

IN THE CIRCUIT COURT OF FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

IDENTIFAX INVESTIGATIVE SERVICES,
INC., a Florida corporation,

Case No.:502015CA009497XXXXMB(AA)
Honorable: Richard Oftedal

Plaintiff,

v.

LOUIS M. FERLANTI, LF-IFX, INC. a Florida corporation
d/b/a IDENTIFAX OF SOUTH FLORIDA, NICHOLAS
JAMES INVESTIGATIVE SERVICES, LLC, a Florida
limited liability company, NICHOLAS JAMES FERLANTI,
individually,

Defendant(s).

**DEFENDANTS' RESPONSE TO "CORRECTED" SUPPLEMENTAL AFFIDAVIT OF
JAMES C. PRIDDY, III**

The Defendants, by and through their undersigned counsel, hereby file this, their Response to the newly filed "Corrected Supplemental Affidavit" of James C. Priddy, III, as follows:

1. Your undersigned is now nearly at a loss for words given the Plaintiff's conduct and its complete disregard for this Court and this judicial proceeding.
2. After this Court involuntarily dismissed this proceeding on January 17, 2017 as a sanction based upon a finding that the Plaintiff actively attempted to defraud this Court, the Plaintiff retained new counsel (Alfred LaSorte, Esq.) to file a Motion for Rehearing on January 26, 2017, with supporting "affidavits" enclosed therewith. The Defendants' response thereto highlighted clear inconsistencies in the documents filed by the Plaintiff, as well as perjurious statements made by the Plaintiff's affiants.
3. In response, on January 30, 2017, the Plaintiff filed a "Corrected Affidavit" of Steve Robinson and a "Supplemental Affidavit" of James C. Priddy, III. **Mr. Priddy's**

“Supplemental Affidavit” contained yet another after-the-fact modified and manufactured document, proffered as a “true copy” of the original via the “sworn affidavit testimony” of James C. Priddy, III. Attached hereto as Exhibit “1” is the original “Supplemental Affidavit” of James C. Priddy, III.

4. The new fabricated document produced by James C. Priddy, III as an Exhibit to his “Supplemental Affidavit” was a purported copy of the February 1997 FMR Meeting Minutes for the February 7, 1997 manager meeting which was at issue before this Court.
5. Now, **this Court already has the true FMR Meeting Minutes in evidence**. That document was three (3) pages in total, with a file name descriptor on the bottom of the third page as follows: “w:\1wp-word/corpm/2_97Min.doc”.
6. But despite the fact that this Court already had a true version of the FMR Meeting Minutes in evidence, James C. Priddy, III thought it wise to attempt to deceive this Court yet again by producing a new “version” of the document which was **four (4) pages** in total and which a) lacks any file name descriptor on the bottom of the final page, and b)

includes the following NEW LANGUAGE highlighted below:

5. Mr. Priddy discussed protecting the company from resident managers or Franchisees leaving and then going into a competing business. With their access to our clients and confidential procedures it could be catastrophic to our company. It was agreed that we needed protection. All agreed that all current Key Manager’s would sign standardized Employee Contracts as a preventative measure. It was also agreed that in the event that a Franchisee leaves, all existing employee and investigative contracts would be automatically assigned to the Franchisor. A Policy memo was to follow for inclusion in the COM and all new contracts would incorporate this policy.

4. Corporate needs a formal notarized document from all the franchisees giving someone in their branch power of attorney in order to run the branch in the event that something happened to Franchisee. Both the Franchisees and the person to take over signatures must be on this document. This person also needs to be a signer on your bank accounts. This document must be at Corporate by the next OMR which is scheduled for March 14, 1997. In addition, all franchised branch

Key Managers must sign a new, updated employee contract incorporating the non complete, non-solicit clauses. The new contracts must also be assigned to the Franchisor if the Franchisee leaves for any reason.

7. Specifically, **there was a new second “Paragraph 5” on Page 2 of the document**, and paragraph four (4) on page three (3) of the document had newly included language highlighted above.
8. Your undersigned found it absolutely shocking that in trying to overturn a ruling of this Court finding that the Plaintiff committed fraud upon the Court via the proffer of an after-the-fact fabricated version of a contested document, the Plaintiff would seek to proffer even more clearly fabricated documents as “genuine” copies of the underlying originals.
9. Your undersigned filed a Response to this new “Supplemental Affidavit” on January 30, 2017, which illustrated and highlighted this newly fabricated document, pointing out to this Court the fact that James C. Priddy, III’s testimony in paragraph 12, and the document itself, constituted yet another instance of perjury and fraud upon this Court. See Exhibit “2” attached hereto.
10. The office of your undersigned followed-up with email communications directly to counsel for the Plaintiff advising of this blatant fabrication and fraudulent conduct. In response, your undersigned received the email attached hereto as Exhibit “3”, indicating that the newly produced fake document would be withdrawn along with the offending sworn testimony.
11. Within an hour thereafter a “Corrected Supplemental Affidavit” of James C. Priddy, III was filed with this Court. See Exhibit “4”.
12. This new “Corrected Supplemental Affidavit” of James C. Priddy, III seeks to remove the prior perjurious testimony of James C. Priddy, III in paragraph twelve (12) of the

Affidavit, and removes altogether the newly fabricated version of the February 1997 FMR Meeting Minutes.¹

13. It is clear to your undersigned that James C. Priddy, III does not care about the commission of perjury or the proffer of false testimony to this Court. However, while this is clear to your undersigned, your undersigned began wondering whether or not James C. Priddy, III actually understood what an Affidavit is, or what perjury is, under Florida law.
14. According to Black's Law Dictionary, an "affidavit" is "a written or printed declaration of facts supplied to the courts on a voluntary basis, which is guaranteed by an oath or affirmation mentioning that the aforementioned supplied facts are true to the best knowledge of the affiant." Under Florida law, an "affidavit" is "by definition a statement in writing under an oath administered by a duly authorized person..." See *Placide v. State*, 189 So.3d 810 (Fla. 4th DCA 2015) (citing *Youngker v. State*, 215 So.2d 318 (Fla. 4th DCA 1968)).
15. Here, James C. Priddy, III's original "Supplemental Affidavit" states on its face: "The foregoing Affidavit was acknowledged before me this 29th day of January 2017, by James Priddy, who is personally known to me **and who took an oath**. Given this, it can be presumed that James C. Priddy, III knew full well that he was swearing that the contents of his Supplemental Affidavit were true, and yet he simply didn't care enough to remove the patent falsehoods in paragraph twelve (12) or the fake document attached as Exhibit "4" until his deception was pointed out by your undersigned.

¹ The "Corrected Supplemental Affidavit" now states the following in paragraph twelve (12): The content of paragraph 12 of the Affiant's Supplemental Affidavit filed herein is hereby withdrawn, as is the document that was attached to the Supplemental Affidavit as Exhibit "4".

16. So that there are no issues or questions going forward, attached hereto as Exhibit “5” is an excerpt of the Florida’ Governor’s Manual for Notaries, which explains the responsibilities (and purpose(s) for existence) of Florida notaries. It therein identifies what a notarial “oath” is, as follows: “A notarization requiring an oath begins with the administration of an oath or affirmation. The courts have held that there should be a verbal exchange between the notary and the document signer in which the signer indicates that he or she is taking an oath. An oath similar to one administered in court by a judge or bailiff would be sufficient. Or, you may simply ask, “Do you swear (or affirm) that the information contained in this document is true?” After receiving an affirmative answer, you must complete a proper notarial certificate indicating that an oath or affirmation was taken.” This recitation of how an “oath” is conducted by a notary falls directly in line with the ruling(s) of the Courts of this State. See *Gaynor Hill Enterprises, Inc. v. Allan Enterprises, LLC*, 113 So. 3d 933, 936 (Fla. 5th DCA 2013) (“An affidavit is ... a statement in writing under an oath.... An oath is an unequivocal act, before an officer authorized to administer oaths, by which the person knowingly attests to the truth of a statement and assumes the obligations of an oath.”) (citing to *Crain v. State*, 914 So.2d 1015, 1019 (Fla. 5th DCA 2005) (quotation marks and citation omitted)).

17. Given that James C. Priddy, III took an “oath” at the time he executed his “Supplemental Affidavit”, it is clear that he committed direct perjury as it pertained to the content of paragraph twelve (12) therein and Exhibit “4” attached thereto when he filed his “Supplemental Affidavit.”

18. Under Florida law, “perjury is defined as the willful giving of false testimony under lawful oath on a material matter in a judicial proceeding. See *Adams v. Murphy*, 394 So. 2d 411, 413 (Fla. 1981).
19. It is now abundantly clear that James C. Priddy, III provided false statements of fact, under oath, via his “Supplemental Affidavit”, and when caught by your undersigned he decided to file an amended “Corrected Supplemental Affidavit” seeking to conceal or brush aside his deceit. This type of conduct falls in line with his attempts to explain away the inconsistency between his in-person testimony before this Court in 2016 and his October 4, 2014 Affidavit by laying blame for the alleged “error” in Mr. Priddy’s 2014 Affidavit at the feet of the Plaintiff’s then-present legal counsel and an unidentified “employee” of the Plaintiff who did not know how a copy machine functioned.
20. This Court has already acknowledged that conduct of the type described herein cannot be tolerated, particularly by stating as much in this Court’s January 17, 2017 Order Granting these Defendants’ Motion for Sanctions.
21. And yet here we are again, with James C. Priddy, III and the Plaintiff fabricating additional documents and proffering same to the Court as “genuine” as part of an all-encompassing scheme to seek to obtain whatever relief is being sought by the Plaintiff via any tactics that are required, no matter the cost or the deception that Plaintiff ultimately needs to employ.
22. At this point, this Court should enter a Show Cause Order and require the Plaintiff to appear to the Court, by and through James C. Priddy, III, and explain to the Court why the Plaintiff’s principal and this matter should not be referred to the State Attorney’s Office for prosecution on the crime of perjury.

