

IN THE CIRCUIT COURT OF THE NINTH
JUDICIAL CIRCUIT IN AND FOR
ORANGE COUNTY, FLORIDA

Case No. 2019-CA-3579-O

ORLANDO APOPKA AIRPORT
ASSOCIATION, INC, a Florida
corporation,

Plaintiff,

vs.

ASS MONKEY, LLC,
a Florida limited liability company,

Defendant.

_____/

DEPOSITION OF:

BRETT MATTHEW JORDAN

DATE: Monday, July 26, 2021

TIME: 1:00 p.m. - 4:37 p.m.

LOCATION: 1000 Pine Hollow Point
Altamonte Springs, Florida 32714

REPORTER: BARBARA K. PAWSON, Registered Professional
Reporter, Florida Professional Reporter
and Notary Public, State of Florida at Large.

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On behalf of the Plaintiff.

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On behalf of the Defendant.

ALSO PRESENT: Lauri Smed

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1 MR. SMED: Good afternoon, everyone. Good
2 afternoon, Mr. Jordan. My name is Christian Smed. I'm
3 the attorney for Ass Monkey, LLC, and its principal,
4 Lawrence Albrecht.

5 Could you please state your name for the record?

6 COURT REPORTER: I need to swear him in.

7 Raise your right hand, please.

8 Do you swear or affirm the testimony you will give
9 will be the truth, the whole truth, and nothing but the
10 truth?

11 MR. JORDAN: Yes.

12 EXAMINATION

13 BY MR. SMED:

14 Q Again, will you please state your name?

15 A Brett Matthew Jordan.

16 Q And who are you employed by?

17 A Specialty Management Company of Central Florida.

18 Q Are you a principal?

19 A Mm-hmm.

20 Q Owner of the company?

21 A Yes.

22 Q And are you the manager for the Orlando Apopka
23 Airport Association?

24 A Yes.

25 Q How long have you been their manager?

1 A A long time. I'm thinking back 2007 or 2006, or
2 somewhere around there.

3 Q Do you know if it was after they handed it over to
4 the develop -- or from the developer?

5 A We kind of helped facilitate the handover from -- I
6 guess, technically, it was after, because they had a
7 homeowner board, so I was first hired by the very first
8 homeowner board, so technically, they had turned it over.

9 Q Did you -- when were -- when were the architectural
10 review board initial guidelines adopted?

11 A I don't recall. The records would reflect. You
12 know, any minutes or anything would reflect that.

13 MR. SMED: Okay. I'm going to mark this as -- I'm
14 starting with 30. She's kind of written them down. I
15 went with an even number. I mean, I know you told me
16 22. I just heard -- sorry, I heard --

17 MR. VAN ALSTYNE: We went up to 70 something, I
18 think. Seventy-two maybe, 73, 74.

19 MR. SMED: I thought you said 22.

20 MR. VAN ALSTYNE: This morning it went up to 75.
21 You can start at, like, 80 if you want to.

22 MR. SMED: Sure, why don't we do that.

23 (Defendant's Exhibit No. 80 was marked for
24 identification.)
25

1 BY MR. SMED:

2 Q I'm going to show you a document that is marked
3 Exhibit 80. Take a second and look at that.

4 A Mm-hmm.

5 Q Are you familiar with that document?

6 A Not the document, but it looks like a screen shot
7 of the association's website.

8 Q Is that the -- can you tell me if that's the front
9 page of the web portal?

10 A I believe it is. The association has a web portal,
11 and then some type of chat room, so I don't remember which
12 one this one is, so --

13 Q Okay. Do you manage the web portal?

14 A No. We post documents there periodically. We
15 don't manage it. This one's controlled by one of the unit
16 owners.

17 Q Do you know which unit owner that is?

18 A I believe Greg Kelsoe.

19 Q Greg Kelsoe?

20 A Greg Kelsoe, K-e-l-s-o-e.

21 Q Is he on the board of directors --

22 A No.

23 Q -- for the association?

24 A Hmm-mm.

25 Q And can you point me to -- these are generally

1 hyperlinks, but can you point me to where the architectural
2 review board would be on this document?

3 A Again, since we don't manage it, Greg would
4 probably be a much better person to ask.

5 Q Aren't you required -- aren't you -- do you have a
6 contract with the association?

7 A Yes.

8 Q You're not working month to month; you have a
9 signed agreement?

10 A Yes, mm-hmm. It's got a 30-day termination, so
11 we're really working month to month.

12 Q Okay. I understood that. But do you re-execute an
13 agreement from time to time?

14 A We haven't in a long time, but yes.

15 Q So right now you -- when you said you haven't in a
16 long time, do you mean several years?

17 A Yes.

18 Q Okay. And do you -- if you look down the
19 right-hand column, it says the first one -- on the first
20 page, it says five years, and then we have seven years. Do
21 you know if this is how long everything has -- excuse me --
22 these were the last entries that were posted on the front of
23 the portal?

24 A I couldn't tell you how this website works as far
25 as those posted there to the right.

1 Q So you never did this web portal, even five years
2 ago or seven years ago?

3 A We provide -- we manage about 200 communities, we
4 manage about 209 different associations. Part of the service
5 we offer to all of our clients is a free website that we
6 manage. It's fully integrated into our data management
7 system and all that stuff. But this board chose to say no,
8 we want our own. They wanted to manage their own rather than
9 use the ones that we offer, so therefore, this board chose,
10 years ago, to manage their own -- have their own website that
11 they manage, control, own, and actually pay directly for.

12 Q What is your responsibility with regard to keeping
13 the association in compliance with Florida Statute Chapter
14 718?

15 A We -- there's a whole lot of different issues
16 relating to compliance with 718 that, you know, we try to
17 help guide our boards. We post here periodically. Since we
18 don't manage it, it's not -- we don't have the control that
19 we do in some other associations. Our data system is built
20 to where, as soon as we -- if you use our site, they're up to
21 date all the time. Theirs we have to go do an extra step, so
22 over the years, Greg's posted some, there's times we would
23 have to post some when, you know -- so we kind of work in
24 conjunction with the board to keep this one up.

25 Q Do you know if the email on this website, any email

1 on the website is monitored?

2 A Yes.

3 Q And who is that monitored by?

4 A I believe Greg Kelsoe.

5 Q By Greg?

6 A Because we get forwarded emails often, to where
7 he'll receive an inquiry and say, hey, can you guys work on
8 this? So Greg's the head of communication committee, he's
9 not on the board, but he's head of communication committee.

10 Q Okay. And you're familiar with Florida Statute 718
11 for the most part?

12 A Mm-hmm.

13 Q And you're familiar with to keep in compliance,
14 that you have to have certain documents maintained on the
15 website?

16 A Somewhat, yeah.

17 Q Is that correct?

18 A Yeah.

19 Q But in this case, you're saying you're not
20 responsible because you've handed that over, they or the
21 association requested that they manage their own website, web
22 portal?

23 A Right. And we work with them to help them keep it
24 up to date.

25 Q All right. If I could have that back from you,

1 please.

2 I am going to show you another document and see if
3 you can recognize what this is.

4 A It looks like one of the subsections of that portal
5 you pointed out, I'm guessing.

6 Q Can you tell from this document, did you put this
7 together, or is this still managed by the association?

8 A That's totally managed by the association.

9 Q And --

10 A We've never posted financial to this website.

11 Q Okay. And if you look at the first line on the --
12 on the chart, so to speak, can you tell me when the last
13 financials listed is?

14 A It doesn't look like they're in chronological order
15 really, but the latest one I see is at the bottom of the
16 page. It looks like December 2015. Does that look right?

17 Q It does.

18 A Looks like the top one is September that same year.
19 Looks like -- yeah, if that's correct.

20 Q If I may have that, please.

21 MR. SMED: All right. This is gonna be marked as
22 Exhibit 81, please.

23 (Defendant's Exhibit No. 81 was marked for
24 identification.)
25

1 BY MR. SMED:

2 Q Are you familiar -- strike that.

3 And when you say that we don't -- we haven't posted
4 anything like that to the website, that just means that the
5 board, or Mr. Kelsoe?

6 A They chose to do it on their own. We don't post
7 financial posts to -- even on the website we manage. I don't
8 believe -- if you look at 718 -- there's a requirement to
9 post financial reports. There might be some other things,
10 you know, but I don't believe financial reports are one of
11 them, but I don't have 718 in front of me right now.

12 MR. SMED: If we can mark this as 82.

13 (Defendant's Exhibit No. 82 was marked for
14 identification.)

15 BY MR. SMED:

16 Q I'll show you this marked 82. Are you familiar --
17 can you recognize what that document is?

18 A This is the one section that we do, at times, post
19 to keep up to date. It's the minutes section.

20 Q Okay. And the last -- well, on the second page
21 starting about halfway down on 5/1/2018, the right hand
22 column with, I guess, the posting date, says 1 month 18 days
23 ago. Is that when you put -- from there going forward
24 through the first page, is that when it would have posted?

25 A Again, I don't know how this website works, so I

1 don't know where that calculation is coming from. We did
2 post a few sets of minutes a couple months ago to get all
3 caught up. I believe we had a few months we were not caught
4 up on this site. Again, they're up to date all the time on
5 our site, but on this site we had, if I remember right, it
6 was late 2020, and we posted several since then.

7 Q Did you post those documents in anticipation of
8 this litigation?

9 A It was -- I mean, this has been going on for a long
10 time, so it's been in the midst of this litigation, so no, it
11 wouldn't have been in anticipation of if it's the middle of
12 it; right?

13 Q Good point.

14 When you -- when you posted, did you post three
15 years worth as opposed to just a few?

16 A I don't recall what we posted.

17 Q Did you post it, or do you have someone else here
18 who --

19 A I've got some employees that do it for me, so ...

20 Q Can you determine which one entered this -- these
21 entries? And I mean not if you can look at here, but have
22 the ability to determine.

23 A Yeah, I could go back and talk to my team. I've
24 got a couple people that could have done it.

25 Q And I've noticed that there's a few on there, you

1 may see if you look down the left-hand side, that don't have
2 attachments. They do have particular dates. Is it possible
3 to obtain a copy of those?

4 A I think we've exchanged a lot of correspondence
5 back and forth about those, and we provided you, directly,
6 ones that you said the files were corrupt or didn't work or
7 weren't there or whatever. Haven't we already gone through
8 that? And I mean even the latest ones, just last month, I
9 said, hey, I'm giving you these ahead of time because of all
10 this ongoing stuff, so ...

11 Q I appreciate anything like that.

12 A Yeah. No. I just -- there's -- we have nothing
13 else anywhere regarding minutes that we haven't provided you.

14 (Defendant's Exhibit No. 83 was marked for
15 identification.)

16 BY MR. SMED:

17 Q I'll show you an exhibit marked 83.

18 A Did you want this one back?

19 Q Yes, please. Thank you very much.

20 Do you know -- obviously this letter was drafted by
21 you; correct?

22 A No.

23 Q Was it -- it's signed by you?

24 A Right.

25 Q With your blessing over the terms of it?

1 A Yeah. This is provided to me by the board, board
2 of directors.

3 Q The board of directors told you what they wanted to
4 send out to the unit owners?

5 A Yes.

6 Q And I just said if someone was monitoring, but you
7 said -- I believe you testified that someone -- no one
8 monitors this website, so if Ass Monkey sent in plans or
9 other documents to the website on -- at this address,
10 FLX04.org, who would receive those documents?

11 A Just to be clear, I did not say that nobody
12 monitors this site. Didn't I just say that Greg Kelsoe
13 monitors it, and he's the communications contact?

14 Q I apologize, I meant the management.

15 A Right. Yeah. No, we do not. Yeah, so we get
16 forwarded things often from Greg Kelsoe who monitors it, and
17 also I see him communicate with other board members about
18 issues, so whether it's architectural review or board issues,
19 Greg often says, hey, we received this, and he sent it out to
20 multiple people. So he's actively monitoring and forwarding
21 any correspondence we receive.

22 Q And you act as a conduit sometimes for individuals
23 who bring you documents to forward on to the board; correct?

24 A Yeah.

25 Q If Greg were to get an email with some plans or

1 some other information about an architectural issue, would he
2 pass them on to you to go to the board, or would he do that
3 directly?

