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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

)
Desert Mountain Club, Inc.,)

)
Plaintiff,)

)
vs.) No. CV2014-01533

)
Thomas Clark and Barbara Clark,)
husband and wife,)

)
Defendants.)

)
VIDEOTAPED DEPOSITION OF ROBERT EDWARD JONES II

VOLUME 1

Phoenix, Arizona

May 20, 2015

Prepared by:
Gerard T. Coash, RPR, RMR
Certified Reporter
Certification No. 50503

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2 WITNESS PAGE

3 ROBERT EDWARD JONES II, VOL. 1

4 Examination by Mr. Williams 12

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7 EXHIBITS MARKED

8 EXHIBIT DESCRIPTION PAGE

9 (None offered.)

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1 VIDEOTAPED DEPOSITION OF ROBERT EDWARD JONES II, VOL. 1
2 was taken on May 20, 2015, commencing at 9:02 a.m., at the
3 law offices of Baird, Williams & Greer, LLP, 6225 North
4 24th Street, Suite 125, Phoenix, Arizona, before Gerard T.
5 Coash, a Certified Reporter in the State of Arizona.

6

7

8 * * *

9 APPEARANCES:

10 For the Plaintiff:

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20 For the Witness:

TIFFANY & BOSCO, PA

21 By: Christopher A. LaVoy, Esq.

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24 Also present: Jerry Coash, videographer

25

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1 TRANSCRIPT OF PROCEEDINGS

2 THE VIDEOGRAPHER: We are on the record.

3 The time on the video monitor is 9:02 a.m. Here begins
4 volume 1, video number one, in the deposition of Robert
5 Jones, in the matter of Desert Mountain Club versus Clark,
6 in the Superior Court of the State of Arizona, in and for
7 the County of Maricopa, case number CV2014-015334.

8 Today's date is March 20th, 2015. Our court
9 reporter is Gerard Coash. My name is Jerry Coash,
10 certified videographer, representing Coash & Coash. This
11 video deposition is taking place at 6225 North 24th
12 Street, Phoenix, Arizona.

13 Counsel, please identify yourselves and
14 state whom you represent.

15 MR. CALLAHAN: Christopher Callahan, joined
16 by Seth Schuknecht, from Fennemore Craig on behalf of
17 plaintiff Desert Mountain Club, Inc.

18 MR. LAVOY: Chris LaVoy on behalf of Robert
19 Jones in his individual capacity.

20 MR. WILLIAMS: Daryl Williams for the
21 defendants.

22 THE VIDEOGRAPHER: Would the court reporter
23 please swear in the witness.
24 (Witness sworn.)

25 MR. LAVOY: So, Daryl --

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1 MR. WILLIAMS: Mr. Williams, please.

2 MR. LAVOY: Okay. Based on our discussion
3 moments ago, it's my understanding that your clients, the
4 defendants, are not willing to stipulate to any of the
5 proposed terms of confidentiality that were communicated
6 to you by plaintiff's counsel and by me in written
7 communications last week. We didn't get a response from
8 you. And -- and as we explained, given that, we're going
9 to need to adjourn this deposition and take these issues
10 up with the court to resolve the confidentiality issues,
11 and we'll proceed upon direction from the judge.

12 MR. WILLIAMS: Mr. Callahan, do you have
13 something to say?

14 MR. CALLAHAN: Absolutely. We had proposed
15 last week to you, Mr. Williams, in light of the
16 confidentiality obligations imposed upon Mr. Jones by
17 virtue of his employment with the club, Mr. LaVoy pointed
18 out by virtue of his employment with the predecessor to
19 the club, where Mr. Jones also has confidentiality
20 obligations, that we would allow this deposition to
21 proceed, we would propose that it be designated as
22 confidential, preserving fully your right to challenge
23 that designation as to some or all of the testimony taken,
24 at a later date, so that you could proceed this morning.
25 Both Mr. LaVoy and I sent letters to you

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1 last week. We did not receive the courtesy of a response
2 from your office to either of those letters. When we came
3 in this morning, we asked whether you were willing to
4 agree and you said, quote, Daryl Williams does never agree
5 to confidentiality agreements because I've been wrapped
6 around the axle before.

7 It would have been nice to know that in
8 advance so we could see if we could have gotten ahold of
9 Judge Bergin and resolved this today. But we are standing
10 on the confidentiality objection.

11 MR. WILLIAMS: Well, I can imagine there's
12 one thing that I'm going to ask today that would fall
13 within the ambit of any confidentiality agreements here.
14 I certainly would respect confidentiality. And if you
15 want to make an objection during the course of this that
16 you think one question or another of mine falls within the
17 limits of a confidentiality agreement, that seems to be an
18 appropriate way for me to proceed.

19 But to simply agree that carte blanche, in
20 general, these very general letters that were sent to
21 you -- sent to me by you and Mr. LaVoy, that is very
22 imprudent of me as a lawyer. And so I do not do general
23 carte blanche confidentiality agreements. I'm willing to
24 proceed and give you an opportunity, when you get the
25 transcript, to say, "This is confidential for these

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1 reasons," showing me the particular confidentiality
2 agreements -- clauses and explaining why it's
3 confidential. That seems to me to be the more efficient
4 way to proceed. Then we have something to fight about
5 instead of just a bag of smoke.

6 MR. LAVOY: Daryl --

7 MR. CALLAHAN: I appreciate your views,
8 Mr. Williams. But the problem is you and/or your clients
9 have elected to try this lawsuit through a website run by
10 Mr. Gary Moselle. While you didn't send me a complete
11 copy of the original notice for Mr. Jones' deposition, I
12 was able to get one through the Gary Moselle website.
13 I've also gotten, through the Gary Moselle
14 website, your strategy letter to your clients, the Clarks,
15 as to how you intend to defend this lawsuit.

16 My assumption, since the videotape
17 deposition notice was put up there, if this deposition
18 proceeds without a confidentiality notice, we will see a
19 link to the video being prepared today as soon as it is
20 prepared on that website.

21 That causes problems for the club. That is
22 why we sent the letter we did.

23 MR. WILLIAMS: What kind of problems does
24 that cause for the club if that happens? And believe you
25 me, I am not a party to anything being posted on the

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1 website. Anybody's website.

2 But please explain to me, Mr. Callahan, what
3 kind of problems this could possibly cause for the club?

4 MR. CALLAHAN: If you go into any club
5 confidentiality issues, which includes anything regarding
6 club operations, that creates a problem. Because there is
7 a confidentiality agreement between the club and
8 Mr. Jones. There is a confidentiality agreement between
9 Desert Mountain Properties Limited Partnership, the
10 developer, the predecessor, and Mr. Jones, that is similar
11 in scope.

12 Obviously, we are willing to waive it for
13 purposes of this litigation so long as the transcript is
14 kept to this litigation.

15 You're out soliciting a class action or a
16 mass action among the Desert Mountain members against the
17 club, that is well-known. I assume that you will use this
18 for it. That's the only purpose I can think of for
19 accelerating this deposition the way you have. And that
20 is an improper use of a deposition, that is an improper
21 use of a transcript, and we will resist that.

22 MR. WILLIAMS: Well, I'm trying to do a
23 deposition to get some discovery in the case, and I think
24 I'm entitled to that. I think you're entitled to say this
25 position -- this part here, these questions here, they

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1 relate to something that is confidential. And then we can
2 have something to discuss.

3 MR. CALLAHAN: If it relates to club
4 operations, it is confidential under the agreement and
5 cannot be publicly disseminated.

6 MR. WILLIAMS: Club operations as in hours
7 of operations, their dealings with my client, Mr. Clark,
8 his notice of resignation and Mr. Jones' reaction to that,
9 those are club operations and confidential?

10 MR. CALLAHAN: There are questions you can
11 no doubt ask. But we're not going to let him ask anything
12 that goes into club operations. Mr. LaVoy and I can
13 confer on that. If you want to proceed that way, we can
14 do that.

15 MR. WILLIAMS: Well, let's proceed. Then if
16 we --

17 MR. LAVOY: Well, hold on a second, Daryl.

18 MR. WILLIAMS: Yeah, let's proceed.

19 MR. LAVOY: No, no, Daryl.

20 MR. WILLIAMS: Mr. Williams, please,
21 Mr. LaVoy.

22 MR. LAVOY: Okay. Okay. Thank you,
23 Mr. Williams.

24 So the issue is not just you and your
25 clients publishing this deposition, along with the other

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1 case materials that are being disseminated. The issue is
2 that -- is that Mr. Jones has contractual confidential --
3 confidentiality obligations with third parties that are
4 fairly broad and continuing with the deposition could
5 expose him to civil liability under those agreements.
6 And we attempted to resolve this issue with
7 you in advance to avoid what, frankly, is turning into a
8 circus, and you didn't respond. You just ignored the
9 issue, and hence we find ourselves.
10 So, you know, if you're going to inquire
11 into anything having to do with the policies and practices
12 of this golf club, it's just going to be a non-starter
13 under these confidentiality agreements.
14 Now, it may very well be that the court
15 narrows the scope of those obligations or releases
16 Mr. Jones to some extent from them. And at that point,
17 Mr. Jones will be happy to appear and answer those
18 questions. But he should not have to be exposed to
19 potential civil liability at this moment, and that should
20 be resolved by the judge in our view.
21 So if you're willing to -- to go ahead and
22 assure us at the outset that you're not going to inquire
23 into these areas that we described in our written
24 communications, then, yes, let's -- let's proceed. But if
25 you just want to take this question by question with an

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1 avalanche of objections each time as you try and needle
2 your way into these practice and procedure issues, let's
3 save ourself some time and go resolve this with the court.

4 MR. WILLIAMS: I propose that we proceed.

5 And if you desire to -- either of you -- instruct the
6 witness not to answer, then there's nothing I can do about
7 that.

8 MR. LAVOY: Are you saying that you're going
9 to be inquiring in the club's practices and procedures?

10 It's a simple question, Daryl, yes or no.

11 MR. WILLIAMS: I do not know what you mean
12 by "club's practices and procedures."

13 MR. LAVOY: Well, I think -- I think -- I
14 don't think you're being candid there.

15 MR. WILLIAMS: And Mr. -- Mr. LaVoy, please,
16 I have not given you permission to use my given name, and
17 I would appreciate it if you would refer to me formally.

18 MR. LAVOY: Okay. Mr. Williams.

19 MR. WILLIAMS: Thank you.

20 MR. LAVOY: Okay. So, Mr. Williams, can you
21 give us a direct answer to our direct question?

22 MR. WILLIAMS: If I knew what was involved
23 with your -- what was defined by "policies and
24 procedures," I could answer that. I do not.

25 So let's go question by question and you can

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1 then tell me, "Well, that's a policy or procedure. Don't
2 answer that question." What's wrong with that?

3 MR. LAVOY: So let's take a short break
4 and -- and let the attorneys confer regarding how to
5 proceed.

6 Let's go off the record for a moment,
7 please.

8 THE VIDEOGRAPHER: Off the record at
9 9:13 a.m.

10 (A recess ensued.)

