

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

CASE NO.: 12-028324 (07)
Complex Litigation Unit

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

Plaintiff,

v.

ROBERT P. ALVES, ET AL.,

Defendants.

ANSWER TO THIRD AMENDED COMPLAINT
FOR INTERPLEADER AND DECLARATORY RELIEF

Defendants DALORES BARONE (“Barone”), CARL BOSCHETTI (“C. Boschetti”), ANNETTE BOSCHETTI (“A. Boschetti”) and DENISE B. BRYAN (“Bryan”) (collectively “Defendants”) through the undersigned counsel and pursuant to Florida Rule of Civil Procedure 1.110, *et seq.*, hereby answer the Third Amended Complaint for Interpleader and Declaratory Relief (the “Third Amended Complaint”), assert their affirmative defenses and demand trial by jury, stating as follows:

1. Defendants admit only that this Court has personal jurisdiction over them and that subject matter jurisdiction is appropriate in this Court. Defendants otherwise deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 1 of the Third Amended Complaint.

2. Defendants admit only that venue is proper before this Court. Defendants otherwise deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 2 of the Third Amended Complaint.

3. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 3 of the Third Amended Complaint.

4. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 4 of the Third Amended Complaint.

5. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 5 of the Third Amended Complaint.

6. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 6 of the Third Amended Complaint.

7. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 7 of the Third Amended Complaint.

8. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 8 of the Third Amended Complaint.

9. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 9 of the Third Amended Complaint.

10. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 10 of the Third Amended Complaint.

11. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 11 of the Third Amended Complaint.

12. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 12 of the Third Amended Complaint.

13. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 13 of the Third Amended Complaint.

14. Barone admits only that she is domiciled in Broward County, Florida. Barone otherwise denies the allegations contained in paragraph 14 of the Third Amended Complaint.

15. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 15 of the Third Amended Complaint.

16. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 16 of the Third Amended Complaint.

17. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 17 of the Third Amended Complaint.

18. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 18 of the Third Amended Complaint.

19. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 19 of the Third Amended Complaint.

20. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 20 of the Third Amended Complaint.

21. Defendants deny the allegations contained in paragraph 21 of the Third Amended Complaint.

22. A. Boschetti admits only that she is domiciled in Broward County, Florida. A. Boschetti otherwise denies the allegations contained in paragraph 22 of the Third Amended Complaint.

23. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 23 of the Third Amended Complaint.

24. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 24 of the Third Amended Complaint.

25. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 25 of the Third Amended Complaint.

26. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 26 of the Third Amended Complaint.

27. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 27 of the Third Amended Complaint.

28. Bryan admits only that she is domiciled in Broward County, Florida. Bryan otherwise denies the allegations contained in paragraph 28 of the Third Amended Complaint.

29. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 29 of the Third Amended Complaint.

30. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 30 of the Third Amended Complaint.

31. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 31 of the Third Amended Complaint.

32. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 32 of the Third Amended Complaint.

33. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 33 of the Third Amended Complaint.

34. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 34 of the Third Amended Complaint.

35. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 35 of the Third Amended Complaint.

36. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 36 of the Third Amended Complaint.

37. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 37 of the Third Amended Complaint.

38. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 38 of the Third Amended Complaint.

39. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 39 of the Third Amended Complaint.

40. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 40 of the Third Amended Complaint.

41. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 41 of the Third Amended Complaint.

42. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 42 of the Third Amended Complaint.

43. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 43 of the Third Amended Complaint.

44. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 44 of the Third Amended Complaint.

45. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 45 of the Third Amended Complaint.

46. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 46 of the Third Amended Complaint.

47. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 47 of the Third Amended Complaint.

48. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 48 of the Third Amended Complaint.

49. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 49 of the Third Amended Complaint.

50. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 50 of the Third Amended Complaint.

51. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 51 of the Third Amended Complaint.

52. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 52 of the Third Amended Complaint.

53. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 53 of the Third Amended Complaint.

54. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 54 of the Third Amended Complaint.

55. Ettoh admits only that it conducts business in Broward County, Florida. Ettoh otherwise denies the allegations contained in paragraph 55 of the Third Amended Complaint.

56. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 56 of the Third Amended Complaint.

57. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 57 of the Third Amended Complaint.

58. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 58 of the Third Amended Complaint.

59. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 59 of the Third Amended Complaint.

60. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 60 of the Third Amended Complaint.

61. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 61 of the Third Amended Complaint.

62. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 62 of the Third Amended Complaint.

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66. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 66 of the Third Amended Complaint.

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245. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 245 of the Third Amended Complaint.

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351. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 351 of the Third Amended Complaint.

352. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 352 of the Third Amended Complaint.

353. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 353 of the Third Amended Complaint.

354. Defendants defer to the referenced documents as the best evidence of their contents and application, and otherwise deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 354 of the Third Amended Complaint.

355. Defendants deny the allegations contained in paragraph 355 of the Third Amended Complaint.

356. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 356 of the Third Amended Complaint.

357. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 357 of the Third Amended Complaint.

358. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 358 of the Third Amended Complaint.

359. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 359 of the Third Amended Complaint.

360. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 360 of the Third Amended Complaint.

361. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 361 of the Third Amended Complaint.

362. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 362 of the Third Amended Complaint.

363. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 363 of the Third Amended Complaint.

364. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 364 of the Third Amended Complaint.

365. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 365 of the Third Amended Complaint.

366. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 366 of the Third Amended Complaint.

367. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 367 of the Third Amended Complaint.

368. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 368 of the Third Amended Complaint.

369. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 369 of the Third Amended Complaint.

370. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 370 of the Third Amended Complaint.

371. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 371 of the Third Amended Complaint.

372. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 372 of the Third Amended Complaint.

373. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 373 of the Third Amended Complaint.

374. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 374 of the Third Amended Complaint.

THE CONTROVERSY

375. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 375 of the Third Amended Complaint.

376. Defendants deny that the distribution methodology provided for by the agreements described in paragraph 376 of the Third Amended Complaint is complete and/or accurate and defer to the referenced documents as the best evidence of their contents and application.

377. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 377 of the Third Amended Complaint.

378. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 378 of the Third Amended Complaint.

379. Defendants deny the allegations contained in paragraph 379 of the Third Amended Complaint.

380. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 380 of the Third Amended Complaint.

381. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 381 of the Third Amended Complaint.

382. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 382 of the Third Amended Complaint.

COUNT I
DECLARATORY RELIEF

383. Defendants adopt and incorporate by reference their responses to the allegations set forth above in response to paragraph 383 of the Third Amended Complaint.

384. Defendants admit the existence of the reference Act, but deny that it is applicable and deny all further allegations contained in paragraph 384 of the Third Amended Complaint.

385. Defendants deny the allegations contained in paragraph 385 of the Third Amended Complaint.

386. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 386 of the Third Amended Complaint.

COUNT II
INTERPLEADER

387. Defendants adopt and incorporate by reference their responses to the allegations set forth above in response to paragraph 387 of the Third Amended Complaint.

388. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 388 of the Third Amended Complaint.

389. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 389 of the Third Amended Complaint.

390. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 390 of the Third Amended Complaint.

391. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 391 of the Third Amended Complaint.

COUNT III
INJUNCTION

392. Defendants adopt and incorporate by reference their responses to the allegations set forth above in response to paragraph 392 of the Third Amended Complaint.

393. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 393 of the Third Amended Complaint.

394. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 394 of the Third Amended Complaint.

395. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 395 of the Third Amended Complaint.

396. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 396 of the Third Amended Complaint.

397. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 397 of the Third Amended Complaint.

398. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 398 of the Third Amended Complaint.

399. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 399 of the Third Amended Complaint.

400. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 400 of the Third Amended Complaint.

401. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 401 of the Third Amended Complaint.

402. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 402 of the Third Amended Complaint.

403. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 403 of the Third Amended Complaint.

404. Defendants deny knowledge or information sufficient to form a belief with regard to the truth of the allegations contained in paragraph 404 of the Third Amended Complaint.

