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Jan 04 2022

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Exhibit

Callawassie

1

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APPEAL FROM BEAUFORT COUNTY
In the Court of Common Pleas for the Fourteenth Circuit

FEB 29 2016

SC Court of Appeals

Carmen T. Mullen, Circuit Court Judge

Appellate Case No. 2014-001524

The Callawassie Island Members Club, Inc. Respondent

v.

Ronnie D. Dennis and Jeanette Dennis..... Defendants

APPEAL FROM BEAUFORT COUNTY
In the Court of Common Pleas for the Fourteenth Circuit

J. Ernest Kinard, Jr., Circuit Court Judge

Appellate Case No. 2015-000001

The Callawassie Island Members Club, Inc. Respondent

v.

Gregory L. Martin and Rebecca L. Martin Defendants

Of whom Gregory L. Martin is the Appellant

APPEAL FROM BEAUFORT COUNTY
In the Court of Common Pleas for the Fourteenth Circuit

J. Ernest Kinard, Jr., Circuit Court Judge

Appellate Case No. 2015-000002

The Callawassie Island Members Club, Inc. Respondent

v.

Michael J. Frey and Grace I. Frey..... Defendants

Of whom Michael J. Frey is the.....Appellant

APPEAL FROM BEAUFORT COUNTY
In the Court of Common Pleas for the Fourteenth Circuit

J. Ernest Kinard, Jr., Circuit Court Judge

Appellate Case No. 2015-000003

The Callawassie Island Members Club, Inc. Respondent

v.

Mark K. Quinn and Sherry B. Quinn..... Defendants

Of whom Mark K. Quinn is the Appellant

RETURN TO APPELLANTS' MOTION TO SUPPLEMENT RECORD ON APPEAL

AND NOW COMES Respondent The Callawassie Island Members Club, Inc.
("CIMC") and files the following Return to Appellants' Motion to Supplement Record on
Appeal:

INTRODUCTION

The above captioned cases are before this Court on appeals from the entry of judgments in favor of Plaintiff/Respondent CIMC. Appellants seek to supplement the Record on Appeal with the transcript a deposition that was taken after these appeals were initiated and thus, obviously, was not before the lower court when it made the rulings that are the subject of these appeals. This motion should be denied because it violates the fundamental premise of appellate review by asking this Court to consider evidence that the lower court did not consider.

These lawsuits involve claims filed by CIMC, a member-owned amenities club on Callawassie Island, Beaufort County, South Carolina. In a nutshell, CIMC filed these actions seeking to recover dues and other amounts due from Appellants, who are equity members of CIMC. CIMC avers that, under its governing documents, Appellants are required to remain members in good standing of CIMC until such time as their memberships are reissued in accordance with those governing documents. CIMC has a finite number of members because it is organized around the Callawassie real estate community. Its survival thus depends upon all of the members paying their share of operating costs. Appellants have asserted counterclaims and argued, for various reasons, that they are not obligated to remain members of CIMC and can cancel their financial responsibilities whenever they want.

In the instant motions, the Appellants in the above-captioned matters ("Appellants") seek to supplement the Records on Appeal in these cases, in which all briefing has been completed months ago:

- (a) *The Callawassie Island Members Club, Inc. v. Dennis*, Appeal No. 2014-001524 — (a) Appeal from the entry of summary judgment on January 16, 2014 and Amended on June 10, 2014; (b) Notice of appeal filed on or about July 3, 2014; (c) Record on Appeal filed on January 14, 2015;
- (b) *The Callawassie Island Members Club, Inc. v. Martin*, Appeal No. 2015-000001 — (a) Appeal from the entry of summary judgment on June 27,

2014 (denial of reconsideration on December 16, 2014); (b) Notice of appeal filed on or about January 2, 2015; (c) Record on Appeal filed on August 27, 2015;

- (c) *The Callawassie Island Members Club, Inc. v. Frey*, Appeal No. 2015-000002 — (a) Appeal from the entry of summary judgment on June 27, 2014 (denial of reconsideration on December 16, 2014); (b) Notice of appeal filed on or about January 2, 2015; (c) Record on Appeal filed on August 27, 2015; and
- (d) *The Callawassie Island Members Club, Inc. v. Quinn*, Appeal No. 2015-000003 — (a) Appeal from the entry of summary judgment on June 27, 2014 (denial of reconsideration on December 16, 2014); (b) Notice of appeal filed on or about January 2, 2015; (c) Record on Appeal filed on August 27, 2015.

For the reasons that follow, this Court should deny Appellants' Motion to Supplement Record on Appeal.

ARGUMENTS

In the instant appeal, Appellants in the above-captioned matters seek to supplement the Records on Appeal — long after final briefing has been completed — to add the deposition of Jeff Spencer, which was taken on September 3, 2015 ("Spencer Deposition"). The Spencer Deposition was taken after the Records on Appeal were filed in all of these appeals. Because the Spencer Deposition was taken *after* these appeals were perfected and briefed, it was obviously not before the trial court when it entered the orders that are the subjects of these appeal. Despite the passage of nearly six months since the Spencer Deposition, none of the Appellants have filed Rule 60 Motions with the trial court or otherwise asked the trial court to reconsider its entry of summary judgment against them. As a result, in the orders appealed from, the trial court plainly did not consider or rule upon the impact of the Spencer Deposition.

This Court "will not consider any fact which does not appear in the Record on Appeal." See S.C.A.C.R., Rule 210(h). "The Record shall **not**, however, include matter which was **not presented to the lower court** or tribunal." S.C.A.C.R., Rule 210(c) (emphasis added). The Supreme Court has noted that appellate courts are "bound by the

record established at trial." *See Argabright v. Argabright*, 398 S.C. 176, 179, 727 S.E.2d 748, 750 (2012).

Where a matter is not raised to and ruled upon by the trial judge, it is not preserved for review. *See South Carolina Dep't of Transp. v. First Carolina Corp. of S.C.*, 372 S.C. 295, 301-02, 641 S.E.2d 903, 907 (2007) (to be preserved for review, issue must have been: (1) raised to and ruled upon by trial court, (2) raised by appellant, (3) raised in timely manner, and (4) raised to trial court with sufficient specificity); *accord I'On, LLC v. Town of Mt. Pleasant*, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000) (imposing preservation requirements on appellant enables lower court to rule properly after considering all relevant facts, law, and arguments and noting that purpose of appeal is to determine whether the trial court erred); *Wachovia Bank, N.A. v. Coffey*, 389 S.C. 68, 74 n. 1, 698 S.E.2d 244, 247 n. 1 (Ct. App. 2010) (finding appellant's argument not preserved where master did not address it and appellant failed to raise in Rule 59(e) motion). "Issues and arguments are preserved for appellate review only when they are raised to and ruled on by the lower court." *Elam v. South Carolina Dep't of Transp.*, 361 S.C. 9, 23, 602 S.E.2d 772, 779-80 (2004).

This Court has held that it cannot consider "newly discovered" evidence that was never presented to and ruled upon by the trial court:

After White served his notice of appeal, co-defendant Anthony Morris issued a written statement retracting his trial testimony against White. Morris claimed he was not at the scene of the crime. In a motion to this court, White urged that we either remand the case for a new trial or remand the case to the trial court for a hearing on the purported new evidence. The State opposed and this court denied the motion. The State argues this court should not consider Morris' statement because it has not been raised to and ruled on by the trial court and is not properly before this court. We agree.
...

The lack of a ruling from the trial court presents nothing for this court's review.

Furthermore, a brief must reference the Record on Appeal to support the facts alleged. . . . **Morris' statement was not presented to the lower court and cannot be properly included in the Record on Appeal.**

State v. White, 372 S.C. 364, 387, 642 S.E.2d 607, 618-19 (Ct. App. 2007) (emphasis added), *aff'd on other grds.*, 382 S.C. 265, 676 S.E.2d 684 (2009); *accord Norris v. Ferre*, 315 S.C. 179, 183, 432 S.E.2d 491, 493 (Ct. App. 1993) ("Finally, Norris moved to supplement the record on appeal with deposition testimony from an unrelated action. We deny the motion since the matters were not presented to the trial judge.").

To supplement the Record on Appeal with evidence that the lower court never had the opportunity to consider would violate the fundamental premise of appellate review, and therefore cannot be allowed.

CONCLUSION

For the foregoing reasons, Respondent The Callawassie Island Members Club, Inc. respectfully requests this Honorable Court to deny Appellants' Motion to Supplement Record on Appeal.

February 24, 2016

BARNWELL WHALEY PATTERSON &
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The Callawassie Island Members Club, Inc.

On Tuesday, July 13, 2021, 4:38 PM, Jeff Spencer, General Manager
<callawassieislandclub@mailers.memfirst.net> wrote:



Update from the General Manager

Undeveloped Property Acquisitions

Our governing documents require informing participants when properties have been acquired by the Association. As contemplated by the Amended and Restated Declaration for CIPOA (effective as of the merger date of March 1, 2021), CIPOA recently acquired (or is in the process of acquiring) the undeveloped properties on Callawassie Island identified in the attached listing. These properties have been acquired in the following circumstances:

- in settlement of litigation with the prior owner, including payment by the prior owner of a cash settlement amount to CIPOA (without payment of any cash consideration by CIPOA);
- by payment by CIPOA of outstanding taxes on properties auctioned by the County at tax sale that are in the statutory redemption period in exchange for the transfer to CIPOA of title to those properties;
- by successfully submitting a bid to the County for properties currently held by the County's Forfeited Land Commission (with title to be transferred to CIPOA in accordance with the Forfeited Land Commission procedures); and
- by negotiation (without payment of any cash consideration by CIPOA) to acquire properties expected to be added to Open Space or Common Property.

Most of these properties were delinquent and not providing any on-going revenues for the Association. This action empowers the Association with the ability to convert these into paying participants. It is the intention of the Board to acquire additional delinquent properties in the future as deemed appropriate. The CIPOA Board has established a committee to review the existing Master Plan for the Island as it relates to the acquired properties. Many acquired properties are expected to be included in the pool of lots available for purchase by builders under the Building Incentive Program, and certain properties are expected to be retained by CIPOA as Open Space or Common Property.

Building Incentive Program

The Building Incentive Program is progressing well. Nine Property Owners have already agreed to sell their lots to builders under the program. We look forward to the progression of these lots through the ARC and construction process.

Initial Capital Contribution

After observing trends in the local market, the Board of Directors has approved an increase in the initial capital contribution paid by new Property Owners from \$18,000 to \$25,000, effective October 1, 2021.

Any property for which a contract has been accepted prior to October 1, 2021, will be assessed at the \$18,000 level even though the sale has not closed.

River Club and Clubhouse CLOSED During Golf Course Aerification Week

With the Clubhouse renovation creating a punch list that we need to address and the high usage of the River Club, both facilities will be closed Monday, August 9 through Friday, August 13 for upkeep and routine maintenance.

Please call or email me if you have any questions.

A handwritten signature in black ink, appearing to be 'JS' with a large loop and a horizontal line extending to the right.

Jeff Spencer
General Manager

7/13/2021

[Acquired Properties List](#)

Acquired Properties

4	WOODSTORK LANDING	11	LINKS DR
4	CHECHESSEE CIRCLE	4	WINDING OAK CT
22	RIVER MARSH COURT	16	RIVER MARSH CT
12	WOODSTORK LANDING	3	WILD MAGNOLIA CT
4	CRACKED CRAB COURT	13	ISLAND CREEK DR
7	OSPREY CIRCLE	6	SEQUOIA CT
32	LONGWOOD DR	59	WINDING OAK DR
5	CRACKED CRAB COURT	12	LINKS DR
6	ISLAND CREEK DRIVE	39	RIVER MARSH LN
19	LINKS DRIVE	25	RIVER MARSH LN
24	OSPREY CIRLE	1	WINDING OAK CT
5	RIVER CLUB CT	111	WINDING OAK DR
8	RIVER MARSH CT	51	WINDING OAK DR
14	RIVER MARSH CT	5	N OAK FOREST DR
17	RIVER MARSH CT	44	OSPREY CIR
18	RIVER MARSH CT	54	OSPREY CIR
20	RIVER MARSH CT	64	SPRINGISLAND DR
21	WINDING OAK DR	42	OSPREY CIR
240	CALLAWASSIE DR	56	OSPREY CIR
6	WILD MAGNOLIA CT		

From: CIPOA Board of Directors <callawassieislandclub@mailier.memfirst.net>

Date: September 29, 2021 at 12:35:37 PM EDT

Subject: CIPOA Board of Directors Community Update

Reply-To: jspencer@callawassieisland.com



CIPOA Board of Directors - Community Update

Causeway Safety

We want to remind everyone that pedestrians cannot use the causeway as stated in **Section 2.04 PEDESTRIANS ON MAIN CAUSEWAY**, of the Callawassie Island Property Owners Association, Inc. Amended and Restated Consolidated Rules and Regulations. *To maximize the safety of both pedestrians and vehicles, pedestrians are not permitted on the main causeway, the rocks, and the adjacent bulkheads, except in Emergency Situations.*

Under this rule, the Board clarifies that fishing is also not allowed from or adjacent to the causeway, including the rocks and bulkheads.

Fiber and Phone Upgrades

You have probably seen the Hargray trucks with the giant spools of cable working around the Clubhouse recently. We brought in Hargray to build a fiber-optic infrastructure to deliver a fiber bulk video full-HD lineup service to our new, state-of-the-art fitness equipment. This fiber network will significantly increase our data and video speeds, reducing the number of circuits we currently have. It also reduces our monthly

expenditure. The fiber was installed at no cost to us as part of negotiations at the end of our last contract.

In addition to the fiber build, we are upgrading our phone system to Hargray Smart Office, a cloud-based hosted voice solution. This cloud-hosted system allows us to get away from capital expenses for phone servers and other equipment, which we have at the Clubhouse and Welcome Center. We will merge the two systems into one, reducing our current monthly expenses. In addition, Smart Office will reduce downtime as Hargray has redundancy built into the system. If a failure occurs, they have backup servers, etc. Currently, if our equipment fails, our phones are down until we can replace the defective component.

The cutover for the phones will begin Monday, October 11. The Clubhouse and Pro Shop phones will be down most of the day on Monday, with the expectation that they will be up and running at the end of the day.

Golf Cart Reminder

Recently there have been inquiries regarding privately-owned Golf Carts, specifically appearance and color. Please refer to the Callawassie Island Property Owners Association, Inc. Amended and Restated Consolidated Rules and Regulations, **Section 3.38 PRIVATELY OWNED GOLF CARTS**. This document is available for viewing on our website, under the CIPOA Tab, then click on the CIPOA Governance Documents left-hand tab. **Note these rules require that (a) *All golf carts must be registered with the Pro Shop and display a sticker, and (b) All golf carts shall be similar in appearance and shall be as close to the color white or beige as possible. This applies to all privately owned golf carts whether or not they are used on the golf course.***

The CIPOA Board approved revisions to the policy regarding golf carts on October 5, 2018. A copy of the email is linked below.

[October 5, 2018, CIPOA Board email regarding Golf Carts](#)

Undeveloped Property Acquisitions

As mentioned in Jeff Spencer's July 13 GM Update, our governing documents require informing participants when the Association has acquired properties. The list of Acquired Lots has been updated and can be viewed on the www.callawassieisland.org website, under the CIPOA Tab. The list has also been linked below.

[Acquired Lots List](#)

With most of these properties delinquent and not providing any ongoing revenues for the Association, this action empowers the Association to convert these into paying participants. Many acquired properties are expected to be included in the pool of lots available for purchase by builders under the Building Incentive Program. Some properties are expected to be retained by CIPOA as Open Space or Common Property.

CIPOA Board Approves Replacement Director

The CIPOA Board of Directors has selected Pam Rape as a Director to fill the remainder of the unexpired term of Mike Anderson, which ends at the annual meeting in March 2023. Pam has previously served as a Director on the CIPOA Board. Pam brings excellent credentials to the position, including her experience and leadership as current Chair of both the Marketing & Sales, and Building Incentive Program/Master Plan Committees. We look forward to Pam joining the Board and thank her for serving.

09/29/2021

Undeveloped Property Acquisitions

Our governing documents require informing participants when properties have been acquired by the Association. As contemplated by the Amended and Restated Declaration for CIPOA (effective as of the merger date of March 1, 2021), CIPOA recently acquired (or is in the process of acquiring) the undeveloped properties on Callawassie Island identified in the attached listing. These properties have been acquired in the following circumstances:

- in settlement of litigation with the prior owner, including payment by the prior owner of a cash settlement amount to CIPOA (without payment of any cash consideration by CIPOA);
- by payment by CIPOA of outstanding taxes on properties auctioned by the County at tax sale that are in the statutory redemption period in exchange for the transfer to CIPOA of title to those properties;
- by successfully submitting a bid to the County for properties currently held by the County's Forfeited Land Commission (with title to be transferred to CIPOA in accordance with the Forfeited Land Commission procedures); and
- by negotiation (without payment of any cash consideration by CIPOA) to acquire properties expected to be added to Open Space or Common Property.

Most of these properties were delinquent and not providing any on-going revenues for the Association. This action empowers the Association with the ability to convert these into paying participants. It is the intention of the Board to acquire additional delinquent properties in the future as deemed appropriate. The CIPOA Board has established a committee to review the existing Master Plan for the Island as it relates to the acquired properties. Many acquired properties are expected to be included in the pool of lots available for purchase by builders under the Building Incentive Program, and certain properties are expected to be retained by CIPOA as Open Space or Common Property.

Acquired Lots List

8 BENT TREE LN	56 OSPREY CIR
240 CALLAWASSIE DR	96 OSPREY CIR
4 CHECHESSEE CIR	97 OSPREY CIR
2 CRACKED CRAB CT	1 OYSTER CT
4 CRACKED CRAB CT	2 RIVER BEND
5 CRACKED CRAB CT	4 RIVER BEND
19 DOLPHIN LN	5 RIVER CLUB CT
6 ISLAND CREEK DR	8 RIVER MARSH CT
13 ISLAND CREEK DR	14 RIVER MARSH CT
11 LINKS DR	16 RIVER MARSH CT
12 LINKS DR	17 RIVER MARSH CT
19 LINKS DR	18 RIVER MARSH CT
7 LONGWOOD CT	20 RIVER MARSH CT
2 LONGWOOD DR	22 RIVER MARSH CT
3 LONGWOOD DR	21 RIVER MARSH LN
32 LONGWOOD DR	25 RIVER MARSH LN
5 N OAK FOREST DR	39 RIVER MARSH LN
2 OSPREY CIR	5 S OAK FOREST DR
7 OSPREY CIR	6 SEQUOIA CT
12 OSPREY CIR	60 SPRING ISLAND DR
14 OSPREY CIR	25 SPRINGISLAND DR
24 OSPREY CIR	64 SPRINGISLAND DR
32 OSPREY CIR	2 SUGAR MILL DR
36 OSPREY CIR	3 WILD MAGNOLIA CT
42 OSPREY CIR	6 WILD MAGNOLIA CT
44 OSPREY CIR	1 WINDING OAK CT
54 OSPREY CIR	4 WINDING OAK CT

21 WINDING OAK DR
51 WINDING OAK DR
59 WINDING OAK DR
102 WINDING OAK DR
111 WINDING OAK DR
116 WINDING OAK DR
4 WOODSTORK LNDG
12 WOODSTORK LNDG



THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

Aug 27 2020

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

S.C. SUPREME COURT

Carmen T. Mullen, Circuit Court Judge

Appellate Case No. 2020-000670
Lower Court Case No. 2011-CP-07-3322

Opinion No. 5696 (S.C. Ct. App. filed Dec. 18, 2019)

The Callawassie Island Members Club, Inc. Respondent-Petitioner,

v.

Ronnie D. Dennis and Jeanette Dennis Petitioners-Respondents.

MOTION TO STRIKE MATERIAL MISREPRESENTATION

Ian S. Ford
Neil D. Thomson
Ainsley F. Tillman
FORD WALLACE THOMSON LLC
715 King St., Charleston, SC 29403
(843) 277-2011
www.FordWallace.com

*Attorneys for Petitioners-Respondents
Ronnie D. Dennis and Jeanette Dennis*

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, Petitioners-Respondents Ronnie D. Dennis and Jeanette Dennis hereby move to strike a material misrepresentation made by The Callawassie Island Members Club, Inc.

In its *Return to Dennises' Petition for Writ of Certiorari* (at p. 13), the Club falsely represents to this Court that:

Because the Dennises no longer own the property, they are no longer continuing to accrue dues and fees for the membership tied to their property. Hence, they cannot claim to be subjected to "perpetual liability."

This is a material misrepresentation by the Club to this Court, which is false as a matter of Club interpretation of its documents, and of Club practice. In fact, the Dennises' membership is not "tied to their property" because it is not an appurtenance. Membership in CIMC is a separate contractual arrangement between the Club and prospective members, which does not touch and concern the property.

Therefore, a member may sell his or her property on Callawassie (or lose it through foreclosure, or tax sale), but continue to be billed for ongoing Club membership, which does not run with the land. This is an important distinction between the social Club and a homeowners' association, which the Club persists in disregarding in its briefing to this Court, and which it would be in error for this Court to mistake as truth.

For example, the Club at times continues to bill former Callawassie property owners after they have sold their property, for continuing Club dues and fees. **That is because the Club will sometimes, at its pleasure, transfer a *different* membership to the new buyer, leaving the former property owner *stuck* with their current membership.**

The point is critical to this Court's consideration because the Court should not be under the wrong impression that a person "just needs to sell their property" to be free of the Club. In the Club's view and practice, there is another mandatory step: approval by the Club for transfer of the membership, which the Club sometimes malevolently refuses to allow (depending on the person). It is a very real practice for the Club to continue to invoice, and pursue, some former property owners for ongoing "unlimited golf" and other charges for years after property ownership has ended, apparently going into perpetuity. That apparently is a power the Club has decided it has and will exercise when it so wishes.

