

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

SUNWOOD, INC.,

CASE NO. 21-003202 CACE 12

Plaintiff,

vs.

POMPANO SENIOR SQUADRON FLYING
CLUB, INC.,

Defendants.

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Plaintiff, Sunwood, Inc., by and through its undersigned counsel and pursuant to Rule 1.510 of the Florida Rules of Civil Procedure, moves this Court for an Order of Summary Judgment against Defendant, Pompano Senior Squadron Flying Club, Inc., and in support thereof states as follows:

UNDISPUTED MATERIAL FACTS

1. On or about September 24, 2018, Plaintiff loaned the sum of \$100,000.00 to the Defendant. A copy of the check given to the Defendant as the loan is attached hereto.
2. Plaintiff has agreed with the Defendant, acting through its designated representative, Carl L. Kennedy II, the Defendant's Treasurer, that the loaned money would be repaid within one year with interest at the rate of twelve percent per annum. A copy of Mr. Kennedy's affidavit is submitted herewith as Exhibit A.
3. The Defendant's Board of Directors unanimously ratified this loan. The Defendant's current President, Gregory Gilhooly, confirmed this in his deposition taken November 22, 2021 (see

Exhibit A thereto).

4. The Defendant received the \$100,000 check from the Plaintiff and deposited it into the Defendant's bank account. Copies of the Defendant's bank statement and the check deposited therein are attached hereto as Exhibit B.

5. The money the Defendant borrowed from the Plaintiff was used to purchase an airplane for use by the Defendant's members. That aircraft's FAA registration number is noted in the memo section of the check.

6. Defendant defaulted on the repayment of the loan.

7. Plaintiff made written demand for repayment on the Defendant but the Defendant has failed or refused to repay the monies loaned to it.

8. Plaintiff has retained the services of the undersigned and has agreed to pay a reasonable fee for said services.

STANDARD FOR SUMMARY JUDGMENT

The Florida Supreme Court recently adopted the federal summary judgment standard. *In re Amendments to Fla. Rule of Civ. Procedure* 1.510, 309 So. 3d 192. Rule 1.510 now follows the standard articulated by the U.S. Supreme Court in *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). Under the federal standard, "there is 'no express or implied requirement . . . that the moving party support its motion with affidavits or other similar materials negating the opponent's claim.'" *In re Amendments*, 309 So. 3d at 193 (quoting *Celotex*, 477 U.S. at, 323. Instead, "the burden on the moving party may be discharged by 'showing' . . . that there is an absence of evidence to support the nonmoving party's case." *Celotex*. 477 U.S. at 325. The burden then shifts to the nonmovant, who must go beyond the pleadings and present affirmative evidence to show that a genuine issue of material fact does exist. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 257 (1986). A mere

“scintilla” of evidence supporting the opposing party's position will not suffice; instead, there must be a sufficient showing that the jury could reasonably find for that party. *Anderson*, 477 U.S. at 252;

ARGUMENT

In its Amended Complaint, the Plaintiff sought damages for money owed and unjust enrichment. There is no dispute that the Defendant received the Plaintiff's \$100,000 and that the transaction was approved by the Defendant's Board of Directors. Plaintiff made demand on the Defendant for the return of the \$100,000 but the Defendant has refused to pay. The Defendant has offered no viable defense and clearly owes the money.

WHEREFORE, Plaintiff respectfully requests that this Court enter a summary judgment against the Defendant, award the Plaintiff \$100,000.00 with interest from September 4, 2018, and all attorney's fees and costs incurred, and grant such further relief as this Court deems appropriate.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been served via the State of Florida e-Filing Portal on Edward F. Holodak, Esq., at pleadings@holodakpa.com and Carolyn N. Budnik, Esq., at carolyn@cbudlaw.com, this 24th day of January 2022.

LAW OFFICES OF DANE STANISH, P.A.
Attorney for Plaintiff
3475 Sheridan Street, Suite 209
Hollywood, FL 33021
(954) 923-0524
(954) 212-0770 Facsimile
stanishd@gmail.com

By: /s/ Dane T. Stanish
Dane T. Stanish
Florida Bar # 931993

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SUNWOOD, INC.,

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CASE NO. 21-003202 CACE 12

vs.

POMPANO SENIOR SQUADRON FLYING
CLUB, INC.,
(d/b/a POMPANO BEACH FLYING CLUB)

Defendant.

