cost him thousands of dollars for no results. In response, Mr. Singerman asked if Mr. Moss had dealt with lawyers at Berger Singerman in connection with these matters, and Mr. Moss confirmed that he had not.

Various partners and proxies then completed ballots and submitted ballots and proxies to the Inspector of Elections. Mr. Black then confirmed that all partners present in person or by proxy had been given the opportunity to vote. Mr. Black closed the polls. The Inspector of Elections then tallied the votes in favor of and against the proposals.

After a short break, Mr. Stepelton called the meeting back to order, then asked Mr. Black to proceed.

Mr. Black then announced that he had been advised by the Inspector of Elections of the voting results and that the Partnership's partners had replaced Michael D. Sullivan as Managing General Partner with Margaret J. Smith and voted to amend the partnership agreement of the Partnership to reflect the change in Managing General Partners, which amendment would be included with the minutes of this meeting.

Mr. Black then stated that Michael Sullivan:

- should provide Margaret Smith with all information she requires to facilitate the transition to her as Managing General Partner,



- was being put on notice that Ms. Smith's designee would arrive at the partnership's office at 1 p.m. that afternoon in order to take possession of S&P Associates' files, computers, records, and assets,
- should not remove any files, records, or assets of the partnership prior to Ms. Smith or her designee taking possession or control of same, and
- should have no further involvement with the affairs of S&P Associates.

Thereafter, Mr. Black provided Messrs. Pugatch and Rubin formal notice reiterating the directives in regards to Mr. Sullivan that Mr. Black had just stated, as to both the Partnership and S&P Associates. Mr. Pugatch acknowledged receipt of the notice, but stated that he did not control Mr. Sullivan or have the ability to deliver the notice to him prior to 1 p.m., noting that he is not at his office. Mr. Pugatch then stated that he was not opining as to whether Mr. Sullivan takes the position that the events which transpired over the course of the day were legal. At that point, Mr. Rubin also acknowledged receipt of the notice.

Mr. Rubin asked what the percentage of the vote in favor of the motions was, and Mr. Black responded that it was over 56 percent. Mr.


Black then noted that the votes would be reported in the meeting minutes.

Mr. Black adjourned the meeting at approximately 11:55 a.m.

A copy of the vote results, certified by the Inspector of Elections, is attached to these minutes as Exhibit B.<sup>1</sup>

A copy of the transcript from the meeting, certified by the meeting's stenographer – Suzanne Dunay Siegel – is attached to these minutes as Exhibit C.

A copy of the amendment to the partnership agreement of the Partnership is attached to these minutes as Exhibit D

  
Secretary of the Meeting

Approved:

  
Chairman of the Meeting

<sup>1</sup> Those ballots and proxies are attached to these meeting minutes as Exhibit B. The proxy of Abraham Newman was not counted because, under the net equity method of accounting which was employed to determine partnership interests, Mr. Newman has received a full return of his investment and therefore has no further interest in the Partnership.

EXHIBIT A  
Sign In Sheet

(see attached)

**P & S ASSOCIATES  
SPECIAL MEETING OF PARTNERS  
FRIDAY, AUGUST 17, 2012  
SIGN IN**

SIGNATURE	PRINTED NAME	PARTNER	OTHER & CAPACITY
<i>Maggie Smith</i>	Maggie Smith		Other
<i>Carol Fox</i>	Carol Fox	✓	Financial Advisor
<i>Janet C Jordan</i>	Janet C Jordan	✓	
<i>Bryt D. Stapp</i>	Bryt Stapp	✓	
<i>John J. Kelly</i>	P. Kelly		Advisor
<i>Roger Bond</i>	ROGER BOND	✓	
<i>Andy Ziffer</i>	Andy Ziffer		Representative
<i>EFAN MARK</i>	EFAN MARK		guy
<i>Judith Chapman</i>	JUDITH CHAPMAN	✓	
<i>Gary Chapman</i>	GARY CHAPMAN	✓	
<i>Chad Pugatch</i>	Chad Pugatch		A Horney
<i>Robert Rubin</i>	Robert Rubin		ATTORNEY
<i>Bryt Moss</i>	Bryt Moss	✓	
<i>Cindy Wallick</i>	Cindy Wallick		
<i>VIRLEE STEPELON</i>	VIRLEE STEPELON		
<i>Doug STEPELON</i>	Doug STEPELON		
<i>Francis Mahoney</i>	FRANCIS MAHONEY (Rep)		rep.

EXHIBIT B  
Vote Results

(see attached)

**P & S ASSOCIATES**

**Special Meeting of the Partners held on August 17, 2012**

**Certificate of Inspector of Elections**

Date of Special Meeting

August 17, 2012


Total Partnership Interests present by proxy or in person: 90.49%

I, Marci Shaffer being the Inspector of Elections of the Special Meeting of the Partners of P & S Associates held on Friday, August 17, 2012 at 11:00 a.m. at the offices of Berger Singerman LLP, 350 E. Las Olas Blvd., Suite 1000, Ft. Lauderdale, FL 33301, do hereby certify that the results of voting at said meeting were as follows after my examination of all the proxies and ballots presented to the meeting:

For removal, election and amending the Partnership Agreement: 57.40%

Against removal and amending the Partnership Agreement: 33.09%

Dated: August 17, 2012

  
Marci Shaffer  
Inspector of Elections of Special  
Meeting of Partners of P & S  
Associates

# **P & S Associates**

## **August 17, 2012 Meeting Vote Results\***

Investor	% Net Invested Capital	Proxy or Ballot Received in Favor	Proxy or Ballot Received Against
Elaine Ziffer	5.91%	X	
Myra Friedman	5.11%	X	
Frank & Patricia Perkins	4.69%	X	
Susan King K. Platt Revocable Trust	4.56%	X	
Carone Martial Trust #2 UTD 1/28/00	4.50%	X	
James A. Jordan Living Trust	4.09%	X	
Carone Martial Trust #1 UTD 1/28/00	3.96%	X	
Carone Gallery, Inc. Pension Trust	3.01%	X	
Group Benefit Consultants, Inc.	2.91%	X	
Henry C. & Irmgard M. Koehler Trust	2.76%	X	
Carone Family Trust	2.60%	X	
Joyce Forte and Bruce & Lynn Cummings	2.21%	X	
Sandra Dydo	2.04%	X	
Robert & Suzanne Platt	1.35%	X	
Ande Anderten	1.02%	X	
Mathew D. Carone Revocable Trust	0.77%	X	
Abraham & Shirley Saland	0.67%	X	
Paul J. Frank Revocable Living Trust	0.81%		
Holy Ghost Fathers HG-Ireland, Inc.	1.19%		X
Fr. Vincent T. Kelly	0.10%		
Vincent T. Kelly Irrevocable Trust	0.31%		
Janet E. Molchan	1.28%		X
Edith & Sam Rosen	1.86%		X
Holy Ghost Fathers HG-SW Brazil	1.08%		
Susan M. & Victor G. Shaheen	0.32%		
Robin L. Costa	0.48%	X	
Paroquia De Santa Luzia	2.15%		
Mary Ellen Nickens	0.78%	X	
Cath. G. Walden Rev. Trst DTD 2/12/98	4.06%	X	
Adam C. Langley	0.42%		X
Lauren Disbury	0.06%		X
Walsh Family Trust #2	0.05%		
Walsh Family Trust #3	0.21%		
Robert G. Walsh Family Trust #3	0.04%		
Gerald Login	5.87%		X
Burt & Susan Moss	12.09%		X
W. Waite & Susan M. Willis, Jr.	0.05%		X
Robert G. Walsh Family Trust #4	0.33%		
Joan Hughes	2.02%		X
Rebekah & Richard Willis, Jr.	0.23%		
Burt Moss & Associates Inc. 401K Plan, Burt Moss & Susan Moss Trustee	4.94%		X
Alex & Angela Shanks	0.31%		
Charles L. Jordan	0.51%		
Andrea J. Acker	1.02%		
Marvin & Calla Gutter	2.04%		
Pamela S. & John F. Bogaert	0.02%	X	
Holy Ghost Fathers of Ireland, Inc.	3.32%		X
<b>Total</b>		<b>57.40%</b>	<b>33.09%</b>