11 THE VIDEOGRAPHER: Back on the record at
12 9:21 a.m.

13

14 ROBERT EDWARD JONES II,
15 the witness herein, having been first duly sworn by the
16 Certified Reporter, was examined and testified as follows:

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18 EXAMINATION

19 BY MR. WILLIAMS:

20 Q. Mr. Jones, would you please state your name?

21 A. Robert Jones.

22 Q. Is that your full name, Mr. Jones?

23 A. No, it's not.

24 Q. What is your full name?

25 A. Robert Edward Jones II.

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- 1 Q. Where did you graduate from high school?
- 2 A. Dallas, Texas.
- 3 Q. What year?
- 4 A. 1976.
- 5 Q. Did you go to college?
- 6 A. Yes, I did.
- 7 Q. Where?
- 8 A. I went to Florida International University, FIU,
- 9 in Miami, Florida.
- 10 Q. What did you study?
- 11 A. Hotel, restaurant, and club management.
- 12 Q. When did you graduate from there?
- 13 A. 1978.
- 14 Q. What was your degree?
- 15 A. My degree is in hotel, restaurant, and club
- 16 management.
- 17 Q. Associate's degree? Bachelor's degree? Master's
- 18 degree?
- 19 A. Bachelor --
- 20 Q. Doctorate?
- 21 A. I didn't understand that question.
- 22 Bachelor of science.
- 23 Q. You got a bachelor of science in two years?
- 24 A. Yeah, sure did.
- 25 Q. Congratulations.

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1 How many hours were involved in that
2 curriculum?

3 A. I don't recall. But I have a bachelor of science
4 in hotel and restaurant, club management.

5 Q. What was your first job after you graduated in
6 1978?

7 A. My first job was in -- was running a restaurant
8 for a company.

9 Q. Where?

10 A. In Houston, Texas.

11 Q. Name of the company?

12 A. Foley's, F-o-l-e-y-s. Owned by Federated
13 Department Store.

14 Q. And is Foley's the name of the restaurant?

15 A. No. I think the restaurant was called -- I'm
16 really -- I can't recall the name of the restaurant.

17 Q. How long did you run that restaurant in Houston?

18 A. I ran it until 1981.

19 Q. Why did you quit?

20 A. I didn't quit. I was --

21 Q. Were you terminated?

22 A. No, I wasn't terminated.

23 Q. What happened?

24 A. I've never been terminated.

25 I was recruited to get into the club field,

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1 and I went to work for Blue Collar Golf Club in Dallas,
2 Texas.

3 Q. Isn't that quitting? You quit the restaurant to
4 do something else?

5 A. I've answered your question.

6 Q. Did you quit the restaurant?

7 A. I left the restaurant's employ to take another
8 job, yes.

9 Q. And where did you go to work?

10 A. I went to work for Blue Collar Golf Club.

11 Q. Where is that?

12 A. In Dallas, Texas.

13 Q. What did you do there?

14 A. I was the assistant club manager.

15 Q. What did the assistant club manager do?

16 A. Ran all the operations of the club, reported to
17 the general manager of the club.

18 Q. Give me an idea of the things that are involved
19 in the operations of a club.

20 MR. CALLAHAN: I'm sorry. Mr. Williams, are
21 you referring to golf clubs in general or in particular
22 for a club Mr. Jones worked for?

23 BY MR. WILLIAMS:

24 Q. I'm interested in what you did in charge of
25 operations for Blue Collar Golf Club in Dallas?

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1 A. I was assistant club manager responsible for food
2 and beverage, housekeeping, maintenance, general member
3 satisfaction, operation of the club.

4 Q. How long did you work there?

5 A. Until approximately 1984.

6 Q. Why'd you leave?

7 A. I was recruited/promoted to a general manager of
8 my first club as a GM called El Dorado Country Club.

9 Q. When you say your first club, I thought Blue
10 Collar was your first club?

11 A. First club as GM, general manager. General
12 manager is the highest position you can have in a club as
13 an employee.

14 Q. So what was the name of this club where you were
15 general manager?

16 A. El Dorado Country Club in McKinney, Texas.

17 Q. And why did you say it was your first club?

18 MR. LAVOY: Object to the form. Misstates
19 testimony.

20 BY MR. WILLIAMS:

21 Q. Did I misunderstand you? Why did you say it was
22 your first club?

23 A. I said it was my first general manager's job.

24 Q. Okay.

25 A. As general manager, reporting directly to the

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1 board.

2 Q. How long did you work at El Dorado?

3 A. I was there until, let's see, 19 -- approximately
4 1991. This is also on my LinkedIn page, you can find it
5 there. It's also on the club website.

6 Q. Why did you leave El Dorado in 1991?

7 A. To take a better job called Dallas Athletic Club,
8 a 36-hole golf experience in Dallas, Texas.

9 Q. How long were you at the Dallas Athletic Club?

10 A. I was at the Dallas Athletic Club until
11 approximately '93, I think in that zone.

12 Q. What did you do at the Dallas Athletic Club?

13 A. I was the general manager of the club, reporting
14 to the board of directors.

15 Q. Were both El Dorado and Dallas Athletic Club for
16 profit entities?

17 A. El Dorado was a developer for profit entity.
18 Dallas Athletic Club was a private member owned club, and
19 therefore was a -- was a non-profit club.

20 Q. A 501(c)3?

21 A. Yes.

22 MR. CALLAHAN: Object to the form.

23 BY MR. WILLIAMS:

24 Q. Why did you leave Dallas Athletic Club in 1993?

25 A. I went to work for Northwood Club in Dallas,

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1 Texas. It was a larger club, a promotion, became general
2 manager. And Northwood's in Dallas, Texas.

3 Q. How big is the Northwood Club?

4 A. 575 members, approximately 8 million in volume.

5 Q. How many holes?

6 A. 18 holes.

7 Q. How many members at Dallas Athletic Club?

8 A. Dallas Athletic Club had 2800 members.

9 Q. You just told me a minute ago that Northwood was
10 a larger club, had 575 members as opposed to Dallas
11 Athletic's 2800, had 18 holes as opposed to Dallas
12 Athletic's 36 holes.

13 Why, in your estimation, was Northwood Club
14 a larger club?

15 A. It's a higher volume, \$12 million or more. It
16 was considered one of the top clubs in Dallas, Texas in
17 stature, brand, reputation.

18 Q. How long did you stay at the Northwood Club in
19 Dallas?

20 A. I stayed until 1997, when I was recruited by a
21 member to come to Desert Mountain Properties.

22 Q. Did you start working for Desert Mountain
23 Properties in 1997?

24 A. No. I had an agreement with my club, which
25 required me to stay until January 19th of 1998. And that

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1 was my first day of employment in the position of
2 vice-president of operations.

3 Q. So you actually stayed with Northwood from 1993
4 until you began working at Desert Mountain in 1998?

5 A. Right. Mr. Williams, this is my 36 years of
6 being a private club or development club manager.

7 Q. Your job as vice-president at Desert Mountain
8 Properties involved what?

9 MR. LAVOY: Objection.

10 MR. WILLIAMS: Is that a form objection or
11 are you going to direct him not to speak? You get to do
12 one or the other.

13 MR. LAVOY: So can you be more specific than
14 that so we can evaluate whether you're probing into
15 information that would be subject to his contractual
16 confidentiality obligations?

17 BY MR. WILLIAMS:

18 Q. What was your job as vice-president at Desert
19 Mountain Properties starting in 1998?

20 A. I was responsible for all the operations of the
21 club.

22 Q. And when you say "operations of the club," what
23 do you mean?

24 A. That would be all the operating departments,
25 golf, food and beverage, maintenance, membership.

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1 Q. Did people work under you at the time?

2 A. Yes.

3 Q. How many?

4 A. I don't recall the exact number.

5 Q. Approximately?

6 A. I would say approximately, you know, in the 400
7 range, 400 people.

8 At that time, we only had two clubs --

9 houses -- three clubhouses at Dallas -- at Desert Mountain
10 at the time.

11 Q. You continued then as vice-president of
12 operations throughout your employment by Desert Mountain
13 Properties?

14 A. No. In '05, I was promoted to senior
15 vice-president of the company. In '07, I was promoted as
16 co-president. And at that time, the club was owned by
17 Morgan Stanley.

18 Q. By whom was Desert Mountain Properties originally
19 owned?

20 A. It was owned in a partnership with Crescent Real
21 Estate REIT out of Fort Worth, Texas, Richard Rainwater's
22 company, and Lyle Anderson of Anderson Companies based in
23 Scottsdale.

24 MR. CALLAHAN: And, counsel, just for
25 clarification, when you say "originally," you mean when

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1 Mr. Jones first joined their employ, correct?

2 MR. WILLIAMS: Well, I'm sure that he
3 wouldn't have any information prior to that.

4 BY MR. WILLIAMS:

5 Q. After the Crescent REIT owned it, was Morgan
6 Stanley the next owner of Desert Mountain Properties?

7 A. Yes. They bought Crescent, the entire REIT, in
8 2005. That was widely publicized in all the -- all the
9 trade publications, news about publicly traded companies.
10 They bought the entire asset from Crescent and took the
11 REIT off the stock exchange.

12 Q. Did Morgan Stanley continue to own Desert
13 Mountain Properties until it was sold to the members?

14 A. No. They owned it for approximately 18 months.
15 And now we're approaching 2008, the financial fallout of
16 this country -- you know, the stock market. They
17 defaulted to Barclays. And Barclays had the note. And,
18 therefore, I started working for Barclays Bank.

19 Q. Did you continue on as the co-president of Desert
20 Mountain Properties as an employee of Barclays Bank?

21 A. Yes. I was a W-2 employee all the way through
22 this employment relationship.

23 Q. Did you have an employment contract with Barclays
24 Bank?

25 A. I've had an employment agreement ever since I

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1 arrived to Desert Mountain Properties.

2 Q. Is there a confidentiality agreement or clause in
3 your employment agreement with Barclays Bank?

4 A. Barclays bought the assets of Desert Mountain
5 Properties. Lyle Anderson Co, which is represented by
6 Sonoran Partners, still maintained his ownership position.
7 So my contract and my confidentiality agreement, as well
8 as all the employees, all our -- all our personnel records
9 stayed the same during that period of time.

10 MR. CALLAHAN: Mr. Williams, if I might, let
11 me say that --

12 MR. WILLIAMS: Is this an objection or is
13 this -- which you get -- you get to instruct him not to
14 answer or say "form."

15 MR. CALLAHAN: What I get to do --

16 MR. WILLIAMS: You want to take a rest --
17 you want to take a recess, you may do that too.

18 MR. CALLAHAN: No. I'd like to make a brief
19 statement that would be over if you would just let me make
20 it.

21 So I wanted to let you know that

22 Mr. Jones -- Mr. Jones' employment contract does include a
23 non-disclosure provision.

24 BY MR. WILLIAMS:

25 Q. You got a W-2 from Barclays Bank?

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1 A. No. I got a -- they bought -- and I've been
2 clear with you on this -- they bought Crescent REIT out.
3 Therefore, they bought the company. Right? So I stayed
4 an employee of Desert Mountain Properties until the
5 members bought the club.

6 Q. And when did the members buy the club?

7 A. They bought the club in -- January 1 of 2011.

8 Q. At the time the members bought the club, you were
9 still the co-president?

10 A. That's correct.

11 Q. Who was your co-president?

12 A. The co- -- the other co-president was our ex-CFO
13 Richard Yehling.

14 Q. Would you spell Mr. Yehling's last name?

15 A. I may not have this right.

16 MR. LAVOY: Y-e-h-l-i-n-g.

17 THE WITNESS: Yeah, that is correct.

18 BY MR. WILLIAMS:

19 Q. Where's Mr. Yehling now?

20 A. I am not aware of where he's employed. Last time
21 I knew he was with Pacific Links, but I'm not aware where
22 he's employed today.

23 Q. Where is Pacific Links?

24 A. Pacific Links is an entity that has bought
25 several golf clubs. They have a website. But, again, I'm

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1 not -- I'm not on a personal friendship basis or knowledge
2 base as to where Mr. Yehling is. I don't know.

3 Q. Did he continue on with Desert Mountain, the
4 member owned entity, that acquired the golf course in
5 2011?

6 A. He did continue on for a period of time. I think
7 he was there approximately 90 days, but I'm not --
8 approximate, I'm not sure exactly.