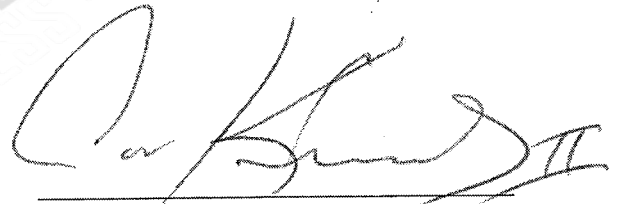
AFFIDAVIT OF CARL L. KENNEDY, II

Carl L. Kennedy, II, after first being duly sworn, deposes and states as follows:

1. I have personal knowledge of the facts contained herein.
2. I was the Treasurer of Pompano Senior Squadron Flying Club, Inc. (DBA Pompano Beach Flying Club) from April 1, 2014, until a new Board of Directors was elected on February 12, 2020.
3. The Board of Directors agreed at all times with my efforts to obtain financing for the Club.
4. The Board of Directors placed no restrictions on my efforts to obtain financing for the Club.
5. I arranged for a \$100,000.00 loan from Sunwood, Inc., on behalf of the Club, on or about September 24, 2018.

6. The money from that loan was used to purchase an airplane for use by members of the Club. The airplane was a Piper PA-32, tail number N2921S.
7. Approval for this loan was ratified by the Board of Directors of the Club at a Board of Directors meeting held on February 12, 2020.
8. At all times I acted with the approval of the Board of Directors in obtaining this loan from Sunwood, Inc.
9. Both Laurence Mellgren, who was President of the Club at that time, and I executed a Security Agreement and Promissory Note from the Club to me to secure the repayment of the \$100,000.00 loan from Sunwood, Inc.
10. It is my desire and intention to transfer and assign the Security Agreement and Promissory Note to Sunwood, Inc.

FURTHER AFFIANT SAYETH NAUGHT



CARL L KENNEDY, II

STATE OF FLORIDA)
 COUNTY OF PALM BEACH) Broward

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this August 24, 2021, by Carl L. Kennedy, II, who is personally known to me or who has produced FL 02 as identification.

Paqg Commission no. GG 962219
 Notary Public



DAVID J. PERSTEN
 Commission # GG 962219
 Expires May 9, 2024
 Bonded Thru Budget Notary Services



P.O. Box 15284
Wilmington, DE 19850

POMPANO SENIOR SQUADRON FLYING CLUB
DBA POMPANO BEACH FLYING CLUB
C/O CARL KENNEDY II
2929 S OCEAN BLVD APT 510
BOCA RATON, FL 33432-8323

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Your Business Fundamentals Checking Bus Platinum Privileges

for September 1, 2018 to September 30, 2018

Account number: 0010 4030 1841

POMPANO SENIOR SQUADRON FLYING CLUB DBA POMPANO BEACH FLYING CLUB

Account summary

Beginning balance on September 1, 2018	\$8,395.30	# of deposits/credits: 10
Deposits and other credits	148,713.83	# of withdrawals/debits: 25
Withdrawals and other debits	-7,452.71	# of items-previous cycle ¹ : 73
Checks	-12,328.81	# of days in cycle: 30
Service fees	-0.00	Average ledger balance: \$34,628.40
Ending balance on September 30, 2018	\$137,327.61	¹ Includes checks paid, deposited items & other debits

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IMPORTANT INFORMATION: BANK DEPOSIT ACCOUNTS

How to Contact Us - You may call us at the telephone number listed on the front of this statement.

Updating your contact information - We encourage you to keep your contact information up-to-date. This includes address, email and phone number. If your information has changed, the easiest way to update it is by visiting the Help & Support tab of Online Banking.

Deposit agreement - When you opened your account, you received a deposit agreement and fee schedule and agreed that your account would be governed by the terms of these documents, as we may amend them from time to time. These documents are part of the contract for your deposit account and govern all transactions relating to your account, including all deposits and withdrawals. Copies of both the deposit agreement and fee schedule which contain the current version of the terms and conditions of your account relationship may be obtained at our financial centers.

Electronic transfers: In case of errors or questions about your electronic transfers - If you think your statement or receipt is wrong or you need more information about an electronic transfer (e.g., ATM transactions, direct deposits or withdrawals, point-of-sale transactions) on the statement or receipt, telephone or write us at the address and number listed on the front of this statement as soon as you can. We must hear from you no later than 60 days after we sent you the FIRST statement on which the error or problem appeared.

- Tell us your name and account number.
- Describe the error or transfer you are unsure about, and explain as clearly as you can why you believe there is an error or why you need more information.
- Tell us the dollar amount of the suspected error.

