

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.

PROPOSED SECOND DISTRIBUTION TO PARTNERS

AND

**CONSERVATOR'S INTERIM REPORT AND THIRD APPLICATION
FOR ALLOWANCE AND PAYMENT OF COMPENSATION AND
REIMBURSEMENT OF EXPENSES FOR THE CONSERVATOR AND
MESSANA, P.A., AS COUNSEL FOR THE CONSERVATOR**

AND

**APPLICATION FOR ALLOWANCE AND PAYMENT OF
MARCUM LLP AS EXPERT WITNESS**

COMES NOW, 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 gives notice of his report and third application for allowance of compensation for professional services rendered as Conservator and reimbursement of necessary expenses incurred; and for allowance of compensation for Thomas M. Messana and the law firm Messana, P.A. ("Counsel" or "Messana") for professional services rendered as counsel to the Conservator and reimbursement of necessary expenses incurred between the period of January 1, 2014 and September 30, 2014 (the "Application Period"); and for allowance

of compensation for Marcum, LLP (“Expert” or “Marcum”) for professional services rendered as the Conservator’s expert witness in the Interpleader Action; and proposed second distribution to partners (the “Application”), and in support thereof states as follows:

INTRODUCTION

The Conservator was appointed on January 17, 2013, in the midst of significant disputes between and amongst the partners themselves and the Partnerships’ management. The Court empowered the Conservator to protect the Partnerships and their assets, develop a mechanism to distribute the Partnerships’ assets, investigate the claims and allegations of the litigants, and make recommendations to the Court based upon the results of such investigations.

With the aid of Thomas M. Messina and Messina, P.A. (“Messina” or “Counsel”), the Conservator’s general and specific counsel, the Conservator has marshalled the Partnerships’ assets, obtained Court approval of a distribution methodology over objections, has prosecuted and continues to prosecute claims for the benefit of the Partnerships.

On account of his earlier efforts, the Conservator distributed approximately \$4.9 million dollars to partners in December of 2013.

During 2014, as a result of, among other things, the Conservator, Counsel, and the Conservator’s special counsel Berger Singerman LLP; the Partnerships have successfully recovered additional sums, a net of approximately \$1.76 million.

Additionally, the Conservator and Counsel seek approval of their respective fees and costs for the period of January 1, 2014 through September 30, 2014 (the “Application Period”).

During the Application Period, the Conservator, at a significantly reduced rate, dedicated over 1533 hours in advocating the Partnerships’ interests. The Conservator now seeks approval

and payment of its reasonable fees of approximately \$256,200.25 and expenses of approximately \$8,473.02.

During the Application Period, Counsel, also at a significantly reduced rate, has dedicated over 406 hours in advocating the Partnerships' interests. Counsel now seeks approval and payment of its reasonable fees of approximately \$92,272.00 at a blended hourly rate of approximately \$227.27 dollars per hour and expenses of approximately \$4,123.89. Counsel's voluntarily reduced rate equates to an approximate \$10,000.00 reduction in the fees requested herein.

At present, the Conservator seeks authority to distribute approximately \$908,689.22 to partners based on the "Net Investment" method adopted by the Court (the "Proposed Distribution").

SUMMARY OF BACKGROUND

1. After over 15 years of investing in the Bernard L. Madoff Investment Securities LLC ("BLMIS"), the Partnerships learned in late 2008 that they were victims in what has become known as the largest ponzi scheme in known history.

2. In turn, most of the Partnerships' many general partners suffered as victims of the ponzi scheme. However, while certain of the partners lost their entire investment, others received up to millions of dollars more than their investment. For this reason and others, the partners found themselves dissimilarly situated and with competing theories on how the Partnerships should distribute their remaining assets; including approximately \$5,953,121.¹

¹ The combined cash assets of both Partnerships at or around the commencement of the Conservatorship. partners only have a claim against the particular Partnership of which they were a partner. The total value of the assets of the Partnerships is subject to change.

3. Faced with conflicting positions, on July 25, 2012, the Partnerships commenced an interpleader action seeking judicial oversight and direction as to the appropriate method of distributing the Partnerships' remaining assets (the "Interpleader Action").²

4. Around the same time, certain partners were embroiled in a dispute with the Partnerships' then managing general partner (the "Managing Partner"), requesting access to Partnership information and these partners commenced the above captioned lawsuit against him (the "Conservator Matter").

5. Subsequently, Maggie Smith, acting on behalf of the Partnerships, commenced two additional law suits. The first, an action against those partners who profited from the investments in the BLMIS ponzi scheme (the "Net Winner Suit"). The second, an action asserting, among other things, fraud claims against the Managing Partner and other insiders and affiliates of the Partnerships (the "Insider Suit").

6. On January 17, 2013, this Court entered an order appointing Philip von Kahle as conservator of the Partnerships (the "Conservator Order").

7. Among other things, the Conservator Order directed the Conservator to take possession of all property of the Partnerships (the "Conservatorship Property"), to advance the Interpleader Action, and to do any and all things necessary for the management, wind-down, and administration of the Partnerships.

8. To aid, facilitate, and support the Conservator in carrying out his duties, consistent with applicable Florida law, the Conservator Order authorized him to retain and compensate legal counsel. On March 1, 2013, the Court entered an order expressly authorized the Conservator to engage Messina as his general counsel *nunc pro tunc* to January 18, 2013.

² Case style *P&S v. Alves*, Case No. 12-028324 (07).

9. On July 2, 2013, the Court entered an order granting the Conservator's motion to employ Messina and Berger Singerman LLP as special counsel to advance the Lawsuits.

10. To date, with the aid of counsel, the Conservator has hurdled significant obstacles and has attained many successes, among other things:

- i. Messina researched, prepared and filed the meritorious motion for summary judgment ("Motion for Summary Judgment") in the Interpleader Action;
- ii. This Court entered an Order which approved of the Net Investment Method of distribution recommended in the Motion for Summary Judgment;
- iii. Messina prepared a litigation report to, among other things, advise the Court of whether advancing certain litigation³ against the Partnerships' net winners and insiders was in the Partnerships' best interests;
- iv. On May 20, 2013, the Conservator filed his Litigation Status Report (the "Litigation Report") which, among other things, recommended that the Partnerships continue to prosecute the Lawsuits and that doing so was in the best interest of the Partnerships.
- v. The Conservator and Counsel prevailed over the objections of several parties, including certain insiders, to the Litigation Report.
- vi. Due to, among other things, the Conservator and Counsel's ability to obtain Court approval to advance the Lawsuits, the Partnerships have received a significant benefit.
- vii. Additionally, in the Net Winner action of the Conservator has settled with 25 of the approximately 28 initially named defendants.

11. Pursuing the Lawsuits has been a resounding success for the Partnerships. To date, the Conservator has resulted in net recoveries of approximately \$1.76 million dollars for the Partnerships. This sum is sufficient to cover all administrative expenses to date and allows the Conservator to provide an interim distribution to the Net Losers.

³*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", collectively the "Lawsuits").

12. As a result of the Conservator and Messina's efforts, the Partnerships made a distribution of the Partnerships' assets to the partners pursuant to a court-approved method before the end of 2013. Further, through the Conservator and Messina's efforts, the Conservator has filed claims on behalf of numerous partners with the Madoff Victim Fund which anticipates distributing approximately \$4 billion dollars to victims. Moreover, through the Conservator and Messina's efforts, the Conservatorship estate has been enlarged by approximately \$1.76 million and the Conservator is poised to make another distribution.

PRIOR REPORTS

13. Previously, the Conservator and Messina filed the *Conservator's Interim Report and First Application For Allowance and Payment Of Compensation And Reimbursement of Expenses For the Conservator And Messina, P.A., As Counsel For the Conservator* (the "First Application"). An order approving the First Application was entered on December 9, 2013.

14. Similarly, the Conservator and Messina filed the *Conservator's Interim Report and Second Application for Allowance and Payment of Compensation and Reimbursement of Expenses for the Conservator and Messina, P.A., as Counsel for the Conservator* (the "Second Application. An order approving the Second Application was entered on June 20, 2014.