In sum, the Club's representation to this Court that a member "just needs to sell their property" to be free of the Club's pursuit is false. Instead, a member's ability to divest herself of her Club membership depends largely on the Club's whim on a particular day, or regarding a particular person. The Dennises request the Court strike the Club's material misrepresentation from the Club's *Return* and not rely upon it in any deliberations.

Respectfully submitted,

FORD WALLACE THOMSON LLC

s/ Ian Ford

Ian S. Ford

Neil D. Thomson

Ainsley F. Tillman

715 King St., Charleston, South Carolina 29403

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*Attorneys for Petitioners-Respondents Ronnie D.
Dennis and Jeanette Dennis*

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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FEB 12 2016

APPEAL FROM THE COURT OF COMMON PLEAS
BEAUFORT COUNTY
FOURTEENTH JUDICIAL CIRCUIT

SC Court of Appeals

J. Ernest Kinard, Jr., Judge

Appellate Case No. 2015-000001

The Callawassie Island Members Club, Inc.,

Respondent,

v.

Gregory L. Martin and Rebecca L. Martin,

Appellant.

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT
FOURTEENTH JUDICIAL CIRCUIT

J. Ernest Kinard, Jr., Judge

Case No. 2012-CP-07-03209
SC Court of Appeals No. 2015-000002

The Callawassie Island Members Club, Inc.,

Respondent

v.

Michael J. Frey and Grace I. Frey,

Appellant.

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE COURT OF COMMON PLEAS
BEAUFORT COUNTY
FOURTEENTH JUDICIAL CIRCUIT

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J. Ernest Kinard, Jr., Judge

Appellate Case No. 2015-000003

The Callawassie Island Members Club, Inc.,

Respondent,

v.

Mark K. Quinn and Sherry B. Quinn,

Appellant.

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE COURT OF COMMON PLEAS
BEAUFORT COUNTY
FOURTEENTH JUDICIAL CIRCUIT

Carmen T. Mullen, Circuit Court Judge

Appellate Case No. 2014-001524

The Callawassie Island Members Club, Inc.,

Respondent,

v.

Ronnie D. Dennis and Jeanette Dennis,

Appellants

MOTION TO SUPPLEMENT RECORD ON APPEAL

Pursuant to South Carolina Appellate Court Rule 212, Appellants request leave to supplement the Records on Appeal with the deposition transcript of Jeff Spencer, the General Manager of Respondent Callawassie Island Members Club. A purpose of this supplement is to show the undue prejudice caused to Appellants by the trial court's refusal to allow the deposition of Mr. Spencer before issuing a ruling on Respondent's motions for summary judgment.

Prior to filing this Motion, counsel for the Appellants sought consent of counsel for the Respondents, but was not able to obtain consent.

BACKGROUND

In each of these appeals, an important issue is the trial court's acceptance of affidavits of Mr. Spencer in support of the Respondent's motions for summary judgment, without affording the Appellants the opportunity to depose Mr. Spencer. Since then, Mr. Spencer's deposition has been taken.¹ Mr. Spencer's testimony shows that, had the trial court allowed Appellants to take his deposition, Mr. Spencer's testimony would have had a direct and significant impact on the summary judgment issues.

¹ Although Mr. Spencer's deposition had been requested months earlier, the Club did not make him available until September 2015. This was after the briefing was completed in these appeals. Respondents have taken the position that Mr. Spencer's deposition was taken in all of the individual cases, including *Martin, Frey, Quinn*, and others. The caption on the deposition transcript is to only one of the cases, *Callawassie Island Members Club, Inc. v. James E. Newcombe et al.*, 2012-CP-07-3222.

A. Mr. Spencer

Mr. Spencer is the General Manager of Respondent Callawassie Island Members Club (the “Club”). The General Manager is the highest position at the Club, other than the board of directors. Members of the Club’s board of directors testified that the General Manager is responsible for, among other things, making sure membership sales are done correctly, negotiating and putting out offers of settlement, and making decisions of who the Club sues and does not sue (with the board).²

B. Mr. Spencer’s affidavits

Mr. Spencer submitted affidavits in support of each of the Club’s summary judgment motions.³ In those affidavits, Mr. Spencer made broad, damaging claims against Appellants. Among other things, he represented that he has significant knowledge of the Club’s governing documents and the obligations of the Appellants to remain in the Club. He represented that he has personal knowledge of the Appellants’ “continuing contractual obligations” and that Appellants had agreed to be governed by certain documents and terms.⁴

In their oppositions to the summary judgment motions, Appellants requested that the trial court allow time to take Mr. Spencer’s deposition. Additionally, at the

² Frey R. p. 485, line 13-p. 486, line 16; Frey R. p. 510, lines 4-11; Frey R. p. 809, line 2; Martin R. p. 463, line 13-p.464, line 16; Martin R. p. 488, lines 4-11; Martin R. p. 787, line 2; Quinn R. p. 467, line 13-p.468, line 16; Quinn R. p. 492, lines 4-11; and Quinn R. p. 791, line 2.

³ Frey R. pp. 414, 424; Martin R. pp. 398, 406; Quinn R. pp. 396, 406; Dennis R. pp. 427, 433

⁴ Frey R. pp. 414-415; Martin R. pp. 398-399; Quinn R. pp. 396-397; Dennis R. pp. 427-428

summary judgment hearing, Appellants specifically requested the need to take Mr. Spencer's deposition, and stated that rendering a decision would otherwise be premature.⁵ As detailed in Appellants' appeal briefs, the trial court granted summary judgment before Mr. Spencer's deposition could be taken, and based the orders in part upon Mr. Spencer's affidavit.⁶

C. Mr. Spencer's deposition

On September 3, 2015, Mr. Spencer's deposition was taken. Ex. 1 (Spencer deposition transcript). That testimony shows how valuable Mr. Spencer's testimony would have been to the Appellants, particularly on the issues on which the trial courts based their summary judgment rulings. Examples are summarized below.

First, because of the ambiguity of the Club's governing documents, Mr. Spencer does not know about how a member may exit the Club, including the meanings of membership resignation, expulsion, termination, concession, and repossession under the governing documents. For example, Mr. Spencer testified that:

- "I get myself confused with suspended and expelled." Ex. 1 p. 27, lines 14-15.
- "Well, they are definitely different words. So I'm assuming they have some type of different meaning." Ex. 1 p. 30, lines 19-21.

⁵ Frey R. p. 1234, line 8-p. 1235, line 6; Martin R. p. 1212, line 8-p. 1213, line 6; Quinn R. p. 1216, line 8-p. 1217, line 6.

⁶ Frey App. Br. pp. 42-44; Martin App. Br. pp. 40-42; Quinn App. Br. pp. 42-43.

- “Q. What is your understanding as the general manager of what termination of a membership means? A. I don’t know. I don’t know.” Ex. 1, p. 59, lines 7-10.
- “A. I would prefer to understand what expelled means. Q. And you don’t? A. I don’t.” Ex. 1 p. 68, lines 10-13.

Mr. Spencer testified that he would not be able to explain to a typical member what those terms meant, and how they were different. He testified that would just read the member the documents, which he admitted he could not understand himself.

Q. If a member came to you and said – as the general manager and said what does it mean to be expelled, what would you tell them?

A. I would get the plan and read it to them.

Q. So, too, with terminations?

A. Yes.

Q. Just help me understand. As the general manager, why don't you have just an understanding – Why can't you just explain it?

A. I don't deal with it every day. I can tell you what the lunch special is today. I can tell you how fast the greens are rolling. I can tell you what the level of construction is going on at the bathroom on No. 5. I would want to know for sure I was saying the right thing, so I wouldn't just say something.⁷

Yet after long consultations with the governing documents at the deposition (and, undoubtedly, after significant preparation before the deposition) Mr. Spencer still had no idea of what the governing documents meant, and did know of any way to find a clear answer.

Q. So we're here. And I asked you, if you had to explain to someone, a member, Mr. Thomson wants to know what it means to be expelled, you're the general manager, now that we have a plan in front of us, how would you explain it to them?

A. I would read the plan to them.

⁷ Ex. 1 p. 61, line 12 – p. 62, line 9.

Q. And what we just read?

A. Well, in the plan it may give us more understanding of what expelled means.

Q. These are the rules. Let me give you the plan. What plan do you want?

A. I don't know.

Q. I'm trying to be accommodating.

A. Something that may describe what expelled means.

Q. Tell you what. I have all of the documents. You can start with this one (indicating). There is an index. And you tell me what you need to explain to the member [what "expelled" and "terminate" mean under the governing documents.]⁸

The deposition videotape shows long minutes of silence while Mr. Spencer searched the governing documents, in vain, for an unambiguous explanation.

Q. Let's go back to my original question. My original question was if a member asks you as the general manager what expulsion meant, I think you told me you would need to look at the documents. Tell me what your answer is now that you've got the documents.

A. Somewhere in here, my guess is I can find something that explains to me what expulsion means. If it's not in this current one, it could be in a previous one. **I don't know.**⁹

So too with other questions regarding provisions for members exiting the Club:

- "I don't know what they [the Club governing documents] were trying to say."

Ex. 1 p. 76, lines 6-7.

- "Q. Do you think a normal person reading the provisions you and I have just read together would understandably be confused by them? [objections omitted]

A. I don't know." Ex. 1, p. 77, line 23-p.78, line 4.

Mr. Spencer's confusion is particularly important to these appeals, and the summary judgment motions, **because the trial court held that the governing documents were**

⁸ Ex. 1 p. 70, lines 1-19.

⁹ Ex. 1, p. 71, line 20-p. 72, line 4 (emphasis added).

clear and unambiguous as how members may exit the Club, and held that not even a mere scintilla of evidence indicated otherwise.

Second, Mr. Spencer admitted that the Club's board recognized that the governing documents were unclear. For example, Mr. Spencer testified that the Club board later changed governing documents try to "clarify" them. Ex. 1 p. 139, line 1; p. 140, lines 19-21; p. 141, lines 9-12. Cf. Am. Heritage College Dictionary p. 258 (3rd ed. 1997) (Clarify: "To clear of confusion or uncertainty"). Mr. Spencer testified that the board later went through the Club governing documents to try to resolve the "clarity" problem. Ex. 1, p. 142, lines 1-3 ("This isn't the only one they tried to make more clear. I think they were going through the documents to try to make them all more clear.").¹⁰

Third, Mr. Spencer testified that he had no personal knowledge of any significance regarding the individual defendants—including the Appellants Martin, Frey, Quinn, and others:

Q. Do you have any personal knowledge [about the individual defendants and their claims]?

A. Not really. I saw stuff go by, but I don't focus on it.

Ex. 1, p. 144, lines 19-24. This directly contradicts Mr. Spencer's affidavits submitted to the trial courts in support of the Club's summary judgment motions. In those affidavits, Mr. Spencer professed to have extensive personal knowledge about the Martins', Quinns', Freys', and Dennises' understandings, representations, and obligations to the

¹⁰ Disturbingly, Mr. Spencer testified that, if a Club member even tries to resign, he turns them over to the Club lawyers. Ex. 1, p. 58, lines 2-3; *see also id.* p. 115, lines 19-20 ("If it's anything even close to it [resignation], I send it to counsel.").

Club. In those affidavits, Mr. Spencer professed personal knowledge about, among other things:

- Appellants' "continuing contractual obligations";
- The specific documents and terms that Appellants agreed would govern Appellants;
- Legal provisions to which Appellants agreed regarding "suspending or terminating the membership"; and
- The legal relationship between the Club suspending Appellants' membership, and their purported continued obligations to the Club.¹¹

Mr. Spencer's deposition transcript shows that he in fact had no personal knowledge of these matters.

ARGUMENT

South Carolina Appellate Court Rule 212 allows a party to request leave to supplement the Record on Appeal. In this instance, the deposition transcript of Jeff Spencer is important to show the improper prejudice to Appellants resulting from the trial court's failure to allow the Appellants to take the deposition of Mr. Spencer before issuing the summary judgment orders.

Both in writing (in their filed Memorandum in Opposition to Summary Judgment) and orally (at the summary judgment hearing), Appellants raised and preserved this issue of the need to cross-examine Mr. Spencer's affidavit, via deposition

¹¹ Frey R. pp. 414-416; Martin R. pp. 398-400; Quinn R. pp. 396-398; Dennis R. pp. 427-429

testimony.¹² The Order Granting Summary Judgment was premised on the notion that the governing documents were clear and unambiguous. The Order Denying Reconsideration reaffirmed the trial court's position that was "no question of fact regarding the interpretation, legality or applicability of their obligation."¹³ However, the trial court was not getting the full picture.

Mr. Spencer's deposition testimony creates that question of fact with regard to interpretation of the governing documents. As referenced above, the Club's General Manager struggles with explaining and interpreting the key provisions concerning members' exit from the Club. Mr. Spencer's deposition transcript should be included in this Record on Appeal, especially considering that Appellants expressly and consistently requested for its inclusion prior to the issuance of the Orders Granting Summary Judgment.

As discussed above, Mr. Spencer's deposition showed that (1) he has little or no knowledge about the governing documents, despite his representation to the contrary in his affidavits; (2) he admitted that the governing documents, and specifically the provisions regarding members exiting the Club, are vague and ambiguous; (3) he acknowledged that even the Club board recognized the ambiguity in the Club documents and attempted to "clarify" them later; and (4) he had no personal knowledge of any significance about the Appellants, despite the extensive testimony to

¹² Frey R. p. 259-260; Frey R. p. 1234, Frey R. p. 1234, line 8-p.1235, line 6; Martin R. p. 238-239; Martin R. p. 1212, line 8-p.1213, line 6; Quinn R. p. 242-243; Quinn R. p. 1216, line 8-p. 1217, line 6.

¹³ Frey R. p.4-11, Frey R. p. 14-16; Martin R. p. 11-18, Martin R. p. 8-10; Quinn R. p. 6-11; Quinn R. p. 12-14; Dennis R. p. 8-11; Dennis R. p. 20-23.

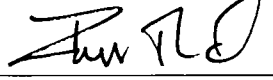
the contrary in his affidavits. *See supra*. In sum, Appellants' anticipated and previously requested need to take Mr. Spencer's deposition has now been validated, given the substance and content of his deposition testimony.

All of these issues go to core issues in these appeals – that the trial court erred in ruling that the Club's governing documents were clear and unambiguous, and that the trial court erred in ruling that there was not even a mere scintilla of evidence to the contrary.¹⁴ And that the trial court was improperly premature in granting summary judgment before discovery was completed.

CONCLUSION

For these reasons, Appellants respectfully request leave to supplement the Record on Appeal with the deposition transcript of Jeff Spencer.

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Attorneys for Appellants

February 11, 2016

¹⁴ Respondent Club was represented by multiple attorneys at the deposition of Mr. Spencer, and had ample opportunity to question him as well. As a result, there will be no prejudice to the Club by allowing Mr. Spencer's transcript into the Record on Appeal.

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE COURT OF COMMON PLEAS
BEAUFORT COUNTY
FOURTEENTH JUDICIAL CIRCUIT

J. Ernest Kinard, Jr., Judge

Appellate Case No. 2015-000001

RECEIVED

FEB 12 2016

SC Court of Appeals

The Callawassie Island Members Club, Inc.,

Respondent,

v.

Gregory L. Martin and Rebecca L. Martin,

Appellant.

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT
FOURTEENTH JUDICIAL CIRCUIT

J. Ernest Kinard, Jr., Judge

Case No. 2012-CP-07-03209
SC Court of Appeals No. 2015-000002

The Callawassie Island Members Club, Inc.,

Respondent

v.

Michael J. Frey and Grace I. Frey,

Appellant.

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE COURT OF COMMON PLEAS
BEAUFORT COUNTY
FOURTEENTH JUDICIAL CIRCUIT

J. Ernest Kinard, Jr., Judge

Appellate Case No. 2015-000003

RECEIVED
FEB 12 2016
SC Court of Appeals

The Callawassie Island Members Club, Inc.,

Respondent,

v.

Mark K. Quinn and Sherry B. Quinn,

Appellant.

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE COURT OF COMMON PLEAS
BEAUFORT COUNTY
FOURTEENTH JUDICIAL CIRCUIT

Carmen T. Mullen, Circuit Court Judge

Appellate Case No. 2014-001524

The Callawassie Island Members Club, Inc.,

Respondent,

v.

Ronnie D. Dennis and Jeanette Dennis,

Appellants

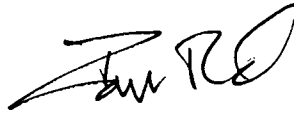
PROOF OF SERVICE

I certify that I have served the MOTION TO SUPPLEMENT RECORD ON APPEAL on all counsel of record by depositing a copy of it in the United States Mail, postage prepaid, on February 11, 2016, addressed to their attorneys of record:

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STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT

CALLAWASSIE ISLAND MEMBERS)
CLUB, INC.,)

)
Plaintiff,)

) Case No.:
-versus-) 2012-CP-07-3222

)
JAMES E. NEWCOMBE and LOLITA)
TRIFILETTI NEWCOMBE,)

)
Defendants.)

THE VIDEOTAPED DEPOSITION OF JEFF SPENCER
was taken as a witness on behalf of the Defendants,
pursuant to South Carolina Rules of Civil Procedure,
at 10:00 a.m. on Thursday, the 3rd day of September
2015, at the offices of Howell Gibson & Hughes,
P.A., 25 Rue du Bois, in the City of Beaufort, State
of South Carolina, before Janice O. Darby,
Registered Professional Reporter and Notary Public
in and for the State of South Carolina.

Janice Ohlendorf Darby, RPR
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I N D E X

WITNESS	PAGE
SPENCER, JEFF	
By Mr. Ford	4

EXHIBITS:		
FOR IDENTIFICATION		MARKED
No. 1	Notice of Deposition	4
No. 2	12/31/11 letter from Mr. Spencer	22
No. 3	Member List	47
No. 4	8/8/01 General Club Rules	64
No. 5	Golf Membership Resale List	97
No. 6	12/8/11 e-mail from CIMC President	123
No. 7	Expulsion	137
No. 8	Shall Be Expelled	142

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1 JEFF SPENCER
2 having been first duly sworn, was called as a
3 witness herein and was examined and testified as
4 follows:

(Exhibit No. 1 marked for
identification.)

THE VIDEOGRAPHER: The date today is
September 3, 2015, and the time is 10:12. This is
the video deposition of Jeff Spencer in the matter
of Callawassie Island Members Club, Inc., versus
Michael Frey, et al., case No. 2012-CP-07-3209; also
in the matter of Callawassie Island Members Club,
Inc., versus Gregory L. Martin, et al., case No.
2012-CP-07-3218, in the State of South Carolina,
Court of Common Pleas, County of Beaufort.

This deposition is being held at Howell
Gibson & Hughes located at 25 Rue du Bois in
Beaufort, South Carolina. Will counsel please
identify themselves for the record.

MR. FORD: Ian Ford for the
plaintiff, and just -- or for the defendant. And
just for the record, this particular deposition has
been noticed in the case of James E. Newcombe and
Lolita Trifiletti Newcombe, case No.

1 2012-CP-07-3222.

2 MR. THOMSON: And Neil Thomson of
3 the law firm Ford Wallace Thomson, also for the
4 defendant.

5 MR. KIRKLAND: Sam Kirkland with
6 Jones Simpson & Newton representing the Callawassie
7 Island Property Owners Association.

8 MS. WILLIAMS: Amanda Williams with
9 Parker Poe representing Callawassie Island Property
10 Owners Association.

11 MR. HAIGHT: Rick Haight with Minor
12 Haight & Arundell representing the Callawassie
13 Island Members Club.

14 MR. HUGHES: Steve Hughes of Howell
15 Gibson & Hughes representing the Callawassie Island
16 Members Club.

17 (Witness sworn.)

18 BY MR. FORD:

19 Q Please state your name for the record.

20 A Jeff Spencer.

21 Q Mr. Spencer, we're here for your
22 deposition today. Have you ever had a deposition
23 taken?

24 A No.

25 Q Let me cover some of the basic ground

1 rules. And these are set down by our Supreme Court,
2 so we all abide by them by every deposition.

3 First, you're under oath. You've sworn
4 to tell the truth, the whole truth, and nothing but
5 the truth so help you God. Do you understand that?

6 A Yes.

7 Q We have a court reporter taking down
8 everything we say, so you and I need to answer
9 audibly. What I mean by that is that sometimes in
10 conversation we may shake our heads, we may say
11 "mm-hmm." It's hard for the court reporter to
12 record that. So if you do shake your head, like
13 you're kind of shaking it now, but you're not trying
14 to answer, I may prompt you for an audible answer.
15 I'm not trying to be rude. What I'm trying to do is
16 keep the record clear.

17 A Okay.

18 Q Another important thing is that sometimes
19 you may see what I'm about to ask, and you may start
20 answering. People unconsciously tend to talk over
21 each other sometimes, and it's hard for the court
22 reporter to take down. So, if you would, do the
23 best you can to try to wait for me to finish my
24 question. And I, too, will try to wait for you to
25 finish your answer. If you see me just sitting here

1 staring at you, it may be because I'm trying to
2 figure out if you're done or if you've paused for
3 thought. So let's work on just trying to keep it
4 question/answer, question/answer. Fair enough?

5 A Deal.

6 Q Please do your best to make sure that you
7 understand what I'm asking. I haven't been to the
8 events that you're about to tell us about today. I
9 wasn't there. So my questions sometimes may not
10 make sense. If you don't understand what I'm
11 asking, please ask me to clarify, and I'll do my
12 best to do so.

13 If you do answer, however, I'll assume
14 that you've understood the question. Is that fair?

15 A Sure.

16 Q You're under oath. We can take a break
17 if you want. This isn't a marathon. It isn't a
18 school test of any sort. But during breaks, if we
19 do break for lunch, if we go that long, you're still
20 under oath.

