

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

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

Plaintiff/Counter-Defendant,

and

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

CARL L. KENNEDY

Defendant/Counter-Plaintiff.

**MOTION TO COMPEL PLAINTIFF TO PROVIDE BETTER RESPONSES
TO DISCOVERY REQUESTS AND TO COMPEL DOCUMENTS
PURSUANT TO SHAREHOLDER RECORD REQUEST**

I, CARL L. KENNEDY, II, Counter-Plaintiff respectfully represent as follows:

1. On July 31, 2020, I properly served to Plaintiff eleven (11) Interrogatories and my First Request for Production of Documents. See the Notice of Service I filed on the same date, incorporated as Exhibit A.
2. Plaintiff's responses, filed on September 2, 2020, are significantly and substantially deficient.
3. See Plaintiff's responses to my Request for Production of Documents, attached to this Motion as a "chart" of items Plaintiff did or did not produce and incorporated as Exhibit B. See also the answers Plaintiff filed regarding my Interrogatories on September 2, 2020, incorporated as Exhibit C, especially Interrogatories numbered 7 and 9. Plaintiff objected and failed to respond to almost all of the requested information and documents.
4. Without complete discovery responses from Plaintiff, I cannot properly or adequately represent myself and will be prejudiced in presenting my case at hearings and trial.
5. For example, Plaintiff in its Complaint has made a claim for attorney's fees but refuses

to give me any information or documentation concerning this issue. I need to get prepared, including financially, and perhaps obtain an expert, to defend against Plaintiff's claim for attorney fees. I should be able to prepare on my schedule instead of Plaintiff's timeline.

6. Plaintiff has also completely failed to comply with my shareholder record requests dated August 11, 2020 and September 1, 2020, despite "promises" to do so through both the Club President as well as counsel for the Club. See attached correspondences collectively at Exhibit D. These record requests should be considered additional "discovery requests" in this matter and Plaintiff should be compelled to produce all of the documentation requested in accordance with Florida law. All of the requested documentation is directly related and necessary to my defense against Plaintiff's Complaint and to my Counter-Complaint.

7. I attempted in good faith to resolve this issue with Plaintiff. See attached Exhibit E.

WHEREFORE I, Carl Kennedy, respectfully request that this Court enter an Order compelling Plaintiff to provide proper and complete responses to the Interrogatories and Request for Production of Documents, including my shareholder records request, properly propounded upon them, and to serve me with all documentation and information referred to or required therein by ensuring delivery of same to the address below, on or before 5:00 p.m. no more than ten (10) calendar days after the signing of this Court's Order, and for all further relief as this Court deems just and proper under the facts and circumstances.

I hereby certify that on the 5th day of October, 2020, I sent a copy of the foregoing to Edward F. Holodak, Esquire via the Florida e-portal.

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

**CLK'S FIRST REQUEST
FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF**

1. Any and all retainer agreements with present counsel regarding the instant matter, as well as any and all statements for services rendered, evidence of payments made to said counsel, from you individually, from anyone on your behalf, from the corporation or entity, including, but not limited to, canceled checks, receipts and notes.

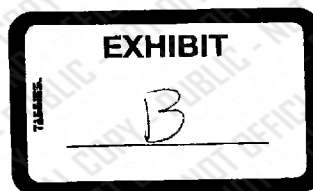
a. PRODUCED: RETAINER / ATTORNEY'S
EMPLOYMENT
AGREEMENT

b. NOT PRODUCED: - OBJECTED TO ALL

2. Copies of all statements for all legal and any other professional services rendered to you in connection with or related to these proceedings and copies of all canceled checks in payment of such services, together with any contract or memoranda setting forth your agreement as to payment for such services, including memoranda, documents presented to shareholders, resolution and voting documents, minutes of meetings, all notices and all emails sent to or received by you from shareholders, Officers or member of the Board Directors regarding same, excluding attorney-client privileged documents/communications.

a. PRODUCED: NOTHING

b. NOT PRODUCED: EVERYTHING ELSE REQUESTED



3. All documents concerning, and a copy of any new Bylaws or prospective Bylaws or Operational Rules or prospective Operational Rules proposed or promulgated for/by Plaintiff since February 12, 2020, including memoranda, documents presented to shareholders, resolution and voting documents, minutes of meetings, all notices and all emails sent to or received by you from shareholders, Officers or member of the Board Directors regarding same, excluding attorney-client privileged documents/communications.

