

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,

v.

JANET A. HOOKER CHARITABLE
TRUST, et al.,

Defendants.

**NOTICE OF FILING THE AFFIDAVIT OF JEAN F. HOTTE, ESQ. IN
SUPPORT OF ETTOH, LTD.'S MOTION FOR SUMMARY JUDGMENT**

Defendant ETTOH, LTD., through the undersigned counsel, hereby gives notice to the Court and all parties of record that it filed the Affidavit of Jean F. Hotte, Esq. in Support of Ettoh, Ltd.'s Motion for Summary Judgment, attached hereto as Exhibit "1" on this 19th day of March, 2014.

Respectfully submitted,

TRIPP SCOTT, P.A.
110 S.E. Sixth Street
Fifteenth Floor
Fort Lauderdale, Florida 33301
Tel.: (954) 525-7500
Fax: (954) 761-8475

By: /s/ Michael C. Foster
Michael C. Foster, Esq.
Florida Bar No. 0042765
E-Mail: mcf@trippscott.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via email this 19th day of March, 2014 to all counsel on the attached Service List.

/s/ Michael C. Foster

Michael C. Foster

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EXHIBIT 1

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**AFFIDAVIT OF JEAN F. HOTTE, ESQ. IN SUPPORT OF ETTOH, LTD.'S
MOTION FOR SUMMARY JUDGMENT**

STATE OF FLORIDA)
)
COUNTY OF BROWARD)

BEFORE ME, the undersigned authority, personally appeared Jean F. Hotte, Esq., who, after being duly sworn, deposes and says:

1. My name is Jean F. Hotte, I am over the age of eighteen and I have personal knowledge of the facts recited in this affidavit.
2. I am an attorney licensed to practice law in the State of Florida, and I have been licensed as an attorney in Florida since 1992.
3. I am Vice President and General Counsel of Ettöh, Ltd. (“Ettöh”), which is a defendant in the captioned lawsuit, and I have served in this capacity since March of 2008. I have been designated as the representative of Ettöh to testify at deposition pursuant to Florida Rule of Civil Procedure 1.310(b)(6), and for all other purposes material to the captioned lawsuit.

4. Ettoh is, and has been since its formation, a Florida limited partnership; Ettoh's general partner is, and has been since Ettoh's formation, a Florida corporation called Echion U.S.A., Inc. ("Echion"). I am presently Vice President, Secretary and a Director of Echion, and I have been a Director of Echion since 1995.

5. As a consequence of my positions in Ettoh and Echion (outlined above), I have personal knowledge of the operations of both companies beginning in 1995.

6. Ettoh's primary businesses are (and were from the time of its formation) real estate investment, real estate development and property management. In 1998, Ettoh sought to diversify its holdings by making an investment in an entity known as "S&P Associates, General Partnership" ("S&P"). Ettoh's investment was solicited by Michael Sullivan, the Managing Partner of S&P.

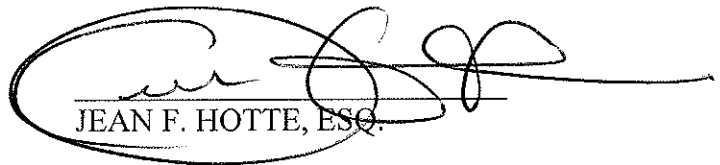
7. Ettoh made its investment in S&P based on two considerations: (a) that S&P was a liquid investment – *i.e.*, that the investment could be converted to cash in a period of weeks if not days; and (b) that S&P was a somewhat conservative investment. The first consideration was particularly important where Ettoh's real estate investments were and are, by nature, illiquid. Ettoh thus needed to maintain the liquidity of those assets that were not tied to real estate so that it would be able to have access to cash for operations.

8. Ettoh withdrew all of its remaining investment in S&P and dissociated from S&P in February 2007. Almost six years later, on or about November 13, 2012, Ettoh received a letter from Margaret J. Smith demanding certain funds (the "Demand Letter"). The Demand Letter enclosed a document titled "S&P Associates, General Partnership, General Partner Statement – Cash Basis" (the "Statement"). True and correct copies of the Demand Letter and the Statement are attached to my affidavit as composite Exhibit "A."

9. The Statement is correct to the extent it reflects that Ettoh withdrew all of its remaining investment in S&P and dissociated from the partnership on or about February 2, 2007. This date is consistent with my recollection and with my review of Ettoh's General Ledger. (I note that the General Ledger is kept by Ettoh in its files in the regular course of its business activities, and that it is Ettoh's regular practice to make the General Ledger. The General Ledger is maintained by Ettoh's bookkeeper, who has knowledge of the information contained in the General Ledger, at or near the time of the events it records.)