\*Abraham Newman's proxy was not considered

BALLOT

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby cast the following vote on the following question presented at the Meeting of the partners of the Partnership held on August 17, 2012:

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ✓ Against: ✗

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ✓ Against: ✗

By: Janet Jordan  
Name: Janet Jordan  
Title: Proxy

8/17/12  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

✗ The vote evidenced by this ballot is taken on behalf of all proxies that (i) name me as proxy and (ii) direct me to vote against the foregoing resolution.

IN FAVOR OF



PROXY

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ✓

Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ✓

Against: \_\_\_\_\_

Abraham Saland  
Abraham Saland

Shirley Saland  
Shirley Saland

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

## PROXY

## SPECIAL MEETING OF THE PARTNERS OF P &amp; S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

## Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: X Against: \_\_\_\_\_

## Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: X Against: \_\_\_\_\_

Robert Plati  
Robert Plati

Suzanne Plati  
Suzanne Plati

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ☒

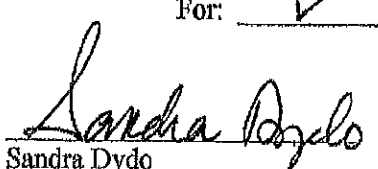
Against: ☐

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ☒

Against: ☐

  
Sandra Dydo

\_\_\_\_\_  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: X Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: X Against: \_\_\_\_\_

Joyce Forte  
Joyce Forte

Lynn Cummings  
Lynn Cummings

Date \_\_\_\_\_  
Bruce Cummings  
Bruce Cummings

Date \_\_\_\_\_

Date \_\_\_\_\_

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

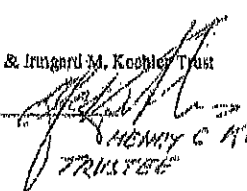
For: ☒ Against: ☐

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ☒ Against: ☐

Henry C. & Ingrid M. Koehler Trust

By:   
Name: HENRY C. KOEHLER  
Title: TRUSTEE

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ✓

Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ✓

Against: \_\_\_\_\_

Carone Gallery, Inc. Pension Trust

By: Matthew D. Carone  
Name: Matthew D. Carone  
Title: Trustee

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

## PROXY

## SPECIAL MEETING OF THE PARTNERS OF F &amp; S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of F & S Associates, a general partnership (the "Partnership"), entitled in vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

## Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ☒ Against: ☐

## Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO SUBJECT THE CHANCE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ☒ Against: ☐

Carone Family Trust

Signature: *Matthew D. Carone*  
Name: *Matthew D. Carone*  
Title: *partner*

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ☒ Against: ☐

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ☒ Against: ☐

Carone Marital Trust #1

By: Matthew D. Carone  
Name: Matthew D. Carone  
Title: Trustee

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.



PROXY

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ✓

Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ✓

Against: \_\_\_\_\_

Carone Marital Trust #2

By: Matthew D. Carone  
Name: Matthew D. Carone  
Title: Trustee

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ✓

Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ✓

Against: \_\_\_\_\_

James A. Jordan Living Trust

By: James A. Jordan

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

## PROXY

## SPECIAL MEETING OF THE PARTNERS OF P &amp; S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

## Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: X Against: \_\_\_\_\_

## Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: X Against: \_\_\_\_\_

Suzanne King Plati

Suzanne King X Plati Revocable Trust

\_\_\_\_\_  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: X

Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: X

Against: \_\_\_\_\_

Frank Perkins  
Frank Perkins

Patricia J. Perkins  
Patricia J. Perkins

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P. & S. Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ✓

Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ✓

Against: \_\_\_\_\_

Myra Friedman  
Myra Friedman

\_\_\_\_\_  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

## PROXY

## SPECIAL MEETING OF THE PARTNERS OF P &amp; S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of this Partnership, does hereby execute and appoint the following person(s) in the following order, namely, Daniel Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of this Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

## Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: ☒ Against: ☐

## Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: ☒ Against: ☐

Matthew D. Carone Revocable Trust

By: Matthew D. Carone  
Name:  
Title: Partner Matthew D. Carone

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

Anderten

THE HONORABLE MEMBERS OF  
THE HOUSE OF COMMONS  
July 4, 1918

Anderten is a small town in the district of

Anderten is a small town in the district of

Anderten is a small town in the district of

Anderten is a small town in the district of



NOTICE: This is a notice of the meeting of the Anderten district council, which will be held on the 11th day of the month of July, 1918, at 8 o'clock in the evening, at the Anderten district hall, for the purpose of electing a member to the Anderten district council, in the place of the member who has resigned his office. The notice is hereby given that any person who is qualified to be elected to the Anderten district council, and who is desirous of being elected, should appear at the meeting of the council on the 11th day of the month of July, 1918, at 8 o'clock in the evening, at the Anderten district hall, and there present himself for election.

#### PROXY

#### PROXY FOR THE MEMBERS OF THE DISTRICT COUNCIL

Anderten, 11th July, 1918

I, the undersigned, being a member of the Anderten district council, do hereby authorize the undersigned to act as my proxy at the meeting of the Anderten district council, which will be held on the 11th day of the month of July, 1918, at 8 o'clock in the evening, at the Anderten district hall, for the purpose of electing a member to the Anderten district council, in the place of the member who has resigned his office. The undersigned hereby declares that he is qualified to be elected to the Anderten district council, and that he is desirous of being elected.

The undersigned hereby declares that he is qualified to be elected to the Anderten district council, and that he is desirous of being elected.

Proposed Name:

IS TO THE PROPOSED NAME, AND THE UNDERSIGNED OF THE DISTRICT COUNCIL

For

Against

Proposed Name:

IS TO THE PROPOSED NAME, AND THE UNDERSIGNED OF THE DISTRICT COUNCIL

*[Handwritten signature]*

Anderten, 11th July, 1918

This proxy is valid only for the meeting of the Anderten district council, which will be held on the 11th day of the month of July, 1918, at 8 o'clock in the evening, at the Anderten district hall, for the purpose of electing a member to the Anderten district council, in the place of the member who has resigned his office.