PROPOSED DISTRIBUTION TO PARTNERS

15. Faced with conflicting positions, on July 25, 2012, the Partnerships commenced the Interpleader Action seeking judicial oversight and direction as to the appropriate method of distributing the Partnerships' remaining assets.

16. As part of the Conservator's duties he advanced the Interpleader Action through trial.

17. On October 7, 2013, this Court granted the Conservator's Motion for Summary Judgment, adopted the recommendations of the Conservator to apply the 'Net Investment' method for distributions, and set for trial other outstanding issues. On November 19, 2013, this Court conducted a trial on the outstanding issues in the Interpleader Action and the Conservator's position prevailed.

18. Thereafter, the Conservator distributed approximately \$4.9 million dollars to partners before year end 2013.

19. The Conservator is now prepared to make a second interim distribution to partners. The source of funds which comprise this distribution include, among others, the Conservator's net recoveries of approximately \$1.76 million dollars from prosecuting of the Lawsuits (with Net Losers to share in the settlement attributable to their partnerships).

20. Attached hereto and incorporated by reference herein as **Exhibit "A" (P&S)** and **Exhibit "B" (S&P)** are spreadsheets reflecting the distribution each partner would receive if the Proposed Distribution is approved (the "Spreadsheets").

**CONSERVATOR'S ENTITLEMENT TO
REASONABLE FEES AND REIMBURSEMENT OF EXPENSES**

21. "A [conservator] is an officer of the court, and is entitled to reasonable compensation, including a reasonable sum for attorney's fees." *Southeast Bank v. Ingrassia*, 562 So. 2d 718, 721 (3d DCA Fla. 1990). In general, the duties of court-appointed fiduciaries "are to protect and preserve the property pending the litigation, and all expenses duly authorized and properly incurred by the conservator in the discharge of such duties, including a reasonable compensation for his services, may constitute a first charge upon the income of the property, if any, or, if none, upon the corpus of the property even postponing prior lien holders." *Knickerbocker Trust Co. v. Green Bay Phosphate Co.*, 62 Fla. 519, 520 (1911); see also *Wingold*

v. Horowitz, 382 So.2d 377 (3d DCA Fla. 1980) (finding that a court may allow a professional fiduciary a security interest in estate property to guarantee payment for his fees and the fees and costs of his counsel).

22. While conservatorships should be administered economically, the rate of compensation for a conservator should be sufficient “to induce competent persons to serve as [conservator], as attorney for [conservator], or to render other essential services....” *Lewis v. Gramil Corp.*, 94 So. 2d 174, 177 (Fla. 1957).

23. In the conservatorship context, there is “no set schedule of fees, no mechanical means by which to determine what is a proper allowance thereof.” *Id* at 176. In considering the reasonableness of a conservatorship’s fees the court should consider the following non-exclusive factors that are generally applicable in the receivership context:

- a. Nature and extent of the services rendered by the conservator;
- b. The responsibility assumed by the conservator;
- c. The character and extent of the property committed to the conservator’s care;
- d. The beneficial results of the conservator’s management;
- e. The complexity of the task;
- f. The opinions of persons of experience as to the value of the services rendered by the conservator; and
- g. Other material factors.

Id at 177.

24. In this conservatorship, all the factors evidence the reasonableness of the Conservator and his Counsel’s fees and costs.

Nature and Extent of the Services Rendered by the Conservator

25. Since his appointment, the Conservator has diligently and dutifully received and inventoried thousands of documents⁴ related to the Partnerships.⁵ Oftentimes, documents were

⁴ Receipt and retention of these documents was necessary to preserve the Conservatorship Property as required by the Conservator Order.

obtained over the objection of recalcitrant parties.

26. During his tenure, the Conservator and his employees at Michael Moecker and Associates, Inc. (“Moecker”) also accomplished significant undertakings including, but not limited to: (i) a review and analysis of the Partners’ interests in the Partnerships and their relative rights in the current assets of the Partnerships’ Property; (ii) created and maintained the Conservatorship Website which provides notice to and informs Partners of the status of the related proceedings; (iii) distributed millions of dollars to hundreds of partners before year end; (iv) compelled and negotiated the turnover of the monetary assets of the Partnerships; (v) negotiated significant reductions of attorney’s and professional fees claimed at the commencement of his appointment; (vi) conducted an investigation and pursued claims against certain parties and insiders in the best interest of the Partnerships; (vii) filed claims on behalf of Net Losers with the Madoff Victim’s fund; and (viii) recovered substantial sums through advancement of litigation to allow for a distribution to partners. Through these efforts the Conservator has both preserved and increased the Partnerships assets.

The Responsibility Assumed by the Conservator

27. Amid a raucous battle between partners, the Conservator assumed the responsibility of managing, maintaining, and distributing significant assets of the Partnerships.

28. In addition to those tasks typical of a conservator, the Conservator faced active and passive opposition from the Partnerships’ insiders, including the former managing general partner of the Partnerships (the “Insiders”). Among other things, the Insiders interfered with the collection and maintenance of the Conservatorship Property, refused to deliver documents

⁵ Substantially all of the documents received from GlassRatner were in hardcopy form. The Conservator undertook significant efforts to input the relevant information into electronically analyzable format. Once in electronic format, the information was able to be processed and tested to facilitate factual investigation and to support legal analysis.

relative to the Partnerships to the Conservator, objected to many administrative actions of the Conservator (including retaining an accountant to prepare the year end forms and K-1's), and ultimately increasing costs and expenses of administering this conservatorship estate.

29. The Conservator required (and obtained) certain Orders compelling the Insiders to turnover the Conservatorships Property and finding certain of them in contempt.

30. The Conservator's responsibilities included, among other things, maximizing the assets of the Conservatorship Property. To accomplish same, the Conservator reviewed and analyzed the information related to the Partnerships when determining whether pursuing certain lawsuits is in the best interest of the Partners. Ultimately, the Conservator argued and prevailed over objections to advance the Lawsuits. To date, the Conservator has recovered net settlement payments totaling approximately \$1.76 million dollars by pursuing these lawsuits.

31. Moreover, after obtaining Court authority, the Conservator filed claims with the Madoff Victims Fund on behalf of hundreds of partners in hopes that they may receive a distribution from the approximately \$4 billion pool of funds.

32. Additionally, pursuant to the Conservator Order, the Conservator created and maintains a website www.floridaconservator.com (the "Conservatorship Website"). Through the Conservatorship Website, Partners are provided notice and kept abreast of the proceedings related to the Partnerships. The Conservatorship Website includes upcoming Court hearings and documents filed in the lawsuits. Attached hereto as **Exhibit "A"** are Screenshots of the Conservator Website.

33. Moreover, the Conservator and his professional staff at Moecker reviewed and analyzed the Partners' interests in the Partnerships and their relative rights in the current assets of the Partnerships. The Conservator's analysis formed the foundation of the Motion for Summary

Judgment, which motion was granted by the Court. Further, the Conservator's efforts allowed it to prevail over objections at trial from Guardian Angel Trust, LLC and SPJ Investments Limited.

34. Finally, during this Application Period the Conservator has recovered funds and prepared a Proposed Distribution to partners. As requested and authorized by the Court, the Conservator has worked diligently to ensure that another interim distribution would be made to partners.

The Character and Extent of the Property Committed into the Conservator's Care

35. At the commencement of the Conservatorship and shortly thereafter, the Conservator received approximately \$4,783,156.09⁶ on account of the S&P Allowed Claim (including \$116,902.22 as part of the SIPC claim). The Conservator also received approximately \$997,714.38⁷ on account of the P&S Allowed Claim. Prior to the appointment of the Conservator certain of these funds were held by the law firm Becker & Poliakoff LLP. Recently, the Conservator received approximately \$322,166.94 and \$76,530.66 as part of Picard 's, the Trustee for the BLMIS' liquidation, fourth distribution for S&P and P&S respectively.