9 Q. Do you know why Mr. Yehling left?

10 A. Yes. He -- because -- the reason --

11 MR. LAVOY: Well, hold.

12 THE WITNESS: Yeah.

13 MR. LAVOY: I'm going to object and instruct
14 you not to answer regarding any personnel matters of the
15 club.

16 THE WITNESS: I can't com- -- comment on
17 that.

18 BY MR. WILLIAMS:

19 Q. Okay. Why do you think he left?

20 MR. LAVOY: Same.

21 THE WITNESS: No comment.

22 BY MR. WILLIAMS:

23 Q. Was Mr. Yehling terminated?

24 MR. LAVOY: Same.

25 THE WITNESS: No comment.

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1 MR. WILLIAMS: And so let me see if I
2 understand, Mr. LaVoy. You think this is somehow in
3 violation of a confidentiality agreement about club
4 businesses and policy as to why Mr. Yehling left?
5 MR. LAVOY: Mr. Jones is subject to an
6 employment agreement with broad confidentiality
7 protections for the club and the question you've asked
8 could be construed as asking him to provide confidential
9 information regarding personnel matters and internal
10 management of the company. And, therefore, to avoid civil
11 liability, Mr. Jones is -- is not going to answer. But we
12 welcome that the issue be raised with the court and --
13 MR. WILLIAMS: Well Mr. --
14 MR. LAVOY: -- we'll proceed as -- as
15 ordered.
16 MR. WILLIAMS: Mr. Callahan, as the club's
17 lawyer, are you going to sue Mr. Jones if he answers this
18 question?
19 MR. CALLAHAN: Mr. Williams, you can't
20 possibly intend that question the way you asked it. As
21 you know, there's a predecessor entity. Mr. LaVoy and
22 Mr. Jones have been very clear that the predecessor entity
23 has the rights that Mr. LaVoy is here talking about. I
24 don't represent that entity.
25 MR. WILLIAMS: Do you, as the representative

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1 of the plaintiffs in this case, have any objection if
2 Mr. Jones says his opinion of why Mr. Yehling left after
3 the present entity succeeded ownership?
4 MR. CALLAHAN: Absolutely. I join
5 Mr. LaVoy's objection. Mr. Jones has a confidentiality
6 obligation. We provided you with a mechanism to get this
7 all resolved. With an order from the court, that would
8 clarify things, would protect Mr. Jones, would allow you
9 to take this testimony. You declined that. That's why we
10 are where we are.
11 MR. WILLIAMS: And what is confidential
12 about this question, Mr. Callahan?
13 MR. CALLAHAN: You would have to ask
14 Mr. LaVoy that, Mr. Williams. There is a confidentiality
15 obligation. Mr. LaVoy is protecting his client and his
16 obligations under a contract.
17 MR. WILLIAMS: From the standpoint of the
18 plaintiffs, is there anything obligation -- anything
19 confidential about this question?
20 MR. CALLAHAN: I have no idea, Mr. Williams.
21 And I'm not under oath here. This is counting against
22 your four hours, so use it as you will.
23 MR. WILLIAMS: So you are just also
24 instructing your client not to answer this question?
25 MR. CALLAHAN: Mr. LaVoy took care of that.

00027

1 I'm not instructing him to do anything on this question.

2 MR. WILLIAMS: Do you agree that he is

3 permitted to answer this question?

4 MR. LAVOY: Mr. Williams, I think

5 you have --

6 MR. CALLAHAN: I don't think --

7 MR. LAVOY: -- sufficient guidance --

8 MR. CALLAHAN: -- I'm under oath here.

9 Proceed.

10 BY MR. WILLIAMS:

11 Q. Did you have another co-president after

12 Mr. Yehling left in the first part of 2011?

13 A. No.

14 Q. Did you become the president?

15 A. No, I did not.

16 Q. Who became president?

17 A. The member -- board members elected an advisory

18 board of the club. The president, at that time, became

19 David White.

20 Q. Was he president of the board -- pres- --

21 president of the company that owned all the assets at

22 Desert Mountain?

23 A. That's correct.

24 Q. Well, that was a -- that was disjunctive.

25 Was he president of the board?

00028

1 A. He was president of the board. It was a member
2 board.

3 Q. Was he president of the entity that owned all the
4 assets?

5 MR. CALLAHAN: Objection. Foundation.

6 THE WITNESS: Can you repeat the question?

7 BY MR. WILLIAMS:

8 Q. Was he president of the entity that owned the
9 assets?

10 A. He was --

11 MR. CALLAHAN: Same objection.

12 MR. WILLIAMS: You know, Mr. Callahan, I
13 think you get to say "form." That's all.

14 MR. CALLAHAN: I can say "form." I can say
15 "foundation." I'll defend this deposition as I deem
16 appropriate without your advice. Thank you, counsel.

17 BY MR. WILLIAMS:

18 Q. Was he president of the entity that owned the
19 assets?

20 A. He was --

21 MR. CALLAHAN: Objection. Foundation.

22 MR. WILLIAMS: Go ahead.

23 THE WITNESS: I'm not going to answer the
24 question. Move on.

25 MR. CALLAHAN: Bob, you can answer that.

00029

1 The problem is it becomes a member owned club. He's
2 president of the board.

3 MR. WILLIAMS: No speeches. Please, no
4 speeches. No speeches, please.

5 THE WITNESS: He's -- he's the president.

6 MR. CALLAHAN: You're wearing on my
7 patience, Mr. Williams, very quickly.

8 THE WITNESS: He's the president of the
9 member elected board. He's the president of the club.

10 He's the president that represents the members in all the
11 assets that the members own, yes.

12 BY MR. WILLIAMS:

13 Q. And the members do own all the assets, correct?

14 A. That's correct.

15 Q. Have owned all the assets since turnover in --
16 January 1, 2011 to the present?

17 A. From January 1, 2011, at the closing, which
18 happened on the 31st, yes, they do. They own all the
19 assets.

20 The -- actually, the corporation owns the
21 assets, and then they own that corporation. And that
22 corporation is called Desert Mountain Club, Inc.

23 Q. Desert Mountain Club, Inc. is owned by every
24 member of the golf club or just the equity members?

25 A. Just the equity members, yes.

00030

1 Q. That includes, does it not, both the golf equity
2 and the club equity members?

3 A. That's -- yes.

4 Q. Are there any other equity members, other than
5 golf equity and club equity members?

6 A. No.

7 Q. Has the club recently added any new equity
8 members to the membership at Desert Mountain?

9 A. Yes.

10 Q. When was the last time an equity member was
11 added?

12 A. This month.

13 Q. What did that --

14 A. By the membership committee and board approval.

15 Q. Was it an equity member who succeeded to interest
16 on the surrender list?

17 MR. CALLAHAN: Object to the form.

18 THE WITNESS: Could you be more specific?

19 BY MR. WILLIAMS:

20 Q. Yeah. You've got a surrender list out there for
21 people who want to get out, correct?

22 A. We have a member resale program. And that is the
23 only way you can come in or out of the club, yes.

24 Q. Well, my question was the recently added equity
25 member -- most recently one -- was it added, this new

00031

1 member, because they participated in the resale program?

2 A. All membership issues since turnover have come
3 through the membership resale program. The most current
4 one that we're talking about this month, yes, membership
5 resale program.

6 Q. Who was that?

7 MR. CALLAHAN: Object to the form.

8 Can we -- can you give me any theory as to
9 how this is relevant to the claims of Mr. Clark?

10 BY MR. WILLIAMS:

11 Q. Who was that?

12 A. That's confidential information.

13 MR. CALLAHAN: Bob --

14 BY MR. WILLIAMS:

15 Q. How much did that member pay?

16 MR. CALLAHAN: Objection. That's not
17 relevant. We're not doing a fishing expedition for your
18 mass action, Mr. Williams. Move on.

19 BY MR. WILLIAMS:

20 Q. How much did that member pay?

21 A. I can't answer the question.

22 Q. You're not answering the question?

23 MR. LAVOY: I'm instructing Mr. Jones not to
24 answer the question. The -- the terms of the club with
25 new equity members who have no involvement in this lawsuit

00032

1 is confidential information. Those terms represent the --
2 represent the policies of the club and how it accepts
3 members. And so my instruction stands.

4 BY MR. WILLIAMS:

5 Q. Since January 1, 2011, what is it exactly that an
6 equity member owns?

7 A. They own --

8 MR. CALLAHAN: Object to the form. Lack of
9 foundation.

10 MR. WILLIAMS: Go ahead.

11 THE WITNESS: Why don't you restate the
12 question again?

13 MR. WILLIAMS: Sure. Read that -- read that
14 back.

15 (The record was read by the court reporter
16 as follows:

17 QUESTION: Since January 1, 2011, what is it
18 exactly that an equity member owns?)

19 MR. CALLAHAN: Same objection, form and
20 foundation.

21 THE WITNESS: All members that have joined
22 the club own a ownership share of the corporation that
23 owns the club, which we've talked about, called Desert
24 Mountain Club, Inc. That's what they own. That gives
25 them -- they sign a membership agreement, gives them the

00033

1 right to use the club on a recreational and social basis.

2 BY MR. WILLIAMS:

3 Q. Take my clients, the Clarks, for example --

4 A. Uh-huh.

5 Q. They were equity golf members, correct?

6 A. Correct.

7 Q. They owned part of the club, correct?

8 MR. CALLAHAN: They own part of the club.

9 THE WITNESS: They -- as an equity member,
10 they owned a share of ownership of the club.

11 BY MR. WILLIAMS:

12 Q. What was their share of ownership of the club?

13 A. Well, if the club dissolved, all dissolved, then
14 they would have whatever the financial gain of that asset
15 would be if it was sold to a secondary market. That
16 happens in all private clubs.

17 If any private club was to dissolve, the
18 equity members would own whatever was the return from that
19 or the liability from that.

20 Q. So what was the Clarks' interest -- ownership
21 interest in the club?

22 MR. CALLAHAN: Objection. Form and
23 foundation.

24 THE WITNESS: I have no calculation. I have
25 no bearing on that question because it's a dissolution

00034

1 question.

2 If the company was to dissolve -- as I

3 explained further of all private clubs, if the club

4 dissolved, they would have whatever the proceeds of the

5 sales of the asset and the land, would be distributed

6 equally per each ownership share.

7 BY MR. WILLIAMS:

8 Q. Is it your testimony, Mr. Jones, that the only

9 equity interest that an equity member has is equity if

10 there is a dissolution and distribution and liquidation?

11 A. No, sir.

12 MR. CALLAHAN: Objection. Form and

13 foundation.

14 THE WITNESS: Didn't say that. That's not

15 what I said.

16 BY MR. WILLIAMS:

17 Q. Well, correct me with what I said was incorrect

18 there.

19 MR. CALLAHAN: Objection to the form.

20 You're asking all sorts of legal occlusions here, counsel.

21 It's inappropriate for this witness.

22 MR. WILLIAMS: Go ahead.

23 THE WITNESS: I'm -- really, I'm unsure

24 where you want to go with this or what you're trying to go

25 to this.

00035

1 These individuals were equity members.
2 They're owners of the club. We have clearly answered that
3 question. So I don't -- you know, I'm not sure what else
4 you want to know in that regard.

5 BY MR. WILLIAMS:

6 Q. Let's take the Clarks for example. They paid
7 several hundred thousand dollars to become an equity
8 owner, did they not?

9 MR. CALLAHAN: Object to the form.

10 THE WITNESS: No, they did not. They joined
11 Desert Mountain Club January 1st of 2011 in a member
12 conversion agreement that converted them to a new entity
13 called Desert Mountain Club, Inc. The assets in that
14 transaction came over, but the club, Desert Mountain
15 Properties, did not. New entity. New EIN, new employer
16 number.

