

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

CASE NO: 12-34121(07)
Complex Litigation Unit

P&S ASSOCIATES, GENERAL PARTNERSHIP,
a Florida limited partnership; S&P ASSOCIATES,
GENERAL PARTNERSHIP, a Florida limited
partnership; Philip von Kahle as Conservator of
P&S ASSOCIATES, GENERAL PARTNERSHIP,
a Florida limited partnership; and S&P
ASSOCIATES, GENERAL PARTNERSHIP, a
Florida limited partnership,

Plaintiffs,

v.

JANET A. HOOKER CHARITABLE TRUST, a
charitable trust, *et al.*,

Defendants.

**AMENDED NOTICE OF INTENT TO SERVE AMENDED SUBPOENA
DUCES TECUM WITHOUT DEPOSITION OF RECORDS CUSTODIAN
OF DAVIS POLK & WARDWELL, LLP**

TO: See all counsel on attached Certificate of Service

YOU ARE HEREBY notified that after ten (10) days from receipt of this notice, if service is by delivery, or fifteen (15) days from the date of service if service is by mail or electronic-mail, and if no objections are received from any party, the undersigned will issue the attached Subpoena *Duces Tecum* Without Deposition, pursuant to Fla. R. Civ. P. 1.351(c) upon the following:

The materials received pursuant to the attached Subpoena will be used for discovery, for use at trial, or for such other purposes as are permitted under the applicable Florida Statutes and Florida Rules of Civil Procedure

November 18, 2014

Respectfully Submitted,

BERGER SINGERMANN, LLP

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via Electronic Mail upon counsel identified below registered to receive electronic notifications this 18th day of November, 2014, upon the following:

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By: s/ Zachary P. Hyman
Zachary P. Hyman

IN THE CIRCUIT COURT OF THE 17th
JUDICIAL CIRCUIT, IN AND FOR
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CASE NO: 12-34121(07)
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P&S ASSOCIATES, GENERAL
PARTNERSHIP, a Florida limited
partnership; S&P ASSOCIATES,
GENERAL PARTNERSHIP, a Florida
limited partnership; Philip von Kahle as
Conservator of P&S ASSOCIATES,
GENERAL PARTNERSHIP, a Florida
limited partnership; and S&P
ASSOCIATES, GENERAL
PARTNERSHIP, a Florida limited
partnership

Plaintiffs,

v.

JANET A. HOOKER CHARITABLE TRUST, a
charitable trust, *et al.*,

Defendants.

_____ /

**AMENDED SUBPOENA DUCES TECUM WITHOUT DEPOSITION OF
RECORDS CUSTODIAN OF DAVIS POLK & WARDWELL, LLP**

STATE OF NEW YORK:

To All Singular Sheriffs of Said State:

**TO: RECORDS CUSTODIAN
Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, NY 10017**

YOU ARE HEREBY COMMANDED to appear at the offices of Veritext Legal
Solutions, 1250 Broadway, Suite 2400, New York, New York 10001, on December 14, 2014 at

9:30 a.m. and to have with you at that time and place the documents listed on **Schedule “A”** attached hereto (**Documents should be produced on or before December 14, 2014 to the attention of Veritext Legal Solutions, 1250 Broadway, Suite 2400, New York, New York 10001**). All electronically stored information (“ESI”), as defined herein, shall be produced in accordance with the definitions and instructions.

These items will be inspected and may be copied at that time. You will not be required to surrender the original items. You may comply with this subpoena by providing legible copies of the items to be produced to the attorney whose name appears on this subpoena on or before the scheduled date of production. You may condition the preparation of the copies upon the payment in advance of the reasonable cost of preparation. You may mail or deliver the copies to the attorney whose name appears on this subpoena and thereby eliminate your appearance at the time and place specified above. You have the right to object to the production pursuant to this subpoena at any time before production by giving written notice to the attorney whose name appears on this subpoena.

If you fail to appear or bring the documents listed on Schedule A, you may be in contempt of Court.

You are subpoenaed to appear by the following attorneys and unless excused from this subpoena by these attorneys or the Court, you shall respond to this Subpoena as directed.

Dated: November 18, 2014

STEVEN D. WEBER

For the Court

By: s/ Steven D. Weber
BERGER SINGERMAN LLP
Florida Bar No. 47543
sweber@bergersingerman.com
Attorneys for Plaintiffs
1450 Brickell Ave, Suite 1900
Miami, FL 33130
Telephone: (305) 755-9500
Facsimile: (305) 755-4340

IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. WITHIN TWO WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE, CONTACT BETTY LETTS AT (954) 831-6364, 201 S.E. 6TH ST. ROOM 136, FT. LAUDERDALE, FL 33301. THE PHONE LINE WILL ACCOMMODATE VOICE OR TDD TRANSMISSIONS FOR THE HEARING IMPAIRED OR VOICE IMPAIRED.