4 A Generally he'd do it directly. He'd often copy us,
5 but generally he'd do it directly. I think you'd find few --
6 few instances to where, other than an initial inquiry asking
7 about how do we do this, where do we go, you'd find much
8 going through Greg. Usually they would be directly to the
9 architect committee and then they would handle the direct
10 communication with the unit owner.

11 Q So Mr. Kelsoe, he will contact you or your office
12 if he has some issues as to the web portal?

13 A He is far more familiar and manages the web portal
14 better, so it would be us asking him a question, because he's
15 the one who knows it. What I'm saying is, typically, Greg
16 may get initial inquiries from somebody, say, about a plan or
17 how do you do this, and then he puts that unit owner,
18 typically, in direct communication with the architecture
19 review committee, and then he's typically out of it from
20 there, if that makes sense. So most people who get on that
21 website are just sort of an initial look at things, and then
22 going forward, you know, they're probably talking directly
23 with the architecture committee, which that's the issue we're
24 talking about here.

25 Q All right. I understand.

1 At the time of this email, do you know if all the
2 board of directors minutes were posted on the web portal?

3 A I can't say definitively at the time of this email,
4 no, on February 3rd.

5 Q Did your office ever discover that the postings of
6 the minutes had not been posted until recently, after the
7 beginning of 2018? I'm talking about -- I'm talking about
8 catching up on the site.

9 A Yeah. Say that again now. After --

10 Q A lot of these are going to go to Greg Kelsoe. I
11 didn't understand that prior to walking in here.

12 A A lot of what now, the --

13 Q Some questions need to be put to him. So if --
14 again, if -- I'm just wondering if you ever knew that the
15 website did not have any board of directors meeting minutes
16 from 2018 until relatively recently?

17 A To not have them up to date?

18 Q Yeah, was not up to date.

19 A Yeah. I mean, I will say that us as a management
20 company, we probably -- we were not 100 percent keeping them
21 up to date like we should. I'll take that on 100 percent,
22 not Greg Kelsoe, not anybody else. They just chose this
23 format, this website that was weird compared to all our 208
24 clients, so it was a pain in the rear for us to go out and do
25 it differently than we do, so we would get behind. We'd

1 usually talk to Greg, hey, man, you all need to get caught
2 up, we would go post, that's what would tend to happen,
3 because it was not part of our routine, it was not our normal
4 system. So, you know, especially management and I will
5 personally own that, that there were delays in posting
6 minutes at times.

7 Q On this letter, did you put a password? Don't you
8 need a password to access the site? Did you give a password?

9 A You can see what the letter says. People have to
10 register to get on there to see anything, so they have to
11 have a user name and password to access anything like that.

12 Q Okay. About how many unit owners contacted you
13 after Mr. Albrecht's -- I guess it was his campaign letter?

14 A The postcard?

15 Q No.

16 A What campaign letter?

17 Q He was running for the board, and that's --

18 A Oh, oh, oh. This was back --

19 Q And that's where he put the information regarding
20 his issues --

21 A Yeah.

22 Q -- and whatnot?

23 A Oh. How many contacted me?

24 Q Just about.

25 A I mean, I can't really say any number. I mean, at

1 the time you have an election, you've got a lot of people
2 running, you've got a lot of people commenting. I don't
3 know. I couldn't give you anything specific there.

4 Q But it was a substantial number?

5 A No, no. I just -- nothing I can recall that
6 dramatically. Any time you've got a contested election and
7 you've got multiple people running for spots, there's
8 discussion and conversations, but I don't recall anything.

9 Q Okay. If I could have that, please.

10 A Sure.

11 Q Thank you.

12 (Defendant's Exhibit No. 84 was marked for
13 identification.)

14 BY MR. SMED:

15 Q If I could show you what's been marked as 84. Can
16 you tell me what this is about, this email, the substantial
17 portions?

18 A Looks like there was a conversation between Greg,
19 who manages the website, and Mr. Albrecht, about getting him
20 access to his website.

21 Q And if you would direct your attention to the
22 bottom of the email where it says, Please note, these forums
23 are defunct and no longer monitored. This is dated
24 November 6, 2018. Do you know how long the site wasn't
25 monitored?

1 A No. I don't know where that is coming from. I
2 don't know why -- if Greg typed that in, does that look like
3 that was from -- so it looks like, if I'm looking at it
4 properly, is that -- is that part of the email from OAA
5 Owners, whatever, to Mr. Albrecht? Is that what that is? It
6 looks like that. So it looks like -- I don't know if that
7 was typed in or that was automatically inserted. I didn't
8 compose that email. I was not part of that email. Greg
9 might could provide some input on exactly what was meant
10 there.

11 Q Are you familiar or do you have any knowledge with
12 regard to changes in the name -- or excuse me, the website
13 address for OAA?

14 A I believe there was more than one domain name that
15 directed there. There's ORLX04 and FLX04. I believe both of
16 those worked at some point.

17 Q Okay. So if -- if documents or emails were sent to
18 ORLX04 or the FLX04, either one would --

19 A That was my understanding, but we'd have to ask
20 Greg to confirm, because again, I didn't really -- I don't
21 manage those email addresses or monitor them.

22 Q Do you have any idea about Mr. Kelsoe's -- the
23 manner in which he runs the web portal and monitors, likely
24 monitors it?

25 A No, no. I would have to talk to Greg.

1 Q If I could have that, please.

2 A Yeah.

3 (Defendant's Exhibit No. 85 was marked for
4 identification.)

5 BY MR. SMED:

6 Q This has another email address on it, which is
7 OAAOwnersAssociation, I guess, at FLX04.org. With that email
8 address, do you believe it would go to Mr. Kelsoe or whoever
9 else was monitoring it?

10 A I have no idea. I can't really comment on it.

11 Q Have you ever -- if you could flip through this.
12 It's just four pages with some brief emails. Have you ever
13 seen these emails before from Mr. Larson?

14 A I've never seen them on a computer for sure. I've
15 heard talk from the very beginning about Dave Larson claiming
16 he sent emails, and the board, from the very beginning,
17 saying they didn't receive them, so other than --

18 Q That's why I'm --

19 A Other than in this case where he claimed he sent
20 them, the board claimed they didn't get them, that's the only
21 thing I know about them.

22 Q Okay. But to reiterate, without --

23 A Does that make sense?

24 Q Does that email address, would it do the trick to
25 get a --

1 A I can't comment at all. I have no earthly idea
2 because I don't monitor it; I didn't set it up; we don't
3 manage it. Those were discussed at the very, very beginning
4 of this case by the board.

5 Q Do you know if these were in the boxes in your
6 office?

7 A I don't recall seeing them in my boxes ever.
8 (Defendant's Exhibit No. 86 was marked for
9 identification.)

10 BY MR. SMED:

11 Q If I could just show you what's marked as 86. I
12 wanted to know if that is your contract, and if that contract
13 is in full force and effect?

14 A I believe this is the one we're operating from,
15 yes. I don't think we have a signed copy.

16 Q Do you see the date? What is that date?

17 A October 2008. October 1st, 2008.

18 Q Does this contract require you to keep them 718
19 compliant? That is the OAAA.

20 A Yeah. I'm not going to comment on that fact,
21 statement. This board's had an attorney engaged since day
22 one.

23 Q Say that one more time.

24 A This association has had legal counsel since day
25 one, since we've been involved with it. So we assist, we

1 assist the board and we work under the direction of the board
2 and the attorney.

3 Q You said you took responsibility for something.
4 Was that something that had to do with 718 compliance when
5 you were talking about the issues that you -- the issue,
6 pardon me, that you post to this site?

7 A There are -- you know, there are parts of 718
8 compliance that we assist our board. We work with them in
9 helping them remain in compliance. But as far as taking
10 ownership of keeping a client fully 718 compliant, top to
11 bottom, and saying that yes, we are fully responsible for
12 that, no. Ultimately it's the board of directors, and the
13 board of directors has an attorney. I can't practice law;
14 right? I can tell the board they ought to do this; they
15 might do something different. So at the end of the day, we
16 assist our board in compliance, but I'm not going to say that
17 Specialty Management is fully responsible for all of our
18 clients being 718 compliant top to bottom.

19 Q Would you give any advice or information with
20 regard to how you could adopt or adopt rules or make
21 amendments to the declaration or bylaws?

22 A I can't participate in the unlicensed practice of
23 law, so I will not do that. I can tell them what my
24 experience is, what we've seen successful procedurally, you
25 know, those kind of things, but I can't -- they've had an

1 attorney all along. We're not going to cross that line.

2 We're always going to refer them to their attorney.

3 Q Are you familiar with the OAA's declaration and
4 bylaws?

5 A Pretty familiar, yeah. That's part of our job is
6 to have some familiarity.

7 Q If I could have that, please.

8 (Defendant's Exhibit No. 87 was marked for
9 identification.)

10 BY MR. SMED:

11 Q Now, you work on administrative tasks --

12 A Mm-hmm.

13 Q -- for the association?

14 A Right.

15 Q And do they include bookkeeping?

16 A Mm-hmm.

17 Q You know, the running profit, losses, and balance
18 sheets, cash flow?

19 A Mm-hmm.

20 Q I'm going to show you this that's marked 87. If
21 you could just take a look at that for a minute.

22 A Mm-hmm, yeah.

23 Q If I could direct you to line 2.

24 A Two.

25 Q The second line down on the first -- on the -- it's

1 just one page. Where it says settlement funds. Do you see
2 that?

3 A Yeah.

4 Q And if you run across to the right on the second
5 line, if you look at -- up at May 21st or June 21st, can you
6 tell me what that \$20,000 settlement is? Is it a settlement,
7 the \$20,000?

8 A No, I need to -- I need to try to understand what
9 that is. I don't --

10 Q Do you know if the board had any settlements or
11 settlement agreements with any unit owner for any reason --

12 A No.

13 Q -- since May?

14 A No. I'm curious to figure out why we're displaying
15 it that way.

16 Q And then with the negative 10,000, do you know if
17 the association had a settlement with anyone where they paid
18 to resolve the issue of \$10,000?

19 A I'll have to go back and look at the -- what made
20 those entries. Is that -- I can go get my accounting
21 department.

22 Q I can't really have you asking him, per se.

23 MR. VAN ALSTYNE: Yeah, I can ask you in follow-up.

24 THE WITNESS: What's that?

25 MR. VAN ALSTYNE: I can ask you on cross-exam about

1 it, yeah. Doesn't look familiar to me.

2 THE WITNESS: Yeah, I can go get with my accounting
3 team and we can -- we can provide you with detail about
4 that line item, you know, exactly what was charged, what
5 was backed out, and how we did it.

6 BY MR. SMED:

7 Q And that will include how the 20,000 or the
8 negative 10 --

9 A Exactly, yeah.

10 Q -- was in the banking account or cash flow?

11 A Yeah. If you -- I think if you request me to run a
12 general ledger on that account, I will show exactly entry in,
13 entry out, how it went from 20 to 10 to whatever in the
14 offsetting interest, so I can get you that pretty quickly.

15 Q Okay. All right. I'm gonna --

16 A Do you want that one back?

17 Q Well, you know what, hang tight on that one. I
18 just want to show you some --

19 A Cross-reference.

20 MR. SMED: If I could mark this.

21 (Defendant's Exhibit No. 88 was marked for
22 identification.)

23 BY MR. SMED:

24 Q Are you familiar with reading banking activity
25 reports?

1 A Mm-hmm.

2 (Defendant's Exhibit No. 89 was marked for
3 identification.)

4 BY MR. SMED:

5 Q Okay. If you could take a quick look at these two
6 banking activities. I'll take you up on the general ledger.

7 A I'm just trying to determine where the 20,000 and
8 the 10,000 was deposited, came in or went out.

9 A Yeah, it's hard from these to tie that back to
10 here. Those may not have tied directly to cash. We -- I
11 don't see a 20 or a \$10,000 deposit, either one in there, or
12 a 20 out and 10 -- I mean, 20 in and 10 out, so I don't see a
13 deposit that ties to that here. So I don't know if that was
14 an accrual adjustment we made, that we were recommended to
15 make or not, so I don't see it from a cash from the banking
16 ledger.