17 In that conversion agreement that your
18 client signed, clearly states the membership relation and
19 ownership relation with it. If you want to show me that
20 doc, I'll answer questions about that doc. But your
21 client signed that doc.

22 BY MR. WILLIAMS:

23 Q. Is it your understanding that my client became a
24 member of the new -- an owner of the new corporate entity?

25 A. Became a member owner, equity owner of the new

00036

1 entity, yes.

2 Q. That means, does it not, that he owned an
3 interest, a proportionate interest, in all the assets of
4 the new entity, indirectly, as his -- him being an owner
5 of the company?

6 MR. CALLAHAN: Objection. Form and
7 foundation.

8 THE WITNESS: The equity members elect a
9 board to govern. This is the same in all private clubs,
10 Mr. Williams. You may or may not have experience with
11 private clubs, but that's how private clubs operate.

12 MR. WILLIAMS: Would you repeat my question,
13 please?

14 MR. LAVOY: Repeat his answer.

15 MR. WILLIAMS: Just the question.

16 MR. LAVOY: Both.

17 MR. WILLIAMS: Just the question.

18 (The record was read by the court reporter
19 as follows:

20 QUESTION: That means, does it not, that he
21 owned an interest, a proportionate interest, in
22 all the assets of the new entity, indirectly, as
23 his -- him being an owner of the company?)

24 MR. CALLAHAN: And what was the answer to
25 that question, Mr. Coash?

00037

1 MR. WILLIAMS: Don't read that. Let him
2 answer this one first.
3 MR. CALLAHAN: Counsel, I want to hear the
4 answer to the last question. That is my right.
5 MR. WILLIAMS: Go ahead.
6 (The record was read by the court reporter
7 as follows:
8 ANSWER: The equity members elect a board to
9 govern. This is the same in all private clubs,
10 Mr. Williams. You may or may not have
11 experience with private clubs, but that's how
12 private clubs operate.)
13 MR. WILLIAMS: Now, read my question so the
14 answer -- witness can answer my question.
15 MR. CALLAHAN: Mr. Williams, you're
16 harassing this witness at this point. It's discourteous.
17 MR. WILLIAMS: My objection is
18 non-responsive. I get to have an answer to my question.
19 Please read my question so the witness can
20 answer my question.
21 (The record was read by the court reporter
22 as follows:
23 QUESTION: That means, does it not, that he
24 owned an interest, a proportionate interest, in
25 all the assets of the new entity, indirectly, as

00038

1 his -- him being an owner of the company?)
2 MR. CALLAHAN: And show an objection to form
3 and foundation.
4 THE WITNESS: In private clubs, equity
5 members elect a board to govern the club. They are the
6 owners of the club, that is the same case for Desert
7 Mountain Club, Inc.
8 So your client signed a membership
9 agreement, a conversion agreement, supersedes all other
10 agreements, and is a member, was vetted by the membership
11 committee and approved to join the new entity, and join
12 the new entity and became an equity owner of the club, as
13 all private clubs, to my knowledge, are operated in that
14 fashion.
15 BY MR. WILLIAMS:
16 Q. And as an equity owner, he owned assets of the
17 club?
18 MR. CALLAHAN: Object to the form. Lack of
19 foundation.
20 MR. LAVOY: Mr. Williams, you're asking this
21 lay witness questions of law for a lawyer or a judge.
22 It's harassing. You know better. Please stop it.
23 MR. WILLIAMS: Please answer the question,
24 your opinion, not a legal opinion.
25 THE WITNESS: I've --

00039

1 MR. CALLAHAN: Same objection.

2 THE WITNESS: I've given my opinion. My
3 opinion's on record. We can read it back if you'd like.

4 But I've answered the question.

5 BY MR. WILLIAMS:

6 Q. So equity members do own assets or not?

7 MR. CALLAHAN: Object to the form. Calls
8 for a legal conclusion.

9 THE WITNESS: I've answered the question,
10 sir.

11 Ask your next question.

12 BY MR. WILLIAMS:

13 Q. It's a yes or no. Does an equity member own any
14 assets at the club?

15 A. All --

16 MR. CALLAHAN: That depends on the club
17 structure, Mr. Williams. And we're not talking about this
18 particular club structure because that's going to violate
19 the confidentiality provision.

20 MR. WILLIAMS: Are you instructing --

21 MR. CALLAHAN: You've asked this question.

22 Move on.

23 MR. WILLIAMS: Are you instructing the
24 witness not to answer that question?

25 MR. LAVOY: Mr. Williams, more fundamentally

00040

1 this is a question of law, what -- who formally owns an
2 asset, the entity, the shareholder, directly, indirectly.
3 You're trying to box him in on a question of law that as a
4 layperson he's not in a position to answer. I know you're
5 hoping for a sound bite, but it's harassing. And that's
6 separate and apart from the confidentiality. Please be
7 respectful of the rules and move on.

8 MR. WILLIAMS: Are you instructing the
9 witness not to answer this question?

10 MR. LAVOY: What's your question?

11 MR. WILLIAMS: Please read the question
12 back.

13 (The record was read by the court reporter
14 as follows:

15 QUESTION: It's a yes or no. Does an equity
16 member own any assets at the club?)

17 MR. CALLAHAN: Form and foundation.

18 MR. LAVOY: I'm instructing you not to
19 answer.

20 THE WITNESS: I can't answer the question
21 based on advice of counsel.

22 MR. WILLIAMS: I've placed on the screen --

23 THE WITNESS: Mr. Williams, can I have
24 another bottle of water, if you'd be so kind?

25 MR. WILLIAMS: I've placed on the screen a

00041

1 document, which is CL008 -- Let me come back.

2 THE WITNESS: Thank you, sir.

3 BY MR. WILLIAMS:

4 Q. I've placed on the screen a document, has a Bates

5 label CL triple zero 80 -- CL00080. These are the bylaws

6 of the Desert Mountain Club dated July 1, 2013.

7 Are you familiar with these bylaws?

8 MR. CALLAHAN: Object to the form.

9 THE WITNESS: I am familiar with the club

10 bylaws, yes.

11 BY MR. WILLIAMS:

12 Q. The first page in these bylaws, CL0001 -- let me

13 state that this way -- CL00081, has bylaw keypoints. Have

14 you seen these bylaw keypoints before?

15 A. Can you raise the font on this?

16 Q. Sure.

17 A. Thank you.

18 The page that you asked me to look --

19 identify has disappeared.

20 I'd like to see the bottom of the document,

21 please. There's a footer on the bottom.

22 Okay. Yes, I've seen those.

23 Q. What was telling about the footer at the bottom

24 of CL00081?

25 A. Nothing. That would just give me an idea was

00042

1 this a legitimate document or not.

2 Q. What about that footer tells you whether this is
3 a legitimate document?

4 A. Shows that it came from one of the individuals
5 that works in our company.

6 Q. Which individual is that?

7 A. C Hillis.

8 Q. Does that mean that this document, CL00081, was
9 prepared by C Hillis?

10 A. No. You want to show me the whole document
11 and -- So what was your question, Mr. Williams, about the
12 document?

13 Q. My question initially was whether you were
14 familiar with it. But we got off on a --

15 A. But I -- I said -- No, sir, I did answer the
16 question. I am familiar with the document.

17 Q. Who prepared this bylaws keypoints?

18 A. Our club counsel.

19 Q. Who was that at the time?

20 A. It was a combination of Randy Addison -- '13 --
21 2013. Randy Addison of Addison Law in Dallas, Texas. It
22 could have been Quarles & Brady, or it was Fennemore Craig
23 together. I'm not sure when Fennemore Craig retook over
24 legal -- lead on our legal work.

25 Q. What was the reason for preparing this little

00043

1 summary at the beginning of the bylaws that kind of
2 summarize these things here?

3 A. I think it's like -- this is very prevalent in
4 all club bylaws, many club bylaws that I've seen through
5 the years. This is just a simple summary page, like an
6 index, for the reader of the document.

7 Q. Did you anticipate that people would rely upon
8 this document?

9 A. I --

10 MR. CALLAHAN: Object to the form.

11 MR. LAVOY: Form. Foundation.

12 And when you say "this document," do you
13 mean the entire bylaws or do you mean this segment that
14 you've elected to put on the screen?

15 BY MR. WILLIAMS:

16 Q. Do you have any concerns about what I'm asking
17 here? Are you confused?

18 A. Yes, I am.

19 Q. Well, I'm talking about these bylaws keypoints.

20 A. Okay.

21 MR. CALLAHAN: Just the keypoints?

22 THE WITNESS: And your question was?

23 BY MR. WILLIAMS:

24 Q. Did you expect members to rely upon these?

25 A. We expect members, by membership agreement to --

00044

1 they agree to abide by the full bylaws of the club.

2 These are only pages -- which I have clearly

3 answered -- is index to the bylaws.

4 Q. So you wouldn't expect members to rely upon the

5 bylaws keypoints?

6 A. I would expect members to rely on the full

7 bylaws, the full set.

8 Q. So the answer is no, you wouldn't expect them to

9 rely upon this?

10 A. Please don't answer the question for me.

11 I -- By membership agreement, the members

12 agree to abide by the club bylaws.

13 Q. Do you --

14 A. The full club bylaws.

15 Q. You know, I appreciate that.

16 A. Okay.

17 Q. I know that they do that.

18 A. I'm just trying to help you, Mr. Williams.

19 Q. Well, you're not answering my question. So

20 you're not helping me.

21 A. Yes, sir, I am.

22 Q. The question is did you expect -- you

23 personally -- that members could rely upon the bylaws

24 keypoints that were prepared?

25 MR. CALLAHAN: You're asking that

00045

1 independent of the bylaws?

2 THE WITNESS: My personal opinion --

3 MR. CALLAHAN: Objection. Form.

4 Foundation.

5 THE WITNESS: Yes. I think everyone

6 expected members, who sign the membership agreement, to

7 abide by -- and who agreed to abide by the club bylaws, to

8 abide by them as they were in force.

9 BY MR. WILLIAMS:

10 Q. Mr. Jones, we're having trouble communicating.

11 A. I'm not having any trouble.

12 Q. You're answering questions I'm not asking. So

13 I'm objecting as non-responsive.

14 My question is limited to the bylaw

15 keypoints that begin on CL00081.

16 Did you, in your opinion, think it was okay

17 for members to rely upon what was stated in the bylaws

18 keypoints?

19 A. And my answer is --

20 MR. CALLAHAN: Asked and answered.

21 THE WITNESS: Asked and answered. My

22 answer -- my -- asked and answered.

23 MR. LAVOY: Go ahead and tell him again,

24 Bob.

25 MR. WILLIAMS: Now, just limit it to the

00046

1 bylaws keypoints, because that's my only question.

2 MR. CALLAHAN: Mr. Williams, I'm sorry, that

3 question makes absolutely no sense.

4 Are you asking him do you -- did you expect

5 the members would rely on the bylaws keypoints, not read

6 the by- --

7 MR. WILLIAMS: Would you -- would you --

8 MR. CALLAHAN: No. I'm trying to understand

9 your question.

10 MR. WILLIAMS: Well, you don't have to.

11 It's the witness. You get to say form or instruct him not

12 to answer. Please be quiet. Otherwise -- if you would be

13 so kind.

14 MR. LAVOY: And you get --

15 MR. CALLAHAN: Mr. Williams --

16 MR. LAVOY: -- to answer your question once

17 and not harass him when you don't get -- harass him when

18 you don't get the answer you want. He said, repeatedly --

19 MR. WILLIAMS: Listen -- listen --

20 MR. LAVOY: Mr. Williams, he has repeatedly

21 told you that a member may rely on the entirety of the

22 bylaws, not just a select portion that you think is

23 advantageous to your client for some reason. He's

24 answered the question. You don't like it, move on.