c. PRODUCED: MEETING MINUTES / UPDATED OPERATIONAL RULES

d. NOT PRODUCED: EVERYTHING ELSE REQUESTED

4. A list of all shareholders of the corporation as of February 12, 2020, and as of the date of your responses to this Request, including each individual's name, address, telephone number and email address.

e. PRODUCED: MY MEMBERSHIP LIST 2/6/20

f. NOT PRODUCED: MEMBERSHIP ROSTER POST 2/12/20

5. All documents and communications, which discuss with the shareholders or amongst the Officers or Board of Directors, the hiring/retaining of Attorney Holodak, including memoranda, documents presented to shareholders, resolution and voting documents, minutes of meetings, all notices and all emails sent to or received by you from shareholders, as well as any Officer or member of the Board of Directors, regarding same.

g. PRODUCED: MEETING MINUTES POST 2/12/20

h. NOT PRODUCED: EVERYTHING ELSE REQUESTED

6. All documents and communications since January 1, 2019 in your possession, custody or control, excluding attorney-client privileged documents or communications, which discuss me or relate in any way to my position as (now former) Treasurer or a lawsuit against me, including memoranda, documents presented to shareholders, resolution and voting documents, minutes of meetings, all notices and all emails sent to or received by you from shareholders, as well as any Officer or member of the Board of Directors, regarding same.

a. PRODUCED: MEETING MINUTES POST 2/12/20

b. NOT PRODUCED: EVERYTHING ELSE REQUESTED

7. All documents and communications since January 19, 2019, which were sent by or received by any Officer or member of the Board of Directors after February 12, 2020, to or from any Officer or member of the Board of Directors which existed immediately prior to February 12, 2020, which discuss me or a lawsuit against me, or relate in any way to my position as (now former) Treasurer, including memoranda, documents presented to shareholders, resolution and voting documents, minutes of meetings, all notices and all emails sent to or received by you from shareholders, as well as any Officer or member of the Board of Directors, regarding same.

i. PRODUCED: "ATTACHED" -

73 PAGES OF A FUEL REPORT FROM SHELTAIR
FOR THE PERIOD 2/2/18 THRU 9/18/19.
SHELTAIR PRODUCED THIS REPORT ON 9/19/19.
THIS COULD BE THE REPORT BRETT BUTRYM PROVIDED.

j. NOT PRODUCED: EVERYTHING ELSE REQUESTED

8. All documents that you will introduce at trial.

NONE

9. All documents consulted by you in answering Interrogatories.

SEE 1 THRU 7

10. All documents which are in whole or in part the basis of your Answers to Interrogatories.

SEE # 9

11. All documents identified in your Answers to Interrogatories.

SEE # 9

(*)

WITHIN WHAT WAS PROVIDED IS PBFCS
RESOLUTION 001 ON 2/24/20 WHERE
ONE OF THE ITEMS RESOLVED WAS FOR
ALL CURRENT BOD MEMBERS WILL CONTRIBUTE/LOAN
\$300 EACH TO PAY HOLODAK'S INITIAL RETAINER FEE

CARL L. KENNEDY, II

2929 S. Ocean Blvd. Ste. 510 Boca Raton, FL 33432

Phone: (304) 552-0206 E-mail: CLKTax@aol.com

August 11, 2020

VIA USPS PRIORITY MAIL

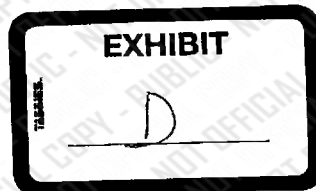
Pompano Beach Flying Club
c/o Mr. Gregory Gilhooly
1421 S. Ocean Blvd.
Suite #102
Pompano Beach, FL 33062

RE: Shareholder/Member Records Request

Mr. Gilhooly:

In accordance with Florida law, I request as a shareholder/member of the Flying Club to inspect the following records at 10:00 a.m., five (5) business days from today, on Wednesday, August 19, 2020, at the above location, or other reasonable time and location designated by you:

