

IN THE CIRCUIT COURT OF THE 17th
JUDICIAL CIRCUIT, IN AND FOR
BROWARD COUNTY, FLORIDA
CASE NO.: 12-24051 (07)
COMPLEX LITIGATION UNIT

MATTHEW CARONE, et al.,
Plaintiffs,

v.
MICHAEL D. SULLIVAN, individually,
Defendant.

**CONSERVATOR'S RENEWED MOTION FOR CONTEMPT AND TO COMPEL
TURNOVER OF PARTNERSHIPS' BOOKS, RECORDS AND
ELECTRONICALLY STORED INFORMATION**

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"), by and through undersigned counsel, pursuant to this Court's January 17, 2013 *Order Appointing Conservator* (the "Conservator Order") and Fla. R. Civ. P. 1.380(b), hereby files this Renewed Motion for Contempt and to Compel Turnover of Partnerships' Books, Records and Electronically Stored Information against Defendant, Michael Sullivan ("Sullivan"), and in support thereof states as follows:

Background & Argument

1. On May 16, 2013, after several oral agreements, two motions for contempt and hearings, this Court entered the *Stipulated Protective Order* (the "Protective Order") which provided for the turnover of Partnerships' information. The Conservator was optimistic that disputes with Sullivan concerning turnover of the Partnerships' information were resolved. They are not.

2. While after the entry of the Protective Order the Conservator received a lot of information from Sullivan, despite repeated requests for the same from the Conservator, Sullivan has not turned over Partnerships' information for certain **bank accounts** and an **insurance policy** (the "Withheld Information").

3. The Protective Order provides that Sullivan was required to turnover information "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..." (Protective Order at ¶1) (the "Partnerships' Information").

4. Among the Withheld Information, the Conservator has identified the following bank accounts which either held or received Partnerships' funds:

- i. **a BB&T account held by Michael D. Sullivan & Associates, Inc.;**
- ii. **a Republic Bank account held by Michael D. Sullivan & Associates, Inc.; and**
- iii. **a Bank of America account held by Solutions in Tax, Inc. a/k/a Sullivan & Powell.**

5. Additionally, certain of these bank accounts require passwords to access their records, such as cancelled checks and bank statements. Sullivan should provide these passwords.

6. Further, the Conservator identified an **insurance policy** with Cypress Insurance Agency held by Michael D. Sullivan & Associates, Inc. and has requested a copy of the same.

7. The Conservator repeatedly requested the Withheld Information from Sullivan on June 17, July 9, and July 16, 2013. Despite assurances of cooperation from Sullivan and his counsel, to date, Sullivan has not complied.

8. Sullivan's feigned willingness to work in good faith with the Conservator while retaining certain of the Partnerships' Information is a willful violation of this Court's Conservator Order and the Protective Order. Moreover, each time Sullivan represents that he has provided all of the Partnerships' Information, additional information is unearthed.¹

9. Sullivan's willful violation of the Conservator Order and Protective Order ought not to be countenanced. Pursuant to Fla. R. Civ. P. 1.380(b), Sullivan ought to be found in continuing contempt for violating the Conservator Order and Protective Order and compelled to provide the Conservator and his agents access to all of the Partnerships' Information, including the Withheld Information.

¹Sullivan's unreasonable refusal to turnover the Partnerships' information is well documented in the April 10, 2013 *Conservator's Motion for Contempt and to Compel Turnover of Partnerships' Books, Records and Electronically Stored Information* (the "Contempt Motion") and the April 24, 2013 *Supplement to the Contempt Motion* (the "Supplemental Motion," together with the Contempt Motion to the "Contempt Motions"). The arguments set forth in the Contempt Motions are adopted and incorporated as if fully stated herein.

10. Sullivan ought to pay the fees and cost in any way related to the Contempt Motions and this instant motion for contempt.²

WHEREFORE, the Conservator respectfully requests the entry of an Order: (i) finding Sullivan in contempt of Court for willfully violating the Conservator Order and Protective Order; (ii) compelling Sullivan to provide the Conservator and his agents access to all of Partnerships' Information, including the bank accounts and insurance of or related to, in any way, the Partnerships held or controlled by Sullivan, Michael D. Sullivan & Associates, Inc., and/or Solutions in Tax, Inc. a/k/a Sullivan & Powell; (iii) awarding the Conservator attorneys fees and cost against Sullivan pursuant to Fla. R. Civ. P. 1.380(b); and (iv) for such other and further relief as this Court deems reasonable and just.

Dated: July 26, 2013

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² On May 14, 2013, at a hearing concerning the Contempt Motions, the Court reserved on attorney's fees against Sullivan.