

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 (08)

Plaintiff,

v

CARL KENNEDY, individually,

Defendant.

PLAINTIFF'S RENEWED MOTION FOR RULE TO SHOW CAUSE

Plaintiff, POMPANO SENIOR SQUADRON FLYING CLUB, INC. (Plaintiff "Club"), by and through its undersigned counsel, files this Motion for Rule to Show Cause as to Why the Court Should Not Strike Defendant Carl L. Kennedy, II (Defendant "Kennedy")'s pleadings and enter a default against him and says:

1. On April 5, 2022, the Honorable Thomas M. Lynch, IV acting as special magistrate herein, signed an Order requiring Defendant Kennedy to produce full write access to the Club's financial data as stored in electronic form in Quickbooks. Copy of Order attached hereto.

2. The Order required Defendant Kennedy to produce the full data file to Plaintiff Club within three (3) days from the date of the Order, to-wit: April 8, 2022.

3. At approximately 10:30 P.M. on April 8, 2022, Defendant Kennedy email a computer link to the data file to Plaintiff Club. Plaintiff Club used the computer link to download the data file.

4. After successful download of the file, Plaintiff Club attempted to access the data only to be met with a denial due to not having a password to the file. In Defendant Kennedy's email to the Club, no password was provided. Copy of email printout

attached hereto as Exhibit #2.

5. Plaintiff Club, upon discovery of the insufficient access granted to it by Defendant Kennedy, immediately wrote to Defendant Kennedy's counsel demanding the password for the data and stated that if Defendant Kennedy did not provide the password by 5 PM on April 11th, Plaintiff Club would seek a Rule to Show Cause. Exhibit #3.

6. Defendant Kennedy did not provide a password by 5PM.

7. As this Court is fully aware, this is now the fourth (4) Order requiring Defendant Kennedy to produce unfettered access with full administrator authority to Plaintiff Club and it is not the fourth (4th) of four (4) Orders Defendant Kennedy has failed to comply.

8. Defendant Kennedy is fully aware that the file was password protected as the parties encountered the same problem when Defendant Kennedy produced a restricted copy of the datafile previously.

9. Defendant Kennedy's actions of violating the Court's Order can be nothing except willful, contemptuous and intentional. At each step along with way Defendant Kennedy intentionally failed to comply. First, Defendant Kennedy produced hard copy papers of the datafile despite the Order to produce the electronic version. Then Defendant Kennedy, in response to a motion to compel and sanction, produce PDF versions of the datafile, against despite an Order requiring production of the electronic file. The Defendant Kennedy produced a read-only version of the datafile (initially without a password and then provided a password) again despite the Order requiring production of the full electronic datafile. Then after yet another Order, Defendant Kennedy rather than produce the full electronic datafile, filed a Motion for Rehearing. The Court although granting the re-hearing, denied Defendant Kennedy's request that

he not have to produce the full electronic file. Now, after all of those Orders and non-compliance, Defendant Kennedy produces an alleged full access data file, but does so without providing a password to the datafile so that Plaintiff Club can access the data and determine if it is truly a full access version of the file with full Administrator authority as this Court Ordered.

10. At each step along the way, Defendant Kennedy has defied this Court's rulings and has taken action to delay, harass and frustrate Plaintiff Club. Plaintiff Club moves this Court to issue an Order to Show Cause, finding Kennedy in willful disobedience of its rulings and show why the Court should not strike his pleadings and enter a default against him.

11. Defendant Kennedy's actions should not be acceptable to this Court. Instead, given the history of Defendant Kennedy's actions, this Court should strike Defendant Kennedy's pleadings and enter a default against him for contemptuous disobedience of multiple orders of the Court.

WHEREFORE, Plaintiff Club moves the Special Magistrate for an Order finding Defendant Kennedy in willful disobedience of the prior Orders, holding him in contempt and issuing a Rule to Show Cause as to why his pleadings should not be stricken,

awarding an entry of default against him, requiring delivery of the datafile to Plaintiff Club within twenty-four (24) hours with a password, payment of Plaintiff Club's attorney fees and any further relief this Court deems just and equitable.

