

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'S COMPLIANCE
WITH AGREEMENT TO PROVIDE DOCUMENTS

I, Carl L. Kennedy, II, Defendant/Counter-Plaintiff, respectfully represent as follows:

1. I sent a request for documents to Plaintiff on January 14, 2021, both as a shareholder in Plaintiff corporation and as the Defendant/Counter-Plaintiff in this matter. See attached Exhibit A.

2. On January 18, 2021, Plaintiff's lawyer and I spoke to discuss "discovery issues". At that time, I raised my document request. Plaintiff agreed to, and stated he would, "timely provide approximately 90%" of the requested documents by January 21, 2021. See attached Exhibit B.

3. Plaintiff/Counter-Defendant has, to date, failed and refused to provide the documents I requested in Exhibit A.

4. I have already completed and complied with each agreement I have ever made with Plaintiff in this matter, including the agreements I made on January 18, 2021.

5. I have reasonably relied on Plaintiff's stated agreement on January 18, 2021, to provide the requested documents.

6. I am being significantly and materially prejudiced in my defense(s) against Plaintiff's Complaint in this matter without the documents I have been properly requesting and seeking in preparation of my defense(s) against Plaintiff's Complaint and/or in support of my Counter-Complaint.

7. The form of my request should not defeat the substance of it. My request also constitutes a Request for Production of Documents and should be considered and treated as such.

8. Plaintiff/Counter-Defendant should be compelled to honor and comply with its agreement of January 18, 2021 to provide the documents I properly requested in Exhibit A.

WHEREFORE, I, Carl L. Kennedy, II, respectfully request that this Court compel Plaintiff/Counter-Defendant to comply with its agreements to provide the documents I have requested, and for any other relief this Court deems just and proper and consistent with this Motion.

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 7th day of March, 2021.

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

CARL L. KENNEDY, II

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

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

January 14, 2021

VIA USPS PRIORITY MAIL and E-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 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, January 21, 2021 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 and specifically to include P&L Statements for Feb (02-13-20 thru 02-29-20), March, 2020 – April, 2020 – May, 2020 – June, 2020 – July, 2020 – August, 2020 – October, 2020 – November, 2020 – December, 2020;
2. Bank statements for all Club accounts since February 12, 2020 and specifically to include the Chase-793 February, 2020 – Chase-793 March, 2020 – Chase-793 October, 2020 – Chase-793 November, 2020 – Chase-793 December, 2020;
3. General ledger detail for all Club accounts since February 12, 2020 and specifically to include activity for all accounts from February 13, 2020 to February 29, 2020 and October, 2020 and November, 2020 and December, 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, debt repayment or related interest expense to Bruce Ayala, Paul Sanchez, David Watkins or Carl Kennedy and hangar expenses for the period from February 13, 2020 up to and including December 31, 2020;
5. Alphabetized list, with names and e-mail addresses of all Club members as of the date of the day prior to the date of inspection of these records;
6. Copies of all documents (other than privileged communications) relating to any current lawsuit against the Club by any individual or entity. Specifically copies of all

EXHIBIT

A

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- non-privileged litigation documents for the Hill lawsuit and the Borer lawsuit, including email correspondence with Plaintiff Hill and Plaintiff Borer, all documents related to attorney's fees due to all litigation, including attorney billing statements/invoices from court reporter services and copies of checks payable to both.
7. Invoices/Billing statements for any accountant or forensic accounting firm retained by the Club since February 12, 2020;
 8. Invoices/Billing statements for any lawyer retained by the Club since February 12, 2020.

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 and December 31, 2020; 4) to verify that the monthly ongoing necessary expenses of the Club are 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; 8) to determine whether or not the club is operating effectively; and 9) to ascertain the veracity of the testimony of the Club President in court on January 11, 2020.

Thank you for your anticipated cooperation with this Records Request.

Respectfully,



Carl L. Kennedy

From: clktax@aol.com,
To: edward@holodakpa.com,
Cc: allison@holodakpa.com,
Subject: PBFC v Kennedy - Non-Performance of Agreement
Date: Wed, Jan 27, 2021 1:08 am

Mr. Holodak,

I trust this e-mail finds you doing well and staying safe.

Consider this paragraph a cordial follow-up to our phone conversation and e-mail(s) last week relating to my properly produced request for reimbursement from PBFC in the amount of **\$2,512.52**. Can you provide me with your client's intent as it relates to reimbursing me?

This email will be my last informal demand for the Shareholder Records Request which I properly executed on January 14, 2021 and which you agreed your client would be timely complying on January 21, 2021 with "approximately 90%". As of this writing, your client has not provided any documents whatsoever in response to my request. What's going on? Are we abandoning the agreements we reached during our telephone conversation of January 18, 2021? If so, I will need to coordinate with you a Deposition Duces Tecum of the Club Treasurer to obtain the information and documents I seek. Kindly advise Allison that when we are coordinating our next hearing, we will also coordinate a mutually agreeable date for this deposition.

Respectfully,

Carl Kennedy