25

00047

1 BY MR. WILLIAMS:

2 Q. My question is limited to the bylaws keypoints.

3 Did you, in your opinion, think that this

4 was something on which members could rely?

5 A. Members have signed a membership agreement. That

6 membership agreement, they agree to abide by the bylaws.

7 The club bylaws are in force, the full set. That's my

8 answer to your question.

9 Q. Well, why did you do the bylaws keypoints then?

10 MR. LAVOY: Asked and answered.

11 THE WITNESS: I've -- I've already answered

12 that question.

13 BY MR. WILLIAMS:

14 Q. That's just a table of contents?

15 A. Yeah -- no, it's a -- it's a table of contents, a

16 an index guide. I've seen this, Mr. Williams, in many

17 club bylaws. It's just a form how the bylaws were

18 presented, as if there was a cover page with a logo on it

19 that said "Desert Mountain Club."

20 Q. You know, I'm not interested in any other clubs.

21 Thank you for that, so many times that you've said it.

22 A. I know. I'm trying to help you.

23 Q. My question is why were the bylaws keypoints

24 prepared if you expected the members to rely only on the

25 bylaws?

00048

1 MR. CALLAHAN: Objection. Misstates
2 testimony.

3 THE WITNESS: I've already asked and
4 answered this question. These are part of the bylaws.
5 Therefore, the whole bylaws are in force. That's my
6 answer to your question.

7 BY MR. WILLIAMS:

8 Q. Being part of the bylaws then, the bylaws
9 keypoints can have the same level of credibility and
10 ability of the members to rely upon them as the actual
11 formal bylaws themselves?

12 A. No, sir.

13 MR. CALLAHAN: Object to the form.
14 Foundation.

15 THE WITNESS: I did not say that the first
16 time you asked.

17 The entire bylaws are what the members have
18 agreed to abide by in their membership agreement. That's
19 the full context of the bylaws from page one to ending
20 page.

21 MR. CALLAHAN: Go ahead, Bob. I'm sorry.
22 Let me further offer an objection to the
23 manner in which you're presenting exhibits here. You're
24 cherry picking pages out of a document. You're not
25 showing the witness the entire document. You're trying to

00049

1 trip him up on questions. If you want to ask him
2 questions about a document, I would ask that he be shown
3 the entire thing.

4 BY MR. WILLIAMS:

5 Q. Let me now show you this page from the bylaws
6 keypoints. This is page Roman numeral III of that,
7 CL00083.

8 A. I've asked you before, but would you please make
9 the entire page bigger for me or give me the ability to
10 scroll down or give me the ability to see the actual
11 document?

12 MR. LAVOY: Mr. William, would you be
13 willing to provide the witness with a full copy of the
14 document, hard copy, so that we can move along here?

15 MR. WILLIAMS: I'm going to do the
16 deposition the way that I wish to do it. You guys --

17 MR. LAVOY: Let the record reflect you won't
18 provide the witness with a hard copy of the document in
19 full.

20 BY MR. WILLIAMS:

21 Q. So --

22 A. I have vision issues, sir, that's why I'm asking
23 the question.

24 Q. Well, I do, too. So --

25 A. I understand.

00050

1 Q. I'm going to stop at the top here -- start at the
2 top here of this page, which is marked CL00083. And I'm
3 just going to ask you questions here about -- well, let's
4 go to the prior page. Let's go to the prior page, Member
5 Benefits Highlights, refundable membership contributions.
6 I'm going to highlight some language here.
7 What does that mean, "refundable membership
8 contributions," as you understand it?

9 MR. CALLAHAN: Object to the form. You
10 won't even give him the entirety of the provision you're
11 asking him about, counsel.

12 BY MR. WILLIAMS:

13 Q. Would you like to see the next page, too? I can
14 show you the next page if you'd like.

15 A. I would prefer, sir, to see whole document.

16 Q. Go ahead and answer my question with regard
17 what's on the screen, please.

18 MR. CALLAHAN: Form and foundation.

19 BY MR. WILLIAMS:

20 Q. I'm showing you CL00082. I've highlighted
21 refundable membership contribution. I'm asking you
22 what -- what is your understanding of what that means?

23 MR. CALLAHAN: Form and foundation.

24 THE WITNESS: It simply means that -- you
25 know, the membership, once it's transferred through the

00051

1 club, that the equity members would be entitled to any
2 equity -- any refund of that number, if they sold it for
3 more than what -- what the club established transfer rate
4 or fee would be.

5 That help you?

6 BY MR. WILLIAMS:

7 Q. That's your understanding, correct?

8 A. That's my general understanding of this small
9 segment of an entire document, but it does not speak for
10 the entire document. The entire document is in force.

11 Q. To be eligible to receive a refund of their
12 membership contribution, they would have to have submitted
13 their membership to the club for reissuance, correct?

14 A. That's correct.

15 MR. LAVOY: Object to the form.

16 THE WITNESS: That's the -- that is what the
17 bylaws require, that's what the membership agreement
18 requires, that's what the conversion agreement requires,
19 that your client signed, yes.

20 BY MR. WILLIAMS:

21 Q. So in order to get some sort of refund of
22 membership contributions, they have to -- members have to
23 comply with the procedures for becoming a member of the
24 membership reissuance list?

25 MR. CALLAHAN: Object to the form.

00052

1 BY MR. WILLIAMS:

2 Q. Correct?

3 A. Yes. And the word -- the optimum word is
4 "eligible." It says "eligible." That's the optimum word
5 there, "eligible."

6 Q. Sure. Because under what's happening at the club
7 now, they've got to pay a transfer fee too. And if the
8 new member's contribution is less than the transfer fee,
9 then to get out of this club, the member's got to pay
10 money?

11 MR. CALLAHAN: Object to the form.

12 THE WITNESS: Is that a question?

13 MR. WILLIAMS: Yes.

14 THE WITNESS: Can you restate the question?

15 MR. WILLIAMS: Sure. I'll have him read it
16 back.

17 MR. LAVOY: He asked for it to be restated,
18 not reread.

19 (The record was read by the court reporter
20 as follows:

21 QUESTION: Sure. Because under what's
22 happening at the club now, they've got to pay a
23 transfer fee too. And if the new member's
24 contribution is less than the transfer fee, then
25 to get out of this club, the member's got to pay

00053

1 money?)

2 MR. CALLAHAN: Those are two declaratory
3 statements. There's not a question in there. There's no
4 question pending, Mr. Jones.

5 MR. WILLIAMS: There's a question mark at
6 the end of that. Please answer that question.

7 MR. CALLAHAN: Are you asking him if he
8 agrees with your statement? Is that the question,
9 counsel?

10 MR. WILLIAMS: I'm going to have you reread
11 again.

12 There's a question mark at the end because
13 the intonation went up. It's part of communicating. And
14 so answer the question, please.

15 THE WITNESS: As long as it's grammatically
16 a question, I'll do so.

17 MR. WILLIAMS: Okay. It is grammatically a
18 question.

19 MR. CALLAHAN: It is not a grammatically a
20 question. Are you asking for his agreement with your
21 declaratory statement, counsel?

22 MR. WILLIAMS: Please read the question.

23 MR. CALLAHAN: There's no question what the
24 statement was, counsel. I'm asking what you're asking
25 him. He's entitled to a question, not a statement.

00054

1 MR. WILLIAMS: Please read the question.

2 (The record was read by the court reporter

3 as follows:

4 QUESTION: Sure. Because under what's
5 happening at the club now, they've got to pay a
6 transfer fee too. And if the new member's
7 contribution is less than the transfer fee, then
8 to get out of this club, the member's got to pay
9 money?)

10 THE WITNESS: Doesn't sound like a question,
11 counsel, to me. Sounds like an opinion.

12 MR. WILLIAMS: It is a question. Would you
13 like me to put it in a question form for you?

14 THE WITNESS: Sure. I mean, you're --
15 you're asking --

16 MR. WILLIAMS: Does the question --

17 THE WITNESS: You're asking me questions,
18 and I'll answer the question --

19 MR. WILLIAMS: Does --

20 THE WITNESS: -- when you answer -- ask me.

21 BY MR. WILLIAMS:

22 Q. Today and at the time --

23 THE WITNESS: I want to be helpful to you,
24 counsel.

25 MR. WILLIAMS: What we're going to do is

00055

1 when I'm speaking you don't.

2 MR. LAVOY: And vice versa, Mr. Williams.

3 MR. WILLIAMS: And when you're speaking, I

4 won't.

5 THE WITNESS: Sounds like a very

6 professional way to handle yourself.

7 BY MR. WILLIAMS:

8 Q. At the time the Clarks decided they didn't want

9 to be a member of this club, the club's deal was is they

10 couldn't sell their membership, correct?

11 A. No. They could sell their membership. It's a

12 market based pricing. They can set the price. The club

13 has set the price at 65,000. If the member wants to set

14 the price lower than 65,000, they can do that.

15 Mr. Clark obviously does not want to go

16 through that process as required by his conversion

17 agreement, by his membership agreement, and by the club

18 bylaws.

19 Q. So if Mr. Clark were to agree to proceed with

20 this procedure, and he sold the club membership for

21 \$10,000, would he have to pay money to get out?

22 A. Yes. The club has established that the

23 membership transfer fee and price is 65,000. If he wants

24 to sell it quicker, faster, control his own destiny,

25 replace himself, he could sell it for a dollar if he wants

00056

1 to do it. But it must go through the club.

2 Q. So if he wants to sell the membership for a
3 dollar, somebody's getting a real deal, aren't they?

4 MR. CALLAHAN: Object to the form.

5 THE WITNESS: I'm not sure what you mean by
6 "real deal."

7 BY MR. WILLIAMS:

8 Q. They're getting something that's worth a whole
9 lot more than a dollar, aren't they?

10 A. I'm not -- who -- who is getting more?

11 Q. The guy who buys Mr. Clark's membership for a
12 buck.

13 A. So how do I know the buyer isn't subsidizing the
14 price with Mr. Clark? I don't know that.

15 Mr. Clark sets his price under the
16 membership resale program. He decides what the number is.
17 The club has a transfer fee, like all private clubs has.
18 If he sets the price lower, in order to get out of the
19 club quicker, that's his choice. It's a market based
20 program.

21 Q. So what is the market for an equity membership
22 like Mr. Clark's right now?

23 MR. CALLAHAN: Object to the form.

24 THE WITNESS: We believe the price is 65,000
25 in the marketplace today.

00057

1 BY MR. WILLIAMS:

2 Q. Have you sold a single new equity membership in
3 the last three years for 65,000 or more?

4 A. Yes, sir, we have.

5 Q. To whom?

6 MR. CALLAHAN: Objection.

7 MR. LAVOY: That's sort of information we
8 believe would be fall within the confidentiality provision
9 of Mr. Jones' employment agreement and, therefore,
10 instruct you not to answer.

11 BY MR. WILLIAMS:

12 Q. Tell me how many.

13 MR. CALLAHAN: At a price of 65 or above is
14 the question?

15 MR. WILLIAMS: Yes.

16 THE WITNESS: I'm not sure I have that on
17 the top of my head, but -- I would be speculating as to
18 the answer, but we sold --

19 MR. CALLAHAN: Don't -- don't guess.

20 THE WITNESS: Right.

21 MR. CALLAHAN: If you can give him a
22 ballpark, he's entitled to that.

23 THE WITNESS: I would say, you know, 14
24 months ago membership was selling for 72-, 74,000. You
25 know, might have sold 10 to 11 in that zone -- 8 to 11, I

00058

1 would say. Not sure, have to look at the numbers.