21 In the bad, old days, people could go out
22 in the hall and confer with their lawyer and come in
23 with a new whatever. The bad, old days are gone.
24 So just understand that, you're still under oath.

25 Let's start with background. This is

1 standard. I can ask you specific questions, but
2 what I'm interested in is your education. Tell me
3 where you went to school and where you're from.

4 A I grew up in California and went to
5 Benicia High School, which is outside of San
6 Francisco, and attended San Francisco State
7 University.

8 Q Did you graduate?

9 A No.

10 Q Any formal training after that?

11 A I'm a PGA member. I'm a golf pro by
12 trade.

13 Q So you're good at golf?

14 A Pretty good.

15 Q Tell me about your job history. Out of
16 college or when you stopped going to college, what
17 did you do?

18 A I got my first golf job two days after I
19 turned 16, and I've been in the golf side of this
20 ever since.

21 Q How old were you when you started playing
22 golf?

23 A Four.

24 Q I thought you were going to tell me 16.

25 A No.

Page 9 1 Q Just go through your positions. Somehow 2 you ended up in South Carolina -- 3 A I did. 4 Q Give me a walk-through of that. 5 A Spent the first 20 years in California. 6 Worked at Olympic Club through college. Moved to 7 Atlanta. My parents had moved there a couple of 8 years before that. I went to visit, realized I can 9 afford to live in California -- or Atlanta instead 10 of California. So I moved to Atlanta. 11 Stayed in different clubs -- assistant 12 golf pro, head golf pro kind of stuff. Got married. 13 Had a couple of kids. Spent 12 years there. 14 Decided that I was tired of being in Atlanta, enough 15 of the traffic. Chose to move down to this area for 16 a golf job at Colleton River in 2004 as head golf 17 professional there. And left Colleton in the middle 18 of 2008 to be director of golf at Callawassie. 19 And in, I think, July of 2011 the general 20 manager left Callawassie, and I filled in as interim 21 until the beginning of 2012, where now I am director 22 of golf and also the club general manager. 23 Q You do both? 24 A I do. 25 Q I hope you get paid for both.	Page 11 1 Before I get into that, describe, if you would, what 2 the club is. Is it a social club? Is it a golf 3 club? As a general manager, what do you tell people 4 it is? 5 A It's an 800 acre private island. It has 6 different amenities from different sides of it. The 7 POA has some amenities, and then the club has some 8 amenities. 9 Q Tell me about the club. 10 A Golf course, 27 holes. Tennis courts, 11 six. Couple of pools. Clubhouse. There's a River 12 Club, small clubhouse. Don't really call it a 13 clubhouse, but a gathering room kind of thing. A 14 couple of docks. 15 Q The club, is it a social club? How would 16 you characterize it? 17 A It would be more of a country club to me 18 or a community, private community, I guess. 19 Q Is it only -- Members, are they only 20 people who live on Callawassie Island, or do 21 non-Callawassie Island people members of the club? 22 A You can be -- We have an associate 23 membership. You're not required to have property. 24 But those that have property have memberships. 25 Q Do you live on Callawassie?
Page 10 1 A Sort of. 2 Q I'm going to define some terms, because 3 I'm about to move into Callawassie and so on. 4 My understanding is that there are at 5 least two organizations on Callawassie Island. One 6 is Callawassie Island Members Club. Is it okay if I 7 call that CIMC or the club? 8 A Sure. 9 Q And there's another totally separate 10 organization, Callawassie Island Property Owners 11 Association, and is it okay if I call that CIPOA or 12 the association? 13 A Sure. 14 Q So we all know what we're talking about. 15 Okay. 16 Let's talk about your position at the 17 club. My recollection is you were a golf pro for a 18 number of years and interim general manager. 19 A Mm-hmm. 20 Q And then general manager. What did you 21 do as the golf pro? Just give me a summary of your 22 responsibilities. 23 A Ran the golf operations. So people 24 playing golf and pro shop type stuff. 25 Q And then you moved into general manager.	Page 12 1 A No. 2 Q Do you live in Beaufort? 3 A I do. 4 Q Just for the record tell us your address. 5 A 6 Martingale West, Bluffton, South 6 Carolina. 7 Q General manager, that's your current 8 position. Correct? 9 A Director of golf and club general 10 manager. 11 Q Tell me the general manager's 12 responsibilities. 13 A Golf. Now, there's a head golf 14 professional that kind of does the day to day. And 15 then I have an executive chef that handles cooking 16 food. There is a clubhouse manager who handles the 17 buildings and facility maintenance type stuff. And 18 then a director of agronomy who grows grass. 19 Q Really? And what do you do as the 20 general manager? What's your responsibility? 21 A I make sure that all of those things keep 22 going. 23 Q You run it all, or the buck stops with 24 you? 25 A Yeah, it all kind of -- I manage them.

3 (Pages 9 to 12)

1 Q Is there a written job description for
2 general manager?
3 A Yes.
4 Q And does it essentially include what you
5 just told me?
6 A Yes.
7 Q You've been there since 2008, but you
8 transitioned into your current position a number of
9 years later in 2011.
10 Has, in your time there, the duties and
11 responsibilities of the general manager changed, or
12 has it been constant?
13 A I don't know before mine, but --
14 Q I'm only asking when you were there.
15 A No. It's stayed relatively the same.
16 Some things take more precedence depending upon
17 what's going on.
18 Q I've read some of the -- Let me ask you,
19 have you read any other deposition transcripts
20 related to these cases?
21 A Not in total detail.
22 Q Which ones have you skimmed?
23 A I skimmed Lindsey Cooler's from the first
24 time she was deposed. I think she's been deposed
25 twice. I just kind of looked the first time. I was

1 just trying to get a sense of what's happening.
2 That's about it.
3 Q Did you look at Harman Switzer's?
4 A I listened to some of the DVD in the
5 background while I tried to do some e-mails, but
6 that didn't last long.
7 Q A number of board members have been
8 deposed. And I think it was James Carling told me
9 that the general manager is responsible for putting
10 out offers of settlement and negotiating when people
11 are delinquent. Is that true?
12 A It's not by me. I'm not sure if that was
13 before me.
14 Q His deposition was taken in 2012. So
15 that was during your watch. So let me ask the
16 question a little more clearly.
17 Is the general manager's
18 responsibility -- one of their responsibilities --
19 for putting out offers of settlement and negotiating
20 with members who are delinquent?
21 A I do talk to delinquent members to try to
22 figure out how to get them current.
23 Q How about putting out offers of
24 settlement and negotiating with them?
25 A It would go to the board first.

1 Q Do you make that decision, or is it the
2 board's decision primarily?
3 A The board gives me some parameters so I
4 don't have to come every five minutes with something
5 new, because the board only meets once a month or
6 every couple months.
7 So the general theory is you have to be
8 current going forward, and then we can talk about
9 the past due balance and whether or not -- how long
10 that will take to get current and how we can address
11 getting the past due balance paid.
12 Q But that is something that you do as a
13 general manager, have those discussions with
14 members?
15 A I do.
16 Q That's what I'm asking. I'm just asking
17 about your responsibilities.
18 A Sure.
19 Q Are you responsible for communicating
20 issues regarding the club and with individuals
21 regarding settlement? Is that one of your
22 responsibilities?
23 A Ask that one more time.
24 Q Absolutely. Thank you. This is what you
25 should do. If it's gibberish, you should tell me.

1 Is the general manager responsible for
2 communicating with individuals regarding settlement
3 of delinquent accounts?
4 A Communicating with the person who is
5 trying to settle?
6 Q Communicating with the person that owes
7 you all money allegedly.
8 A Just to make sure I'm clear, can I ask
9 this in reverse?
10 Q Please do.
11 A So a person is delinquent and they want
12 me to -- they want to talk to me about settlement?
13 Q Yes.
14 A Yes, that's what they do.
15 Q Is the general manager responsible for
16 making sure membership exchanges, sales and swaps
17 are done correctly?
18 A No, not directly.
19 Q Indirectly, who is responsible for that?
20 A Lindsey Cooler, the membership director.
21 Q But you're in charge of her?
22 A Yes, but I don't sign off on every real
23 estate transaction that occurs.
24 Q The swaps, the exchanges, if they
25 occur --

1 A The POA -- Well, swaps and exchanges. I
2 don't know if I've even see one go by.
3 Q Karen Norwood testified on page 134 of
4 her deposition that the general manager is
5 responsible for making sure membership exchanges,
6 sales, swaps, et cetera, are done correctly. I'm
7 just trying to figure out if that's right.
8 A I don't know if I've ever even been
9 involved in one. It doesn't mean that -- Maybe some
10 things are different from before my time. I don't
11 know of any swaps or whatever you just said.
12 Q This is helpful. If you don't know the
13 answer to my questions, just say I don't know. It's
14 not a school test.
15 A That's good.
16 Q I don't know whether you know the answer
17 until I ask.
18 A Sure.
19 Q So I don't want you guessing. If you
20 don't know the answer -- I'm asking about your
21 responsibilities. So you presumably would know
22 that.
23 A Yeah. I believe I would be informed or
24 involved at some point if there was to be something
25 like that, but I don't recall anything like that.

1 Q Leslie Cooler (sic) testified the general
2 manager and the board of directors makes the
3 decisions as to who to sue and who not to sue. Is
4 that accurate?
5 A It's not me. We have a pretty simple
6 process of if someone is delinquent, they get a
7 30-day letter. The 30-day letter is actually
8 drafted and written by counsel.
9 Q A lawyer?
10 A Yeah, some lawyer. And it's under my
11 signature mainly so that whoever gets it has
12 somebody to call other than a lawyer or a board
13 member. After -- Usually they are simple. They
14 are, oh, I sent it; I didn't get it; we don't have
15 your check; whatever. Simple.
16 If it goes to 60 days, they get another
17 60 day -- they get a 60-day letter that is also
18 written by --
19 Q From you written by a lawyer?
20 A Right. That, again, just gives them a
21 little more, Where is it? And at 90 days it goes to
22 the attorneys. And then I believe from there they
23 do a demand letter, and then it's at lawyers and
24 board.
25 Q Is that a process, like the standard

1 process for delinquent members?
2 A (Witness nodded).
3 Q Yes?
4 A Yes.
5 Q You'll get good at it by the end.
6 I'm going to say it back to you and you
7 tell me if I got it right.
8 At 30 days you write a letter to the
9 delinquent member asking where the payment is?
10 MR. HUGHES: Object to the form.
11 BY MR. FORD:
12 Q Saying something, whatever it is you say.
13 At 60 days you send another letter. At 90 days it
14 gets turned over to counsel and they presumably send
15 a demand letter?
16 A Yes.
17 Q And then what happens if they don't
18 respond to the demand? Is suit automatic, or is
19 that a future decision that's made?
20 A I don't know.
21 Q I'm surprised. Tell me why you don't
22 know. It seems like that's something the general
23 manager would know.
24 A That would go to the board. The board
25 would then -- In general, what I've seen is that

1 they go from demand letters, then it can turn into
2 payment plans, it can turn into lots of different
3 things.
4 Q Who makes the decision whether or not to
5 sue a delinquent member at the club?
6 A The board and counsel meet.
7 Q Are you involved in that decision whether
8 or not to sue a delinquent member?
9 A No.
10 Q Do you know what criteria are used to
11 determine whether or not to sue a delinquent member?
12 A No.
13 Q You're the general manager. Do you have
14 any understanding of what criteria are used?
15 A We spend more time trying to figure out
16 how to get people current than figuring out how to
17 draw up lawsuits.
18 Q I respect that. I'm focused at this
19 moment on the decision to sue someone.
20 A Board and counsel.
21 Q So you're not involved in the decision
22 whether or not to sue someone. Is that correct?
23 A Correct.
24 Q Are there occasions when someone is more
25 than 90, 120 days late and the decision is made not

1 to sue them, if you know?
 2 A I don't know.
 3 Q Are you aware of people who are more
 4 than, say, 120 days delinquent and who have not been
 5 sued?
 6 A Yes. There are some who are on payment
 7 plans and other attempts to get current rather than
 8 continue down the legal path.
 9 Q Are there people who are not on a payment
 10 plan to get current who are beyond the 120 days
 11 delinquency who also have not been sued?
 12 A I don't know for sure. It's possible,
 13 but I don't -- without looking at it.
 14 Q Who would know?
 15 A We have a list of delinquents and then
 16 the cases that go along with it.
 17 Q Who maintains that?
 18 A The delinquents would come through Greg
 19 Simons, the accounting department, and then counsel
 20 has the legal piece.
 21 Q Do you know how many lawsuits roughly the
 22 club has going on now against delinquent members?
 23 A I would guess somewhere in the 20 range.
 24 Maybe more. I don't know.
 25 Q In your experience, and you've been there

1 since 2008, is that about the average number, or do
 2 you tend to have more or less now in your
 3 understanding of lawsuits against delinquent
 4 members?
 5 A Before 2012, I have no idea. But since
 6 then it's been roughly the same number. Some have
 7 produced judgments and settlements or whatever.
 8 MR. FORD: Just for the record, we
 9 marked Exhibit 1 as the deposition notice. I have a
 10 copy if anyone wants it.
 11 (Exhibit No. 2 marked for
 12 identification.)
 13 BY MR. FORD:
 14 Q Exhibit 2, just for the record, is a
 15 letter from Jeff Spencer. And you're Jeff Spencer.
 16 Correct?
 17 A Correct.
 18 Q Dated December 21, 2011, to Mr. and
 19 Mrs. James Short. If you would just take a look at
 20 that. You were telling me about letters. Take a
 21 look at that real quick, or however long you want,
 22 and let me know when you've had a chance to lay eyes
 23 on it.
 24 A Yes.
 25 Q You told me about letters that go out

1 just a minute ago. Is this one of those letters?
 2 A Correct.
 3 Q Is this a template that is used?
 4 A Yes.
 5 Q So this goes out to --
 6 A Just fills in the name at the top and the
 7 balance.
 8 Q So this looks like it's the 30-day
 9 letter, because it says on the first line 30 days
 10 past due.
 11 A Correct.
 12 Q Do you remember sending this letter?
 13 A No.
 14 Q It's just one that you've sent?
 15 A Right.
 16 Q And I think you told me lawyers draft
 17 this for you?
 18 A Yes. I didn't write it.
 19 Q I understand, but you signed it because
 20 you're the general manager and the buck stops with
 21 you. Right?
 22 A That's kind of where -- It's more for
 23 them to be able to contact somebody.
 24 Q And it says in the second paragraph, "If
 25 payment is not received within 60 days of the

1 original statement date, the board of directors has
 2 the responsibility to suspend your membership." Do
 3 you see that?
 4 A (Indicating). Okay.
 5 Q Do you see that?
 6 A Yes.
 7 Q Is that true?
 8 A Yes.
 9 Q Then it quotes a provision of the -- one
 10 of the governing documents, 13.3.1. It says, "Any
 11 member whose account is delinquent for 60 days from
 12 the statement date may be suspended by the board of
 13 directors." Is that correct?
 14 A Yes, that's what it says.
 15 Q So the position is that since it says
 16 that the board of -- the person may be suspended,
 17 it's the responsibility of the board of directors to
 18 suspend the membership. Correct?
 19 MR. HUGHES: Object to the form.
 20 A Say it one more time.
 21 BY MR. FORD:
 22 Q Absolutely. Thank you. Under the
 23 language right there, it's the responsibility of the
 24 board of directors to suspend that membership, is
 25 what it says?

1 MR. HUGHES: Same objection.
 2 A This says any member whose account is
 3 delinquent 60 days from the statement date may be
 4 suspended by the board of directors.
 5 BY MR. FORD:
 6 Q Therefore, the board of directors
 7 suspends people who haven't paid within the
 8 specified time period?
 9 MR. HUGHES: Object to the form.
 10 A Well, that's what this says. I'm not
 11 sure what else you're trying to ...
 12 BY MR. FORD:
 13 Q Let me ask you this. When someone is
 14 actually suspended, when it progresses through the
 15 series, how do they know they are suspended? Do
 16 they get notification of some sort?
 17 A Well, they get obviously these letters
 18 telling them, and then the demand letter -- I don't
 19 know if you have it or not.
 20 Q I just want your understanding.
 21 A My understanding is that during that
 22 demand letter includes that they are suspended. We
 23 also have a suspended member list within the
 24 website.
 25 Q So your understanding at least is that

1 when counsel, the lawyer, sends out that demand
 2 letter, that means the person is suspended?
 3 MR. HUGHES: Object to the form.
 4 BY MR. FORD:
 5 Q I'm just asking your understanding.
 6 MR. HUGHES: Object to the form.
 7 A Say it again.
 8 BY MR. FORD:
 9 Q Your understanding is that -- I asked you
 10 when a person officially is suspended how they know.
 11 I think you told me, and you correct me, that when
 12 the lawyer sends out the letter, the demand letter,
 13 that is sort of the point where that person has been
 14 suspended?
 15 A I don't know exactly what's in that
 16 letter, but I believe that within that letter it
 17 talks about your membership has been suspended,
 18 you're some number of days past due, 90 days past
 19 due, we're demanding payment.
 20 Q Just so you understand, I'm just asking
 21 for your understanding.
 22 A Yeah, sure. That's my understanding of
 23 it --
 24 Q That's all I want.
 25 A Along with the website has a list of

1 those.
 2 Q That's helpful. Again, all I'm asking is
 3 what you understand. You don't have to have the
 4 letters memorized. You're the general manager.
 5 You're the guy. And what your understanding of the
 6 procedure is as the boss man.
 7 And then the letter that you sign goes on
 8 to say, and it's at the end of that, "Any member
 9 whose account is not settled within the four-month
 10 period following suspension may be expelled from the
 11 club." Do you see that?
 12 A I do.
 13 Q Does that happen?
 14 A Expelled? I get myself confused with
 15 suspended and expelled.
 16 Q Just tell me your understanding.
 17 A That's what this says. I don't know the
 18 board's triggers to make that occur.
 19 Q Tell me your understanding of when
 20 someone is expelled as the general manager.
 21 A I don't know of anybody expelled.
 22 Q Ever?
 23 A Not during -- I don't know the
 24 classifications of the difference between the two.
 25 Q What's the other one?

1 A Well, resigned versus expelled. I think
 2 there's -- Okay. I'm going to try this again. I
 3 don't know of what the board does to expel someone
 4 from the club. That would be the board decision.
 5 Q You don't expel people. Correct?
 6 A Correct.
 7 Q The board expels people. Correct?
 8 A The board -- This says four-month period
 9 following suspension may be expelled from the club.
 10 Q And it says that they may be suspended by
 11 the board of directors as well. Correct?
 12 A Mm-hmm.
 13 Q Is that a yes?
 14 A Yes.
 15 Q And the letter says that the board has
 16 the responsibility to suspend someone. Correct?
 17 That's what your letter says.
 18 MR. HUGHES: Object to the form.
 19 BY MR. FORD:
 20 Q Well, let's clear it up. The board of
 21 directors has the responsibility to suspend your
 22 membership. Does it say that?
 23 A Yes.
 24 Q Does the board of directors also have the
 25 responsibility in your understanding to expel

1 someone under that?

2 A No. It says that received within 60 days
3 from the statement date, the board of directors has
4 responsibility to suspend your membership. Any
5 member whose account -- And then in that section
6 below, "Any member whose account is not settled
7 within the four-month period following suspension
8 may be expelled from the club."

9 Q Right, but it also says may be expended
10 (sic) -- it may be suspended, and your letter says
11 that it's the responsibility of the board to do
12 that. So they should be treated the same under at
13 least the language of your letter --

14 MR. HAIGHT: Object to the form.

15 MR. HUGHES: Object to the form.

16 BY MR. FORD:

17 Q If you don't know --

18 A I don't know.

19 Q The next step, as I understand it -- and
20 I'm just trying to be efficient -- is another letter
21 goes out in 60 days, and then it gets turned over to
22 the lawyers?

23 A Right.

24 Q Help me understand this. Did you tell me
25 that you don't know of anyone in your tenure being

1 expelled? If you know.

2 A I don't know.

3 Q If someone had been expelled, is that
4 something you as the general manager would know
5 about? It seems like you would.

6 A I would think so, but it doesn't jump --
7 you know, I do more than just -- This isn't even
8 close to the top of my priority.

9 Q Again, I'm asking for your understanding.
10 If someone is expelled, is it your understanding
11 that you as the general manager should know about
12 it?

13 A I think -- I would go to the plan to
14 figure out what expelled means, because I'm not a
15 hundred percent sure what expelled means versus what
16 suspended means.

17 Q Is it your understanding that they are
18 different?

19 A Well, they are definitely different
20 words. So I'm assuming they have some type of
21 different meaning.

22 Q Let me ask you this question. Tell me
23 your understanding.

24 That process we just described -- 30-day
25 letter, 60-day letter, lawyer -- at what point does

1 someone get put on the resell list in that process?

2 A I don't know.

3 Q Do you know how someone gets put on the
4 resell list ultimately if they haven't voluntarily
5 submitted a resignation?

6 A I don't know.

7 Q I'm going to change topics for a moment.
8 I'm going to ask you about documents, like what
9 exists and so on.

10 Tell me what a membership file at the
11 club consists of. Is there such a thing?

12 A Yes.

13 Q Tell me what it consists of.

14 A It would have the application for
15 membership. If we sent one of these (indicating) --

16 Q Demand letter or warning letter?

17 A Yeah, 30-day letter --

18 Q I'll call it a ding letter.

19 A Yeah, crossed-in-the-mail letter. And
20 then any other correspondence, I guess would be a
21 good word.

22 Q With the member?

23 A Right.

24 Q How about regarding the member, something
25 happens about -- Say Neil Thomson is a member of the

1 club and he is a terrible member and there is all
2 this complaining about him, as there undoubtedly
3 would be. Would that be in the member file as well?

4 A If there was some sort of -- It would be
5 in that file. If there was something to be in the
6 file, that would be the file.

