

**IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT,
IN AND FOR BROWARD COUNTY, FLORIDA**

CASE NO. 12-034123 (07)
COMPLEX LITIGATION UNIT

P&S ASSOCIATES, GENERAL PARTNERSHIP,
a Florida limited partnership; and S&P
ASSOCIATES, GENERAL PARTNERSHIP,
a Florida limited partnership, PHILIP VON KAHLE
as Conservator of P&S ASSOCIATES, GENERAL
PARTNERSHIP, a Florida limited partnership, and
S&P ASSOCIATES, GENERAL PARTNERSHIP,
a Florida limited partnership,

Plaintiffs,

v.

MICHAEL D. SULLIVAN, an individual,
STEVEN JACOB, an individual, MICHAEL D.
SULLIVAN & ASSOCIATES, INC., a Florida
corporation, STEVEN F. JACOB, CPA &
ASSOCIATES, INC., a Florida corporation,
FRANK AVELLINO, an individual and MICHAEL
BIENES,

Defendants.

STEVEN JACOB AND STEVEN F. JACOB, CPA & ASSOCIATES, INC.'s
ANSWER AND AFFIRMATIVE DEFENSES TO
PLAINTIFFS' THIRD AMENDED COMPLAINT

STEVEN JACOB and STEVEN F. JACOB, CPA & ASSOCIATES, INC., by and through undersigned counsel, file their Answer and Affirmative Defenses to Plaintiffs' Third Amended Complaint, by like-numbered paragraphs, as follows:

1. Denied. Therefore Defendant demands strict proof thereof.
2. Without knowledge, therefore denied. Therefore Defendant demands strict proof thereof.
3. Admitted.
- 4 - 7. Without knowledge, therefore denied. Therefore Defendant demands strict proof thereof.
8. Admitted.
9. Denied. Therefore Defendant demands strict proof thereof.

- 10 - 32. Without knowledge, therefore denied. Therefore Defendant demands strict proof thereof.
33. Denied. Therefore Defendant demands strict proof thereof.
34. Denied. Therefore Defendant demands strict proof thereof.
35. Without knowledge, therefore denied. Therefore Defendant demands strict proof thereof.
36. Denied. Therefore Defendant demands strict proof thereof.
37. Denied. Therefore Defendant demands strict proof thereof.
38. Denied. Therefore Defendant demands strict proof thereof.
39. Denied. Therefore Defendant demands strict proof thereof.
40. Denied. Therefore Defendant demands strict proof thereof.
41. Denied. Therefore Defendant demands strict proof thereof.
42. Denied. Therefore Defendant demands strict proof thereof.
43. Denied. Therefore Defendant demands strict proof thereof.
44. Denied. Therefore Defendant demands strict proof thereof.
45. Denied. Therefore Defendant demands strict proof thereof.
46. Denied. Therefore Defendant demands strict proof thereof.
47. Denied. Therefore Defendant demands strict proof thereof.
48. Without knowledge, therefore denied. Therefore Defendant demands strict proof thereof.
49. Admitted.
50. Without knowledge, therefore denied. Therefore Defendant demands strict proof thereof.
51. Without knowledge, therefore denied. Therefore Defendant demands strict proof thereof.
52. Denied. Therefore Defendant demands strict proof thereof.
53. Does not apply to this Defendant; therefore denied. Therefore Defendant demands strict proof thereof.
54. Does not apply to this Defendant; therefore denied. Therefore Defendant demands strict proof thereof.
55. Does not apply to this Defendant; therefore denied. Therefore Defendant demands strict proof thereof.
56. Does not apply to this Defendant; therefore denied. Therefore Defendant demands strict proof thereof.

