

IN THE CIRCUIT COURT OF THE 17<sup>th</sup> JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA

POMPANO SENIOR SQUADRON FLYING CLUB, INC.  
(aka POMPANO BEACH FLYING CLUB)

Plaintiff,

and

Case No.: CACE 20-005993  
Division (8)

CARL L. KENNEDY, II

Defendant.

**MOTION FOR SANCTIONS**  
**PURSUANT TO FLORIDA STATUTE §57.105**

TO THE HONORABLE JUDGE OF THIS COURT:

I, Carl L. Kennedy, II, respectfully represents as follows:

1. On April 7, 2020, Plaintiff filed a "Complaint" in this matter.
2. On multiple occasions, both before and since the Complaint was filed, I have requested of Plaintiff clarity as to what documents or records that they believe I possess and to which their client is entitled. As of the date of the filing of this Motion, Plaintiff has failed and refused to respond to any such inquiries. See my correspondence to counsel for Plaintiff dated March 30, 2020, May 8, 2020 and June 2, 2020; attached hereto collectively as Exhibit A.
3. Plaintiff knows, or should know, that not only does the undersigned no longer possess any documents or records which pertain to the current accounting or finances of the Flying Club or the ability to operate, but also that I was only the Treasurer and one member of the Board of Directors of the Flying Club. I do not constitute "the Corporation" which is the proper Defendant in this lawsuit. This lawsuit is a targeted "witch-hunt", aimed solely at me for personal reasons, as can be evidenced simply by the Plaintiff's failure to name any other Officer or member of the Board of

Directors as a Defendant in this lawsuit. Plaintiff filed this action under the Florida Corporations Statute, but I, by myself, do not constitute a/this Corporation.

4. Plaintiff's "Complaint" is wholly without merit, has no legal basis, and has absolutely no support under any law of the State of Florida. It is intended solely for the purpose of harassing me personally and individually, borne of a retaliatory and vengeful vendetta.

5. Florida Statute, Section 57.105, provides in part:

(1) Upon the court's initiative or motion of any party, the court shall award a reasonable attorney's fee, including prejudgment interest, to be paid to the prevailing party in equal amounts by the losing party and the losing party's attorney on any claim or defense at any time during the civil proceeding or action in which the court finds that the losing party or the losing party's attorney knew or should have known that a claim or defense when initially presented to the court or at any time before trial:

- (a) Was not supported by the material facts necessary to establish the claim or defense; or
- (b) Would not be supported by the application of then-existing law to those material facts.

6. Plaintiff has not acted in good faith in this matter by failing to withdraw or voluntarily dismiss with prejudice the "Complaint" filed herein, and as such, attorney's fees should be awarded against Plaintiff and or it's counsel of record.

7. Also, I should be awarded fees to enable me to hire counsel in this matter to defend against Plaintiff's frivolous, vexatious and harassing "Complaint".

8. This Motion is being served, but not yet filed, in accordance with the safe harbor provisions of Fla. Stat. §57.105.

WHEREFORE, I, Carl L. Kennedy, II, respectfully requests that the relief requested by Plaintiff be dismissed/denied, that I be awarded reasonable attorney's fees, both temporarily and

as sanctions, that an Order be entered in accordance herewith, and for any other relief this Court deems just and proper.

I hereby certify that on the 7<sup>th</sup> day of June, 2020, I sent a copy of this Motion to Edward Holodak, Esquire at Edward@holodakpa.com, but have not filed it in accordance with the safe harbor provision of Fla. Stat. §57.105.

Respectfully submitted,

/s/ Carl L. Kennedy, II

Carl L. Kennedy, II

2929 S. Ocean Blvd., #510

Boca Raton, FL 33432

304-552-0206

E-Mail Address: clktax@aol.com

#### **CERTIFICATE OF FILING WITH CLERK**

I hereby certify that a true and correct copy of the foregoing has been served to Edward Holodak, Esquire via the Florida e-portal on this 29<sup>th</sup> day of June, 2020, which is at least 21 days from the date this Motion was served upon Plaintiff.

Respectfully submitted,

/s/ Carl L. Kennedy, II

Carl L. Kennedy, II

2929 S. Ocean Blvd., #510

Boca Raton, FL 33432

304-552-0206

E-Mail Address: clktax@aol.com

**From:** hausmannw@aol.com,

**To:** edward@holodakpa.com,

**Bcc:** clktax@aol.com,

**Subject:** Pompano Beach Flying Club - Document Request

**Date:** Mon, Mar 30, 2020 5:28 pm

**Attachments:** PBFC - Member List 02062020.pdf (199K), Pompano Beach Client Bind Order - 2019 - 2020.pdf (188K), PompanoFlyingClub\_PRPOSAL\_AVICOMM\_06262019.pdf (1249K)

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Mr. Holodak:

Thank you for providing me with a copy of your correspondence to my client, Carl Kennedy, dated March 19, 2020 but which had still not yet been received by him in the mail. We consider your correspondence as having been received when it was emailed to me Monday, March 23, 2020.

As I'm sure you will agree, the current circumstances of our country make the arbitrary 5-day deadline contained in your letter not only unreasonable, but also entirely impractical.

