

**IN THE CIRCUIT COURT OF THE
SEVENTEENTH JUDICIAL
CIRCUIT, IN AND FOR BROWARD
COUNTY, FLORIDA**

CASE NO. 12-24051 (07)
COMPLEX LITIGATION UNIT

MATTHEW CARONE, as Trustee for the Carone Marital Trust # 2 UTD 1/26/00, Carone Gallery, Inc. Pension Trust, Carone Family Trust, Carone Martial Trust #1 UTD 1/26/00 and Matthew D. Carone Revocable Trust, JAMES JORDAN, as Trustee for the James A. Jordan Living Trust, ELAINE ZIFFER as individual and FESTUS AND HELEN STACY FOUNDATION, INC., a Florida corporation,

Plaintiffs,

v.

MICHAEL D. SULLIVAN

Defendant

**OPPOSITION RESPONSE AND OBJECTIONS TO CONSERVATOR'S
FEE REPORT**

I, Steven Jacob, a partner in the S&P partnership object to the Conservator's Fee Report and state as follows:

The Conservator's fee report states that the Conservator's made the following two-fold determinations:

(i) The charges were properly chargeable to the Partnerships; and (ii) The fees and costs sought were reasonable.

The conservator has erred in making the above-determinations because:

1. Nowhere in the Conservator's Fee Report is there any reference to the Partnership Agreements, statute, regulation or any other authority that would provide a basis to Berger Singerman LLP. and Glass Ratner Advisory & Capital Group LLC. (hereafter, BS and GR, respectively) to charge and/or recover fees from the partnership funds.

2. BS and GR never had authority to incur fees to the partnership. While this issue has been moot to this Court in matters heard earlier, it is now *highly relevant* to the approval of fees. Specifically in the Courts Order Appointing the Conservator, Paragraph 6, it specifically provides that any party may raise the validity of the election of Margaret J. Smith or anyone Ms. Smith allegedly retained on behalf of the partnerships in connection with any application for compensation. BS, supervised an improper partnership meeting to remove the managing general partner from S&P and P&S. The four plaintiffs and their counsel have never proven they had the 51% required under the Partnership Operating Agreements to call a meeting.

There are substantial questions as to the propriety of Ms. Smith acting as Managing General Partner of the Partnerships. BS did not give notice to the "net winners" that there was a special Partnership meeting. In calculating the votes of the partners for the election of Ms. Smith as managing general partner, BS did not count the votes of "net winners" in determining the 51% required interest. BS, with full knowledge of the interpleader action, took matters into their own hands and disenfranchised the "net winners" without their knowledge.

In addition, Ms. Smith did not achieve the votes of 51% of S&P. BS manipulated the votes in order to achieve the required 51% by disallowing the vote of the managing partner of a limited partnership, SPJ limited Partnership, which was a partner of S&P and allow some of the Limited Partners to vote the entire percentage of SPJ limited Partnership. Since Ms. Smith was

not the properly elected Managing General Partner of the Partnerships, **none of the fees charged by BS and GR are valid and chargeable to the partnership and the conservator has erred in approving the fees, resulting in an overcharge to the partnerships in the amount of \$216,997.66.** The conservator also erred in reporting his savings to the partnership. He has objected to \$75,546.84 as to form. Correctly calculated the conservator in his fee report shows savings of \$10,806.76.

3. The fees billed by BS and GR are unreasonable. For approximately four years, Rice, Pugatch, Robinson & Schiller P.A. and Helen Chaitman, an attorney nationally recognized as protecting the victims of Madoff, acted as attorneys for the partnerships. In the four months BS and GR have inappropriately billed the partnership, a similar total amount. This disproportionate billing strongly suggests that the fees are unreasonable. In addition, many of the matters for which BS billed were already addressed by other attorneys that represented the Partnerships.

Relief Requested

I respectfully request that this Court deny the Conservator's approved fees for BS and GR.

April 18, 2013

Respectfully Submitted



Steven Jacob, Partner of S&P