ATTN: JANET JORDAN  
DAVE BLACK

PROXY

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: X Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: X Against: \_\_\_\_\_

By: Catherine G. Walden  
Name: CATHERINE G. WALDEN  
Title: SURVIVING CO-TRUSTEE, CATHERINE G. WALDEN REVOCABLE TRUST DTD 02/12/1998  
Date: 08/16/2012

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

44314/3-1



PROXY

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For:                     

Against:                     

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For:                     

Against:                     

Elaine Ziffer  
Elaine Ziffer

July 5, 2012  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals,

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: X Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: X Against: \_\_\_\_\_

By: Robin L. Costa  
Name: ROBIN L. Costa  
Title: partner

Date: July 23, 2012

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: X Against:                     

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: X Against:                     

By:  
Name:  
Title:

John A. Bogert Pamela S. Bogert (Indeker)

Date

7-27-12

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: X

Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: X

Against: \_\_\_\_\_

Group Benefit Consultants, Inc.

By: [Signature]

Name: GARY R. CHAPMAN / JUDITH M. CHAPMAN

Title: TRUSTEE

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

BALLOT

SPECIAL MEETING OF THE PARTNERS OF ~~S & P~~ ASSOCIATES <sup>P&S</sup>

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of ~~S & P~~ <sup>P&S</sup> Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby cast the following vote on the following question presented at the Meeting of the partners of the Partnership held on August 17, 2012:

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: X Against: \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: X Against: \_\_\_\_\_

By: Francis J. Mahoney, Jr.  
Name: FRANCIS J. MAHONEY, JR.  
Title: (REPRESENTATIVE OF MARY ELLEN NICKENS)

17 Aug. 2012  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

BALLOT

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby cast the following vote on the following question presented at the Meeting of the partners of the Partnership held on August 17, 2012:

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: ✓ 8

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: ✓ 8

By: Janet Jordan  
Name: Janet Jordan  
Title: Proxy

8/17/12  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

8 The vote evidenced by this ballot is taken on behalf of all proxies that (i) name me as proxy and (ii) direct me to vote against the foregoing resolution.

PROXY

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: X *I VOTE AGAINST*

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: X *I vote against*

By: GERALD LOGIN

Name: GERALD LOGIN

Title: General Partner

Date: 8/6/12

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: ✓

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: \_\_\_\_\_

By: [Signature]

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: 7/26/12

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.



PROXY

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: X

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: X

By: [Signature]

Name: Janet Molchan

Title: Gen'l partner

Date

7/26/12

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: ✓

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: ✓

By: W. Waite Willis, Jr.  
Name: W. Waite Willis, Jr.  
Title: \_\_\_\_\_

Susan M. Willis  
Susan M. Willis

Date: 8/12/12

8/12/12

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: ✓

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: ✓

By: Adam + Tonya Langley  
Name:  
Title:

8-12-12  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Janet Jordan and Roger Bond (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 11:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: ✓

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: ✓

By: Susan H. Moss / Burt H. Moss  
Name: Burt + Susan Moss  
Title: \_\_\_\_\_

8-5-12  
Date

I have 3 Accounts  
(Joint) I vote against  
(IRA) for all three  
(401k)

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

Burt Moss  
Burt Moss  
Trustee

BALLOT

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby cast the following vote on the following question presented at the Meeting of the partners of the Partnership held on August 17, 2012:

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: ✓

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: \_\_\_\_\_

By: Steve Jacob

Name:

Title: PM

Date

8/17/12

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being a partner of P & S Associates, a general partnership (the "Partnership"), entitled to vote at a special meeting (the "Meeting") of the partners of the Partnership, does hereby constitute and appoint the following person(s) in the following order, namely, Susan Moss and Steven Jacob (each, a "Proxy Holder"), to be my true and lawful agent, with full power of substitution, to attend the Meeting of the members of the Partnership to be held on August 17, 2012 at 10:00 a.m. or any continuation or adjournment thereof, with full power to vote and act for me and in my name and stead, in the same manner, to the same extent, and the same effect that I might, were I present in person.

The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_ Against: ✓ \_\_\_\_\_

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_ Against: ✓ \_\_\_\_\_

By: Lauren Disbury  
Name: Lauren Disbury  
Title: \_\_\_\_\_

Date: 8-16-12

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

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Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_ Against: X

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_ Against: X

By: Sam Rosen Edith Rosen

Name: SAM ROSEN - EDITH ROSEN

Title: PARTNER - OWNERS

Date: 08/09/2012

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

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August 17, 2012

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For: \_\_\_\_\_ Against: ✓

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_ Against: ✓

By: Tom Basquel

Name: THOMAS BASQUEL

Title: PROVINCIAL DELEGATE - HOLY GHOST FATHERS OF A  
IRELAND

Date: 08/06/12

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.



PROXY

SPECIAL MEETING OF THE PARTNERS OF S & P ASSOCIATES

August 17, 2012

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For: \_\_\_\_\_

Against: Against

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: \_\_\_\_\_

By: D. Casey R. G. Jr.  
Name: DIARMAID CASER  
Title: Financial Officer of Italy Joint Factors of Ireland.

Date: 8/7/2012

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

(2nd)

PROXY

SPECIAL MEETING OF THE PARTNERS OF P & S ASSOCIATES

August 17, 2012

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The Proxy Holder(s) shall cast a vote for or against the following proposals.

Proposal Number 1:

AS TO THE PROPOSED REMOVAL AND REPLACEMENT OF THE MANAGING GENERAL PARTNER

For: \_\_\_\_\_

Against: ✓

Proposal Number 2:

AS TO AMENDING THE PARTNERSHIP'S PARTNERSHIP AGREEMENT TO REFLECT THE CHANGE OF MANAGING GENERAL PARTNER (IF PROPOSAL NUMBER ONE PASSES)

For: \_\_\_\_\_

Against: ✓

By: [Signature]  
Name: ABRAHAM NEWMAN  
Title: \_\_\_\_\_

8/13/12  
Date

Voting will occur at the Meeting, and at the conclusion of the Meeting, polling will close and proxies and/or ballots will be counted.

4435473-1

EXHIBIT C  
Transcript of Meeting

(see attached)

P&S ASSOCIATES  
SPECIAL MEETING OF PARTNERS

350 E. Las Olas Blvd.  
Suite 1000  
Ft. Lauderdale, Florida  
Friday, 11:00 a.m.  
August 17, 2012

1 APPEARANCES: BRETT STEPELTON, Chairman.  
2 DAVID BLACK, Secretary.  
3 MARCI SHAFFER, Inspector of Elections.  
4 PATRICIA BOEHM, Police Officer.

5  
6 ALSO PRESENT: MARGARET SMITH  
7 CAROL FOX  
8 JANET JORDAN  
9 PATRICK KELLY  
10 ROGER BOND  
11 ANDY ZIFFER  
12 ETAN MARK  
13 JUDITH CHAPMAN  
14 GARY CHAPMAN  
15 CHAD PUGATCH  
16 ROBERT RUBIN  
17 BURT MOSS  
18 CINDY WALLICK  
19 VIRLEE STEPELTON  
20 DOUG STEPELTON  
21 FRANCIS MAHONEY  
22 WAYNE HORWITZ  
23 LEONARD SAMUELS  
24 PAUL SINGERMAN  
25 MORRIS BROWN

1                   MR. STEPELTON: Good morning, ladies and  
2 gentlemen. Welcome to the August 17, 2012 special  
3 meeting of the partners of P&S Associates.  
4 I'm Brett Stepelton, the chairman of the special  
5 meeting.