1. All accounting records of the Club existing since February 13, 2020;
2. Bank statements for all Club accounts since February 12, 2020;
3. General ledger detail for all Club accounts since February 12, 2020;
4. Documents reflecting the status of all recurring expenses of the Club as to whether current or delinquent, including but not limited to insurances, fuel and hangar expenses;
5. Alphabetized list, with names and addresses of all Club members as of February 13, 2020;
6. Alphabetized list, with names and addresses of all Club members as of the date of the day prior to the date of inspection of these records;
7. Copies of all documents (other than privileged communications) relating to any current lawsuit against the Club by any individual or entity;
8. Invoices/Billing statements for any accountant retained by the Club since February 12, 2020;
9. Invoices/Billing statements for any lawyer retained by the Club since February 12, 2020;

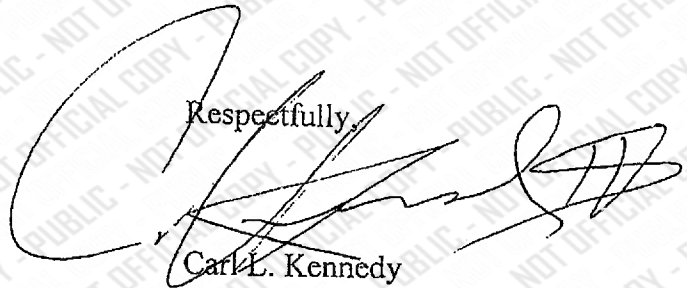


August 11, 2020
Page 2

The purpose(s) of this request is (are) to determine: 1) whether the Club is currently operating at a loss; 2) whether the membership has significantly increased or decreased since the new Board of Directors and slate of new Officers was elected on 2/12/20; 3) to ascertain the veracity of the Treasurer's stated liabilities of the Club as of August 12, 2020; 4) to verify that the monthly ongoing necessary expenses of the Club are still being paid timely; 5) to ascertain how many corporate dollars are being spent on legal fees; 6) to ascertain how many corporate dollars are being spent on accounting fees; 7) to ascertain the contingent liabilities of the Club; and 8) to determine whether or not the club is operating effectively

Thank you for your anticipated cooperation with this Records Request.

Respectfully,

A handwritten signature in black ink, appearing to read 'Carl L. Kennedy', written over the typed name.

Carl L. Kennedy



August 25, 2020

VIA USPS PRIORITY MAIL

Carl L. Kennedy
2929 S. Ocean Blvd.
Suite 510
Boca Raton FL 33432

RE: Receipt of Request

Mr. Kennedy

Please be advised I have received your request on Sunday, August 23, 2020 and will provide you with your requested documents within 5 days of the date I received your request.

I will notify you when the documents will be available and will arrange a method of delivery.

Thank you

A handwritten signature in black ink, appearing to read "Gregory Gilhooly", with a horizontal line extending to the right.

Gregory Gilhooly
President, Pompano Beach Flying Club

CARL L. KENNEDY, II

2929 S. Ocean Blvd. Ste. 510 Boca Raton, FL 33432

Phone: (304) 552-0206 E-mail: CLKTax@aol.com

September 1, 2020

VIA USPS PRIORITY MAIL

Pompano Beach Flying Club
c/o Mr. Gregory Gilhooly
1421 S. Ocean Blvd.
Suite #102
Pompano Beach, FL 33062

RE: Shareholder/Member Records Request

Mr. Gilhooly:

In accordance with Florida law, this is my second demand as a shareholder/member of the Flying Club to inspect the following records at 10:00 a.m. (more than five (5) business days from today), on Thursday, September 10, 2020, at the above location, or other reasonable time and location designated by you:

1. All accounting records of the Club existing since February 13, 2020;
2. Bank statements for all Club accounts since February 12, 2020;
3. General ledger detail for all Club accounts since February 12, 2020;
4. Documents reflecting the status of all recurring expenses of the Club as to whether current or delinquent, including but not limited to insurances, fuel and hangar expenses;
5. Alphabetized list, with names and addresses of all Club members as of February 13, 2020;
6. Alphabetized list, with names and addresses of all Club members as of the date of the day prior to the date of inspection of these records;
7. Copies of all documents (other than privileged communications) relating to any current lawsuit against the Club by any individual or entity;
8. Invoices/Billing statements for any accountant retained by the Club since February 12, 2020;
9. Invoices/Billing statements for any lawyer retained by the Club since February 12, 2020;