2 BY MR. WILLIAMS:

3 Q. Today what are they selling for?

4 A. Today they're in a marketing range between 32,000
5 and 54,000.

6 Q. Has the value of the membership gone down?

7 A. No, sir, not in the club's opinion. But the
8 members have control of getting out of the club. They
9 have certainty to set their price at a market base, which
10 many clubs have this program today, including two in town
11 off the top of my head. They can choose to replace
12 themselves and sell it whatever the price they want to
13 sell it for, as long as it comes through the club.

14 Q. Why do you feel compelled in your answers to
15 always refer to other clubs when I'm only talking about
16 Desert Mountain?

17 A. It's my opinion, my personal belief. I'm just
18 expressing my belief. But if you don't like it, I'll try
19 to restrict it going forward.

20 Q. Well, thank you. Because I'm only asking
21 questions about Desert Mountain.

22 A. Okay.

23 Q. I don't really care about any other clubs.

24 A. I care about all clubs. I care about the club
25 industry.

00059

1 Q. So it is your opinion that the value of a club
2 membership remains at, let's say, \$325,000 today?

3 MR. CALLAHAN: Object to the form.

4 THE WITNESS: You'll have to restate that or
5 I'll have to have it read back to me.

6 BY MR. WILLIAMS:

7 Q. I can restate that one, I think. It's --

8 A. Okay.

9 Q. I'll try to quote myself.

10 A. Thank you.

11 Q. So it is your opinion, as you sit here today,
12 that the value on an equity golf membership remains at
13 \$325,000?

14 A. The value that the club has set is 65,000, which
15 the bylaws clearly allow the club to set and the board to
16 set. So the value is 65,000.

17 A member, as I've already answered, can
18 choose to set the price, whatever they want, but they
19 still must come through the club and pay the 65,000.

20 Q. Well --

21 A. And that is called a market based resale program.
22 That's -- that is the title we gave it. That is the title
23 that's referred to out in the industry.

24 Q. Well, you keep talking about the industry. I'm
25 not interested in the industry.

00060

1 A. Okay. That's our -- that's what we refer to it
2 here.

3 Q. I'm interested in what happens here at Desert
4 Mountain.

5 I'm going to show you this document. This
6 is --

7 A. The conversion agreement.

8 Q. This is CL01505.

9 MR. CALLAHAN: It is a portion of a
10 document. Show my prior objection to the manner in which
11 exhibits are being presented to this witness.

12 BY MR. WILLIAMS:

13 Q. And the last page of this document is CL01506,
14 which is now -- both of these are on the screen before
15 you.

16 A. Counsel, I would request a hard copy again to
17 help me read the -- the full package of what you're
18 showing me. I'm not sure what, you know, these pieces
19 are. I'm requesting again a hard copy of it.

20 Q. Well, this document is a page and a half long.
21 Do you have any trouble reading this --

22 MR. LAVOY: Mr. Williams, he's stated that
23 he has vision issues and that seeing a hard copy would
24 help him read it.

25

00061

1 BY MR. WILLIAMS:

2 Q. I'm going to ask you a question here on page 2.

3 And I'm going to help you here. I'm going to box question
4 and answer 4. I'll blow that up for you.

5 Do you know who wrote this revised
6 membership marketing program information sheet?

7 A. You keep overlaying multiple things here. So
8 maybe just stop and let me look at what you've got
9 presented. Again, would rather have a hard copy in front
10 of me.

11 Okay. Could you please reread your question
12 so I can answer appropriately?

13 MR. WILLIAMS: Go ahead, read that question
14 back.

15 (The record was read by the court reporter
16 as follows:

17 QUESTION: Do you know who wrote this
18 revised membership marketing program information
19 sheet?)

20 MR. CALLAHAN: Show an objection to the
21 question, form, based on the manner in which the evidence
22 is presented to this witness. I'm not sure it's possible
23 for him to tell what he's -- from what he is able to read.

24 BY MR. WILLIAMS:

25 Q. Let me restate the question for you.

00062

1 You've seen documents called "frequently
2 asked questions" as they relate to memberships at the golf
3 club before, haven't you?

4 A. Yes.

5 Q. This one is called "Revised Membership Marketing
6 Program Frequently Asked Questions." Does this look like
7 a document familiar to you?

8 A. Again, I'd like to see it in the full context.

9 But some of this looks like it is. I'd have to see the
10 full doc.

11 Q. Well, this is the full doc. It's two pages.

12 A. Okay. I'll rely on the fact that you're telling
13 me it's two pages.

14 Q. Okay.

15 A. Okay.

16 MR. CALLAHAN: Counsel, let me interpose an
17 objection. As you pointed out, in the way you just
18 started the question you just asked, there are a number of
19 these documents. You're asking him who prepared this
20 specific one.

21 Mr. Jones has testified he has vision
22 problems. He needs to see the whole document. In order
23 to understand which of the various documents you have now
24 put in front of him, it would be helpful for him to see
25 the entire document so we can put it into context and

00063

1 maybe answer your question. We have asked on a number of
2 occasions for this witness to be shown hard copies of the
3 complete document to accommodate his vision issues. You
4 have refused to do that. And I assume you're continuing
5 to refuse to do that.

6 Show a continuing objection to this manner
7 of questioning. It's unfair to this witness in light of
8 his vision issues.

9 Bob, to the extent you can answer based upon
10 what Mr. Williams has elected to show you, you can do so.
11 But please do not speculate. If you don't know, tell
12 Mr. Williams that.

13 THE WITNESS: Counsel is correct. There
14 were multiple documents, so I would need to see the hard
15 copy. I'd be spec- -- I would just be guessing if, in
16 fact, as to what this document is.

17 So if you want to show me a hard copy, I'll
18 answer your question.

19 BY MR. WILLIAMS:

20 Q. Well, I'm not going to show you a hard copy.

21 A. Okay.

22 Q. Answer my question. Who do you think wrote
23 things like these frequently asked questions things, as a
24 matter of routine at the Desert Mountain Club?

25 A. Mr. Williams --

00064

1 MR. CALLAHAN: Form and foundation.

2 THE WITNESS: Mr. Williams, all documents,
3 as to our -- as to our membership agreements, bylaws, any
4 and all communication goes through counsel. Likely, this
5 document you're showing me was assisted counsel, written
6 by the board, provided to the membership.

7 BY MR. WILLIAMS:

8 Q. So you think this is written by counsel then?

9 MR. CALLAHAN: Objection to the form.

10 THE WITNESS: I said "likely." Likely
11 they've reviewed it, likely they -- as -- as all our
12 documents are.

13 But this is a communication piece, I
14 believe -- again, not seeing the whole doc -- I believe
15 from the board to the membership about the revised
16 membership marketing program.

17 BY MR. WILLIAMS:

18 Q. Did you review it before it went out?

19 MR. CALLAHAN: Object to the form.

20 Foundation.

21 THE WITNESS: Likely. I review all
22 documents before they come out. I'd have to identify what
23 document you're talking about for me to give you that
24 answer.

25 But as to this, I believe I have reviewed

00065

1 this as part of the review process.

2 BY MR. WILLIAMS:

3 Q. What does it mean here when it says \$140,000 is
4 the current membership contribution amount for an equity
5 golf membership?

6 A. At turnover, the board of directors set the
7 membership price -- this was in -- January 1 of 2011 -- at
8 \$140,000.

9 Q. Why?

10 MR. CALLAHAN: There you're going to draw an
11 objection and instruction not to answer from me. That
12 goes clearly into club polices and procedures. And that
13 is what the club has offered to allow him to testify to
14 subject to your agreement, which you refused to give.

15 MR. LAVOY: And for that reason, I instruct
16 the witness not to answer.

17 BY MR. WILLIAMS:

18 Q. Do you have an understanding of why the required
19 contribution went from \$375,000 for an equity golf
20 membership to \$140,000 on January 1, 2011?

21 MR. LAVOY: Same.

22 MR. CALLAHAN: The whys and wherefores draw
23 same objection and the same instruction.

24 MR. WILLIAMS: This is -- are you going to
25 tell him not to answer if he has an understanding?

00066

1 MR. LAVOY: He would have that
2 understanding --

3 MR. CALLAHAN: The only basis for him to
4 have an understanding, counsel -- you can't be serious
5 about that question -- is based on his knowledge as the
6 COO of the club and its policies and procedures. So
7 asking what his understanding is no different than asking
8 what the club policy or procedure is.

9 MR. WILLIAMS: If you would listen to the
10 question, Mr. Callahan, you'll see I didn't ask him what
11 his opinion was.

12 MR. CALLAHAN: You asked him what his
13 understanding was.

14 MR. WILLIAMS: Please, Mr. Callahan --

15 MR. LAVOY: The only source --

16 MR. WILLIAMS: Please --

17 MR. LAVOY: -- of that understanding would
18 be the company's policies and procedures.

19 MR. WILLIAMS: Mr. LaVoy.

20 MR. LAVOY: Mr. Williams, we tried to
21 resolve this prior to the deposition. You didn't respond,
22 for whatever reason. And so now we're confronted with
23 this situation. It's one of your own making.
24 Do not answer the question.

25 MR. WILLIAMS: Gentlemen, please listen to

00067

1 the question. You'll see I don't ask him --
2 MR. LAVOY: He's been instructed not to
3 answer. Move on.
4 MR. WILLIAMS: Please read the question back
5 and see if these gentlemen are going to hang to this
6 instruction not to answer, because I do not ask his
7 opinion.
8 MR. CALLAHAN: You asked his understanding.
9 MR. WILLIAMS: Please read that.
10 THE WITNESS: Could we take a break, please?
11 MR. CALLAHAN: Let's -- let's get the
12 pending question.
13 THE WITNESS: Okay.
14 MR. CALLAHAN: Let's resolve this.
15 (The record was read by the court reporter
16 as follows:
17 QUESTION: Do you have an understanding of
18 why the required contribution went from \$375,000
19 for an equity golf membership to \$140,000 on
20 January 1, 2011?)
21 MR. CALLAHAN: Same objection. Same
22 instruction.
23 MR. WILLIAMS: You're not going to let me
24 know if he even has an understanding?
25 MR. LAVOY: He cannot answer that question.

00068

1 The only way that he -- he would have that information is
2 through the confidential information he acquired through
3 his employment.

4 Again, we attempted to resolve this with you
5 in advance, Mr. Williams, and you declined to do that. So
6 here we are. Same instruction.

7 BY MR. WILLIAMS:

8 Q. In your opinion, did the value of a golf --
9 equity golf membership drop from \$375,000 to \$140,000 on
10 January 1, 2011?

11 A. Mr. Williams, the Desert Mountain Club, Inc. was
12 formed January 1 of 2011, and the price that was released
13 as part of those docs was \$140,000 bucks. I have no
14 opinion about what it was prior.

15 Q. It was \$375,000?

16 A. No, sir. It was never 375,000. Your information
17 is incorrect.

18 However, on January 1, 2011, \$140,000 was
19 presented to the membership as the initiation price under
20 the new entity called Desert Mountain Club, Inc., which
21 has a separate EIN number, is a separate corporation from
22 Desert Mountain Properties.

23 Q. Well, I appreciate that. Let me show you just
24 another letter and then we can take your break --

25 A. Thank you.

00069

1 Q. -- that you're interested in.

2 A. Appreciate that.

3 Q. I'm going to show you CL01449. It is a form

4 letter. And the second page of this form letter is

5 CL01450. You see both pages of this document on the

6 screen.

7 My question relates to on page 1. It says,

8 "The Desert Mountain Club Membership Contribution for

9 Deferred Equity Golf clubs will increase to 325,000 from

10 \$275,000, effective January 1, 2005." [Quoted as read.]