36. Additionally, the Conservator obtained certain funds that were held in BB&T bank accounts of the Partnerships. For S&P, such funds were in the amount of \$20,602.37. For P&S, such funds were in the total amount of approximately \$540,730.87.

37. Moreover, the Conservator has received several settlement payments based upon the lawsuits he determined were in the best interest of the Partnerships. To date, the net recovery from the Lawsuits is approximately \$1.76 million.

⁶ First Interim Distribution of \$466,230.28 plus Second Interim Distribution of \$3,399,570.44 plus Third Interim Distribution of \$478,286.21 plus Fourth Distribution of \$322,166.94 plus SIPC \$116,902.22.

⁷ Comprised of funds from the Second Interim Distribution of \$807,566.97 plus Third Interim Distribution of \$113,616.75 plus Fourth Interim Distribution of \$76,530.66.

38. Further, the Conservator is in possession of documents pertaining to the Partnerships, including the books and records as well as certain electronically stored information which was not initially turned over to the Conservator.

The Beneficial Results of the Conservator's Management

39. The Conservator has calmed the disputes between certain of the Partners and narrowed the issues between the Partners and former management.

40. The Conservator preserved, reviewed, and analyzed the Partnerships books and records. Based upon, among other things, the Conservator's analysis, the partners have accurate information concerning their accounts and the Court was able to approve of the Net Investment Method of distribution.

41. Further, the Conservator has enlarged the estate by pursuing litigation claims held by the Partnerships. Additionally, the Conservator's efforts in connection with the Madoff Victims Fund have increased the partners' odds of receiving additional funds.

42. As a result of the Conservator's extensive efforts, the Partners have received a distribution of the Partnerships' assets. Further, the Conservator has prepared the Proposed Distribution to make an interim to Net Losers. Moreover, certain partners have a prospect of receiving their share of the \$ 4 billion dollars which will be distributed by the Madoff Victims fund as a result of the Conservator's efforts.

The Complexity of the Task

43. The Partnerships records cover decades of investment and hundreds of partners. Moreover, the Conservator's responsibilities were complicated by the resistance of Insiders and the piecemeal turnover of information related to the Partnerships. Further, the Conservator successfully navigated a convoluted claims process with the Madoff Victims Fund.

44. Notwithstanding such obstacles, the Conservator and his agents at Moecker performed a complicated review and analysis of the Partnerships records with the requisite skill and experience.

Opinions of Persons of Experience as to the Value of the Services Rendered by the Conservator

45. Attached hereto and incorporated by reference herein as **Exhibit “C”** is an affidavit attesting to the reasonableness of the Conservator’s fees and costs.

Other Material Factors

46. The nature of the dispute, including four separate lawsuits and the dilatory efforts of the Insiders, required patience and persistence from the Conservator. Records of the Partnerships were scattered between several different sources and required Court intervention to compel turnover. Moreover, the Insiders persistence required the Conservator to proceed and prevail at trial.

47. Ultimately, the Conservator was able to collect and preserve a substantial portion of the records of the Partnerships. The Conservator has assisted in hotly contested litigation which has allowed the estate to realize a net recovery of approximately \$1.76 million dollars. Through such efforts, the Conservator is poised to make the Proposed Distribution after receiving Court approval.

SUMMARY OF CONSERVATORSHIP FEES AND COSTS

48. Pursuant to the Conservator Order, the Conservator was charged with among other things, to take possession of all property of the Conservatorship Property, to advance the Interpleader Action, and to do any and all things necessary for the management, wind-down, and administration of the Partnerships. The Conservator is entitled to reimbursement of reasonable

fees, including costs and expenses, associated with the administration of the Conservatorship Property. Attached hereto as Exhibit “D” is Conservator’s detailed time records.

**CONSERVATOR’S COUNSEL’S ENTITLEMENT TO
REASONABLE FEES AND REIMBURSEMENT OF EXPENSES**

49. As a court-appointed fiduciary, the Conservator is permitted to compensate Messana from the Partnerships’ assets. *Creative Property Management, Inc. v. General Electric Credit Corp. of Georgia*, 314 So. 2d 807, 808 (Fla. 3d DCA 1975) (holding that where legal services are required and benefit the estate, court-appointed professional fiduciaries may be allowed a reasonable sum for legal fees); *see also Zirot v. Gilmer*, 336 So. 2d 680, 682 (Fla. 4th DCA 1976) (holding that professional fiduciary fees and expenses enjoy a priority over unsecured creditors).

50. The Conservator Order reiterated such authority and allowed the Conservator to, “Hir[e] legal counsel to assist the Conservator in performing the responsibilities with respect to the Conservatorship Property....” Conservator Order at 5(i). Further, upon application to the Court, the Conservator Order provided that “the Conservator may be empowered to retain others to provide legal or accounting services as may be necessary during the period of the Conservatorship.” Conservator Order at 11.

51. Pursuant to such authority, on February 6, 2013, the Conservator filed his motion to retain Messana as his general counsel.

52. On March 1, 2013, this Court entered an order authorizing the Conservator to engage Messana on the terms outlined in the motion seeking approval of same *nunc pro tunc* to January 18, 2013.

53. From the inception of this matter, the Conservator and Messina have had to overcome the constant obstructionism posed by the Insiders who have sought to delay and derail the Conservator's investigation of the Partnerships' records.

54. Through a battery of motions for contempt and to compel, Messina's out of court negotiations, and unwavering efforts, the Partnerships' financial records have been reconstructed to a point where the Conservator was comfortable in advancing the analysis of each and every partner's net capital position as contained in the exhibit to the Motion for Summary Judgment.

55. Additionally, with the support of Messina, the Conservator investigated causes of action held by the Partnerships against certain net winners and insiders, and recommended that causes of action be pursued. On June 26, 2013, this Court entered an Order adopting the Conservator's recommendations and authorized the Conservator to, among other things, engage special counsel to advance the litigation claims. The Conservator's recommendation has born fruit as, to date, the Conservator has recovered a substantial sum in settlement payments through pursuing such litigation. To date, the combined net sum of such settlements is approximately \$1.76 million dollars. These settlement funds are sufficient to cover the instant and all prior administrative costs and provide a distribution to the partners. The successes are possible because the Conservator, with Messina's assistance, overcame vigorous objections from certain partners and obtained Court authority to prosecute the Lawsuits.

56. Although the road has been littered with obstacles, Messina has competently aided and advised the Conservator throughout towards a prompt interim distribution and ultimate resolution of all disputes. During the Application Period, with Messina's assistance, the Conservator was able to enlarge the Conservatorship estate and prepare a Proposed Distribution of Partnerships' funds to the partners.

57. As such, Messina seeks for this Court to find the fees earned and of costs expended during the Application Period as reasonable pursuant to the factors of *Florida Patient's Compensation Fund v. Rowe*, 472 So. 2d 1145 (Fla. 1985), and award same.

58. Under *Rowe*, compensation to professionals shall be reasonable and may be awarded based on the following factors:

- (1) The time and labor required, the novelty and difficulty of the question involved, and the skill requisite to perform the legal service properly.
- (2) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer.
- (3) The fee customarily charged in the locality for similar legal services.
- (4) The amount involved and the results obtained.
- (5) The time limitations imposed by the client or by the circumstances.
- (6) The nature and length of the professional relationship with the client.
- (7) The experience, reputation, and ability of the lawyer or lawyers performing the services.
- (8) Whether the fee is fixed or contingent.

Florida Patient's Compensation Fund v. Rowe, 472 So.2d 1145, 1150 (Fla. 1985).

Time and Labor Required

59. During the Application Period, Messina devoted approximately 406 hours of attorney and paralegal time, resulting in fees in the amount of approximately \$92,272.00 and costs in the amount of approximately \$4,123.89.

60. As the Interpleader Action involves a substantial number of *pro se* defendants, the lawyers at Messina fielded a tremendous amount of e-mails, letters, and telephone calls from the involved partners. As a result of Messina's efforts, many issues that may have required court

involvement at additional cost to the Partnerships were resolved with appropriate communication rather than litigation.