23. Lastly, and though this is something that in actuality really only adds insult to injury, James C. Priddy, III **is a licensed Notary Public in the State of Florida**. See Exhibit “6”. As such, there can be no explanation by James C. Priddy, III seeking to apologize for his deception on the basis that he did not honestly understand what an oath or sworn statement via Affidavit actually is.

WHEREFORE the Defendants respectfully request that this honorable Court enter an Order DENYING the Plaintiff’s Motion for Rehearing, that this Court grant the Defendants all relief requested herein (including an award of additional sanctions, and the referral of James C. Priddy, III for prosecution for criminal perjury), and that this Court otherwise grant these Defendants such other and further relief as this Court deems just and proper².

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been filed with this Court utilizing the Court’s e-filing system and served via e-mail through the Court’s e-filing and e-service system on this this 30th day of January, 2017 to: Reginald G. Stambaugh, P.A., 500 Pacific Grove Drive, Unit 6, West Palm Beach, FL 33401 [Reg@stambaughpa.com]; Alfred LaSorte, Esq., Shutts & Bowen LLP, 525 Okeechobee Blvd., Suite 1100, West Palm Beach, FL 33401 [alasorte@shutts.com; lodum@shutts.com].

ANDREW M. SCHWARTZ, P.A.
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By: /s/ Andrew M. Schwartz, Esq.
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² Including but not limited to an award of their incurred court costs and reasonable attorney’s fees taxable against the Plaintiff.

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EXHIBIT “1”

IN THE CIRCUIT COURT IN THE
FIFTEENTH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY, FLORIDA

IDENTIFAX INVESTIGATIVE SERVICES,
INC., a Florida corporation

CASE NO.: 502015CA009497XXXXMB
DIVISION: AA

Plaintiff,

v.

LOUIS M. FERLANTI, LF-IFX, INC. a
Florida corporation d/b/a IDENTIFAX OF
SOUTH FLORIDA, NICHOLAS JAMES
INVESTIGATIVE SERVICES, LLC, a Florida
limited liability company, NICHOLAS JAMES
FERLANTI, individually,

Defendant(s).

SUPPLEMENTAL AFFIDAVIT OF JAMES PRIDDY

STATE OF FLORIDA)
)
COUNTY OF PALM BEACH)

On this day personally appeared before me, the undersigned authority duly authorized to administer oaths and take acknowledgments, JAMES PRIDDY, who, after being by me first duly sworn upon his oath, deposes and says:

1. Affiant is above the age of 18 years and of sound mind and capable of giving an oath.
2. Affiant has personal knowledge of the matters set forth herein.
3. Defendants' Response to Plaintiff's Motion for Rehearing and to Reopen Hearing ("Defendants' Response") correctly points out that the file name descriptor at the bottom of the first page of the "Two-Page Memo" (Exhibit "1" in evidence at the hearings that resulted in the Order Granting Defendants' Motion for Sanctions (D.E. 114, the "Sanctions Order")) is different

than the file name descriptor for the file referred to in the screenshots taken from Plaintiff's server's file manager and the "properties" screen for the Two-Page Memo electronic file attached to Affiant's Affidavit filed herein on January 27. (Exhibit "1" from the sanctions hearings, the screen shot of the file manager page, and the screen shot of the Properties Page are attached hereto as Exhibits "1," "2," and "3," respectively.)

4. What Defendant's Response fails to disclose to the Court, although it is well known to Defendant Louis M. Ferlanti, is that the server on which the Two-Page Memo was saved when created in 1997 was replaced with updated servers and software twice in the intervening nineteen years, both times causing the file name descriptor for all files to change as a result. Mr. Ferlanti is well aware of this because on both occasions when the Identifax server was replaced, the server in Mr. Ferlanti's own franchisee office was changed as well. On both occasions Identifax's franchisees, including Mr. Ferlanti, were informed of the server replacements, and that the file locations on the new servers would have new addresses as a result. On both occasions, Mr. Ferlanti, like all franchisees, adopted the new file locations and file descriptors for use in the day-to-day operations of their franchises.

5. Specifically, the Identifax servers in use in 1997 in its main office and its franchises' offices were installed in the late 1980's and used Novell NetWare network software. Sometime in the mid-2000's, new servers using Windows 2003 network software were installed in Identifax's main office and all franchise offices. In 2010, the servers were again all replaced, this time running Windows Server 2012 software, which remain in use. On both occasions of replacing the servers, Identifax's files on the old servers were copied over to the new servers. Each such file remained entirely intact and unchanged from its state while stored on the previous server. As such, the current copy of the electronic word processing file of the Two-Page Memo is exactly the same on the current server as it was on the server it was created on in 1997 and on the interim server used between the mid-2000's and 2010, despite the new file address location.

This is well known to Mr. Ferlanti.

6. The file name descriptor for the Two Page Memo reflected in Exhibits "2" and "3" is the correct descriptor for the Two-Page Memo on Identifax's current server. On both occasions that Identifax's servers were replaced and updated with new software, all files resident on the old servers were duplicated, in their exact and unchanged condition, on the new server. This is evident by the fact that, even though the current server was installed in 2010, the Properties Page reflects the actual file creation and last-modification dates from 1997. Because the files from all four franchises' servers as well as the main office's documents were copied to the new server when moving to the Windows 2003 server in the mid-2000's, the directory hierarchy was changed to make it easier to differentiate between the files of the main office and each franchise, which is the primary reason that the file addresses that make up file name descriptors are now different for all documents, including the Two-page Memo.

7. The file name descriptor written into Exhibit "1" was input by Affiant, rather than by using the Word software program's option to automatically insert a file location footer. As a result, that descriptor reflects the now obsolete and incorrect file address from the old server. This is true of many Identifax word processing files, which still carry the old, obsolete file name somewhere on the document despite the server replacement and resultant change in file address.

8. It is also significant to note that the new server was installed in 2010, years prior to the inception of the dispute between the parties that is the subject of this lawsuit.

9. Affiant's January 27, 2017 is entirely truthful and accurate.

10. Defendants' attempt to confuse the Court by asserting the current file name descriptor as evidence of fabrication, while failing to disclose the server replacements and resultant effect on file address names, is disingenuous to say the least.

11. The fact that the properties sheet indicates a creation date for the Two-Page Memo of Sunday, February 9, 1997 rather than the date of the meeting from which it resulted,

Friday February 7, 1997, is the result of Identifax's routine business practice of preparing meeting minutes within a few days after meetings, which is what occurred with regard to the Two-Page Memo.

12. Defendants' Response also insinuates, incorrectly, that the Meeting Minutes from Identifax's February 7, 1997 do not refer in any way to anything which could have led to the drafting of the text on the second (back) page of the Two-Page Memo. This is not so. Specifically, at that meeting, as reflected in Paragraph Five of the minutes (attached hereto as Exhibit "4") there was discussion of concern arising from people leaving the company and then competing against it. It was in this context that promulgation of the requirement of lease creation and assignment arose.

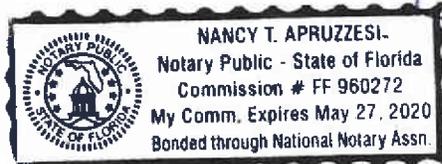
FURTHER AFFIANT SAYETH NAUGHT.



JAMES PRIDDY

The foregoing Affidavit was acknowledged before me this 29 day of January, 2017, by James Priddy, who is personally known to me and who took an oath.

WPBDOCS 9153424 1





NOTARY PUBLIC
State of Florida

EXHIBIT “1”

IDENTIFAX INVESTIGATIVE SERVICES, INC.
Inter-Office Memo



To: FRANCHISEES
From: CORPORATE
Date: February 9, 1997
Subject: CONTROL PERSON & FRANCHISE AGREEMENT AMENDMENT -24

FRANCHISE AGREEMENT SECTIONS CHANGED: 17.1.6

Pursuant to Sections 20.1 of the Franchisee Agreement, the following Policy is hereby amended and included as part of the "SYSTEM" AND "STANDARDS" as defined in Section 5 and Section 6 of the Franchise Agreement. This document must be inserted into your "Operations Manual" and becomes a part of our Franchise Agreement.

At the FMR Manager's Meeting discussions of February 7, 1997 regarding "Control Persons" and current Franchise Agreements, it was agreed that one branch employee must be named to manage the franchised business in the event the Franchisee is incapacitated. The person selected must be a licensed manager and must sign the standard Identifax Employment Contract. A notarized document must be sent to the Franchisor identifying the Control Person. That person must be reassigned on an annual basis.

Pursuant to section 20.1 of the Identifax Franchise Agreement and the discussions of the FMR of February 7, 1997, the following changes and statement are approved and to be added and amended in all existing Franchise Agreements. These changes are also to be made a part and condition of all future Franchise Agreements and Identifax Employee Contracts. The purpose of the amendment and changes are to insure that the Franchisee, individually, and/or their named Control Person are prevented from using their tenure, contacts and experiences with Identifax as an aid in opening their own investigative agency, as defined under Florida Statute Chapter 493:

"17.1.6 Assignment of Lease, Equipment, Telephone and Contracts"

"17.1.6.4 Assign all prior and current Investigative employment contracts to the Franchisor. Any unauthorized retention of, or refusal to assign Investigative employment contracts to the Franchisor shall be deemed a tortuous and intentional interference by the franchisee and a violation of the Franchisee's non solicitation and non competition agreement specified in Section 19, and shall authorize Franchisor to pursue any and all remedies allowed by law including the award of punitive damages."