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via eportal this 11th day of April 2022 to Scott Kalish, Esq.,_The Law Offices of Scott J. Kalish, 5255 N. Federal Highway, Suite 325, Boca Raton, FL 33487, scott@scottjkalishlaw.com, Thomas M. Lynch, IV Special Magistrate tomlynchmediation@gmail.com

/s/Edward F. Holodak
EDWARD F. HOLODAK, ESQ.
Attorney for Plaintiff
Fla. Bar No.: 059234
Edward F. Holodak, P.A.
7951 SW 6th Street, Ste. 210
Plantation, FL 33324
Tel.: 954-927-3436
pleadings@holodakpa.com

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 (08)

Plaintiff,

v

CARL KENNEDY, individually,

Defendant.

_____ /

REPORT OF GENERAL MAGISTRATE
On MOTION FOR REHEARING

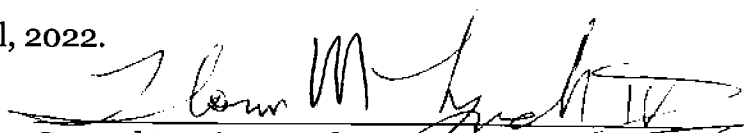
THIS CAUSE having come before the Court on Defendant Kennedy's Motion for Rehearing as to the Magistrate's prior Order requiring production of the full access electronic datafile, the Court considering the pleadings herein, the Court considering the affidavits of both parties, the Court having heard arguments of counsel, and being otherwise fully advised, it is:

ORDERED AND ADJUDGED:

Defendant's Motion for Rehearing was **Granted; however**, after considering all prior Orders on the subject of the electronic datafile, after considering all of the above, after rehearing on the subject it is:

FURTHER ORDERED AND ADJUDGED: that Defendant Kennedy, consistent with all prior Orders, shall have three (3) days from the date of this Report to produce the electronic datafile with full Administrator access (which allows full and unfettered access to the Club's electronic datafile) to Plaintiff.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida on this 5 day of April, 2022.


General Magistrate Thomas M. Lynch, IV

Copies to:
Edward F. Holodak, Esq.; pleadings@holodakpa.com
Scott J. Kalish, Esq.; scott@scottikalishlaw.com

From: [Carl Kennedy](#)
To: [Edward Holodak](#)
Subject: PBFC - Two QBB Data Files - 12/09/21 and 12/22/21
Date: Friday, April 8, 2022 9:54:29 PM



[Log In](#)

[Try for FREE!](#)

Message from sender

Received this file to your iPhone or iPad? Download DropSend app for iPhone, iPad and iPod Touch from the App Store and use DropSend.com on your iOS device.

Files available for download:

Download Link: <https://myaccount.dropsend.com/file/e4ab2d5c23caa065>

File Expires on: 4/23/22 2:54 AM BST

You can download these files up to unlimited times each over the next 14 days.

File Name:	Pompano Senior Squadron Flying Club, Inc (Backup Dec 09,2021 06 48 PM).QBB	Size: 40.2MB
File Name:	Pompano Senior Squadron Flying Club, Inc (Backup Dec 22,2021 12 05 PM).QBB	Size: 45.0MB

Description:

These are the two files in my e-mail to you referencing the "DropSend" e-mails immediately following.....



From: Edward Holodak
To: Scott J Kalish (scott@scottikalishlaw.com)
Cc: "Tatiana Wilson"
Subject: Password
Date: Monday, April 11, 2022 1:42:00 PM
Attachments: image001.png
image002.png

Scott

If I do not have a password by 5PM, I will file a Motion for Rule to Show Cause and ask Judge Lynch to strike Kennedy's pleadings. I am beyond trying to chase him and get his compliance.

Very truly yours,

Edward F. Holodak

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

Edward F. Holodak, P.A.
7580 NW 5th Street
Suite 15125
Plantation, Florida 33317
(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[®]



NOT AN OFFICIAL COPY - PUBLIC ACCESS - NOT AN OFFICIAL COPY