17 Q So the association would have told you if you
18 should make that adjustment?

19 A Yeah. I mean, if we were directed to.

20 Q Are they on the cash basis or the accrual?

21 A No, we're accrual.

22 Q And so that was an adjust -- possibly an
23 adjustment, an accrual adjustment?

24 A Yeah. I can print that ledger out and we'll find
25 out exactly.

1 Q Do you want to maybe take a five-minute break and
2 just ask someone if they can print it so I can get it on the
3 way out or something?

4 A Yeah. Are you good with that?

5 Q Yeah, if you want to just ask someone.

6 MR. VAN ALSTYNE: I object to that.

7 MR. SMED: Do you want to provide me with the
8 general ledger?

9 MR. VAN ALSTYNE: Is that something -- is that what
10 you're asking for, general ledger?

11 THE WITNESS: That would show the details for those
12 exact accounts. The general ledger would show the
13 detail of what made up those entries.

14 MR. VAN ALSTYNE: Okay. Yeah, you can provide it
15 later.

16 MR. SMED: Thank you.

17 BY MR. SMED:

18 Q Okay. I'll take those back from you.

19 A All three of them?

20 Q Yes, sir.

21 Now, are you involved in preparing board of
22 directors meeting minutes?

23 A Mm-hmm, yeah.

24 Q And do you know if you were preparing them or were
25 working for the OAA back in December of 2012?

1 A Mm-hmm, yes.

2 MR. SMED: If I could mark this.

3 (Defendant's Exhibit No. 90 was marked for
4 identification.)

5 BY MR. SMED:

6 Q Please take a look at that.

7 A Okay.

8 Q I want to direct your attention to the top of page
9 2.

10 A Okay.

11 Q It's under the section entitled "Architectural
12 Review."

13 A Uh-huh.

14 Q And it says "Action Item." I assume when they say
15 action item, that means take action on a specific task?

16 A Yeah.

17 Q And it says, Specialty Management Company to change
18 form to read Architectural Review, not Architectural Control.
19 I understand that that occurred, but was that -- where's the
20 vote?

21 A Looks like we just record it as an action item and
22 not a motion. I mean, I prepared these minutes, but it looks
23 like the board just directed us to do that. From the way I
24 read it, it's just a title on a form.

25 Q It is. Is that the appropriate way to adopt

1 another name for --

2 A I don't know.

3 Q I'm sorry, I couldn't hear you.

4 A I don't know. I don't know how -- what level that
5 rises up to say, hey, let's change the newsletter from this
6 to that or whatever. It's just a title on top of a form.
7 Doesn't change the underlying power, authority, or anything
8 like that. All it was is a name change on the top of a form
9 is what the intention was. So somebody probably,
10 technically, should have had a vote, but I don't think --
11 again, it talks about the power, authority, or anything, more
12 than just a word on top of a form.

13 A lot of people don't like the word control. We
14 see them used interchangeably with different clients. Some
15 will say architectural control, some say architectural
16 review. Most people like to get away from the word control
17 and just say architectural review.

18 (Defendant's Exhibit No. 91 was marked for
19 identification.)

20 BY MR. SMED:

21 Q I'll show you what's marked Exhibit 91.

22 A Okay.

23 Q Are you familiar with this document?

24 A Mm-hmm.

25 Q And what's the date of that document?

1 A June 2021.

2 Q Did your office have anything to do with putting
3 that together?

4 A No, hmm-mm. The committee did.

5 Q So the architectural review board committee put
6 that together?

7 A Right.

8 Q Did you have any comment or proposed revisions to
9 it?

10 A No.

11 Q If I could direct you to page 9. The numbers are
12 in the lower right.

13 A Okay.

14 Q Take a quick look at that. So this is in the
15 middle of the June 2021 ARB guidelines. It's a document
16 revision sheet history. Are you familiar with this chart,
17 with regard to the changes?

18 A Well, I know this chart has been around. I know --
19 I don't recall if it's in the previous versions or not, but I
20 know the previous architectural chairman, Joel Haygen,
21 started documenting when he made changes, and then Adam, the
22 current one, appears to be following along in keeping
23 revision changes in as part of the guidelines.

24 Q Are you aware of whether any of these changes were
25 voted on?

1 A The minutes would reflect any votes.

2 Q Do you remember a change on 6/8/21, it's number
3 eight down on the list, relatively recently. Do you know if
4 there was a vote on that?

5 A No. It was withdrawn. The motion was withdrawn.

6 Q Tabled?

7 A Tabled.

8 Q Do you believe that to change the exterior eave
9 height and roof pitch that you would need a vote?

10 A You're saying to --

11 Q I'm saying a vote of the board as well as the unit
12 owners as prescribed by the declaration and bylaws.

13 A To change the guidelines? You're saying would
14 there be a vote required to change these guidelines to
15 specify --

16 Q Yeah. Guideline or a rule. There's rules and
17 regulation and --

18 A Architectural guidelines.

19 Q I see there's a gray area between daily tasks, so
20 to speak, and rules and regulations that stick hard and fast,
21 you know, and deal with the use of the property or the
22 values, have affect on the values.

23 A Yeah. I would say that, first, I'm not an
24 attorney, and I don't want to practice unlicensed practice of
25 law, but my experience would tell me at the very least, yes,

1 absolutely, a board vote is required. Does it rise to a
2 level above that, that's the whole crux of this whole issue,
3 and I'm not going to comment on that.

4 Q What's the difference in the declaration that only
5 needs a board vote as opposed to a board vote and then having
6 a vote of the unit owners?

7 MR. VAN ALSTYNE: Object to form.

8 MR. SMED: I don't want to comment on that. That's
9 what you guys all make \$300 an hour for and I get zero
10 an hour for, so I don't know. That's what the
11 association's had a lawyer for years, they've got a
12 lawyer now, you've got a lawyer, that's the whole crux
13 of this whole matter right there, so I'm not going to
14 comment on that.

15 BY MR. SMED:

16 Q But you have experience --

17 A Yeah.

18 Q -- with what you need to vote on. Could you please
19 answer the question?

20 A I can't.

21 MR. VAN ALSTYNE: Object to the form.

22 THE WITNESS: I don't know. I don't know. I don't
23 know in this particular association with this particular
24 matter, I don't know what's required, and I'll look to
25 the lawyer for the guidance on that.

1 BY MR. SMED:

2 Q Do you have a lawyer?

3 A No, I'm just saying I'll look to the association's
4 lawyer. I'm not going to spend my money on my lawyer that
5 involves 200 clients. That's not my --

6 Q But he doesn't represent you; correct?

7 A I know, but I'm not gonna -- why would I hire my
8 lawyer, spend my \$300 an hour to look at all my clients'
9 books to comment on whether they can be amended this way or
10 that way. That doesn't make any sense for me to do that.
11 Each association has their own attorney, they have their own
12 books, they have their other thing. That's their job.

13 Q And they have their own manager, of course;
14 correct?

15 A Right. But we're not going to overstep and play
16 lawyer for all of our clients. That's what they have them
17 for. I would -- why on earth would I want to spend my own
18 money on lawyers for my clients, doesn't make any sense to
19 me. It just doesn't make sense.

20 Q I'm just asking you based on your --

21 A On my experience.

22 Q On your experience. Give me an example of where,
23 just generally, of where it would only take a board vote?

24 A Well, sometimes it's very clearly delineated in the
25 declaration. It says the board has these powers, the

1 association has these powers, and sometimes the statutes say
2 you must have a membership vote for this, and the statutes
3 are super clear sometimes. Right? They say for -- if the
4 board wants to change the budget over a certain percentage,
5 or whatever, the members have to vote on this, or the
6 statutes are very clear on how a condo election occurs.
7 Officers, the condo law is very clear on officers, the board
8 appoints the officers, but the membership elects the board.
9 Those are the kind of things that are pretty clear, there's
10 not much guessing, applies to all of them all over the place.

11 When you start getting into individual associations
12 and individual powers like this, this is where it starts to
13 get muddy and we go, you need to talk to your lawyer. Does
14 that make sense?

15 Q A little bit, yes.

16 A And we're not gonna go out on a limb to go say
17 here's -- you know, we're not about to go do that, and then
18 get somebody later suing us because we're practicing law
19 without a law license, you know. So we're very careful at
20 not giving legal advice.

21 Q So you haven't given any advice as to when the
22 association -- how the association needs to adopt or
23 guideline or rule or regulation?

24 A We've not provided legal advice to these clients,
25 to this client.

1 Q Okay. If I can have that, please.

2 MR. VAN ALSTYNE: What number was that?

3 MR. SMED: This was 91.

4 (Defendant's Exhibit No. 92 was marked for
5 identification.)

6 BY MR. SMED:

7 Q If I could hand you 92, please.

8 Do you know if the changes they're referring to on
9 pages 6 and 12, if that was subject to a vote?

10 A All I can say is you've got to refer back to the
11 minutes during that time and see. 2016. We can look at the
12 minutes.

13 (Defendant's Exhibit No. 93 was marked for
14 identification.)

15 BY MR. SMED:

16 Q Here's 93. If you could take a quick look at that.

17 A It looks like one was the email to the entire board
18 from the chairman, and one was an email to me and Greg Kelsoe
19 regarding the same issue.

20 Q And I had asked you previously if you knew if those
21 issues were voted on. You said -- I believe you said that
22 you'd have to look back to the minutes.

23 A Mm-hmm.

24 (Defendant's Exhibit No. 94 was marked for
25 identification.)

1 BY MR. SMED:

2 Q I'm going to show you. These are the minutes from
3 11/4/2015 to 3/2/2016. I'm just going to try to see if you
4 see a vote.

5 A I don't see any votes, motions or votes by the
6 board to approve any architectural.

7 Q If those votes didn't occur, would those changes be
8 void?

9 A I don't know.

10 Q Do you know if those changes were put into effect
11 in the appropriate document?

12 MR. VAN ALSTYNE: Objection.

13 THE WITNESS: I don't know. I don't see that they
14 were voted in that range of minutes you've got right
15 there.

16 BY MR. SMED:

17 Q And what are the dates of those two?

18 A These are January 3rd, 2016.

19 Q Would you agree --

20 A I see they were discussed a couple times, but I
21 don't see a vote by the board.

22 Q I'm going to show you a document we're going to
23 mark as 95.

24 (Defendant's Exhibit No. 95 was marked for
25 identification.)

1 BY MR. SMED:

2 Q I'm going to hand you Exhibit 95.

3 MR. VAN ALSTYNE: What exhibit number is this?

4 THE WITNESS: 95.

5 BY MR. SMED:

6 Q I just wanted to show you, this is Exhibit 91
7 again, it's the Orlando Apopka Airport Architectural
8 Guidelines, and I'm turning back to page 9. Just direct your
9 attention where we had it last time.

10 A Okay.

11 Q And if you look at, I think, it's five, six, and
12 seven, from the fiscal year, the changes from 2018, did
13 you -- maybe look again. But do you see any votes on those
14 issues within those -- within the minutes from August 2018 to
15 11/2018?

16 A Yeah. I mean, there's a vote here on September 4th
17 of '18 regarding the contractor's liability and to approve an
18 amended guidelines requiring lot owners. That one right
19 there. I do see that one. This is in September. See at the
20 bottom?

21 Q Contractor's liability to a million?

22 A Yeah. My understanding is that was a -- they
23 redrafted to include that, so I don't -- I can't say for sure
24 whether that vote was intended to say, hey, here's a whole
25 new version to include this language, or it's just this

1 language. I can't definitely say.

2 Q When there's a vote, isn't there a first and a
3 second as to the vote, or is that on the next page?

4 A Yeah, there's the second. So it looks like they
5 voted on there to approve some amending of the guidelines.
6 It's just to -- I can't say definitively did that include a
7 whole new draft of the guidelines which included that, or
8 just an additional language added to what already existed.
9 So typically, they would present it as a whole new one, which
10 included that language. That was September 4th, but that's
11 the only one I see that fits within that date range you're
12 talking about.

13 Q If I could have that back.

14 And when they voted on that, it appears that it's
15 just the board voted; correct?

16 A Yeah, because that's in board meeting minutes, so
17 there would be a membership meeting minutes if it were voted
18 upon by the members.

19 Q And that happens once a year, roughly?

20 A Yeah, unless there's a special meeting called for
21 another purpose, but I don't think over the years we've
22 ever -- I don't think we've ever had a special meeting of
23 members.