7 Q How about communication among staff or
8 board members about a member? Would that be in that
9 file?

10 A If there was an incident --

11 Q There would be?

12 A Someone broke a rule or whatever and
13 there was a staff member who was asked about it,
14 they might send, you know, what they saw. I saw
15 Mr. Smith punch Mr. Jones, or whatever the situation
16 is. But that's about it.

17 Q Has that ever happened?

18 A Not at this club, but I have seen it
19 done.

20 Q How about financials about a member?
21 Would that be in the membership file or somewhere
22 else?

23 A That would be with accounting.

24 Q So that's a separate thing?

25 A Yes.

1 Q Who does the accounting for the club?
 2 A Phoenix Financial Services is a contract
 3 that we have.
 4 Q Are they located right there?
 5 A Yeah, they are just over the causeway
 6 there.
 7 Q Are they a separate entity?
 8 A They are.
 9 Q And the club contracts with them and has
 10 some sort of arrangement --
 11 A They do HR and payroll and general
 12 accounting.
 13 Q And I assume billing?
 14 A Correct.
 15 Q So then if someone is delinquent, Phoenix
 16 knows and Phoenix notifies maybe Leslie Cooler (sic)
 17 or somebody?
 18 A Lindsey Cooler.
 19 Q Thank you.
 20 A That's how we know to send these
 21 (indicating).
 22 Q The ding letter. Got you.
 23 Other than what you just told me, are
 24 there any other records that are kept by the club
 25 regarding members?

1 A No.
 2 Q Let's talk about board member documents.
 3 Does each board member have its own -- his or her
 4 own e-mail account?
 5 A Just personal.
 6 Q So they use a personal e-mail account?
 7 A Yeah, right. Correct.
 8 Q Do each of them have files or records
 9 that are kept by the club?
 10 A No. Well, just their regular member
 11 file, but not as a --
 12 Q Thank you. Other than that?
 13 A No.
 14 Q How about board meeting minutes? Tell me
 15 what committees there are with the board, the best
 16 you can.
 17 A There is more than a couple. You have a
 18 golf committee, greens committee, house committee,
 19 communications committee.
 20 Q Is there a legal committee?
 21 A There is a legal committee.
 22 Q Is there a membership committee?
 23 A There is a membership committee.
 24 Q Do each of those -- are they supposed to
 25 keep minutes?

1 A They do. I don't know if they really
 2 call them minutes, but they keep notes or minutes of
 3 what's happened. It's not quite formal.
 4 Q Whose responsibility is that with each
 5 committee? Does each have a secretary?
 6 A The chair of the committee is a member of
 7 the board. So the chair of the committee submits
 8 the notes from the meeting to the board book that
 9 they get at the board meeting, and then they are
 10 part of the minutes.
 11 Q Tell me what the board book is.
 12 A It's just the book that we go -- that you
 13 go to the board meeting with. It has the financials
 14 for the month. It has all the minutes from that.
 15 It has the minutes from the previous board meeting.
 16 Just basically the last month of stuff.
 17 Q Who keeps the board book?
 18 A Lorie Stewart who is the executive
 19 assistant, I believe is her title, creates the
 20 book -- you know, she gathers all the stuff and puts
 21 it inside the book, and then the books are given to
 22 the board members.
 23 Q And then does she take them back at the
 24 end? Is she kind of like a staff for the committee?
 25 A Yeah, they keep theirs, and then she has

1 a copy of it. That way, if there was something to
 2 be changed or whatever, the minutes then go up on
 3 the website.
 4 Q Does it follow standard what you see
 5 sometimes where there are minutes, the next board
 6 meeting they are approved, if they are approved or
 7 altered --
 8 A Right, yeah. And then they go -- After
 9 the board meeting, if there was, you know, you
 10 spelled this wrong or whatever, she makes those
 11 changes and then they go up on the website.
 12 Q And how long are they kept on the
 13 website?
 14 A I don't know for sure, but for a while.
 15 Q That's good enough. And that process you
 16 just described, has that been the process as long as
 17 you've been the general manager?
 18 A Yes.
 19 Q Are any other records kept regarding
 20 board committee meetings?
 21 A That's all that I know of.
 22 Q Different topic. Votes on changes to the
 23 governing documents. So the governing documents in
 24 a nutshell, just so you know the way I look at it,
 25 there are the bylaws, there's the plan, there's the

1 club rules. Do I have that right?
 2 A Yes.
 3 Q Are there any other governing documents
 4 that you know of?
 5 A No.
 6 Q But every now and then those are changed
 7 in some regard. Is that right?
 8 A Correct.
 9 Q And sometimes there is a vote on changes.
 10 Correct?
 11 A Correct.
 12 Q My question now is about what documents
 13 exist or are kept regarding votes on the changes.
 14 Are records kept regarding notices that are sent to
 15 members about proposed changes?
 16 A We would have the e-mail records of
 17 telling people about change.
 18 Q Are notices sent by e-mail?
 19 A Yes.
 20 Q Do you know how long that's been the
 21 practice?
 22 A I don't know.
 23 Q There must presumably have been some time
 24 before e-mail, although none of us can remember it.
 25 Do you know what, if any, records were kept of

1 notices that were sent by regular mail?
 2 A I don't know. We have some files from
 3 old stuff and it could be in there. But I don't
 4 know exactly what's in them.
 5 Q In addition to the e-mails you just told
 6 me about, is that the primary mode of communication
 7 with members these days?
 8 A It is. Those that have told us we don't
 9 do e-mail or we don't computers, we have a separate
 10 list of the small number that is that. So we will
 11 mail everything to them. It's not a big number
 12 anymore. It gets smaller every year.
 13 Q Do you-all send out invoices every month
 14 to people?
 15 A Only those that don't have e-mail.
 16 Q If someone has e-mail, do they still get
 17 an invoice every month?
 18 A It's electronic, you know, electronic
 19 "click here" and it will take you to the website.
 20 They can go on the website and look at their
 21 invoices every day. They can go in there today and
 22 look and see what they had yesterday.
 23 Q When changes are being made to the
 24 governing documents, are the proposed changes
 25 e-mailed out to people? Is that what I understood

1 you to say?
 2 A Yeah, and put on the website.
 3 Q And they are posted on the website?
 4 A That's right.
 5 Q Where on the website? Is there a section
 6 for it?
 7 A Yes. Once you log into the website,
 8 there is a CIMC tab and then a CIPOA tab. So you
 9 can go into the CIMC side, and then it has all kinds
 10 of stuff.
 11 Q Who uploads things to the club's website
 12 and manages the website?
 13 A Lorie, my executive assistant.
 14 Q So she is responsible for putting stuff
 15 up, taking it down. How about e-mailing items out
 16 to members? Who does that?
 17 A She does that through the website
 18 software. I won't say it does itself, but ...
 19 Q I understand. How about when votes come
 20 in on a proposed change? How are those records
 21 kept?
 22 A We keep them in the office.
 23 Q In paper?
 24 A The balance, yes.
 25 Q How about the things that have been sent

1 out to members? Say you wanted to confirm that
 2 Mr. Jones -- Strike that.
 3 How do you know that everyone got the
 4 information that you're sending them?
 5 A Well, the member is responsible for
 6 letting us know where they live.
 7 Q Right, their address?
 8 A Otherwise, we're not going to be able to
 9 know where they are. What we send out, if we don't
 10 get something back in general -- Well, I don't want
 11 to say every time, because I don't know if it's
 12 every time.
 13 If there seems to be confusion or seems
 14 to be maybe they didn't get it, we may try to -- we
 15 may try to find people. But it just kind of -- I
 16 don't know that every single person got what we
 17 mailed to them. I would like to believe the U.S.
 18 mail could get it there.
 19 Q You, as the general manager, I'm asking
 20 about the club's knowledge. Is it fair to say the
 21 club does not necessarily know whether or not a
 22 member recipient receives the materials that are
 23 sent out?
 24 A The overwhelming majority do, because we
 25 have high returns of votes. But every single

1 person? I won't be able to guarantee that every
2 single person got something we put in the mail to
3 them. We do have the ability to know if they open
4 an e-mail.

5 Q Really? Tell me about that.

6 A E-mails sent through the website have a
7 log of when you opened it.

8 Q Is it if I opened it, or is it if I
9 clicked it and went to the website? Do you see the
10 difference?

11 A You would have to get into the website to
12 open it.

13 Q Oh, I see. So I have to log on to the
14 Callawassie website to open my e-mail?

15 A If it's something -- Yes. You can't just
16 click a button and have your statement pop up. That
17 way, if for some reason the e-mail address is wrong,
18 we can't just send out that information about you to
19 someone else.

20 Q But that person has to first receive the
21 e-mail, second click it and go on the website in
22 order to view it, and then you have a record of
23 whether or not they viewed it?

24 A Yeah. That way, if someone hasn't opened
25 anything, then we start to wonder if they've changed

1 their e-mail address and just haven't told us or
2 what.

3 Q Let me ask you this. Say someone has
4 been a member since before you were there.

5 A We have lots of those.

6 Q Most of them, I would expect.

7 A Yes.

8 Q At what point did you-all transition --
9 the club transition over to the e-mail notification?

10 A I don't know.

11 Q That's a fine answer. What I'm trying to
12 figure out is at some point the club moved from
13 paper notifications presumably to electronic. I'm
14 wondering how they collected -- got over, say, 500
15 people, you know, their e-mail addresses and so on.
16 Do you know how that happened and if they gave
17 permission?

18 A Well, on the application it asks for
19 e-mail addresses. And, like I said, we have some
20 that don't do e-mail or don't want e-mails or
21 whatever the situation is. And for that small
22 percentage, we play the U.S. mail game.

23 Q So it's on the application whether or not
24 a member will accept notice by e-mail as far as you
25 understand?

1 MR. HAIGHT: Object to the form.

2 MR. HUGHES: Object to the form.

3 A I don't know exactly what's on it.

4 BY MR. FORD:

5 Q We can look at the application to
6 determine that?

7 A Sure.

8 Q Let's talk about the club documents.

9 Those are the governing documents I mentioned -- the
10 plan, bylaws and rules. Are you familiar with each
11 type of document?

12 A Reasonably.

13 Q They must factor into your job on a
14 regular basis?

15 A More the club rules than the other two.

16 Q Why is that?

17 A The bylaws kind of drive the plan, which
18 then kind of filters down into, can you wear jeans
19 in the clubhouse.

20 Q Which the rules deal with?

21 A Right.

22 Q I'm asking for your understanding. Tell
23 me what you understand, if you haven't already --
24 because you just told me a hierarchy, I think --
25 what your understanding of the relationship is

1 between the rules, the plan and the bylaws.

2 A Just like that.

3 Q Is it your understanding that each
4 document has a scope, or don't you know? You've got
5 three sets of documents. I'm just trying to figure
6 out how you, as the general manager, knows when to
7 turn to each one.

8 A Well, it would be whatever -- If it's
9 whether or not you can wear jeans in the clubhouse,
10 it's in the club rules. If it's something to do
11 with the membership, then it's usually in the plan.
12 If it has something to do with maybe election of the
13 board of the directors, it would be in the bylaws.

14 Q So every now and then -- we sort of
15 referred to it earlier -- any of those documents may
16 get changed from time to time. Has that happened
17 during your tenure as general manager from time to
18 time?

19 A Yes.

20 Q I'm going to go through each one and you
21 tell me your understanding.

22 If you want to change the rules, tell me
23 the process that you understand as the general
24 manager that needs to be followed to change the
25 rules.

1 A Rules can be changed by the board, unless
 2 you're trying to change something that's in the
 3 rules that doesn't fall in line with the plan or the
 4 bylaws.
 5 Q And then what needs to happen?
 6 A Well, then you would have to go change
 7 the plan or the bylaws to have them all kind of
 8 filter down and kind of clarify each as they go
 9 down.
 10 Q Moving then up the hierarchy to the plan,
 11 what is your understanding of the process that would
 12 need to be followed to change the plan?
 13 A Member vote.
 14 Q So that would follow what we kind of
 15 alluded to generally -- sending out notices, votes
 16 coming back, et cetera?
 17 A Right.
 18 Q Bylaw change, what is your understanding
 19 of what it would take to change the bylaws?
 20 A Vote.
 21 Q Membership vote?
 22 A Mm-hmm.
 23 Q So the plan and the bylaws essentially
 24 have the same process for changes?
 25 A That's correct.

1 Q Are there ever any circumstances -- Have
 2 you ever seen a situation where the membership was
 3 notified about a change in the rules?
 4 A If the rules are changed, we'll send an
 5 e-mail saying there is an updated version of the
 6 rules.
 7 Q In the e-mail does it say what the
 8 changes are?
 9 A I don't know for sure, but I would think
 10 so.
 11 Q I'm just asking what you know. You don't
 12 know one way or the other?
 13 A I'm not a hundred percent sure.
 14 Q Are you 90 percent sure?
 15 A I'm 90 percent sure that we wouldn't just
 16 say, hey, by the way, there are some new rules, go
 17 try to figure them out in the 40 pages of stuff
 18 that's in there --
 19 Q Right, because that would be very
 20 difficult to decipher?
 21 A Right. I would assume that we would say,
 22 hey, we've changed the rules on whether you can wear
 23 jeans; and, by the way, there is a new copy of the
 24 rules on the website.
 25 Q Does the club retain those e-mails for a

1 period of time?
 2 A They are all on that website.
 3 Q The notice that was sent out to the
 4 people about the change in the rules?
 5 A If there was something sent out, we
 6 should still have it. I assume it's in space for a
 7 reason.
 8 Q Let me go back to my original question.
 9 My question was, do you remember during your time as
 10 a general manager a membership vote on a change to
 11 the rules?
 12 A Membership vote to change the rules? No,
 13 because the rules can be changed by the board.
 14 Q Unless --
 15 A Unless it contradicts the plan or the
 16 bylaws.
 17 Q Is it your understanding that a change to
 18 the rules that affects the financial obligations of
 19 the members must be approved by the members?
 20 A Yes. You would have to change the plan
 21 to change the financial piece.
 22 Q Is it important that members be notified
 23 of changes to the governing documents?
 24 A Yes.
 25 (Exhibit No. 3 marked for

1 identification.)
 2 BY MR. FORD:
 3 Q For the record, Exhibit 3 is stuff that
 4 was produced by the club, and it's got a Bates No.
 5 CIMC 3382 Ford -- and my understanding is that I am
 6 Ford in that scenario, which is flattering --
 7 through CIMC 3412.
 8 I'll tell you what my understanding is of
 9 this, and then you can tell me. My understanding is
 10 that there was a certain -- Some things were voted
 11 on with regard to replacement items and so on in
 12 roughly late 2012 and the replacement items are on
 13 the front here. My understanding from the
 14 production from the club is that the list that
 15 follows is a list of the folks who were notified.
 16 So my first question to you is, take a
 17 look at that and tell me if any of this rings a bell
 18 with you.
 19 A It rings a bell. I don't know if this is
 20 the specific list --
 21 Q All I know is this is what we got.
 22 A This would be how it was done, right.
 23 Q If you just turn to page 2, we'll take it
 24 as an example. It's got a list of what -- I guess
 25 it says at the top Social Members. Do you see that?

1 A Correct.
 2 Q And then it's got -- it just goes on and
 3 on with addresses, and some are out of state, some
 4 are in state. Do you at least recognize the general
 5 format of what we've got here?
 6 A Yes.
 7 Q Does this look like the kind of thing you
 8 were telling me, the folks who are notified of
 9 changes?
 10 A Yes.
 11 Q I don't see e-mail addresses. But I
 12 understand, and you correct me if I'm wrong, some of
 13 this would have been by e-mail. Correct?
 14 A This would have been used to -- If this
 15 is what I believe it is, this would have been what
 16 we used to mail the ballot. So all ballots go by
 17 mail.
 18 Q Oh, they don't go by e-mail and then they
 19 are sent back?
 20 A No. They all go by mail.
 21 Q Let me ask you this. If someone --
 22 Should all members be sent that ballot?
 23 A All members are sent -- Everybody on this
 24 list gets a ballot.
 25 Q Should all members be on the list?

1 A What members aren't on the list?
 2 Q When I look at it, I see Mr. Frey, who is
 3 a defendant, is not on the list. Mr. Martin, I
 4 don't think, is on the list. There are a number of
 5 people who have been sued --
 6 A Suspended members. There you go. Sorry.
 7 Q So if someone is suspended, they would
 8 not be on the list?
 9 A Correct.
 10 Q And they would not be sent ballots?
 11 A They would not be sent ballots.
 12 Q And just tell me your understanding of
 13 why that is.
 14 A They are not eligible to vote.
 15 Q At what point do you know that person
 16 becomes suspended? Like how do you-all know -- Say
 17 Mr. Short hypothetically had been suspended. How do
 18 you-all know that?
 19 A Accounting generates this list.
 20 Q Of delinquents?
 21 A Accounting keeps track of the suspended
 22 delinquents, and then accounting generates this
 23 list. And basically I would assume there is some
 24 kind of button they can push to not include
 25 suspended members to make this list.

1 Q Let's go back to my discussion earlier.
 2 You told me there's a 30-day ding letter, there's a
 3 60-day ding letter, and then it gets turned over to
 4 the lawyers. And I asked you, you know, how does
 5 the suspension determination get made. And I think
 6 you said essentially the board does it.
 7 What I'm asking is, if the board makes
 8 that decision, how does the accountant know -- Does
 9 the board tell the accountant that this is the list
 10 of people who have been suspended, don't send them
 11 out?
 12 A Once they get past the 60 days and it
 13 goes to counsel, they are suspended.
 14 Q Automatically?
 15 A That creates suspension.
 16 Q I see. So if they've been turned over to
 17 the lawyers, they are deemed suspended and they
 18 don't get sent other notices?
 19 MR. HAIGHT: Objection to the form.
 20 A They are suspended, and then counsel will
 21 try to send demand letters, I guess is the next.
 22 It's like 30-day, 60-day demand letter, I guess, but
 23 the demand letter is sent by counsel.
 24 BY MR. FORD:
 25 Q If they are suspended, they don't get to

1 vote. Correct?
 2 A Correct.
 3 Q If they are suspended, do they at least
 4 get notified of the proposed changes to the
 5 documents?
 6 A They still get e-mails.
 7 Q How about stuff sent by regular mail?
 8 A They would not get something -- They
 9 would not get a ballot by mail.
 10 Q But say you send stuff out to somebody
 11 by -- say they weren't an e-mail person and they
 12 were a mail person. Would they still get that?
 13 A If they were a mail person, they would
 14 still get the notifications. They just wouldn't get
 15 the ballot.
 16 Q It sounds like there are at least two
 17 separate lists. One is a list of all members.
 18 Another is a list of members minus suspended
 19 members?
 20 A There is a list of members for
 21 everything, whether they are suspended or not. And
 22 then just this specific list is for a ballot, which
 23 would not include suspended members.
 24 Q For a suspended member, tell me what
 25 other restrictions are on them. They don't get a

1 ballot, but they get all other materials, or they
2 are supposed to. What are the other restrictions on
3 a suspended member?

4 A They can't use the facilities.

5 Q What does that mean?

6 A You can't play golf. You can't go in the
7 pool. You can't come to lunch, that kind of stuff.

8 Q Anything else?

9 A Just use of the facilities.

10 Q But they are still -- When can they cure
11 that? How does that work? Say someone has been
12 suspended for, let's just a say year. How would
13 they cure the whole thing?

14 A They would want to get current. They
15 would talk to counsel about getting current. And
16 counsel would draw up whatever that agreement
17 became, and then the board -- I don't want to say
18 unsuspend them, but put them in some sort of payment
19 plan to allow them to be able to use the facilities.
20 They may have let them come back but not have
21 charging privileges to keep the debt down. It would
22 vary.

23 Q Let's say a hypothetical. Mr. Thomson
24 has been suspended and he reaches an agreement with
25 Mr. Haight and he brings it current. What happens

1 then? Does the lawyer then let somebody know that
2 this person is good?

3 A Well, we would get the money. So
4 accounting --

5 Q The accountant would know?

6 A The accountant would then credit their
7 account. And then once their account would be
8 something less than 60 days, they would --

9 Q Automatically?

10 A Yeah, they would be current. So then we
11 would take them off the suspended list and then turn
12 back on Jonas whatever (sic).

13 Q Phoenix, do they do anyone else's books
14 over there?

15 A Spring Island.

16 Q Do they do the association's books?

17 A I don't know.

18 Q Do you need a break, or are you okay?

19 A I'm good.

20 Q During your time as general manager, has
21 the voting process changed with regard to the
22 governing documents?

23 A No.

24 Q Is it a secret ballot? Is it an open
25 ballot?

1 A I'm trying to -- Really, the one -- the
2 annual one is for the board of directors. And it's
3 a two ballot thing. It goes out -- Well, we get
4 this list. It goes out in an envelope that has a
5 return envelope in it, like a cover envelope, and
6 then the ballot.

7 Q What's the purpose of that whole little
8 deal?

9 A It's basically to create the anonymity of
10 it. I don't want to say it's a secret ballot,
11 because it's not secret -- Well, it protects those
12 who voted from finding out how they voted.

13 Q Why do you-all do that?

14 A I don't know. That's just how it was
15 done, so we just kept doing it that way. They sign
16 the outer envelope to make --

17 Q Who is "they"?

18 A Whoever we send this to (indicating).

19 Q The member?

20 A Right. The member gets a piece of mail
21 that's to Mr. Smith. And then inside Mr. Smith's
22 envelope is a return envelope that is addressed to
23 my executive assistant and a place for that member
24 to sign, as well as their return address on it. And
25 within it is an envelope, just a plain envelope that

1 just says "ballot" on the outside. It's mostly just
2 to cover what's checked on the ballot so you can't
3 do this (indicating).

4 And then it comes back to Lorie Stewart,
5 because it's addressed to Lorie Stewart. And then
6 as long as it's signed, she checks off that it came
7 from them, and then we go from there. And then once
8 the -- Do you want me to keep going?