DAPRE AKO KI FET AVEK AMERICANS WITH DISABILITIES ACT, TOUT MOUN KI GINYIN YUN BEZWEN ESPESİYAL POU AKOMODASIYON POU YO PATISIPE NAN PWOGRAM SA-A DWE, NAN YUN TAN REZONAB AVAN NINPOT ARANJMAN KAPAB FET, YO OWE KONTAKTE ADMINISTRATIVE OFFICE OF THE COURT, 201 S.E. 6TH ST., ROOM 136, FORT LAUDERDALE, FLORIDA 33301 OR TELEPHONE VOICE/TDD (954) 831-6364

DE ACUERDO CON EL ACTO O DECRETO DE LOS AMERICANOS CON IMPEDIMENTOS, INHABILTADOS, PERSONAS EN NECESIDAD DEL SERVICIO ESPECIAL PARA PARTICIPAR EN ESTE PROCEDIMIENTO DEBERAN, DENTRO DE UN TIEMPO RAZONABLE, ANTES DE CUALQUIER PROCEDIMIENTO, PONERSE EN CONTACTO CON LA OFICINA ADMINISTRATIVA DE LA CORTE, 201 S.E. 6TH ST., ROOM 136, FORT LAUDERDALE, FLORIDA 33301 OR TELEPHONE VOICE/TDD (954) 831-6364

EN ACCORDANCE AVEC LA LOI DES "AMERICANS WITH DISABILITIES", LES PERSONNES EN BESOIN D'UNE ACCOMMODATION SPECIALE POUR PARTICIPER A CES PROCEDURES DOIVENT, DANS UN TEMPS RAISONABLE, AVANT D'ENTREPRENDRE AUCUNE AUTRE DEMARCHE, CONTACTER L'OFFICE ADMINISTRATIVE DE LA COURT, 201 S.E. 6TH ST., ROOM 136, FORT LAUDERDALE, FLORIDA 33301 OR TELEPHONE VOICE/TDD (954) 831-6364.

SCHEDULE "A"
DEFINITIONS AND INSTRUCTIONS

The following definitions shall apply to this Request:

A. "You", "Your" as used herein means the law firm of Davis Polk & Wardwell, LLP and includes any and all agents, employees, servants, officers, directors, attorneys and any other person or entity acting or purporting to act on his behalf, or any other entity or person under the direct control of the firm Davis Polk & Wardwell, LLP.

B. "Hooker Trust" as used herein means the Janet A. Hooker Charitable Trust, a Non-Profit Organization, and includes any and all trustees, agents, employees, servants, officers, directors, attorneys and any other person or entity acting or purporting to act on his behalf, or any other entity or person under the direct control of the Janet A. Hooker Charitable Trust, a Non-Profit Organization.

C. "Person" as used herein means any natural person or any entity, including without limitation any individual, present and former director, officer, employee, contractor, firm, corporation, company, joint venture, trust, tenancy, association, partnership, business, agency, department, bureau, board, commission, or any other form of public, private or legal entity. Any reference herein to any public or private company, partnership, association, or other entity include such entity's subsidiaries and affiliates, as well as the present and former directors, officers, employees, attorneys, agents and anyone acting on behalf of, at the direction of, or under the control of the entity, its subsidiaries or its affiliates.

D. "Documents" shall mean the original or copies of any tangible written, typed, printed or other form of recorded or graphic matter of every kind or description, however produced or reproduced, whether mechanically or electronically recorded, draft, final original, reproduction, signed or unsigned, regardless of whether approved, signed, sent, received, redrafted, or executed, and whether handwritten, typed, printed, photostated, duplicated, carbon or otherwise copied or produced in any other manner whatsoever. Without limiting the generality of the foregoing, "Documents" shall include correspondence, letters, telegrams, telexes, mailgrams, memoranda, including inter-office and intra-office memoranda, memoranda for files, memoranda of telephone or other conversations, including meetings, invoices, reports, receipts and statements of account, ledgers, notes or notations, notes or memorandum attached to or to be read with any Document, booklets, books, drawings, graphs, charts, photographs, phone records, electronic tapes, discs or other recordings, computer programs, printouts, data cards, studies, analysis and other data compilations from which information can be obtained. Copies of Documents, which are not identical duplications of the originals or which contain additions to or deletions from the originals or copies of the originals if the originals are not available, shall be considered to be separate documents.