6                   At this time the P&S Associates special  
7 meeting of partners will come to order.

8                   Marci Shaffer has been appointed as  
9 inspector of elections in the meeting. I'm  
10 appointing David Black as secretary of the meeting.

11                  David, please proceed.

12                  MR. BLACK: Thank you.

13                  At this time I'd like anyone who is not a  
14 partner in P&S Associates to state their name for the  
15 record.

16                  I'm David Black from Berger Singerman.

17                  MS. FOX: Carol Fox -- Glass Ratner  
18 Advisory & Capital Group.

19                  MR. SAMUELS: Leonard Samuels, Berger  
20 Singerman.

21                  MR. MARK: Etan Mark, Berger Singerman.

22                  MR. HORWITZ: Wayne Horwitz, trustee.

23                  My parents are in the S&P, but I missed the  
24 first part of last meeting so I'm here to just catch  
25 up.

1 Thank you.

2 MR. MAHONEY: Francis Mahoney. I'm  
3 representing the estate of my sister, Mary Nickens.

4 MR. DOUG STEPELTON: Doug Stepelton, Stacy  
5 Foundation.

6 MR. BROWN: Morris Brown, Berger Singerman.

7 MR. KELLY: Patrick Kelly, Stacy  
8 Foundation.

9 MS. STEPELTON: Virlee Stepelton.

10 MS. SMITH: I'm Margaret Smith -- Glass  
11 Ratner, Advisory & Capital Group.

12 MS. SHAFFER: Marci Shaffer, Berger  
13 Singerman.

14 MR. ZIFFER: Andy Ziffer, representing my  
15 mother, Elaine Ziffer.

16 MR. RUBIN: I'm Robert Rubin, partner at  
17 Becker & Poliakoff, Helen Chaitman's partner.

18 MR. PUGATCH: Chad Pugatch -- Rice, Pugatch  
19 Robinson & Schiller.

20 MR. JACOB: Steve Jacob. I have proxies  
21 for some people.

22 MR. BLACK: Thank you.

23 I'll now summarize the rules and procedures  
24 that you all received upon entry.

25 Does anyone still need a copy of the rules

1 and procedures for this special meeting?

2 Anyone who has not previously handed in a  
3 proxy or would like to change his or her vote must  
4 see the inspector of elections to receive a ballot.

5 After I read the motions before the  
6 partners I will entertain discussion prior to the  
7 vote. Only people noted as partners in the inspector  
8 of elections roster or their designees as well as the  
9 current managing general partner and his designee may  
10 speak at the meeting during the discussion period.  
11 One person may speak at a time, after being called  
12 upon by me.

13 Discussion is limited to five minutes per  
14 speaker, and anyone who refuses to cease discussion  
15 after five minutes after admonition from me will be  
16 removed by Officer Boehm for trespassing.

17 After the discussion period I will call  
18 the vote and direct ballots to be returned to the  
19 inspector of elections.

20 If more than one person seeks to vote a  
21 partner's interest, the inspector of elections will  
22 determine which vote to accept.

23 I've been informed by the inspector of  
24 elections that a quorum is present and I declare that  
25 this meeting is duly qualified to transact business.



1           The following proposals are before the  
2           partners in this meeting: Replace Michael D.  
3           Sullivan as managing general partner with Margaret  
4           J. Smith. If that proposal passes, amend the  
5           partnership agreement of P&S Associates to reflect  
6           the change in managing general partners.

7           If prior to voting on the foregoing  
8           proposals anyone would like to comment in accordance  
9           with the rules and procedures for this meeting,  
10          please raise your hand and wait to be called upon by  
11          me.

12          At this time I open up the meeting to  
13          discussion.

14          MR. MOSS: (Indicating).

15          MR. BLACK: Yes, sir.

16          MR. MOSS: My name is Burt Moss. I'm a  
17          partner. I've lost several million dollars in this.  
18          I'm tired of wasting money. I'd like to know how  
19          much it's going to cost to have you pursue something  
20          that may be worthless. What have you done to  
21          determine any recovery -- any possible chance of  
22          recovery?

23          All I know is any dealings I've had with  
24          attorneys in this matter have cost me thousands of  
25          dollars. I've gotten nothing in return.

1 I don't know about Margaret Smith being  
2 the managing partner and then her doing the  
3 investigation. Why doesn't somebody just hire her?

4 Who is going to oversee how much it's  
5 going to cost for her to do this investigation,  
6 and supposedly if the allegations you've made are  
7 correct, who are you going to collect from?

8 Can I get any answers?

9 MR. BLACK: Your question is noted.

10 If anyone would like to respond, they may  
11 do so.

12 MR. MARK: I'll respond briefly.

13 Your question was addressed in the earlier  
14 meeting, but I'll be happy to address it to the  
15 extent I can in this meeting.

16 As I think some of the correspondence has  
17 reflected, we have conducted -- when I say "we," I  
18 mean Berger Singerman in conjunction with Glass  
19 Ratner and our group of clients who have come out of  
20 pocket and spent their own money -- an extensive  
21 forensic accounting of the books and records of the  
22 partnerships.

23 That accounting has resulted in certain  
24 findings which were in that letter that some of the  
25 partners sent out last week.

1           The long and short of it is that there's  
2       millions of dollars that are unaccounted for in the  
3       partnerships.

4           Your question is: Well, what do we do now,  
5       and our answer, respectfully, is: This is what we do  
6       now.

7           We know that Mr. Sullivan is not the  
8       person to oversee the next steps with respect to this  
9       partnership, and the reason we know that is because  
10      the books and records were not maintained properly  
11      and there's significant issues, as I said.

12          So we're now going to take the next step  
13      to have somebody in there that actually is qualified  
14      that actually can do an appropriate review to  
15      ascertain what those next steps are going to be.

16          So how much it's going to cost, how long  
17      it's going to take, those are questions that were  
18      previously answered. If you want me to go into it  
19      again ---

20           MR. MOSS: I didn't hear it. I'm sorry.

21           I'd like to know how much it's going to  
22      cost.

23           MR. MARK: Paul, do you want to just  
24      reiterate the comments you made earlier about how  
25      much it's going to cost, how long it's going to take,

1       because Mr. Moss ---

2               MR. MOSS: I'd like to know if the  
3       attorneys are willing to do it on a contingency, if  
4       they're so certain.

5               MR. SINGERMAN: Let me try to take your  
6       questions one at a time, because they're all fair  
7       questions.

8               The answer to your question about how long  
9       it's going to take to conduct an appropriate analysis  
10      and make recommendations and give advice as to  
11      whether there are claims to pursue and investigate  
12      the potential collectability of claims against  
13      litigation targets depends nearly entirely on whether  
14      we are afforded cooperation, transparency and access  
15      by the current general manager when we appear at the  
16      company today at 1:00 o'clock.