24 (Defendant's Exhibit No. 96 was marked for
25 identification.)

1 BY MR. SMED:

2 Q I'm going to hand you what's been marked as 96.
3 Would you please take a look at that?

4 A This is from Jim Heekin to Joel Kagan. All right.
5 Jim was present at the time.

6 Q Yeah. If you go, you'll see on the other pages
7 where the chain started.

8 A Yeah.

9 Q Now, it appears that this is an email, and it's
10 about Ass Monkeys hangars located at 27 and 28; correct?

11 A Mm-hmm.

12 Q And there was some sort of meeting, maybe it was a
13 board of directors meeting, but afterwards you believed that
14 you were going to write a letter to 27 and 28; correct? Was
15 that your understanding?

16 A I was going to assist with drafting one. Mine was
17 far more just administrative in the role of formatting and
18 getting it out actually in the mail or whatever, not content.
19 My role would have only been the administrative end in
20 drafting it.

21 Q When referred to in this document, conceptual
22 approval, what does that generally mean?

23 A Who says that?

24 Q If you look at the first line on the first page.

25 A This is written by Jim Heekin, the president at the

1 time; right?

2 Q Correct.

3 A Requested only conceptual approval. I hate to
4 comment on what Jim Heekin believed that Dave Larson was
5 requesting. I don't even want to add anything to that.

6 Q Do you know why Mr. Heekin decided that no further
7 correspondence or communications were needed with 27, 28?

8 A He's telling that to Joel; right?

9 Q Correct.

10 A From you on the topic as needed at this point.
11 Jim's also an attorney, so I don't want to second guess and
12 put words in his mouth for sure.

13 MR. VAN ALSTYNE: Did you ask a question? The
14 exhibits, did you have the July 10th, 2018? I know one
15 of those exhibits had, like, a couple minutes in it.

16 MR. SMED: I don't believe that was there.

17 THE WITNESS: Yeah, I don't want to put words in
18 Jim Heekin's mouth, so ...

19 BY MR. SMED:

20 Q Do you know if -- do you know if a letter outlining
21 those items that Ass Monkey needed to take action on to --
22 anyway, do you know if they wrote a letter outlining
23 everything that he needed to do to come into compliance with
24 the ARB?

25 A You guys have every letter that we've -- that's

1 gone out of this office or that I've ever seen on the issue,
2 so whatever's in there is it. There's nothing more.

3 Q Have you ever been present when the concept of
4 conceptual approval was utilized by the board?

5 A Not this board. I have other communities.

6 Q What does -- with your other -- with some of your
7 other clients, how do they treat conceptual approval? I
8 mean, thereafter, how do you move forward?

9 A We have -- I have one client I saw that did it
10 best, treated it like a city where they had multiple
11 applications. For new construction it's very different. For
12 what we manage, 95 percent or 98 percent or 99 percent of
13 architectural submissions are changes and additions. It's
14 rare that you have new construction.

15 So new construction is like a whole 'nother animal
16 in architectural review world, so we rarely deal with new
17 construction, so this is one of our few odd clients that
18 deals with new construction a lot. And the client I saw that
19 did it best was a custom home community. He would require
20 preliminary -- he spelled out very clearly, here's
21 preliminary approval, here's secondary and all, and what was
22 required at each phase, so ...

23 Q What does OAA --

24 A They don't really have a concept of multiple
25 submissions like that. I think it would be a great thing to

1 adopt to clarify things just like this. I would love to see
2 them adopt something like that going forward, but we don't
3 really have that. So right now, the submission for OAA to
4 build a hangar from the ground up is no different than the
5 guy down the road that wants to put up a board-on-board fence
6 in Rock Springs Ridge, and that's very limited, you know,
7 when the process is just so linear, it's not multiple level,
8 it makes it difficult.

9 (Defendant's Exhibit No. 97 was marked for
10 identification.)

11 BY MR. SMED:

12 Q If I can hand you 97. Are you familiar with this
13 form, in general?

14 A Yeah, committees created, modified this form a few
15 times over the years.

16 Q Do you know if they provided a copy of this to all
17 applicants with their submissions after their review?

18 A From my understanding, the way this is used is the
19 unit owner is supposed to provide it to us, along with their
20 submission, not the other way around. So they should be
21 sending this along with their plans and all those other
22 things, so ...

23 Q Okay. Do you see how it's filled out and refers to
24 a spreadsheet for Ass Monkey, LLC, and it's dated 6/6/18?

25 A Mm-hmm.

1 Q Do you know if this was provided by any
2 representative of Ass Monkey, LLC?

3 A I can't -- the records are going to reflect
4 whatever. I don't want to comment on that, on the date,
5 time, when it was, whether it wasn't.

6 Q Who would hold those records, all the plans and
7 other things that were submitted on 27 and 28?

8 A The committee, or they ultimately usually give them
9 to us after the committee has received them. Like I said
10 earlier, there's been a lot of direct communication between
11 committee and unit owners out here for efficiency sake, so
12 rather than they'll bring us in later and provide us copies
13 later. A lot of times the communication happened directly
14 between the committee and the unit owner, so I think that's
15 probably a good question for Joel.

16 Q After someone submits that, there's a part at the
17 bottom for the OAA to fill out. So wouldn't that have to
18 come back to the client afterwards?

19 A Typically the committee would sign there, and then
20 they'd often ask me to sign on the bottom as the OAA
21 representative. So you see architectural committee would
22 sign, and then afterwards they'd sometimes get me to sign,
23 not always, but that was their intention to have me sign on
24 behalf of the association.

25 Q So you get those on occasion?

1 A On occasion, and it would be after the fact or --
2 it was after it's gone through the whole approval process
3 with the committee and everybody else.

4 (Defendant's Exhibit No. 98 was marked for
5 identification.)

6 BY MR. SMED:

7 Q If I could show you the directors minutes from
8 7/10/2018.

9 All right. If I could direct you to page 2. If
10 you look at the top, there's an action item, and then there's
11 a discussion, a couple discussions about lots 27 and 28.

12 A Mm-hmm.

13 Q Can you explain to me what this -- what the
14 referenced amendment previously passed by declarant, what
15 that amendment exactly was? Are you familiar?

16 A No, I don't -- backflow.

17 Q And then on the second one, did you work with Joel
18 to get out this letter? Did a letter go out as stated in the
19 action item lot 27/28?

20 A Yeah, I don't know what amendment they're talking
21 about there, with access to backflow. I don't really know
22 what they were talking about there.

23 Q And then I was moving on to --

24 A Yeah, so I'm sorry, I don't really know that one.
25 The other one, I think, refers back to these emails you just

1 pointed out a minute ago where there was some discussion back
2 and forth, and Joel was talking to Jim, and I was gonna work
3 with him, but I don't believe there ever was one. Like I
4 said, the record's gonna show whether the letter actually got
5 created and went out. But it looks like their intention at
6 the time was to draft some kind of letter, but I don't know
7 what happened. I mean, I don't think -- unless we got a
8 record in the file.

9 Q If I could have that back, please.

10 Now, with regard to units 26 and 27 and their
11 application --

12 A Twenty-six and 27 or --

13 Q Twenty-seven and 28. Pardon me.

14 A Okay.

15 Q Ass Monkeys' units. Did you have any
16 communications with the city specifically regarding what was
17 being constructed on lots 27 and 28?

18 A No, no, I didn't have any communication.

19 (Defendant's Exhibit No. 99 was marked for
20 identification.)

21 BY MR. SMED:

22 Q If I could hand you Exhibit 99. Ray Marsh works at
23 the city; correct?

24 A Yep. Used to. I think he's retired since. I
25 guess I did talk to Ray, but I don't -- not in great detail.

1 Q But this email, these email chains discuss
2 Mr. Albrecht; correct?

3 A Yeah.

4 Q Are you familiar with this 8/1/18 letter that I
5 guess it was questioned whether it went out or not?

6 A It seems to be pointing back to that same one that
7 there was talk about being drafted and Joel was gonna get me
8 to help draft it, and all that kind of stuff. It looks like
9 it keeps pointing back to a letter that may not have ever,
10 you know --

11 Q Understood.

12 A So like I said, unless the records show that letter
13 in the file, I can't comment on whether it is or existed or
14 went out or anything.

15 Q So if it didn't go out, the board didn't
16 communicate, or the architectural guidelines didn't
17 communicate those issues in the correspondence that he needed
18 to correct, or those that were conceptually approved?

19 A I wouldn't make that statement. I would -- I don't
20 know what was in that letter, what was intended to be in that
21 letter, but the board had already put the owner on notice
22 that he was building without approval, and he even came to
23 the meeting and discussed issues. So at that point, what
24 that letter was intended to say or should have said or said
25 when it went out later, it looks like she's talking about it

1 going out later, that would seem to not address the whole
2 overarching issue of getting approval in the first place.

3 Q And I don't know, you've got to refresh my
4 recollection if I asked you that question. Do you recall
5 what this -- what transpired on this telephone call?

6 A Which one?

7 Q The telephone call you had personally with Ray
8 Marsh.

9 A Oh, no. I know the attorney at that time -- they
10 had a different attorney, Asima -- I don't think they're
11 spelling it correctly, Joel's not spelling her name
12 correctly. She was the prior attorney working on this before
13 Lewis, and so she was in communication. And it looks like I
14 might have been checking with Ray to see if he had gotten an
15 attorney -- a letter from Asima, from the association's
16 attorney. That's what it looks like.

17 Q And --

18 A Maybe Asima wrote a letter to the city to put them
19 on notice. Sounds like that might be what they're talking
20 about there.

21 Q And this -- tell me if this refers to Joel, but at
22 the bottom it references a June 14th letter. I assume that
23 was to the city, to Mr. Marsh?

24 A Well, it looks to me -- and it could have been that
25 the letter didn't come from us but it came from Joel, because

1 if you read that email from November 1st, I'm writing Joel
2 saying, hey, Ray didn't get the letter -- didn't receive the
3 letter. So it sounds like -- and then later I said, if you
4 have a copy of the letter that you sent the city, you may
5 want to forward it to Asima for her records. As I read that
6 more, it sounds like Joel wrote a letter to the city. Maybe
7 they had me call Ray to see if he got it. So it sounds like
8 Joel wrote a letter, if I -- the way I'm reading that, it
9 sounds like Joel wrote a letter to the city, and I'm telling
10 Joel, hey, Ray didn't have it, you might want to send one to
11 Asima too. That's the way I'm reading it.

12 Q If you take a look at page 2.

13 A Okay.

14 Q Looks like an email November 1, 2018, from
15 Mr. Kagan to you. Could you read paragraph 2?

16 A "It is important that we receive a response from SM
17 regarding my inquiry below."

18 Q That was one. I was looking for two.

19 A So I think my -- so my follow-up after that I think
20 was that I did follow up and said, hey, Joel, city doesn't
21 have it and Asima doesn't have it. So he said, "I believe
22 it's easier for you to get me than it is vice-versa. If you
23 can connect with me, I'd appreciate it. I'd like to
24 understand in detail who you spoke with at the city, and the
25 details so we can piggyback with the...conversation."

1 Specifically, June 14th, ARB sent a letter to the
2 city. So he's saying that he was the one that wrote it in A;
3 right?

4 Q Understood.

5 A Indicating noncompliance. Questioning setback.
6 Inquire about contractor of record, obtain a copy of plans
7 and review the permit. So it sounds like Joel wrote a letter
8 to the city.

9 Q Do you know if the city granted Ass Monkey a CO for
10 27/28?

11 A I have no idea.

12 Q And do you know what issues or topics he wanted to
13 piggyback on your conversation with the city?

14 A That Joel wanted to piggyback?

15 Q Yeah. In paragraph 2 where you read it says, I'd
16 like -- I'd like to understand in detail who you spoke with
17 at the city.

18 A Yeah.

19 Q And the details so we can piggyback with the
20 following on that conversation.

21 A Yeah. I -- sounds like he's just wanting me to
22 follow up --

23 Q Do you know if anybody at --

24 A -- with Ray Marsh rather than him, because it
25 wouldn't surprise me if the city was not calling these guys

1 back as quick as they'd like. You know, people want people
2 to call back very quickly, and it could have been Joel wasn't
3 getting a response, maybe he was -- maybe he was bugging the
4 crap out of the city. So sounds like they wanted me to just
5 follow up and not make any additional points or anything
6 different, just follow up on, hey, did you get my letter and
7 all those things I pointed out, is the way I'm reading it.

