

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

P & S ASSOCIATES, GENERAL
PARTNERSHIP and S & P ASSOCIATES,
GENERAL PARTNERSHIP,

CASE NO. 12-028324 (07)
Complex Litigation Unit

Plaintiff,

v.

ROBERTA P. ALVES, ET AL.,

Defendants.

**CONSERVATOR’S MOTION TO JOIN THE PARTNERS OF SPJ
INVESTMENTS, LTD. AND THE MEMBERS OF GUARDIAN ANGEL**

Philip J. Von Kahle (the “Conservator”), as Conservator for P&S Associates, General Partnership (“P&S”) and S&P Associates, General Partnership (“S&P”) (together, the “Partnerships”), by and through counsel, pursuant to FRCP 1.250(c) files this motion (the “Motion”) to Join the Partners of SPJ Investments, Ltd. (“SPJ”) and the Members of Guardian Angel Trust, LLC (“Guardian Angel”), and in support thereof states as follows:

1. On May 31, 2013 the Conservator filed *Conservator’s Motion for Summary Judgment to (i) Approve Determination Claims; (ii) Approve Plan of Distribution, and (iii) Establish Objection Procedures* (the “Distribution Motion”).
2. The Conservator recommended reserving, but withholding distributions to SPJ and Guardian Angel.
3. This action is an interpleader which ultimately sought this Court’s approval of a particular method of distributing assets of the Partnerships to their partners.

On October 7, 2013 this Court approved distribution to the partners under the Net Investment Method.¹

4. SPJ and Guardian Angel are themselves partners of S&P. SPJ and Guardian Angel are controlled by its purported managing general partner or manager, Steven Jacob (“Jacob”). Jacob is affiliated with Michael D. Sullivan (“Sullivan”), the former managing general partner of S&P, and is a co-defendant with Sullivan in a certain suit² which, among other things, alleges that Sullivan diverted millions of the Partnerships’ dollars to himself and other insiders, including Jacob.

5. On account of these alleged improprieties, to avoid even the specter of inappropriate behavior, the Conservator recommended withholding distributions to SPJ and Guardian Angel, based, in part, on Jacob’s receipt of commissions and/or referral fees paid by Sullivan.

6. Additionally, certain partners of SPJ and members of Guardian Angel have asked the Conservator to make their distribution directly rather than through Jacob.

7. The Conservator has asked Jacob to consent to a process through which the Conservator would distribute directly to Guardian Angel’s members. To date, Jacob has not consented.

8. Likewise, the Conservator has sought similar relief from Jacob with respect to SPJ.³ To date, Jacob has not consented. Rather, Jacob filed papers with the

¹ Under the Net Investment Method, partner’s accounts are recreated to only give effect to actual cash contributions and distributions. Thus, false profits are omitted from the analysis.

² *Philip J. von Kahle as Conservator for 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”).

³ Certain of the partners of SPJ are IRAs, 401ks, or other tax deferred investments. These accounts need to be handled in an appropriate manner so as not to cause a tax consequence.

Court which recommends, among other things, distributing funds to SPJ's partners by issuing a 1099.

9. At this juncture, the Conservator believes that the partners of SPJ and members of Guardian Angel ought to be brought before this Court to be heard in connection with their indirect distribution.

10. The Florida Rules of Civil Procedure provide that “[p]arties may be added by order of court on its own initiative or on motion of any party at any stage of the action and on such terms as are just.” FRCP 1.250(c).

11. The Conservator seeks to join the partners of SPJ and the members of Guardian Angel to bring same before the Court. By bringing these individuals before the Court, they will be given an opportunity to be heard and the Court will have the ability to determine the appropriate distribution protocol for SPJ and Guardian Angel.

12. Absent joinder, the Conservator is concerned that communicating directly with the partners of SPJ and the members of Guardian Angel may expose the Conservator and the Partnerships to liability.

13. Joinder of the partners of SPJ and the members of Guardian Angel will allow the Conservator to communicate with these individuals or their counsel through the judicial process.

14. Additionally, joinder of the partners of SPJ and the members of Guardian Angel should not delay the Conservator's ability to distribute to the other partners of the Partnerships. The initial distributions for SPJ and Guardian Angel, as reflected in Exhibit “A” attached to the Reply, will be reserved until an Order of the Court authorizing distribution of the same.

15. Accordingly, this Court ought to permit the Conservator to join the partners of SPJ and the members of Guardian Angel.

WHEREFORE, the Conservator requests that the Court enter an Order authorizing the Conservator to join the partners of SPJ and the members of Guardian Angel, and granting such other relief as the Court deems just and proper.

Dated: October 25, 2013

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