11 A. Mr. Williams, you said --

12 MR. CALLAHAN: There's not -- there's not a

13 question.

14 THE WITNESS: Yeah, right.

15 MR. CALLAHAN: He's read something to you.

16 THE WITNESS: Right.

17 BY MR. WILLIAMS:

18 Q. Did you just tell me that the contribution for

19 the deferred equity golf membership was never \$325,000?

20 MR. CALLAHAN: You asked 375,000, counsel.

21 THE WITNESS: You said 375.

22 MR. WILLIAMS: Oh, okay. I'm sorry.

23 THE WITNESS: Could we read that back,

24 please?

25 MR. WILLIAMS: No.

00070

1 THE WITNESS: Okay.

2 BY MR. WILLIAMS:

3 Q. Was this --

4 A. I want to get it right, that's all.

5 Q. You understood --

6 A. Uh-huh.

7 Q. -- that at one point in time the deferred equity

8 golf membership sold for \$325,000, did you not?

9 A. Mr. Williams, this document that you're showing
10 me is for another member, which is a confidential matter
11 unrelated to your case here. And, therefore, it also is
12 in a time frame of November 11th, '04, which was -- the
13 club was owned by Desert Mountain Club, Inc. -- I mean,
14 Desert Mountain Properties. I cannot speak about those
15 documents at that time -- at this time.

16 Q. My question is you understood, do you not,
17 Mr. Jones, that between January 1, 2005 and the turnover
18 of the club, the deferred equity golf membership price was
19 \$325,000?

20 A. Mr. Williams, all I can speak to is January 1st,
21 2011. The Desert Mountain Club, Inc. started their
22 membership at \$140,000.

23 Sir, as I've already answered, I can't talk
24 about -- this is another person, John W. Dillon. It's not
25 your client. And the date is -- happened when Desert

00071

1 Mountain Properties owned the deal, which I have a
2 confidentiality agreement that I can't talk about those
3 documents or those policies and procedures at that time.
4 MR. LAVOY: Mr. -- Mr. Williams, Mr. Jones'
5 concern is that this document and your questions may fall
6 within the scope of his confidentiality obligation under
7 his prior employment agreement and expose him to civil
8 liability were he to answer your question. That's the
9 reason we raised the issue with you in advance, but you
10 did not respond.
11 So don't answer the question.
12 BY MR. WILLIAMS:
13 Q. You signed this letter that begins on CL01449 and
14 ends on CL01450, didn't you?
15 A. On advice of counsel, I can't answer the
16 question.
17 Q. Is that your signature on CL01450?
18 A. On advice of counsel, I can't answer your
19 question.
20 MR. LAVOY: Yeah, go ahead and -- Bob, if
21 that's your signature --
22 THE WITNESS: Answer it?
23 MR. LAVOY: Yeah, that -- that's fine.
24 MR. CALLAHAN: You can tell him that.
25 THE WITNESS: That is my signature. On

00072

1 advice of counsel, I just answered your question.

2 BY MR. WILLIAMS:

3 Q. Now, without looking at this document, don't you
4 understand that from January 1, 2005 until the takeover,
5 the price of a deferred equity golf membership was
6 \$325,000?

7 MR. LAVOY: Same instruction.

8 THE WITNESS: Advice of counsel, I can't
9 answer the question.

10 BY MR. WILLIAMS:

11 Q. Well, can't or won't?

12 A. On advice --

13 MR. LAVOY: Mr. Williams, we've tried to
14 raise this issue with -- with you in advance repeatedly,
15 and you did not respond. It might be helpful if we
16 adjourn the deposition and took the matter up with the
17 court so that all parties could have guidance on what
18 Mr. Jones can testify to. But please stop harassing him
19 about this. You had fair notice.

20 MR. WILLIAMS: Please tell me, Mr. LaVoy,
21 what's confidential about the price of a deferred equity
22 golf membership from January 1, 2005 until the turnover?

23 MR. LAVOY: What I have told you and will
24 repeat is that Mr. Jones is subject to an employment
25 agreement with a confidentiality clause, that this

00073

1 information -- or the information you're requesting could
2 fall into. And if he were to answer your question, he
3 would be exposing himself to civil liability to his former
4 employer.

5 In fairness, you should have taken up our
6 offer to resolve this in advance. And we ask you again to
7 take it up with the judge so that he can confidently
8 answer your questions without fear of civil liability to
9 his former employer.

10 Will you do that?

11 MR. WILLIAMS: How, Mr. LaVoy, do you think
12 telling me what the price of an equity golf membership
13 club was during a period of time can run afoul --

14 MR. LAVOY: I would --

15 MR. WILLIAMS: -- of a membership
16 confidentiality agreement?

17 MR. LAVOY: Mr. Williams --

18 MR. CALLAHAN: Counsel, it doesn't matter
19 what Mr. LaVoy or I think. It matters what the former
20 employer thinks. Mr. LaVoy is advising his client as to
21 how to avoid civil liability to the former employer. We
22 tried to get this resolved in advance to eliminate any
23 concerns the former employer would have. You did not take
24 us up on that.

25

00074

1 BY MR. WILLIAMS:

2 Q. Mr. Jones, between January 1, 2005 and the date
3 of the turnover, was it public knowledge what the price of
4 a deferred equity golf membership was?

5 MR. CALLAHAN: Foundation.

6 THE WITNESS: Mr. Williams, Desert Mountain
7 Club, Inc. was formed January 1 of 2011. When that was
8 formed, the membership price was 140.

9 BY MR. WILLIAMS:

10 Q. What was it the day before?

11 A. The day before at the closing it was 1 -- the new
12 entity, Desert Mountain Club, Inc., was 140. I cannot --
13 as I've already gone on record here, only solely to
14 protect myself to something I signed and agreed to from
15 civil liability from a third party -- answer any questions
16 about any documents prior to January 1, 2011.

17 Q. I'm not asking you about a document.

18 A. This is a document, is it not?

19 Q. Let me take that off the screen.

20 A. I don't know. I don't have it in front of me.

21 But --

22 Q. Let me take it off the screen then.

23 My question is what was the price of a
24 deferred equity golf membership the year before the
25 turnover?

00075

1 A. Same issue.

2 MR. LAVOY: Again, Mr. Williams, it may make
3 sense for us to take this issue up with the court so that
4 it can decide what should be treated as confidential and
5 alleviate Mr. Jones' concerns about potential civil
6 liability. We're necessarily going to err on the side of
7 breadth in our reading of the clause given that potential
8 civil liability. And that's the reason we tried to work
9 with you to resolve this in advance.

10 MR. WILLIAMS: Do you wish to take a break
11 right now, Mr. Jones?

12 THE WITNESS: Yes, please. I asked for one
13 about five, 10 minutes ago. Thank you.

14 MR. WILLIAMS: I'm agreeable.

15 THE VIDEOGRAPHER: Off the record at
16 10:38 a.m. This ends tape one.

17 (A recess ensued.)

18 THE VIDEOGRAPHER: We are back on the
19 record. The time is 10:50 a.m. This begins disk two.

20 BY MR. WILLIAMS:

21 Q. Is it accurate to say, Mr. Jones, that the price
22 of a golf equity membership increased from \$75,000 to
23 \$175,000 on January 1, 1998?

24 A. Counsel, as you know, I've been advised by my
25 counsel I can't answer the question because it goes to a

00076

1 separate entity.

2 On January 1 --

3 MR. LAVOY: Bob, hold on one second.

4 Can you read the question back?

5 I want to see if this falls within the scope

6 of this confidentiality clause. So if you could read the

7 question back.

8 (The record was read by the court reporter

9 as follows:

10 QUESTION: Is it accurate to say, Mr. Jones,

11 that the price of a golf equity membership

12 increased from \$75,000 to \$175,000 on January 1,

13 1998?)

14 MR. LAVOY: That relates to information that

15 may fall within the confidentiality clause of Mr. Jones'

16 employment agreement with the prior club owner. And to

17 answer it, he'd be putting himself at risk of civil

18 liability. So I'm instructing you not to answer.

19 We encourage you to take the matter up with

20 the judge so that he's relieved of that risk and can

21 answer all your questions fully if the judge deems that

22 appropriate.

23 BY MR. WILLIAMS:

24 Q. Is it accurate -- Are you going to follow your

25 counsel's advice and not answer that question?

00077

1 A. Yes. I'm following my counsel's advice.

2 Q. Good decision.

3 Is it accurate to say, Mr. Jones, that on

4 January 1, 2000, the price to have an equity golf

5 membership went from 175,000 to \$225,000?

6 MR. LAVOY: Same.

7 THE WITNESS: Advice of counsel, I'm not --

8 cannot answer the question.

9 BY MR. WILLIAMS:

10 Q. Is it accurate to say that on January 1, 2005,

11 the price of an equity golf membership went from \$275,000

12 to \$375,000?

13 MR. LAVOY: What was the time range on that

14 one, Mr. Williams?

15 MR. WILLIAMS: This is -- I'll restate the

16 question in case I flubbed that number.

17 MR. CALLAHAN: Well, you misstated it again.

18 You said 375. And I think we established earlier you

19 meant to say 325. So that at least is correctible.

20 MR. WILLIAMS: Oh, you know, I see the

21 problem here. My bookmark is wrong. I'm going to change

22 my bookmark so I don't foul this up again.

23 MR. CALLAHAN: Best of luck.

24 MR. WILLIAMS: I foul up everything,

25 Mr. Callahan. I'm not a very smart man, as you figured

00078

1 out.

2 MR. CALLAHAN: I doubt that from the bottom
3 of my heart, Mr. Williams. I think you're very smart.

4 BY MR. WILLIAMS:

5 Q. Is it accurate to say, Mr. Jones, that on
6 January 1, 2005 -- Let's go back one more.
7 Is it accurate to say, Mr. Jones, that on
8 January 1, 2004, the price of an equity golf membership
9 went up to 275,000 from the previous price of \$225,000?

10 MR. LAVOY: Same.

11 And just to give you advance warning,
12 Mr. Williams, any questions that you have that relate to
13 the internal policies and procedures and operations of the
14 prior club, we're going to have the same concern and
15 objection.

16 We just can't -- he could be put at civil
17 liability. And that's the reason we tried to resolve this
18 with you in advance and -- and, if needed, go to the
19 court. But you didn't respond. So please don't ask those
20 questions.

21 If -- if you'd like to go to the court after
22 today and let's get this resolved, we can resume the
23 deposition depending on the ruling of the court. And
24 everything will go a lot smoother.

25

00079

1 BY MR. WILLIAMS:

2 Q. Is it accurate to say -- Well, you're not going
3 to answer the last question, right?

4 A. I'm not sure what your question was.

5 MR. WILLIAMS: Read the last question back.

6 MR. LAVOY: I -- I heard his last question.

7 THE WITNESS: Okay.

8 MR. LAVOY: I heard your last question. And
9 my comment was the same. He's not going to answer it
10 because he doesn't want to be put at risk of civil
11 liability. Frankly, shame on you for trying to put him in
12 that pinch. And let's move on.

13 MR. WILLIAMS: Okay. For my purposes,
14 Mr. Court Reporter, would you please read back the last
15 question?

16 (The record was read by the court reporter
17 as follows:

18 QUESTION: Is it accurate to say, Mr. Jones,
19 that on January 1, 2004, the price of an equity
20 golf membership went up to 275,000 from the
21 previous price of \$225,000?)

22 MR. WILLIAMS: Okay. We know you're not
23 going to answer that one because you were instructed not
24 to answer that question. So let me ask you the next one.

25

00080

1 BY MR. WILLIAMS:

2 Q. Is it accurate to say, Mr. Jones, that on
3 January 1, 2005, the price of an equity golf membership
4 went up to \$325,000 from \$275,000?