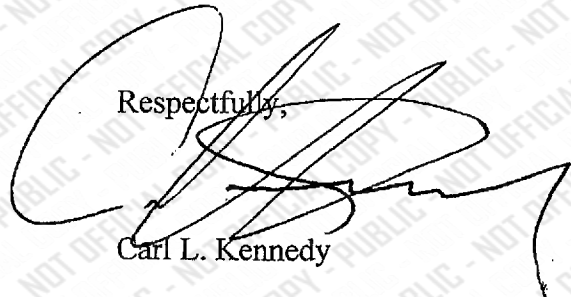
September 1, 2020

Page 2

The purpose(s) of this request is (are) to determine: 1) whether the Club is currently operating at a loss; 2) whether the membership has significantly increased or decreased since the new Board of Directors and slate of new Officers was elected on 2/12/20; 3) to ascertain the veracity of the Treasurer's stated liabilities of the Club as of August 12, 2020; 4) to verify that the monthly ongoing necessary expenses of the Club are still being paid timely; 5) to ascertain how many corporate dollars are being spent on legal fees; 6) to ascertain how many corporate dollars are being spent on accounting fees; 7) to ascertain the contingent liabilities of the Club; and 8) to determine whether or not the club is operating effectively.

Thank you for your anticipated cooperation with this Records Request.

Respectfully,

A handwritten signature in black ink, appearing to read 'Carl L. Kennedy', written over a large, stylized circular flourish.

Carl L. Kennedy

cc: Wendy A. Hausmann, Esq.

From: edward@holodakpa.com,

To: clktax@aol.com,

Cc: tammy@holodakpa.com,

Subject: RE: PBFC v Kennedy - Holodak Phone Conversation 09-30-2020 Recap

Date: Fri, Oct 2, 2020 10:37 am

Attachments:

4

Yes Carl, I agree.

Very truly yours,

Edward F. Holodak, Esq., B.C.S
Admitted in Florida & Washington, D.C.

Edward F. Holodak, P.A.
7951 SW 6th Street
Suite 210
Plantation, Florida 33324
(954) 927-3436



This e-mail is intended for the addressee shown. It contains information that is confidential and protected from disclosure. Any review, dissemination or use of this transmission or its contents by persons or unauthorized employees of the intended organizations is strictly prohibited.

NOTICE TO HOMEOWNER ASSOCIATION AND CONDOMINIUM ASSOCIATION CLIENTS: THIS COMMUNICATION (AND ANY ATTACHMENTS) MAY INCLUDE PRIVILEGED COMMUNICATION BETWEEN ATTORNEY AND CLIENT

From: clktx@aol.com,

To: edward@holodakpa.com,

Cc: tammy@holodakpa.com,

Bcc: clktx@aol.com,

Subject: Re: PBFC v Kennedy - Holodak Phone Conversation 09-30-2020 Recap

Date: Fri, Oct 2, 2020 10:22 am

Attachments:

Mr. Holodak,

3

I understand and I will provide those Item 4 docs to you along with my responses to the PBFC discovery requests due on 11-02-2020, if you're in agreement. Please advise.

Respectfully,

Carl Kennedy

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

From: Edward Holodak <edward@holodakpa.com>

To: Carl Kennedy <clktx@aol.com>

Cc: Tammy Pomaranski <tammy@holodakpa.com>

Sent: Thu, Oct 1, 2020 10:55 am

Subject: RE: PBFC v Kennedy - Holodak Phone Conversation 09-30-2020 Recap

2

Carl

Thank you. As to Item #4, the Club wishes to see the supporting material for every Amex change that you allege was made on behalf of the Club. I understand this may cumbersome, but it is nonetheless what the Club is entitled to receive.

As to the rest of your email I am in agreement that it accurately reflects our conversation. Thank you.

Very truly yours,

Edward F. Holodak, Esq., B.C.S
Admitted in Florida & Washington, D.C.

Edward F. Holodak, P.A.

7951 SW 6th Street

Suite 210

Plantation, Florida 33324

(954) 927-3436



This e-mail is intended for the addressee shown. It contains information that is confidential and protected from disclosure. Any review, dissemination or use of this transmission or its contents by persons or unauthorized employees of the intended organizations is strictly prohibited.

