

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

SUNWOOD, INC.,

Plaintiff,

vs.

POMPANO SENIOR SQUADRON
FLYING CLUB, INC.,

Defendant.

Case No.: CACE 21 – 003202 (12)

DEFENDANT’S MOTION TO COMPEL THIRD PARTY DEFENDANT

Defendant, POMPANO SENIOR SQUADRON FLYING CLUB D/B/A POMPANO BEACH FLYING CLUB (Defendant “Club”), by and through its undersigned counsel, pursuant to Rule 1.340, Fla.R.Civ.P., files this Motion to Compel, and says:

1. Defendant Club propounded interrogatories to Third Party Defendant Kennedy, Kennedy filed unsworn answers in violation of Rule 1.340. As such, Defendant Club moves this Court for an Order requiring Kennedy’s sworn answers.

2. Additionally, Kennedy has either failed to answer certain interrogatories, baselessly objected to others and provided only partial and incomplete answers to still others.

3. Defendant Club moves to compel an accurate answer to interrogatory #1.

a. Defendant Club asked:

State the name, address and phone number of the person or persons answering or assisting with the preparation of the answer to these interrogatories and those people’s relationship to Defendant Kennedy.

To which, Kennedy answered: NONE.

Certainly someone answered these interrogatories and as such, Kennedy's answer is on its face non-responsive and Club moves for a better and accurate answer.

4. Next Defendant Club ask, interrogatory #2:

- a. If you assert that the Club borrowed money from Plaintiff Sunwood, state the date, time and location of the Board of Directors meeting of the Club at which the Board of Directors voted to authorize the Club to take such loan (the "Loan").

To which Kennedy objected as vague.

Club asserts that the interrogatory is not vague and therefore requests an Order overruling Kennedy's objection and requiring a complete and accurate answer thereto.

5. Next Defendant Club asked interrogatory #4:

State all terms of the Loan, including by not limited to the interest rate of the Loan, the repayment terms for the Loan, to whom the payments were to be made, how payments were made.

To which Kennedy only partially answered:

The loan from Sunwood was to be repaid to Sunwood over a term of seven years at the rate of 10% interest. Payable on demand when in default.

Kennedy's answer fails to state whether the payments were monthly, quarterly, yearly, etc., does not answer to whom the payments were to be made and does not answer how the payments were to be made. As the Club denies taking any loan from Plaintiff Sunwood, has no record of such loan, has no contemporaneous promissory note or chattel mortgage, the answers to these questions are critical. Therefore, Defendant Club moves this Court for an Order requiring a complete and accurate answer from Kennedy.

6. Lastly, Defendant Club ask interrogatory #6:

If you contend that the Loan was a secured loan, identify the document or documents executed by any officer or director of the Club giving a security interest in exchange for the Loan, state the name of the person or persons that in possession of such document, state the name of the director or officer who signed such document on behalf of the Club and identify the Club asset which served as collateral for the Loan.

To which Kennedy responded:

The requested documents are in Plaintiff's possession, custody and control pursuant to discovery produced in Pompano Beach Senior Squadron Flying Club v Kennedy. The Request is therefore duplicative, unduly burdensome and intended solely to harass me.

Clearly, Defendant Club is entitled to a sworn answer from Kennedy to this interrogatory without having to resort to other litigation files, having to request judicial notice of such pleadings and discovery or having to jump through any other hoops lifted by Kennedy. As such Defendant Club moves this Court for an order compelling Kennedy's complete and accurate answer to this interrogatory.

WHEREFORE Defendant Club moves this Honorable Court for an Order granting the request relief above, sworn answers to all interrogatories, overruling Kennedy's objections and requiring Kennedy to give complete and accurate answers to the propounded interrogatories along with an award of costs and attorney fees against Kennedy and any other relief this Court deems just and equitable.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been sent via eportal this 28th day of December 2021 to Dane Stanish, Esq., stanishd@gmail.com and Carl Kennedy, clktax@aol.com.

_____/s/ Edward F. Holodak, Esq.,

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