61. Additionally, of the resources dedicated to this matter, substantially all of the administrative work necessarily attendant to the Conservatorship was accomplished at competitive rates, i.e., a blended hourly rate of approximately \$249.32. Further, during the Application Period, Messina assisted the Conservator in navigating the Madoff Victim's Fund procedures and in the enlargement of the estate.

62. Messina requests this Court find such fees reasonable considering the *Rowe* factors and enter an award of such fees and costs for services rendered as Conservator's general counsel during the Application Period.

Summary of Services Rendered

63. Given the impediments placed by the Partnerships' insiders and the exigent circumstances upon which Messina's retention began, Messina has devoted considerable time and labor in representing and advising the Conservator. The urgency to secure, marshal and take custody of all assets and records of the Partnerships and to efficiently propose a distribution to partners required that Messina attend to matters with immediacy. While Messina has assisted in stabilizing the Conservatorship, Messina's guidance remains necessary when administrative and contested issues arise.

64. The professional services rendered by Messina are set forth and described in more detail in **Exhibit "E"** attached hereto.⁸

65. The records attached include a daily description of the services rendered, the hours expended, and the hourly rates of the professionals and paraprofessionals performing the

⁸ As requires by the Conservator Order, the detailed time records are attached to the Application hereto as **Exhibit "E"** for services rendered during the Application Period. If any party requires a copy of the detailed time records please contact Brett Lieberman at 954-712-7400

reflected services. The attached records have been prepared based upon the contemporaneous daily time records maintained by the individuals rendering the services. Equally, the use of different levels of staff contributes to accomplishing the various projects at billing rates commensurate to the level of the assignment.

66. Moreover, the sophistication of the legal issues involved, e.g. distribution of assets from a ponzi scheme and issues arising in conservatorships, and with the extensive administrative resources necessary to effectuate service on hundreds of defendants, Messina utilized all assets of the law firm to advance the interests of the Conservator and the Partnerships.

67. During the Application Period, Messina accomplished, among other things, the following successes:

- Filed the Conservator's Report (Dated 6-3-2014) which provided a summary to partners of the status of the conservatorship.
- Obtained approval for notice by website, facilitate creation and maintenance of website to ensure current, provide notice to partners of the same in the Interpleader Action.
- Fielded extensive phone calls and correspondences from partners and their counsel regarding the status of various lawsuits.
- Prepared orders resetting deadlines and case management for the related lawsuits.
- Negotiated protective orders in an effort to resolve turnover disputes.
- Obtained authorization for the Conservator to prepare claims for the Madoff Victims Fund.
- Negotiated settlements and stipulations with several partners.
- Assisted Conservator in the Madoff Victims Fund process.
- Obtained transfer of electronically stored information containing Partnership Property, held back from the Conservator.
- Researched and evaluated the facts and legal positions of potential lawsuits and analyzed whether advancing the same was in the best interest of the Partnerships.

- Advanced service in the lawsuits by obtaining 189 alias summonses in one action, 41 in another, and 8 in another from the clerk’s office.
- Evaluated and exchanged substantial correspondence regarding proofs of claim filed in the Conservator Matter. Such correspondence, includes, among other things, requests for additional documents supporting claims and review of the same.
- Prepared and argued two motions to strike affirmative defenses filed in Interpleader Action.
- Prepared for and attended hearings on at least seven occasions and covering various complex topics:
 - January 10, 2014;
 - February 7, 2014;
 - March 7, 2014;
 - April 4, 2014;
 - May 2, 2014;
 - June 20, 2014; and
 - August 22, 2014.
- Prepared a report of the status of unserved defendants in the Interpleader Action.
- Responded to subpoena served on the Conservator out of New York.
- Prepared and coordinated with other parties, as appropriate, for the status Conference Agenda for each status conference.
- Assisted the Conservator’s distribution efforts by communicating with several partners and their estates.

Novelty and Difficulty of the Issues and Questions Presented

68. Conservatorship proceedings require specific knowledge and expertise in business and insolvency law and in the instant case, issues associated with the fallout from Ponzi Schemes.

69. During the Application Period Messina encountered, among other things, issues related to Partnership law, equitable methods of distribution, distribution of assets in ponzi scheme, distribution pursuant to Securities Investor Protection Act, fraudulent transfers, and tax

implications of Ponzi schemes, rules of civil procedure, and tax law. Messina advised the Conservator on matters of professional fees and the merits of certain lawsuits, pending and potential. Further, Messina guided the Conservator through its meritorious efforts at the Summary Judgment Hearing and trial in the Interpleader Action.

70. Moreover, due to the hotly contested circumstances of alleged mismanagement of the Partnerships, Messina was faced with numerous objections to document requests which resulted in issues concerning subpoenas, protective orders, and methods of compelling compliance with court orders.

Requisite Skill to Perform Legal Services Properly

71. To advance the various Partnership related lawsuits to their present status - on the cusp of a distribution to partners - Messina employed knowledge drawn from various areas of law. Further, Messina devoted the necessary time to research a gamut of legal issues to convey same to the Court and the partners.

72. Moreover, Messina competently advanced the complex litigation procedures of this complex business court.

73. Messina submits that he has demonstrated the requisite professional skills to deal with the problems encountered in these proceedings and has handled all legal issues and negotiations in an efficient and effective manner.

Preclusion from Other Employment

74. Given the exigent circumstances surrounding the Partnerships, Messina devoted substantial attorney and paralegal time to advising the Conservator. Further, the sheer size of the Partnerships and the goal of providing a distribution by year end demanded the application of significant resources from Messina. With Messina's assistance, the Conservator was able to

achieve the goal and a distribution was made within a year of the Conservator's appointment. Moreover, with Messina's assistance, the Conservator has enlarged the Conservatorship estate and is poised to make the Proposed Distribution.

75. Accordingly, Messina was forced to devote time with regard to these proceedings that precluded him from applying attorney time and skills to other proceedings in which clients pay regular hourly fees and expenses on a timely basis.

Customary Fee

76. Presently, the most senior attorney who worked on the Partnerships matters has an hourly rate of \$525. As part of this representation, Messina agreed to reduce his hourly rate to \$375. The reduction of this hourly rate resulted in a savings to the Partnerships of approximately \$10,000 for the Application Period. Accordingly, the reduced rates charged by Messina are well within the range of fees in the community charged by other attorneys in conservatorship matters.

Time Limitations Imposed by the Circumstances

77. The disputes surrounding the Partnerships required Messina to act expediently in securing Partnership Property and information to prevent the loss or destruction of the same. Further, the Court and Conservator's desire to provide the partners, many of whom invested their life savings, with a distribution through the Interpleader Action necessitated Messina to rapidly advance the Partnerships' interests. Moreover, the time limitations imposed by the by the Madoff Victims Fund required the Conservator to efficiently navigate the applications hurdles. Accordingly, Messina devoted significant time in digesting and reviewing the existing matters in an abbreviated period of time.

The Amount Involved and the Results Obtained

78. To date, the Conservator was in possession of over \$5 million dollars of Partnership funds. Further, the Conservator anticipates receiving additional Partnership funds in the event that the Madoff Trustee distributes additional funds as part of the Partnerships' claims. With advice of Messana and through the Motion for Summary Judgment, the Reply in Support, and efforts at trial in the Interpleader Action, the Conservator obtained Court approval for the Net Investment Method for a distribution of Partnership assets to the partners.

79. Through the Conservator and Messana's efforts, the partners received a distribution of approximately \$4.9 million before year end.

80. Further, Messana has counseled the Conservator on pending and potential litigation matters which has enlarged the Partnerships' estate. Specifically, the Conservator, with assistance from Messana, has, among other things, successfully retained special counsel for the Partnerships which has advanced the Lawsuits. Uncovering the potential sources of recovery would have been unlikely, absent Messana's success in obtaining previously held back Partnerships' information. To date, the Conservator has recovered substantial settlement payments through pursuing such litigation, approximately a net of \$1.76 million dollars.

