

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

P & S ASSOCIATES, GENERAL  
PARTNERSHIP and S & P ASSOCIATES,  
GENERAL PARTNERSHIP,

CASE NO. 12-028324 (07)  
Complex Litigation Unit

Plaintiff,

v.

ROBERTA P. ALVES, ET AL.,

Defendants.

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**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 is essentially an interpleader action seeking judicial oversight and a legal determination as to the appropriate method of distributing the Partnerships' remaining assets to the partners, where the Partnerships themselves were victims of a ponzi-scheme.
- B. A brief statement on the theory of damages by any party seeking affirmative relief.** Florida's Declaratory Judgments Act Fla. Stat. §86.011-86.111 is cited to determine the rights of investors.
- C. The likelihood of settlement.** The Conservator filed a motion for summary judgment which proposes a distribution method and seeks court approval of the same. Certain partners have filed responses and additional responses may be forthcoming. Accordingly, an order of the Court will likely be necessary to accomplish the interpleader action's goals.
- 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.** The Conservator has identified certain partners who have not been

added as parties. Presently, there are approximately 189 parties named as Defendants in the Interpleader Action. Among these Defendants, it appears that substantially all of the potential legal issues will be fully vetted. Accordingly, the relevant issues will be before the court and fully briefed. Consistent with best practices, the Conservator plans to file a motion to amend the complaint in this action to ensure partners receive adequate notice.

- 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 known, (iv) to disclose expert witnesses, and (v) to complete discovery.** This Court has previously established deadlines for this matter. As discussed, the Conservator anticipates filing a motion to amend the complaint. However, the Conservator does not believe the deadlines should be revised the issues presented are questions of law for which substantially all legal positions will or could have been taken. To the extent additional deadlines are needed, Conservator would agree to 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.** Erika Deutsch Rotbart of Deutsch Rotbart, was Plaintiff's Counsel at commencement. However, 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.** Due to the interpleader nature of this action it is unlikely any orders will be necessary. However, given the sensitivity of financial records one may be sought.
- 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.** The issue presented is principally a legal issue that could be resolved at the motion for summary judgment stage. The Conservator has filed a motion for summary judgment. Accordingly the Conservator believes this matter will be resolved without trial. In the event trial is necessary, Conservator would agree to any reasonable date so long as the Conservator and his counsel are given the opportunity to review and prepare for this case.

- M. A description of pertinent documents and a list of fact witnesses the parties believe to be relevant.** Conservator has reviewed and relied upon certain documents which are attached to Conservator's motion for summary judgment. Conservator has not identified any witnesses at this time, and it is not anticipated that any will be necessary.
- 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 Conservator filed a motion for extension of time to serve parties in this matter with a summons and complaint. Such motion was granted on June 28, 2013. As of the date of this motion, the Plaintiff has served or received waivers of service from 171 of 189 named defendants.
- P. Number of parties, number of peremptory challenges.** 2 Plaintiffs. 189 Defendants. 3/party = 567/side.
- Q. A statement of any concerns or procedures for the jury selection process.** Unknown.
- R. A statement of any need for special equipment necessary for the trial of the case, including a description of the equipment.** Unknown.
- S. A statement of the need for any special courtroom facilities, interpreters, etc.** Unknown.
- 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.** To provide notice more efficiently, the Conservator has filed a *Motion for Nunc Pro Tunc Approval of Modified Service By Website* in the Interpleader Action.

Respectfully submitted July 1, 2013.

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