17              In the event that the vote supports the  
18      replacement of the general manager and we are greeted  
19      in a collaborative manner and we are afforded access  
20      to books and records, electronically stored  
21      information, given cooperation in answering the  
22      questions that we have, I would expect that we will  
23      have a pretty good handle on the advice that we would  
24      give in 30 to 45 days.

25              The quickest part would be conducting the

1 legal and forensic analysis of the data once we have  
2 it all.

3 If, instead, we are greeted differently  
4 and there are efforts to inhibit access to the  
5 information, it will take longer and cost more money.

6 I can't really be more precise now.

7 MR. BLACK: Mr. Moss, you have one minute  
8 remaining.

9 MR. SINGERMAN: Let me ---

10 MR. MOSS: He is talking so slow the time  
11 is being eaten up.

12 MR. SINGERMAN: Sir, I don't know if --  
13 the lady at the end of the table is typing what  
14 we're saying, and it's not usually efficient or  
15 polite -- she can only type one person's comments at  
16 a time.

17 If you want me to stop speaking, you may  
18 speak, and then she can take down what you're saying  
19 and then I will be unable to answer the other  
20 questions that you asked, but you go ahead.

21 MR. MOSS: My only comment is I understand  
22 that all the records have been provided. I don't  
23 know that there's any more to provide.

24 MR. SINGERMAN: From whom do you have that  
25 understanding?

1 MR. MOSS: From Sullivan.

2 MR. SINGERMAN: Well, we disagree, and  
3 there's a very substantial paper trail of  
4 communication about the provision of information  
5 in the past several months between our law firm and  
6 Mr. Sullivan and the company.

7 MR. BLACK: Thank you.

8 Would anyone else like to speak?

9 MR. PUGATCH: Chat Pugatch, again, as  
10 partnership counsel at the request of the current  
11 managing partner, and I have the same questions I had  
12 in the other one.

13 Number one, on what basis was the  
14 51 percent calculated in order to assure that there  
15 was a proper vote to call the meeting, and, secondly,  
16 Mr. Jacob's question from the last one, which is  
17 relevant here, too, which is: What was the  
18 methodology used in order to calculate the interest  
19 of each partner for purposes of ascertaining the  
20 percentage vote?

21 MR. BLACK: Sure.

22 I'll take your question, and then I'll let  
23 Ms. Fox take the second question.

24 Out of all the partners in P&S Associates,  
25 over 51 percent of the current partnership interests,

1 not partners, voted in favor of calling this meeting.

2 As a result of that the meeting was called.

3 In terms of how those interests were  
4 calculated, I'll defer to Ms. Fox.

5 MS. FOX: It was based on the net equity  
6 method -- cash in less cash out.

7 MR. PUGATCH: Just to follow up on that,  
8 just so we're all clear, does that mean that anybody  
9 who is a "net winner" was not factored into the vote  
10 at all? So if you were a partner but you were a net  
11 winner you don't have a vote?

12 MR. BLACK: Under that framework, people  
13 who have already received all of their money back  
14 from this partnership are no longer partners in the  
15 partnership.

16 MR. PUGATCH: Is that based upon a legal  
17 opinion your firm provided?

18 MR. BLACK: No. Thank you.

19 Any other questions?

20 MR. SAMUELS: I'd like to speak.

21 MR. BLACK: Thank you.

22 MR. SAMUELS: Good morning everybody.

23 I'm going to make comments similar to those  
24 that I made at the earlier meeting this morning for  
25 S&P.

1           Welcome to the P&S partnership meeting. I  
2           appreciate you coming.

3           My firm, Berger Singerman, represents a  
4           group of investors who have lost millions of dollars  
5           in their investments in the partnership and as  
6           previously stated the purpose of this meeting is to  
7           take a vote on whether or not to remove the current  
8           managing partners, Michael Sullivan, and replace him  
9           with Margaret Smith, a CPA from the firm of Glass  
10          Ratner. They're a nationally acclaimed advisory  
11          firm.

12          Ms. Smith is a CPA. Ms. Smith is certified  
13          in fraud examinations and is a business valuation  
14          expert and should be an excellent managing partner  
15          for this entity.

16          We recently read correspondence from  
17          Mr. Sullivan suggesting that there's not a whole lot  
18          left to be done, and there does seem to be a lot to  
19          be done on behalf of the partnership.

20          For example, there's a lawsuit filed on  
21          July 25, 2012, presumably at the direction of  
22          Mr. Sullivan, which will determine how some money  
23          coming into the partnership will be distributed.

24          Many partners have significant concerns  
25          regarding the management of the partnerships, many of



1       which have even been raised by the Trustee for the  
2       Estate of Bernie Madoff against Frank Avellino and  
3       Michael Bienes. A section of that lawsuit is  
4       entitled: Avellino's and Bienes' attempt to find  
5       front men and use new partnerships to continue to  
6       funnel money to BLMIS, which would be Madoff.

7               The lawsuit goes into some detail  
8       concerning the use of the partnerships as a front  
9       for Mr. Avellino and Mr. Bienes, neither of whom are  
10      permitted to participate in the sale of securities to  
11      others. They have been barred legally.

12             Again, these are allegations in the lawsuit  
13      filed by Mr. Picard. They're not allegations that we  
14      are making up here.

15             I only raise that point to say that we're  
16      not the only ones concerned with the management of  
17      this partnership, and it's not Mr. Picard who will  
18      investigate this. It would be the job of the  
19      managing general partner.

20             Quite frankly, there's questions about  
21      whether Mr. Sullivan can do that in light of the  
22      allegations raised by Mr. Picard.

23             There's also been extensive forensic  
24      accounting work done already and paid for by my  
25      clients out of pocket, and we do have some initial

1 findings, although we have not been provided with all  
2 the books and records of the company as previously  
3 noted.

4 An exhaustive review to date has revealed  
5 some significant lapses in connection with the  
6 management of the partnership. Millions of dollars  
7 are unaccounted for. There were millions of dollars  
8 of investments that were supposed to have been made  
9 that, in fact, were not made according to the records  
10 as it pertains to S&P and P&S, and I'll just lump  
11 these together right now.

12 Michael Sullivan and Associates received  
13 over 3.8 millions dollars in fees; an entity called  
14 Sullivan and Powell received almost 2 million dollars  
15 in fees; Michael Sullivan and Associates received  
16 over 1.7 million dollars in fees; and nearly \$750,000  
17 was distributed to an entity called Kelco Foundation,  
18 and over \$600,000 was distributed to Sullivan and  
19 Powell. That totals nearly 8 million dollars.

20 The partnership record also shows tens of  
21 thousands of dollars of fees were earmarked for  
22 distribution in Mr. Avellino and Mr. Bienes, as well.

23 Mr. Sullivan suggested this endeavor as a  
24 ploy to run up fees to the detriment of the  
25 partnership. My clients have collectively lost

1 millions of dollars and they are motivated by a  
2 goal, and that is to recover as much money for the  
3 partnerships as possible for distribution among the  
4 partners.

5 My clients have expressed that they do not  
6 believe that Mr. Sullivan is the appropriate person  
7 to achieve the goals that they are seeking, and for  
8 that reason they are asking for his removal.

