

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

Case No: 12-034121(07)
Complex Litigation Unit

P&S ASSOCIATES, GENERAL PARTNERSHIP,
et al.,

Plaintiffs,

vs.

JANET A. HOOKER CHARITABLE TRUST,
et al.,

Defendants.

_____ /

DEFENDANT SUSAN MOLCHAN’S FIRST REQUEST FOR ADMISSIONS
FROM PLAINTIFFS

Pursuant to Florida Rule of Civil Procedure 1.370, Defendants SUSAN E. MOLCHAN or THOMAS A. WHITEMAN (collectively, “Susan Molchan”), by and through their attorney, hereby request that Plaintiffs admit the truth of the matters set forth in the following statements of fact or of the application of law to fact.

INSTRUCTIONS:

If the Plaintiffs deny the truth of the matters set forth in any of the following statements, their answer shall specifically deny the matter or set forth in detail the reasons why they cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that the Plaintiffs qualify an answer or deny only a part of the matter of which an admission is requested, the Plaintiffs shall specify so much of it as is true and qualify or deny the remainder. The

Plaintiffs may not give lack of information or knowledge as a reason for failure to admit or deny unless they state that they have made reasonable inquiry and that the information known or readily obtainable by them is insufficient to enable them to admit or deny.

DEFINITIONS:

- A. “And” and “or” shall be treated both conjunctively and disjunctively to construe these requests in their broadest permissible form.
- B. “P&S” refers to P&S Associates, General Partnership and all of its managing partners, conservators, agents and attorneys.
- C. “Revised Uniform Partnership Act” means that law as in effect in Florida on the date(s) relevant to the event(s) that is the subject of the statement in which it is used.

ADMISSIONS REQUESTED:

- 1. That the last distribution made by P&S to Susan Molchan occurred in 1999.
- 2. That the last distribution made by P&S to Susan Molchan in 1999 came as a result of her request to close her account with P&S and receive the balance of her capital account with P&S.
- 3. That Susan Molchan’s request to close her account with P&S and receive the balance of her capital account with P&S constituted an election to “withdraw” as a Partner from P&S within the meaning of Section 9.03 of the P&S Amended and Restated Partnership Agreement.
- 4. That P&S provided Susan Molchan with a Schedule K-1 from its U.S. Partnership Form 1065 for tax year 1999 showing that her capital account at year end was \$0.
- 5. That P&S did not provide Susan Molchan with a Schedule K-1 from its U.S. Partnership Form 1065 for tax year 2000 or subsequent years.

6. That Susan Molchan was not a “Partner” in P&S within the meaning of the P&S Amended and Restated Partnership Agreement during 2000 and subsequent years.
7. That the closing of Susan Molchan’s account at P&S in 1999 constituted her being “dissociated” from P&S within the meaning of Section 620.8601(1) of the Revised Uniform Partnership Act.
8. That the closing of Susan Molchan’s account at P&S in 1999 did not result in the “dissolution and winding up” of the business of P&S within the meaning of Section 620.8603(1) of the Revised Uniform Partnership Act.
9. That when the last distribution was made by P&S to Susan Molchan in 1999, she was not in “default” or a “defaulting Partner” within the meaning of ARTICLE TEN of the P&S Amended and Restated Partnership Agreement.
10. That Susan Molchan’s withdrawal from P&S and the closing of her account at P&S in 1999 did not constitute an “assignment, transfer or termination of a defaulting Partner’s interest” in P&S within the meaning of Section 10.02 of the P&S Amended and Restated Partnership Agreement.
11. That all distributions received by Susan Molchan from P&S were made from monies received by P&S from Bernard L. Madoff Investment Securities, LLC.