POLLICK

Additionally, the Lease for the property or offices that the Franchised business uses must be assigned to the Franchisor.. If no Lease exists for the offices of the Franchised Business, one must be drawn up, listing the Franchisor as the Lessee of the property or offices in which the Franchised business exists. This new Lease is to be at fair market value. Any unauthorized retention of, or refusal to assign or create a Lease for the property or offices of the Franchised business to the Franchisor shall be deemed a tortuous and intentional interference by the franchisee and a violation of the Franchisee's non solicitation and non competition agreement specified in Section 19, and shall authorize Franchisor to pursue any and all remedies allowed by law including the award of punitive damages.

EXHIBIT “2”

Name	Date modified	Type	Size	Date last saved
POLICY -13-Audit policy-SV results.DOC	12/12/1996 1:26 PM	Microsoft Office ...	21 KB	12/12/1996 1:26 PM
POLICY -6-Rate increase.DOC	12/12/1996 1:28 PM	Microsoft Office ...	21 KB	12/12/1996 1:28 PM
POLICY -10-Royalty late fees.DOC	12/12/1996 1:57 PM	Microsoft Office ...	22 KB	12/12/1996 1:57 PM
POLICY -7-Ledgers.DOC	12/12/1996 2:05 PM	Microsoft Office ...	20 KB	12/12/1996 2:05 PM
POLICY -12-Mediation.DOC	12/12/1996 2:08 PM	Microsoft Office ...	17 KB	12/12/1996 2:08 PM
POLICY -18-Tax returns.DOC	12/16/1996 10:16 ...	Microsoft Office ...	21 KB	12/16/1996 10:16 AM
POLICY -1-Bill printing.DOC	12/16/1996 10:46 ...	Microsoft Office ...	17 KB	12/16/1996 10:46 AM
POLICY -4-Claims meetings.DOC	12/16/1996 11:06 ...	Microsoft Office ...	20 KB	12/16/1996 11:06 AM
POLICY -5-Backups-.DOC	12/16/1996 12:49 ...	Microsoft Office ...	17 KB	12/16/1996 12:49 PM
POLICY -23-Report Confidentiality.DOC	5/7/1997 6:15 PM	Microsoft Office ...	25 KB	5/7/1997 5:15 PM
POLICY -1B-OT Payments.DOC	5/9/1997 11:45 AM	Microsoft Office ...	25 KB	5/9/1997 10:25 AM
1SETUP.DOC	5/9/1997 12:06 PM	Microsoft Office ...	26 KB	5/9/1997 10:46 AM
POLICY -24-Control Person - Franchise contract amendment.doc	8/12/1997 10:16 A...	Microsoft Office ...	81 KB	8/12/1997 10:16 AM
franchiseememo11400.doc	1/13/2000 7:19 PM	Microsoft Office ...	110 KB	1/13/2000 7:19 PM
Backup of POLICY -31B-Hospital Checks.wbk	12/7/2000 6:49 PM	Microsoft Word Ba...	137 KB	12/7/2000 6:49 PM
POLICY -25-Royalty Ledgers.DOC	1/18/2001 9:00 AM	Microsoft Office ...	1,536 KB	1/18/2001 9:00 AM
POLICY -26-Ledger deadlines.DOC	1/18/2001 9:40 AM	Microsoft Office ...	1,534 KB	1/18/2001 9:40 AM
Policy -5a Marketing % Change.doc	1/18/2001 12:51 PM	Microsoft Office ...	14 KB	1/18/2001 12:51 PM
FR Weekly duties.doc	1/18/2001 5:39 PM	Microsoft Office ...	17 KB	1/18/2001 5:39 PM
Cover Eagle no photo.doc	1/18/2001 10:04 PM	Microsoft Office ...	19 KB	1/18/2001 10:04 PM
Cover Eagle.doc	1/18/2001 11:09 PM	Microsoft Office ...	430 KB	1/18/2001 11:09 PM
Procedure Manual Cover.doc	1/18/2001 11:53 PM	Microsoft Office ...	461 KB	1/18/2001 11:52 PM
D-O-Labor memo.DOC	3/29/2001 12:43 PM	Microsoft Office ...	14 KB	3/29/2001 12:43 PM
Policy -Royalties Defined.DOC	9/21/2001 9:22 AM	Microsoft Office ...	108 KB	9/21/2001 9:22 AM
SETUP-POL2.doc	11/1/2001 3:22 PM	Microsoft Office ...	1,710 KB	11/1/2001 3:22 PM
Policy -37-Case XFR.doc	11/1/2001 5:04 PM	Microsoft Office ...	1,591 KB	11/1/2001 5:04 PM
Policy -40-Report Preperation.doc	6/27/2002 3:11 PM	Microsoft Office ...	1,592 KB	6/27/2002 3:11 PM
Policy -41-Fax XFR Logs.doc	1/9/2003 9:23 PM	Microsoft Office ...	1,592 KB	1/9/2003 9:23 PM
Policy -34-Hours change.doc	1/9/2003 9:32 PM	Microsoft Office ...	1,591 KB	1/9/2003 9:32 PM
Policy -42-Sub Contracting.doc	1/9/2003 9:37 PM	Microsoft Office ...	1,591 KB	1/9/2003 9:37 PM

EXHIBIT “3”

POLICY -24-Control Person - Franchise contract amendment.doc Properties

- General
- Security
- Custom
- Details
- Acronis Recovery
- Previous Versions



24-Control Person - Franchise contract amendment.doc

Type of file: Microsoft Office Word 97 - 2003 Document (.doc)

Opens with: Microsoft Office Word Change...

Location: W:\1WP-WORD\Franchise Data\POLICY

Size: 80.5 KB (82,432 bytes)

Size on disk: 84.0 KB (86,016 bytes)

Created: Friday, February 07, 1997, 5:43:58 PM

Modified: Tuesday, August 12, 1997, 10:16:43 AM

Accessed: Saturday, November 12, 2016, 10:24:03 AM

Attributes: Read-only Hidden Advanced...

OK

Cancel

App

EXHIBIT “4”

IDENTIFAX INVESTIGATIVE SERVICES, INC.

Corporate Minutes

Subject:	FMR Meeting Minutes
Date:	February 7, 1997
Present:	Jim Priddy, Melodie Campanella, Pam Gentile, John Benevides, Lou Ferlanti and Mike Heflin

The Franchisees met on February 7, 1997 to hold their monthly OMR meeting. The meeting was held in the corporate office, led by Jim Priddy. It commenced at 12:00 p.m. and adjourned at 3:35 p.m.

DISCUSSIONS

1. The Franchisees were informed of the plans by Mr. Benevides to move the Tallahassee office to Pensacola. The move will occur during the week of February 10, 1997. The new telephone numbers for the branch were distributed and are as follows:

(904) 479-1995 Line 1

(904) 479-1484 Line 2

(904) 479-7442 Modem

(904) 479-6101 Fax

2. **HOLD CASES.** There is a problem with the cases left on hold at the end of a month. When a case is put on hold in one month and later taken off hold and billed in another month the sales go into the month that it was first put on hold. The software is being

upgraded. Until the upgrade is completed the branches **M U S T** delete all hold cases at the months end.

3. Mr. Priddy suggested opening up the OMR to key employees. If a Franchisee has a key employee that they would like to bring to an OMR they should let Corporate know a couple of days in advance.

4. It was decided as a company we need to do something for long term (5 years or more) key employees. The possibility of a 2 day cruise was discussed and will be looked into by the Corporate office.

5. Mr. Priddy discussed protecting the company from resident managers or Franchisees leaving and then going into a competing business. With their access to our clients and confidential procedures it could be catastrophic to our company. It was agreed that we needed protection. All agreed that all current Key Manager's would sign standardized Employee Contracts as a preventative measure. It was also agreed that in the event that a Franchisee leaves, all existing employee and investigative contracts would be automatically assigned to the Franchisor. A Policy memo was to follow for inclusion in the COM and all new contracts would incorporate this policy.

5. The possibility of having a Great Chase this summer was discussed.

MARKETING

1. The Marketing/Savings account was discussed. The signature card for the account was signed by all present. The account is a Money Market Account. The account requires two signatures on checks and or any other withdrawals. The primary signature must be Mr. Priddy or Melodie Campanella. The secondary signature may be any of the Franchisees.

February Minutes

2. The upcoming conventions and who would be attending them was discussed. It was decided that Corporate would assist and again coordinate the overall marketing for the company. The backdrop needs to be updated or replaced. John Benevides and Lou Ferlanti will be in charge of the backdrop and are planning a trip to Skyline Displays. Marilyn Cole and John Benevides will attend the SIU convention in June. Pam Gentile and one other person will attend the Southeast Claims Association Convention in North Carolina. Everyone is expected to do their part at the Work Comp Convention in September of 1997.

3. Not enough PR work is being done at the branch level. Everyone must visit their major clients every two weeks.

POLICY

1. If a final bill has been changed after it has been sent to Corporate please make adjustments on the original invoice and fax it to Corporate immediately.

2. Royalty refunds will be allowed on clerical errors if the refund is requested within 30 days from the date of the original sales were sent to Corporate. Corporate can collect unpaid royalties at any time.

