

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

CASE NO. 12-028324
COMPLEX LITIGATION UNIT

P&S ASSOCIATES, GENERAL PARTNERSHIP,
a Florida limited partnership; and S&P
ASSOCIATES, GENERAL PARTNERSHIP,
a Florida limited partnership,

Plaintiffs,

v.

ROBERT P. ALVES, et al.,

Defendants.

**DEFENDANTS, STEVEN JACOB AND GUARDIAN ANGEL TRUST, LLC.'S
MOTION FOR ATTORNEY'S FEES**

COMES NOW, STEVEN JACOB and GUARDIAN ANGEL TRUST, LLC, by and through its undersigned counsel and pursuant to the Court's Order dated November 19, 2013, hereby moves this court for entry of an Order granting its request for attorney's fees in connection with its substantial contribution in assisting the Conservator to expeditiously distribute funds to the partners and states as follows:

1. In the midst of disputes between the partners, the Conservator was appointed to protect the Partnerships, partners and their assets, to resolve disputes and investigate claims in order to effectuate distribution to the partners in an appropriate and orderly fashion,

2. Steven Jacob and Guardian Angel Trust, LLC were partners within the Partnership. Steven Jacob acted as the managing member of the Guardian Angel Trust.

3. Mr. Jacob was intimately familiar with the partnerships and certain partner interests in the Partnership, including those that were members of Guardian Angel. He also possessed significant knowledge of the accounting procedures and the amounts invested and repaid to certain investors.

4. Mr. Jacob, on behalf of himself and Guardian Angel Trust, LLC, hired the undersigned to protect the interests of himself and the Guardian Angel Trust. In an effort to do so the undersigned has

spent significant time and effort to protect those interests and at the same time he along with Mr. Jacob, assisted the Conservator in resolving disputes, identifying investors and their whereabouts and further participating by providing knowledge to the Conservator so as to assist the Conservator in performing his duties and responsibilities effectively and efficiently.

5. In part through the substantial contribution of Mr. Jacob and the undersigned, the Conservator was able to distribute to the partners approximately 4.9 million before the end of 2013. In fact on November 19, 2013 the Conservator, Steven Jacob and Guardian Angel Trust achieved an amicable settlement that substantially contributed to the Conservator's ability to distribute the above mentioned funds sooner rather than later without the need of Court intervention.

6. The settlement was recited before this Court and approved by the Court and the parties on November 19, 2013. A copy of the relevant transcript is attached as Exhibit "A". As part of the settlement agreement the parties agreed that after the hearing counsel would submit their respective fee applications for their services and that the Court would award counsel a reasonable fee for their review in achieving this settlement.

7. The Conservator has recently submitted his fee application and has since been granted its fees for its involvement in bringing this case to resolution.

8. The undersigned submits that he has spent approximately 26 hours at his hourly rate of \$450.00 in substantially contributing to assisting with the Conservator's efforts. Therefore pursuant to the terms of the aforementioned settlement agreement, counsel for Steven Jacob and Guardian Angel Trust, LLC, is hereby requesting that the Court award a reasonable fee for the undersigned's services.

WHEREFORE, Steven Jacob, Guardian Angel Trust, LLC, and the undersigned respectfully request that this Court enter an Order granting a reasonable attorney's fee for the undersigned counsel for the reasons stated herein and any further and just relief this Court deems appropriate.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was furnished to all interested parties via the Conservator Website: www.FloridaConservator.com on this 15th day of August, 2014.

TRIPP SCOTT, P.A.
Attorneys for Defendants,
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IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

Case No.: 12-028324 (07)

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

ORIGINAL

Plaintiffs,

vs.

ROBERT P. ALVES, et al.,

Defendants.

Broward County Courthouse
201 Southeast 6th Street
Fort Lauderdale, Florida
Tuesday, November, 19, 2013
10:15 a.m. - 12:00 p.m.