For consumer accounts used primarily for personal, family or household purposes, we will investigate your complaint and will correct any error promptly. If we take more than 10 business days (10 calendar days if you are a Massachusetts customer) (20 business days if you are a new customer, for electronic transfers occurring during the first 30 days after the first deposit is made to your account) to do this, we will provisionally credit your account for the amount you think is in error, so that you will have use of the money during the time it will take to complete our investigation.

For other accounts, we investigate, and if we find we have made an error, we credit your account at the conclusion of our investigation.

Reporting other problems - You must examine your statement carefully and promptly. You are in the best position to discover errors and unauthorized transactions on your account. If you fail to notify us in writing of suspected problems or an unauthorized transaction within the time period specified in the deposit agreement (which periods are no more than 60 days after we make the statement available to you and in some cases are 30 days or less), we are not liable to you and you agree to not make a claim against us, for the problems or unauthorized transactions.

Direct deposits - If you have arranged to have direct deposits made to your account at least once every 60 days from the same person or company, you may call us to find out if the deposit was made as scheduled. You may also review your activity online or visit a financial center for information.

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Deposits and other credits

Date	Description	Amount
09/05/18	BKOFAMERICA ATM 09/05 #000002325 DEPOSIT EAST BOCA RATON BOCA RATON FL	881.84
09/10/18	BKOFAMERICA ATM 09/08 #000003576 DEPOSIT EAST BOCA RATON BOCA RATON FL	1,682.13
09/11/18	BKOFAMERICA ATM 09/11 #000004542 DEPOSIT EAST BOCA RATON BOCA RATON FL	2,094.00
09/18/18	BKOFAMERICA ATM 09/18 #000007363 DEPOSIT DEERFIELD BEACH DEERFIELD BEA FL	2,180.64
09/21/18	BKOFAMERICA ATM 09/21 #000001267 DEPOSIT DEERFIELD BEACH DEERFIELD BEA FL	833.12
09/24/18	BKOFAMERICA ATM 09/24 #000009171 DEPOSIT EAST BOCA RATON BOCA RATON FL	100,000.00
09/24/18	BKOFAMERICA ATM 09/23 #000002425 DEPOSIT DEERFIELD BEACH DEERFIELD BEA FL	500.00
09/25/18	FL TLR transfer	36,000.00
09/25/18	BKOFAMERICA ATM 09/25 #000009543 DEPOSIT EAST BOCA RATON BOCA RATON FL	2,562.10
09/27/18	BKOFAMERICA ATM 09/27 #000004069 DEPOSIT DEERFIELD BEACH DEERFIELD BEA FL	1,980.00
Total deposits and other credits		\$148,713.83

Withdrawals and other debits

Date	Description	Amount
09/24/18	AMERICAN EXPRESS DES:ACH PMT ID:M3010 INDN:CARL KENNEDY CO ID:1133133497 WEB	-5,910.53
Card account # XXXX XXXX XXXX 7440		
09/24/18	CHECKCARD 0923 GOOGLE *ADS2709883978 cc@google.comCA 24692168266100607540452 CKCD 7311 XXXXXXXXXXXXX7440 XXXX XXXX XXXX 7440	-148.24
Subtotal for card account # XXXX XXXX XXXX 7440		-\$148.24
Card account # XXXX XXXX XXXX 7466		
09/04/18	WAL Wal-Mart S 09/01 #000032461 PURCHASE 1517 WAL-SAMS POMPANO BEACH FL	-36.64
09/05/18	CHECKCARD 0904 HORIZON INSTRUMENTS 7145261919 CA 24493988247207061900035 CKCD 5964 XXXXXXXXXXXXX7466 XXXX XXXX XXXX 7466	-613.50
09/12/18	LOWE'S #1792 09/12 #000721408 PURCHASE LOWE'S #1792 POMPANO BEACH FL	-24.28
09/13/18	CHECKCARD 0911 ABOUT TOWN LOCK-SAFE 954-566-8957 FL 24210738255200474600052 CKCD 7399 XXXXXXXXXXXXX7466 XXXX XXXX XXXX 7466	-63.60

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Withdrawals and other debits - continued

