

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.

ROBERTA P. ALVES, ET AL.,

Defendants.

THE CONSERVATOR AND HORWITZ STIPULATION AS TO CERTAIN FACTS¹

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”) and Wayne Hortwitz, as Trustee of the Howard H. & Joyce Horwitz Living Trust, a partner in S&P, (“Horwitz”, and together with Conservator, the “Parties”), by and through undersigned counsel, file this Stipulation as to Certain Facts (the “Stipulation”), and in support thereof states as follows:

1. On or before July 2012, a dispute arose between the partners as to how the remaining assets of the Partnerships ought to be distributed. This instant Interpleader Action was commenced to, among other things, allow the Court to determine the proper distribution methodology of the Partnerships assets.

2. On May 31, 2013, the Conservator filed his *Motion for Summary Judgment to (i) Approve Determination Claims; (ii) Approve Plan of Distribution, and (iii) Establish Objection Procedures* (the “Distribution Motion”).

¹ Capitalized terms not defined herein shall have the meaning ascribed to them in the *Conservator’s Motion for Summary Judgment to (i) Approve Determination Claims; (ii) Approve Plan of Distribution, and (iii) Establish Objection Procedures*.

3. On July 1, 2013, Horwitz filed his *Objection to Conservator's Motion for Summary Judgment* (the "Horwitz Objection").

4. The Horwitz Objection contends that Horwitz partnership account balance pursuant to the last statement ought to be \$113,416.52; while the Conservator's Net Investment Method calculation determined that the Horwitz account balance is \$45,100.00.

5. The Conservator and Horwitz, with the assistance of counsel, have attempted to resolve certain disputes between the Parties.

6. The Parties have determined that in the interest of conserving the Court and the Parties' resources this Stipulation is appropriate to resolve the Horwitz Objection.

7. Accordingly, the Parties stipulate that the amount of Horwitz claim under the Net Investment method of analysis is \$45,100.00. The Parties further stipulate that the amount of Horwitz claim under the Last Statement method of analysis is \$113,416.52.

Respectfully submitted this October 2, 2013.

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