EXCERPT

The above-styled cause came on for hearing held
before the Honorable Jeffrey E. Streitfeld, Presiding
Judge, at the Broward County Courthouse, on the 19th
day of November, 2013, at 10:15 a.m.

QUELLETTE **EXHIBIT** PORTERS, INC.
A

1 APPEARANCES:

2 MESSANA, P.A., by
3 THOMAS M. MESSANA, ESQ.
4 BRETT DREW LIEBERMAN, ESQ.,
5 THOMAS ZEICHMAN, ESQ.,
6 on behalf of the Plaintiff

7 GENOVESE JOBLOVE & BATTISTA, by
8 BARRY P. GRUHER, ESQ.
9 on behalf of Festus and Helen Stacy Foundation,
10 James Jordan

11 TRIPP SCOTT, by
12 PETER G. HERMAN, ESQ.,
13 on behalf of Guardian Angel, SPJ and Steven Jacob

14 DOBIN LAW GROUP, P.A, by
15 MARC S. DOBIN, ESQ.,
16 on behalf of Congregation of Holy Ghosts

17 ALSO PRESENT:
18 PHIL VON KAHLE
19 JAMES JORDAN
20 BRETT STAPLETON
21 STEVEN JACOB
22 BARRY MUKAMAL
23 FREDERICK KLEIN
24
25

1 THE COURT: My voice is still somewhere over
2 the Atlantic Ocean, so bear with me on the throat.

3 If you'd announce your appearances for me,
4 please.

5 MR. MESSANA: Good morning, Your Honor.
6 Thomas Messana on behalf of the plaintiff. With me are
7 my colleagues, Brett Lieberman and Thomas Zeichman, as
8 well as Phil Von Kahle. Mr. Von Kahle is the
9 conservator.

10 If I may have another moment, Your Honor, I'd
11 like to introduce to you Frederick Klein. Mr. Klein is
12 a senior at David Posnack Jewish Day School. He serves
13 as the president of the student body, and he has an
14 interest in pursuing the law. We invited him to
15 observe today.

16 THE COURT: Top that one.

17 MR. DOBIN: Marc Dobin on behalf of the
18 Congregation of Holy Ghosts, Your Honor.

19 THE COURT: You did it.

20 MR. DOBIN: I thought I might. Good morning.

21 THE COURT: Good morning.

22 MR. GRUHER: Good morning, Your Honor. Barry
23 Gruher of Genovese Joblove & Battista, on behalf of
24 three defendants in this action, the Festus and Helen
25 Stacy Foundation, and also present in the courtroom is

1 Brett Stapleton, who is the trustee and vice-president
2 of operations for the Foundation.

3 THE COURT: And that would be which of those
4 gentlemen?

5 MR. GRUHER: Right there (indicating).

6 In addition, Your Honor, I'm also
7 representing Dr. James Jordan, individually.
8 Dr. Jordan is also before the Court. And James Jordan
9 as Trustee of the James Jordan Living Trust.

10 THE COURT: Okay.

11 MR. HERMAN: Your Honor, Peter Herman on
12 behalf of Guardian Angel, SPJ and Steve Jacob.

13 THE COURT: Thank you, sir.

14 All right. That podium looks like it's sort
15 of jammed in there, but that's okay. If you need to
16 move it forward some, that might make sense.

17 Mr. Messana, what's going on?

18 MR. MESSANA: Your Honor, I was prepared to
19 tell you this morning that we had resolved 90 percent
20 of the issues before you by stipulations which have
21 been placed on file, but we've got an additional
22 stipulation. So I think the answer is, we have
23 97 percent of the issues resolved before you.

24 I'd like to read into the record a proposed
25 stipulation, and have Mr. Herman acknowledge it for the

1 record.

2 THE COURT: I'm looking forward to receiving
3 that. I can't tell you how much. If you'll first
4 allow me to make sure that when you say, "other
5 stipulations of record," I want to say sure that the
6 record here is adequately made.

7 I have received late yesterday afternoon, but
8 again reviewed this morning, a binder that includes
9 stipulations between the conservator and Michael
10 Sullivan, the Moss parties, the Rosen parties, Scott
11 Holloway and the Kelly parties.