3. The federal form 8850 is now part of the NEW HIRE PACKAGE. This form must be given to an applicant. The applicant is not required to fill it out but if he or she does not fill it out the employer has the right not to hire the applicant.

4. Corporate needs a formal notarized document from all the franchisees giving someone in their branch power of attorney in order to run the branch in the event that something happened to Franchisee. Both the Franchisees and the person to take over signatures must be on this document. This person also needs to be a signer on your bank accounts. This document must be at Corporate by the next OMR which is scheduled for March 14, 1997.

In addition, all franchised branch Key Managers must sign a new, updated employee contract incorporating the non complete, non-solicit clauses. The new contracts must also be assigned to the Franchisor if the Franchisee leaves for any reason.

5. The qualifications of a Chief Investigator were discussed. The Chief was always and should be someone with field experience. Krissy Gentile is acting as Chief in the Orlando Office. Everyone agreed that she is very knowledgeable in the business but she does not have any field experience. She must be in the field twice a week from this point forward until she completes her hours. She must also be trained. It was made policy that when a branch wants to add a new chief it must be OK'd by Corporate.

EXHIBIT “2”

IN THE CIRCUIT COURT OF FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

IDENTIFAX INVESTIGATIVE SERVICES,
INC., a Florida corporation,

Case No.:502015CA009497XXXXMB(AA)
Honorable: Richard Oftedal

Plaintiff,

v.

LOUIS M. FERLANTI, LF-IFX, INC. a Florida corporation
d/b/a IDENTIFAX OF SOUTH FLORIDA, NICHOLAS
JAMES INVESTIGATIVE SERVICES, LLC, a Florida
limited liability company, NICHOLAS JAMES FERLANTI,
individually,

Defendant(s).

**DEFENDANTS' RESPONSE TO SUPPLEMENTAL AFFIDAVITS FILED BY
PLAINTIFF ON JANUARY 30, 2017**

The Defendants, by and through their undersigned counsel, hereby file this, their Response to the newly filed "Supplemental" and "Corrected" Affidavits of James C. Priddy, III and Steve Robinson, as follows:

1. **Enough is enough**, and we have reached the time that this Court needs to refer James C. Priddy, III for criminal prosecution for perjury.
2. In response to these Defendant's "Response" filed on January 27, 2017, on January 29, 2017 James C. Priddy, III executed a "Supplemental" Affidavit, seeking to clarify glaring issues and inconsistencies with the new documents produced by James C. Priddy, III as attachments to his Affidavit filed with this Court on January 26, 2017. However, **James C. Priddy, III has now AGAIN committed perjury** by attaching fabricated documents to his "Affidavit" and claiming that same are true copies of a genuine original document.

3. Specifically, James C. Priddy, III's "Supplemental" Affidavit has a purported "copy" of the original of the Plaintiff's FMR Meeting Minutes for the February 7, 1997 FMR Meeting.
4. However, this document is also an after-the-fact fabrication with newly added language.
5. This Court already has the true FMR Meeting Minutes in evidence. That document was three (3) pages in total, with a file name descriptor on the bottom of the third page as follows: "w:\1wp-word/corpmin/2_97Min.doc".
6. Attached to James C. Priddy, III's new "Supplemental Affidavit", is a four (4) page version of the document which a) lacks any file name descriptor on the bottom of the final page, and b) includes the following NEW LANGUAGE:¹

5. Mr. Priddy discussed protecting the company from resident managers or Franchisees leaving and then going into a competing business. With their access to our clients and confidential procedures it could be catastrophic to our company. It was agreed that we needed protection. All agreed that all current Key Manager's would sign standardized Employee Contracts as a preventative measure. It was also agreed that in the event that a Franchisee leaves, all existing employee and investigative contracts would be automatically assigned to the Franchisor. A Policy memo was to follow for inclusion in the COM and all new contracts would incorporate this policy.

4. Corporate needs a formal notarized document from all the franchisees giving someone in their branch power of attorney in order to run the branch in the event that something happened to Franchisee. Both the Franchisees and the person to take over signatures must be on this document. This person also needs to be a signer on your bank accounts. This document must be at Corporate by the next OMR which is scheduled for March 14, 1997. In addition, all franchised branch Key Managers must sign a new, updated employee contract incorporating the non complete, non-solicit clauses. The new contracts must also be assigned to the Franchisor if the Franchisee leaves for any reason.

7. Specifically, there is now as second "Paragraph 5" on Page 2 of the document, and paragraph four (4) on page three (3) of the document has the new language highlighted above.

¹ The new language is highlighted herein.

8. To illustrate this point, attached hereto as Exhibit “A” is a copy of the three (3) page version of the February 1997 FMR Meeting Minutes as they were admitted into evidence with this Court, and attached hereto as Exhibit “B” is the new four (4) page version which James C. Priddy, III just now produced as an attachment to his supplemental affidavit.
9. Also, it is almost hilariously comical that after the undersigned and the Defendants pointed out that Steve Robinson’s Affidavit contained blatant perjury (i.e., a sworn attestation as to possession of personal knowledge of matters occurring more than 18 years before Steve Robinson became a Franchisee of the Plaintiff), Steve Robinson has now signed a “Corrected Affidavit”, which states in paragraph four (4): “I executed an incorrectly worded Affidavit which is attached as Exhibit “A” hereto.”
10. Apparently Mr. Robinson and the Plaintiff believe that perjury can simply be swept aside via a simple “oops”, and the filing of a “Corrected Affidavit”.
11. At this point, the Plaintiff, James C. Priddy, III, and counsel who is filing this rampant perjury must be subject to sanctions.

WHEREFORE the Defendants respectfully request that this honorable Court enter an Order DENYING the Plaintiff’s Motion for Rehearing, that this Court grant the Defendants all relief requested herein (including an award of additional sanctions, and the referral of James C. Priddy, III for prosecution for criminal perjury), and that this Court otherwise grant these Defendants such other and further relief as this Court deems just and proper².

CERTIFICATE OF SERVICE

² Including but not limited to an award of their incurred court costs and reasonable attorney’s fees taxable against the Plaintiff.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been filed with this Court utilizing the Court's e-filing system and served via e-mail through the Court's e-filing and e-service system on this this 30th day of January, 2017 to: Reginald G. Stambaugh, P.A., 500 Pacific Grove Drive, Unit 6, West Palm Beach, FL 33401 [Reg@stambaughpa.com]; Alfred LaSorte, Esq., Shutts & Bowen LLP, 525 Okeechobee Blvd., Suite 1100, West Palm Beach, FL 33401 [alassorte@shutts.com; lodum@shutts.com].

ANDREW M. SCHWARTZ, P.A.
4755 Technology Way, Suite 103
Boca Raton, Florida 33431
(561) 347-6767 - Telephone
(561) 347-6768 - Facsimile

By: /s/ Andrew M. Schwartz, Esq.
Andrew M. Schwartz, Esquire
Florida Bar No.: 821802
ams@amslegalteam.com
Christopher S. Salivar, Esquire
Florida Bar No.: 0057031
cs@amslegalteam.com
Corey A. Cawthon, Esquire
Florida Bar No.: 90955
cac@amslegalteam.com

Primary E-mail Addresses for Service:
ams@amslegalteam.com
paralegal@amslegalteam.com

Secondary E-mail Addresses for Service:
cs@amslegalteam.com
cac@amslegalteam.com
receptionist@amslegalteam.com

EXHIBIT "A"

IDENTIFAX INVESTIGATIVE SERVICES, INC.

Corporate Minutes

Subject: FMR Meeting Minutes

Date: February 7, 1997

Present: Jim Priddy, Melodie Campanella, Pam Gentile, John Benevides,
Lou Ferlanti and Mike Heflin,

The Franchisees met on February 7, 1997 to hold their monthly OMR meeting. The meeting was held in the corporate office, led by Jim Priddy. It commenced at 12:00 p.m. and adjourned at 3:35 p.m.

DISCUSSIONS

1. The Franchisees were informed of the plans by Mr. Benevides to move the Tallahassee office to Pensacola. The move will occur during the week of February 10, 1997. The new telephone numbers for the branch were distributed and are as follows:

(904) 479-1995 Line 1

(904) 479-1484 Line 2

(904) 479-7442 Modem

(904) 479-6101 Fax

2. HOLD CASES. There is a problem with the cases left on hold at the end of a month.

When a case is put on hold in one month and later taken off hold and billed in another

month the sales go into the month that it was first put on hold. The software is being

February Minutes

upgraded. Until the upgrade is completed the branches **MUST** delete all hold cases at the months end.

3. Mr. Priddy suggested opening up the OMR to key employees. If a Franchisee has a key employee that they would like to bring to an OMR they should let Corporate know a couple of days in advance.
4. It was decided as a company we need to do something for long term (5 years or more) key employees. The possibility of a 2 day cruise was discussed and will be looked into by the Corporate office.
5. The possibility of having a Great Chase this summer was discussed.

MARKETING

1. The Marketing/Savings account was discussed. The signature card for the account was signed by all present. The account is a Money Market Account. The account requires two signatures on checks and or any other withdrawals. The primary signature must be Mr. Priddy or Melodie Campanella. The secondary signature may be any of the Franchisees.
2. The upcoming conventions and who would be attending them was discussed. It was decided that Corporate would again coordinate the overall marketing for the company. The backdrop needs to be updated or replaced. John Benevides and Lou Ferlanti will be in charge of the backdrop and are planning a trip to Skyline Displays. Marilyn Cole and John Benevides will attend the SIU convention in June. Pam Gentile and one other person will attend the Southeast Claims Association Convention in North Carolina. Everyone is expected to do their part at the Work Comp Convention in September of 1997.
3. Not enough PR work is being done at the branch level. Everyone must visit their major clients every two weeks.