AFFIRMATIVE DEFENSES

First Affirmative Defense

405. Counts I and III of the Third Amended Complaint fail to allege the elements of the causes of action they purport to plead and, thus, fail to state a causes of action upon which relief can be granted.

Second Affirmative Defense

406. C. Boschetti is not a proper party to this lawsuit, having passed away on September 13, 2010, and the lawsuit should be dismissed as to him.

Third Affirmative Defense

407. The obligations of the parties are defined by the partnership agreements described in the Complaint, and the Plaintiff has not alleged a basis under Florida law to invoke an equitable rule to govern administration of the partnerships, including, distribution of any proceeds owed to the partnerships.

DEMAND FOR JURY TRIAL

408. Defendants demand trial by jury of all issues triable as of right by jury.

DENIAL OF ALLEGATIONS NOT ADMITTED

409. Each and every allegation contained in the Third Amended Complaint, whether in a numbered paragraph or elsewhere, that is not specifically admitted is denied and strict proof thereof is demanded.

Dated this 11th day of September, 2013.

Respectfully submitted,

DANIELS KASHTAN
Counsel for Chapter 7 Trustee
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Coral Gables, FL 33146
Tel: (305) 448-7988 / Fax: (305) 448-7978
Email: mfooster@dkdr.com
Email: aurena@dkdr.com

By: /s/ Annette M. Urena
Michael C. Foster
Florida Bar No. 0042765
Annette M. Urena
Florida Bar No. 14838

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was via electronic mail this 11th day of September, 2013 upon: Thomas M. Messina, Esq., Messina, P.A., *Attorneys for Plaintiffs*, tmessana@messana-law.com, 401 East Las Olas Blvd, Suite 1400, Fort Lauderdale FL 33301; Domenica Frasca, Esq. Mayersohn Law Group, P.A., *Attorneys for Francis J. Mahoney, Jr., Personal Representative of the Estate of Mary Ellen Nickens*, service@mayersohnlaw.com and dfrasca@mayersohnlaw.com, 101 N.E. Third Avenue, Ste.1250, Fort Lauderdale, FL 33301; Thomas L. Abrams, Esq., Gamberg & Abrams, *Attorneys for Lynn Rosen-Lauder*, tabrams@tabramslaw.com, 1776 North Pine Island Road, Suite 309, Fort Lauderdale, Florida 33322; Michael Ralph Casey, Esq., *Attorneys for Susan E. Molchan, et al.*, mcasey666@gmail.com, 3601 N.E. 17th Avenue, Oakland Park, Florida 33334-5415; Marc S. Dobin, Esq. and Jonathan T. Lieber, Esq., DobinLaw Group, P.A., *Attorneys for Congregation of the Holy Ghost Western Province, Inc.*, Service@DobinLaw.com, 500 University Boulevard, Suite 205, Jupiter, FL 33458; Jason S. Oletsky, Esq., Akerman, Senterfitt, *Attorneys for Walsh*

Family Claimants, jason.oletsky@akerman.com, Las Olas Centre II, Suite 1600, Fort Lauderdale, FL 33301; Carl F. Schoeppl, Esq., Schoeppl & Burke, P.A., Attorneys for Burt Moss, et al., carl@schoepplburke.com, 4651 North Federal Highway, Boca Raton, FL 33431-5176; Robert A. Chaves, Esq, Gutter, Chaves et al., *Attorneys for Calla Gutter*, rchaves@floridatx.com, 2101 NW Corporate Boulevard, Suite 107, Boca Raton, FL 33431-7343; William G. Salim, Jr., Moskowitz, Mandell, Salim & Simowitz, P.A., Attorneys for Wayne Horwitz, *et al.*, wsalim@mmsslaw.com, 800 Corporate Drive, Suite 500, Fort Lauderdale, FL 33334; Richard T. Woulfe, Bunnell & Woulfe P.A., *Attorneys for Robert A. Uchin Revocable Trust*, pleadings.RTW@bunnellwoulfe.com, One Financial Plaza, Suite 1000, 100 Southeast Third Avenue, Fort Lauderdale, FL 33394.

/s/ Annette M. Urena

Annette M. Urena