8 Q Do you recall what points those were?

9 A Whatever you pointed out, whatever's in the letter.
10 Like I'm saying, I don't think there's any additional, hey,
11 Matt, add this, this, and this to what I said. It's more,
12 here's the things I pointed out.

13 Q Why did they send, specifically at the bottom,
14 these -- you know, A through D, these -- why did they feel it
15 necessary to send these notes to the city?

16 A I don't want to put words in Joel's mouth. I think
17 there were some questions about whether they were going
18 through the proper process of approval for the building, so
19 they wanted to see -- keep an eye on it.

20 Q Do you know if anybody on the board of directors
21 was trying, to use a cliché, throw a wrench in Ass Monkey's
22 attempt to construct its building?

23 MR. VAN ALSTYNE: Objection.

24 THE WITNESS: I wouldn't comment on that. You've
25 got a bunch of engineers out there that know a lot more

1 detailed stuff than I do, so when it comes to
2 construction and all that, these guys have got a lot
3 more knowledge than I do, so ...

4 BY MR. SMED:

5 Q What my question was is, do you know if any of the
6 board directors basically tried to interfere with Ass Monkey
7 proceeding to construct --

8 A I don't know.

9 Q -- the building?

10 Have you ever -- do you know if there's been
11 another time when the association had contacted the city in
12 this manner?

13 A I can't recall specifically, but it's not uncommon
14 both here and other communities. It's -- I've seen it
15 before. People don't like the trash next -- the construction
16 guys throwing trash out, so I can't recall a specific
17 instance either way.

18 Q Thank you. If I may have ...

19 Just generally, do you know if the OAA has actually
20 passed any rules that would need the vote of the unit
21 members?

22 A Again, they've had attorneys with them all along
23 the way to guide them on what needs membership vote versus
24 what needs board votes, so I'm not gonna -- I'm not gonna
25 second-guess the attorneys the association has had over the

1 years, so ...

2 Q Do you know if any of the board members live on the
3 property?

4 A No, I've never heard of that one.

5 Q Do you know if any third party or unit owner lives
6 on the property?

7 A No.

8 Q When I was here doing the documents inspection, my
9 recollection was you told me that there was no rules or
10 regulations that had been passed.

11 A The records are whatever the records are, so
12 whatever you found and whatever we've provided is what we
13 have.

14 Q Do you recall telling me that?

15 A No.

16 MR. SMED: I'm almost done here. I'm going to
17 take -- see if we can take a five or ten minute break.

18 (At 2:52 p.m., the deposition recessed.)

19 MR. SMED: On the record.

20 BY MR. SMED:

21 Q Okay. If I could -- Mr. Jordan, if I could hand
22 you Exhibit 83.

23 A I might have to go get my glasses real quick.

24 Q Yes, please do. You've seen that one before, but
25 please get your glasses.

1 A Okay, yeah.

2 Q My question on that is, did you check the website
3 to make sure that all the board's meeting minutes were posted
4 at that time?

5 A I know we were -- we were paying close attention to
6 it about that time because we had already got caught up with
7 those, you know, we talked about earlier. Then I think there
8 was one or two that we had to get on there. But we got them
9 caught up.

10 Let me go grab my glasses.

11 You and I emailed directly back and forth about
12 those about that time, and I sent you some directly by email.
13 In addition to while I was sending them to you by email, we
14 were double checking the website.

15 (Defendant's Exhibit Nos. 100 and 101 were marked
16 for identification.)

17 BY MR. SMED:

18 Q Now, you -- is there a secretary on the board right
19 now?

20 A Technically, yes. There always is.

21 Q And who is that?

22 A I'd have to look.

23 Q But you -- you generally take the minutes?

24 A Yeah.

25 Q You write them and then type them up?

1 A Right, right.

2 Q That's one of your administrative tasks?

3 A Mm-hmm.

4 Q If I could hand you Exhibit 100. 100. Is that
5 your handwriting?

6 A Mm-hmm, yes, sure is.

7 Q If you could just take a quick look at that.

8 A I can't tell what minutes these came from.

9 Q Well, I'll see if I can --

10 A But anyway, that's my handwriting.

11 Q Let me -- that's Exhibit 101. If you could take a
12 look at that.

13 A They were part of this in the file; is that right?

14 Q Yes.

15 A Okay.

16 Q The reason you would know is, do you see on there
17 where it says Zellwood?

18 A Zellwood Station.

19 Q If you look at page 2 of 5, at the top it says
20 Zellwood, just so you can understand that that was in
21 relation to --

22 A Okay, yeah.

23 Q And directing your attention to the bottom of
24 100 --

25 A Mm-hmm.

1 Q -- do you see the last four numbers, one, two,
2 three, four, and the first one says 43, and I believe
3 formerly approved, as well as No. 2, No. 29 formerly
4 approved?

5 A Mm-hmm.

6 Q If you could look at 101, under the architectural
7 review section on the second page, if you look down from Adam
8 Barney's name, the second one down, do you see the report on
9 93 and 94?

10 A Mm-hmm.

11 Q Now, were the -- were these -- why doesn't it just
12 say formerly approved as opposed to new hangar construction
13 request has been submitted and is under review? I'm sorry,
14 43 and 29. I'm on the wrong one.

15 A Yeah, I'm not sure these --

16 Q Is that --

17 A I'm not sure these go with this because --

18 Q Hold on.

19 A -- it seems odd to me that I would have 43, 29 and
20 I don't mention 43 or 29 anywhere in the minutes. Almost
21 seems like these go with another set of minutes. And we
22 could have talked about Zellwood at multiple meetings.

23 Q So we've established that Zellwood was on these
24 typed-up board minutes as well as in your initial meeting
25 minutes and notes. Why wouldn't 43 and 29 be on the minutes?

1 A Yeah, I don't -- I mean, this is a cut off little
2 piece of some notes that don't make any sense to me. I'd
3 have to look at a complete set of notes rather than a portion
4 of them to make better sense of it. I've been recommended by
5 a bunch of people to throw these away and not keep them
6 because they cause this kind of problem, but anyway, I keep
7 them all. I would have to look at my complete notes and see
8 if these notes are actually from that date, correspond to
9 this meeting and all this stuff, because -- see, I'm seeing
10 some stuff in here that looks like it might not be the same
11 meeting, because if you look up above, they're talking about
12 PAPIs, and I see 2,900, 1,500, 2,925 or whatever in PAPI
13 costs up in F, and I don't see anywhere of that on this one.
14 So it wouldn't be just one meeting that we talked about
15 Zellwood. We've talked about Zellwood a bunch over the
16 years. Just because we see the word Zellwood doesn't mean
17 these notes correspond to those minutes. You know what I'm
18 saying?

19 Q Just to make sure, so you're saying 43 and 29 on
20 here, but because you don't have the other pages on this, you
21 can't tell me why they're not in the typed minutes?

22 A At the end of the day, I would say we've got to
23 refer to the minutes. That's the official record. I can't
24 really talk about how these are relevant to that without
25 looking at a complete set of my notes in context.

1 Q Thank you.

2 A Yeah, because I mean, I'm looking at a lot of
3 notations here. Up above there, that's not in here either,
4 so it leads me to believe these are not from the same
5 meeting, but again, I ...

6 Q If I could have those back, please.

7 A Sure.

8 (Defendant's Exhibit No. 102 was marked for
9 identification.)

10 BY MR. SMED:

11 Q Thank you. All right. I'm going to hand you
12 what's been marked as Exhibit 102. Tell me what -- please
13 flip through that. It's a composite exhibit of meeting
14 minutes, two of them. It should be 9/10/2019 as well as
15 10/1/2019.

16 A Okay.

17 Q I just want to direct you to the first page, to the
18 architectural review section that's at the end of the
19 committee reports.

20 A Mm-hmm.

21 Q And if you could read after the discussion where it
22 says lot 65.

23 A Mm-hmm.

24 Q Can you read that, please?

25 A "Lot 65: Plan is under review, building size and

1 doors. Preliminary approval, awaiting additional
2 documentation."

3 Q Okay. And if I could direct your attention to --
4 it will be the fourth page, but it's the first page of the
5 10/1/19 minutes.

6 A Okay.

7 Q And if I refer you down to, again, to about the
8 same section, the architectural review, report: Dave. And
9 could you read the last line?

10 A "Hangar 65 approved."

11 Q Yeah. Can you tell me where the vote was on that?
12 Because this is just between one or two months.

13 A Yeah, I can't really -- there's no vote recorded
14 there.

15 Q That was --

16 A And I don't know if we're referring to that it was
17 approved by the committee and not final approval by the
18 board, or that was intended to be a final approval by the
19 board. So it looks like it was under review, preliminary
20 approval in the previous meeting, and then says it was
21 approved, so ...

22 Q Should there be a vote there?

23 A Possibly, but I'd like to look at all the
24 supporting documentation to see the timing on everything.

25 Q All right. To approve it, would there usually be a

1 vote?

2 A To approve an architectural review request?

3 Q Yeah. This says it was approved, so I assume that
4 that's final.

5 A Yeah. Our notation should probably be clearer
6 whether it was a committee approval or board final approval
7 and --

8 Q Are the guidelines -- are the guidelines rules, or
9 are they simply suggestions, or as they're calling them
10 guidelines, but I'm trying to use another word, as opposed to
11 a hard and fast rule?

12 A Yeah. Terminology-wise, I wouldn't want to state
13 for sure. If they get referred to -- in a lot of
14 associations, you've got rules and regulations and the
15 ability for the board to create board rules and regulations,
16 and then you've got other powers that are sometimes
17 delineated that says the board has the ability to adopt
18 architectural planning guidelines, which I can tell you over
19 the years, what I've seen is those are sometimes separately
20 delineated powers, and those are two different types of
21 documents, architectural guidelines and rules, and
22 regulations. They're both -- I've seen instances where the
23 board has the power to adopt either one of those on their own
24 without membership vote, over the years. This one, I don't
25 know, and they've got their own attorneys to advise on

1 exactly how and what we refer to them as.

2 (Defendant's Exhibit No. 103 was marked for
3 identification.)

4 BY MR. SMED:

5 Q I'm going to hand you Exhibit 103, which is another
6 composite exhibit. If I could direct you to the very last
7 page of that packet, see if that's your --

8 A Mm-hmm.

9 Q That's your handwriting?

10 A Mm-hmm.

11 Q Your notes?

12 A Yeah.

13 Q And if I could direct you to the third line from
14 the bottom.

15 A On the first page?

16 Q On the very last page.

17 A Yeah, okay.

18 Q It hard to read the first thing. Obviously it's
19 cut off.

20 A Mm-hmm.

21 Q But it looks like 94 approved.

22 A Mm-hmm.

23 Q Correct?

24 A Looks like it might be 93, 94 approved.

25 Q Yeah. And if you look at the first page of the

1 typewritten minutes, it says report: 93, 94 approved. So it
2 does sort of match up. It does match up.

3 A Yeah.

4 Q But again, I don't see a vote. Can you point me
5 to -- tell me if there's a vote in those minutes?

6 A I don't see it.

7 (Defendant's Exhibit No. 104 was marked for
8 identification.)

9 BY MR. SMED:

10 Q If I could hand you Exhibit 104.

11 A Okay.

12 (Defendant's Exhibit No. 105 was marked for
13 identification.)

14 BY MR. SMED:

15 Q All right. If I could direct you to page 2 of 3.
16 And this is the 11/10/2020 typed meeting minutes.

17 A Right.

18 Q And if I can direct you down, just basically the
19 second paragraph, hangar 27 and 28 lawsuit update. Could you
20 read that to me, those two lines?

21 A Mm-hmm. "Dave K." reported -- "provided update on
22 the case from the attorney. Discussed primary issues that
23 may need to be addressed including: Roofing, roofing facade,
24 drainage, setbacks, door and location of electrical panel."