9 Thank you.

10 MR. BLACK: Anyone else who would like to  
11 speak during this discussion period?

12 MS. FOX: Yes.

13 MR. BLACK: Please reiterate your name for  
14 the record.

15 MS. FOX: Carol Fox. Glass Ratner Advisory  
16 & Capital.

17 Good morning. I'm Carol Fox. I'm the  
18 senior managing director at Glass Ratner Advisory &  
19 Capital, and I'd like to address some of the issues  
20 raised by Mr. Moss, and rightfully so.

21 Just for those of who you were not here  
22 for the prior meeting, I'll briefly review my  
23 qualifications. I'm a certified public accountant  
24 for over 20 years. I'm a certified fraud examiner.  
25 I'm certified in insolvency and restructuring. In

1        addition, I've investigated and/or testified on  
2        matters involving white collar crime and investor  
3        fraud in cases as large as one billion dollars under  
4        management.

5                So basically I'd like to address  
6        Mr. Moss' concerns, which were basically we asserted  
7        the records were missing -- Mr. Moss is under the  
8        assumption they were turned over -- the specific  
9        findings in our forensic memo, and close with that.

10               Specifically with respect to P&S, review  
11        of the banking records provided by Mr. Sullivan show  
12        that 26.9 million dollars in investor funds was  
13        received by P&S. Of that amount 22.8 million dollars  
14        was invested in BLMIS, leaving a discrepancy of four  
15        million dollars.

16               With respect to S&P, we do not have  
17        complete records, and we're missing various periods  
18        starting in -- I believe it's 1999 and continuing  
19        through 2004 -- so we based our analysis off of the  
20        investor register maintained for S&P, and noted that  
21        64 million dollars in investor funds were received by  
22        S&P as reflected on the investor register, and of  
23        that amount 41.7 million dollars was invested in  
24        BLMIS, leaving 22.3 million dollars and an amount as  
25        high as 22.3 million dollars unaccounted for.

1                   With regard to Mr. Avellino's and  
2                   Mr. Bienes' management fee calculations prepared  
3                   for S&P and P&S they specifically reference accrued  
4                   amounts due to "A and B."

5                   These management fees were accrued on  
6                   behalf of investors, including, but not limited to,  
7                   James Jordan, Matthew Carone and Elaine Ziffer.  
8                   These fees were not paid directly from the  
9                   partnership. Nonetheless, the passthrough entity  
10                  that paid these accrued fees to Avellino and Bienes  
11                  requires further investigation via the analysis of  
12                  Michael D. Sullivan and Associates records and/or  
13                  Mr. Sullivan, personally.

14                  As Mr. Samuels said before, in the  
15                  aggregate entities controlled by Michael D. Sullivan  
16                  and Associates received almost 8 million dollars in  
17                  management fees.

18                  Additionally, correspondence contained in  
19                  the partnership files indicates that at least  
20                  Mr. Avellino was consulted and directed numerous  
21                  partnership decisions from inception and throughout  
22                  the lifespan of the partnership.

23                  With regard to Kelco, funds aggregating  
24                  \$745,000 comprising 60 checks were disbursed directly  
25                  from P&S to Kelco Foundation, a foundation by

1 Monsignor Vincent Kelly.

2           These fees directly related to the  
3 referral of at least 19 investors to P&S by Monsignor  
4 Kelly. These management fees were treated as  
5 charitable contributions on the tax returns filed by  
6 P&S and passed through to investors as expenses  
7 related to portfolio income.

8           The other significant finding I'd like to  
9 point out to you is that even based on the 2009 tax  
10 return and the investors' investments as reflected on  
11 the 2009 tax return we do have over 51 percent of the  
12 vote.

13           Are there any questions?

14           MR. JACOB: (Indicating).

15           MS. FOX: Mr. Jacob?

16           MR. JACOB: You mentioned a report.

17           Is that report going to be available to all  
18 partners?

19           MR. SAMUELS: That report that was done so  
20 far was done on behalf of our clients at this point  
21 in time, so it's not available to everybody at this  
22 point because it was done under the auspices of  
23 attorney/client privilege at this time.

24           Hopefully, Mr. Sullivan will cooperate and  
25 we'll see how that goes.

1 MR. BLACK: Your time is up.

2 MS. FOX: Thank you.

3 MR. BLACK: Would anyone else like their  
4 five minutes to discuss?

5 MR. MARK: (Indicating).

6 MR. BLACK: Yes.

7 MR. MARK: I'd just like to make one  
8 clarification to a comment Mr. Black made with  
9 respect to the net winners. This is in response, I  
10 think, to Mr. Pugatch's question.

11 The net winners --- whether or not their  
12 vote is counted versus whether or not they're  
13 partners.

14 I think Mr. Black said they're not  
15 considered partners, and I'm not sure if that ---

16 MR. BLACK: We have not considered their  
17 vote.

18 Thank you for the clarification.

19 MR. MARK: Thank you.

20 MR. MAHONEY: (Indicating).

21 MR. BLACK: Yes, sir.

22 MR. MAHONEY: I was first contacted maybe  
23 a couple of months ago by one of the partners seeking  
24 the ouster of Mr. Sullivan.

25 If I recall correctly, they said that

1 unless he was ousted by the end of the year a certain  
2 amount of money in escrow would not be distributed to  
3 the partnership.

4 Can you expound on that?

5 MR. BLACK: I can't, but your question is  
6 noted if anyone else would like to.

7 MR. MAHONEY: I could name this person. I  
8 don't know if that's relevant. I'm pretty sure  
9 that's what I was told.

10 MR. BLACK: Okay. Thank you.

11 MR. STEPELTON: Would you state your name  
12 for the record?

13 MR. MAHONEY: Francis Mahoney.

14 MR. BLACK: Is there anyone else who would  
15 like to speak?

16 MR. JACOB: I'd like to.

17 MR. BLACK: Restate your name.

18 MR. JACOB: Steve Jacob.

19 I'd like to ask for a more specific --  
20 probably a dollar amount -- regarding Mr. Moss'  
21 question and more to a dollar amount in a best case  
22 and worst case scenario.

23 I think that's what he was really getting  
24 at. I would like that answered, if possible.

25 MR. BLACK: I'll let Mr. Singerman



1       reiterate what he already said.

2               MR. SINGERMAN: I'll do my best to answer  
3       Mr. Jacob's question.

4               When you say a "dollar amount," what do you  
5       mean, sir?

6               MR. SINGERMAN: Fees.

7               MR. JACOB: In a best case and worst case.

8               MR. SINGERMAN: You know, it's an  
9       absolutely fair question, and the direct answer is:  
10       It's impossible to give you an estimate because --  
11       when you say "best case," I assume you mean that we  
12       go to the company today -- Ms. Smith goes to the  
13       company today -- and Mr. Sullivan provides complete  
14       cooperation ---

15               MR. JACOB: That's correct. I think you  
16       understand, but that's it. You don't have to  
17       clarify, but ---

18               MR. SINGERMAN: Thank you. I'll decide how  
19       the record looks and what I clarify, and I'll do my  
20       best to answer your question without advice from you  
21       on how to answer your question.

22               Is that fair?

23               MR. JACOB: I guess I'm just asking for a  
24       dollar amount, and if you're not able to give it,  
25       that's fine.