9 Q I do.

10 A Then we take all of those that come in,
11 and we -- there is a group that goes through it.
12 It's a bunch of members and the secretary, and there
13 are eight or ten people who go through them to make
14 sure that the signed one is back from the person who
15 we tried to send it to.

16 And then we take them out of those
17 envelopes and put those off to the side, because now
18 it isn't attached to who voted for what. Now they
19 are just over here. And then we go through and
20 tabulate based on whatever is on the ballot, not
21 Mr. Smith voted for these three people. It's just
22 Mr. Smith voted and here's his ballot. And then
23 Mrs. Smith or Mr. Jones or whatever. And then you
24 go through and do the ballots.

25 Q If you wanted years later to figure out

1 how a particular person voted, would that be
 2 possible under that scenario?
 3 A No, it would not.
 4 Q Here's a general question. It's off
 5 base. The folks who are on the board, are they
 6 generally from out of state, or are they from South
 7 Carolina? You're an out-of-state guy. Let me ask a
 8 specific question that's more helpful.
 9 Do you know of anyone on the board who is
 10 from South Carolina?
 11 A Like born and raised in South Carolina?
 12 Q Sure.
 13 A I don't know.
 14 Q I'm just wondering if you knew. Does the
 15 club have any black members?
 16 A There are owners of property and club
 17 members that are black.
 18 Q How many? I'm just curious.
 19 A I don't know.
 20 Q I'm going to change topics. I'm going to
 21 ask about methods for leaving the club.
 22 Tell me your understanding as the general
 23 manager of what it means to resign from the club.
 24 A To resign, I believe it's how you get on
 25 the waiting list. I'm starting to think. You say

1 you want to resign. By resigning, you're now on the
 2 resale list. When I get letters of resignation, I
 3 send them to counsel.
 4 Q To the lawyer?
 5 A Right.
 6 Q Why is that, if they resign?
 7 A Because it's gotten complicated and
 8 confusing apparently to who is supposed to say what
 9 when. So I don't mess around with it anymore.
 10 Q But if someone just wants to put their
 11 name -- Okay. While someone is on the resale list,
 12 are they still members in your understanding?
 13 A Yes.
 14 Q Do they still get to use the facilities
 15 and get to vote and get notices and all of that?
 16 A Yes, as long as they remain current.
 17 Q Thank you. That's right.
 18 From your understanding, when does that
 19 privilege -- all of those privileges end?
 20 A When they sell or their membership is
 21 sold off of that resale list, whether it's -- Yeah,
 22 when it comes off the resale list or they are no
 23 longer members, because they would end, or if they
 24 became delinquent.
 25 Q They are suspended?

1 A Right. Sorry. Not just delinquent.
 2 Q In your experience, how long does it take
 3 someone to move off the resale list these days?
 4 A I don't know.
 5 Q No idea?
 6 A A long time.
 7 Q Different subject. What is your
 8 understanding as the general manager of what
 9 termination of a membership means?
 10 A I don't know. I don't know.
 11 Q Do you know if a terminated member is
 12 still a club member?
 13 A I don't.
 14 Q Do you know if a terminated member still
 15 owns equity in the club?
 16 A I don't.
 17 Q Different question. What is your
 18 understanding as the general manager of what
 19 expulsion from the club means?
 20 A I'm not a hundred percent sure.
 21 Q Just tell me your understanding as the
 22 general manager, as the guy who the buck stops with.
 23 A You could still be a member. You could
 24 still have a membership. You may just be suspended
 25 until your membership transfers, I guess, would

1 be -- If Mr. Jones punches out Mr. Smith, you may
 2 not be able to be a member anymore. You may not
 3 have usage anymore.
 4 Q Is an expelled member still a member of
 5 the club in your understanding?
 6 A I'm not sure which expelled -- What was
 7 the other one you just said?
 8 Q Terminated.
 9 A Terminated, expelled, there are different
 10 definitions for them.
 11 Q What is your understanding?
 12 A I don't get into them. I haven't gotten
 13 into expelled and terminated and all of that stuff.
 14 I have suspended and delinquent. That's about as
 15 far as I go. After that, it's lawyers and board.
 16 MR. FORD: We're almost out of
 17 videotape. So we're going to take a very short
 18 break.
 19 THE VIDEOGRAPHER: This is the end
 20 of tape No. 1 in the deposition of Jeff Spencer. We
 21 are off the record at 11:17.
 22 (Recess taken.)
 23 THE VIDEOGRAPHER: This is tape
 24 No. 2 in the deposition of Jeff Spencer. We are on
 25 the record at 11:20.

1 BY MR. FORD:

2 Q We were just having a discussion, or I
3 was asking about the difference about what
4 resignation is, what termination is, what expulsion
5 is. My understanding -- You told me what your
6 understanding of resignation was, as well as
7 termination and expulsion.

8 Is it fair to say -- I'm trying to move
9 on -- that you're not clear of the difference
10 between resignation, termination and expulsion, or
11 do I not have that right?

12 A Well, I don't use them -- I don't get
13 into anything past delinquent or suspended very
14 often. So I would go to the plan and figure out
15 what you're trying to -- which one would come in.
16 And it would really be the board to take it from
17 that point.

18 Q If a member came to you and said -- as
19 the general manager and said what does it mean to be
20 expelled, what would you tell them?

21 A I would get the plan and read it to them.

22 Q So, too, with terminations?

23 A Yes.

24 Q Just help me understand. As the general
25 manager, why don't you have just an understanding --

1 Why can't you just explain it?

2 A I don't deal with it every day. I can
3 tell you what the lunch special is today. I can
4 tell you how fast the greens are rolling. I can
5 tell you what the level of construction is going on
6 at the bathroom on No. 5.

7 I would want to know for sure I was
8 saying the right thing, so I wouldn't just say
9 something.

10 Q And you've already told me what
11 suspension means. Correct? We already talked about
12 it. I can ask you again. What does suspension
13 mean?

14 A They don't have the ability to use the
15 facilities. I think that's it.

16 Q What is a conceded membership?

17 A I don't know. I know I've seen it on the
18 resale list, but I don't know what -- that's not a
19 term that we use today. I think they are older --

20 Q Are you aware --

21 A That would be before me.

22 Q Are you aware of a provision in the
23 governing documents for concession of memberships?

24 A No.

25 Q Do you know whether or not a conceded

1 member still owns equity in the club or not?

2 A I don't.

3 Q What is a repossessed membership?

4 A I don't know.

5 Q Are you familiar with the term in the
6 governing documents that allows the club to
7 repossess a membership?

8 A No.

9 Q The club's practice for resignation,
10 termination, expulsion, has that process changed
11 over your time with the club?

12 A Not that I know of.

13 Q As general manager you would probably
14 know?

15 A Probably would have heard some change to
16 it; because it's in the plan or the bylaws, so you
17 would have to vote on it.

18 Q Are you aware of whether or not the
19 club's practices for terminating, expelling, have
20 changed over your time during the -- as the general
21 manager?

22 A No.

23 Q Is it the policy of the club or has it
24 been the policy of the club to place liens on
25 memberships when accounts are in arrears?

1 A I don't know. I don't know what that
2 process -- I know that we've gotten some judgments
3 but I don't know if judgment and lien are the same
4 thing. Sorry.

5 Q That's all right. I'm just asking what
6 you know.

7 A I don't know if it's the same word or two
8 different words meaning the same thing.

9 Q Has it been the club's policy to suspend
10 or expel members who are in arrears?

11 A Yeah. If you become delinquent, you are
12 suspended.

13 (Exhibit No. 4 marked for
14 identification.)

15 BY MR. FORD:

16 Q This is the 2001 club rules. I know
17 everyone has a ton of copies of this stuff. This is
18 Deposition Exhibit No. 3 to the Switzer deposition.
19 So we are going to call it Exhibit No. 4 to your
20 deposition.

21 If you would look at that, do you
22 recognize that document?

23 A I've seen this top page of it from long
24 ago.

25 Q Let me ask you this. In dealing with the

1 club rules, do you ever deal with previous versions
 2 of it?
 3 A No.
 4 Q Why is that?
 5 A They are not the most -- they wouldn't
 6 answer the question. Can I wear jeans in the
 7 clubhouse in 2001 can be different in 2014.
 8 Q Just for the record, to make it clear to
 9 the record, this is club rules dated 8/8/2001. So
 10 before your time.
 11 A Correct, by a bunch.
 12 Q Let's turn, if we could, to page 8.
 13 A Okay.
 14 Q I'm going to focus on Section 13.3.
 15 Unfortunately, I'm just going to read this paragraph
 16 into the record. Follow along, or not.
 17 A Sure.
 18 Q 13.3.1. "Any member whose account is
 19 delinquent for 60 days from the statement date may
 20 be suspended by the board of directors. Suspended
 21 members may not use any club facilities, participate
 22 in any club activities or vote on any club matters.
 23 Suspended members may be reinstated by the board of
 24 directors within four months of their suspension
 25 upon payment of all indebtedness, plus all dues,

1 fees, assessments and charges, including any food
 2 and beverage minimums accrued since the initial time
 3 of delinquency, plus interest calculated at the rate
 4 of one and one half percent monthly. Any member
 5 whose account is not settled within the four month
 6 period following suspension shall be expelled from
 7 the club." Do you see that?
 8 A I do.
 9 Q So that tracks to some degree the process
 10 that you and I have already discussed for
 11 expelling -- or for suspending people. Correct?
 12 A Yes.
 13 Q But it does have -- there is a
 14 difference, and you probably noticed in the last
 15 sentence, where this version says "within the four
 16 month period following suspension shall be expelled
 17 from the club." Do you see that?
 18 A I do.
 19 Q And that's different from what it is now.
 20 Correct?
 21 A Any member whose account is not settled
 22 within four months' period following suspension may
 23 be expelled from the club.
 24 Q And that's Exhibit 2 that you're reading
 25 from, the ding letter?

1 A That's right.
 2 Q So this is different in 2001. Correct?
 3 Because it says "shall be expelled from the club."
 4 A They are different words. I don't know
 5 if they have different meanings, but they are
 6 different words.
 7 Q And your understanding of the word
 8 "shall" is mandatory?
 9 A I don't know.
 10 Q Really?
 11 A No. Sorry.
 12 Q Do you think a person reading this, say a
 13 normal person reading this, would have the
 14 understanding that if an account is not settled
 15 within the four months' period following suspension
 16 they shall be expelled from the club?
 17 MR. HAIGHT: Object to the form.
 18 MR. HUGHES: Object to the form.
 19 BY MR. FORD:
 20 Q Do you think that's a fair reading?
 21 MR. HUGHES: Object to the form.
 22 A In 2001, it says shall. And in 2000 --
 23 whatever this was -- 11, it says may.
 24 BY MR. FORD:
 25 Q So they are different?

1 A They are different words.
 2 Q And different words have different
 3 meanings?
 4 MR. HUGHES: Object to the form.
 5 A Potentially.
 6 BY MR. FORD:
 7 Q Do you as the general manager see a
 8 difference between the word "shall" and the word
 9 "may"?
 10 A I would prefer to understand what
 11 expelled means.
 12 Q And you don't?
 13 A I don't.
 14 Q But regardless of what it means, is it
 15 your understanding from this 2001 rule that,
 16 whatever expelled means, following a four months'
 17 period of suspension a person shall be expelled from
 18 the club? Is that what it says?
 19 A In 2001, it says shall. And in 2011, it
 20 says may.
 21 Q So it changed?
 22 A It changed.
 23 Q Do you know why that was changed?
 24 A No idea.
 25 Q Do you think it's reasonable for someone

1 reading section 13.3.1 of the 2001 rules to have an
2 understanding that a person shall be expelled from
3 the club?

4 MR. HAIGHT: Object to the form.

5 A In 2001, it says shall.

6 BY MR. FORD:

7 Q Do you think the fact that it's changed
8 from 2001 until your ding letter might be confusing?

9 MR. HAIGHT: Object to the norm.

10 MR. HUGHES: Object to the form.

11 A Without knowing for sure what expelled
12 means, I don't know if expelled changes any
13 obligations to anything. If expelled doesn't change
14 any obligations, then I don't think "shall" makes a
15 difference.

16 BY MR. FORD:

17 Q Why is that?

18 A If you're expelled and you still have the
19 same responsibilities or requirements, then I don't
20 see what the difference would be. But I don't know
21 what the differences are. So I'm not sure what
22 expelled means.

23 Q You don't know?

24 A I don't know. It's in the plan. But
25 without one ...

1 Q So we're here. And I asked you, if you
2 had to explain to someone, a member, Mr. Thomson
3 wants to know what it means to be expelled, you're
4 the general manager, now that we have a plan in
5 front of us, how would you explain it to them?

6 A I would read the plan to them.

7 Q And what we just read?

8 A Well, in the plan it may give us more
9 understanding of what expelled means.

10 Q These are the rules. Let me give you the
11 plan. What plan do you want?

12 A I don't know.

13 Q I'm trying to be accommodating.

14 A Something that may describe what expelled
15 means.

16 Q Tell you what. I have all of the
17 documents. You can start with this one
18 (indicating). There is an index. And you tell me
19 what you need to explain to the member --

20 A Well, I would want the latest plan.

21 Q I think those are the latest plans, my
22 understanding. But I've got them going back to the
23 beginning. You tell me what you're looking at and
24 I'll follow along as you explain to me what expelled
25 means.

1 A I have the Plan of Offering for July 1,
2 2013.

3 Q What tab are you on?

4 A 19.

5 Q I'm with you. Go ahead.

6 A And I would try to find something that
7 talks about -- What do you call this? Expel. If
8 nothing is in here, then I would go to the bylaws.

9 Q Go ahead. And just identify for the
10 record which one you look at. And we've got them
11 all, so you can look at whatever you need to.

12 A 21, I believe.

13 Q For the record, 21 says Callawassie
14 Island Members Club, Inc., Amended and Restated
15 Bylaws, January 1, 2014.

16 A This talks about liens. I don't see a
17 definition for it in the latest versions. I can try
18 to go back through all of these. I don't spend any
19 time in any of these.

20 Q Let's go back to my original question.
21 My original question was if a member asks you as the
22 general manager what expulsion meant, I think you
23 told me you would need to look at the documents.
24 Tell me what your answer is now that you've got the
25 documents.

1 A Somewhere in here, my guess is I can find
2 something that explains to me what expulsion means.
3 If it's not in this current one, it could be in a
4 previous one. I don't know.

5 Q I asked you about versions of the rules,
6 and you said you essentially look at the most
7 current one, was my understanding what you said.
8 How about the bylaws? Do you only look at the
9 current version of the bylaws?

10 A Yeah. In general, I haven't had anybody
11 be expelled.

12 Q Let's talk about the documents. Your use
13 of the bylaws, do you --

14 A Unless it doesn't -- It depends on if I
15 can -- If you are really a member here wanting to
16 know the answer to that, I'm going to keep going
17 until I can find what that means.

18 Q But sitting here with all of these
19 documents in front of you, so far at least you
20 haven't been able to tell me what expelled means.
21 Correct?

22 A No. But I'm obviously not spending a
23 whole bunch of time looking.

24 Q If there's something you want to look at,
25 I don't want to keep it from you. I'm just asking

1 you as the general manager your understanding
 2 sitting here under oath.
 3 A Yeah, I don't know what expelled from the
 4 club means beyond what's written there.
 5 Q And how about terminated --
 6 A I haven't had anybody go to that level.
 7 Q How about if a member asks you what
 8 terminates their membership? Say there's a
 9 provision -- they say I've read a provision that
 10 says they can terminate membership. Mr. General
 11 Manager --
 12 MR. HAIGHT: Object to the form.
 13 BY MR. FORD:
 14 Q -- what does that mean? What would you
 15 tell them?
 16 A I would love to see it.
 17 Q Okay.
 18 A I would be happy to read it.
 19 Q Let's take a look at it. Go back to
 20 Exhibit No. 4, if you would turn the page, please.
 21 A To page 9?
 22 Q Yes. I'm reading section 14.2.1. And
 23 I'll read it for context on the transcript.
 24 "Any member may terminate membership in
 25 the club by delivering to the membership director

1 written notice of termination in accordance with the
 2 plan for the offering of club membership.
 3 Notwithstanding termination, the member shall remain
 4 liable for any unpaid club account, membership dues
 5 and charges, including any food and beverage
 6 minimums." Do you see that?
 7 A I do.
 8 Q So the member comes to you and says,
 9 Mr. General Manager, what does it mean to terminate
 10 my membership from the club? I've read I can --
 11 MR. HAIGHT: Object to the form.
 12 BY MR. FORD:
 13 Q -- what would you tell them?
 14 A I've only dealt with resignation. I have
 15 had no one ever come to me and say they want to
 16 terminate. I get a resignation letter saying I'm
 17 resigning from the club, which starts the process
 18 for the resale list.
 19 Q You wouldn't know what to tell a member
 20 who asks you what termination was. Correct?
 21 A No.
 22 Q Am I correct?
 23 A You are correct.
 24 Q It was a double negative.
 25 A I'm not sure how I would answer it,

1 because I don't know.
 2 Q Do you think a member reading what I just
 3 read to you from section 14.2.1 would be reasonable
 4 in thinking they could terminate their membership
 5 from the club?
 6 MR. HAIGHT: Object to the form.
 7 A Any member may terminate membership in
 8 the club by delivering -- This is in 2001, so I
 9 don't know --
 10 BY MR. FORD:
 11 Q Let's just take this language.
 12 A In 2001, this says, "Any member may
 13 terminate membership in the club by delivering to
 14 the membership director written notice of
 15 termination in accordance with the plan of offering
 16 of club memberships. Notwithstanding termination,
 17 the member shall remain liable for any unpaid club
 18 account, membership dues and charges."
 19 So they could terminate, but they would
 20 still be liable for their charges.
 21 Q What does that mean?
 22 A For me, it sounds like resigning. But it
 23 may be just a different word for it. Because I
 24 don't see resignation in here. So maybe resignation
 25 or expulsion --

1 Q Are different?
 2 A Or terminate. Sorry.
 3 Q Are different?
 4 A Yeah.
 5 Q You don't know?
 6 A I don't know what they were trying to
 7 say.
 8 Q Do you think a person reading this, that
 9 you and I just read, would be reasonable in
 10 understanding that termination was something
 11 different from expulsion?
 12 MR. HAIGHT: Object to the form.
 13 A Well, this says suspension, expulsion and
 14 termination are all roughly the same.
 15 BY MR. FORD:
 16 Q It lists them separately as different
 17 words. If it was the same word, why would they have
 18 separate words for them?
 19 A Well, the next one says a member may be
 20 reprimanded, expelled or suspended by the board of
 21 directors, and then it lists some things, you know,
 22 that you could have done. But notwithstanding any
 23 termination or suspension of membership, the member
 24 shall remain liable for any unpaid club account,
 25 dues, fees and assessments. As such, member shall

1 not be entitled to a refund of any part thereof paid
2 by the member to the club.
3 Q It's confusing, isn't it?
4 MR. HUGHES: Object to the form.
5 A I mean, it says what it says. This is in
6 2001. So I don't know -- I mean, it says
7 notwithstanding any termination, the member shall
8 remain liable for any unpaid club account or
9 membership dues. Any member who has had his or her
10 membership terminated for any reason shall, again,
11 not be admitted to the club facilities while
12 suspension and termination is in force, shall not be
13 permitted to vote. So that's how you probably got
14 to the voting part. Over time if they've kind of --
15 I don't know. That's what this says.
16 BY MR. FORD:
17 Q Let me ask it this way. Do you
18 understand the difference between resignation,
19 termination and expulsion?
20 A I can read these --
21 Q Do you understand it? Can you explain it
22 to me?
23 A I would read them to you.
24 Q Do you think a normal person reading the
25 provisions you and I have just read together would

1 understandably be confused by them?
2 MR. HAIGHT: Object to the form.
3 MR. HUGHES: Same objection.
4 A I don't know.
5 BY MR. FORD:
6 Q Are you confused by them?
7 A Well, I just don't deal with them. If I
8 spent enough time trying to understand what they
9 were trying to do, if that member says I need to
10 terminate, are they really trying to say they are
11 trying to resign? Are they trying to get on the
12 resale list? I would want to know what they are
13 really trying to do.
14 Q And you would point them to the
15 documents?
16 A They would come to me and tell me.
17 Q Who is "they"?
18 A This member would come to tell me -- You
19 said the member comes to you and says I want to
20 terminate. I would say, What are you trying to do?
21 Where do you see what you're trying to do?
22 Q And they say I want to terminate my
23 membership. It says I can. What's your response?
24 A I would assume that they are trying to
25 get on the resale list.