25 Q I'm going to show you Exhibit 105.

1 A Mm-hmm.

2 Q Is that your handwriting?

3 A Mm-hmm.

4 Q And I think it's highlighted in a square. If you
5 could take a look at that for a second.

6 A Mm-hmm.

7 Q My question is, is why -- I believe that those
8 notes refer to the 11/10/2020. Do you agree with that?

9 A Yeah.

10 Q Can you explain to me why those notes, as they are,
11 didn't make it into the meeting minutes? Just for example,
12 it says no to facade, but drainage yes, setbacks okay. Why
13 wasn't that into the minutes?

14 A I don't remember why. I don't know if there
15 was ...

16 Q Is there a lot of times when minutes -- or excuse
17 me, the notes from the meeting don't make it into the meeting
18 minutes?

19 A Not generally.

20 Q Do you know if there was a specific reason why they
21 weren't included in Ass Monkeys?

22 A No. I mean, there's a whole lot of discussion that
23 takes place. That's not the place for everything. Minutes
24 are not to capture every single side conversation, every
25 commentary, anything like that. They're really not for that.

1 Q But this actually was giving approval to the --

2 A No, it's not. It was discussion about where
3 people's opinions were on things. I was jotting down
4 people's opinions. I can't say who said that, or if all said
5 that, or one said that, or everybody said that. Those are my
6 notes on conversations that were going around the room at the
7 time. There was no consensus, no vote, no nothing. We --
8 our minutes we try -- we don't -- if you read what they
9 recommend you to do in minutes, it's very minimal. It's
10 motion, discussion, action items. It's not every single
11 conversation that happens around the room.

12 Q Understood.

13 A Those were my notes on conversations that were
14 going on around, but I can't -- there was no consensus or no
15 vote.

16 Q But I mean, in the minutes, you were pretty
17 detailed in that you listed --

18 A The items without an opinion as to how people on
19 the overall board felt because they didn't come to a
20 consensus on any of them, so the last thing you'd want to do
21 is put that in the minutes. I could have said some were okay
22 with no to the facade or some were this or Joe over here in
23 the corner didn't like it, but that's not really appropriate
24 for minutes, in my opinion.

25 Q Could it be true that that was a vote?

1 A No. I'm telling you it wasn't. I was there. It
2 was not a vote. I remember that was David Kotick providing a
3 report, not me recording a motion or discussion items or
4 action item or anything like that. I was reporting on
5 David's report, and then there was commentary along the way
6 as he was giving it.

7 Q If there's a -- we've gone through various
8 documents and some said this approved. If it's approved like
9 that, who approved it?

10 A The architecture review committee ultimately has
11 granted the authority to approve, by the board, has granted
12 the committee the authority to take that action for them, the
13 way I understand it. And that's why they sign that document
14 and then have both the committee and the board sign it. We
15 saw that form a little earlier where you saw the committee
16 and someone signing on behalf of the board, and that is what
17 I think this board's looked at over the years as the ultimate
18 authority is that document, that approval form saying
19 approved by the committee and approved by the board both, is
20 what they intend to do on each submission.

21 Q Let me check my notes.

22 So you had a telephone call with the city, but
23 never, ever met with the city?

24 A I never met with anybody from the city to talk
25 about that stuff that I recall. I talk to the city pretty

1 regularly about a lot of different things. I own a couple
2 properties in Apopka too. I deal with Ray Marsh on my
3 properties and issues there, so -- and I live in Apopka.

4 Q And do you type the minutes up after, or do you
5 bring them back to one of your staff?

6 A No, I have my staff help me, but usually I'm --

7 Q Usually you do it?

8 A Yeah. It's kind of -- some of both. Depends over
9 the years.

10 Q Is there a situation in which the ARB could give
11 the final approval on something under the architectural
12 review guidelines?

13 A I'm not sure exactly how these -- this
14 declaration's written, whether it gives them that final
15 authority or not. I can't say 100 percent. Many of our
16 associations do. The committee has final authority. I just
17 don't -- I can't say whether this one does or not.

18 Q So you generally believe that the board has the
19 authority as opposed to --

20 A Well, ultimately, the board does for sure because
21 they appoint that committee, so if the committee goes out and
22 does something stupid, they can say, hey, you're off the
23 committee. So ultimately the board has final control of that
24 committee, but that doesn't mean, in the interim, the
25 committee could approve stuff depending on the powers granted

1 by the declaration and by the particular guidelines.

2 Q At the OAA, have you ever known them to pass any
3 rule or regulation with the inclusion of the unit owners in
4 that vote?

5 A Do I recall there ever being a membership vote of
6 all members to approve any kind of rules --

7 Q Yeah, on any --

8 A -- regulations or architectural guidelines, no.

9 Q We're almost done.

10 I believe that there was some testimony that the
11 meeting minutes are sent out to all of the unit owners. Who
12 does that, and how is that accomplished?

13 A I don't know. We don't do it. We've never done
14 it.

15 Q Never sent at all?

16 A No.

17 Q Generally have them on the website?

18 A Or by request.

19 Q Or by request.

20 MR. SMED: I think we are finished. If I could
21 have those back.

22 Thank you very much for your time.

23 MR. VAN ALSTYNE: Can I run through those exhibits?
24
25

EXAMINATION

BY MR. VAN ALSTYNE:

Q Mr. Jordan, you know me. My name's Lewis Van Alstyne and I represent the Orlando Apopka Airport Association, Inc. I'm going to ask you some follow-up questions.

This is Exhibit 80, and it is a screen shot of the forum, and you were asked where the architectural guidelines were. Are you familiar that the architectural guidelines were not posted on this forum, but they're posted on the main website for the airport?

A I am understanding there is a forum and then a website, and this is the forum, discussion forum, where people post.

Q Right. Are you --

A I believe this takes you to the website, and these other are forums.

Q Yeah. So is it your understanding that the architectural guidelines are posted on the main airport website where you do not need a log-in?

A I -- I believe you're correct.

Q Okay.

A Now minutes and things like that I believe are.

Q And minutes are -- in this forum, is that for the purpose of not allowing anyone in the world to see the

1 minutes?

2 A Yes, that's what I understand how Greg's got it set
3 up.

4 Q You have to be a unit owner to apply for log-in,
5 password to the forum?

6 A Mm-hmm. And I'll just tell you, that's a debated
7 issue for all of our clients and for all these years is, do
8 you put some of the stuff out there for the general public,
9 like bylaws, those are pretty safe, they're public records.
10 Budgets, it's getting a little private. And if so, where do
11 you draw that line. You'd almost like to put none of it out
12 there in the public, but then you've got realtors and people
13 that want it that aren't members, and so they're kind of
14 trying to ...

15 Q But my understanding is the guidelines are on the
16 main website?

17 A Yes.

18 Q Exhibit 81. It is another website forum screen
19 shot --

20 A Mm-hmm.

21 Q -- printout entitled Financial. And is -- this is
22 also dated -- the bottom right-hand corner it's dated
23 March 22, 2021?

24 A Mm-hmm.

25 Q That was four months ago?

1 A Mm-hmm.

2 Q But is it Specialty Managements' practice to
3 provide the annual budgets at the annual meetings or after
4 the annual meetings of the association, and does Specialty
5 Management provide the annual budgets to their members?

6 A We present it at the annual meeting, and then upon
7 request, anybody can request any financial, any data, and
8 we'll email it to them. We do not -- it's not our practice
9 for Orlando Apopka Airport or any of our clients to post them
10 on our website. It's available to all the members.

11 Q Okay. But upon request?

12 A On request. That was something Greg could have
13 chosen to do back while he was more involved. And I didn't
14 necessarily agree with it, but he was choosing to, on his own
15 as a board member, post these financials out there, and we
16 don't do that.

17 Q Okay. Regarding Exhibit 83, did you receive a
18 letter from one of the board members that had been from
19 Lawrence Albrecht that mentioned your name?

20 A A letter?

21 Q From -- did you receive a letter from a board
22 member that prompted this email, in response to this email,
23 or in response to the letter this email was drafted? Is it
24 because in that letter it says --

25 A Yeah, contact me.

1 Q Yeah.

2 A Yeah, I recall receiving -- some of the board
3 members had received, and worked with the board to draft that
4 response.

5 Q And that's because the letter mentioned --

6 A Mentioned me.

7 Q -- your name?

8 A Yeah, mm-hmm.

9 Q So Exhibit 85, in your opinion, the person to
10 contact about these emails is Greg Kelsoe?

11 A Yes.

12 Q Exhibit 91, architectural guidelines. In your
13 experience with this board, has the board always used a vote
14 of the board to adopt changes to their architectural
15 guidelines?

16 A As opposed to a vote of the members, or just --

17 Q Yes.

18 A -- in general? Yes.

19 Q Turning to page 10 of these guidelines, there's an
20 address listed as 882 Jackson Avenue, Winter Park, Florida.
21 Is that still a good address?

22 A No, it needs to be amended.

23 Q Okay. So in order to make a change to these
24 guidelines, they don't need 75 percent of unit owners to
25 change the guidelines; correct? Or the board -- let me

1 rephrase my question.

2 In your experience, the board has always required a
3 vote of the board to change the guidelines and not the unit
4 owners; right?

5 A Yes.

6 Q So if they want to change this address to --

7 A -- 1000 Pine Hollow Point --

8 Q -- then the board will present it and vote upon it?

9 A Yes.

10 Q That should have been done --

11 A -- before the July -- the August meeting.

12 Q There was some talk about Exhibits 96 and 98. In
13 Exhibit 96 -- I'm sorry, Exhibit 98 is dated July 10, 2018,
14 board of directors meeting minutes. Is that correct?

15 A Mm-hmm.

16 Q And on the second page it says, "Owner is looking
17 for preliminary approval" -- I'm sorry, second page, second
18 bullet, "Discussion: Lots 27/28, Joel on phone. Owner is
19 looking for preliminary approval of elevation and floor plan.
20 Discussed amendment previously passed by declarant to allow
21 access blocked by backflow. Board is in favor of
22 conceptually approving elevation with single roof."

23 And then action item, "SMC to work with Joel on
24 drafting letter to lot owner."

25 And then subsequent to that July 10th, 2018,

1 meeting, this Exhibit 96 is this July 16 email exchange
2 discussing the letter; is that correct?

3 A Yes.

4 MR. VAN ALSTYNE: Exhibit -- whatever exhibit we're
5 at.

6 (Plaintiff's Exhibit No. 106 was marked for
7 identification.)

8 BY MR. VAN ALSTYNE:

9 Q Do you recognize that -- what are we looking at
10 there?

11 A Yeah, Darian Pregliasco was a former employee and
12 assistant to me.

13 Q Okay.

14 A And it's an email from her to
15 harvico@bellsouth.net, which I'm not sure if that's -- I
16 believe that's Ass Monkey, or either Dave Larson's email
17 address.

18 Q Okay. And what's the date of that?

19 A August 2nd.

20 Q August 2nd?

21 A 2019. Basically saying, please see attached letter
22 from Joel Kagan regarding your application and let us know if
23 you have any questions.

24 Q And --

25 A And then you can see an attachment there.

1 Q Is that attachment what I'll mark as Exhibit 107?

2 A Yes.

3 (Plaintiff's Exhibit No. 107 was marked for
4 identification.)

5 BY MR. VAN ALSTYNE:

6 Q And you recognize this Exhibit 107 as the
7 attachment to Exhibit 106?

8 A Mm-hmm.

9 Q Did you write this letter?

10 A No.

11 Q Okay. Do you know who wrote it?

12 A I believe Joel Kagan.

13 Q Okay. And his contact information is at the
14 bottom, Joel Kagan?

15 A Mm-hmm.

16 Q On the first page of the letter there's a
17 pictogram --

18 A Mm-hmm.

19 Q -- of what looks like the front of the airplane
20 hangar?

21 A Yeah, elevation.

22 Q From your recollection of being at the meeting
23 referenced in Exhibit 98, does that sound like the one roof,
24 or that Exhibit 98 says, board is in favor of conceptually
25 approving elevation with a single roof. On that Exhibit 107,

1 does that look like the conceptual plan that the board was
2 referring to?

3 A Yes.

4 Q On Exhibit 107, that pictogram, is that actually
5 what defendant constructed on lots 27 and 28?

6 A No.

7 Q All right. Regarding Exhibit 100, was it your
8 testimony today that you have -- you don't know which meeting
9 minutes those handwritten notes go to?

