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# Carey & Jaskowski

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William L. Carey, J.D.  
Richard J. Jaskowski, J.D.  
Colin G. Hunter, J.D.  
Caitlin M. Rollins, J.D.

Email: [wcarey@carey-jaskowski.com](mailto:wcarey@carey-jaskowski.com)  
[rjaskowski@carey-jaskowski.com](mailto:rjaskowski@carey-jaskowski.com)  
[chunter@carey-jaskowski.com](mailto:chunter@carey-jaskowski.com)  
[crollins@carey-jaskowski.com](mailto:crollins@carey-jaskowski.com)

Attorneys at Law  
A Professional Limited Liability Company

2373 S. I-75 Business Loop  
P.O. Drawer 665  
Grayling, MI 49738  
Phone: 989-348-5232  
Fax: 989-348-7102

Web Site:  
[www.careyjaskowski.com](http://www.careyjaskowski.com)

May 9, 2016

34th Circuit Court  
Clerk of the Court  
500 Lake Street  
Roscommon, MI 48653

Re: Bolton v HLPOA  
File No. 16-722941-CH

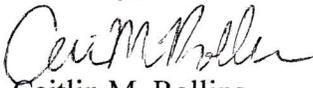
Dear Clerk:

Enclosed please find the following regarding the matter as referenced above:

1. Defendant's Answer to Plaintiff's Complaint
2. Defendant's Affirmative Defenses to Plaintiff's Complaint
3. Proof of Service

Thank you for your kind attention to this matter. Please do not hesitate to contact our office should you have any questions or concerns.

Sincerely,



Caitlin M. Rollins  
Attorney at Law

Enclosure

cc S. Hess  
Client  
File

STATE OF MICHIGAN  
IN THE 34<sup>TH</sup> CIRCUIT COURT FOR THE COUNTY OF ROSCOMMON

MARVIN G. BOLTON,  
Plaintiff,

v

File No. 16-722941-CH

HIGGINS LAKE PROPERTY OWNERS  
ASSOCIATION, a Michigan Non-Profit  
Corporation,  
Defendant.

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HESS, HESS & DANIEL, P.C.  
By: Scott L. Hess (P37379)  
Attorney for Plaintiff  
319 Lake Street  
P.O. Box 726  
Roscommon, MI 48653  
(989) 275-5184

CAREY & JASKOWSKI, P.L.L.C.  
By: William L. Carey (P31602)  
Caitlin M. Rollins (P79900)  
Attorneys for Defendant  
2373 S. I-75 Business Loop  
P.O. Drawer 665  
Grayling, MI 49738  
(989) 348-5232

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**DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT**

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NOW COMES Defendant, Higgins Lake Property Owners Association, by and through their attorney, CAREY & JASKOWSKI, PLLC, By William L. Carey and Caitlin M. Rollins, who hereby state as follows in response to the Plaintiff's Complaint:

General Allegations

1. Neither admitted nor denied for lack of information upon which to form a good faith belief.
2. Admitted.
3. Admitted only that Plaintiff is a member of HLPOA. As to the remainder, Plaintiff has not stated an allegation for which an answer is required.

4. The allegations in paragraph 4 of the Complaint contain Plaintiff's characterization of this action, to which no response is required.

5. The allegations in paragraph 5 of the Complaint contain Plaintiff's characterization of this action, to which no response is required.

6. Admitted that Articles of Incorporation were filed in 1940. Admitted that Restated Articles were filed in 2015. The documents speak for themselves and no further answer is therefore required.

7. Plaintiff has not stated an allegation for which an answer is required.

8. The document referred to in paragraph 8 of the Complaint speaks for itself. No answer is required.

9. Admitted that Plaintiff prepared a Financial Report for the 2014 calendar year. As to the remainder, denied as untrue that Plaintiff included all financial activities of Defendant HLPOA during the preceding fiscal year ending December 31, 2014.