Experience and Reputation

81. The attorneys of Messana, P.A. are experienced in matters of this kind. Thomas M. Messana, the senior partner on this matter, is the co-chairperson of the of The Florida Bar Business Law Section's Receivership Study Group and is active on the Assignment for the Benefit of Creditors sub-committee. In addition, Messana is a current member of the Executive Counsel of The Florida Bar's Business Law Section, a past president of the Bankruptcy Bar Association of the Southern District of Florida, and a former chairperson of The Florida Bar

Bankruptcy/UCC committee. Mr. Messana has been recognized by Chambers & Partners, USA, as a Best Layer in America, a Super Lawyer, and a Member of Florida's Elite Lawyers by Florida Trend and is "AV" preeminent rated by Martindale-Hubble and is generally regarded by his peers as an extremely competent professional fiduciary's attorney.

82. Brett D. Lieberman, an associate attorney who works on this matter, has experience in the representation of trustees, receivers, assignees, debtors and creditors in the various aspects of commercial bankruptcy and general insolvency workout situations. Mr. Lieberman is a director of the Bankruptcy Bar Association of the Southern District of Florida, has been appointed to the Federal Court Practice Standing Committee of the Florida Bar, has been recognized as a "Rising Star" by *Florida Super Lawyers*, and achieved an "AV" preeminent rating by Martindale-Hubble. Mr. Lieberman is admitted to the Florida Bar, the United States District Court for the Southern District of Florida, and the 11th Circuit Court of Appeals.

83. In addition to his Juris Doctorate, Mr. Lieberman earned his Master of Accounting and Bachelor of Science in Accounting, from the University of Florida's Fisher School of Accounting in 2006.

84. Thomas Zeichman, an associate attorney who works on this matter, focuses his practice on the representation of receivers, assignees, trustees, debtors and creditors in the various aspects of commercial bankruptcy and general insolvency workout situations. Mr. Zeichman received his Bachelor of Arts from the Harriet L. Wilkes Honors College of Florida Atlantic University. Mr. Zeichman received his Juris Doctor *summa cum laude* from Nova Southeastern University Shepard Broad Law Center in 2012. Mr. Zeichman sits on the Alumni Board of Directors for the Nova Southeastern University Shepard Broad Law Center.

The Undesirability of the Case

85. While this case was not ‘undesirable,’ Messina undertook this representation with a firm conviction that, through his efforts, as well as the efforts of the Conservator, and the other skilled professionals, that the Conservator would be successful in protecting and allowing the Partnerships, the partners, and creditors to receive substantial benefits. The exigent nature required nights and weekends and accepting calls from many pro-se parties.

The Nature and Length of the Professional Relationship of the Client

86. Counsel has represented the Conservator as a professional fiduciary in prior matters.

Applicable Legal Standard

87. Under *Florida Patient's Compensation Fund v. Rowe*, 472 So. 2d 1145 (Fla. 1985), compensation to professionals shall be reasonable and may be awarded based on the nature, the extent and value of the services rendered, the time spent on such services, the cost of comparable services in other cases and for the reimbursement for actual and necessary expenses incurred on behalf of the client.

88. Messina believes that the services rendered as counsel for the Conservator have substantially benefitted the Conservator and the Partnerships in this proceeding. Messina further represents that the fees applied for are in conformity with the fees allowed in similar proceedings for similar services rendered and results obtained.

89. The Affidavit in Support of the reasonableness of Messina’s fees and costs is attached hereto as **Exhibit “F”**.

Marcum's Entitlement to Fees

90. On October 23, 2013, the Conservator filed a Motion to Retain Barry Mukamal and Marcum LLP as an expert witness in the Interpleader Action. Through the motion, Marcum agreed to discount their ordinary hourly fees by 15% and to cap the total fees related to this engagement at \$33,000.00.

91. On November 1, 2013, the Court entered an Order granting the Conservator's Motion to Retain Barry Mukamal and Marcum as experts *nunc pro tunc* to October 1, 2013.

92. Marcum expended substantial efforts in reviewing and analyzing the Partnerships' records. Among other things, Marcum prepared an expert report which framed the issues and facts in an accessible manner. Moreover, Mr. Mukamal testified as part of the Conservator's meritorious argument during the Interpleader Action.

93. Marcum's efforts have provided a substantial benefit to the estate.

94. Marcum, at a significantly reduced rate, has dedicated over 190 hours in analyzing and testifying to advance the Partnerships' interests. The reasonable value of such time is approximately, \$53,664.00. However, after negotiations with the Conservator, Marcum agreed to discount and cap its fees for this engagement in the Interpleader Action at \$33,000.00. Marcum now seeks approval and payment of its reasonable fees of approximately \$33,000.00.

WHEREFORE, (A)with respect to the Proposed Distribution, the Conservator respectfully requests that this Court enter an Order: (i) Approving the amount of interim distributions to Net Losers as proposed herein and pursuant to **Exhibits "A" and "B"** attached hereto; (ii) Authorizing the Conservator to make the interim distributions to the Partners as proposed herein pursuant to **Exhibits "A" and "B"** attached hereto within a reasonable time of the entry of an Final Non-Appealable Order

granting this Application; and (iii) for any further relief that this Court deems necessary and appropriate; and

(B) with respect to the application for payment of fees and costs for the Conservator, the Conservator respectfully request that this Court enter an order: (i) awarding the Conservator's fees in the amount of \$256,200.25 and costs in the amount of \$8,473.02 for services rendered and costs incurred during the Application Period; (ii) determining that the fees earned and costs incurred by Conservator during the Application Period are reasonable; (iii) authorizing the Conservator to pay such fees and costs out of the Partnerships' assets (allocated between P&S and S&P on a reasonable basis) immediately upon the entry of an order granting this Application and (iv) granting any other relief that this Court deems equitable and just;

and

(C) with respect to the application for payment of fees and costs for Counsel, Thomas M. Messana and the law firm of Messana, P.A. respectfully request that he be allowed the full final compensation and reimbursement sought under this Application and requests the Court enter an order: (i) finding the fees earned in the amount of \$92,272.00 and the costs incurred in the amount of \$4,123.89 during the Application Period reasonable pursuant to the *Rowe* factors; (ii) finding that Messana's hourly rate is reasonable pursuant to the *Rowe* factors; (iii) awarding the fees earned in the amount of \$92,272.00 and the costs incurred in the amount of \$4,123.89 during the Application Period; (iv) authorizing the Conservator to pay such fees and costs out of the Partnerships' assets (allocated between P&S and S&P on a reasonable basis) immediately upon the entry of an order granting this Application; and (e) granting such other relief as the Court deems just and proper; and

(D) with respect to the application for payment of fees and costs for Marcum, Marcum respectfully request that this Court enter an order: (a) awarding Macum's fees in the amount of \$33,000.00 for services rendered; (b) determining that the fees earned by Marcum are reasonable; (c) authorizing the Conservator to pay such fees out of the Partnerships' assets (allocated between P&S and S&P on a reasonable basis) immediately upon the entry of an order granting this Application and (d) granting any other relief that this Court deems equitable and just.

Respectfully submitted October 29, 2014.

By: /s/ Philip J. von Kahle
Philip J. von Kahle, Court Appointed Conservator

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By: /s/ Thomas M. Messana
Thomas M. Messana
Florida Bar No. 991422
Brett D. Lieberman
Florida Bar No. 69583

Exhibit A

P&S Associates General Partnership
Proposed Second Interim Distributions
Account Number

Proposed distribution amounts are approximate.
All claims are not approved.