NOTICE TO HOMEOWNER ASSOCIATION AND CONDOMINIUM ASSOCIATION CLIENTS: THIS COMMUNICATION (AND ANY ATTACHMENTS) MAY INCLUDE PRIVILEGED COMMUNICATION BETWEEN ATTORNEY AND CLIENT THAT ARE EXEMPT FROM DISCLOSURE AND PROTECTED PURSUANT TO SECTIONS 90.502, 718.111(12) AND 720.303(4), FL. STAT. IN SUCH EVENT AND TO PROTECT THE PRIVILEGED NATURE OF THIS COMMUNICATION, THIS COMMUNICATION SHOULD NOT BE PLACED IN, OR CONSIDERED TO BE PART OF, THE OFFICIAL RECORDS OF AN ASSOCIATION PURSUANT TO SECTIONS.

THIS FIRM ALSO ACTS AS A DEBT COLLECTOR AND ANY INFORMATION OBTAINED THROUGH E-MAILS MAYBE BE USED FOR THAT PURPOSE.

The information in this e-mail is attorney privileged and confidential. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver this transmittal to the intended recipient, you are notified that any distribution or copying of this communication is strictly prohibited. If you received this e-mail in error, please notify the sender immediately at the number below.

We are required to advise you that, unless expressly stated otherwise, any U.S. federal tax advice contained in this e-mail, including attachments to this e-mail, is not intended or written to be used, and cannot be used, by any person for the purpose of (i) avoiding penalties under the U.S. Internal Revenue Code, or (ii) promoting, marketing or recommending to another party any transaction or matter addressed in this e-mail or attachment.

Martindale-Hubbell



From: Carl Kennedy <clktax@aol.com>
Sent: Thursday, October 1, 2020 10:54 AM
To: Edward Holodak <edward@holodakpa.com>
Cc: Tammy Pomaranski <tammy@holodakpa.com>
Subject: PBFC v Kennedy - Holodak Phone Conversation 09-30-2020 Recap

Mr. Holodak,

Thank you for calling me yesterday afternoon. Subsequent to that phone call here is my takeaway:

- 01) PBFC will comply with my record requests by next Wednesday - 10/07/2020.
- 02) My responses to the PBFC discovery requests will be due on 11/02/2020. You mentioned an agreed order on this item, please provide such for my review before submitting to the Court.

03) I will send to you by Monday (10/05/2020) my chart of "produced/not produced" items as it relates to PBFC's responses to my first request for production of documents and interrogatories.

04) I advised you that it would be a monumental task to provide you with every receipt and/or invoice for all AMEX charges for the past several years. I requested you provide me with a reasonable number of questioned or disputed charges for which I will provide you receipts/invoices.

05) I will provide the Answer to the PBFC Complaint by 10/05/2020.

As I explained, Ms. Hausmann had started drafting several of the items above prior to her withdrawing as my attorney, I am working diligently to perfect her unfinished work in order provide the completed work to you.

I made you aware, and I believe Ms. Hausmann sent you an e-mail, requesting the January 2020 and the February 2020 Bank of America bank account ending in 1841, because I need these bank statements to prepare a full and reconciled accounting up from December 31, 2019 until February 12, 2020. To the best of my knowledge and understanding, this is the only full and reconciled accounting which I had not already prepared and provided to PBFC before leaving my position as Treasurer, and the only "accounting" which PBFC is requesting in the Complaint against me.

Please let me know if I have forgotten anything from our conversation yesterday, or if I have stated anything incorrectly.

Respectfully,

Carl Kennedy

From: clkta@aol.com,

To: edward@holodakpa.com,

Cc: tammy@holodakpa.com,

Bcc: clkta@aol.com,

Subject: PBFC v Kennedy - Phone Conversation 09-30-2020 - Complying With Item 03

Date: Mon, Oct 5, 2020 12:06 pm

Attachments: PBFC - Produced Not Produced POD to Plaintiff 09272020.pdf (284K)

Mr. Holodak,

As agreed when we spoke on 09-30-2020, I have attached the chart which reflects Plaintiff's deficiencies in connection with my First Request for Production of Documents. I also request better answers with respect to my Interrogatories numbers 7 and 9.

Kindly advise if we can resolve this issue or whether we will need to have a hearing.

Respectfully,

Carl Kennedy