10. Denied as same is untrue. To answer further, the Audit Committee referred to in paragraph 10 of the Complaint did not conduct an audit of finances of HLPOA. The usual practice of the Audit Committee is a limited reconciliation. In this instance, the Audit Committee never approved the Treasurer's report as claimed and only reconciled checks issued to bills paid. To answer further, Plaintiff refused to turn over HLPOA financial records held in his possession until after the Audit Committee conducted their reconciliation.

11. Admitted that the HLPOA Board, prior to further review, initially approved the Treasurer's report. As to the remainder of the allegations in paragraph 11 of the Complaint, Plaintiff has not stated an allegation for which an answer is required. The

March 9, 2015 HLPOA Board Minutes speaks for itself. To answer further, shortly after Plaintiff resigned as Treasurer of HLPOA, the Interim Treasurer, Chuck Brick, and a former Treasurer of HLPOA, Jack Cornell, volunteered to assist with temporarily managing and reporting HLPOA finances. Mr. Brick and Mr. Cornell's work included a review of the 2014 financial records Plaintiff submitted to the HLPOA following his resignation as Treasurer effective January 1, 2015. To answer further, Plaintiff refused to work with Brad Gibson, HLPOA President, on an appropriate statement by the HLPOA Board for the March 9, 2015 HLPOA Board Minutes regarding a request of audit of past HLPOA finances.

12. Admitted that the HLPOA Board submitted a 2014 Financial Report at the July 2015 Annual Meeting. Further admitted that the 2014 Financial Report submitted to members at the July 2015 Annual Meeting was a corrected report. To answer further, as a result of the review referenced in paragraph 11 above, the HLPOA Board returned to an accrual method of accounting. The accrual method of accounting was employed by HLPOA prior to Plaintiff's tenure as Treasurer. The return to an accrual method of accounting—and not supplemental, modified, or new information and data—resulted in a number of changes to the 2014 Financial Report that had been prepared by Plaintiff. To answer further, a careful review of Plaintiff's records as Treasurer, specifically his Diver Assisted Suction Harvester (the "DASH") boat records, showed that significant reimbursements were still owed to HLPOA from the Higgins Lake Foundation ("HLF"). The investigation for DASH reimbursements owed to HLPOA from HLF was still ongoing when the July 2015 Annual Meeting took place. The reconciliation meeting between HLPOA and HLF concerning DASH reimbursements owed to HLPOA from

HLF did not occur until July 29, 2016, which resulted in changes to the 2014 Financial Report. To answer further, Defendant had not accurately accounted for the legal reserve in his initial statement, which resulted in changes to the 2014 Financial Report.

13. Plaintiff has not stated an allegation for which an answer is required. To answer further, Defendant's concerns about his "reputation and/or possible implications upon him" is not a proper purpose as defined by MCL 450.2487(9)(a).

14. Plaintiff has not stated an allegation for which an answer is required. To answer further, neither Defendant nor any agent of Defendant has falsified or wrongfully altered any records of HLPOA.

15. Plaintiff has not stated any fact material to his claims. No answer is required.

16. Plaintiff has not stated an allegation for which an answer is required.

17. The document referred to in paragraph 17 of the Complaint speaks for itself. No answer is required.

18. Plaintiff has not stated an allegation for which an answer is required.

19. Plaintiff has not stated an allegation for which an answer is required.

20. Plaintiff has not stated an allegation for which an answer is required.

21. Admitted only that Plaintiff submitted the statement as alleged in paragraph 21 of the Complaint. Denied as to Plaintiff's characterization of Defendant's activities, as same is untrue.

22. Admitted that Defendant responded to the Plaintiff's statement as referred to in paragraph 21 of the Complaint. The response speaks for itself. Defendant denies Plaintiff's characterization of the document.

23. Admitted that Plaintiff submitted the statement as alleged in paragraph 23 of the Complaint to Defendant via email on October 5, 2015. The document speaks for itself.