1 MR. SINGERMAN: I was attempting to answer  
2 your question.

3 If you wish me to try to do so, I will.  
4 If you don't, I won't. You pick.

5 MR. JACOB: Thank you.

6 MR. SINGERMAN: Okay.

7 MR. BLACK: Thank you.

8 Would anyone else like to speak?

9 MR. MOSS: Am I entitled to ask another  
10 question?

11 MR. BLACK: Your five minutes is up, but  
12 thank you.

13 Anyone else?

14 MR. BLACK: Okay. This concludes the  
15 discussion period.

16 If anyone has not handed in a proxy or  
17 would like to change his or her vote, please so  
18 indicate and the inspector of elections will either  
19 collect your proxy or provide a ballot to you.

20 If you have submitted a proxy card and do  
21 not wish to change your vote, you do not need to do  
22 anything at this point.

23 MR. MAHONEY: (Indicating).

24 MR. BLACK: Yes.

25 MR. MAHONEY: I don't have a ballot.

1 MR. BLACK: And you have not yet submitted  
2 a proxy?

3 MR. MAHONEY: Correct.

4 MR. BLACK: Okay. Thank you.

5 Does anyone else need a proxy or a ballot?

6 MR. SINGERMAN: Sir, could you identify  
7 yourself for the record?

8 MR. MAHONEY: Francis Mahoney.

9 MR. BLACK: All right. There are two items  
10 scheduled to be voted on today. These matters which  
11 are described in detail in the notice of special  
12 meeting sent to partners on July 20, 2012 are: The  
13 replacement of Michael D. Sullivan as managing  
14 general partner with Margaret J. Smith, and, if so  
15 replaced, the amendment of the partnership agreement  
16 of P&S Associates to reflect the change in managing  
17 general partners.

18 We will now proceed to a vote.

19 If there is any registered partner present  
20 today who is entitled to vote and who wants to vote,  
21 but has not yet signed a proxy, or if any registered  
22 partner who has already submitted a proxy would like  
23 to change his or her vote, please raise your hand and  
24 the inspector of elections will collect your proxy or  
25 present a ballot to you.

1                   Is there any partner who has not submitted  
2                   his or her vote or who needs a ballot?

3                   You have your ballot, sir?

4                   MR. MAHONEY: I have this balance here.

5                   Do you want me to fill it out now?

6                   MR. BLACK: Yes. Please do.

7                   MR. MOSS: (Indicating).

8                   MR. BLACK: Yes.

9                   MR. MOSS: If I have two accounts -- one  
10                  for my 401(k) and one for my wife and I jointly, I  
11                  believe maybe I'm entitled to ten minutes.

12                  Is that correct? Do I get a vote for each  
13                  of my capacities?

14                  MR. BLACK: If you are reflected as  
15                  representing two different partners in this  
16                  partnership according to the register of the  
17                  inspector of elections you may have ten minutes, yes.

18                  MR. MOSS: Is that correct?

19                  MS. SHAFFER: Yes, you do.

20                  MR. MOSS: All I want to say to those who  
21                  have voted for this is -- no disrespect to all the  
22                  lawyers in the room -- but I've dealt with them on  
23                  this matter.

24                  Every time I turned around it cost me  
25                  thousands of dollars for no results, and they see

1 money and it's going to go and we're going to get  
2 nothing.

3 So thank you. I just wanted to put that on  
4 the record.

5 MR. SINGERMAN: Thank you.

6 Could I ask, sir, for you to clarify  
7 whether when you say you've dealt with the lawyers,  
8 you're referring ---

9 MR. MOSS: I hired my own ---

10 MR. SINGERMAN: Excuse me.

11 MR. MOSS: I'm sorry.

12 MR. SINGERMAN: That's okay. She can only  
13 type one thing at a time (indicating).

14 My question is very simple. Were you  
15 referring, when you made the comment about lawyers,  
16 to lawyers at Berger Singerman in dealing with them  
17 on these matters?

18 MR. MOSS: No.

19 MR. SINGERMAN: Thank you, sir.

20 MR. BLACK: Inspector, I think someone else  
21 needs a ballot.

22 (Short Break)

23 MR. BLACK: All partners present in person  
24 or by proxy have now had the chance to vote and the  
25 polls are now declared closed.

1 (Short Break)

2 MR. STEPELTON: I call this meeting back to  
3 order.

4 MR. BLACK: Thank you.

5 The inspector of elections has provided  
6 me with the voting results and I report that the  
7 partners have replaced Michael D. Sullivan as  
8 managing general partner with Margaret J. Smith,  
9 and voted to amend the partnership agreement of P&S  
10 Associates to reflect the change in managing general  
11 partners, which amendment will be included with the  
12 minutes of this meeting.

13 Michael D. Sullivan shall provide Margaret  
14 Smith with all information she requires to facilitate  
15 the transition to her as managing general partner.

16 Michael Sullivan is hereby notified that  
17 Ms. Smith's designee will arrive at the partnership's  
18 office at 1:00 p.m. today in order to take possession  
19 of P&S Associates' files, computers, records and  
20 assets.

21 Michael Sullivan shall not remove any  
22 files, records or assets of the partnership prior  
23 to Ms. Smith or her designee taking possession or  
24 control of same, and Mr. Sullivan shall have no  
25 further involvement with the affairs of P&S

1 Associates.

2 Please let the record reflect that I've  
3 provided and am providing Mr. Pugatch and Mr. Rubin  
4 formal notices reiterating the directives in regard  
5 to Mr. Sullivan that I just stated.

6 MR. PUGATCH: Let the record reflect we are  
7 accepting these, but do not control Mr. Sullivan or  
8 have the ability necessarily to deliver these to him  
9 prior to 1:00 o'clock.

10 As I've stated before, perhaps off the  
11 record, I don't think he's in town or in his office,  
12 so you'll have to make appropriate arrangements.

13 I'm also not opining at this point as to  
14 whether he takes the position that everything that's  
15 happened here today is legal or not legal.

16 MR. RUBIN: Again, also we accept receipt  
17 of the notice, but don't have any ability to enforce  
18 this today.

19 MR. BLACK: For the record, please let  
20 it reflect that the notices are in regards to P&S  
21 Associates and S&P Associates.

22 MR. MARK: Mr. Rubin, if you could just for  
23 the record state your name and in what capacity you  
24 are here.

25 MR. RUBIN: Robert Rubin, Becker &

1       Poliakoff, counsel for P&S and S&P.

2               MR. BLACK:  There being no further business  
3       to come before this meeting, I now declare this  
4       special meeting of the partners of P&S Associates  
5       adjourned.

6               Thank you.

7               MR. RUBIN:  What was the percentage?

8               MR. BLACK:  Over 56 percent.

9               Thank you.

10              MR. PUGATCH:  Can we assume that you're  
11       going to attach all that to the minutes, as you said  
12       with S&P?

13              MR. BLACK:  That's correct.

14              MR. PUGATCH:  Thank you.

15              MR. MARK:  We're off the record.

16              (Whereupon, at 11:55 p.m. the proceedings  
17       were concluded.)