CERTIFICATE OF SERVICE

THE UNDERSIGNED HEREBY CERTIFIES that on the 13th day of December

2013 a true and correct copy of the foregoing was SENT VIA E-MAIL to:

LEONARD K. SAMUELS, Esq. (who was also served by hand delivery on that date), ETAN MARK, Esq., and STEVEN D. WEBER, Esq., c/o Berger Singerman, Attorneys for Plaintiffs, 350 East Las Olas Boulevard, Suite 1000, Fort Lauderdale, Florida 33301: lsamuels@bergersingerman.com; emark@bergersingerman.com; sweber@bergersingerman.com; DRT@bergersingerman.com; VLeon@bergersingerman.com; ERIC N. ASSOULINE, Esq., c/o Assouline & Berlowe, P.A., Attorneys for Ersica P. Gianna, 213 E. Sheridan Street, Suite 3, Dania Beach, Florida 33004: ena@assoulineberlowe.com; and ah@assoulineberlowe.com; JULIAN H. KREEGER, Esq., Attorneys for James Bruce Judd and Valeria Judd, 2665 S. Bayshore Drive, Suite 220-14, Miami, Florida 33133-5402: juliankreeger@gmail.com; JOSEPH P. KLAPHOLZ, Esq., Attorney for Abraham Newman, Rita Newman & Gertrude Gordon, c/o Joseph P. Klapholz, P.A., 2500 Hollywood Boulevard, Suite 212, Hollywood, Florida 33020: jklap@klapholzpa.com; dml@klapholzpa.com; PETER G. HERMAN, Esq., c/o Tripp Scott Law Offices, 110 S.E. Sixth Street, Suite 1500, Fort Lauderdale, Florida 33301: PGH@trippscott.com; MICHAEL C. FOSTER, Esq., and ANNETTE M. URENA, Esq., c/o Daniels Kashtan, 4000 Ponce de Leon Blvd., Suite 800, Coral Gables, Florida 33146: Mfoster@dkdr.com; aurena@dkdr.com; MARC S. DOBIN, Esq. c/o Dobin Law Group, 500 University Blvd., Suite 205, Jupiter, Florida 33458: service@DobinLaw.com; THOMAS M. MESSANA, Esq., and BRETT LIEBERMAN, Esq., c/o Messana P.A., 401 East Las Olas Blvd., Suite 1400, Fort Lauderdale, Florida 33301: tmessana@messana-law.com; blieberman@messana-law.com; RICHARD T. WOLFE, Esq., c/o Bunnell & Woulfe, P.A., One Financial Plaza, Suite 1000, 100 S.E. Third Avenue, Fort Lauderdale, Florida 33394: Pleadings.RTW@bunnellwoulfe.com; THOMAS L. ABRAMS, Esq., 1776 N. Pine Island Road, Suite 309, Plantation, Florida, 33322: tabrams@tabramslaw.com; DANIEL W. MATLOW, Esq., Attorney for Defendant (Herbert Irwig Revocable Trust), Emerald Lake Corporate Park, 3109 Stirling Road, Suite 101, Fort Lauderdale, FL 33312 dmatlow@danmatlow.com, assistant@danmatlow.com; DOMENICA FRASCA, Esq., Mayersohn Law Group, P.A., Attorney for Francis J. Mahoney, Jr. PR Estate of May Ellen Nickens, 101 N.E. Third Avenue, Suite 1250, Fort Lauderdale, FL 33301 dfrasca@mayersohnlaw.com; MARIAELENA GAYO- GUITIAN, Esq., Genovese Joblove & Battista, P.A., Attorneys for Festus & Helen Stacy Foundation, Inc., 200 East Broward Boulevard, Suite 1110, Fort Lauderdale, FL 33301 mguitian@gjb-law.com; ROBERT J. HUNT, Esq., Hunt & Gross, PA, Attorneys for Hampton Financial Group, Inc., 185 Spanish River Boulevard, Suite 220, Boca Raton, FL 33431-4230 eservice@huntgross.com, bobhunt@huntgross.com, Sharon@huntgross.com; JASON S. OLETSKY, Esq. Akerman Senterfitt, Attorney for Kathleen Walsh, Las Olas Centre II, 350 E. Las Olas Boulevard, Suite 1600, Fort Lauderdale, FL 33301 jason.oletsky@akerman.com, Ashley.sawyer@akerman.com; CARL F. SCHOEPPL, Esq., Schoeppel & Burkem P.A., Attorneys for But Moss, 4651 North Federal Highway, Boca Raton, FL 33431

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/s/

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