"Documents" shall also include all electronic data storage documents including but not limited to e-mails and any related attachments, electronic files or other data compilations which relate to the categories of documents as requested below. Your search for these electronically stored documents shall include all of your computer hard drives, floppy discs, compact discs, backup and archival tapes, removable media such as zip drives, password protected and encrypted

files, databases, electronic calendars, personal digital assistants, proprietary software and inactive or unused computer disc storage areas.

The meaning of “Documents” shall be construed as broadly as permitted by the Florida Rules of Civil Procedure.

E. “Communications” shall mean any oral or written statement, dialogue, colloquy, discussion or conversation and, also, means any transfer of thoughts or ideas between persons by means of documents and includes any transfer of data from one location to another by electronic or similar means.

F. “Concerning” shall mean, directly or indirectly, relate to, refer to, reflect, mention, describe, pertain to, arise out of or in connection with or in any way legally, logically, or factually be connected with the matter discussed.

G. As used herein, the conjunctions “and” and “or” shall be interpreted in each instance as meaning “and/or” so as to encompass the broader of the two possible constructions, and shall not be interpreted disjunctively so as to exclude any information or documents otherwise within the scope of any Request.

H. When appropriate, the singular form of a word should be interpreted in the plural as may be necessary to bring within the scope hereof any documents which might otherwise be construed to be outside the scope hereof.

I. Any pronouns used herein shall include and be read and applied as to encompass the alternative forms of the pronoun, whether masculine, feminine, neuter, singular or plural, and shall not be interpreted so as to exclude any information or documents otherwise within the scope of the Request.

J. If you assert that any document called for by a Request is protected against disclosure on the grounds of the attorney work product doctrine or by the attorney-client privilege, or any other assertion of privilege, you must provide the following information with respect to such document:

1. the name and capacity of the person or persons who prepared the documents;
 2. the name and capacity of all addresses or recipients of the original or copies thereof;
 3. the date, if any, borne by the document;
 4. a brief description of its subject matter and physical size;
 5. the source of the factual information from which such document was prepared;
- and

6. the nature of the privilege claimed.

K. You must produce all Documents within Your possession, care, custody or control that are responsive to any of these Requests. A Document is deemed within Your care, custody or control if You have the right or ability to secure the document or a copy thereof from any other person having physical possession thereof.

L. All Documents produced pursuant hereto are to be produced as they are kept in the usual course of business and shall be organized and labeled (without permanently marking the item produced) so as to correspond with the categories of each numbered request hereof.

M. Production of Electronically Stored Information (“ESI”) or any electronically stored data shall be in native format unless otherwise agreed. In producing Documents consisting of electronically stored data in machine-readable form in response to any Request, provide such data in a form that does not require specialized or proprietary hardware or software.

N. It is requested that all ESI be produced as native files and single-page TIFF images with corresponding load files. Each image and native file shall be produced along with its corresponding metadata and extracted text.

O. Each hard copy Document is to be produced, with all non-identical copies and drafts thereof, in its entirety, without alteration, abbreviation or reduction and shall be produced either in the manner they are kept in the usual course of business or organized to correspond with the Request to which they are responsive. If any Document is produced in redacted form, state with particularity the reason(s) it was not produced in full and describe generally those portions of the Document that are not being produced

P. All Documents that respond, in whole or in part, to any part or clause of any paragraph of these Requests shall be produced in their entirety, including all attachments and enclosures. Only one copy need be produced of Documents that are responsive to more than one paragraph or are identical except for the person to whom it is addressed if You indicate the Persons or group of Persons to whom such Documents were distributed. Documents that in their original condition were stapled, clipped, or otherwise fastened together shall be produced in such form. Please place the Documents called for by each paragraph in a separate file folder or other enclosure marked with Respondents’ name and the paragraph to which such Documents respond, and if any Document is responsive to more than one Request, indicate each Request to which it responds.

Q. If you at any time had possession, custody or control of a Document called for under these Requests and if such Document has been lost, destroyed, purged, or is not presently in your possession, custody or control, you shall describe the Document, the date of its loss, destruction, purge, or separation from possession, custody or control and the circumstances surrounding its loss, destruction, purge, or separation from possession, custody or control.

R. Unless otherwise specified herein, the time frame for each Request is from and including January 1, 1985 to the present.