Date	Description	Amount
09/17/18	CHECKCARD 0915 TIME SYNC INC 408-828-3828 NV 24493988258286194000356 CKCD 7399 XXXXXXXXXXXX7466 XXXX XXXX XXXX 7466	-130.00
09/21/18	CHECKCARD 0920 AIRPARTS COMPANY INC FORT LAUDERDAFL 24000978263042600341995 CKCD 5085 XXXXXXXXXXXX7466 XXXX XXXX XXXX 7466	-123.13
09/21/18	LOWE'S #1792 09/21 #000453119 PURCHASE LOWE'S #1792 POMPANO BEACH FL	-20.51
09/26/18	CHECKCARD 0920 ABOUT TOWN LOCK-SAFE WILTON MANORSFL 24210738268200474000035 CKCD 7399 XXXXXXXXXXXX7466 XXXX XXXX XXXX 7466	-150.55
09/27/18	BKOFAMERICA ATM 09/27 #000004070 WITHDRWL DEERFIELD BEACH DEERFIELD BEA FL	-100.00
09/27/18	OFFICE DEPOT 0 09/27 #000941745 PURCHASE OFFICE DEPOT 00 1 BOCA RATON FL	-26.73
09/28/18	CHECKCARD 0927 CRICKET WIRELESS 855-246-2461 FL 24692168270100033346577 RECURRING CKCD 4814 XXXXXXXXXXXX7466 XXXX XXXX XXXX 7466	-105.00
Subtotal for card account # XXXX XXXX XXXX 7466		-\$1,393.94
Total withdrawals and other debits		-\$7,452.71

Checks

Date	Check #	Amount	Date	Check #	Amount
09/13/18	5772	-175.00	09/05/18	5793	-750.00
09/04/18	5785*	-1,700.00	09/11/18	5794	-1,090.00
09/04/18	5789*	-1,366.88	09/12/18	5795	-250.00
09/07/18	5790	-424.70	09/13/18	5797*	-717.96
09/10/18	5791	-648.44	09/26/18	5798	-2,137.43
09/10/18	5792	-2,003.40	09/26/18	5799	-1,065.00
Total checks				-\$12,328.81	
Total # of checks				12	

* There is a gap in sequential check numbers

Service fees

The Monthly Fee on your Business Fundamentals Checking account was waived for the statement period ending 08/31/18. A check mark below indicates the requirement(s) you have met to qualify for the Monthly Fee waiver on the account.

- \$250+ in new net purchases on a linked Business debit card
- \$250+ in new net purchases on a linked Business credit card
- \$3,000+ minimum daily balance in primary checking account
- \$5,000+ average monthly balance in primary checking account
- \$15,000+ combined average monthly balance in linked business accounts
- enrolled in Business Advantage Relationship Rewards

For information on how to open a new product, link an existing service to your account, or about Business Advantage Relationship Rewards please call 1.888.BUSINESS or visit bankofamerica.com/smallbusiness.

Daily ledger balances

Date	Balance (\$)	Date	Balance (\$)	Date	Balance (\$)
09/01	8,395.30	09/04	5,291.78	09/05	4,810.12

continued on the next page

Daily ledger balances - continued

Date	Balance (\$)	Date	Balance(\$)	Date	Balance (\$)
09/07	4,385.42	09/17	3,058.87	09/25	138,932.32
09/10	3,415.71	09/18	5,239.51	09/26	135,579.34
09/11	4,419.71	09/21	5,928.99	09/27	137,432.61
09/12	4,145.43	09/24	100,370.22	09/28	137,327.61
09/13	3,188.87				

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Business Fundamentals Chk - 1841: Account Activity Transaction Details

Post date: 09/24/2018

Amount: 100,000.00

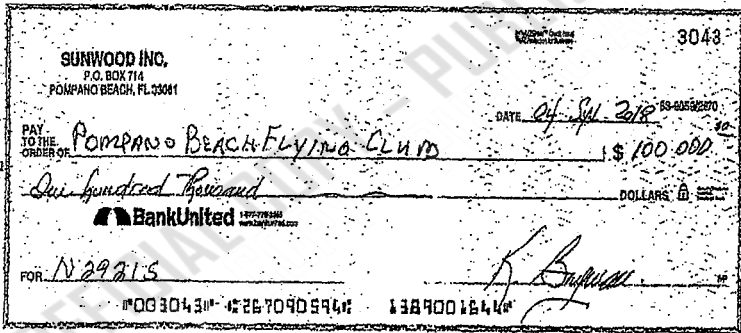
Type: Deposit

Purchaser: CARL KENNEDY II

Description: BKOFAMERICA ATM 09/24 #000009171
DEPOSIT EAST BOCA RATON BOCA RATON FL
CKCD 4635760023667466

Merchant name: BKOFAMERICA ATM DEPOSIT EAST BOCA RAT
FL

Transaction category: Income: Deposits



SUNWOOD INC.
P.O. BOX 714
POMPAHO BEACH, FL 33061

3043

DATE 09/24/2018 SS-4059270

PAY TO THE ORDER OF Pompano Beach Flying Club \$ 100,000

One hundred thousand

BankUnited

FOR 1829215

⑆003043⑆ ⑆267090594⑆ ⑆38900184⑆