

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, 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.

CONSERVATOR'S CASE MANAGEMENT CONFERENCE RESPONSES

Philip J. Von Kahle (the "Conservator"), as Conservator for P&S Associates,  
General Partnership ("P&S") and S&P Associates, General Partnership ("S&P")  
(together, the "Partnerships"), pursuant to this Court's Third Order Resetting Deadlines  
and Case Management Conference, files Conservator's Case Management Conference  
Responses (the "Response"), and states as follows:

- A. **A brief factual statement of the action, which includes claims and defenses.**  
This action concerns the removal of Michael Sullivan as the managing general  
partner of the partnerships. The matter has been largely resolved by this Court's  
February 17, 2012 Order appointing Philip Von Kahle as Conservator for the  
Partnerships.
- B. **A brief statement on the theory of damages of any party seeking affirmative  
relief.** The relief sought was an injunction or in the alternative a receiver based  
on the theory that there is no adequate remedy at law to preserve the partnerships  
books and records.

- C. **The likelihood of settlement.** As a Conservator has been appointed over the Partnerships, this matter is largely resolved.
- D. **The likelihood of appearance in the action of additional parties and identification of any non-parties to whom any of the parties will seek to allocate fault.** No likely additional parties known at this time
- E. **The proposed limits on the time: (i) to join other parties and to amend the pleadings, (ii) to file and hear motions, (iii) to identify any non-parties whose identity is known, or otherwise describe as specifically as practicable any nonparties whose identity is not know, (iv) to disclose expert witnesses, and (v) to complete discovery.** Conservator would agree to any reasonable time limits so long as the Conservator and his counsel are given the opportunity to review and prepare for this case.
- F. **Name the attorneys responsible for handling the action.** Etan Mark and Leonard Samuels of Berger Singerman, were Plaintiff's Counsel at commencement. Subsequently, Frank Walker was substituted in for Berger Singerman. Slatkin & Reynolds previously represented, among others, Michael Sullivan; however, pursuant to this Court's Order Slatkin & Reynolds has subsequently withdrawn its appearance. Additionally, since the appointment of the Conservator, Thomas Messana, Messana PA, has been engaged as general counsel to the Conservator.
- G. **The necessity of a protective order to facilitate discovery.** Certain stipulated protective orders have been entered to facilitate discovery. It is unlikely future orders will be required.
- H. **Proposals for the formulation and simplification of issues, including the elimination of frivolous claims or defenses, and the number and timing of motions for summary judgment or partial summary judgment.** n/a
- I. **The possibility of obtaining admissions of fact and voluntary exchange of documents and electronically stored information, stipulations regarding authenticity of documents, electronically stored information, and the need for advance rulings from the court on admissibility of evidence.** n/a
- J. **Suggestions on the advisability and timing of referring matters to a magistrate, master, other neutral, or mediation.** n/a
- K. **A preliminary estimate of the time required for trial.** n/a
- L. **Requested date or dates for conferences before trial, a final pretrial conference, and trial.** Conservator respectfully suggests that this matter be left open for administrative purposes, but otherwise held in abeyance. A trial does not appear necessary.
- M. **A description of pertinent documents and a list of fact witnesses the parties believe to be relevant.** Unknown.
- N. **Number of experts and fields of expertise.** Unknown.

- O. Any other information that might be helpful to the court in setting further conferences and the trial date.** The Partnerships are party plaintiff in three other separate matters before this Court. On March 1, 2013, this Court authorized the Conservator to retain counsel and advance such proceedings.
- P. Number of parties, number of peremptory challenges.** 4 Plaintiff's and 1 Defendant. 3/party = 12/side.
- Q. A statement of any concerns or procedures for the jury selection process.** Due to the media coverage of the Madoff Ponzi many jurors may be aware of inadmissible facts.
- R. A statement of any need for special equipment necessary for the trial of the case, including a description of the equipment.** Unknown given the early status of the proceeding.
- S. A statement of the need for any special courtroom facilities, interpreters, etc.** Unknown given the early status of the proceeding.
- T. A statement of any efforts to date and to resolve the case, including mediation or arbitration. Be prepared to discuss names of mediators or arbitrators who counsel can agree to in the event the court orders mediation or arbitration. A list of at least five (5) certified mediators who are acceptable for mediation.** Conservator is open to mediation with any reasonable mediator.
- U. Any special matters that the parties would like to bring to the attention of the court.**

Dated: July 1, 2013

MESSANA, P.A.  
Attorneys for Conservator  
401 East Las Olas Boulevard, Suite 1400  
Ft. Lauderdale, FL 33301  
Telephone: (954) 712-7400  
Facsimile: (954) 712-7401  
By: /s/ Thomas M. Messana  
Thomas M. Messana, Esq.  
Florida Bar No. 991422  
Brett D. Lieberman, Esq.  
Florida Bar No. 69583