February Minutes

POLICY

1. If a final bill has been changed after it has been sent to Corporate please make adjustments on the original invoice and fax it to Corporate immediately.
2. Royalty refunds will be allowed on clerical errors if the refund is requested within 30 days from the date the original sales were sent to Corporate. Corporate can collect unpaid royalties at any time.
3. The federal form 8850 is now part of the NEW HIRE PACKAGE. This form must be given to an applicant. The applicant is not required to fill it out but if he or she does not fill it out the employer has the right not to hire the applicant.
4. Corporate needs a formal notarized document from all franchisees giving someone in their branch power of attorney in order to run the branch in the event that something happened to Franchisee. Both the Franchisees and the person to take over signatures must be on this document. This person also needs to be a signer on your bank accounts. This document must be at Corporate by the next OMR which is scheduled for March 14, 1997.
5. The qualifications of a Chief Investigator were discussed. The Chief was always and should be someone with field experience. Krissy Gentile is acting as Chief in the Orlando Office. Everyone agreed that she is very knowledgeable in the business but she does not have any field experience. She must be in the field twice a week from this point forward until she completes her hours. She must also be trained. It was made policy that when a branch wants to add a new chief it must be OK'd by Corporate.

EXHIBIT "B"

IDENTIFAX INVESTIGATIVE SERVICES, INC.

Corporate Minutes

Subject:	FMR Meeting Minutes
Date:	February 7, 1997
Present:	Jim Priddy, Melodie Campanella, Pam Gentile, John Benevides, Lou Ferlanti and Mike Heflin

The Franchisees met on February 7, 1997 to hold their monthly OMR meeting. The meeting was held in the corporate office, led by Jim Priddy. It commenced at 12:00 p.m. and adjourned at 3:35 p.m.

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4. It was decided as a company we need to do something for long term (5 years or more) key employees. The possibility of a 2 day cruise was discussed and will be looked into by the Corporate office.

5. Mr. Priddy discussed protecting the company from resident managers or Franchisees leaving and then going into a competing business. With their access to our clients and confidential procedures it could be catastrophic to our company. It was agreed that we needed protection. All agreed that all current Key Manager's would sign standardized Employee Contracts as a preventative measure. It was also agreed that in the event that a Franchisee leaves, all existing employee and investigative contracts would be automatically assigned to the Franchisor. A Policy memo was to follow for inclusion in the COM and all new contracts would incorporate this policy.

5. The possibility of having a Great Chase this summer was discussed.

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February Minutes

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3. The federal form 8850 is now part of the NEW HIRE PACKAGE. This form must be given to an applicant. The applicant is not required to fill it out but if he or she does not fill it out the employer has the right not to hire the applicant.

4. Corporate needs a formal notarized document from all the franchisees giving someone in their branch power of attorney in order to run the branch in the event that something happened to Franchisee. Both the Franchisees and the person to take over signatures must be on this document. This person also needs to be a signer on your bank accounts. This document must be at Corporate by the next OMR which is scheduled for March 14, 1997.

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EXHIBIT “3”

Christopher Salivar

From: Christopher Salivar
Sent: Monday, January 30, 2017 6:40 PM
To: Al LaSorte; Andrew Schwartz
Cc: AMS Paralegal; Reginald Giles Stambaugh (reg@stambaughpa.com); Lorraine Odum; Christopher Salivar
Subject: RE: Identifax v. Ferlanti et al. - Case No.: 2015CA009497

Al,

Andy and I are truly dismayed that, after being found out again for producing yet another after-the-fact modified document, Jim's decision is to simply try and file a "corrected affidavit" and move on. I ask rhetorically whether he actually knows what perjury is, or an affidavit is, as it certainly doesn't seem so.

Again, Andy and I do not believe you had any part whatsoever in Jim's deception. You are a consummate professional and have never given either Andy or I any indication that your methods of practice are anything but the utmost in keeping with our ethical obligation as licensed litigators. But as this is clearly yet another attempt by Jim to deceive the Court, I'm ethically obligated to bring this to light in front of the Court. It will then be in Judge Oftedal's hands to handle as he sees fit.

Sincerely,

Christopher S. Salivar, Esq.
Andrew M. Schwartz Legal Team
4755 Technology Way, Suite 103
Boca Raton, Florida 33431
Tel: 561-347-6767
Fax: 561-347-6768
cs@amslegalteam.com | www.amslegalteam.com

PLEASE NOTE THE NEW ADDRESS



ANDREW M. SCHWARTZ
L E G A L T E A M

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From: Al LaSorte [mailto:AlaSorte@shutts.com]
Sent: Monday, January 30, 2017 12:44 PM
To: Andrew Schwartz <ams@amslegalteam.com>

Cc: Al LaSorte <ALaSorte@shutts.com>; Christopher Salivar <cs@amslegalteam.com>; AMS Paralegal <paralegal@amslegalteam.com>; Reginald Giles Stambaugh (reg@stambaughpa.com) <reg@stambaughpa.com>; Lorraine Odum <LOdum@shutts.com>

Subject: Re: Identifax v. Ferlanti et al. - Case No.: 2015CA009497

Andy,

As we discussed this morning, my intention was never to file anything with the court that is not entirely truthful and I will take appropriate steps to correct Mr. Priddy's supplemental affidavit.

You have pointed out the discrepancies between the 2/7/97 memo in evidence and the document attached to Mr. Priddy's affidavit as Exhibit 4. We are withdrawing that exhibit and the testimony in the affidavit that refers to that document, and will be filing notice with the court of this correction this afternoon.

With regard to the Robinson corrected affidavit, Mr. Robinson's prior affidavit was incorrect as the result of an error in its preparation at the same time as other affidavits were prepared, and the erroneous inclusion of information in that affidavit intended for the other affidavits.

Mr. Robinson's not having been at the 1997 meeting should have been apparent to a reader of the affidavit from the fact that it states that he was not a franchisee until 2015. But I was in Orlando at a speaking engagement on Friday when it was filed and did not review it carefully enough before submitting it. Now that the error in Mr. Robinson's affidavit has been pointed out, it has been corrected.

[REDACTED]

Typed on my iPhone
(pardon any typos)

Al LaSorte

On Jan 30, 2017, at 12:16 PM, Andrew Schwartz <ams@amslegalteam.com> wrote:

Al:

First, [REDACTED]

Second, I am genuinely concerned for you from a professional standpoint about this morning's (1/30/17) filings coming from your client and your firm. The filings including alleged perjurious statements and affidavits are disturbing. Please confirm that you will significantly re-review all filings in light of this troubling situation.

Third, [REDACTED]

Respectfully,

Andy

Andrew M. Schwartz, Esq.
Andrew M. Schwartz Legal Team
4755 Technology Way, Suite 103
Boca Raton, Florida 33431
Tel: 561-347-6767
Fax: 561-347-6768
ams@amslegalteam.com | www.amslegalteam.com

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From: Al LaSorte [<mailto:ALaSorte@shutts.com>]
Sent: Monday, January 30, 2017 11:30 AM
To: Christopher Salivar <cs@amslegalteam.com>
Cc: Andrew Schwartz <ams@amslegalteam.com>; AMS Paralegal <paralegal@amslegalteam.com>; Al LaSorte <ALaSorte@shutts.com>; Reginald Giles Stambaugh (reg@stambaughpa.com) <reg@stambaughpa.com>; Lorraine Odum <LOdum@shutts.com>
Subject: Re: Identifax v. Ferlanti et al. - Case No.: 2015CA009497

Chris,

In follow up to our call just now, please send me a copy of the 2/7/97 meeting minutes that are in evidence. Thank you.

Sent from my iPad

On Jan 30, 2017, at 11:17 AM, Christopher Salivar <cs@amslegalteam.com> wrote:

Dear Ms. Brandt,

In conformance with Judge Oftedal's divisional instructions, today newly appearing counsel for Identifax, Alfred LaSorte, Esq., transmitted a cover letter with two (2) amended affidavits to the Court's attention in connection with this matter. As my office will not be in West Palm Beach this week in order to hand-deliver the Defendants' response thereto, and in order to assist the Court in resolving the Motion, I'm attaching

a copy of the filed Response to these Affidavits which was filed on behalf of the Defendants which was filed with the Clerk of Court today.

Should Judge Oftedal require anything else of the Defendants as to this matter, please feel free to let me know and I will address it promptly.

Sincerely,

Christopher S. Salivar, Esq.
Andrew M. Schwartz Legal Team
4755 Technology Way, Suite 103
Boca Raton, Florida 33431
Tel: 561-347-6767
Fax: 561-347-6768
cs@amslegalteam.com | www.amslegalteam.com

PLEASE NOTE THE NEW ADDRESS

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<Response To.pdf>

Christopher Salivar

From: Christopher Salivar
Sent: Monday, January 30, 2017 11:53 AM
To: Al LaSorte
Cc: Andrew Schwartz; Christopher Salivar
Subject: Re: Identifax v. Ferlanti et al. - Case No.: 2015CA009497

Al,

They are attached to my response as Exhibit A. My scan copy cuts off the right side of the pages a little bit, but as it came into evidence it was in its original 3 page form with the file name descriptor on the bottom of page 3. It came in as exhibit 3 along with a letter from my client's former attorney.