1 Q What if they don't? What if they say --
2 if they're following through in what you're saying,
3 I don't. I want to terminate my membership.
4 A They remain liable for the dues and fees.
5 Q For unpaid dues and fees. Right?
6 A Right.
7 Q What does unpaid mean to you?
8 A Well, it means unpaid, but if -- I'll
9 leave it at that.
10 MR. FORD: Let's take a short break.
11 THE VIDEOGRAPHER: Off the record at
12 11:44.
13 (Recess taken.)
14 THE VIDEOGRAPHER: On the record at
15 11:52.
16 BY MR. FORD:
17 Q Mr. Spencer, do you attend board of
18 director meetings in your capacity as general
19 manager?
20 A I do.
21 Q What's your role at those meetings,
22 generally?
23 A I give a general manager's report, which
24 just talks about operational stuff.
25 Q Do you attend any of the committee

1 meetings?
2 A Sometimes I do, but it's not mandatory.
3 I go to some when I have time.
4 Q Which ones do you tend to go to when you
5 go?
6 A I'll go to golf and some greens. And
7 then it just depends, because it feels like they are
8 every day.
9 Q When you're with the board meetings, do
10 they go into executive session and exclude you from
11 the meeting? Does that happen? Or are you
12 generally there for the whole thing?
13 A It varies. Sometimes I am and sometimes
14 I'm not.
15 Q What types of things would you not be
16 present for?
17 A When they are talking about me.
18 Q Right. Your contract or whatever. But
19 other than that, are you generally present at board
20 meetings?
21 A Generally. I don't really -- Nothing
22 really jumps out at me that, you know, this comes up
23 all the time and I have to leave for it.
24 Q How often does the board meet?
25 A Generally once a month. Sometimes in the

1 summer they will skip one.
 2 Q Do they communicate in between those
 3 meetings with you? The board.
 4 A Individually, sure.
 5 Q And how do they do that?
 6 A Usually e-mail.
 7 Q Do the board members communicate with
 8 each other outside of your presence as far as you
 9 know, one way or the other?
 10 A I don't know. I assume so, but I don't
 11 know.
 12 Q I'm going to change topics, and I'm going
 13 to talk about people leaving the club, the practice
 14 of leaving the club.
 15 Since you've been general manager of the
 16 club, has the practice of when people can leave
 17 changed?
 18 A I don't believe so.
 19 Q So when can a person leave the club in
 20 your understanding?
 21 A Off the resale list or when they sell.
 22 Q Explain for people who don't understand
 23 what you mean by when they sell. What do they --
 24 A If they sell their property, they would
 25 transfer their membership when they sell the

1 property.
 2 Q Are there any other circumstances that
 3 you're aware of?
 4 A No.
 5 Q Are members ever allowed to leave the
 6 club without full payment of the amounts due?
 7 A I believe there's maybe been somewhere
 8 the interest that's been accrued on delinquents has
 9 been waived.
 10 Q So in some circumstances the club will
 11 negotiate down the amount owed?
 12 A Just the interest so far that I know of.
 13 Q What are the other charges that you're
 14 thinking of that are not negotiated down? Legal
 15 fees?
 16 A Dues, legal fees. Just dues and fees.
 17 Q Are you aware during your time of anyone
 18 being allowed to leave the club without an ongoing
 19 financial obligation?
 20 A Say that one more time.
 21 Q Sure. Are you aware of anyone being
 22 allowed to leave the club without an ongoing
 23 financial obligation?
 24 A Leave the club -- When you leave the
 25 club, you are without financial obligation going

1 forward.
 2 Q When you stop owning your membership?
 3 A Right. When the membership transfers to
 4 someone else, it's no longer your membership.
 5 Q Be that transferred to the club or to
 6 someone else?
 7 A Correct.
 8 Q People who are suspended on the
 9 suspension list, do you know of any instances where
 10 the club has settled with someone and let them off
 11 the suspension list and sort of negotiated it down?
 12 A People have been suspended, asked to find
 13 a way to be current and get into a payment plan.
 14 Q What happened with Jim and Bev Kuni,
 15 spelled K-u-n-i? My understanding is that they were
 16 allowed to leave the club. What was the situation
 17 there?
 18 MR. HAIGHT: Object to the form.
 19 A The Kunis sold their property.
 20 BY MR. FORD:
 21 Q They sold their property. Did they sell
 22 the membership?
 23 A Yeah. When the new purchaser bought the
 24 property, their membership was transferred.
 25 Q And how about Dick and Paula Murdock?

1 What happened with them?
 2 A I believe Bank of America foreclosed on
 3 them. And when Bank of America took title, they
 4 became the member.
 5 Q Bank of America was your new member?
 6 A Right.
 7 Q So what happens to the previous owners,
 8 the Murdocks, once it's foreclosed and the bank has
 9 taken over? Presumably there is a past due amount
 10 that the club wants.
 11 A There is.
 12 Q So what does the club do in that
 13 situation?
 14 A We usually get judgments against them for
 15 that amount. And then depending on where they are,
 16 we may -- That's the wrong word. I want to say
 17 expedite.
 18 Q Collect on the judgment?
 19 A Domesticate. If they move to Kansas or
 20 something, we just domesticate it there.
 21 Q Do you know the circumstances under which
 22 Margaret Brice was allowed to leave the club?
 23 A I don't know that person.
 24 Q That's fine. I'm just asking. Do you
 25 know the circumstances under which McGee Butcher was

1 allowed to exit the club?
 2 A I don't know who that is.
 3 Q Do you know the circumstances under which
 4 Damien Elias was allowed to exit the club?
 5 A I don't know who that is.
 6 Q Do you know the circumstances under which
 7 Marshall Field was allowed to exit the club?
 8 A I don't know who that is.
 9 Q Do you know the circumstances under which
 10 Charles Gallup was allowed to exit the club?
 11 A I don't know who that is.
 12 MR. FORD: Gallup, G-a-l-l-u-p.
 13 BY MR. FORD:
 14 Q Do you know the circumstances under which
 15 Jacqueline Leffers was allowed to exit the club?
 16 A I don't know who that is.
 17 Q Do you know the circumstances under which
 18 Philip Thomas was allowed to exit the club?
 19 A I do not.
 20 Q Do you know the circumstances under which
 21 Ralph Zazza was allowed to exit the club?
 22 A I don't know.
 23 Q Do you know the circumstances under which
 24 Hugh and Sara Gillam, G-i-l-l-a-m, were allowed to
 25 exit the club?

1 A I recognize that name, but I don't know.
 2 Q We already talked about the Kunis.
 3 A Right. They sold.
 4 Q Do you know the circumstances under which
 5 Patricia Terwillinger, T-e-r-w-i-l-l-i-n-g-e-r, was
 6 allowed to exit the club?
 7 A I don't.
 8 Q Do you know the circumstances under which
 9 Philip and Patsy Learned, L-e-a-r-n-e-d, was allowed
 10 to exit the club?
 11 A No.
 12 Q Do you know the circumstances under which
 13 the developer was allowed to exit the club?
 14 A No.
 15 Q Who makes the decision ultimately as to
 16 who is allowed to exit the club or not?
 17 A The board. It comes off the resale list
 18 in order, and then everything else is by real estate
 19 transaction. It's transferred at the sale of
 20 property.
 21 Q So what's the answer to my question?
 22 Nobody makes the decision, or it decides itself?
 23 A I mean, it kind of works in those two
 24 ways. Those are your two ways: Resale list or sell
 25 the property.

1 Q To your knowledge, the club has never
 2 allowed someone to leave otherwise without one of
 3 those two exit paths?
 4 A The only other stuff that I've heard of
 5 but I don't really know anything about was at some
 6 point there was memberships that were unaffiliated
 7 with property that -- I don't know -- I don't know
 8 much details about it. But there were some number
 9 of members at some point in the past that had
 10 memberships unaffiliated with property that I think
 11 they had to do something about. I don't know if
 12 that's maybe some of those people or not.
 13 Q Is it possible that the club has changed
 14 its practices over time for allowing people to leave
 15 and they were different before you came on board?
 16 MR. HUGHES: Object to the form.
 17 A I don't know.
 18 BY MR. FORD:
 19 Q Is that possible?
 20 MR. HUGHES: Same objection.
 21 A I guess anything is possible. The
 22 memberships that we have now are affiliated with
 23 property or they are non-equity. They are associate
 24 memberships, as far as I know. I don't know of an
 25 equity member of the club who isn't also a property

1 owner.
 2 BY MR. FORD:
 3 Q I'm going to ask if you've had
 4 communications with any of my clients. And so I'm
 5 going to name them, and you tell me if you have.
 6 Have you had any communications that you
 7 recall with Mr. and Mrs. Short?
 8 A They live in Atlanta?
 9 Q Yes.
 10 A I think I've talked to Mr. Short a couple
 11 of times.
 12 Q Tell me about that, what you remember, if
 13 anything.
 14 A You're going back about three years.
 15 Q If you don't remember, that's fine. Just
 16 tell me.
 17 A I remember talking to him. I don't
 18 remember the total scope of it. But I know he was,
 19 you know -- I think he wanted to know about selling
 20 his property or resigning, how to resign, I think
 21 was probably some of it. It had a lot to do -- I
 22 think we were talking about real estate value and
 23 stuff.
 24 Q That's all you remember?
 25 A Yeah, I don't remember. It was a long

1 time ago.
 2 Q What if somebody wanted to, say, leave
 3 the club and they couldn't sell their property?
 4 Could they just give the club their property and let
 5 the club have the property and be done?
 6 A No.
 7 Q Why is that?
 8 A I don't know. I assume that -- I guess
 9 the club could take it back, but the club is not
 10 really in the real estate business.
 11 Q The club does a lot of real estate,
 12 doesn't it?
 13 A No.
 14 Q Like the golf courses and the river
 15 club --
 16 A Well, it doesn't have lots.
 17 Q No lots?
 18 A No.
 19 Q It's your understanding the club doesn't
 20 hold any lots on the island?
 21 A Correct.
 22 Q How about memberships? Does the club
 23 hold memberships?
 24 A I don't know.
 25 Q Have you ever had any communication

1 with -- I'm going through my clients again --
 2 Mr. and Mrs. Newcombe? And they also go by
 3 Trifiletti.
 4 A I believe I talked to Mrs. Trifiletti one
 5 time. But it, again, has been quite a while.
 6 Q That's fine. I just want to know if you
 7 talked to them or if you remember. Do you remember
 8 anything about it?
 9 A I think she was concerned about selling
 10 her lot or wanted to know how to sell her lot or
 11 something. Something with her lot.
 12 Q Do you remember what you told her?
 13 A She might have been -- She might have
 14 wanted somebody to take her lot back. And the only
 15 time that I've ever known about something like that
 16 was CIPOA has the ability to create open space. And
 17 she was interested in trying to just make it open
 18 space.
 19 Q Like a park?
 20 A Yeah, right. I don't know what ever came
 21 of that.
 22 Q If it did that, say hypothetically CIPOA
 23 took the -- the association took the property, what
 24 would happen to the membership?
 25 A CIPOA would be a member.

1 Q Does CIPOA hold memberships?
 2 A I don't think so.
 3 Q Here's one for you. Have you ever had
 4 discussions with Mr. or Mrs. Knearl, Homer Knearl
 5 and Catherine.
 6 A They've been active members of the club.
 7 The other two that you said, I never really saw. So
 8 I've talked to them before.
 9 Q Do you have any recollection -- anything
 10 specific?
 11 A I mean, I've seen them having lunch and
 12 having dinner and just saying hi. I think
 13 Mr. Knearl served on a committee for a while. I
 14 don't remember if it was the membership committee or
 15 house committee. I think he served on a committee
 16 for a little while.
 17 Q Do you remember any specific dealings
 18 that you had with him during that?
 19 A It must have been membership. He must
 20 have been on a membership committee, because we were
 21 looking at different membership changes or whatever.
 22 He wanted to see them and look at plans and try to
 23 help figure out how to do it.
 24 Q Anything other than that that you recall?
 25 A Not off the top of my head. He was

1 around the club a fair amount. So he could have
 2 been in other meetings.
 3 Q How about Nancy Hepburn and her husband
 4 Terry? Tell me how to pronounce Terry's last name.
 5 A Miskolczi.
 6 Q You know who they are?
 7 A I do, yeah. Same basic theory. They
 8 were around the club for a while. Lunches, dinners,
 9 hi, how are you, kind of stuff.
 10 Q He is a golfer, too?
 11 A He is a golf pro.
 12 Q Have you-all ever played together?
 13 A I have not played golf with him.
 14 Q Mrs. and Mrs. -- I call them Frey, but
 15 it's pronounced "Fry." F-r-e-y. Have you had any
 16 discussions that you recall with Mr. and Mrs. Frey?
 17 A I don't believe so. They could have been
 18 around the club, too.
 19 Q Have you had any discussions with Mr. and
 20 Mrs. Greg Martin?
 21 A I believe they have also been around the
 22 club, but nothing that comes out of my mind. I
 23 remember Mr. Short -- I get Mr. Short and Mr. Martin
 24 confused. One of them lives in Atlanta.
 25 Q Mr. Short, I think.

1 A I spent some time on the phone with
2 somebody from Atlanta. But after that -- Do the
3 Martins live up north?
4 Q Yeah, they live up north. It's all north
5 to me.
6 A It doesn't jump out as something.
7 Q Let me finish up my list. Mr. and
8 Mrs. Mitrousis, have you ever spoken to them or
9 otherwise communicated?
10 A Yeah, I don't know.
11 Q Have you ever spoken or otherwise
12 communicated with Mr. and Mrs. Queen?
13 A I don't believe so.
14 Q Have you ever spoken or otherwise
15 communicated with Mr. and Mrs. Symons? Spelled
16 S-y-m-o-n-s.
17 A Mr. Symons was around the club for a
18 while.
19 Q Did you ever talk to him about his
20 membership or leaving the club or anything of that
21 sort?
22 A Nothing that comes out directly like he
23 asked me this question and I gave him this answer.
24 There may have been --
25 Q I'm only asking for what you remember.

1 A Yeah, I don't remember much. I know I
2 talked to him, but I don't remember much about it.
3 Q That's fine. Mr. and Mrs. Thompson?
4 Thompson is spelled T-h-o-m-p-s-o-n, like normal
5 people.
6 A I don't think so. I don't know.
7 Q Have you ever had any discussions with
8 Mr. or Mrs. Quinn?
9 A I don't believe so. I don't believe I
10 know them.
11 Q Last one. Have you ever had any
12 discussions with Mr. or Mrs. Heavenner?
13 A Yes.
14 Q Tell me.
15 A They were around the club when I first
16 became -- when I first was interim. And they were
17 delinquent and wanted to not be delinquent. They
18 wanted to become current. I wasn't even really -- I
19 wasn't there for very long before they were there
20 trying to get current. They asked about getting
21 current. We worked out a way for them to get
22 current. They made a couple of payments towards
23 that and then stopped, and I haven't seen them
24 since.
25 Q Other than what you've told me, do you

1 remember any conversations, communications with
2 Mr. and Mrs. Heavenner? Have we covered it?
3 A Yeah, that was the brunt of the
4 conversations I had with them, was them trying to
5 figure out a way to get current. And after that,
6 nothing really jumps out at me.
7 Q I'm changing topics to the resell list.
8 Are you ready? Orient yourself.
9 A Sure.
10 Q Tell me what your understanding as the
11 general manager of what the resell list is, so
12 people reading this transcript get it, because they
13 might not have lived with it the way you have.
14 A Sure. Resigned members go to the bottom
15 of the resale list, and they come off of that resale
16 list as new memberships are sold in some ratio, but
17 I'm not sure -- I'm not a hundred percent sure if
18 it's 2 to 1 or 3 to 1 or 12 to 1. I'm not sure.
19 There is some number that sell first and then one
20 comes off the resell list, and then some more, and
21 then the resell list.
22 Q Are suspended members put on the resell
23 list?
24 A I don't think so. I don't know.
25 Q Under your understanding of how that

1 works of suspension as a general manager, what
2 circumstances, if any, would a suspended member be
3 on the resell list if they are suspended?
4 A If they've resigned.
5 Q Let's just say suspended.
6 A Suspended, you wouldn't automatically be
7 on the resell list. Just because you're suspended
8 doesn't mean you want to resign or you want to
9 leave.
10 Q Can you be resigned and suspended?
11 A Yes, because -- Let me think about that.
12 Resigned and suspended? You are resigning from the
13 club and you don't stay current, you would be
14 suspended.
15 Q So is the answer yes as you understand
16 it, or don't you know?
17 A You can be suspended and resigned.
18 Q That's your understanding?
19 A That's my understanding, if my brain is
20 working right. I think so.
21 Q Has the practice of the resell list
22 changed over your time with the club?
23 A Not to my knowledge. I couldn't tell you
24 the last time I looked at the resell list.
25 Q I'm not talking about the specifics. I'm

1 talking about the process, how it should work.
 2 A No.
 3 Q I think you told me that there's a
 4 suspended member list. Is there a conceded member
 5 list that you know of?
 6 A No.
 7 Q Is there an expelled member list?
 8 A No.
 9 Q Do you have to pay to be on the resell
 10 list?
 11 A No.
 12 Q I've got some resell stuff. Let me see
 13 if you can tell me about it. If you don't know
 14 specifics, I'm more interested in how you understand
 15 it should work, the resell list.
 16 (Exhibit No. 5 marked for
 17 identification.)
 18 BY MR. FORD:
 19 Q For the record, Exhibit 5 is two
 20 documents produced by the club. One is a resale
 21 list dated 5/22/2012. One is a resale list -- golf
 22 resale list, golf social resale list, as of 12/31/14
 23 now. Whatever that means.
 24 Just take a look and at least orient
 25 yourself with what this is. Does that look like a

1 resale list?
 2 A Yes.
 3 Q I'll represent to you that the top page,
 4 the 5/22/2012, is the last resale list we received
 5 from the club until we received the second page,
 6 which I guess is the most current one, but we've
 7 received nothing in between them.
 8 First question, how often is the resale
 9 list updated?
 10 A I don't know.
 11 Q Is it monthly? Is it yearly? Do you
 12 have any idea?
 13 A I would assume monthly just if sales
 14 occur and somebody was on this, you would go and --
 15 Q Who would know?
 16 A Lindsey.
 17 Q Look at the first page. Again, I'm going
 18 to ask you as the general manager what you
 19 understand. I'm looking at the column over -- As I
 20 understand it, I'll summarize and you tell me if
 21 I've got it wrong. There are a bunch of people on
 22 this list, and they are in order. And they are in
 23 order to try to sell their membership. Do I have
 24 that right?
 25 A It looks like it, because it says date

1 placed.
 2 Q What does that mean, date placed, as you
 3 understand it?
 4 A I'm assuming that's when they were put on
 5 this list.
 6 Q This is 2012. So that's on your watch.
 7 You've been the general manager since 2011. Right?
 8 A Middle of '11, right.
 9 Q So this document if it's dated correctly
 10 is on your watch.
 11 A Correct.
 12 Q What did you say your understanding of
 13 what "date placed" means?
 14 A When they were placed on this list.
 15 Q What's your understanding of the next
 16 column, "number when placed"?
 17 A I don't know.
 18 Q What's your understanding of "original
 19 date purchased"?
 20 A I don't know. Maybe that's their
 21 original date they purchased the property?
 22 Q I'm asking.
 23 A I don't know. That would be my guess,
 24 but I don't know.
 25 Q I have to ask this. You're the general

1 manager. This was on your watch. Why don't you
 2 know what that means?
 3 A I don't -- we don't use this list on a
 4 daily basis.
 5 Q How often, if at all, do you use it?
 6 A I probably -- I never use it, actually.
 7 It doesn't come into operational stuff. As
 8 memberships would sell from this, then they would
 9 come off of this; or if somebody resigned, they
 10 would go on to this.
 11 Q I'll ask you some questions. And if you
 12 don't know, that's fine. I'm more interested in how
 13 things should work. Since you're the general
 14 manager, you're at the helm, the buck stops with
 15 you, what process should be followed in these
 16 circumstances.
 17 There is a status column which is second
 18 from the left. Do you see status?
 19 A Yes.
 20 Q And you see, if you go down, it has a
 21 number of things, but some are expelled, some are
 22 conceded. Do you see that?
 23 A I do.
 24 Q Do you know what it means, expelled?
 25 A I don't.