12 Are you referring to those?

13 MR. GAMBERG: Yes, I am.

14 THE COURT: Are there any others, other than
15 the ones that you're about to talk to me about?

16 MR. MESSANA: No, Your Honor.

17 THE COURT: Very good. Go ahead.

18 I should go away more often, shouldn't I?

19 MR. MESSANA: No, Your Honor, but we are
20 happy to have you back.

21 This will be a stipulation between the
22 conservator and Steven Jacob, establishing the
23 distribution procedure for SPJ Investments, Ltd. and
24 Guardian Angel Trust.

25 So the conservator and Jacob, in his capacity

1 as the managing general partner of SPJ, and the
2 managing member of Guardian Angel --

3 THE COURT: You can take your time while
4 you're telling me this, by the way. We've got all day.

5 MR. MESSANA: -- have agreed to resolve the
6 holdback issue by agreeing to comply with the protocol
7 detailed herein.

8 First, for the purpose of the initial
9 distribution, Jacob stipulates that the conservator's
10 calculation in SPJ and Guardian Angel's net investment
11 claim amounts, as reflected in Exhibit A attached to
12 the September 30, 2013 reply in favor of motion for
13 summary judgment, is the minimum amount. The
14 stipulation is without prejudice to SPJ or Guardian
15 Angel's ability to provide new information to support a
16 different claim amount for future distributions by the
17 conservator.

18 THE COURT: So it can only go up, it cannot
19 go down?

20 MR. MESSANA: Correct.

21 THE COURT: Okay. Go ahead.

22 MR. MESSANA: Jacob individually, and on
23 behalf of Guardian Angel, agrees to the entry of a
24 final judgment in this lawsuit -- and that is the
25 lawsuit P & S Associates and S & P Associates versus

1 Robert Alves, Case Number 12-028324 (07) -- and that
2 the conservator has the authority to distribute funds
3 directly to the Guardian Angel investors who
4 contributed more capital than they received in their
5 distribution -- and we defined that term to be the
6 Guardian Angel distribution recipients -- by an
7 appropriate method. And the appropriate method is pro
8 rata between and among them.

9 Any disputes with the calculation of the
10 capital accounts for any of the Guardian Angel
11 distribution recipients will be determined by the Court
12 with jurisdiction over this matter; you, Your Honor.

13 Now, with respect to SPJ, Jacob individually,
14 and on behalf of SPJ, agrees to the entry of a final
15 judgment, determining that the conservator has
16 authority to distribute directly to the SPJ investors
17 who contributed more capital than they received in
18 distribution, the SPJ distribution recipients, by an
19 appropriate method. Again, that appropriate method is
20 pro rata within SPJ.

21 Any dispute on the calculation of the capital
22 account for any SPJ distribution recipient shall be
23 determined by a Court with jurisdiction over this
24 matter, and again, that would be you, Your Honor.

25 THE COURT: The provisions are the same as to

1 each of the two?

2 MR. MESSANA: Yes.

3 THE COURT: Okay.

4 MR. MESSANA: The conservator's
5 recommendation is to join the partners of SPJ and the
6 members of Guardian Angel as parties in the instant
7 interpleader action. Jacob agrees to assist the
8 conservator with this recommendation, as doing so
9 allows the parties to receive their distribution in the
10 most expeditious manner, including locating the
11 partners of SPJ and the members of Guardian Angel.

12 Jacob further agrees that the conservator is
13 permitted to contact partners of SPJ and members of
14 Guardian Angel to effectuate this stipulation, and will
15 cooperate with the conservator to help effectuate such
16 communications.

17 Within 30 business days of the execution of
18 this stipulation, Jacob and the partners of SPJ or the
19 members of Guardian Angel, who are related to Jacob by
20 consanguinity or affinity within the third degree, will
21 provide sworn affidavits which will provide that the
22 funds invested in SPJ or the Guardian Angel were not
23 derived from Jacob or the partnerships.