DOCUMENTS REQUESTED

1. All non-privileged documents concerning any real, tangible, and/or intangible property held or owned by the Hooker Trust.
2. All engagement letters, retainer agreements, and/or other documents stating the terms of Your representation of the Hooker Trust.
3. All documents concerning payments and/or transfers of funds related to the terms of Your representation of the Hooker Trust.
4. Unless such documents have been produced in response to a previous request, all documents concerning the payment of attorney's fees and/or costs related to Your representation of the Hooker Trust.
5. Unless such documents have been produced in response to a previous request, all documents concerning Your receipt of attorney's fees and/or costs related to Your representation of the Hooker Trust.
6. Unless such documents have been produced in response to a previous request, all non-privileged documents concerning the Hooker Trust.
7. All documents that relate to the Final Judgment that was entered against the Hooker Trust in the above captioned case. A true and correct copy of the Final Judgment is attached hereto as **Exhibit A**.

SCHEDULE “A”

**Production of Electronically Stored Information (ESI)
FORM OF PRODUCTION**

Plaintiffs, P & S Associates, General Partnership (“P&S”), S & P Associates, General Partnership (“S&P”), (collectively referred to as, the “Partnerships”), and Philip Von Kahle as Conservator on behalf of the Partnerships (the “Conservator”, and collectively with the Partnerships, the “Plaintiffs/Judgment Creditors”), requests that all ESI (electronically stored information) be produced as follows:

ESI will be produced (printed and loaded) in 300DPI resolution or greater, Group IV Monochrome Tagged Image File Format (.TIF) files in single-page format, with **ALL** native files provided and word searchable OCR/extracted text (Optical Character Recognized – i.e. searchable text) in UTF-8 format. Color photographs should be produced as color JPEG images. Email natives will be delivered in MSG or EML format. Load files will be provided in Opticon (.OPT) format and an IPRO LFP (.lfp) format. Metadata will be provided in a DAT file with standard Concordance delimiters. The text files containing the OCR/Extracted Text shall be produced in multi-page format with the name corresponding to its associated document. **All small and oversized images should be resized to fit on 8.5x11 canvas.**

The files should be delivered with the following folder structure:

IMAGES – contains the TIF and JPG files, up to 10,000 items.
DATA – contains the OPT and LFP files and the metadata text file (DAT)
NATIVES – contains all the original native files named as the BEGDOC
TEXT – contains the document-level OCR/Extracted text files named as the BEGDOC

<u>Eclipse Metadata Field</u>	<u>Field Description</u>
BegDoc	BegDoc
EndDoc	EndDoc
BegAttach	BegAttach

EndAttach	EndAttach
Application	Application/Application Name
AttachmentIDs	Bates numbers of attachment(s)
Attachments	Names of attachment files
AttachRange	Attachment Range
Authors	Document author
BCC	BCC (Name + email)
CC	CC (Name + email)
Companies	Company name
Custodian	Custodian (Last, First)
DateCreated	Date created (MM/DD/YYYY)
DateReceived	Date email received (MM/DD/YYYY)
DateSaved	Date last saved (MM/DD/YYYY)
DateSent	Date email sent (MM/DD/YYYY)
Doctitle	Title
FileType	Document Type Description
FileExtension	File extension
Doclink	Link to native files produced
ExtractedText	Link to text files produced
Filename	Original filename
FileSize	File size in bytes
Folder	Relative Path (Inbox, Sent, etc.)
From	Sender (Name + email)
Hash_Code	MD5 hash
Header	Email header
InternetMSGID	IntMsgID
MessageID	MsgID
NumAttachments	Attachment count
NumPages	Page count
ParentID	Parent bates number
Password_Protect	Y/N field
Read	Y/N
SHA1	SHA1 hash
Sources	CD, DVD, hard drive; brief desc. of data
StoreID	Name of PST/NSF file (if relevant)
Subject	Email/Document subject
TimeReceived	Time email received (12-hour HH:MM)
TimeSent	Time email sent (12-hour HH:MM)
To	To (Name + email)

For .xls (Excel), .ppt (PowerPoint), and .doc (Word) files the following additional metadata fields should be included:

Excel_Comments	Comments
Excel_HiddenColumns	Hidden Columns
Excel_HiddenRows	Hidden Rows
Excel_HiddenWorksheets	Hidden Worksheets
Num_Lines	Number of lines
Num_Paragraphs	Number of paragraphs
Num_slides	Number of slides
Num_Notes	Number of notes
Num_HiddenSlides	Number of hidden slides
Num_Multimedia	Number of multimedia clips
Security	Security