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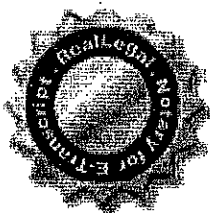


## 1 CERTIFICATE OF REPORTER

2  
3 STATE OF FLORIDA )4 COUNTY OF DADE )  
5

6 I, Suzanne Dunay Siegel, do hereby certify  
7 that a board meeting of P&S Associates took place on  
8 Friday, August 17, 2012, that I was authorized to and  
9 did report in shorthand the proceedings in said  
10 meeting; and that the foregoing pages, numbered from  
11 1 to 29, inclusive, constitute a true and correct  
12 transcription of my shorthand report of said  
13 proceedings.

14 IN WITNESS WHEREOF, I have hereunto affixed  
15 my hand this 20th day of August, 2012.



18  
19  
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21  
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24  
25

Suzanne Dunay Siegel  
Suzanne Dunay Siegel

**EXHIBIT D**  
**Amendment**

**AMENDMENT TO**  
**AMENDED AND RESTATED PARTNERSHIP AGREEMENT**

THIS AMENDMENT TO AMENDED AND RESTATED PARTNERSHIP AGREEMENT (this "Amendment") is effective as of August 17, 2012 ("Effective Date").

Preliminary Statement

The Amended and Restated Partnership Agreement (the "Agreement") of P & S Associates (the "Partnership") is dated December 21, 1994.

The Partnership held a special meeting on August 17, 2012 and voted to (i) replace Michael D. Sullivan as Managing General Partner with Margaret J. Smith and (ii) amend the Agreement of the Partnership to reflect the change in Managing General Partners.

**NOW, THEREFORE**, the Agreement of the Partnership is amended as follows:

Section 8.01. The first sentence of Section 8.01 of the Agreement is hereby deleted in its entirety and replaced with the following:

"Except as expressly provided in the Agreement, the management and control of the day-to-day operations of the Partnership and the maintenance of the Partnership property shall rest exclusively with the Managing General Partner, Margaret J. Smith; notwithstanding anything herein to the contrary, all references to Managing General Partners in the Agreement shall mean Margaret J. Smith."

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

CASE NO. 12-24051 1071  
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, an individual, and FESTUS AND HELEN STACY FOUNDATION, INC., a Florida corporation,

Plaintiffs,

v.

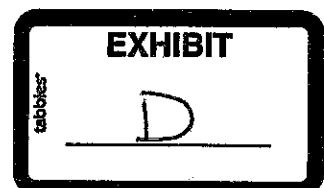
MICHAEL D. SULLIVAN, individually,

Defendant.

**AGREED ORDER RESOLVING PLAINTIFFS'  
EMERGENCY MOTION FOR TEMPORARY INJUNCTION**

THIS CAUSE came before the Court on Plaintiffs' Emergency Motion for Temporary Injunction, and this Court having been advised of an agreement between the parties and being otherwise duly advised in the premises, it is hereby ORDERED that:

1. This Order implements the agreement of the Parties and is entered on an agreed basis. Plaintiffs' Emergency Motion for Temporary Injunction is resolved as provided herein.
2. Defendant Michael D. Sullivan ("Defendant") shall resign as Managing General Partner of both P&S Associates, General Partnership ("P&S") and S&P Associates, General Partnership ("S&P") (together with P&S, the "Partnerships"), and consents to the appointment of Margaret J. Smith ("Ms. Smith") as Managing General Partner in his



stead. Plaintiffs' agreement to allow Defendant to resign is not a waiver of any positions asserted in this action.

3. Ms. Smith is deemed the Managing General Partner of the Partnerships effective upon entry of this Order and will remain as such unless and until she withdraws from her role as Managing General Partner, or is removed consistent with the terms of the Partnership Agreements.
4. As Managing General Partner, Ms. Smith will be given full access to all of the Partnerships' books, records, assets and property and will be afforded all of the rights and duties of a Managing General Partner, including but not limited to those contemplated by Article 8.02 of each of the Partnerships' respective Partnership Agreements.
5. Defendant does not now and will not in the future challenge the appointment of Ms. Smith as Managing General Partner on August 17, 2012. Defendant agrees that he is no longer authorized to act in any capacity as Managing General Partner of the Partnerships, and is to direct all Partnership business to Ms. Smith. In so consenting to his withdrawal as Managing General Partner, Defendant reserves all other rights and defenses, and such consent to Ms. Smith's appointment shall not be deemed or considered an admission of liability either on his own behalf or on behalf of any of his employees, affiliates, assigns or agents.
6. The Parties further reserve all rights with respect to the action styled *P&S Associates, et al. v. Roberta Alves, et al.*, Case No. 2012CA013587, currently pending in the Circuit Court of the 15<sup>th</sup> Judicial Circuit in and for Palm Beach County (the "Interpleader Case"). Defendant may not act as representative or Managing General Partner of the Partnerships with respect to that action. However, the Parties specifically agree, as a condition of the

relief provided herein, that the Interpleader Case will not be unilaterally dismissed by Ms. Smith in her capacity as the Managing General Partner of the Partnerships. Without prejudice to the rights of the Managing General Partner pursuant to paragraphs 7.05 and 8.02 of the Partnership Agreements, it is the intent of the Parties that the Interpleader Action provide the basis for the methodology used to determine how distributions will be made to partners, *i.e.*, without limitation, based on the amount in the partner's capital account (last statement balance), in the amount of the net investment of the account holder over the life of the account, or based on other equitable principles. Plaintiffs reserve all defenses to the Interpleader Action, and do not, by virtue of this Order, concede that venue in Palm Beach County is appropriate.

7. On or before September 5, 2012, Defendant shall provide to Ms. Smith all books and records not previously provided to Plaintiffs or their representatives, including electronic records of the Partnerships. Subject to Defendant's right to raise any written objection under the Florida Rules of Civil Procedure, Defendant shall provide the books and records of JS&P Associates, General Partnership, and SPJ Investments, Ltd. Defendant has represented that he does not have custody, possession or control of the books or records, electronic or otherwise, of Guardian Angel Trust, LLC. Defendant further agrees to use his best efforts to insure an efficient, orderly and smooth transition from his role as Managing General Partner to Ms. Smith's role as Managing General Partner.
8. This case is hereby stayed pending further order of the Court, but for a period of not less than 60 days, without prejudice to the rights of any parties to this action. This stay will be lifted upon a motion by either party.

9. This Order is binding on all Parties, including Ms. Smith, who is not a named party but has submitted herself to the jurisdiction of this Court by accepting the appointment as Managing General Partner as provided in paragraph 3 above.

10. Defendant, by agreeing to the terms of this Order specifically denies and does not admit any liability or wrongdoing and nothing in this Order shall constitute any finding of liability or wrongdoing either by Defendant or any of his employees, affiliates, assigns or agents. It is Defendant's position that he has agreed to the relief herein to preserve the resources of the Partnerships.

DONE AND ORDERED in Chambers in Broward County, Ft. Lauderdale, Florida, on this \_\_\_\_\_ day of August, 2012.

JEFFREY E. STREIFELD

AUG 29 2012

JEFFREY E. STREITFELD  
CIRCUIT COURT JUDGE

A TRUE COPY

**Copies furnished to:**

All Counsel of Record