24 Obviously, they're going to provide honest
25 affidavits, and we've been told that's what the

1 affidavits were going to say.

2 Once the parties referenced in Paragraph 10
3 deliver the completed affidavits to the conservator,
4 the conservator will distribute to same in accordance
5 with the methods outlined in this stipulation.

6 Mr. Jacob agrees to forgo a fee or other
7 compensation, performing actions necessary to
8 effectuate the requirements of this stipulation, and
9 both parties agree that counsel shall make application
10 to the Court for fees associated with their services,
11 and the Court will award counsel a reasonable fee.

12 I believe that is the sum and substance of
13 the stipulation, and I would ask Mr. Herman to
14 acknowledge it for the record on behalf of his clients.

15 MR. HERMAN: If I could have one minute.
16 This is fresh out of the oven. I need to just double
17 check things here.

18 (Discussion off the record.)

19 MR. HERMAN: Okay, Your Honor. My clients,
20 SPJ, Guardian Angel and Steve Jacob, agree with the
21 stipulation as recited.

22 THE COURT: Mr. Jacob is here. I want the
23 record to reflect that.

24 MR. HERMAN: He is. I just conferred with
25 him. He heard the stipulation read, also.

1 The only thing I want to make clear, and I
2 think it was to you, but today we do intend to put on
3 evidence with regard to that difference between the
4 minimum --

5 THE COURT: That's the 3 percent.

6 MR. HERMAN: Not necessarily.

7 THE COURT: I think you might attribute a
8 higher percentage to it than he does, but that's the
9 issue remaining to be presented and discussed and
10 resolved today, correct?

11 MR. HERMAN: Yes.

12 THE COURT: I do have some questions.

13 Mr. Messina, if you would please join
14 Mr. Herman at the podium.

15 Just so the record is set on these issues,
16 Mr. Von Kahle, you are technically the plaintiff in
17 this case. Mr. Messina's statements to me as your
18 counsel, you understand the provisions of these
19 agreements?

20 MR. VON KAHLE: Yes, I do.

21 THE COURT: You find them fair and reasonable
22 under the circumstances?

23 MR. VON KAHLE: Yes, I do.

24 THE COURT: You agree to be bound by them?

25 MR. VON KAHLE: Yes, I do.

1 THE COURT: Mr. Jacobs, come forward, please.

2 How are you doing? Are you okay?

3 MR. JACOB: Yes, sir. How are you?

4 THE COURT: Good. It's good to be back.

5 It's really wonderful when you do work that you
6 actually look forward to going back to when you get
7 back from vacation. After 23 years I can still say
8 that. I didn't always say that when I was lawyering.

9 I'm confident that you have, but still I want
10 to make it clear, you heard all the terms that have
11 been recited to me?

12 MR. JACOB: Yes, sir.

13 THE COURT: You've had an opportunity to
14 consider those with Mr. Herman?

15 MR. JACOB: Yes, sir.

16 THE COURT: Pretty good lawyer. He did good.
17 Everybody has. The amount of work that's been done in
18 these matters, and the degree of professionalism and
19 cooperation is admirable, and I'm very grateful for it,
20 as everyone in this courtroom should be.

21 Do you agree to be bound by these terms?

22 MR. JACOB: Yes, sir.

23 THE COURT: Thank you very much.

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CERTIFICATION

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STATE OF FLORIDA:

COUNTY OF DADE:

I, HELAYNE F. WILLS, Shorthand Reporter and Notary Public in and for the State of Florida at Large, do hereby certify that the foregoing proceedings were taken before me at the date and place as stated in the caption hereto on Page 1; that the foregoing computer-aided transcription is a true record of an excerpt of my stenographic notes taken at said proceedings.

WITNESS my hand this 25th day of November, 2013.

Helayne F. Wills

HELAYNE F. WILLS
Court Reporter and Notary Public
In and For the State of Florida at Large
Commission No: FF034198 Expires: 8/2/17