

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 STATUS CONFERENCE AGENDA

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 July 9, 2013 *Standing Order Setting Monthly Status Conferences* (the “**Standing Order**”), hereby files the Conservator’s Status Conference Agenda (the “**Agenda**”), and in support thereof states as follows:

Brief Introduction

1. The Conservator was appointed pursuant to this Court’s January 17, 2013 *Order Appointing Conservator* (“**Conservator Order**”) in the above-captioned action (the “**Conservator Suit**”).

2. The Conservator Suit, and certain related cases, are presently pending before this Court, styled:

- *P&S Associates, General Partnership and S&P Associates, General Partnership, Plaintiffs v. Alves, et al.*, Case No. 12-028324 (07) (the “**Distribution Action**”);
- *Margaret Smith as General Partner of P&S Associates, General Partnership and S&P Associates, General Partnership, Plaintiffs v. Janet A. Hooker Charitable Trust, e. al.*, Case No. 12-034121 (07) (the “**Net Winner Suit**”); and
- *Margaret Smith as General Partner of P&S Associates, General Partnership and S&P Associates, General Partnership, Plaintiffs v. Michael D. Sullivan, et al.*, Case No. 12-034123 (07) (the “**Insider Suit**” and together with the Conservator Suit, the “**Lawsuits**”).

3. The Conservator has identified the following matters and requests that this court consider the same at the status conference presently scheduled for August 2, 2013 (the “**Status Conference**”).

The Conservator Suit

4. **Conservator’s Renewed Motion for Contempt and to Compel Turnover of Partnerships’ Books, Records and Electronically Stored Information** against Michael D. Sullivan (“**Sullivan**”). The Conservator requested access to certain of the Partnerships’ information and Sullivan has refused to provide the same in contempt of this Court’s Conservator Order and Stipulated Protective Order. Accordingly, the Conservator requests that the Court consider this matter at the Status Conference.

5. **Conservator’s Fee Report** as it relates to Berger Singerman LLP’s fee request for services rendered to the Partnerships prior to the Conservator Order. On June 13, 2013, this Court entered its *Second Order Approving In-Part and Continuing In-Part Conservator’s Fee Report* (“**Continuance Order**”) which, among other things, continued the Court’s consideration of *Conservator’s Fee Report* concerning Berger Singerman LLP’s fee request and objections to same. The time for all parties to file objections to Berger Singerman LLP’s fee request has passed and Berger Singerman LLP has submitted all supplemental briefing in support of their fee request that was requested by this Court. Accordingly, the Conservator requests that the Court consider this matter at the Status Conference and that the Court endorse the Proposed Order Approving Conservator’s Fee Report With Respect to Berger Singerman LLP attached hereto as **Exhibit A**.

The Distribution Action

6. Conservator’s **Service Status Report**, filed in the Distribution Action on July 19, 2013. The Conservator is advancing service of the summons and complaint related to Distribution Action to comply with the Court’s August 27, 2013 deadline to complete service. At the Status Conference, the Conservator will provide the Court with updated service numbers.

The Net Winner Suit

7. Conservator’s **Service Status Report**, filed in the Net Winner Suit on July 19, 2013. The Conservator is advancing service of the summons and complaint related to Net Winner Suit to comply with the Court’s August 27, 2013 deadline to complete service. At the Status Conference, the Conservator will provide the Court with updated service numbers.

The Insider Suit

8. Conservator's **Service Status Report**, filed in the Insider Suit on July 19, 2013. The Conservator is advancing service of the summons and complaint related to the Insider Suit to comply the Court's August 27, 2013 deadline to complete service. At the Status Conference, the Conservator will provide the Court with updated service numbers.

Conclusion

9. The above identified matters are not intended to be an exhaustive list of matters the Court may consider at the Status Conference, as the Standing Order provides that the "Agenda shall by no means limit this Court's authority to enter Orders as it sees fit or preclude parties who attend the Status Conferences from presenting *ore tenus* motions that are not included in the Agenda." (Standing Order at ¶4).

Respectfully submitted this 26th day of July, 2013.

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EXHIBIT A

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**PROPOSED ORDER APPROVING CONSERVATOR'S
FEE REPORT WITH RESPECT TO BERGER SINGERMAN LLP**

THIS MATTER came before the Court on August 2, 2013 at 1:30 p.m. at a continued hearing to consider, *inter alia*, the outstanding recommendations of the *Conservator's Fee Report* (the "Fee Report") filed by the Court-Appointed Conservator of P&S Associates, General Partnership and S&P Associates, General Partnership (the "Partnerships"), Philip Von Kahle. The Court having reviewed the Fee Report, having heard proffer of counsel and giving all parties, including Steven Jacob, Burt Moss, Michael Sullivan and others, an opportunity to be heard, and having reviewed the court file for this matter, it is

ORDERED and **ADJUDGED** as follows:

1. The recommendations of the Fee Report as to Berger Singerman LLP ("Berger Singerman") are approved in all respects.
2. The Conservator shall promptly make a distribution to Berger Singerman in the amount of \$125,000 out of the Partnerships' assets, with such distributions being allocated to each of the Partnerships proportionally.
3. The fees and costs recommended by the Conservator for Berger Singerman are found to be reasonable considering each and every factor contemplated by *Florida Patient's*

Compensation Fund v. Rowe, 472 So. 2d 1145 (Fla. 1985) and the principles of *Lewis v. Gramil Corp.*, 94 So. 2d 174, 177 (Fla. 1957).

Done and ordered in Chambers this August ____, 2013.

Honorable Jeffrey E. Streitfeld
Circuit Court Judge

Copies furnished to:

Thomas M. Messana, Esq. who is directed to serve same upon all interested parties.