24. Admitted that Plaintiff submitted the statement as alleged in paragraph 24 of the Complaint to Brad Gibson, HLPOA President, via email on October 18, 2015. The document speaks for itself.

25. Admitted that Defendant responded to the Plaintiff's statement as referred to in paragraph 25 of the Complaint. The document speaks for itself.

26. Admitted that Plaintiff submitted the statement as alleged in paragraph 26 of the Complaint to Brad Gibson, HLPOA President, via email on October 22, 2015. The document speaks for itself.

27. Admitted that Plaintiff submitted the statement as alleged in paragraph 26 of the Complaint to Brad Gibson, HLPOA President, via email on October 29, 2015. The document speaks for itself.

28. Admitted that Defendant replied to Plaintiffs statements as referred to in paragraph 27 of the Complaint. The document speaks for itself. Defendant denies Plaintiff's characterization of the document

29. Admitted that Defendant responded to the Plaintiff's statement referred to in paragraph 28 of the Complaint. The document speaks for itself.

30. Admitted that Plaintiff submitted the statement as alleged in paragraph 29 of the Complaint to Brad Gibson, HLPOA President, via email on October 27, 2015. The document speaks for itself.

31. Admitted that Defendant submitted the statement referred to in paragraph 31 of the Complaint. The document speaks for itself. Defendant denies Plaintiff's characterization of the document.

32. Plaintiff's allegations contain characterizations of his claims and legal conclusions to which no response is required. To the extent a response is deemed required, denied as to each of the numerous allegations. To answer further, pursuant to MCL 450.2487(2) and the HLPOA Bylaws, a member of a corporation may inspect for any proper purpose if the member gives the corporation written demand describing with reasonable particularity the purpose of the inspection and the records the member desires to inspect, provided the records sought are directly connected with the purpose.

33. Neither admitted nor denied for lack of information upon which to form a good faith belief as to the letter dated December 9, 2015 referred to in paragraph 33 of the Complaint for the reason that it is not attached to Plaintiff's Complaint as stated. As to the remainder of the allegations, denied as untrue that Defendant refused to provide the records and information.

34. Admitted that documents were delivered to Plaintiff on December 23, 2015. As to the remainder of the factual allegations in paragraph 34 of the Complaint, denied as untrue. To answer further, Plaintiff's request for "[a]ll records which support" changes or assertions made by Defendant does not meet the statutory requirement imposed by MCL 450.2487(2) or the HLPOA Bylaws, which requires "a written demand describing with *reasonable particularity the purpose of the inspection and the records the member desires to inspect*, and is reasonably related to a person's interest as a member."

35. Plaintiff's allegations contain legal conclusions to which no response is required. To the extent a response is deemed required, denied as to each of the numerous allegations for the reason that the same are untrue. To answer further, Defendant has provided Plaintiff all available documents to the extent those requests comply with MCL 450.2487(2)—“a written demand describing with reasonable particularity the purpose of the inspection and the records the member desires to inspect, and is reasonably related to a person's interest as a member.”

36. Plaintiff's allegations contain legal conclusions to which no response is required. To the extent a response is deemed required, denied to each of the numerous allegations for the reason that the same is untrue.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter judgment of no cause of action in favor of Defendant and against Plaintiff, with costs awarded to Defendant, and grant any other relief deemed fair and just.

Respectfully Submitted,

CAREY & JASKOWSKI, P.L.L.C.

Dated: 5-9-16

  
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William L. Carey (P31602)  
Attorney for Defendant

Dated: 5-9-16

  
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Caitlin M. Rollins (P79900)  
Attorney for Defendant

STATE OF MICHIGAN  
IN THE 34<sup>TH</sup> CIRCUIT COURT FOR THE COUNTY OF ROSCOMMON

MARVIN G. BOLTON,  
Plaintiff,

v

File No. 16-722941-CH

HIGGINS LAKE PROPERTY OWNERS  
ASSOCIATION, a Michigan Non-Profit  
Corporation,  
Defendant.

