

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

CASE NO. 12-034123 (07)

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

Complex Litigation Unit

Plaintiffs,

vs.

MICHAEL D. SULLIVAN, et al.,

Defendants.

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**DEFENDANT MICHAEL BIENES'S AMENDED SIXTH AFFIRMATIVE DEFENSE**

Defendant, Michael Bienes, hereby amends the Sixth Affirmative Defense as set out in his Amended Answer and Affirmative Defenses filed on September 8, 2015, as follows:

**Amended Sixth Affirmative Defense**

Plaintiffs' claims fail, in whole or in part, to the extent that Plaintiff has sustained damages, if any, other persons or entities caused or contributed to such damages. These other persons or entities include, without limitation, Michael Sullivan, Steven Jacob, Steven F. Jacob, CPA & Associates, Inc., Greg Powell, Matthew Carone, Kelco Foundation, Vincent Kelly and individual investors of the Partnerships whose identities may be disclosed during continued discovery. Bienes specifically denies any allegations of wrongdoing individually or together with any other persons, but for the purposes of this defense, relies upon the allegations made by Plaintiffs in their Fifth Amended Complaint for the factual basis to assert that other persons may have caused or contributed to the alleged damages Plaintiffs are claiming. Bienes is entitled to a

reduction of any amount of damages assessed, either in whole or in part, based upon Section 768.31, Florida Statutes.

Dated this 9<sup>th</sup> day of November, 2015.

Respectfully submitted,

/s/ Shane P. Martin

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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 9, 2015, the foregoing document was served via E-mail to: Thomas E. Messina, Esq., Thomas Zeichman, Messina, P.A., 401 East Las Olas Boulevard, Suite 1400, Ft. Lauderdale, FL 33301 ([tmessana@messana-law.com](mailto:tmessana@messana-law.com), [tmessana@bellsouth.net](mailto:tmessana@bellsouth.net), [mwslawfirm@gmail.com](mailto:mwslawfirm@gmail.com), [tzeichman@messana-law.com](mailto:tzeichman@messana-law.com)); Leonard K. Samuels, Esq., Etan Mar, Esq., Steven D. Weber, Esq., Berger Singerman LLP, 350 East Las Olas Boulevard, Suite 1000, Ft. Lauderdale, FL 33301 ([lsamuels@bergersingerman.com](mailto:lsamuels@bergersingerman.com), [vleon@bergersingerman.com](mailto:vleon@bergersingerman.com), [emark@bergersingerman.com](mailto:emark@bergersingerman.com), [lyun@bergersingerman.com](mailto:lyun@bergersingerman.com), [drt@bergersingerman.com](mailto:drt@bergersingerman.com), [sweber@bergersingerman.com](mailto:sweber@bergersingerman.com), [mvega@bergersingerman.com](mailto:mvega@bergersingerman.com), [zhyman@bergersingerman.com](mailto:zhyman@bergersingerman.com), [clamb@bergersingerman.com](mailto:clamb@bergersingerman.com)); Peter G. Herman, Esq., Tripp Scott, 110 S.E. 6<sup>th</sup> Street, 15<sup>th</sup> Floor, Ft. Lauderdale, FL 33301 ([pgh@trippscott.com](mailto:pgh@trippscott.com), [rep@trippscott.com](mailto:rep@trippscott.com), [ele@trippscott.com](mailto:ele@trippscott.com)); Paul V. DeBianchi, Esq., Paul V. DeBianchi, P.A., 111 S.E. 12<sup>th</sup> Street, Ft. Lauderdale, FL 33316 ([Debianchi236@bellsouth.net](mailto:Debianchi236@bellsouth.net)); Gary A. Woodfield, Esq., Susan B. Yoffee, Esq., Haile, Shaw & Pfaffenberger, P.A., 660 U.S. Highway One, Third Floor, North Palm Beach, FL 33408 ([gwoodfield@haileshaw.com](mailto:gwoodfield@haileshaw.com), [bpetroni@haileshaw.com](mailto:bpetroni@haileshaw.com), [eservices@haileshaw.com](mailto:eservices@haileshaw.com), [syoffee@haileshaw.com](mailto:syoffee@haileshaw.com), [emarin@haileshaw.com](mailto:emarin@haileshaw.com)); Matthew Triggs, Esq., Andrew Thomson, Esq. Proskauer Rose LLP, 2255 Glades Road, Suite 421 Atrium, Boca Raton, FL 33431 ([mtriggs@proskauer.com](mailto:mtriggs@proskauer.com), [athomson@proskauer.com](mailto:athomson@proskauer.com), [florida.litigation@proskauer.com](mailto:florida.litigation@proskauer.com)); Robert J. Hunt, Esq., Debra D. Klingsberg, Esq., Hunt & Gross, P.A., 185 Spanish River Boulevard, Suite 220, Boca Raton, FL 33431 ([bobhunt@huntgross.com](mailto:bobhunt@huntgross.com), [eservice@huntgross.com](mailto:eservice@huntgross.com), [Sharon@huntgross.com](mailto:Sharon@huntgross.com)) and Harry Winderman ([harry4334@hotmail.com](mailto:harry4334@hotmail.com)).

/s/ Shane P. Martin

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