57. Without knowledge, therefore denied. Therefore Defendant demands strict proof thereof.
58. Admitted.
59. Without knowledge, therefore denied. Therefore Defendant demands strict proof thereof.
- 60 - 63. Denied. Therefore Defendant demands strict proof thereof.
64. Without knowledge, therefore denied. Therefore Defendant demands strict proof thereof.
65. Admitted.
- 66 -73. Denied. Therefore Defendant demands strict proof thereof.
- 74 – 78. Without knowledge, therefore denied. Therefore Defendant demands strict proof thereof.
- 79 - 83. Denied. Therefore Defendant demands strict proof thereof.
84. Without knowledge, therefore denied. Therefore Defendant demands strict proof thereof.
- 85 – 91. Denied. Therefore Defendant demands strict proof thereof.
- 92 – 96. Without knowledge, therefore denied. Therefore Defendant demands strict proof thereof.
97. Denied. Therefore Defendant demands strict proof thereof.
98. Without knowledge, therefore denied. Therefore Defendant demands strict proof thereof.
99. Without knowledge, therefore denied. Therefore Defendant demands strict proof thereof.
- 100 – 103. Denied. Therefore Defendant demands strict proof thereof.
104. Without knowledge, therefore denied. Therefore Defendant demands strict proof thereof.
- 105 – 110. Denied. Therefore Defendant demands strict proof thereof.
- 111 - 115. Without knowledge, therefore denied. Therefore Defendant demands strict proof thereof.
- 116 – 142. Without knowledge, therefore denied. Therefore Defendant demands strict proof thereof.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Each and every cause of action set forth in the Third Amended Complaint is barred by the limitation on liability contained in ¶ 14.03, of the controlling Partnership Agreements.

Second Affirmative Defense

Each and every cause of action set forth in the Third Amended Complaint is time barred; the controlling statutes of limitations have expired.

Third Affirmative Defense

Each and every cause of action set forth in the Third Amended Complaint is barred by the equitable doctrine of laches.

Fourth Affirmative Defense

The Complaint fails to state a cause of action against the Defendants.

Fifth Affirmative Defense

The Plaintiff conducted itself in a negligent and careless manner and as a direct and proximate result of said negligence, the Plaintiff caused or contributed to its damages. Therefore, the Plaintiff is barred from recovery in whole, or in part, against these Defendants on the grounds of comparative negligence.

Sixth Affirmative Defense

Although the negligence of the parties is denied, there may be parties to this lawsuit who caused and contributed to the alleged damages. These Defendants state that they are entitled to a reduction of any amount of damages assessed against the Defendants, either in whole or part, based upon the provisions of Florida's Tort Reform Act, Chapter 768, Florida Statutes (2002).

Seventh Affirmative Defense

Defendant adopts and incorporates by reference such affirmative defenses as are asserted by the other Defendants in this lawsuit.

RESERVATION OF RIGHTS AND GENERAL DENIAL

Defendant denies each and every allegation contained in the Third Amended Complaint that is not specifically admitted, and demands strict proof thereof. Defendant reserves his right to supplement or amend this Answer and Affirmative Defenses as discovery progresses.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was furnished by E-service to:

LEONARD K. SAMUELS, ESQ. lsamuels@bergersingerman.com and **ETAN MARK, ESQ.** emark@bergersingerman.com, Attorneys for Plaintiff, at Berger Singerman, 350 East Las Olas Blvd, Suite 1000, Fort Lauderdale, FL 33301

THOMAS M. MESSANA, ESQ. tmessana@messna-law.com, Attorney for Conservator, at Messana, P.A., 401 E. Las Olas Boulevard, Suite 1400, Fort Lauderdale, FL 33301

GARY A. WOODFIELD, ESQ. gwoodfield@haileshaw.com; bpetroni@haileshaw.com; eservices@haileshaw.com, Attorneys for Defendant Frank Avellino, at Haile, Shaw & Pfaffenberger, P.A., 660 U.S. Highway One, Third Floor, North Palm Beach, FL 33408 *and a courtesy copy hand delivered to Judge Streitfeld*, this 14th day of July, 2014.

TRIPP SCOTT, P.A.
Attorneys for Defendants,
STEVEN JACOB and STEVEN F. JACOB, CPA
& ASSOCIATES, INC.
110 S.E. 6th Street, 15th Floor
Fort Lauderdale, FL 33301
Telephone: (954) 525-7500
Facsimile: (954) 761-8475

By: s/Peter G. Herman
Peter G. Herman
Fla. Bar No. 353991

Primary:
pgh@trippscott.com,
asg@trippscott.com
Secondary:
ele@trippscott.com
rep@trippscott.com