10 A Yes.

11 Q Are those handwritten notes official meeting
12 minutes?

13 A No.

14 Q Okay. Exhibit 102 references -- I don't know where
15 it was in here -- Exhibit 102 references lot 65, and the
16 minutes from October 1st, 2019, reference hangar 65 approved.

17 A Mm-hmm.

18 Q Is it possible that a vote -- a board vote did
19 occur and just didn't get put into the minutes?

20 A It's possible.

21 Q Exhibit 103 regarding lots 93 and 94, is it
22 possible that a board vote actually occurred and just didn't
23 make it to the minutes?

24 A It's possible.

25 Q Regarding Exhibit 105, is it your practice to

1 always put all of your handwritten notes into the meeting
2 minutes?

3 A No.

4 Q This one is not stapled, Exhibit 107.

5 (Plaintiff's Exhibit No. 108 was marked for
6 identification.)

7 BY MR. VAN ALSTYNE:

8 Q So I've got Exhibit 108. Do you recognize that
9 letter? I'll give you a chance to read it.

10 A It's been a while. Yeah.

11 Q So that letter is from you; right?

12 A Mm-hmm.

13 Q Is that -- that letter is dated August 13, 2007?

14 A Mm-hmm, yes.

15 Q And what's the first line.

16 A "I would like to introduce ourselves to you, as
17 we've been retained to manage the affairs of your homeowners
18 association."

19 Q You probably meant community association?

20 A Yeah, community association.

21 Q But just had been retained?

22 A Mm-hmm.

23 Q So would this letter have been around the developer
24 turnover to the association?

25 A Yes.

1 (Plaintiff's Exhibit No. 109 was marked for
2 identification.)

3 BY MR. VAN ALSTYNE:

4 Q So 109, what is this?

5 A It's a first notice of election. It's a membership
6 meeting notice.

7 Q Okay. What's the date?

8 A September 19, 2007.

9 Q And that would be the date of the election?

10 A Oh, I'm sorry, the meeting notice was August 13th,
11 so must have been about the same time, yeah.

12 Q Same day?

13 A Same day, probably went out with that.

14 MR. SMED: What year was that?

15 THE WITNESS: 2007.

16 BY MR. VAN ALSTYNE:

17 Q So Exhibit 109, 108 probably go together.

18 And in this notice, you're soliciting people to
19 come to the meeting because they're going to have a vote on
20 five vacancies for board of directors; right?

21 A Right.

22 Q Okay. All right.

23 (Plaintiff's Exhibit No. 110 was marked for
24 identification.)

1 BY MR. VAN ALSTYNE:

2 Q This is Exhibit 110. Do you recognize that letter?

3 A Yes.

4 Q Who wrote that letter, exhibit?

5 A Doug Rodante.

6 Q Who is Doug Rodante?

7 A He was the first president of the association.

8 Q Douglas --

9 A I mean after the developer.

10 Q Okay. Spelling is R-o-d-a-n-t-e.

11 A Yes.

12 Q And the letter states -- in that paragraph, what
13 does that say?

14 A This one right here?

15 Q Yeah.

16 A Oh. "Enclosed you will find an introduction letter
17 from the management company..." That might be referring to
18 this.

19 Q Referring to Exhibit 108?

20 A (Nodding head.)

21 Q Now, at that time, August 10th, 2007, do you recall
22 the board being in legal battles or issues with the
23 developer?

24 A There was sure talk of legal battles in fulfilling
25 his requirements as developer.

1 Q Okay.

2 A And the common elements and proper turnover and all
3 those things. That conversation went on for years and years.

4 Q Yeah. This letter refers to -- item four talks
5 about the water bills. It says they received a \$10,000 water
6 bill from the construction company. And in a letter they say
7 they've asked Jim Thompson, who is the developer, to
8 reimburse the association for this cost. Do you recall that
9 as being true?

10 A I remember it being an issue. It's been a long
11 time. I don't remember how it got resolved.

12 Q Do you remember there being issues with the runway
13 between the association and the developer?

14 A Yes. You'll see a reference in the second page of
15 that, it talks about the hump in the runway.

16 Q Yeah.

17 A Talks about the -- I think there was talk about
18 turnover of common elements that were contracts we discovered
19 that existed that he had -- you know, there was a lot of
20 various issues that we had to work through.

21 (Plaintiff's Exhibit No. 111 was marked for
22 identification.)

23 BY MR. VAN ALSTYNE:

24 Q Exhibit 111. Do you know if this has a date that
25 it was sent out? Do you know what that is?

1 A The board of directors meeting notice and agenda.

2 Q What's the date say on it?

3 A October 22, 2007.

4 Q And it's just a notice?

5 A Mm-hmm, yes.

6 Q So your office would have -- where would they have
7 posted that?

8 A At the bulletin board by the mailbox.

9 Q At the airport?

10 A Yes.

11 MR. VAN ALSTYNE: And let's mark this as Exhibit
12 112.

13 (Plaintiff's Exhibit No. 112 was marked for
14 identification.)

15 BY MR. VAN ALSTYNE:

16 Q Is Exhibit 112 a copy of Exhibit 111?

17 A Yes, including some handwritten notes.

18 Q Whose handwritten notes are those?

19 A Those are mine.

20 Q Would you have taken those handwritten notes at the
21 meeting?

22 A Yes.

23 Q Exhibit 111, what are they referring to here, or
24 what are you referring to on the agenda?

25 A The different topics that we're talking about,

1 sections, and under there, committee reports, what the
2 committees are going to report.

3 Q What's the first committee report?

4 A Architectural review.

5 Q And on Exhibit 112, are there notes regarding
6 architectural review?

7 A It looks like we -- there was a vote to appoint
8 someone to be the chair and to serve on the committee. It
9 looks like Jim Wayne and Bill were to serve on the committee,
10 and Jim was to chair the committee, and I got their exact
11 names.

12 Q So these would have been the first appointments to
13 the architectural review committee?

14 A Yes.

15 Q And --

16 A After we were involved.

17 Q After --

18 A I can't say for what the developer did prior to
19 that.

20 Q Right. And does this association refer to the
21 architectural review committee as sometimes an architectural
22 review board?

23 A Yes, and I think we also found that they would
24 sometimes, instead of the word review, also use the word
25 control, so I think both board and committee, and review and

1 control, you'll find that they're all referring to the same
2 body.

3 (Plaintiff's Exhibit No. 113 was marked for
4 identification.)

5 BY MR. VAN ALSTYNE:

6 Q Okay. And Exhibit 113. Let me jump back to
7 Exhibit 112. On those handwritten notes, on Exhibit 112,
8 under committees, what does it say over here?

9 A My notes were to say that there was a vote on all
10 these committees.

11 Q Okay.

12 A And that the motion was by Jim, seconded by Bill,
13 and vote was unanimous to approve what I noted below, so I --
14 in architectural review, it looked like they were combining
15 those three committees, were going to serve three functions,
16 Jim to chair, with Wayne and Bill to serve on that committee.

17 Q And that vote was unanimous by the board?

18 A Yes.

19 Q Exhibit 113, do your minutes reflect that vote?

20 A Yes.

21 Q So what is -- Exhibit 113 are the minutes from
22 what?

23 A Say that again.

24 Q Yeah. This exhibit we're looking at, Exhibit 113,
25 what are those minutes from?

1 A From the October 22nd --

2 Q Board meeting?

3 A -- 2007, board meeting, yes.

4 Q You were at that meeting; right?

5 A Yes.

6 Q On committees, on those meeting minutes where it
7 references committees, it says Jim to chair. Is that Jim
8 Fanning?

9 A Jim Fanning, yes.

10 Q Wayne and Bill. That's Wayne --

11 A Wayne Bentley and Bill Campbell.

12 (Plaintiff's Exhibit No. 114 was marked for
13 identification.)

14 BY MR. VAN ALSTYNE:

15 Q Okay. All right. Exhibit 114, is this a
16 reinstatement with the Florida Department of State for
17 Orlando Apopka Airport Association, Inc.?

18 A Yes, and I guess that would be a reinstatement and
19 a renewal with the new officers and directors listed.

20 Q Okay. And this was filed on October 31, 2007?

21 A Yes.

22 Q So right here where it's discussing officers and
23 directors, is this when the developer, Jim Thompson, was
24 going out and the board was bringing in new board members?

25 A Yeah, and I think in addition to that, he had let

1 it lapse.

2 Q Yeah.

3 A Because you looked at that previous board, we had
4 Edward Donte (ph) and those guys, I think they were serving,
5 but the association had -- Jim had failed to renew, so
6 once -- so not only was it listing the new directors, but
7 also listed the reinstatement, so serving two purposes.

8 Q Okay.

9 A To reinstate and to list these new officers.

10 Q It looks like Jim Fanning was going to be the new
11 president?

12 A Right.

13 (Plaintiff's Exhibit No. 115 was marked for
14 identification.)

15 BY MR. VAN ALSTYNE:

16 Q If you'll scan that real quick. Go ahead and scan
17 the whole thing real quick.

18 So this Exhibit 115 appears to be a letter dated
19 December 19, 2007, from Jim Fanning; is that correct?

20 A Mm-hmm, yes.

21 Q And the address at the top of the letter is for
22 Specialty Management Company?

23 A Yes.

24 Q Do you know if you and Jim worked together to write
25 this letter at all? Do you remember that?

1 A That's a long time ago, but I'm guessing that I
2 worked with him, yes.

3 Q Okay.

4 A It's typed up -- I can tell it came from our
5 computers and our letterhead and our fonts and things, so ...

6 Q Okay. What does it say at the bottom, bottom
7 paragraph on the first page?

8 A "We are currently taking steps to create a new
9 architectural committee that will oversee and approve
10 exterior buildings plans prior to their submittal to the city
11 of Apopka Building Department. This committee will review
12 new hangar construction plans for siding and roof color, eve
13 heights, and other characteristics to ensure continuity of
14 construction throughout our airport development."

15 Q Now, as the property management -- or property
16 manager, is that your -- are you in agreement with that
17 statement as the function of the architectural committee?

18 MR. SMED: Objection.

19 THE WITNESS: Yes.

20 BY MR. VAN ALSTYNE:

21 Q There's discussion on the second page about the
22 website?

23 A Yes.

24 Q That might jog your memory regarding your earlier
25 testimony about the website that it sounds like the

1 association goal was always to have.

2 MR. SMED: Objection.

3 BY MR. VAN ALSTYNE:

4 Q Is it your opinion that the association's goal was
5 always to have a members-only discussion forum on its own
6 website?

7 A Yes.

8 Q So based on this letter, do you recall that at the
9 time of this letter, the association was still having issues
10 with the developer as referenced on the bottom of that
11 current page?

12 A Yes.

13 Q And the association had attorneys involved at that
14 time?

15 A Yes.

16 (Plaintiff's Exhibit No. 116 was marked for
17 identification.)

18 BY MR. VAN ALSTYNE:

19 Q Okay. Exhibit 116, is this an annual renewal with
20 the Florida Department of State for the Orlando Apopka
21 Airport Association, Inc.?

22 A Yes.

23 Q And what's the date on this one?

24 A April 24th, 2008.

25 Q And is Specialty Management Company the registered

1 agent?

2 A Yes.

3 (Plaintiff's Exhibit No. 117 was marked for
4 identification.)

5 BY MR. VAN ALSTYNE:

6 Q So this first page of Exhibit 117, is that a
7 newsletter prepared by Specialty Management?

8 A Yes.

9 Q And what's the date on that?

10 A October 2012.

11 Q And where would this have been sent or posted?

12 A It would have also been posted -- I'm not sure if
13 this would have been posted, but I believe this would have
14 been mailed to everybody, because we're referencing the
15 budget meeting in a month later.

16 Q Uh-huh.

17 A Which requires a 14-day mailed notice, so I believe
18 this was mailed to everybody, along with the -- to act as the
19 budget meeting notice. So does that make sense?

20 Q Mm-hmm. It would have been --

21 A This would have been mailed to every address we had
22 on file.

23 Q Emailed or hard copy?

24 A Hard copy.

25 Q Okay. And there's a block on the newsletter called

1 Architectural Guidelines?

2 A Mm-hmm, yes.

3 Q Does it say there, "Please refer to the
4 architectural guidelines enclosed and use the architectural
5 review form if you plan to make any changes to your unit.
6 All changes must be approved by the ARC committee before work
7 begins"?

