

IN THE CIRCUIT COURT OF THE  
17<sup>TH</sup> 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,

Defendants.

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**ORDER APPROVING THE CONSERVATOR'S INTERIM REPORT,  
APPROVING THE CONSERVATOR'S SECOND DISTRIBUTION TO  
PARTNERS AND GRANTING THE CONSERVATOR, HIS COUNSEL'S  
AND THE EXPERT WITNESS' THIRD APPLICATION FOR ALLOWANCE  
AND PAYMENT OF COMPENSATION AND REIMBURSEMENT OF EXPENSES**

THIS MATTER came before the Court on November 13, 2014 at 11:30 a.m. upon hearing to consider the *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 as Expert Witness* (the "Report and Application") requesting approval of a proposed second distribution to partners; payment of fees and reimbursement of costs for the period of January 1, 2014 through September 30, 2014 (the "Application Period"), filed by the court-appointed conservator, Philip J. Von Kahle (the "Conservator") Conservator of P&S Associates, General Partnership and S&P Associates, General Partnership (the "Partnerships"). The Court having reviewed the Report and Application, including the affidavit in support of fees and costs for the Conservator and affidavit in support of fees and costs for Messana, PA ("Messana"), the detailed time attached thereto,

having heard proffer of counsel, giving all parties an opportunity to be heard, and for the reasons stated on the record, it is

**ORDERED** and **ADJUDGED** as follows:

1. The Conservator's Proposed Distribution to the Net Losers is approved as set

forth in Exhibits "A" and "B" to the Report and Application, *except that the proposed Second interim distribution for SP G-145-J shall be held by the Conservator pending further order of the Court.*

2. The Conservator is hereby authorized to make the interim distributions to the

Partners as proposed in the Report and Application pursuant to Exhibits "A" and "B" attached thereto within a reasonable time after the entry of this Final Non-Appealable Order granting the Report and Application.

3. The requests for the payment of fees and costs in the Report and Application as to the Conservator are **GRANTED** in all respects.

4. The requests for the payment of fees and costs in the Report and Application as to Messana are **GRANTED** in all respects.

5. The requests for the payment of Marcum LLP as expert witness in the Report and Application are **GRANTED** in all respects.

6. Fees in the amount of \$256,200.25 and costs in the amount of \$8,473.02 for the Conservator during the Application Period are found to be reasonable considering each and every factor contemplated by *Florida Patient's Compensation Fund v. Rowe*, 472 So. 2d 1145 (Fla. 1985) and the principles of *Lewis v. Gramil Corp.*, 94 So. 2d 174, 177 (Fla. 1957).

7. The Conservator is authorized to make distributions to Moecker in the amount of \$256,200.256 for fees and \$8,473.02 for costs out of the Partnerships' assets forthwith, such distributions being allocated to each of the Partnerships pro rata.

8. Fees in the amount of \$92,272.00 and costs in the amount of \$4,123.89 for Messana during the Application Period are found to be reasonable considering each and every factor contemplated by *Florida Patient's Compensation Fund v. Rowe*, 472 So. 2d 1145 (Fla. 1985) and the principles of *Lewis v. Gramil Corp.*, 94 So. 2d 174, 177 (Fla. 1957).

9. The Conservator is authorized to make distributions to Messana in the amount of \$92,272.00 for fees and \$4,123.89 for costs out of the Partnerships' assets forthwith, such distributions being allocated to each of the Partnerships pro rata.

10. The Conservator is authorized to make distributions to Marcum in the amount of \$33,000.00 for services rendered out of the Partnerships' assets forthwith, such distributions being allocated to each of the Partnerships pro rata.

DONE AND ORDERED in Broward County, Florida this 13<sup>th</sup> day of November, 2014.

TRUE COPY

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JEFFREY E. STREITFELD

Honorable Jeffrey E. Streitfeld  
Circuit Court Judge

Copies furnished to:

Thomas M. Messana, Esq. who is directed to serve same upon all interested parties.