Page 101 1 Q Do you know what conceded means? 2 A I don't. The last one was in 2005. 3 Q And there are some that are blank? 4 A Yeah. 5 Q Do you understand why that would be? 6 A No. 7 Q And none of them say suspended. Do you 8 know why that is? 9 A No. 10 Q If someone is not on this list, 11 hypothetically, who is suspended, how would that be? 12 Why should that work? Someone is suspended but they 13 are not on this list. 14 A They may not want to be on the resale 15 list. 16 Q So they have to affirmatively choose to 17 be on the resale list? 18 A That would be my understanding, yes. If 19 they resigned and wanted to be put on the resale 20 list, then they would be put on this resale list. 21 Q What if they terminated? Should they be 22 on the resale list, or don't you know? 23 A I don't know. 24 Q What if they were expelled? Do you know 25 whether or not they should be on the resale list?	Page 103 1 at the first four or five, they seem to be the same 2 date placed and date resigned. 3 Q Do you know how it's determined when 4 someone gets on the date resigned column? 5 A Probably the date that they sent in their 6 letter of resignation. 7 Q What if they did not? What if they tried 8 to terminate? How would that work, if you know? 9 A I don't know, because I don't know if 10 anybody's done it. 11 Q That's fine. I'm just asking. 12 And how about if someone was expelled? 13 Do you know how that would work with regard to this 14 list? 15 A Same answer. 16 Q On the header here it says Waiting List 17 According to Membership Plan. Do you see that? 18 A Yes. 19 Q What does that mean, if you know? 20 A I don't know. 21 Q Why did you-all take off the column that 22 said number when placed? 23 A I don't know, because I don't know what 24 it means. 25 Q Why did you-all take off the price column
Page 102 1 A I haven't had anybody do that. 2 Q I'm just asking what you understand as 3 the general manager. 4 A I don't know. 5 Q Let's turn the page and go to the most 6 recent one. It says Draft on it. Do you know why 7 that is? 8 A No. 9 Q It also says Post Settlement. Do you 10 know what that means? 11 A No. 12 Q And now it's got a new category. The 13 first category after name is date resigned. Do you 14 see that? 15 A Yes. 16 Q So that's different from what you-all had 17 on it before, because before it had date placed. Do 18 you remember that? 19 A Right. 20 Q So why did you-all change to date 21 resigned? 22 A I don't know. 23 Q To your knowledge, is there any 24 difference between those two things? 25 A They look to be the same. Just looking	Page 104 1 between 2012 and this one? 2 A I don't know. I don't know if it's 3 actually relevant anymore. 4 Q I'm just asking if you know. If you look 5 on the first page, look at No. 2 on the first page, 6 Beauregard. 7 A Okay. 8 Q Under status, it's got a blank. Correct? 9 A On the first page, right. 10 Q Now let's turn to Beauregard recently, 11 No. 2. And what's the status? 12 A Expelled. 13 Q So it appears that Mr. Beauregard was 14 expelled during your watch, during your time here 15 between the two. 16 MR. HAIGHT: Object to the form. 17 BY MR. FORD: 18 Q At least that's what it seems to be. 19 Right? 20 A No. 21 Q Tell me the explanation. What should the 22 explanation be? 23 A I'm not sure when the expelled part that 24 says concession offered on 8/10 of '10. 25 Q But the status has changed from blank to

26 (Pages 101 to 104)

Page 105 1 expelled between those two dates. Correct? 2 A Okay. 3 Q Who would have made that decision? 4 A Well, the property sold and they 5 became -- so that membership went to the new buyer. 6 Q Is that what happened? 7 A Yeah, the property sold. 8 Q Do you know that the membership went to 9 the new buyer? 10 A The membership went to the new buyer. So 11 this would be a balance of past due. I don't 12 believe anybody has ever been able to find -- I 13 believe it's Mrs. Beauregard. I believe that -- I 14 think the board actually may have written that off, 15 because nobody has been able to find her for years 16 and years. This was back in 1998. 17 Q What was 1998? 18 A The date that she was placed on this list 19 or date resigned is 1998. 20 Q It says concession offered 8/10/10. Did 21 you offer that concession? 22 A No. 23 Q That was before your time? 24 A Correct. And no response. 25 Q I understand. So I'll ask the question	Page 107 1 A Blank. 2 Q And that's in 2012. If you look at his 3 status, No. 16 on the second page, what's the 4 status? 5 A Suspended. 6 Q So why did that happen during that time? 7 A He may have been current in 2012. 8 Q So that would have happened during that 9 process you described -- ding letter one, ding 10 letter two and then referred out? 11 A That's right. 12 Q And somebody -- the lawyer -- might have 13 communicated with -- 14 MR. HAIGHT: Object to the form. 15 BY MR. FORD: 16 Q Who is this again? Somebody communicated 17 with the keeper of the list who is Lindsey? 18 A Right. 19 Q And told them presumably that he is now 20 suspended? 21 MR. HAIGHT: Object to the form. 22 BY MR. FORD: 23 Q Is that how it should happen? What 24 should happen? 25 A Accounting will let us know -- I mean, it
Page 106 1 one more time, and you can tell me if you know the 2 answer. 3 It appears that Beauregard's status 4 during your time as general manager changed from 5 blank to expelled. 6 MR. HAIGHT: Object to the form. 7 BY MR. FORD: 8 Q That's what it appears from this. 9 Correct? 10 A There's been a word added. Now, whether 11 or not it was supposed to be on the first one or 12 not, I don't really know. When they went to clean 13 this up, I don't know. 14 Q Clean it up? 15 A You know, it looks like they tried to 16 make it easier to understand or used different words 17 or get rid of some of the numbers on it. Not all of 18 these columns are exactly the same. They all seem 19 to be the same people, but just different columns 20 now. 21 Q On the first page there's a gentleman 22 Hobson, Bill Hobson, No. 17. Do you see that? 23 A I do. 24 Q What's the status for Mr. Hobson on the 25 first page?	Page 108 1 will come up through the accounting software that 2 somebody is more than 60 days. 3 Q And accounting should do what then? 4 A It will generate that letter, which then 5 trickles to them. 6 Q And then Lindsey finds out about it and 7 updates the list? 8 A That's right. You want another example? 9 Q I do. Let's take a look at No. 55, 10 Membership Pool, Thomas Philip. I'm on page 1. And 11 the status is blank. Correct? 12 A Correct. 13 Q And the property says sold. Am I lining 14 that up right, or am I not lining that up right? 15 A Yes, I think so. 16 Q It seems to be. 17 A Which one? Sorry. 18 Q On the first page it is No. 55. If I 19 lined it across, it seems to say the property is 20 sold. Correct? 21 A Okay. 22 Q So this person is on the resale list but 23 sold their property apparently? 24 A All right. 25 Q What circumstance would that be? So

27 (Pages 105 to 108)

Page 109 1 presumably, if the data is correct, no longer a 2 property owner, but they are still on the resale 3 list. 4 A I don't know. Maybe they kept the 5 membership when they sold the property. 6 Q Do you know one way or the other? 7 A I don't. 8 Q And then if you go to them on the second 9 page, No. 53, Membership Pool, Thomas Philip, do you 10 see that? 11 A Yes. 12 Q And now we see the status is conceded? 13 A Okay. 14 Q Do you see that? 15 A Yes. 16 Q What does that mean? 17 A I am not sure what they did. I don't 18 know if he kept it and then it was unaffiliated with 19 property so they offered a concession. I don't 20 know. 21 Q It appears that as of 5/22/2012 there was 22 no status, and now it appears that in the interim 23 time the designation was changed to conceded. 24 Correct? 25 A I don't know the answer to this, but I	Page 111 1 just on the list. They just want to see what 2 happens, if magically this moves them up to the top. 3 Q It looks like at least at the top of 4 page 2 Perry resigned in 1998. Do you see that? 5 A Yes. 6 Q So 1998, 2008. 15, 16, 17 years? 7 A Yes. 8 Q It's a while. 9 A Yes. 10 MR. HAIGHT: Object to the form. 11 BY MR. FORD: 12 Q Is there any prayer these people at the 13 bottom of the list getting off sometime in the next 14 20 years? 15 A I hope so. 16 Q I notice that on page 2, No. 57, the 17 Bolding, William, and it says Ramsey, appears on the 18 list. And there appears to be a transfer fee thing 19 going on. It doesn't look like Bolding, William, is 20 on the first page, but now is on the second one. 21 What's allowed for transfers? 22 A Hold on a second. The second page? 23 Q 57, second page, Bolding, William, and in 24 parentheses it says Ramsey. 25 A I think this is Mr. Ramsey's -- Is there
Page 110 1 can give you -- I don't know. Do you want me to 2 stick with "I don't know"? 3 Q I just want you to tell the truth. 4 A If he sold this and decided to move 5 across the street and keep the membership, he is 6 unaffiliated with property, he still has a 7 membership, then he has an unaffiliated membership 8 to property, and the club offers a concession to 9 unaffiliated with property memberships, that's how 10 he would end up being conceded in 2010. 11 Q But I thought as of May 2012 his status 12 was blank? 13 A It just says '12. It just says sold and 14 blank. 15 Q His status is blank. Not conceded. 16 There are lots of conceded -- 17 A So he is current. 18 Q So that's what it means, he's current? 19 A It could be that he was current. There 20 are other people on here, like No. 65 on the front, 21 on the first page, Mr. Garnecki, he is blank. 22 Q 65? 23 A 65, first page, he is blank. But then if 24 you go to the second page, he is No. 63, and he is 25 current. So there are people on this list who are	Page 112 1 a Ramsey on the first page? 2 Q Not by that name at least. It seems that 3 there's some sort of transfer thing regarding 4 daughter and son-in-law in 2012, which would have 5 been during your time. 6 A Sure. I believe the Ramseys transferred 7 the membership to daughter and son-in-law in 2012. 8 Q And they can do that? 9 A Right. 10 Q So people can transfer it to other 11 people? 12 MR. HAIGHT: Object to the form. 13 A I don't know about other people, but -- 14 that's what this says. Here we go. Here's Ramsey 15 right here (indicating). 16 BY MR. FORD: 17 Q That's what I'm trying to figure out, is 18 what happened. 19 A Ramsey lot, No. 59 on the other page. I 20 don't know. Without looking farther into it, I 21 don't know. It would be something in their file, 22 I'm sure. 23 Q Page 2, No. 67, Membership Pool, Reid, 24 John. First, what does Membership Pool mean to you? 25 A I don't know.

28 (Pages 109 to 112)

1 Q In the comments -- well, it says the
2 status is conceded. And then it says expelled,
3 question mark. Do you know what's going on there?
4 A I don't, because it's from 2004.
5 Q I understand that. I think, if you look
6 on the first page, that it didn't say expelled,
7 question mark.
8 A Right. It's just blank.
9 Q This new list that was generated, was
10 that done for purposes of this litigation?
11 A I think, because it doesn't move very
12 fast, obviously, it isn't something that everybody
13 is looking at every day, because the first guy is 17
14 years ago. I think there was lots of questions
15 about it, so there was an effort to try to clarify
16 what's on it.
17 Q By whom? An effort by whom?
18 A Lindsey and then board.
19 Q So the board and Lindsey worked together
20 in some capacity to revise the list?
21 A I think it might have been Mr. Switzer.
22 I don't know if it was just those two. I'm not sure
23 who -- but it was the board. The board moved to try
24 to clarify what's on this and try to figure out what
25 the first page is saying to make sure it's

1 consistent to the second page.
2 MR. FORD: I'm told we need to
3 change tapes.
4 THE VIDEOGRAPHER: This is end of
5 tape No. 2 in the deposition of Jeff Spencer. We
6 are off the record at 12:31.
7 (Recess taken.)
8 THE VIDEOGRAPHER: This is tape
9 No. 3 in the deposition of Jeff Spencer. We are on
10 the record at 12:32.
11 BY MR. FORD:
12 Q Still on the resale list, Exhibit 5. And
13 then we are on page 2 of it now. I notice that
14 suddenly a bunch of my clients have popped up now at
15 the bottom of the resale list: Mr. Knearl,
16 Mr. Mitrousis, Mr. Martin, Mr. Symons. It reads
17 like a list of Ford Wallace Thomson clients. Why
18 have they popped up now on the resale list?
19 A I believe we received resignation letters
20 from all of them.
21 Q On the date that was specified here?
22 A I assume so, but I --
23 Q How should it work?
24 A They resigned, and then they go on the
25 resale list.

1 Q Is this a total list of the people who
2 have resigned? Should it be a total list of the
3 people who have resigned?
4 A No. Yes. If you resign and you want to
5 be on the resale list, you should be on this list.
6 So if you are not on the list, you should raise your
7 hand and say, "I resigned, but I'm not on this
8 list."
9 Q Do you know who Caige Brewer is?
10 A I don't.
11 Q I don't see -- Unless I've missed it, I
12 don't see Caige Brewer on the list, and my
13 understanding is he submitted something saying he
14 didn't want to be in the club.
15 Let me ask about resignation. Does it
16 have to use that exact word, resign, or can it be a
17 communication that they no longer want to be in the
18 club?
19 A If it's anything close to it, I send it
20 to counsel.
21 Q To resignation?
22 A If it's somebody who is talking about not
23 paying anymore or leaving the club, I turn it over
24 to counsel.
25 Q How about resigning?

1 A Same one. Same thing. If somebody sent
2 me a resignation letter, I send it to counsel
3 because they word a letter back to them saying we've
4 received your letter of resignation. By the way,
5 here's all the things that go along with that.
6 Q So if someone resigns, they automatically
7 get turned over to the lawyer?
8 MR. HAIGHT: Object to the form.
9 A It isn't for lawsuit. It's for
10 clarification. Make sure everybody is on the same
11 page, because this has gotten very ...
12 BY MR. FORD:
13 Q Complicated?
14 A Yes. Litigious, I guess, would be a
15 better word.
16 Q These dates under date resigned, and I'm
17 at the bottom group (indicating), they seem pretty
18 close to each other -- 6/11/2013, 6/12/13. As far
19 as how it should work, that is the date that they
20 should have submitted the letter indicating their
21 desire to leave the club?
22 A Yes.
23 Q What it looks like is no one has
24 expressed the desire, therefore, to leave the club
25 between Mr. Applegate, No. 71, and Mr. Mercier,

1 No. 72. You see it jumps from 11/20/2008 to
 2 2/3/2011. Do you see that?
 3 A I do.
 4 Q So the way it should work is during that
 5 time, 2008 until 2011 -- two and a half years,
 6 whatever that is -- no one has expressed the desire
 7 to leave the club. That's what that leads us to
 8 believe. Right?
 9 A I don't know.
 10 Q How should it work?
 11 A If you resign and you want to be on this
 12 list, that's when you should be put on this list.
 13 Then when you did it is when you should be on this
 14 list.
 15 Q So they were on a roll for a while there,
 16 and then you signed up?
 17 MR. HAIGHT: Object to the form.
 18 BY MR. FORD:
 19 Q I'm just kidding.
 20 Ms. Newcombe has expressed a clear desire
 21 to leave the club, including talking to you. Right?
 22 A (Witness nodded).
 23 Q Why isn't she on the list?
 24 A I don't know if she's resigned.
 25 Q But she expressed a clear desire to leave

1 the club. We know that. You-all have sued her.
 2 A She owes back dues and assessments.
 3 Q By that, she should be on the list. Why
 4 isn't she?
 5 A That's not -- Just because you're
 6 suspended or delinquent doesn't mean you're trying
 7 to sell.
 8 Q Are you saying that Ms. Newcombe has not
 9 expressed the desire, as we just discussed, to leave
 10 the club?
 11 A She hasn't sent in a letter of
 12 resignation or anything in writing to say that I
 13 want to leave the club and I want to be on this
 14 resale list.
 15 Q Do they have to say "I want to be on the
 16 resale list"? Is that necessary? How should it
 17 work, as the general manager?
 18 A At least send in the letter of
 19 resignation.
 20 Q Do they have to say I want -- Two parts.
 21 They say they want to leave the club. That's the
 22 first part. Right? Do they have to say they want
 23 to be on the resale list?
 24 A If there's something in writing from them
 25 that they want to leave the club, it's very simple

1 to put them on this list.
 2 Q Why isn't Ms. Newcombe on the list? Is
 3 it because she has not submitted in your
 4 understanding --
 5 A I don't believe I've gotten anything from
 6 her in writing.
 7 Q How about the Heaveners? Why aren't they
 8 on the list?
 9 A If they haven't resigned, they aren't on
 10 this list.
 11 Q How about if someone's desire is to
 12 terminate their membership? Should a terminated
 13 member be on the list?
 14 A If they sent me something that said they
 15 should be expelled, terminated, whatever, all of
 16 these other words, conceded, they would all go
 17 through the same thing. I would get whatever sounds
 18 like they are not going to pay anymore and send it
 19 to counsel.
 20 Q Does it ever occur that someone just
 21 doesn't respond? Like the Beauregards, say, or
 22 somebody. They don't respond to anything. You-all
 23 sue them, because it goes through the process. Do
 24 they get put on the list because they haven't
 25 responded?

1 A Say that one again.
 2 Q Absolutely. If someone is delinquent,
 3 they get ding letter one, they get ding letter two,
 4 they get referred to Mr. Haight's office. He sends
 5 them his unpleasant letter. Then he sues them --
 6 MR. HAIGHT: Object to the form.
 7 BY MR. FORD:
 8 Q He sends them a letter and they get sued.
 9 Would they ever be moved on to the resale list,
 10 having not heard from them at all?
 11 A Not necessarily. Just because you're
 12 delinquent doesn't mean you're automatically wanting
 13 to sell. You could have a bad year in your business
 14 and be delinquent, not plan on selling or moving,
 15 get your business turned around, become undelinquent
 16 (sic) and not want to be on this list.
 17 Q I'm getting confused. And I want you to
 18 clarify. Somebody has to express the clear desire
 19 to be put on the resale list. Is that right?
 20 A I believe that by resigning you are being
 21 added to this resale list.
 22 Q You-all have sued the Quinns. Right?
 23 And you've gotten a judgment against one of them.
 24 And that's on appeal. But they are not on the
 25 resale list. Why would that be?

Page 121 1 A I don't know if they've resigned. 2 Q Really? Okay. 3 A And if they have, we can -- happy to 4 clean it up and add them to it. 5 Q I'm asking why -- how should it work on 6 this? Because a lot of people are confused by the 7 resale list, so we're trying to understand -- 8 MR. HAIGHT: Object to the form. 9 BY MR. FORD: 10 Q You, too? 11 A Like I said, just because you're 12 delinquent doesn't mean that you want to try to be 13 on this resale list. 14 Q And the Thompsons with a P aren't on the 15 resale list either. 16 A I don't think I know them. 17 Q But your understanding is they would not 18 have expressed a desire to leave the club. That's 19 why they are not? 20 A If there is an expressed written desire 21 to leave the club, it goes to counsel. And then 22 they can be -- they resigned and go on this list. 23 Q At the bottom of page 2 (indicating) it 24 says Post December 1, 2001. What does that mean? 25 A I don't know.	Page 123 1 (Exhibit No. 6 marked for 2 identification.) 3 BY MR. FORD: 4 Q For the record, Exhibit 6 is an e-mail 5 dated December 8, 2011, from the CIMC president, 6 treasurer and general club manager, which is you. 7 Right? 8 A Right. 9 Q And this is on your watch, December 8, 10 2011. Correct? 11 A This is the board letter, right. 12 Q You can read as much as you want. I'm 13 focused just on one part, but feel free. I'll read 14 the paragraph. It's at the bottom of page 1. 15 "After seeing a decrease in delinquencies 16 to about 30 earlier this year, the number has now 17 risen to about 40. Almost all of the increase is 18 due to foreclosure actions or the attempt by some 19 members to 'resign' their obligations defined in our 20 covenants, bylaws and membership plan." 21 It goes on. What I'm interested in is, 22 what it appears at least in December of 2011 is that 23 around 10 people had attempted to resign. Do you 24 see that? 25 MR. HAIGHT: Object to the form.
Page 122 1 Q And now it's got a nice, little 2 definition, whereas before it did not. It says, 3 "Conceded equals club took membership back; club 4 accepted transfer of membership." Do you see that? 5 A Right. 6 Q What does that mean? 7 A Conceded equals that club took the 8 membership back. Club accepted transfer of 9 membership as of 2/16/15 prepared by Lindsey Cooler. 10 So the club took the membership back. 11 Q So the club can take memberships back? 12 A Conceded membership, the club took it 13 back. 14 Q So conceded apparently means that the 15 club has the authority to take memberships back if 16 it so desires? 17 A From this list, conceded equals that club 18 took the membership back. 19 Q Who makes that decision? 20 A That would be the board. 21 Q Does the board consult with you about 22 conceded memberships? 23 A No. 24 Q Let's look at an e-mail to maybe try and 25 shed light on this.	Page 124 1 BY MR. FORD: 2 Q It seemed to move from 30 to 40. That's 3 what I'm curious about. 4 A After seeing a decrease in delinquencies 5 to about 30 earlier in the year, the number has now 6 risen to about 40. 7 Q Almost all of that, it says, appears to 8 be either a foreclosure or an attempt to resign? 9 A Resign their obligations. 10 Q So we have about 10 apparently additional 11 ones over usual, is what it seems to be saying? 12 A Okay. 13 Q If they have attempted to resign, they 14 should have been put on the membership list. Right? 15 I'm sorry, the resale list. 16 A I don't think that means resign the club. 17 They are resigning their obligation. 18 Q But if they've communicated their desire 19 to resign, in quotes, then what I understood you to 20 tell me is they should at that point be put on 21 the -- they've been sent to the lawyer, but then be 22 put on the resale list? 23 A This doesn't mean that they have sent in 24 a letter of resignation. 25 Q It has to be by letter?

31 (Pages 121 to 124)

1 A This just means that they've decided not
 2 to uphold their obligations.
 3 Q Are you saying that because resign is in
 4 quotation marks there?
 5 A Yeah, I just --
 6 Q What does that mean? Why is it in
 7 quotation marks? There is a path for resignation.
 8 Right?
 9 A Correct.
 10 Q So why is it in quotation marks?
 11 A This doesn't -- I don't know. I didn't
 12 write this. I know that my name gets added to
 13 this.
 14 Q Right. You're on the bottom.
 15 A Believe me, this is written by the board.
 16 I just get my name added to it.
 17 Q Let's talk about how it should work then.
 18 If 10 people, give or take, have attempted to
 19 resign --
 20 MR. HAIGHT: Objection to the form.
 21 A But this doesn't say that they attempted
 22 to resign. Some members do resign their
 23 obligations. Just because you resign doesn't mean
 24 you don't still have the obligation to pay dues and
 25 fees.

1 BY MR. FORD:
 2 Q I understand.
 3 A So resign their obligations to pay is
 4 what this is talking about. This is talking about
 5 the delinquency amounts that increased due to
 6 foreclosure action or the attempt by some to resign
 7 their obligations. It's saying that people aren't
 8 paying. There is about 10 more people that aren't
 9 paying, not that 10 more people have resigned the
 10 club and we aren't -- There could have been 30
 11 people that resigned, but they resigned and
 12 continued to stay current, and they are just now on
 13 the list.
 14 Q What I hear you saying, I think, is that
 15 it says members attempted to resign, but you're
 16 saying that's not necessarily a resignation under
 17 the documents --
 18 MR. HAIGHT: Objection to form.
 19 BY MR. FORD:
 20 Q It's to divest themselves of their
 21 obligations?
 22 A To resign their obligations.
 23 Q So resign doesn't necessarily mean
 24 resign. It means leave?
 25 A By some members to resign their

1 obligations.
 2 Q You may have already covered this. If
 3 the club has initiated legal action against someone,
 4 does that necessarily mean they are on the resale
 5 list because by answering the complaint and opposing
 6 it they've expressed their desire not to --
 7 A Yeah, I don't think so.
 8 Q For the reason you already told us?
 9 A Yes. If somebody said put me on the
 10 resale list, we would add them to the resale list.
 11 Because they don't have to be resigned to be on it.
 12 Q If someone is suspended, what process
 13 does it take to move them to the resale list? What
 14 you've already told me?
 15 A Yes.
 16 Q The club has started a number of actions
 17 against financial institutions lately, like Bank of
 18 America, Equivest Financial, U.S. Bank. Are you
 19 aware of that?
 20 A Mm-hmm.
 21 Q Is that a yes?
 22 A Yes. Sorry. I was doing pretty good.
 23 Q You were doing great. But I didn't see
 24 them, the financial institutions, on the resale
 25 list. Why would that be?