Sent from my iPhone

On Jan 30, 2017, at 11:30 AM, Al LaSorte <ALaSorte@shutts.com> wrote:

Chris,

In follow up to our call just now, please send me a copy of the 2/7/97 meeting minutes that are in evidence. Thank you.

Sent from my iPad

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Should Judge Oftedal require anything else of the Defendants as to this matter, please feel free to let me know and I will address it promptly.

Sincerely,

Christopher S. Salivar, Esq.
Andrew M. Schwartz Legal Team
4755 Technology Way, Suite 103
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Tel: 561-347-6767
Fax: 561-347-6768
cs@amslegalteam.com | www.amslegalteam.com

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<Response To.pdf>

Christopher Salivar

From: Christopher Salivar
Sent: Monday, January 30, 2017 11:25 AM
To: Al LaSorte
Cc: Andrew Schwartz; Christopher Salivar
Subject: RE: SERVICE OF COURT DOCUMENT - CASE NUMBER 502015CA009497XXXXMB

I've highlighted the newly added language, and I've attached the original 3 page FMR Meeting minutes, so you can see for yourself that Jim has modified them to create the new four (4) page version which he just filed as an attachment to his supplemental affidavit.

Sincerely,

Christopher S. Salivar, Esq.
Andrew M. Schwartz Legal Team
4755 Technology Way, Suite 103
Boca Raton, Florida 33431
Tel: 561-347-6767
Fax: 561-347-6768
cs@amslegalteam.com | www.amslegalteam.com

PLEASE NOTE THE NEW ADDRESS



ANDREW M. SCHWARTZ
L E G A L T E A M

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From: Christopher Salivar
Sent: Monday, January 30, 2017 11:17 AM
To: Al LaSorte <AlaSorte@shutts.com>
Cc: Andrew Schwartz <ams@amslegalteam.com>; Christopher Salivar <cs@amslegalteam.com>
Subject: FW: SERVICE OF COURT DOCUMENT - CASE NUMBER 502015CA009497XXXXMB

Al,

Here is the filed response.

Christopher S. Salivar, Esq.
Andrew M. Schwartz Legal Team

4755 Technology Way, Suite 103
Boca Raton, Florida 33431
Tel: 561-347-6767
Fax: 561-347-6768
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ANDREW M. SCHWARTZ
L E G A L T E A M

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From: eservice@myflcourtaccess.com [<mailto:eservice@myflcourtaccess.com>]
Sent: Monday, January 30, 2017 11:16 AM
Subject: SERVICE OF COURT DOCUMENT - CASE NUMBER 502015CA009497XXXXMB

Notice of Service of Court Documents

Filing Information

Filing #: 51783559
Filing Time: 01/30/2017 11:15:51 AM ET
Filer: Andrew M Schwartz 561-347-6767
Court: Fifteenth Judicial Circuit in and for Palm Beach County, Florida
Case #: 502015CA009497XXXXMB
Court Case #: 50-2015-CA-009497-XXXX-MB
Case Style: IDENTIFAX INVESTIGATIVE SERVICES INC - FERLANTI, LOUIS M

Documents

Title	File
Response To:	Response to Plaintiff's Supplemental Affidavit of

E-service recipients selected for service:

Name	Email Address
Alfred A. Lasorte Jr.	alasorte@shutts.com
	lodum@shutts.com
Andrew M Schwartz	paralegal@amslegalteam.com
	ams@amslegalteam.com
	cs@amslegalteam.com
Reginald Giles Stambaugh	reg@stambaughpa.com
	regstambaugh@yahoo.com
Andrew M Schwartz	paralegal@amslegalteam.com
	ams@amslegalteam.com
	cs@amslegalteam.com
James Priddy	jcp@identifax.com

E-service recipients deselected for service:

Name	Email Address
No Matching Entries	

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The Florida Courts E-Filing Portal

request_id#:51783559;Audit#:177303240;UCN#:502015CA009497XXXXMB;

EXHIBIT “4”

IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT, IN AND FOR PALM
BEACH COUNTY, FLORIDA

IDENTIFAX INVESTIGATIVE SERVICES,
INC., a Florida corporation

CASE NO.: 502015CA009497XXXXMB
DIVISION: AA

Plaintiff,

v.

LOUIS M. FERLANTI, LF-IFX, INC. a
Florida corporation d/b/a IDENTIFAX OF
SOUTH FLORIDA, NICHOLAS JAMES
INVESTIGATIVE SERVICES, LLC, a Florida
limited liability company, NICHOLAS JAMES
FERLANTI, individually,

Defendant(s).

NOTICE OF FILING

Plaintiff, IDENTIFAX INVESTIGATIVE SERVICES, INC., a Florida corporation (“Identifax”), by and through undersigned counsel, hereby gives notice of filing the Corrected Supplemental Affidavit of James Priddy in support of its Amended Motion for Rehearing and to Reopen Hearing for the Taking of Additional Evidence. The Affidavit is attached hereto as **Exhibit “A.”**

SHUTTS & BOWEN LLP

Co-Counsel for Plaintiff

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West Palm Beach, FL 33401

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By: /s/ Alfred A. LaSorte, Jr.

Alfred A. LaSorte, Jr.

Florida Bar No. 0325457

Email: alasorte@shutts.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by email via the Florida Court's eFiling Portal upon: Andrew M. Schwartz, Esq., Law Office of Andrew M. Schwartz, P.A., 4755 Technology Way, Suite 103, Boca Raton, FL 33431, *Counsel for Dina Ferlanti and Anthony Ferlanti*, (ams@amslegalteam.com, cs@amslegalteam.com, paralegal@amslegalteam.com), and Reginald G. Stambaugh, Esq., 500 Pacific Grove Drive, Unit 6, West Palm Beach, FL 33401 (reg@stambaughpa.com) on this 30th day of January 2017.

Alfred A. LaSorte, Jr.
COUNSEL

EXHIBIT “A”

IN THE CIRCUIT COURT IN THE
FIFTEENTH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY, FLORIDA

IDENTIFAX INVESTIGATIVE SERVICES,
INC., a Florida corporation

CASE NO.: 502015CA009497XXXXMB
DIVISION: AA

Plaintiff,

v.

LOUIS M. FERLANTI, LF-IFX, INC. a
Florida corporation d/b/a IDENTIFAX OF
SOUTH FLORIDA, NICHOLAS JAMES
INVESTIGATIVE SERVICES, LLC, a Florida
limited liability company, NICHOLAS JAMES
FERLANTI, individually,

Defendant(s).

CORRECTED SUPPLEMENTAL AFFIDAVIT OF JAMES PRIDDY

STATE OF FLORIDA)
)
COUNTY OF PALM BEACH)

On this day personally appeared before me, the undersigned authority duly authorized to administer oaths and take acknowledgments, JAMES PRIDDY, who, after being by me first duly sworn upon his oath, deposes and says:

1. Affiant is above the age of 18 years and of sound mind and capable of giving an oath.
2. Affiant has personal knowledge of the matters set forth herein.
3. Defendants' Response to Plaintiff's Motion for Rehearing and to Reopen Hearing ("Defendants' Response") correctly points out that the file name descriptor at the bottom of the first page of the "Two-Page Memo" (Exhibit "1" in evidence at the hearings that resulted in the Order Granting Defendants' Motion for Sanctions (D.E. 114, the "Sanctions Order")) is different

than the file name descriptor for the file referred to in the screenshots taken from Plaintiff's server's file manager and the "properties" screen for the Two-Page Memo electronic file attached to Affiant's Affidavit filed herein on January 27. (Exhibit "1" from the sanctions hearings, the screen shot of the file manager page, and the screen shot of the Properties Page are attached hereto as Exhibits "1," "2," and "3," respectively.)

4. What Defendant's Response fails to disclose to the Court, although it is well known to Defendant Louis M. Ferlanti, is that the server on which the Two-Page Memo was saved when created in 1997 was replaced with updated servers and software twice in the intervening nineteen years, both times causing the file name descriptor for all files to change as a result. Mr. Ferlanti is well aware of this because on both occasions when the Identifax server was replaced, the server in Mr. Ferlanti's own franchisee office was changed as well. On both occasions Identifax's franchisees, including Mr. Ferlanti, were informed of the server replacements, and that the file locations on the new servers would have new addresses as a result. On both occasions, Mr. Ferlanti, like all franchisees, adopted the new file locations and file descriptors for use in the day-to-day operations of their franchises.

5. Specifically, the Identifax servers in use in 1997 in its main office and its franchisees' offices were installed in the late 1980's and used Novell NetWare network software. Sometime in the mid-2000's, new servers using Windows 2003 network software were installed in Identifax's main office and all franchise offices. In 2010, the servers were again all replaced, this time running Windows Server 2012 software, which remain in use. On both occasions of replacing the servers, Identifax's files on the old servers were copied over to the new servers. Each such file remained entirely intact and unchanged from its state while stored on the previous server. As such, the current copy of the electronic word processing file of the Two-Page Memo is exactly the same on the current server as it was on the server it was created on in 1997 and on the interim server used between the mid-2000's and 2010, despite the new file address location.

This is well known to Mr. Ferlanti.

6. The file name descriptor for the Two Page Memo reflected in Exhibits "2" and "3" is the correct descriptor for the Two-Page Memo on Identifax's current server. On both occasions that Identifax's servers were replaced and updated with new software, all files resident on the old servers were duplicated, in their exact and unchanged condition, on the new server. This is evident by the fact that, even though the current server was installed in 2010, the Properties Page reflects the actual file creation and last-modification dates from 1997. Because the files from all four franchises' servers as well as the main office's documents were copied to the new server when moving to the Windows 2003 server in the mid-2000's, the directory hierarchy was changed to make it easier to differentiate between the files of the main office and each franchise, which is the primary reason that the file addresses that make up file name descriptors are now different for all documents, including the Two-page Memo.

