

IN THE CIRCUIT COURT FOR THE
SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY,
FLORIDA
COMPLEX LITIGATION UNIT
Case No. 12-034123 (07)

PHILIP J. VON KAHLE, AS
CONSERVATOR, et al.,

Plaintiffs,

vs.

MICHAEL D. SULLIVAN, et al.,

Defendants.

NOTICE OF FILING:

**NOTICE OF HEARING ON CONSERVATOR'S MOTION FOR SUMMARY
JUDGMENT AND RESPONSES THERETO FOR OCTOBER 4, 2013 AT 9:30AM AND
CONSERVATOR'S 1:30PM STATUS CONFERENCE AGENDA**

Philip J. Von Kahle, as Conservator for P&S, General Partnership and S&P, General Partnership, by and through counsel, hereby gives notice of filing the attached September 27, 2013, Notice of Hearing on Conservator's Motion for Summary Judgment and Responses Thereto for October 4, 2013 at 9:30 am and Conservator's Status Conference Agenda for October 4, 2013 in the matter of *Matthew Carone, et. al. v. Michael D. Sullivan, individually*, Case No. 12-24051 (07) in the Circuit Court of the 17th Judicial Circuit, in and for Broward County, Florida.

Respectfully submitted this September 27, 2013.

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**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.

**NOTICE OF HEARING ON CONSERVATOR'S MOTION FOR SUMMARY
JUDGMENT AND RESPONSES THERETO FOR OCTOBER 4, 2013 AT 9:30AM AND
CONSERVATOR'S 1:30PM 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 *Case Management Order* (the "**Case Management Order**") and pursuant to this Court's July 9, 2013 *Standing Order Setting Monthly Status Conferences* (the "**Standing Order**"), hereby files the Notice of Hearing on Conservator's Motion for Summary Judgment and Responses Thereto for October at 9:30 am and Conservator's Status Conference Agenda for October 4, 2013 at 1:30pm (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 "**Interpleader 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, et 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. As addressed more fully below, the Case Management Order in the Interpleader Action set the Conservator’s MSJ for October 4, 2013 at 9:30am.

4. The Conservator has identified the following matters and requests that this court consider the same at the status conference presently scheduled for October 4, 2013 (the “**Status Conference**”).

The Conservator Suit

5. At this time, the Conservator Suit continues to serve administrative functions, but does not otherwise require Court action.

The Interpleader Action

6. **Service:** As of the date of this Agenda, 58 defendants of 346 have not been served in this matter. The Conservator will provide updated service statistics at the Status Conference.

7. **Hearing on Conservator’s Motion for Summary Judgment to: (i) Approve Determination of Claims, (ii) Approve Plan of Distribution, and (iii) Establish Objection Procedure (the “MSJ”)** scheduled for October 4, 2013 at 9:30am (**the “MSJ Hearing”**).

8. Also, at the MSJ Hearing the following **responses, objections, and other papers filed in the Distribution Action** will be before the Court:

- i. Answer: Richard West by Bette Anne Peltzer
- ii. Answer: Bette West by Bette Anne Peltzer
- iii. Answer: John Combs
- iv. Answer: Lois Combs
- v. Answer: Kristina A. Holloway
- vi. Answer: Alicia N. Holloway
- vii. Answer: Scott W. Holloway
- viii. Answer: Louise McIlvaine
- ix. Answer: Sandra M. White (Dydo)
- x. F. Mahoney as Personal Representative of Mary Ellen Nickens Answer to Plaintiff’s Second Amended Complaint
- xi. Answer: Myra Friedman
- xii. Answer: Lucille Rowlette