1 A None of them have resigned.
 2 Q Same thing you already told me?
 3 A (Witness nodded).
 4 Q And you-all have initiated an action
 5 against Caige Brewer. I do know that. My
 6 understanding is he sent you-all a letter saying he
 7 no longer wants to be part of the club. If that's
 8 true, should he be on the resale list?
 9 A I don't remember specifically his
 10 situation. Obviously, there's more than a few. If
 11 he sent a letter saying I'm resigning and I wanted
 12 to be added to the resale list, he should be on the
 13 resale list.
 14 Q What if he just says he no longer wants
 15 to be a member of the club?
 16 A I would do the same thing. I would treat
 17 it the same way.
 18 Q Does Mr. Haight decide if they are on the
 19 resale list, or who decides that?
 20 A I don't know.
 21 Q Changing topics. Were you around for the
 22 developer exit?
 23 A No.
 24 Q Do you know anything about it?
 25 A No.

1 Q Good answer.
 2 Different topic. I'm interested in
 3 people who join the club, new members. Presumably
 4 that happens regularly. Is that right?
 5 A Yes.
 6 Q That happens primarily through what
 7 mechanism? They buy property?
 8 A Real estate.
 9 Q Is there a welcome center at the front
 10 coming onto the island?
 11 A Before -- Yes.
 12 Q Does Callawassie advertise at all to try
 13 to get folks to come and look at the island?
 14 MR. HAIGHT: Objection to the form.
 15 A The club does not. The POA does.
 16 BY MR. FORD:
 17 Q Does the club do any advertising?
 18 A For weddings.
 19 Q Does the club have a website?
 20 A Yes.
 21 Q New people who are thinking about buying
 22 at Callawassie, who explains to them how it works
 23 with the club and the association and so on? Who
 24 does that? I stop in. I see a billboard. I stop
 25 in the welcome center. How should it work from

1 there?
 2 A That's a real estate agent at that
 3 welcome center. They have access to whatever -- to
 4 these documents. If there is somebody who is
 5 interested in more explanation to the documents,
 6 they are welcome to come and talk to Lindsey or
 7 myself or someone from the club.
 8 Q What do the real estate agents tell the
 9 prospective members and buyers about the obligations
 10 with regard to the club?
 11 A I don't know.
 12 Q Does the club train or guide the real
 13 estate people at the welcome center as to what to
 14 tell prospective members about the obligations with
 15 regard to the club?
 16 A Specific training, no. But they have --
 17 Q How about general training?
 18 A -- a understanding of the rules of the
 19 club and that the membership is mandatory through
 20 the -- whatever the POA covenant is.
 21 Q The club relies on the real estate agent
 22 to convey the covenant to the prospective members
 23 with regard to their obligations?
 24 A Yeah. They have to go through the
 25 covenant before they sell -- before they buy. You

1 have to sign off on that you have read the covenants
 2 and you understand them.
 3 Q What effort, if any, has the club made to
 4 communicate its obligations and requirements with
 5 regard to membership to prospective members?
 6 A Say that one more time.
 7 Q Absolutely. What effort, if any, has the
 8 club made to make representations -- Strike that.
 9 What effort, if any, has the club made to
 10 convey to prospective buyers the obligations for
 11 membership in the club?
 12 A The real estate agents have copies of the
 13 bylaws and the membership plan of offering and the
 14 club rules as well as the covenants.
 15 Q And those are the ones we already looked
 16 at or versions of them?
 17 A Yes.
 18 Q Do you know what representations are made
 19 to prospective club members about the obligations to
 20 the club?
 21 A I don't.
 22 Q Do you know -- Strike that.
 23 What, if any, efforts has the club made
 24 to make sure that the representations to prospective
 25 buyers are accurate?

1 A Well, we've given the real estate agents
 2 those documents, asked them to pass them along to
 3 any -- I mean, a prospective buyer is a very wide
 4 range of person. Random drive-by on a Sunday is
 5 different than I'm going to live here. If somebody
 6 is serious about living there, then they make
 7 sure -- we make sure they have it. They actually, I
 8 believe, have an obligation to --
 9 Q I'm sorry. Who is "they" in there?
 10 A The real estate agents have an obligation
 11 to disclose whatever is there.
 12 Q Does the club take any actions to make
 13 sure the representations of the prospective buyers
 14 are accurate?
 15 A The club relies on the documents that
 16 have to be agreed that they have been read and
 17 understood by the buyer.
 18 Q What steps, if any, does the club take to
 19 make sure prospective buyers understand who is a
 20 representative of the club and who is not?
 21 A Say it again.
 22 Q Sure. Somebody drives up to the welcome
 23 center and they are talking to a person in the
 24 office.
 25 A Yeah.

Page 133 1 Q Presumably that person doesn't really 2 know who this person behind the desk and the welcome 3 center is, who they work for and so on. 4 A Sure. 5 Q Does the club make any effort to let 6 prospective buyers understand -- to help prospective 7 buyers understand who that person at the front desk 8 works for or doesn't work for? 9 A That building is not the club's. 10 Q I'm talking about representations. I 11 understand the deed may say something. What 12 efforts, if any, does the club take to make sure 13 that the prospective buyer understands who that 14 person does or does not work for? What do they do, 15 if anything? 16 A That group at the front has all of these 17 documents. It's the same representation I make for 18 Gateway Realty on Hilton Head. I can't run down 19 there and say, hey, if you're thinking about doing 20 this, you've got to make sure you say all of this to 21 every real estate agent. The ones outside that gate 22 know more about Callawassie than the others. They 23 still just rely on the documents that they have to 24 sign off on. 25 Q And those are the documents that we've	Page 135 1 Callawassie. They don't have to stop at the welcome 2 center. 3 Q If someone wants to look at Callawassie 4 and they don't have a real estate agent, is the 5 welcome center the first thing they get to? 6 A Yes, they could. 7 Q Is there another way on the island? 8 A No. No. Sorry. 9 Q Other than the governing documents you 10 told me about, is any effort made to explain to 11 prospective buyers what the association is versus 12 what the club is and the obligations regarding each, 13 other than the governing documents? 14 A Lindsey meets with all the new members. 15 Q When they are already members? 16 A Yeah. They would have to fill out a 17 membership application beforehand, too. So 18 somewhere in there should be some time for them to 19 get the documents and make sure they understand the 20 documents that they need to read and understand. If 21 they don't, they need to ask questions. Then if 22 they do ask questions, then there are people there 23 to answer them. 24 Q They could ask you, for example, what 25 they mean?
Page 134 1 looked at today? 2 A That's right. 3 Q Does the club make any effort to let 4 people know that those real estate agents do not 5 work for the club? 6 A It's not Callawassie Island Real Estate. 7 They are not employees of the club. 8 Q Other than the name on the real estate 9 office, does the club make any effort to help people 10 understand that that person behind the desk does not 11 work for Callawassie, the association, the club? 12 MR. HAIGHT: Objection to the form. 13 A I don't think so. I don't know. 14 BY MR. FORD: 15 Q Have the practices at the welcome center 16 for talking to prospective members changed over 17 time? Do you know? 18 A I don't know. 19 Q Is the welcome center the entry point for 20 prospective members and prospective property buyers 21 on Callawassie Island? 22 A Prospective property buyers can stop 23 there, but that doesn't -- it's not a hundred 24 percent. Your real estate agent could be on Hilton 25 Head and they say, hey, let's go look at	Page 136 1 A Sure. 2 Q Tell me if I have this right. Before 3 they buy, they get the governing documents. 4 Correct? And after they buy, they get to meet with 5 Lindsey. Is that right? 6 A Mm-hmm. 7 Q Is that a yes? 8 A Yes. Sorry. 9 Q Let's change topics. We are in the home 10 stretch, just so you know. Do you need a break? 11 A Absolutely not. Depends on how long the 12 home stretch is. 13 Q I agree with that. I'm interested in 14 changes to the governing documents during your 15 tenure. 16 A Okay. 17 Q Let me make this hopefully easy. Before 18 you became the general manager, do you have any 19 knowledge of changes to the governing documents? 20 A No. 21 Q So let's just talk about while you're 22 there. Have the governing documents been changed 23 during your time as general manager? 24 A There was a change to the membership plan 25 in 2013.

34 (Pages 133 to 136)

1 Q Any other changes to the governing
2 documents while you were there?
3 A No.
4 Q I'm going to try to make this efficient,
5 if I can. If I'm not, just tell me.
6 (Exhibit No. 7 marked for
7 identification.)
8 BY MR. FORD:
9 Q For the record, Exhibit 7 is something
10 that my office has put together. It purports to be
11 changes to the expulsion provision of the rules.
12 A Okay.
13 Q I'll represent to you that the top one is
14 the 2009 section. The middle one is the 2014
15 section. And the bottom one is what is called a red
16 line -- we lawyers call it a red line, which is
17 essentially a marked-up of --
18 A That's right. That's what we sent to the
19 membership.
20 Q Look at it if you want, but I have some
21 specific questions. So this happened on your watch?
22 A Okay.
23 Q Is that right?
24 A Yes.
25 Q Why were these changes made?

1 A I'm trying to see -- Is there some sort
2 of big substantive change?
3 Q What do you think? Let me add something.
4 The red line says, among other things, that a
5 sentence appears to have been added, which is,
6 "Notwithstanding such expulsion, the member shall
7 remain liable for all charges until the membership
8 is reissued." There were other changes, but it did
9 say that. Question: Why was that added?
10 A I don't remember specifically the --
11 Q Do you remember generally?
12 A The liability for charges until the
13 membership is reissued is not new to 2014, and I
14 think they were just trying to clarify that point.
15 Q Do you think this is an important change?
16 MR. HAIGHT: Objection to the form.
17 A I'm not sure it's a change. I think that
18 the member shall remain liable for charges until the
19 membership is reissued is not a change.
20 BY MR. FORD:
21 Q It's a new sentence?
22 A I know, but it's not a change to the
23 club.
24 Q If it's not a change, why was it changed?
25 A It wasn't changed. It was added to try

1 to clarify.
2 Q So it's your understanding as the general
3 manager that adding that sentence was not a change.
4 It was -- What did you call it? A clarification?
5 A Yeah. I've seen "the member shall remain
6 liable for charges until the membership is reissued"
7 in other places, in other versions of all of the
8 documents.
9 Q Where?
10 A From the past all the way through here.
11 Q Where?
12 A They are either in the bylaws or in the
13 plan.
14 Q Let me make it easy. Do you know where?
15 A No, but I've seen it before.
16 Q Tell me the process that was followed to
17 make these changes to the rules.
18 MR. HAIGHT: Object to the form.
19 A The changes were through counsel.
20 BY MR. FORD:
21 Q Through the club's lawyers?
22 A Right.
23 Q Was there a vote with a membership to
24 make this change?
25 A Yes.

1 Q The membership voted on this change to
2 the rules?
3 A Well, I don't know if this is -- without
4 seeing all of it --
5 Q I'm talking about this (indicating).
6 A If this was part of that whole package of
7 changes, then yes.
8 Q And it should have been voted on.
9 Correct?
10 MR. HAIGHT: Objection to the form.
11 A I don't -- If this is just to clarify,
12 then I don't think it needed to be voted on, but I
13 don't know.
14 BY MR. FORD:
15 Q Were the rules clear before the change
16 was made?
17 A I think the rules, if you take your time
18 and read them and go through all the versions and
19 all of that stuff, they can be. This is an attempt,
20 I believe, to just clarify them and make them all
21 easier.
22 Q If they were clear before, then why was
23 the club changing them?
24 A Well, because we didn't -- we just added
25 this clarification because there seems to be a lot

1 of confusion -- believed confusion by some.
 2 Q . Believed confusion. Tell me what you
 3 mean by "believed confusion." And you earned the
 4 follow-up question.
 5 A There are a lot of people who don't have
 6 confusion about the liability to the member shall
 7 remain liable for charges until the membership is
 8 reissued. An overwhelming majority of the
 9 membership understands that. But there are some who
 10 don't. So this is an attempt to try to clarify it
 11 again for those that don't.
 12 Q I think you told me that in your
 13 experience you didn't remember anyone being
 14 expelled. Correct?
 15 A Right. Yeah, I think so.
 16 Q Then why are they changing the provisions
 17 regarding expulsion?
 18 MR. HAIGHT: Objection to the form.
 19 A I still don't believe they are
 20 changing the -- they are not changing.
 21 BY MR. FORD:
 22 Q Let's use your language, just so we can
 23 try to move forward. If no one in your experience
 24 has ever been expelled, why is the club clarifying
 25 the provision regarding expulsion?

1 A This isn't the only one they tried to
 2 make more clear. I think they were going through
 3 the documents to try to make them all more clear.
 4 Q Were you part of any discussions with the
 5 board about the alterations to this provision?
 6 A No.
 7 (Exhibit No. 8 marked for
 8 identification.)
 9 BY MR. FORD:
 10 Q This may be same song, second verse. For
 11 the record, Exhibit 8 is something compiled by my
 12 office. And it is hopefully an articulation of the
 13 2009 rule, Section 13.3.1, and the 2014 rule,
 14 15.3.1, and at the bottom is a red line of the
 15 changes. So did this happen on your watch?
 16 A I think this is all part of that same
 17 pile.
 18 Q I have the same question on this. Do you
 19 have the same answer?
 20 A State the question one more time.
 21 Q Why was this changed?
 22 MR. HUGHES: Object to the form.
 23 A What part was changed?
 24 BY MR. FORD:
 25 Q It looks like it's a lot of cross-outs

1 and a lot of inserts --
 2 A Well, they got rid of the food and
 3 beverage minimum.
 4 Q Why is that?
 5 A They decided to not have one anymore.
 6 And they changed -- It looks like they changed dues,
 7 fees, food and beverage, would just be the word
 8 "charges." Maybe it's a defined term at the
 9 beginning since it's capitalized, but I don't know.
 10 Q My question to you as the general
 11 manager, what is your understanding of why this was
 12 changed, if any?
 13 A Well, to tell people that it includes the
 14 food and beverage minimum that doesn't exist and
 15 it's very clear.
 16 Q Do you know what process was followed for
 17 this change? Who changed it?
 18 A The counsel.
 19 Q The lawyer to the club?
 20 A Lawyers of the club.
 21 Q Was it voted on by the membership?
 22 A It was part of that package, yes.
 23 Q Was it voted on by the membership?
 24 A If it was part of that package, it was
 25 voted on by the membership.

1 Q Were you part of any discussions with the
 2 board about changes in this document?
 3 A No.
 4 MR. FORD: Let's take a break. We
 5 are almost there.
 6 THE VIDEOGRAPHER: Off the record at
 7 1:07.
 8 (Recess taken.)
 9 THE VIDEOGRAPHER: On the record at
 10 1:13.
 11 BY MR. FORD:
 12 Q I've asked you about communications with
 13 my clients. And it's the Martins, the Freys, the
 14 Symons and so on.
 15 Other than what you've told me about your
 16 communications, do you have any individual knowledge
 17 of their disputes or their claims against the club
 18 or the claims against them?
 19 A Not really. I mean, I know that they are
 20 part of the group of people, I guess, who are
 21 somewhat in similar --
 22 Q Do you have any personal knowledge?
 23 A Not really. I saw stuff go by, but I
 24 don't focus on it.
 25 Q Say there's a husband and wife and the

1 husband is a member of the club and they live on
2 Callawassie and the husband is a golfer and the wife
3 is not, and the husband dies so his widow is left.
4 Is the widow left with the membership? Is that how
5 it works?

6 A Yeah --

7 Q She is responsible for the membership?

8 A Yes.

9 Q What if she doesn't play golf and she
10 doesn't want to be a member of the club?

11 A Well, the membership is affiliated with
12 the property. There is different levels that
13 members -- Like golf is either pay-as-you-go kind of
14 golf, or there is an unlimited monthly amount they
15 could pay. So she can opt to not be part of golf.

16 Q But she would still have to pay --

17 A She would still be a member.

18 Q And how would she get off the membership
19 if she can't sell her property?

20 A Resign, add yourself to the waiting list
21 or the resale list.

22 Q And I think we've established that the
23 resale list takes a while.

24 A Yes.

25 Q Are there any exceptions made, any mercy

1 shown by the club?

2 MR. HAIGHT: Objection to the form.

3 A That membership change that we talked
4 about a couple of minutes ago was to set up the
5 ability for people to not have to pay the full
6 amount for that golf.

7 BY MR. FORD:

8 Q Tell me what you mean by that.

9 A There is the island dues that everybody
10 is responsible for, and then golf -- I don't want to
11 say it's a la carte, but --

12 Q It's additional?

13 A You can either pay every time you play
14 golf, which would be zero if you never play; or you
15 can pay a monthly amount and play as much golf as
16 you would like.

17 Q But there's a base island membership that
18 that widow would still be obligated for in the
19 club --

20 A All members pay the island dues.

21 Q How about children of deceased members?
22 Say both the husband and wife unfortunately die and
23 they inherit it. Are the children responsible for
24 the membership if they inherit it?

25 A The owner of the property -- My

1 understanding is the owner of the property must
2 maintain a membership in the club.

3 Q How about if someone has an empty lot
4 they bought a long time ago, has never lived there,
5 has no intention, but can't sell the property, what
6 happens to that person?

7 MR. HAIGHT: Objection to the form.

8 A The membership -- Say that again.

9 BY MR. FORD:

10 Q Somebody bought a lot, let's just say
11 years ago. It's an empty lot. There is no house on
12 it. They don't want to be a member of the club, but
13 they can't sell the property and they can't get
14 someone to buy the property. What happens to that
15 person?

16 MR. HAIGHT: Objection to the form.

17 A Whoever owns that property must maintain
18 a membership in the club. So says the POA covenant.
19 So whoever owns it is a member of the club. They
20 can resign and put themselves on the resale list.

21 BY MR. FORD:

22 Q And we know where that goes --

23 A Or they can sell.

24 Q Different topic. Say they are on the
25 resale list -- Strike that.

1 Say they are on -- Somebody sells their
2 property and the membership. Lucky them. Do they
3 get their equity back --

4 MR. HAIGHT: Objection to the form.

5 BY MR. FORD:

6 Q -- that they put into the club?

7 A Before 2012, if you bought before
8 February of 2012, you're entitled to 33 percent of
9 the then-current initiation fee.

10 Q If you bought the property before then?

11 A Yes.

12 Q How about after?

13 A After, it's a non-refundable equity
14 membership. Refundability and equity are two
15 different things.

16 Q Explain it to me.

17 A Equity is everybody gets the same amount
18 of voting power, but refundability could be
19 different between me and you depending upon when we
20 bought it.

21 Q If someone moves off of the resale list
22 because the property or membership is bought and it
23 somehow moves off of the resale list, does that
24 person get their equity back who owned that
25 membership?

1 A Yes.
 2 Q And is it in the amount that you just
 3 explained to me?
 4 A Yes, it would be 33 percent. Right now
 5 it's \$5,000. The initiation fee is \$15,000. So
 6 it's a third, \$5,000. And they use it to clean up
 7 back dues and stuff like that.
 8 We talked about the Kunis earlier. They
 9 owed some back dues. We used that to --
 10 Q How about people on the resale list? You
 11 and I saw people on the resale list who have been
 12 deemed conceded. Do you remember that?
 13 A Mm-hmm.
 14 Q If they move off the resale list, that
 15 membership, does that member get the equity back?
 16 MR. HAIGHT: Objection to the form.
 17 A If it's before 2012, they would be
 18 entitled to \$5,000.
 19 BY MR. FORD:
 20 Q Even if they conceded the membership?
 21 A I guess it would have to do with whatever
 22 the concession agreement was with each one.
 23 Q And that would be in the file?
 24 A Yeah. I would assume that there's some
 25 sort of concession stuff that goes along with these

1 people.
 2 Q And you and I also saw people on the
 3 resale list who were designated as expelled. Do you
 4 remember that?
 5 A Mm-hmm.
 6 Q Is that a yes?
 7 A Yes.
 8 Q If someone who had been deemed expelled
 9 moves off the resale list, do they get their equity
 10 back?
 11 MR. HAIGHT: Objection to the form.
 12 A Yeah. Prior to 2012, you would be
 13 entitled to a refund of what is now 33 percent of
 14 the initiation fee.
 15 BY MR. FORD:
 16 Q Let me ask you this. Do you know that's
 17 true?
 18 A Well, still, I struggle with conceded,
 19 expelled, because this is all stuff that's from 2005
 20 and before. So I don't know if when somebody was
 21 expelled if they filled out a form just like maybe a
 22 conceded person would. So I don't know.
 23 MR. FORD: That's all I have.
 24 Thanks. I'll pass the witness.
 25 THE VIDEOGRAPHER: Off the record at

1 1:21.
 2 (Recess taken.)
 3 THE VIDEOGRAPHER: On the record at
 4 1:26. This concludes the deposition of Jeff
 5 Spencer. We are off the record at 1:26, tape No. 3.
 6 (End of deposition.)
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1 CERTIFICATE
 2 I do hereby certify that the witness whose
 3 attached deposition was taken before me in the
 4 aforementioned matter was, by me, first duly sworn
 5 to testify the truth, the whole truth, and nothing
 6 but the truth; that the testimony contained in said
 7 deposition was, by me, reduced to writing in the
 8 presence of said witness by means of computerized
 9 transcription. The said deposition is a true and
 10 accurate transcript of the whole of the testimony
 11 given by the said witness, as aforesaid.
 12 I do further certify that I am not
 13 connected by blood or marriage with any of the
 14 parties or their attorneys or agents, and I am not
 15 an employee of either of them, nor interested
 16 directly or indirectly in the matter of controversy
 17 either as counsel, attorney, agent or otherwise.
 18 Sworn to and subscribed before me this the
 19 _____ day of _____, 2015.
 20
 21
 22 Janice O. Darby, RPR
 23 and Notary Public
 24 My commission expires: 4/07/2019
 25