

IN THE CIRCUIT COURT OF THE 17th
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.

STIPULATION TO WITHDRAW AFFIRMATIVE DEFENSES

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 stipulation to withdraw the affirmative defenses (the “**Stipulation**”) asserted by Robert A. Uchin Revocable Trust (“**Uchin**”), Kathleen G. Walsh, James R. (deceased) & Kathleen Walsh, Margaret B. Gwinn Trust, Walsh Family Trust #1, Walsh Family Trust #2, Walsh Family Trust #3, Robert G. Walsh Family Trust #1, Robert G. Walsh Family Trust #2, Robert G. Walsh Family Trust #3, Robert G. Walsh Family Trust #4 (collectively, the “**Walsh Family Claimants**”), Dalores Barone, Carl Boschetti, Annette Boschetti, Denise Bryan, and Ettoh Ltd. (collectively, the “**Boschetti Defendants**”); and Sam and Edith Rosen (the “**Rosen Defendants**”), and states as follows:

Stipulation

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, that certain case styled *Matthew Carone, et. al. v. Michael D. Sullivan*, Case No. 12-24051 (07) (the “**Conservator Suit**”) by entering the *Order Appointing Conservator* (the “**Conservator Order**”).
3. The Conservator Order directs the Conservator to, among other things, advance the Interpleader Action.

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

5. On July 17, 2013, the Conservator filed the Third Amended Complaint in the Interpleader Action. The Third Amended Complaint added certain parties (among others, previously omitted Partners of the Partnerships), to furnish same with notice of the pendency of the Interpleader Action. It did not make substantive changes.

6. On August 28, 2013, Uchin filed his answers and affirmative defenses (the “**Uchin Answer**”).

7. On August 29, 2013, the Walsh Family Claimants filed their answers and affirmative defenses (the “**Walsh Answer**”).

8. On September 11, 2013, the Boschetti Defendants filed their answers and affirmative defenses (the “**Boschetti Answer**”).

9. On September 19, 2013, the Rosen Defendants filed their answers and affirmative defenses (the “**Rosen Answer**”, collectively with the Uchin Answer, Walsh Answer, and the Boschetti Answer, the “**Answers**”).

10. On September 27, 2013, pursuant to Florida Rule of Civil Procedure 1.140(b), the Conservator filed his motion to strike certain affirmative defenses asserted in the Answers (the “**Conservator's Motion to Strike**”).

11. In order to resolve the affirmative defenses asserted in the Answers and the Conservator's Motion to Strike, the Conservator and the following “**Stipulating Parties**”: Uchin, the Walsh Family Claimants, Boschetti Defendants, and The Rosen Defendants have agreed to enter into this Stipulation.

12. The Stipulating Parties agree to withdraw their affirmative defenses¹ to remove any impediment from this Court granting the Distribution Motion.

¹ The Boschetti Defendants' stipulation is limited to its failure to state a cause of action affirmative defense.

13. The Conservator and the Stipulating Parties do not intend for this Stipulation to have any preclusive effect or otherwise prevent the Stipulating Parties from asserting defenses in other matters.

Respectfully submitted this October 23, 2013.

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