Account Number	Combined Accounts	Net Loser Claim Amount	Net Winner Amount	First Interim Distribution	Notes	Proposed Second Interim Distribution (6.156%)
PS A071-AB		\$ 100,000.00		\$ 10,264.22	(1)	\$ 6,156.00
PS A071		\$ 100,000.00		\$ 10,264.22		\$ 6,156.00
PS B21-1	\$ 53,146.52					\$ -
PS B21-2	\$ (68,000.00)					\$ -
PS B021-3	\$ 1,266.29					\$ -
combined total for PS B21-1, PS B21-2, & PS B021-3	\$ (13,587.19)		\$ (13,587.19)	\$ -		\$ -
PS B01			\$ (11,000.00)	\$ -		\$ -
PS C058-AB		\$ 245,000.00		\$ 25,147.32		\$ 15,082.20
PS C28-AB		\$ 294,986.00		\$ 30,278.00		\$ 18,159.34
PS C054-AB		\$ 388,000.00		\$ 39,825.16		\$ 23,885.28
PS C055-AB		\$ 440,000.00		\$ 45,162.55		\$ 27,086.40
PS C41-AB		\$ 75,486.00		\$ 7,748.04		\$ 4,646.92
PS C30	\$ 1,629.23					\$ -
PS H63	\$ (3,467.98)					\$ -
combined total for PS C30 & PS H63	\$ (1,838.75)		\$ (1,838.75)	\$ -		\$ -
PS C002-1	\$ (129,911.63)					\$ -
PS C28-2	\$ 176,463.64					\$ -
combined total for PS C002-1 & PS C28-2	\$ 46,552.01	\$ 46,552.01		\$ 4,778.20		\$ 2,865.74
PS C29			\$ (182,532.35)	\$ -		\$ -
PS C033			\$ (33,490.39)	\$ -		\$ -
PS C03			\$ (61,707.18)	\$ -		\$ -
PS D-064			\$ (10,320.00)	\$ -		\$ -
PS D040		\$ 4,827.36		\$ 495.49		\$ 297.17
PS D067		\$ 200,000.00		\$ 20,528.43		\$ 12,312.00
PS F062		\$ 216,000.00		\$ 22,170.71		\$ 13,296.96
PS F04		\$ 78,915.77		\$ 8,100.08	(2)	\$ 4,858.05
PS F031		\$ 500,000.00		\$ 51,321.08		\$ 30,780.00

P&S Associates General Partnership
Proposed Second Interim Distributions
Account Number

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Account Number	Combined Accounts	Net Loser Claim Amount	Net Winner Amount	First Interim Distribution	Notes	Proposed Second Interim Distribution (6.156%)
PS G039		\$ 252,934.91		\$ 25,961.75		\$ 15,570.67
PS G073		\$ 200,000.00		\$ 20,528.43		\$ 12,312.00
PS H05			\$ (263,764.54)	\$ -		\$ -
PS H030		\$ -	\$ -	\$ -		\$ -
PS H030			\$ (127,286.32)	\$ -		\$ -
PS H036			\$ (472,624.27)	\$ -		\$ -
PS-060		\$ 325,000.00		\$ 33,358.70		\$ 20,007.00
PS-H070		\$ 50,000.00		\$ 5,132.11	(3)	\$ 3,078.00
PS H06		\$ 116,801.84		\$ 11,988.79	(3)	\$ 7,190.32
PS H07			\$ (157,884.63)	\$ -		\$ -
PS H08			\$ (117,000.00)	\$ -		\$ -
PS H29			\$ (28,045.98)	\$ -		\$ -
PS H25		\$ 106,000.00		\$ 10,880.07	(3)	\$ 6,525.36
PS H051		\$ -	\$ -	\$ -		\$ -
PS H062		\$ 105,167.12		\$ 10,794.58		\$ 6,474.09
PS J0707		\$ 50,000.00		\$ 5,132.11		\$ 3,078.00
PS J042		\$ 400,000.00		\$ 41,056.86		\$ 24,624.00
PS K26			\$ (742.32)	\$ -		\$ -
PS K10		\$ 10,000.00		\$ 1,026.42	(4)	\$ 615.60
PS K11		\$ 30,000.00		\$ 3,079.26	(4)	\$ 1,846.80
PS k029-K-1		\$ -	\$ -	\$ -		\$ -
PS K034-K-2			\$ (40,463.20)	\$ -		\$ -
PS K035		\$ 270,000.00		\$ 27,713.39		\$ 16,621.20
PS K09			\$ (6,172.48)	\$ -		\$ -
PS L24			\$ (6,659.81)	\$ -		\$ -
PS L037		\$ 41,127.45		\$ 4,221.41		\$ 2,531.81
PS L-49-R		\$ 574,697.83		\$ 58,988.22		\$ 35,378.40
PS W059			\$ (2,058.41)	\$ -		\$ -
PS M12			\$ (5,846.41)	\$ -		\$ -

P&S Associates General Partnership
Proposed Second Interim Distributions
Account Number

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Account Number	Combined Accounts	Net Loser Claim Amount	Net Winner Amount	First Interim Distribution	Notes	Proposed Second Interim Distribution (6.156%)
PS M13			\$ (52,427.58)	\$ -		\$ -
PS M14			\$ (116,943.03)	\$ -		\$ -
PS M16			\$ (68,514.07)	\$ -		\$ -
PS M15		\$ 125,000.00		\$ 12,830.27		\$ 7,695.00
PS M67		\$ 483,101.28		\$ 49,586.56		\$ 29,739.71
PS M52		\$ 1,183,000.00		\$ 71,425.67	(5)	\$ 72,825.48
PS N30		\$ 76,224.09		\$ 7,823.80	(6)	\$ 4,692.35
PS N17-N			\$ (79,357.00)	\$ -		\$ -
PS O18			\$ (16,143.93)	\$ -		\$ -
PS K033			\$ (1,948,756.02)	\$ -		\$ -
PS P038		\$ 459,517.09		\$ 47,165.83		\$ 28,287.87
PS 053		\$ 132,000.00		\$ 13,548.76		\$ 8,125.92
PS 066		\$ 446,000.00		\$ 45,778.40		\$ 27,455.76
PS P27		\$ 210,000.00		\$ 21,554.86	(3)	\$ 12,927.60
PS P26			\$ (20,629.68)	\$ -		\$ -
PS R19-R		\$ -		\$ -		\$ -
PS S028		\$ 65,993.00		\$ 6,773.66		\$ 4,062.53
PS S27		\$ 31,560.97		\$ 3,239.49		\$ 1,942.89
PS 068		\$ 30,000.00		\$ 3,079.26		\$ 1,846.80
PS S22			\$ (2,600.18)	\$ -		\$ -
PS U50			\$ (92,946.21)	\$ -		\$ -
PS W032-B		\$ 397,151.00		\$ 40,764.44		\$ 24,448.62
PS W43			\$ (4,000.00)	\$ -		\$ -
PS W060		\$ 32,500.00		\$ 3,335.87		\$ 2,000.70
PS W44		\$ 5,000.00		\$ 513.21		\$ 307.80
PS W45		\$ 21,000.00		\$ 2,155.49		\$ 1,292.76
PS W48		\$ 3,951.31		\$ 405.57		\$ 243.24
PS W23			\$ (12,661.52)	\$ -		\$ -
PS W056		\$ 5,000.00		\$ 513.21		\$ 307.80

**P&S Associates General Partnership
Proposed Second Interim Distributions
Account Number**

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All claims are not approved.

Account Number	Combined Accounts	Net Loser Claim Amount	Net Winner Amount	First Interim Distribution	Notes	Proposed Second Interim Distribution (6.156%)
PS S065		\$ 22,800.00		\$ 2,340.24	(7)	\$ 1,403.57
PS W067			\$ (13,700.00)	-		-
PS Z058-AB		\$ 578,000.00		\$ 59,327.17		\$ 35,581.68
Totals		\$ 9,529,295.03		\$ 928,107.36		\$ 586,623.40

Exhibit B

S&P Associates General Partnership
Proposed Second Interim Distributions
Account Number

Proposed distribution amounts are approximate.
All claims are not approved.

