

IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA
CASE NO. 12-034123 (07)
Complex Litigation Unit

PHILIP J. VON KAHLE, as Conservator of
P&S Associates General Partnership and
S&P Associates, General Partnership,

Plaintiffs,

vs.

MICHAEL D. SULLIVAN, et al.,

Defendants.

**DEFENDANT FRANK AVELLINO'S NOTICE OF SERVING FIRST SET OF
INTERROGATORIES TO PLAINTIFF**

Defendant, Frank Avellino, by and through his undersigned counsel, hereby gives notice of serving his First Set of Interrogatories upon Plaintiff, Philip J. Von Cahle, as Conservator of P&S Associates, General Partnership and S&P Associates, General Partnership, to be answered under oath and in writing, within thirty (30) days of service herein, in accordance with the Florida Rules of Civil Procedure 1.340.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of November, 2013, the foregoing document is being served on Thomas M. Messana, Esq, Massana, P.A., 401 East Las Olas Boulevard, Suite 1400, Fort Lauderdale, Florida 33301, tmessana@messana-law.com, Etan Mark, Esq., Berger Singerman, 350 East Las Olas Blvd., Suite 1000, Fort Lauderdale, FL, 3330, emark@bergersingerman.com, Peter G. Herman, Esq., 110 SE 6th Street, 15th Floor, Fort Lauderdale, FL 33301, pgh@trippscott.com; asg@trippscott.com; ele@trippscott.com; rep@trippscott.com; and Mark F. Raymond, Esq. Jonathan Etra, Esq., and Christopher Cavallo,

Esq., Broad and Cassel, One Biscayne Tower, 21st Floor, 2 South Biscayne Blvd., Miami, FL 33131, jetra@broadandcassel.com; ccavallo@broadandcassel.com and mraymond@broadandcassel.com by email and by electronic service via the Florida Courts E-Filing Portal in compliance with Fla. Admin. Order No. 13-49.

HAILE, SHAW & PFAFFENBERGER, P.A.

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By: /s/ Gary A. Woodfield
Gary A. Woodfield, Esq.
Florida Bar No. 563102

DEFINITIONS

1. “Partnerships” shall mean P& S Associates, General Partnership and S &P Associates, General Partnership, their general and limited partners, members and representatives and agents.
2. “You” or “your” shall mean Plaintiffs and their partners, associates, members and representatives and agents.
3. “Avellino” shall mean Frank Avellino.
4. “Sullivan” shall mean Michael D. Sullivan.

INTERROGATORIES

1. Identify each general partner who was introduced to the Partnerships through Avellino, and for each one, identify when he was introduced, by whom he was introduced and identify any other persons who were present when the introductions were made.

ANSWER:

2. Please specify the specific assets of the Partnerships that you contend were funneled to Avellino, the date they were funneled to him, the amounts, and by whom were they funneled.

ANSWER:

3. Please specify all actions and/or statements made by Avellino which you contend demonstrates or evidences that he was a co-conspirator with Sullivan and others.

ANSWER:

4. Please identify all management fees which you contend were paid to Avellino, including the amount, the date paid, and the method of payment.

ANSWER:

5. Please set forth the facts which support your allegation that Avellino was given a significant, inappropriate and unlawful control over the Partnerships and/or was active in the management of the Partnerships itself.

ANSWER:

6. Please identify the witnesses who have knowledge of the facts set forth in your answer to Interrogatory 5 above.

ANSWER:

7. Please set forth the facts which support your allegation that Avellino knew or should have known that millions of dollars of Partnership assets were being misappropriated.

ANSWER:

8. Please identify the witnesses who have knowledge of the facts set forth in your answer to Interrogatory 7 above.

ANSWER:

9. Please set forth the facts which support your allegation that Avellino knew that distributions were improperly being made to Partners and other third parties, but did nothing to prevent it.

ANSWER:

10. Please set forth the facts which support your allegation that Avellino aided and abetted Sullivan's breaches of fiduciary duty of loyalty and care to the Partnerships.

ANSWER:

11. Please identify the damages you contend you incurred as a result of any actions or statements by Avellino, and provide the calculation for same.

ANSWER:

P&S ASSOCIATES, GENERAL PARTNERSHIP

By: _____
PHILIP J. VON KAHLE, as Conservator

STATE OF FLORIDA

COUNTY OF _____

Sworn to or affirmed and signed before me this ____ day of _____, 2013 by Philip J. Von Kahle, as Conservator of P&S Associates, General Partnership, to me known to be the person and/or who provided identification consisting of _____, and who executed the foregoing instrument this ____ day of _____, 2013.

NOTARY PUBLIC
My Commission Expires: _____

(SEAL)

S&P ASSOCIATES, GENERAL PARTNERSHIP

By: _____
PHILIP J. VON KAHLE, as Conservator

STATE OF FLORIDA

COUNTY OF _____

Sworn to or affirmed and signed before me this ____ day of _____, 2013
by Philip J. Von Kahle, as Conservator of S&P Associates, General Partnership, to me known to
be the person and/or who provided identification consisting of _____,
and who executed the foregoing instrument this ____ day of _____, 2013.

NOTARY PUBLIC
My Commission Expires: _____

(SEAL)