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By: Scott L. Hess (P37379)  
Attorney for Plaintiff  
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Attorneys for Defendant  
2373 S. I-75 Business Loop  
P.O. Drawer 665  
Grayling, MI 49738  
(989) 348-5232

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**DEFENDANT'S AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT**

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NOW COMES Defendant, Higgins Lake Property Owners Association, by and through their attorneys, CAREY & JASKOWSKI, PLLC, By William L. Carey and Caitlin M. Rollins, who hereby state as follows in response to the Plaintiff's Complaint:

Affirmative Defenses

1. Plaintiff has not satisfied the statutory requirements set forth in MCL 450.2487(3), which requires Plaintiff to establish that he has complied with the form and manner of making demand for inspection of the documents, that the inspection is for a proper purpose, and that the documents sought are directly connected with the purpose.

2. Plaintiff's request for inspection of books and records failed to state a proper purpose as required by the Michigan Nonprofit Corporation Act.

3. Plaintiff's request for inspection of books and records failed to state existing or discernable documents or describe the documents with reasonable particularity.

4. Plaintiff's request for inspection of books and records is overbroad and is not limited to documents that are necessary, essential and sufficient to Plaintiff's stated purposes, even assuming such purposes are his actual purposes and proper.

5. The documents previously provided by Defendant in response to Plaintiff's demand are sufficient to enable Plaintiff to satisfy his stated purposes, even assuming such purposes are his actual purposes and proper.

6. Plaintiff has not made the request for inspection of books and records in good faith.

7. Plaintiff's request for particular documents are documents he has created and presumably still has in his possession.

8. Plaintiff's request for the documents he wishes to inspect are not relevant to the alleged proper purpose.

9. Plaintiff's action herein is barred, in whole or in part, by reason of waiver, estoppel, laches, ratification, and/or unclean hands.

10. To the extent that an assertion contained in any of the above answers constitutes an affirmative defense, the same is incorporated by reference as if fully stated forth herein.

11. Defendant has provided all available records to Plaintiff per Plaintiff's request.

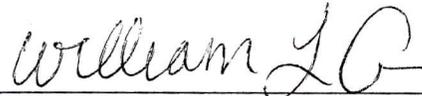
12. Defendant reserves the right to amend and add affirmative defenses.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter judgment in favor of Defendant and against Plaintiff, with costs awarded to Defendant, and grant any other relief deemed fair and just.

Respectfully Submitted,

CAREY & JASKOWSKI, P.L.L.C.

Dated: 5-9-16



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William L. Carey (P31602)  
Attorney for Defendant

Dated: 5-9-16



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Caitlin M. Rollins (P79900)  
Attorney for Defendant

STATE OF MICHIGAN  
IN THE 34<sup>TH</sup> CIRCUIT COURT FOR THE COUNTY OF ROSCOMMON

MARVIN G. BOLTON,  
Plaintiff,

v

File No. 16-722941-CH

HIGGINS LAKE PROPERTY OWNERS  
ASSOCIATION, a Michigan Non-Profit  
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**PROOF OF SERVICE**

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Caitlin Rollins states that on the date below, she served via hand delivery, a copy of the following documents: **Defendant's Answer to Plaintiff's Complaint and Defendant's Affirmative Defenses to Plaintiff's Complaint**

Scott L. Hess, 319 Lake Street, P.O. Box 726, Roscommon, MI 48653

the same being the last known mailing address in the within entitled cause, affixed sufficient postage, fully prepaid, and plainly addressed by depositing same in the United States mail receptacle located in the City of Grayling, County of Crawford, State of Michigan.

I declare that the above statements are true to the best of my knowledge, information and belief.

Dated: 5-9-16

  
Caitlin M. Rollins