5 MR. LAVOY: Same.

6 THE WITNESS: Advice of counsel, I cannot
7 answer the question as it goes to the prior entity, which
8 I've instructed you multiple times that I couldn't answer
9 it.

10 MR. WILLIAMS: You instructed me or just
11 told me?

12 THE WITNESS: I just told you.

13 MR. WILLIAMS: Okay.

14 THE WITNESS: Same as instructed.

15 MR. WILLIAMS: Well, actually, it's not an
16 instruction.

17 THE WITNESS: Okay. Told.

18 MR. LAVOY: Could we stop the bickering,
19 Mr. Williams?

20 MR. WILLIAMS: It's more badinage than
21 bickering.

22 MR. LAVOY: What is it?

23 MR. WILLIAMS: Badinage.

24 BY MR. WILLIAMS:

25 Q. Is it accurate to say, Mr. Jones, that on

00081

1 January 1, 2011, the price of an equity golf membership
2 went from \$325,000 to \$140,000?

3 MR. LAVOY: Same.

4 THE WITNESS: Can't answer that question on
5 advice of counsel. Goes to the prior entity, not Desert
6 Mountain Club, Inc., which was started 1-1 of 2011. The
7 purchase was approved by the members. The members
8 approved the bylaws. And they signed the conversion
9 agreement. They joined a new entity. The membership
10 price approved by the members and the board of directors
11 was 140,000 bucks.

12 BY MR. WILLIAMS:

13 Q. Prior to that, it had been 325,000, hadn't it?

14 A. I cannot answer that question on advice of
15 counsel, as it goes to the prior entity.

16 Q. And the price today for a golf equity membership
17 is?

18 A. Today the trailing rate is around 45- to 53,000.

19 Q. When you say the trailing rate, what do you mean?

20 A. It changes every month because members get to set
21 their price, whatever they want to sell it for. If they
22 want to sell it below the established transfer fee price
23 and initiation price of 65,000, they can do that.

24 Q. What does the transfer fee cover?

25 MR. CALLAHAN: Object to the form.

00082

1 THE WITNESS: Transfer fee pays for debt.
2 We have a -- a debt for the club. It pays for capital.
3 MR. CALLAHAN: Now, let's -- let's stop this
4 for a minute. Because you're now going into current --
5 the answer you're getting -- and the reason for my
6 objection -- was it potentially called for policies and
7 procedures. The answer you're getting is policies and
8 procedures of the current club. We've given you a lot of
9 leeway on this.
10 I hadn't stood on my very reasonable request
11 that we get a temporary confidentiality designation, give
12 you a chance to raise the proprietary. We could read this
13 in ordinary course with the judge.
14 I'm going to instruct him not to answer that
15 question in that way. If you want to clarify what you
16 mean by what it covers, and it means something else, maybe
17 he can answer.
18 BY MR. WILLIAMS:
19 Q. Is it accurate to say that if I ask you questions
20 about how the club uses transfer payments, you're not
21 going to tell me?
22 A. On advice of counsel --
23 MR. LAVOY: Well, and just for the record,
24 Mr. Williams, I'd like to clarify that Mr. Jones is
25 subject to an employment agreement with a confidentiality

00083

1 clause, not only with respect to the prior entity, but
2 with respect to the current entity. And you did not seek
3 to resolve these issues in advance of the deposition. And
4 asking him these questions now puts him at risk of civil
5 liability. It's unfair. And he's not going to answer.

6 MR. WILLIAMS: Well, Mr. Callahan, are you
7 objecting to your chief operating officer telling me how
8 transfer fees are used today?

9 MR. CALLAHAN: In light of your
10 unwillingness to abide by the confidentiality provision
11 that is in Mr. Jones' contract, your unwillingness to work
12 that out with the judge, yes.

13 MR. WILLIAMS: You represent the entity
14 that's got the confidentiality clause. So you're --

15 MR. LAVOY: Mr. Williams, he proposed --

16 MR. WILLIAMS: Correct?

17 MR. LAVOY: He made a proposal to you in
18 writing that would have allowed you to ask questions of
19 unlimited scope with regard to the current entity that
20 would have given you open -- you know, open range to ask
21 everything you wanted to ask with regard to the new
22 entity. You did not even dignify that with a response.
23 You did not even attempt to work that out. You snubbed
24 everybody's efforts to try to resolve these issues in
25 advance. And today you're feigning indignancy.

00084

1 This -- this is wrong, Mr. Williams. The
2 lack of professionalism in you not responding to our
3 pre-deposition communications and trying to work this out,
4 which is what judges expect lawyers to do, it's wrong.
5 You know better. You knew what you were doing in not
6 responding. You wanted this controversy today.
7 So if you're not willing to give him the
8 reasonable reassurances that were requested in writing,
9 with respect to the current entity so that you could have
10 open questioning on all these issues, he's not going to
11 answer. And that's your decision for -- for choosing not
12 to have the discussion or not to go to the judge.
13 MR. WILLIAMS: Mr. LaVoy, let me disabuse
14 you of the notion that I am feigning indignity or that I
15 am trying to portray myself as being the least bit
16 indignant. I'm not. I just take things as they come.
17 MR. LAVOY: Well, that's the problem. You
18 take them -- you kick the can down the road and take them
19 as they come and not deal with them in advance, as all the
20 other attorneys in this case asked you to do last week.
21 You chose not to respond and that's why we're here today.
22 MR. WILLIAMS: Isn't there only one other
23 lawyer in this case, Mr. Callahan?
24 MR. LAVOY: I'm his personal counsel. And
25 the counsel for the entity wrote you as well.

00085

1 MR. WILLIAMS: Did you --

2 MR. LAVOY: And you responded to neither of
3 us.

4 MR. WILLIAMS: Did you ask Mr. Callahan if
5 there was going to be a problem if the client individually
6 answered questions like this? Or did you sort of --

7 MR. LAVOY: Do you recall two written
8 communications from each of us raising these
9 confidentiality issues with respect to the old entity and
10 the current entity and proposing conditions that would
11 allow you to ask and receive answers for these types of
12 questions? Do you recall those communications that you
13 did not respond to?

14 MR. WILLIAMS: Mr. Callahan, do you care if
15 he answered these questions I'm asking him?

16 MR. CALLAHAN: Do I care as a --

17 MR. WILLIAMS: As the lawyer for the entity.

18 MR. CALLAHAN: Whether I care or not is
19 about as irrelevant as most of the questions you presented
20 this morning, Mr. Williams.

21 What the club has instructed is that there
22 is a confidentiality provision, which they offered to
23 waive so long as you were willing to agree to reasonable
24 restrictions that allowed you full and unfettered use of
25 this transcript in connection with the litigation

00086

1 involving the Clarks that prohibited its dissemination
2 outside. There's no way in which you or your clients
3 could potentially be prejudiced by that agreement, yet you
4 not only refused to agree to it, you refused to even
5 respond, putting us into this lovely mess we're in this
6 morning.
7 I agree with Mr. LaVoy, that causes a lack
8 of professionalism. There is an agreement between
9 Mr. Jones and the current entity. Mr. LaVoy is here as
10 Mr. Jones' personal counsel to advise him. You know the
11 conditions on which the club is able to waive it. I think
12 your question has been fully answered in this regard. If
13 you have more questions for the witness, you might want to
14 focus your efforts there.
15 MR. WILLIAMS: Who should I ask at the
16 Desert Mountain Club about the reasons for this concern?
17 MR. LAVOY: Okay. We're adjourning the
18 deposition. We're going to take this issue up with the
19 judge. This is a waste of time.
20 MR. WILLIAMS: Are you adjourning this
21 deposition, Mr. Callahan?
22 MR. CALLAHAN: Mr. LaVoy just did.
23 MR. LAVOY: I'm adjourning for --
24 MR. CALLAHAN: He represents Mr. Jones
25 personally.

00087

1 MR. LAVOY: Mr. Jones in his individual
2 capacity. The rules allow a deposition to be adjourned to
3 address these kinds of issues. And at this point, I think
4 that's appropriate. We've given you a fair opportunity to
5 handle this professionally and you've declined. So we're
6 going to go to the judge.

7 MR. WILLIAMS: Well, okay. I do not agree
8 with the adjournment. I'd like to continue --

9 MR. LAVOY: I'm not asking for your
10 agreement.

11 MR. WILLIAMS: Okay. You'll file your
12 motion soon then?

13 MR. LAVOY: I'll talk with Mr. Callahan
14 about the motion.

15 MR. WILLIAMS: Are you going to coordinate
16 with Mr. Callahan about this motion? Is that what you do?

17 MR. CALLAHAN: How we choose to handle it is
18 absolutely none of your concern. There will be an
19 appropriate motion filed, whether it's filed by Mr. LaVoy
20 or by the club.

21 MR. WILLIAMS: Okay. But you two will work
22 that out, correct?

23 MR. CALLAHAN: Well, we tried to work it out
24 with you, and you declined. So --

25 MR. LAVOY: Yeah, I guess we'll --

00088

1 MR. CALLAHAN: We'll try and work it out and
2 then take it up with the court.
3 MR. WILLIAMS: Well, okay. Mr. -- Mr. LaVoy
4 has left the room with the witness.
5 Are you, likewise, going to leave the room,
6 Mr. Callahan?
7 MR. CALLAHAN: If there's something you'd
8 like to discuss, I'm happy to stay and discuss it with
9 you.
10 MR. LAVOY: Mr. Williams --
11 MR. CALLAHAN: But I don't think we're going
12 to be having a deposition here. We don't have a witness.
13 MR. WILLIAMS: Well, I guess we'll -- I
14 guess we'll have to conclude because the witness left.
15 MR. CALLAHAN: It makes it very hard to take
16 a deposition.
17 MR. WILLIAMS: It does.
18 MR. CALLAHAN: Shall we go off -- shall --
19 MR. LAVOY: There's something we can agree
20 on, Mr. Williams. I knew it was possible.
21 MR. WILLIAMS: Should we go off the record,
22 Mr. Callahan?
23 MR. CALLAHAN: Probably.
24 MR. WILLIAMS: Okay.
25 THE VIDEOGRAPHER: We are off the record.

00089

- 1 The time is 11:05 a.m. This ends tape one.
- 2 (The deposition was adjourned at 11:05 a.m.)
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ROBERT EDWARD JONES II

00090

1 STATE OF ARIZONA)
COUNTY OF MARICOPA)

2

BE IT KNOWN that the foregoing proceedings
3 were taken before me; that the witness before testifying
was duly sworn by me to testify to the whole truth; that
4 the foregoing pages are a full, true, and accurate record
of the proceedings all done to the best of my skill and
5 ability; that the proceedings were taken down by me in
shorthand and thereafter reduced to print under my
6 direction.

7

I CERTIFY that I am in no way related to any
8 of the parties hereto nor am I in any way interested in
the outcome hereof.

9

Review and signature was requested.

10

Review and signature was waived.

Review and signature was not required.

11

I CERTIFY that I have complied with the
12 ethical obligations set forth in ACJA 7-206(F)(3) and
ACJA 7-206 (J)(1)(g)(1) and (2). Dated at Phoenix,
13 Arizona, this 20th day of May, 2015.

14

15

16 Gerard T. Coash, RMR
Certified Reporter

17 Arizona CR No. 50503

18 I CERTIFY that Coash & Coash, Inc., has
complied with the ethical obligations set forth in
19 ACJA 7-206 (J)(1)(g)(1) through (6).

20

21

22

23

24 COASH & COASH, INC.
Registered Reporting Firm

25 Arizona RRF No. R1036

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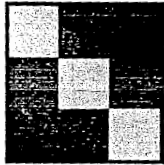
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Videotaped Deposition of
Robert Jones
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