

IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

CASE NO. 12-034123 (07)
Complex Litigation Unit

PHILIP J. VON KAHLE, as Conservator of
P&S Associates General Partnership and
S&P Associates, General Partnership,

Plaintiffs,

vs.

MICHAEL D. SULLIVAN, et al.,

Defendants.

**DEFENDANT FRANK AVELLINO'S NOTICE OF SERVING FOURTH SET OF
INTERROGATORIES TO PLAINTIFF**

Defendant, Frank Avellino, by and through his undersigned counsel, hereby gives notice of serving his Fourth Set of Interrogatories upon Plaintiff, Philip J. Von Kahle, as Conservator of P&S Associates, General Partnership and S&P Associates, General Partnership, to be answered under oath and in writing, within thirty (30) days of service herein, in accordance with the Florida Rules of Civil Procedure 1.340.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of July, 2015, the foregoing document is being served on all counsel of record on the attached service list by email, and by email and facsimile to Thomas M. Messina, Esq., Messina, P.A., Suite 1400, 401 E Las Olas Blvd., Ft. Lauderdale, FL 33301 and Leonard K. Samuels, Esq., Ethan Mark, Esq., and Steven D. Weber, Esq., Berger Signerman, 350 E Las Olas Blvd., Ft. Lauderdale, FL 33301.

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DEFINITIONS

1. "Partnerships" shall mean P& S Associates, General Partnership and S &P Associates, General Partnership, their general and limited partners, members and representatives and agents.
2. "You" or "your" shall mean Plaintiffs and their partners, associates, members and representatives and agents.
3. "Avellino" shall mean Frank Avellino.
4. "Sullivan" shall mean Michael D. Sullivan.
5. To "identify" a person means to provide the following information: (a) the person's full name; (b) the person's present or last known residence address and telephone number; (c) the person's present or last known business affiliation and job title; and (d) the person's present or last known employment address and telephone number.

INSTRUCTIONS

1. Plaintiff shall quote each interrogatory in full immediately preceding the statement of any answer, response, or objection thereto.
2. Each interrogatory is to be answered separately and in full in writing under oath, unless all portions of an interrogatory are in good faith objected to, in which event the reasons for all of Plaintiff's objections shall be stated in detail. If an objection pertains to only a portion of an interrogatory, or to a word, phrase, or clause contained within such interrogatory, Plaintiff shall state their objection to that portion, and shall answer the interrogatory to the extent it is not objectionable.
3. Plaintiff is requested to furnish all information available to him, his attorneys, accountants, investigators, representatives, agents or any other person acting on Plaintiff's behalf and not merely such information as is known by Plaintiff's own personal knowledge. If Plaintiff cannot answer or respond in full after exercising due diligence to secure the information, he should answer or respond, to the extent possible, specifying the reason or reasons for the inability to answer or respond to the remainder.
4. Any recipient of these interrogatories who withholds any requested information by reason of a claim of privilege or attorney work product, or who objects to any part of these interrogatories, shall state the nature of the privilege or objection and provide sufficient

information to permit a full determination of whether the claim or objection is proper. For any documents that are withheld, provide a list identifying each such document for which the claim of privilege is made or to which the objection relates, together with the following information: (i) the type of document, *e.g.*, letter or memorandum, and any attachments; (ii) the subject matter of the document; (iii) the date of the document; (iv) the author(s) of the document, (v) the recipient(s) of document; (vi) number of pages; (v) the number of the interrogatory to which the document relates; (vi) the reason(s) for each objection or claim of privilege; and (vii) the identity of each person having knowledge of the actual basis, if any, on which the privilege or other ground for objection is based.

INTERROGATORIES

1. Please identify all persons who have knowledge of the allegations contained in Plaintiffs' Fifth Amended Complaint. For each person identified, please set forth the substance of their knowledge.

ANSWER:

2. Please identify all persons who have knowledge of Plaintiffs' allegations that Avellino received assets of the Partnerships and/or commissions as alleged in paragraph 37 of the Fifth Amended Complaint and for each person identified please set forth the substance of their knowledge.

ANSWER:

3. Please identify all persons who have knowledge of Plaintiffs' allegations that Avellino was a co-conspirator with Sullivan and others, and for each person identified please set forth the substance of their knowledge.

ANSWER:

4. Please identify all persons who have knowledge of Plaintiffs' allegations that Avellino knew that distributions were being improperly made to Partners and other third parties, but did nothing to prevent it and for each person identified please set forth the substance of their knowledge.

ANSWER:

5. Please identify all persons who have knowledge of Plaintiffs' allegations in paragraphs 32 through 36 of the Fifth Amended Complaint and for each person identified please set forth the substance of their knowledge.

ANSWER:

6. Please identify all persons who have knowledge of Plaintiffs' allegations in paragraphs 42 and 43 of the Fifth Amended Complaint and for each person identified please set forth the substance of their knowledge.

ANSWER:

7. Please identify all persons who have knowledge of the alleged “kickbacks” in paragraph 46 of the Fifth Amended Complaint and for each person identified please set forth the substance of their knowledge.

ANSWER:

8. Please identify all persons who have knowledge of the allegations in paragraph 50 of the Fifth Amended Complaint and for each person identified please set forth the substance of their knowledge.

ANSWER:

9. Please set forth all facts which support your contention that the doctrine of delayed discovery is applicable to extend the applicable statute of limitations to the causes of action raised in the Fifth Amended Complaint.

ANSWER:

10. Please identify all persons who have knowledge of the facts set forth in your answer to Question Number 9.

ANSWER:

11. Please set forth all facts which support your contention that the doctrine of equitable estoppel is applicable to extend the applicable statute of limitations to the causes of action raised in the Fifth Amended Complaint, including without limitation, all actions or conduct by Avellino which prevented and/or delayed you from filing a lawsuit.

ANSWER:

12. Please identify all persons who have knowledge of the facts set forth in your answer to Question Number 11.

ANSWER:

13. Please set forth all facts which support your contention that continuing torts is applicable to extend the applicable statute of limitations to the causes of action raised in the Fifth Amended Complaint, including without limitation, all tortious acts committed by Avellino after 2008 which cause damages to you.

ANSWER:

14. Please identify all persons who have knowledge of the facts set forth in your answer to Question Number 13.

ANSWER:

15. Please set forth all facts which support your contention that the causes of action raised in the Fifth Amended Complaint are not barred by the applicable statute of limitations.

ANSWER:

16. Please identify all persons who have knowledge of the facts set forth in your answer to Question Number 15.

ANSWER:

P&S ASSOCIATES, GENERAL PARTNERSHIP

By: _____
PHILIP J. VON KAHLE, as Conservator

STATE OF FLORIDA
COUNTY OF _____

Sworn to or affirmed and signed before me this ____ day of _____, 2015
by Philip J. Von Kahle, as Conservator of P&S Associates, General Partnership, to me known to
be the person and/or who provided identification consisting of _____,
and who executed the foregoing instrument this ____ day of _____, 2015.

NOTARY PUBLIC
My Commission Expires: _____

(SEAL)

S&P ASSOCIATES, GENERAL PARTNERSHIP

By: _____
PHILIP J. VON KAHLE, as Conservator

STATE OF FLORIDA
COUNTY OF _____

Sworn to or affirmed and signed before me this ____ day of _____, 2015
by Philip J. Von Kahle, as Conservator of S&P Associates, General Partnership, to me known to
be the person and/or who provided identification consisting of _____,
and who executed the foregoing instrument this ____ day of _____, 2015.

NOTARY PUBLIC
My Commission Expires: _____

(SEAL)