

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

SUNWOOD, INC.,

Plaintiff,

vs.

Case No.: CACE 21-003202 (12)

POMPANO SENIOR SQUADRON
FLYING CLUB, INC.

Defendant

_____/

POMPANO SENIOR SQUADRON
FLYING CLUB, INC.,

Third-Party Plaintiff,

CARL L. KENNEDY, II

Third-Party Defendant.

ANSWER TO THIRD-PARTY COMPLAINT

I, Carl L. Kennedy, II, with respect to the Third-party Complaint (“Complaint”) against me by Pompano Senior Squadron Flying Club, respectfully state as follows:

1. Admitted.
2. Admitted, except I’m a resident of Palm Beach County.
3. Admitted.
4. Admitted.
5. I am without sufficient knowledge to admit or deny the allegations contained in paragraph five (5) of the Complaint. Therefore, same is/are denied.
6. I admit the first sentence of paragraph six (6). The remainder of paragraph six (6) requires neither admission nor denial, therefore, same is/are denied.
7. I admit the first sentence of paragraph six (6). The remainder of paragraph six (6) requires neither admission nor denial, therefore, same is/are denied.

8. Denied.

9. Denied.

10. Admitted.

11. Denied.

12. Denied.

13. Denied.

14. Denied.

15. Denied.

16. Denied.

17. I am without sufficient knowledge to admit or deny the allegation(s) contained in paragraph seventeen (17) of the Complaint, therefore, same is/are denied.

18. I am without sufficient knowledge to admit or deny the allegations contained in paragraph eighteen (18) of the Complaint, therefore, same is/are denied.

19. I restate and incorporate my responses above.

20. This states the Third-party Plaintiff's request for relief from the Court, and therefore requires neither admission nor denial, therefore, same is/are denied.

21. Denied.

22. Denied.

23. I restate and incorporate my responses above.

24. This states the Third-party Plaintiff's request for relief from the Court, and therefore requires neither admission nor denial, therefore, same is/are denied.

25. Denied.

26. Denied.

27. I restate and incorporate my responses above.

28. This states the Third-party Plaintiff's request for relief from the Court, and therefore requires neither admission nor denial, therefore, same is/are denied.

29. I admit the first sentence of paragraph twenty-nine (29). The remainder of paragraph twenty-nine (29) requires neither admission nor denial, therefore, same is/are denied.

30. Admitted.

31. Admitted.

32. Denied.

33. Paragraph thirty-three (33) is an incomplete sentence. Therefore, same is/are denied.

34. Paragraph thirty-four (34) is an incomplete sentence, therefore, same is/are denied.
35. Denied.
36. Denied.
37. Admitted.
38. Denied.
39. Denied.
40. Denied.
41. Any allegation in the Complaint I have not specifically admitted herein is denied.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

1. As to the action for common law indemnification, Plaintiff has failed to state a cause of action and no relief can be granted.

SECOND AFFIRMATIVE DEFENSE

2. As to the action for contractual indemnification, Plaintiff has failed to state a cause of action and no relief can be granted.

THIRD AFFIRMATIVE DEFENSE

3. Plaintiff has failed to allege it has suffered any specific damages.

FOURTH AFFIRMATIVE DEFENSE

4. To the extent that Plaintiff's complaint makes any claim which is outside of the applicable statute of limitations, Plaintiff's claims must be barred.

FIFTH AFFIRMATIVE DEFENSE

5. Plaintiff's claims are barred either in whole or part by the doctrine of equitable estoppel since Plaintiff benefitted substantially from my time as Treasurer and approved of all actions and inactions. Plaintiff therefore must be barred from changing its position after I justifiably relied on

Plaintiff's previous position regarding conduct as its former Treasurer. Plaintiff has been unjustly enriched by the loan I procured, and it received, from Sunwood.

SIXTH AFFIRMATIVE DEFENSE

6. I did not breach any fiduciary duty by obtaining a loan from Sunwood.

SEVENTH AFFIRMATIVE DEFENSE

7. Plaintiff's claims are barred to the extent that Plaintiff has adequate legal remedy.

EIGHTH AFFIRMATIVE DEFENSE

8. Plaintiff's claim for a breach of fiduciary duty is barred either in whole or in part because any award of damages would constitute unjust enrichment because I expended a considerable amount of labor performing accounting work which substantially reduced Plaintiff's debt to a third-party creditor.

NINTH AFFIRMATIVE DEFENSE

9. Plaintiff's claims are barred by the doctrine of accord and satisfaction.

TENTH AFFIRMATIVE DEFENSE

10. Plaintiff's claims are barred since Plaintiff has waived any cause of action or claims it may have against me by reason of Plaintiff's own actions and course of conduct. Specifically, Plaintiff Flying Club ratified and approved the loans I procured on behalf of the Flying Club as well as the liens securing those loans.

ELEVENTH AFFIRMATIVE DEFENSE

11. Plaintiff's claims are barred by the doctrine of ratification since all actions taken by me were either expressly or implicitly approved, consented to, and ratified by the Board of Directors in office during my tenure as Plaintiff's Treasurer.

TWELFTH AFFIRMATIVE DEFENSE

12. Plaintiff's claims are barred by the Business Judgment Rule. All actions or inactions were taken or not taken, in good faith, in the best interest of Plaintiff Flying Club and in accordance with the corporation's Bylaws.

THIRTEENTH AFFIRMATIVE DEFENSE

13. Plaintiff's claim for breach of fiduciary duty is barred either in whole or part because Plaintiff is liable for unpaid accounting work performed by me and I am therefore entitled to a set off in that amount.

FOURTEENTH AFFIRMATIVE DEFENSE

14. The claims set forth in the complaint in this action are barred under the doctrine of laches.

FIFTEENTH AFFIRMATIVE DEFENSE

15. The claims set forth in the complaint in this action are barred by the doctrine of unclean hands.

WHEREFORE, I, Carl L. Kennedy, II, respectfully request that the Third-party Complaint filed against me by Pompano Beach Flying Club be dismissed and all relief requested therein be denied, and that I be awarded any other and further relief this Court deems just and proper under the facts and circumstances of this matter.

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 13th day of May, 2022.

Respectfully submitted,

/s/ Carl L. Kennedy, II
Carl L. Kennedy, II
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