<u>Account Number</u>	<u>Combined Accounts</u>	<u>Net Loser/ Claim Amount</u>	<u>Net Winner Amount</u>	<u>First Interim Distribution</u>	<u>Notes</u>	<u>Proposed Second Interim Distribution (1.549%)</u>
SP A143			\$ (1,838.93)	\$ -		\$ -
SP A01-AB			\$ (15,000.00)	\$ -		\$ -
SP A124			\$ (9,000.00)	\$ -		\$ -
SP A41		\$ 78,466.12		\$ 14,717.97		\$ 1,215.44
SP B139		\$ 10,000.00		\$ 1,875.71		\$ 154.90
SP B113-IRA			\$ (23,593.47)	\$ -		\$ -
SP B119-J		\$ -	\$ -	\$ -		\$ -
SP B37-H			\$ (58,612.99)	\$ -		\$ -
SP B74			\$ (40,458.71)	\$ -		\$ -
SP B98			0 \$ -	\$ -		\$ -
SP B137		\$ 1,696,000.00		\$ 318,120.51		\$ 26,271.04
SP B143			\$ (86,195.71)	\$ -		\$ -
SP B67-B			\$ (25,499.61)	\$ -		\$ -
SP-B131-H			\$ (15,720.18)	\$ -		\$ -
SP B53-N		\$ 3,567.49		\$ 669.16		\$ 55.26
SP B142	\$ (38,407.94)					
SP B155	\$ 49,249.13					
	\$ 10,841.19	\$ 10,841.19		\$ 2,033.49		\$ 167.93
SP B38-H			\$ (27,269.78)	\$ -		\$ -
SP B125-J		\$ -	\$ -	\$ -		\$ -
SP C31			\$ (26,870.16)	\$ -		\$ -
SP C103-IRA		\$ -	\$ -	\$ -		\$ -
SP C115-C	\$ (18,131.23)					
SP C15 (IRA) -C	\$ 1,915.00					
	\$ (16,216.23)		\$ (16,216.23)	\$ -		\$ -

**S&P Associates General Partnership
Proposed Second Interim Distributions
Account Number**

**Proposed distribution amounts are approximate.
All claims are not approved.**

<u>Account Number</u>	<u>Combined Accounts</u>	<u>Net Loser/ Claim Amount</u>	<u>Net Winner Amount</u>	<u>First Interim Distribution</u>	<u>Notes</u>	<u>Proposed Second Interim Distribution (1.549%)</u>
SP C29N			\$ (25,977.53)	\$ -		\$ -
SP C02			\$ (2,715.97)	\$ -		\$ -
SP W82-W		\$ 15,100.00		\$ 2,832.32		\$ 233.90
SP C03			\$ (176,761.03)	\$ -		\$ -
SP C136			\$ (1,705.08)	\$ -		\$ -
SP C132			\$ (382.99)	\$ -		\$ -
SP C105			\$ (5,257.47)	\$ -		\$ -
SP C25			\$ (12,323.78)	\$ -		\$ -
SP C-69-B		\$ 10,000.00		\$ 1,875.71		\$ 154.90
SP C146			\$ (29,761.70)	\$ -		\$ -
SP D04			\$ (18,119.29)	\$ -		\$ -
SP D145-1	\$ (14,736.38)					
SP D145-2	\$ (279,121.29)					
	\$ (293,857.67)		\$ (293,857.67)	\$ -		\$ -
SP D70-N			\$ (44,375.61)	\$ -		\$ -
SP D71-DRG			\$ (31,322.30)	\$ -		\$ -
SP D68-B			\$ (4,210.00)	\$ -		\$ -
SP E155	\$ (31,228.24)					
SP E154	\$ 593,368.00					
	\$ 562,139.76	\$ 562,139.76		\$ 105,441.15		\$ 8,707.54
SP E111-H			\$ (287,454.40)	\$ -		\$ -
SP F140		\$ 22,742.30		\$ 4,265.80		\$ 352.28
SP F57		\$ -	\$ -	\$ -		\$ -
SP F58			\$ (48,786.66)	\$ -		\$ -
SP F147		\$ 5,343,298.44		\$ 1,002,248.11		\$ 82,767.69
SP F60-F		\$ -	\$ -	\$ -		\$ -

S&P Associates General Partnership
Proposed Second Interim Distributions
Account Number

Proposed distribution amounts are approximate.
All claims are not approved.

<u>Account Number</u>	<u>Combined Accounts</u>	<u>Net Loser/ Claim Amount</u>	<u>Net Winner Amount</u>	<u>First Interim Distribution</u>	<u>Notes</u>	<u>Proposed Second Interim Distribution (1.549%)</u>
SP F61-F		\$ -	\$ -	\$ -		\$ -
SP F65-F		\$ -	\$ -	\$ -		\$ -
SP 130-F		\$ 47,053.57		\$ 8,825.89		\$ 728.86
SP F146-F		\$ 160,522.43		\$ 30,109.36		\$ 2,486.49
SP F05		\$ 58,127.47		\$ 10,903.03	(1)	\$ 900.39
SP G06			\$ (159,349.71)	\$ -		\$ -
SP G45			\$ (768.48)	\$ -		\$ -
SP G44			\$ (768.48)	\$ -		\$ -
SP G91-H		\$ 129,137.86		\$ 24,222.52		\$ 2,000.35
SP G86-H-IRA		\$ -	\$ -	\$ -		\$ -
SP G85-H-IRA		\$ -	\$ -	\$ -		\$ -
SP G81-B			\$ (71,294.81)	\$ -		\$ -
SP G133N			\$ (62,180.21)	\$ -		\$ -
SP G145-J		\$ 3,897,207.97		\$ 731,003.40	(3)	\$ 60,367.75
SP G148		\$ 33,352.30		\$ 6,255.93		\$ 516.63
SP H07H		\$ -	\$ -	\$ -		\$ -
SP H50			\$ (15,569.04)	\$ -		\$ -
SP H126		\$ 25,000.00		\$ 4,689.28		\$ 387.25
SP H144		\$ 6,000.00		\$ 1,125.43		\$ 92.94
SP H08	\$ (2,447.89)					
SP H09	\$ 11,834.82					
	\$ 9,386.93	\$ 9,386.93		\$ 1,760.72		\$ 145.40
SP H108		\$ 9,600.00		\$ 1,800.68		\$ 148.70
SP H52			\$ (29,345.16)	\$ -		\$ -
SP H110-IRA		\$ -	\$ -	\$ -		\$ -
SP H109-IRA		\$ -	\$ -	\$ -		\$ -

S&P Associates General Partnership
Proposed Second Interim Distributions
Account Number

Proposed distribution amounts are approximate.
All claims are not approved.

<u>Account Number</u>	<u>Combined Accounts</u>	<u>Net Loser/ Claim Amount</u>	<u>Net Winner Amount</u>	<u>First Interim Distribution</u>	<u>Notes</u>	<u>Proposed Second Interim Distribution (1.549%)</u>
SP H101-H		\$ 148,418.06		\$ 27,838.93		\$ 2,299.00
SP H117-H		\$ 10,128.07		\$ 1,899.73		\$ 156.88
SP H97-H			\$ (17,736.95)	\$ -		\$ -
SP H34H			\$ (45,405.47)	\$ -		\$ -
SP H35H		\$ -	\$ -	\$ -		\$ -
SP H36H		\$ -	\$ -	\$ -		\$ -
SP H153		\$ 90,000.00		\$ 16,881.39		\$ 1,394.10
SP H66-WH		\$ 45,100.00		\$ 8,459.45		\$ 698.60
SP H144-AB			\$ (859,880.41)	\$ -		\$ -
SP H127(IRA)B		\$ -	\$ -	\$ -		\$ -
SP H129(IRA)		\$ -	\$ -	\$ -		\$ -
SP I43			\$ (132,428.58)	\$ -		\$ -
SP I42-1		\$ -	\$ -	\$ -		\$ -
SP I42-2		\$ -	\$ -	\$ -		\$ -
AP I118			\$ (12,864.83)	\$ -		\$ -
SP 131		\$ 100,000.00		\$ 18,757.11		\$ 1,549.00
SP I148		\$ 95,000.00		\$ 17,819.25		\$ 1,471.55
SP J121-J		\$ -	\$ -	\$ -		\$ -
SP J30N			\$ (18,115.47)	\$ -		\$ -
SP J142-N		\$ 6,774.95		\$ 1,270.78		\$ 104.94
SP J86-H			\$ (20,569.28)	\$ -		\$ -
SP J75-1			\$ (5,215.08)	\$ -		\$ -
SP J90-2			\$ (7,644.13)	\$ -		\$ -
SP J147-A&B			\$ (80,000.00)	\$ -		\$ -
SP J129-J			\$ (26,508.25)	\$ -		\$ -
SP K89			\$ (5,959.17)	\$ -		\$ -

S&P Associates General Partnership
Proposed Second Interim Distributions
Account Number

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All claims are not approved.

