

IN THE CIRCUIT COURT OF THE  
17<sup>TH</sup> JUDICIAL CIRCUIT IN AND FOR  
BROWARD COUNTY, FLORIDA

CASE NO. 12-24051 (07)  
COMPLEX LITIGATION UNIT

MATTHEW CARONE, as Trustee for the Carone  
Marital Trust #2 UTD 1/26/00, et al.,

Conservators,

v.

MICHAEL D. SULLIVAN, individually,

Defendant.

\_\_\_\_\_ /

**STIPULATED PROTECTIVE ORDER**

This matter came before the Court at a hearing conducted on May 14, 2013 at 10:00 a.m. upon the *Conservator's Motion for Contempt and to Compel Turnover of Partnerships' Books, Records and Electronically Stored Information* (the "Contempt Motion"), the *Supplement to the Contempt Motion* and Michael D. Sullivan's ("Sullivan") response thereto, in connection with certain obligations imposed upon Sullivan by this Court in its January 17, 2013 Order Appointing Conservator and certain requests by the Conservator, Philip von Kahle, acting in his capacity of Conservator of S&P Associates, General Partnership and P&S Associates, General Partnership (together, the "Partnerships") demanding compliance with same and pursuant to Fla. R. Civ. P. 1.280 and Fla. R. Jud. Admin. 2.085.

IT IS HEREBY ORDERED

1. On or before May 20, 2013 after business hours, Sullivan, or a person or entity at his direction, shall provide access to the Conservator and his agents, to all non-privileged<sup>1</sup> electronically stored information (including all electronic correspondence), whether stored on computer hard drives, floppy discs, cloud storage, compact discs, backup and archival tapes,

<sup>1</sup> For the purposes of paragraph 1 herein, 'privileged' information shall include tax returns, social security numbers and financial records of non-served parties.

removable media such as zip drives, password protected and encrypted files, databases, electronic calendars, personal digital assistants, mobile devices, smartphones, tablets, SMS or MMS text messages, cellular telephone based text communications, Blackberry/Research in Motion "PIN" messages, any text based messages transmitted through a proprietary or public "chat" service (e.g., Google Chat, ICQ Chat, AOL Instant Messenger, MSN Messenger, etc.), of or related to, in any way, the Partnerships held or controlled by Sullivan, Michael D. Sullivan Associates, Inc., Sullivan & Powell a/k/a Solutions in Tax, Inc., Fresh Start Tax LLC, Guardian Angel Trust LLC, and SPJ Investments, Ltd., and shall permit the Conservator and his agents to make copies, on site, of any and all hard drives or other storage devices (including cloud storage) upon which the Partnerships' information was or may have been stored (the "Electronic Records") and cooperating in all respects with the Conservator and his agents such that all of the Electronic Records are delivered, in their entirety, to the Conservator but shall not include personal matters not related to the Partnerships.

2. To the extent the Electronic Records or any other disclosure of information produced by Sullivan, or any person or entity at his direction, to the Conservator includes information unrelated to the Partnerships ("Protected Information"), such Protected Information shall be kept confidential in accordance with the terms hereof.

Confidentiality

3. The Conservator and his counsel, agents, representatives, employees, assigns, and successors agree that each will maintain the Protected Information, in absolute and complete confidentiality, except as provided herein.

4. Upon obtaining all of the Electronic Records, the Conservator shall store, keep safe, and not review or allow any others to review the Electronic Records for a period of time terminating at midnight on May 29, 2013 (the "Privilege Log Period"). During the Privilege Log Period, Sullivan shall deliver to the Conservator a privilege log as contemplated by Rule 1.280(b)(6) of the Florida Rules of Civil Procedure. If any dispute arises as to the claim of privilege, such dispute shall be determined by the Court or, if the parties agree, by a special master.

5. The Conservator and his counsel, agents, representatives, employees, assigns, and successors may not disclose the Protected Information under any circumstances except, if required by a Court order or subpoena, such individuals may disclose the Protected Information without breaching these confidentiality provisions.

6. The cost of producing the materials comprising the Electronic Records (including reasonable and necessary costs of Sullivan's administrative staff assisting in such production) shall be the sole expense of the Partnerships. Neither Sullivan nor anyone else shall be responsible for the costs of copying, imaging, or otherwise producing the information contained in the Electronic Records.

7. Sullivan's production of any Protected Information in compliance with this Order shall not be deemed a waiver of any privilege that may exist, including the attorney-client privilege, with regard to the Protected Information or any other data, documents, materials or otherwise that comprise part of the Electronic Records, even without a privilege log. Should the Conservator discover any communications, documents, or otherwise that the Conservator reasonably believes to be privileged (for example, a communication to or from an attorney), the

Conservator shall not review the document, communication or otherwise and promptly notify Sullivan of the potential privileged document, communication or otherwise. Sullivan shall be given an opportunity to review said document, communication or otherwise in order to determine if it is privileged.

8. In the discretion of the Conservator, all copies of the Electronic Records, including any hard copies and/or printed copies of any documents that originate from the Electronic Records, shall be returned to Sullivan or destroyed upon the discharge of the Conservator or if the Court determines that a privilege applies or the information is irrelevant. Should the Conservator seek destruction of the Electronic Records, the Conservator shall confirm in writing to Sullivan that the Electronic Records, as well as any hard copies of documents that originated from the Electronic Records, have been destroyed and shall provide a receipt of the company that performed the destruction, if any.

9. This Court reserves exclusive jurisdiction for the purpose of enforcing the provisions of this Stipulated Protective Order.

JEFFREY E. STREITFELD

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

**MAY 16 2013**

**A TRUE COPY**

Honorable Jeffrey E. Streitfeld  
Circuit Court Judge

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