7. The file name descriptor written into Exhibit "1" was input by Affiant, rather than by using the Word software program's option to automatically insert a file location footer. As a result, that descriptor reflects the now obsolete and incorrect file address from the old server. This is true of many Identifax word processing files, which still carry the old, obsolete file name somewhere on the document despite the server replacement and resultant change in file address.

8. It is also significant to note that the new server was installed in 2010, years prior to the inception of the dispute between the parties that is the subject of this lawsuit.

9. Affiant's January 27, 2017 is entirely truthful and accurate.

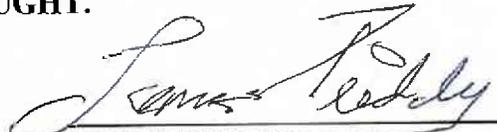
10. Defendants' attempt to confuse the Court by asserting the current file name descriptor as evidence of fabrication, while failing to disclose the server replacements and resultant effect on file address names, is disingenuous to say the least.

11. The fact that the properties sheet indicates a creation date for the Two-Page

Memo of Sunday, February 9, 1997 rather than the date of the meeting from which it resulted, Friday February 7, 1997, is the result of Identifax's routine business practice of preparing meeting minutes within a few days after meetings, which is what occurred with regard to the Two-Page Memo.

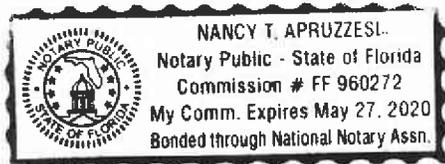
12. The content of paragraph 12 of Affiant's Supplemental Affidavit filed herein is hereby withdrawn, as is the document that was attached to the Supplemental Affidavit as Exhibit 4."

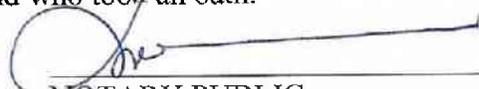
FURTHER AFFIANT SAYETH NAUGHT.



JAMES PRIDDY

The foregoing Affidavit was acknowledged before me this 30th day of January, 2017, by James Priddy, who is personally known to me and who took an oath.





NOTARY PUBLIC
State of Florida

EXHIBIT “1”

IDENTIFAX INVESTIGATIVE SERVICES, INC.
Inter-Office Memo



To: FRANCHISEES
From: CORPORATE
Date: February 9, 1997
Subject: CONTROL PERSON & FRANCHISE AGREEMENT AMENDMENT -24

FRANCHISE AGREEMENT SECTIONS CHANGED: 17.1.6

Pursuant to Sections 20.1 of the Franchisee Agreement, the following Policy is hereby amended and included as part of the "SYSTEM" AND "STANDARDS" as defined in Section 5 and Section 6 of the Franchise Agreement. This document must be inserted into your "Operations Manual" and becomes a part of our Franchise Agreement.

At the FMR Manager's Meeting discussions of February 7, 1997 regarding "Control Persons" and current Franchise Agreements, it was agreed that one branch employee must be named to manage the franchised business in the event the Franchisee is incapacitated. The person selected must be a licensed manager and must sign the standard Identifax Employment Contract. A notarized document must be sent to the Franchisor identifying the Control Person. That person must be reassigned on an annual basis.

Pursuant to section 20.1 of the Identifax Franchise Agreement and the discussions of the FMR of February 7, 1997, the following changes and statement are approved and to be added and amended in all existing Franchise Agreements. These changes are also to be made a part and condition of all future Franchise Agreements and Identifax Employee Contracts. The purpose of the amendment and changes are to insure that the Franchisee, individually, and/or their named Control Person are prevented from using their tenure, contacts and experiences with Identifax as an aid in opening their own investigative agency, as defined under Florida Statute Chapter 493:

"17.1.6 Assignment of Lease, Equipment, Telephone and Contracts"

"17.1.6.4 Assign all prior and current Investigative employment contracts to the Franchisor. Any unauthorized retention of, or refusal to assign Investigative employment contracts to the Franchisor shall be deemed a tortuous and intentional interference by the franchisee and a violation of the Franchisee's non solicitation and non competition agreement specified in Section 19, and shall authorize Franchisor to pursue any and all remedies allowed by law including the award of punitive damages."

POLLICK

Additionally, the Lease for the property or offices that the Franchised business uses must be assigned to the Franchisor.. If no Lease exists for the offices of the Franchised Business, one must be drawn up, listing the Franchisor as the Lessee of the property or offices in which the Franchised business exists. This new Lease is to be at fair market value. Any unauthorized retention of, or refusal to assign or create a Lease for the property or offices of the Franchised business to the Franchisor shall be deemed a tortuous and intentional interference by the franchisee and a violation of the Franchisee's non solicitation and non competition agreement specified in Section 19, and shall authorize Franchisor to pursue any and all remedies allowed by law including the award of punitive damages.

EXHIBIT “2”

Name	Date modified	Type	Size	Date last saved
POLICY -13-Audit policy-SV results.DOC	12/12/1996 1:26 PM	Microsoft Office ...	21 KB	12/12/1996 1:26 PM
POLICY -6-Rate increase.DOC	12/12/1996 1:28 PM	Microsoft Office ...	21 KB	12/12/1996 1:28 PM
POLICY -10-Royalty late fees.DOC	12/12/1996 1:57 PM	Microsoft Office ...	22 KB	12/12/1996 1:57 PM
POLICY -7-Ledgers.DOC	12/12/1996 2:05 PM	Microsoft Office ...	20 KB	12/12/1996 2:05 PM
POLICY -12-Mediation.DOC	12/12/1996 2:08 PM	Microsoft Office ...	17 KB	12/12/1996 2:08 PM
POLICY -18-Tax returns.DOC	12/16/1996 10:16 ...	Microsoft Office ...	21 KB	12/16/1996 10:16 AM
POLICY -1-Bill printing.DOC	12/16/1996 10:46 ...	Microsoft Office ...	17 KB	12/16/1996 10:46 AM
POLICY -4-Claims meetings.DOC	12/16/1996 11:06 ...	Microsoft Office ...	20 KB	12/16/1996 11:06 AM
POLICY -5-Backups-.DOC	12/16/1996 12:49 ...	Microsoft Office ...	17 KB	12/16/1996 12:49 PM
POLICY -23-Report Confidentiality.DOC	5/7/1997 6:15 PM	Microsoft Office ...	25 KB	5/7/1997 5:15 PM
POLICY -1B-OT Payments.DOC	5/9/1997 11:45 AM	Microsoft Office ...	25 KB	5/9/1997 10:25 AM
1SETUP.DOC	5/9/1997 12:06 PM	Microsoft Office ...	26 KB	5/9/1997 10:46 AM
POLICY -24-Control Person - Franchise contract amendment.doc	8/12/1997 10:16 A...	Microsoft Office ...	81 KB	8/12/1997 10:16 AM
franchiseememo11400.doc	1/13/2000 7:19 PM	Microsoft Office ...	110 KB	1/13/2000 7:19 PM
Backup of POLICY -31B-Hospital Checks.wbk	12/7/2000 6:49 PM	Microsoft Word Ba...	137 KB	12/7/2000 6:49 PM
POLICY -25-Royalty Ledgers.DOC	1/18/2001 9:00 AM	Microsoft Office ...	1,536 KB	1/18/2001 9:00 AM
POLICY -26-Ledger deadlines.DOC	1/18/2001 9:40 AM	Microsoft Office ...	1,534 KB	1/18/2001 9:40 AM
Policy -5a Marketing % Change.doc	1/18/2001 12:51 PM	Microsoft Office ...	14 KB	1/18/2001 12:51 PM
FR Weekly duties.doc	1/18/2001 5:39 PM	Microsoft Office ...	17 KB	1/18/2001 5:39 PM
Cover Eagle no photo.doc	1/18/2001 10:04 PM	Microsoft Office ...	19 KB	1/18/2001 10:04 PM
Cover Eagle.doc	1/18/2001 11:09 PM	Microsoft Office ...	430 KB	1/18/2001 11:09 PM
Procedure Manual Cover.doc	1/18/2001 11:53 PM	Microsoft Office ...	461 KB	1/18/2001 11:52 PM
D-O-Labor memo.DOC	3/29/2001 12:43 PM	Microsoft Office ...	14 KB	3/29/2001 12:43 PM
Policy -Royalties Defined.DOC	9/21/2001 9:22 AM	Microsoft Office ...	108 KB	9/21/2001 9:22 AM
SETUP-POL2.doc	11/1/2001 3:22 PM	Microsoft Office ...	1,710 KB	11/1/2001 3:22 PM
Policy -37-Case XFR.doc	11/1/2001 5:04 PM	Microsoft Office ...	1,591 KB	11/1/2001 5:04 PM
Policy -40-Report Preperation.doc	6/27/2002 3:11 PM	Microsoft Office ...	1,592 KB	6/27/2002 3:11 PM
Policy -41-Fax XFR Logs.doc	1/9/2003 9:23 PM	Microsoft Office ...	1,592 KB	1/9/2003 9:23 PM
Policy -34-Hours change.doc	1/9/2003 9:32 PM	Microsoft Office ...	1,591 KB	1/9/2003 9:32 PM
Policy -42-Sub Contracting.doc	1/9/2003 9:37 PM	Microsoft Office ...	1,591 KB	1/9/2003 9:37 PM

EXHIBIT “3”

POLICY -24-Control Person - Franchise contract amendment.doc Properties

- General
- Security
- Custom
- Details
- Acronis Recovery
- Previous Versions



24-Control Person - Franchise contract amendment.doc

Type of file: Microsoft Office Word 97 - 2003 Document (.doc)

Opens with: Microsoft Office Word Change...