<u>Account Number</u>	<u>Combined Accounts</u>	<u>Net Loser/ Claim Amount</u>	<u>Net Winner Amount</u>	<u>First Interim Distribution</u>	<u>Notes</u>	<u>Proposed Second Interim Distribution (1.549%)</u>
SP K107-IRA		\$ -	\$ -	\$ -		\$ -
SP L150			\$ (87,788.57)	\$ -		\$ -
SP L141-B			\$ (26,152.98)	\$ -		\$ -
SP L18			\$ (13,500.00)	\$ -		\$ -
SP L10			\$ (45,213.83)	\$ -		\$ -
SP L11		\$ 12,070.73		\$ 2,264.12		\$ 186.98
SP W39		\$ 1,237.79		\$ 232.18		\$ 19.17
SP L151		\$ 102,250.00		\$ 19,179.14		\$ 1,583.85
SP L104			\$ (7,240.80)	\$ -		\$ -
SP M134	\$ (16,223.36)					
SP M123	\$ 50,000.00					
	\$ 33,776.64	\$ 33,776.64		\$ 6,335.52		\$ 523.20
SP O128-B		\$ 125,000.00		\$ 23,446.38		\$ 1,936.25
SP M12			\$ (72,144.10)	\$ -		\$ -
SP M138			\$ (9,545.90)	\$ -		\$ -
SP M73			\$ (487.18)	\$ -		\$ -
SP M78-F			\$ (2,673.99)	\$ -		\$ -
SP Mc093-F		\$ 4,968.35		\$ 931.92		\$ 76.96
SP Mc123-F			\$ (13,137.87)	\$ -		\$ -
SP Mc092-F			\$ (7,991.44)	\$ -		\$ -
SP Mc013-1			\$ (55,193.70)	\$ -		\$ -
SP M64-2		\$ -	\$ -	\$ -		\$ -
SP M87-F			\$ (16,362.72)	\$ -		\$ -
SP M83-M			\$ (6,188.33)	\$ -		\$ -
SP M96-M		\$ 25,000.00		\$ 4,689.28		\$ 387.25
SP M130-J		\$ -	\$ -	\$ -		\$ -

S&P Associates General Partnership
Proposed Second Interim Distributions
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SP M22		\$ 155,687.63		\$ 29,202.49		\$ 2,411.60
SP N99-N		\$ 10,000.00		\$ 1,875.71		\$ 154.90
SP O88			\$ (14,659.63)	\$ -		\$ -
SP O90		\$ 45,000.00		\$ 8,440.70		\$ 697.05
SP P129-B		\$ 50,000.00		\$ 9,378.55		\$ 774.50
SP P88			\$ (5,500.00)	\$ -		\$ -
SP P131A		\$ 114,000.00		\$ 21,383.10		\$ 1,765.86
SP P131		\$ 78,807.98		\$ 14,782.10		\$ 1,220.74
SP P14			\$ (17,094.66)	\$ -		\$ -
SP P15			\$ (9,944.84)	\$ -		\$ -
SP P16		\$ 70,221.61		\$ 13,171.54		\$ 1,087.73
SP P133		\$ 10,000.00		\$ 1,875.71	(2)	\$ 154.90
SP P77			\$ (36,292.40)	\$ -		\$ -
SP P94(IRA)		\$ -	\$ -	\$ -		\$ -
SP P76			\$ (7,151.94)	\$ -		\$ -
SP P116-J			\$ (112,538.76)	\$ -		\$ -
SP P112-J		\$ -	\$ -	\$ -		\$ -
SP R40		\$ 47,946.36		\$ 8,993.35		\$ 742.69
SP R141			\$ (9,015.93)	\$ -		\$ -
SP R23R			\$ (114,956.18)	\$ -		\$ -
SP R128R			\$ (51,142.13)	\$ -		\$ -
SP R149-R		\$ 54,000.00		\$ 10,128.84		\$ 836.46
SP R100-R			\$ (48,500.00)	\$ -		\$ -
SP R27N			\$ (12,418.09)	\$ -		\$ -
SP R59-W			\$ (2,000.00)	\$ -		\$ -
SP R72-B			\$ (37,678.82)	\$ -		\$ -

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SP R48H			\$ (5,628.73)	\$ -		\$ -
SP S28N			\$ (37,670.45)	\$ -		\$ -
SP S55-N			\$ (3,205.43)	\$ -		\$ -
SP S46			\$ (13,054.14)	\$ -		\$ -
SP S56			\$ (3,500.00)	\$ -		\$ -
SP S47		\$ 553.66		\$ 103.85		\$ 8.58
SP 017			\$ (1,757.24)	\$ -		\$ -
SP S130			\$ (5,803.89)	\$ -		\$ -
SP S63-F			\$ (155,572.02)	\$ -		\$ -
SP S122			\$ (3,916.69)	\$ -		\$ -
SP S85		\$ 130,000.00		\$ 24,384.24		\$ 2,013.70
SP S139		\$ 5,397,729.32		\$ 1,012,457.77	(4)	\$ 83,610.83
SP S033		\$ 33,729.66		\$ 6,326.71	(1)	\$ 522.47
SP S20		\$ 76,874.24		\$ 14,419.38	(1)	\$ 1,190.78
SP S26-1		\$ -	\$ -	\$ -		\$ -
SP S26-2			\$ (47,373.20)	\$ -		\$ -
SP S140			\$ (705.18)	\$ -		\$ -
SP S138			\$ (853.09)	\$ -		\$ -
SP T21			\$ (8,382.49)	\$ -		\$ -
SP T108		\$ -	\$ -	\$ -		\$ -
SP T147-F		\$ 59,943.84		\$ 11,243.73		\$ 928.53
SP W106-IRA			\$ (17,105.35)	\$ -		\$ -
SP W120		\$ 54,706.00		\$ 10,261.26		\$ 847.40
SP W62		\$ 1,039,500.00		\$ 194,980.11		\$ 16,101.86
SP W95			\$ (84,974.47)	\$ -		\$ -
SP W151			\$ (20,732.67)	\$ -		\$ -

**S&P Associates General Partnership
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SP W152			\$ (20,558.62)	\$ -		\$ -
SP W150		\$ 171,071.16		\$ 32,088.00		\$ 2,649.89
SP W149		\$ 82,814.42		\$ 15,533.58		\$ 1,282.80
SP W32			\$ (12,772.76)	\$ -		\$ -
SP W19		\$ -	\$ -	\$ -		\$ -
SP W102-H		\$ -	\$ -	\$ -		\$ -
SP W51			\$ (85,032.70)	\$ -		\$ -
SP W114-J			\$ (47,061.40)	\$ -		\$ -
SP W89-F			\$ (30,917.88)	\$ -		\$ -
SP W49-W		\$ -	\$ -	\$ -		\$ -
SP W80-W			\$ (16,398.28)	\$ -		\$ -
SP W149		\$ 45,000.00		\$ 8,440.70		\$ 697.05
SP W79		\$ 37,000.00		\$ 6,940.13		\$ 573.13
SP W120(IRA)		\$ -	\$ -	\$ -		\$ -
SP Y135-Y		\$ 100,000.00		\$ 18,757.10		\$ 1,549.00
SP Z87			\$ (6,851.64)	\$ -		\$ -
Totals		\$ 20,791,854.30		\$ 3,899,950.00		\$ 322,065.82