10. Ettoh has received nothing from S&P and Ettoh has invested nothing in S&P since February 2007. Moreover, Ettoh had no contact with anyone concerning its investment in S&P from February 2007 until the date of the Demand Letter.

FURTHER AFFIANT SAYETH NAUGHT.


JEAN F. HOTTE, ESQ.

SWORN TO and SUBSCRIBED before me this 18 day of March, 2014


NOTARY PUBLIC, STATE OF FLORIDA

Sharon Miles
Print Name of Notary Public

My commission expires

____ Personally known to me, or
 Produced Florida Driver's License as identification



SHARON MILES
MY COMMISSION # EE 039887
EXPIRES: December 14, 2014
Bonded Thru Budget Notary Services

EXHIBIT A



GLASSRATNER

November 13, 2012

Elton Ltd.
8890 W. Oakland Park Blvd
#201
Sunrise, FL 33351

Re: **S&P Associates, General Partnership**
Case No.: 12-24051

Dear Sir or Madam:

Please be advised that on August 29, 2012, Michael D. Sullivan resigned and Margaret J. Smith was appointed as Managing General Partner of S&P Associates, General Partnership ("S&P" or the "Partnership"). Pursuant to ¶8.02 of the Amended and Restated Partnership Agreement dated December 1994, "the Managing General Partner [is] authorized and empowered to carry out and implement any and all purposes of the Partnership" including but not limited to (d) "to take any actions and to incur any expense on behalf of the Partnership that may be necessary or advisable in connection with the conduct of the Partnership's affairs".

Review of the Partnership books and records as of December 31, 2008 indicates you received funds in excess of contributions totaling **\$287,454.40**. Enclosed for your reference as **Exhibit A** is the detail of the funds contributed and funds disbursed from your capital account from December 1992 through December 2008. The immediate return of funds totaling **\$287,454.40** to S&P is hereby requested.

To encourage a speedy and effective resolution of this matter prior to the commencement of litigation against you, we will accept **\$258,708.96** in full satisfaction of the amount claimed, if paid within 10 calendar days of the date of this letter. This represents a 10% discount of the amount which the Partnership may sue you for if this matter is not resolved as set forth above.

Accordingly, we demand payment of **\$258,708.96** in immediately available U.S. funds within 10 calendar days of the date of this letter, payable to:

Berger Singerman, LLP Trust Account
Attn: Etan Mark, Esq.
1450 Brickell Avenue
Suite 1900
Miami, FL 33131

In the absence of a timely, conforming payment, Berger Singerman, on behalf of S&P, will take appropriate action, including the filing of a Complaint seeking recovery of all sums due, plus interest and costs of collection.

November 13, 2012

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Be assured that we want to treat everyone fairly and to minimize the cost of responding to this demand letter for return of funds. Should you wish to do so, we are willing to schedule a call or meeting with you to discuss this matter. However, because time is of the essence, and to avoid litigation, we must receive either payment, a request for a timely call or meeting or an explanation (**including** copies of **all** cancelled checks, wire transfer advices and relevant agreements) of why you do not owe the sum demanded within 10 calendar days of this letter. If we elect to forbear from the commencement of litigation, entry into an acceptable tolling agreement may be required. To discuss this matter further, you may contact me via email at msmith@glassratner.com or by phone at 305-358-6092.

Sincerely,

A handwritten signature in black ink that reads "Margaret J. Smith". The signature is written in a cursive, flowing style.

Margaret J. Smith
msmith@glassratner.com

S & P Associates, General Partnership
General Partner Statement - Cash Basis

Bank	Account	Transferor/Transferee	Statement Clearing Date	Check #	General Partner	Funds Received	Funds Disbursed	Net Funds Received (Disbursed)
S.O.A	8665		03/18/98	3623	Ettoh Ltd.	\$ 170,000.00	\$ -	
S.O.A	8665		03/18/98	3622	Ettoh Ltd.	80,000.00	-	
ST	8665		03/20/01	3875	Ettoh Ltd.	-	25,000.00	
ST	8665		01/07/03	4553	Ettoh Ltd.	-	31,500.00	
BB&T	0379		01/08/05	5156	Ettoh Ltd.	-	250,000.00	
BB&T	0379		03/07/06		Ettoh Ltd.	260,000.00	-	
BB&T	0379		02/02/07	5580	Ettoh Ltd.	-	490,964.40	
Ettoh Ltd. Total						<u>\$ 510,000.00</u>	<u>\$ 797,454.40</u>	<u>\$ (287,454.40)</u>