- xiii. Answer: Laurel Bonhage and William Bonhage
- xiv. Answer: Eileen Wills
- xv. Answer: Richard Wills
- xvi. Answer: Johanna W. Clark
- xvii. Answer: Evelyn Willis
- xviii. Answer: Rebekah G. Wills
- xix. Affidavit of Carol L. Fox, CPA, CFE, CIRA
- xx. Notice of Non-Objection to Conservator's Motion for Summary Judgment to: (i) Approve Determination of Claims, (ii) Approve Plan of Distribution and (iii) Establish Objection Procedure
- xxi. Response and Objections of Defendants Burt Moss, Susan Moss, Burt Moss & Associates, Inc. and Burton Harold Moss IRA to Conservator's Distribution Motion
- xxii. Objection to Conservator's Motion for Summary Judgment (Wayne Horwitz, as Trustee)
- xxiii. Response to Conservator's Motion for Summary Judgment Filed May 31, 2013 (Steven Jacob)
- xxiv. Defendant, Lynn Rosen's Answer to Plaintiff's Second Amended Complaint
- xxv. Answer to Complaint for Interpleader and Declaratory Relief (Estate of Paul J. Frank)
- xxvi. Madeline Lavender Response to Complaint
- xxvii. Martin Lavender Response to Complaint
- xxviii. Response to Civil Action Summons on Third Amended Complaint – Morton Fellman, Trustee
- xxix. Objection of Defendant Calla Gutter to Conservator's Distribution Motion
- xxx. Defendant, Robert A. Uchin Revocable Trust's Answer and Affirmative Defense to Plaintiffs' Third Amended Complaint for Interpleader and Declaratory Relief
- xxxi. Response to Complaint: James H. Crowe & Brigitte Crowe
- xxxii. The Walsh Family Claimant's Answer and Affirmative Defense to Plaintiff's Third Amended Complaint for Interpleader and Declaratory Relief
- xxxiii. Special Appearance and Disclaimer for Defendant Mildred Richardson and Mildred Richardson's Motion to Dismiss for Lack of Jurisdiction Over the Person
- xxxiv. Answer and Defenses of Defendants Susan E. Molchan or Thomas A. Whiteman, Janet B. Molchan Trust Dtd 05/19/94 and Alex E. Molchan Trust Dtd 05/19/94 to Third Amended Complaint
- xxxv. Answer to Third Amended Complaint for Interpleader and Declaratory Relief (Dalores Barone, Carl Boschetti, Annette Boschetti, Denise B. Bryan)
- xxxvi. Defendant, Congregation of the Holy Ghost, Western Province's Answer to Third Amended Complaint
- xxxvii. Bette (Powell) Peltzer Reply to Complaint on behalf of Greg Powell Estate

- xxxviii. Defendants, Sam Rosen and Edith Rosen's Answer and Affirmative Defenses to Plaintiff's Third Amended Complaint for Interpleader and Declaratory Relief
- xxxix. Response of Defendant, Festus and Helen Stacy Foundation, Inc. to Conservator's Motion for Summary Judgment
 - xl. Conservator's Reply in Favor of Motion for Summary Judgment¹
 - xli. Conservator's Motion to Strike Jacob Response
 - xlii. Conservator's Motion to Strike Certain Parties Affirmative Defenses.

The Net Winner Suit

9. **Service:** Counsel for the Conservator in the Net Winner Suit will provide updated service statistics at the Status Conference.

10. Additionally, the Counsel for the Conservator would like to make the Court aware of the following matter which may be considered at this Court's November 1, 2013 Status Conference:

- a. Rosen Motion to Dismiss;
- b. Congregation of the Holy Ghost - Western Province Motion for Summary Judgment;
- c. Ettoh, Ltd. Motion to Dismiss; and
- d. Herbert Irwig Revocable Trust's Motion to Dismiss.

The Insider Suit

11. **Service:** As of the date of this Agenda, the Conservator has served all defendants, except for Michael Bienes who, upon information and belief, remains outside of the country. The deadline to serve Mr. Bienes is October 26, 2013.

12. **Motion for Extension of Time to Serve Michael Bienes.**

13. Additionally, the Counsel for the Conservator would like to make the Court aware of the following matter which may be considered at this Court's November 1, 2013 Status Conference:

- a. Steve Jacob's Motion to Dismiss²

Conclusion

14. 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

¹ Conservator anticipates filing same on September 30, 2013.

² The relevant parties may resolve certain issues prior to the November 1, 2013 status conference.

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 September 27, 2013.

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