

IN THE CIRCUIT COURT OF THE 17<sup>th</sup>  
JUDICIAL CIRCUIT, IN AND FOR  
BROWARD COUNTY, FLORIDA

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

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

Plaintiff,

v.

ROBERTA P. ALVES, ET AL.,

Defendants.

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**RESPONSE TO NOTICE OF LACK OF PROSECUTION**

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, hereby files this Response to Notice of Lack of Prosecution (the “Response”), and states as follows:

**Background and Response**

1. To resolve the dispute between various partners as to an appropriate distribution method, in July of 2012, the Partnerships filed the instant interpleader action (the “Interpleader Action”).
2. On January 17, 2013, this Court appointed Philip Von Kahle as Conservator of the Partnerships in a parallel proceeding<sup>1</sup> by entering the *Order Appointing Conservator* (the “Conservator Order”).
3. The Conservator Order directed the Conservator to, among other things, advance the Interpleader Action.

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<sup>1</sup> *Matthew Carone, et. al. v. Michael D. Sullivan*, Case No. 12-24051 (07) (the “Conservator Suit”).

4. 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”).

5. On October 7, 2013, this Court granted the Conservator’s Distribution Motion, adopted the recommendations of the Conservator to apply the ‘Net Investment’ method for distributions, and set for trial other outstanding issues.

6. On November 19, 2013 the Court conducted a trial on the remaining issues.

7. After trial, on December 20, 2013, the Court entered its Findings of Fact, Conclusions of Law, and Final Order of Distribution (the “Final Order”).

8. On January 9, 2014, a Corrected Final Order was entered.

9. On August 16, 2016, the Court entered a Notice of Lack of Prosecution.

10. In light of the Final Order, this case has been prosecuted and should not be dismissed.

WHEREFORE the Conservator request that this Court enter an Order: (i) finding that the case should not be dismissed; and (ii) for such other relief as the Court deems just and proper.

Respectfully submitted this October 17, 2016.

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