My client also remains steadfast in his inquiry as to your fees. Do you not agree that it would be entirely improper for PBFC to be using my client's own monthly membership dues and/or buy-in funds to pay your fees?

My client is/will be prepared to transfer the accounting books and records as safe circumstances permit (electronically) and/or as soon as our country is no longer in "lockdown", so that I may meet with him and review the documents he is producing for listing and documentation purposes. (Copying is also a problem at the moment under the circumstances, which copying must now be done so that Mr. Kennedy will not be accused of retaining any documents improperly.) My client will not contribute to your fees by communicating with you any further without legal obligation to do so, unless and until he is provided with satisfactory assurance that his own monies are not being used for payment of your services.

Attached to this email are the following PBFC documents/records: 1) The Old Republic Insurance Company Binder and Policy; 2) PBFC Membership List dated 2/6/20.

The following documents/records have already been turned over to the new BOD and/or Treasurer: checkbooks, checks and access to bank account transferred on 02-15-2020; bank statements are now available to new BOD and/or Treasurer.

The Bylaws are available online; the Articles of Incorporation were provided by Carl Kennedy to Club President (at the time) Ara Yanikian by email on 2/15/20.

The following documents/records do not exist: stock certificates or shareholder agreements.

Meeting Minutes were taken and retained by the former PBFC Secretary, Paul Sanchez.

Thank you,  
Wendy A. Hausmann

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**From:** hausmannw@aol.com,

**To:** clktax@aol.com,

**Subject:** Fwd: PBFC - Monies owed to former members at 12-31-2019

**Date:** Fri, May 8, 2020 5:21 pm

**Attachments:** PBFC - Liability for Buy-In Funds at 12-31-2019.pdf (8553K)

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-----Original Message-----

To: edward@holodakpa.com <edward@holodakpa.com>

Sent: Fri, May 8, 2020 5:21 pm

Subject: Fwd: PBFC - Monies owed to former members at 12-31-2019

Mr. Holodak:

Below and attached please find the email sent to the current Treasurer of Pompano Beach Flying Club today. It contains a list of PBFC former members who are owed monies from PBFC, which list Carl Kennedy prepared and documents he located as a courtesy subsequent to the request you made of him for documents. As I have explained, Mr. Kennedy has no objection to providing the current Board of Directors and Officers with any relevant information he can which they need to financially and otherwise operate the Club.

As of this writing, I am in the dark about what specific documents and or records which you believe Mr. Kennedy has in his possession, custody or control but has neglected to provide to date (including my prior and current correspondence to you). As you know, he is not required to *create* documents or records that do not already exist. If you will kindly advise me of any specific documents or records you are seeking, perhaps we can resolve this matter and avoid unnecessary litigation.

Thank you,  
Wendy A. Hausmann

NOTICE: This e-mail message and any attachment to this e-mail message contains confidential information that may be legally privileged. If you are not the intended recipient, you must not review, retransmit, convert to hard copy, copy, use or disseminate this e-mail or any attachments to it. If you have received this e-mail in error, please notify us immediately by return e-mail or by telephone at 561.477.5353 and delete this message. Please note that if this e-mail message contains a forwarded message or is a reply to a prior message, some or all of the contents of this message or any attachments may not have been produced by THE LAW OFFICES OF WENDY A. HAUSMANN, 20283 STATE ROAD 7, SUITE 400, BOCA RATON, FL 33498, E-MAIL: [hausmannw@aol.com](mailto:hausmannw@aol.com).

-----Original Message-----

From: Carl Kennedy <clktax@aol.com>

To: pbfclub.treasurer@gmail.com <pbfclub.treasurer@gmail.com>

Sent: Fri, May 8, 2020 5:06 pm

Subject: PBFC - Monies owed to former members at 12-31-2019

Andrew:

I have created for you, over the past few days, the attached list of former members who are owed the return of buy-in monies from PBFC as of 12-31-2019, which compiled list did not previously exist. I have also (in the same attachment) provided time-stamped dates as to when the member requested to exit PBFC.

Respectfully,

Carl

**From:** clktax@aol.com,  
**To:** edward@holodakpa.com,  
**Subject:** PBFC v Carl Kennedy  
**Date:** Tue, Jun 2, 2020 3:16 pm

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Mr. Holodak:

You have been asked previously in writing to specifically elucidate the documents you believe I still have to which your client is entitled. You have failed and refused to advise me as to what specific document(s) your client seek(s), even following the correspondence sent to you dated March 30, 2020, (via Wendy A. Hausmann) wherein **I addressed each and every item contained in your letter to me dated March 19, 2020** (which letter you attached to the Complaint in this matter). I will be attaching this email, as well as the correspondence to you dated March 30, 2020 as well as May 8, 2020, to my response in this matter, along with a Motion for Sanctions against both you and your client pursuant to Fl. Stat. §57.105 if you do not promptly withdraw your frivolous, baseless and intentionally harassing Complaint in this matter.

I await your specific list of documents which you believe I possess and to which your client is entitled.

Respectfully Requested,

Carl L. Kennedy