

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

POMPANO SENIOR SQUADRON
FLYING CLUB, INC., a Florida
corporation,

CASE NO.: CACE 20-005993 (o8)

Plaintiff,

v

CARL KENNEDY, individually,

Defendant.

**PLAINTIFF'S SECOND MOTION TO COMPEL BETTER
RESPONSES FIRST REQUEST TO PRODUCE**

Plaintiff, POMPANO SENIOR SQUADRON FLYING CLUB, INC. (Plaintiff "Club"), by and through its undersigned counsel, files this Motion to Compel Better Responses to Request to Produce from Defendant Carl Kennedy (Defendant "Kennedy") and says:

1. On or about July 27, 2020, Plaintiff Club propounded a Request to Produce to Defendant Kennedy relative to the issues in the pleadings before this Court. Defendant Kennedy replied objecting to many and to some, thereafter allegedly answering.

2. Plaintiff Club sued Defendant Kennedy for an accounting, alleging that at the time he was treasurer of the Club, he misspent Club money and provided no accounting and financial documents to the Club.

3. On or about November 5, 2020 Plaintiff Club filed a Motion to Compel Better Responses to its Request for Production, specifically to compel better responses to requests number 3, 4, 5, 6, 9, and 10.

4. On November 17, 2020 a hearing was held before this Honorable Court on Plaintiff's Motion to Compel Better Responses to its Request to Produce. An Order was

entered on November 23, 2020 granting Plaintiff's Motion.

5. On or about December 7, 2020, Defendant Kennedy filed his Amended Responses to Plaintiff's Request for Production of Documents. In his Amended Response, Defendant Kennedy objected to Request #4 a second time, and contrary to the Order of this Court.

6. In Request to Produce #4, Plaintiff Club asked for a copy of any and all checks or other forms of payments from Defendant Kennedy to the Club for any reason during the past five (5) years. As Plaintiff Club is seeking a complete and accurate accounting from Defendant Kennedy for all financial transactions he was involved in as treasurer of Plaintiff, asking for all checks written by Defendant Kennedy is completely relevant and material to the issues herein.

7. Despite all of the above, Defendant Kennedy objected a second time, claiming that the request is vague, overbroad, irrelevant and beyond the scope of the pleadings. Although Defendant Kennedy goes on to state that Plaintiff Club has access to the bank records, Plaintiff Club is entitled to an answer to the request without objections attached thereto and once again, to be able to verify the extent of Defendant Kennedy's records (and subsequent evidence) in comparison to what is in Plaintiff Club's possession and control. Plaintiff Club moves this Court for an Order overruling the second objections of Defendant Kennedy, and an Order compelling the production of all such requested documents.

8. In Request to Produce #13, Plaintiff Club asked for Copy of any and all financial statements, bank records, accounting statements, regarding the Club generated or produced during the past seven (7) years.

9. Defendant Kennedy objected a second time, claiming that the request is vague, overbroad, irrelevant and beyond the scope of the pleadings. Defendant Kennedy

objected a second time, claiming that the request is vague, overbroad, irrelevant and beyond the scope of the pleadings. Although Defendant Kennedy goes on to state that Plaintiff Club has access to the bank records, Plaintiff Club is entitled to an answer to the request without objections attached thereto and once again, to be able to verify the extent of Defendant Kennedy's records (and subsequent evidence) in comparison to what is in Plaintiff Club's possession and control. Plaintiff Club moves this Court for an Order overruling the second objections of Defendant Kennedy, and an Order compelling the production of all such requested documents.

10. As argued above, Plaintiff Club is entitled to answers to its discovery without those answers being veiled behind objections. Secondly, it is a sanctionable offense for a party to raise objections to a request to produce to only thereafter say that there are no documents responsive to the request to produce. See *First Healthcare Corp. v. Hamilton*, 740 So. 2d 1189, 1193 (Fla. 4th DCA 1999).

WHEREFORE, Plaintiff Club moves this Court for the above Orders requested in the Motion, an award of court costs and attorney fees, and any further relief that this Court deems just and equitable.

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via eportal this 23rd day of February 2021, to Carl L. Kennedy, II, clktax@aol.com.

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