8 A Yes.

9 Q And then on the right side, that right block, the
10 aesthetics, was that -- is that a committee, was that meant
11 to be an architectural committee?

12 A I'm not -- I'm thinking because of the earlier
13 references to Jim Pasilla leading it up. I'm not sure why
14 that name got put in there.

15 Q I think before it was --

16 A It referenced multiple --

17 MR. SMED: Objection.

18 THE WITNESS: What's that?

19 BY MR. VAN ALSTYNE:

20 Q Before 2007, those exhibits, it was Jim Fanning.

21 A Right, right, right. Oh, I see, Jim Pasilla.
22 Maybe they were -- maybe the new board was getting creative
23 with names.

24 Q Yeah. Okay. Jim Pasilla, is that somebody you
25 know then?

1 A Well, he was a board member later.

2 Q Oh, he was a board member?

3 A Yeah, you can see he became -- if you look there,
4 it's listed Jim Pasilla. We had Jim Fanning and Jim Pasilla
5 and then Jim Pican (ph) also served on the board.

6 Q So this is just a newsletter. So maybe by a sense,
7 it was meant to say architectural?

8 A Yeah, yes.

9 Q Okay. And on the next page of that exhibit, the
10 guidelines, do those guidelines appear to be the guidelines
11 that were enclosed?

12 A Yes.

13 Q And do they reference appearance of the structures?

14 A Yes.

15 Q And looks like they have some photo of sample
16 skirts?

17 A Yes.

18 Q And there's -- would it be safe to say this may
19 have been the first draft of the architectural guidelines in
20 this form?

21 A Yes.

22 Q And the next -- the last page is a bulleted list.
23 Would these have been part of the architectural guidelines,
24 too?

25 A Yeah. I would say as a -- as an exhibit to them,

1 or an attachment to them, because not all architectural
2 requests are new construction. These all apply to new
3 construction.

4 Q Oh, okay.

5 A To where a submission for an addition or a change,
6 all this would apply where if you were building a new home
7 there's an additional -- I mean, a new unit, these apply to
8 that. So I believe, later, they incorporated them in as part
9 of the same document, but at this point it was an additional
10 exhibit.

11 Q Yeah.

12 (Plaintiff's Exhibit No. 118 was marked for
13 identification.)

14 BY MR. VAN ALSTYNE:

15 Q Okay. And then Exhibit 118. Do you recognize
16 Exhibit 118 as architectural guidelines?

17 A Yes.

18 Q What's the date on those?

19 A Says revision September 2018.

20 Q And do you recognize those guidelines as the
21 continuing development of Exhibit 117's guidelines?

22 A Yes.

23 Q But you didn't actually prepare those guidelines?

24 A No.

25 MR. VAN ALSTYNE: Those are all the questions I've

1 got. I'm sure you have some follow-up.

2 RE-EXAMINATION

3 BY MR. SMED:

4 Q I'm going to hand you back Exhibit 111 and 112.
5 These are notices or agendas.

6 A Okay.

7 Q Correct?

8 A Yes.

9 Q And can you tell me what day the notice was sent
10 out?

11 A It was not mailed out. It was posted 48 hours
12 prior to the meeting.

13 Q How would you know -- I mean, if you have to give
14 10 or 14 days, how would you know if it doesn't have the
15 actual date that it was posted?

16 A I posted it personally. I post all their notices
17 personally since 2007, every single one of them. They're not
18 mailed out unless, you know -- but this is not mailed out.
19 This is a posted notice of meeting.

20 Q So regular board meetings are not -- are they put
21 on the website?

22 A They're posted on-site.

23 Q Just on the -- like the board?

24 A Yeah.

25 Q So neither -- just to be clear, neither one of

1 those has the date that it was actually posted?

2 A No, but I can tell you personally, if somebody
3 wants me to sign an affidavit, I've posted every meeting
4 notice that's ever been posted for Orlando Apopka Airport
5 myself. I live in Apopka right down the road from the place,
6 so I run out there and post them. I've got one on my desk to
7 post for next week.

8 Q After a notice is given, I'll just say recently
9 within the past few months, has the location ever been
10 changed at the last minute?

11 A The board changed location a couple times. It was
12 during COVID. But they also provide an alternative log-in
13 for electronic attendance.

14 Q When are they -- do you know when those changes
15 were made? I mean, were they made an hour before, were they
16 made --

17 A I don't recall exactly.

18 Q A couple more.

19 What constitutes the official records of the OAAA?
20 What would be included in them?

21 A I'll refer to 718 on that. They give you a
22 comprehensive list.

23 Q So everything listed in 718?

24 A Mm-hmm.

25 Q And then --

1 A And this is not -- this is over and above, like I
2 said earlier. I wish we'd thrown all of that.

3 Q And I've been trying to learn about something
4 called builders risk insurance. Are you familiar with that?

5 A It doesn't play a role in associations too much.

6 Q Do you know -- excuse me, do you know anything
7 about the coverage requirements, things of that nature?

8 A Not really.

9 Q Okay. Just give me one minute.

10 I'm going to hand you back this Composite Exhibit
11 117. Just look at the last page.

12 On the last page that you had a list that you said
13 would have been for new construction, can you tell me when
14 that was drafted?

15 A I can't for sure, but it was in along with these
16 right here, so I'm -- I'm guessing it was right about the
17 same time as this.

18 Q And when was that?

19 A August 29, 2012.

20 Q And they weren't -- strike that.

21 What happens if there's no vote included in the
22 official records? How do you treat that situation?

23 MR. VAN ALSTYNE: Objection.

24 THE WITNESS: For what?

25 BY MR. SMED:

1 Q For trying to determine if it's -- if it's void, if
2 it didn't occur, if it's not -- doesn't end up in the
3 official records?

4 A If there's no vote on an issue like -- I don't
5 quite know what you're referring to. An approval of an
6 individual request, a rule, approval to spend 50 bucks on a
7 sign? I mean, I don't know what you're --

8 Q Just like you said, if it's not -- don't let me
9 mischaracterize your testimony, but if it's not in the typed
10 written minutes, it's effectively irrelevant for purposes of
11 looking at the official records?

12 A I wouldn't say that. I mean, you have the form --
13 so let's take architectural, for example. Aside from
14 minutes, we have all this correspondence we've been talking
15 about and looking at, right? We have emails back and forth
16 that play a factor in there, and then you have a signed form
17 itself, right? So you've got a lot of other documentation
18 that goes to say whether something was approved or not, or
19 the majority of the board approved it or not. So it's more
20 than just minutes. I mean, in a perfect world, minutes would
21 capture everything, but they don't.

22 Q Back in, I guess, 2007, and we're looking -- and he
23 said this may be the first draft of the architectural
24 guidelines. You are familiar with this packet, I think you
25 stated. Were those voted on, let's say, with the -- not

1 the -- news --

2 A Not the newsletter.

3 Q But the two others, do you know if they were voted
4 on?

5 A I think we just went through all the minutes, so
6 whatever we covered in the minutes. I think we've already
7 been over all that.

8 Q Would this have been back in 2007, roughly?

9 A These look like they were 2012, so ...

10 Q Okay.

11 A I believe there were some recorded restrictions at
12 the city as well that goes to some of these things. I know
13 the committee -- the city had some requirements for certain
14 things, and I know the committee's always looked at what the
15 city was requiring. If you look at some of the city
16 documentation, there's talk about the skirting, and things
17 like that that are not even in the association guidelines,
18 but the association was trying to make sure people complied
19 with the city's requirements.

20 Q Okay.

21 A So some of these, I'm guessing if you look at the
22 city's requirements, you would find, probably, a duplication
23 of a lot of things. I think some of this is restating the
24 city's requirements.

25 Q And could you email me a copy of the general ledger

1 that we were talking about earlier?

2 A Mm-hmm, sure.

3 Q Let me give you my --

4 A Yeah, I've got it.

5 Q Thank you very much.

6 A Okay.

7 MR. SMED: Anything else, Lewis?

8 MR. VAN ALSTYNE: Yeah.

9 RE-EXAMINATION

10 BY MR. VAN ALSTYNE:

11 Q On 117, this last page, is it possible that the
12 original developer drafted this and, in fact, it was not
13 drafted at the same time as this?

14 A It could have been around for a long time prior to
15 this.

16 Q Yeah.

17 A But I know that was added as an addendum. When
18 people would submit, I know on new construction, they would
19 give them that too, I just don't know when that was
20 generated.

21 Q Okay.

22 A So that could have been around from day one, from
23 the beginning.

1 FURTHER RE-EXAMINATION

2 BY MR. SMED:

3 Q So do you believe that they still hand out this? I
4 just haven't seen it.5 A I'm not sure how -- if the new version of the
6 guidelines have incorporated all that in there or -- instead
7 of a separate addendum. I believe it addressed a bunch of
8 those in the general guidelines now, rather than having a
9 separate document, but I can't say for sure. You'd have to
10 ask.

11 Q Can I see that back, please?

12 At a minimum, if there was architectural guidelines
13 to be passed, at a minimum, would the board of directors have
14 to have that vote to pass those guidelines?15 A I don't want to be known as the authoritative
16 figure when the association has legal counsel, so I would say
17 I'm not going to answer that one. My history tells me, with
18 associations in general for 38 years, is yeah, boards
19 typically approve them, or committees, sometimes
20 architectural committees are granted the authority to adopt
21 those guidelines. So it can be the board, can be the
22 architectural committee. I've seen both.23 Q Do you know if OAA had adopted those -- rules to
24 that effect?

25 A I would, again, defer, specifically on this one to

1 the association's attorney.

2 Q Are you familiar with the declaration and the
3 bylaws?

4 A Yes, but there's been lots of legal looks at that
5 thing and lots of legal questions of that thing over the
6 years, so this is one that I would not go very far in giving
7 my opinion on.

8 MR. SMED: Thank you very much.

9 THE WITNESS: Okay.

10 COURT REPORTER: Do you want to read or waive?

11 MR. VAN ALSTYNE: So you have the option to read
12 the transcript before it's published or you can waive
13 that right.

14 THE WITNESS: What's that?

15 MR. VAN ALSTYNE: Sorry. One quick question. So
16 if she prepares the transcript, you can either read it
17 before it's published or you can waive that right. So
18 you would read it to make any errors -- or corrections,
19 or you can waive that right. It's totally up to you.

20 THE WITNESS: I'm not familiar with the process too
21 much, but I trust -- I think she knows what she's doing.

22 (At 4:37 p.m., the deposition concluded.)
23
24
25

1 CERTIFICATE OF OATH

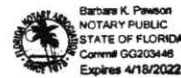
2 STATE OF FLORIDA:

3 COUNTY OF ORANGE:

4 I, Barbara Pawson, Registered Professional Reporter,
5 Florida Professional Reporter, Notary Public, State of
6 Florida, certify that BRETT MATTHEW JORDAN personally
7 appeared before me on the 27th day of July, 2021, and was
8 duly sworn.

9
10
11
12
13
14
15
16
17
18 *Barbara Pawson*

19 _____
20 Barbara K. Pawson, RPR, FPR



1 REPORTER'S DEPOSITION CERTIFICATE

2 STATE OF FLORIDA:

3 COUNTY OF ORANGE:

4 I, BARBARA K. PAWSON, Registered Professional
5 Reporter, Florida Professional Reporter and Notary Public,
6 certify that I was authorized to and did stenographically
7 report the foregoing deposition of BRETT MATTHEW JORDAN; that
8 a review of the transcript was requested; and that the
9 transcript, pages 1 through 98 is a true and complete copy of
10 the stenographic notes.

11 I further certify that I am not a relative,
12 employee, attorney, or counsel of any of the parties, nor am
13 I a relative or employee of any of the parties' attorney or
14 counsel connected with the action, nor am I financially
15 interested in the outcome of this action.

16 Dated this the 4th day of October, 2021.

17

18

19 *Barbara Pawson*

20 Barbara K. Pawson, RPR, FPR

21

22

23

24

25

ERRATA SHEET

DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES

At the time of the reading and signing of the deposition, the following changes were noted:

Page/Line	Line Change	Reason
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Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

BRETT MATTHEW JORDAN