Location: W:\1WP-WORD\Franchise Data\POLICY

Size: 80.5 KB (82,432 bytes)

Size on disk: 84.0 KB (86,016 bytes)

Created: Friday, February 07, 1997, 5:43:58 PM

Modified: Tuesday, August 12, 1997, 10:16:43 AM

Accessed: Saturday, November 12, 2016, 10:24:03 AM

Attributes: Read-only Hidden Advanced...

OK

Cancel

App

EXHIBIT “5”

Duties of a Notary Public

Duties of a Notary Public

Notaries are authorized by law to perform six basic duties:

- Administer oaths or affirmations
- Take acknowledgments
- Attest to photocopies of certain documents
- Solemnize marriage
- Verify vehicle identification numbers (VINs)
- Certify the contents of a safe-deposit box

Each of these duties is explained in detail in the following pages.



Understanding Oaths and Acknowledgments

The Governor’s Notary Section answers hundreds of telephone inquiries every week regarding the notary law and proper notarial procedures. In talking with notaries, it is surprising how many of them do not understand the basic act of “notarizing a signature.” Many incorrectly assume that they are just verifying identification and witnessing a signature. But, the act of notarization is much different.

When you notarize a signature, you must perform one of two official notarial acts: take an acknowledgment from or administer an oath (or affirmation) to the document signer. These two acts have different purposes. The lack of understanding of these basic duties causes confusion and often leads to errors in notarizations, even among the most experienced notaries.

To take an acknowledgment, the document signer must personally appear before you, the notary public, and declare that he or she has signed the document voluntarily. You should ensure that the signer understands the document and has not been coerced into signing. If there is any question about the signer’s willingness to execute the document or his or her understanding of the contents of the document, you should refuse to notarize and perhaps refer the person to an attorney for legal advice. You may want to ask the signer, “Do you acknowledge that this is your signature and that you are executing this document of your own free will?” If the answer is yes, you should then complete a certificate which states that the execution of the document was acknowledged by the signer. Documents typically requiring an acknowledgment include deeds, mortgages, contracts, and powers of attorney (except those pertaining to motor vehicle titles).

An oath or affirmation is administered to a document signer when the signer is required to make a sworn statement about certain facts. The signer personally appears before you to swear (or affirm) to you, an officer duly appointed to administer oaths, that the information contained in the document is true. A person who makes a false oath or affirmation is subject to criminal charges for perjury. Sworn statements are commonly used in affidavits, depositions, and applications.

A notarization requiring an oath begins with the administration of an oath or affirmation. The courts have held that there should be a verbal exchange between the notary and the document signer in which the signer indicates that he or she is taking an oath. An oath similar to one administered in court by a judge or bailiff would be sufficient. Or, you may simply ask, “Do you swear (or affirm) that the information contained in this document is true?” After receiving an affirmative answer, you must complete a proper notarial certificate indicating that an oath or affirmation was taken.

If the document you are asked to notarize contains a prepared notarial certificate, look for the key words “acknowledged” or “sworn to” to tell you which notarial act is required. If there is no notarial certificate on the document, the signer must direct you whether he or she wants to make an acknowledgment or take an oath. Unless you are an attorney, you are not authorized to advise a person which notarial act is appropriate for the document presented for notarization, and you may not advise the person about the contents of the document.

In order to correctly perform the duties of your office, you need to understand what it means to “notarize a signature” and the difference between the acknowledgment and the oath.

NOTE: The form certificates used when taking an acknowledgment or administering an oath are found in the notary law, section 117.05(13), Florida Statutes, and are reprinted on page 30.

Affidavits

An affidavit is a common form of sworn statement requiring an oath. Below is the standard form of affidavit. Please note that the affiant is the person making the sworn statement.

AFFIDAVIT

STATE OF FLORIDA COUNTY OF _____
Before me this day personally appeared _____ who, being duly sworn, (NAME OF AFFIANT) deposes and says:
(INSERT FACTS TO BE SWORN TO OR AFFIRMED BY THE AFFIANT)
<i>Signature of Affiant</i>
Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20____, by _____. (NAME OF AFFIANT)
Personally known _____ OR Produced Identification _____ Type of Identification Produced _____
(SEAL)
<i>Notary Signature</i> PRINT, TYPE OR STAMP NAME OF NOTARY

Depositions

A deposition is the testimony of a witness, under oath or affirmation, taken outside of court in which lawyers ask oral questions of the witness. The testimony is usually reduced to writing and duly authenticated and is intended to be used in a trial of a civil action or a criminal prosecution. The person giving the testimony is called the deponent.

Notaries are authorized to administer an oath for a deposition for use in a court case or an investigation. When administering the oath, the notary must require the deponent's physical presence and properly identify him or her. If the notary keeps a journal or record of notarial acts, the journal entry should be made at this point, including the deponent's signature. The notary would then administer the oath or affirmation, perhaps by having the deponent raise his or her right hand and asking:

"Do you swear (or affirm) that the testimony you are about to give in this matter is the truth, the whole truth, and nothing but the truth (so help you, God)?"

Once an affirmative answer is given, the deponent is now under oath, and the notary's responsibility is over.

Although depositions may be taken over the telephone, the deponent must be in the physical presence of the notary public, or other official authorized to administer oaths, at the time the oath or affirmation is given. There is no exception to the presence requirement, even if the attorneys for both parties stipulate otherwise. (See Attorney General Opinion, No. 92-95, December 23, 1992.) This means

that, if you are asked to swear in a person over the phone, you must decline. A notary, or other authorized official, would have to be present with the deponent for the administration of the oath or affirmation.

When asked to make a written certificate of the notarial act, we suggest that you make a certificate in substantially the form provided to the right.

You should also know that, as a notary public, you are not authorized to take a deposition. That is, you may not actively participate in questioning a witness who is giving a deposition in a criminal or civil proceeding. A Florida appellate court recently ruled that the taking of a deposition constitutes the practice of law under section 454.23, Florida Statutes. Notaries who are not licensed attorneys are prohibited from engaging in the practice of law and may be suspended from office by the Governor for such violation.

The referenced case involved two paralegals, one of whom was a notary public, who owned a business that performed paralegal functions. Neither was a licensed attorney, but both readily admitted their active participation in several depositions. In its opinion, the Court explained:

A deposition is an important, formal, recorded proceeding in which lawyers must observe the Florida rules of court and must rely on their legal training and skills to question witnesses effectively. The activities and services involved in participating in a deposition often implicate ethical questions and strategic considerations of the utmost importance. The effectiveness of the person deposing a witness can have a significant impact on whether objectionable information is identified and addressed or waived, whether a case is made, and how the evidence therefrom is used in any subsequent legal proceeding . . . Without a doubt, the process of directly examining or cross-examining a witness can affect important rights under the law . . . We conclude that, lacking adequate legal training, a nonattorney participating in the examination of a witness poses the very dangers of incompetent, unethical, or irresponsible representation . . . we hold that the nonlawyer appellees' active participation in questioning witnesses in depositions . . . constitutes the unauthorized practice of law in violation of section 454.23, Florida Statutes.

The notary involved has been denied a renewal appointment by the Governor's Office and both persons have pending criminal charges for the unlicensed practice law. Be careful that you do not overstep your authority when asked to swear in a person for a deposition. The unauthorized practice of law is a serious matter and one that is not taken lightly by the Governor's Office or the Court.

Note: For additional information on the court case, see *State v. Foster*, 674 So.2d 747 (Fla. 1st DCA 1996).

STATE OF FLORIDA
COUNTY OF _____

In my capacity as a Notary Public of the State of Florida, I certify that on the ____ day of _____, 20____, at (time) a.m./ p.m., (name of deponent) personally appeared before me and took an oath (or affirmation) for the purpose of giving testimony in the matter: _____.

Identification:

Personally Known _____

or Produced Identification _____

Type of Identification Produced _____

Notary Signature
PRINT, TYPE OR STAMP NAME OF NOTARY

(SEAL)

Attesting to Photocopies

In Florida, notaries are authorized to attest to the trueness of photocopies of certain documents. Although commonly known as certified photocopies, the notary law refers to these documents as attested photocopies. A notary public may make attested photocopies if the following criteria, found in section 117.05(12) of the Florida Statutes, are satisfied.

- The document must be an original document. A notary public cannot make an attested photocopy from a photocopy, or from another certified copy.
- The document cannot be a public record, certified copies of which are available from another public official. If a certified copy can be obtained from the official source, then the notary public should decline the request.
- The making of the photocopy must be supervised by the notary public. It is not sufficient for the notary public to compare the photocopy with the original document. The notary public must actually make the photocopy or supervise another person while he or she makes the photocopy.

After making (or supervising the making of) the photocopy, the notary should complete a notarial certificate in substantially the same form as prescribed by law.

This notarial certificate should be typed, stamped or written on the front or back of the photocopy or may be attached as a separate page.

One of the most often asked questions concerning attested photocopies is whether a particular document is a public record. Notaries must make a determination about this question before attesting to the trueness of any photocopy. The following documents are examples of public records, copies of which cannot be attested to by a notary:

- Birth certificate
- Marriage certificate
- Death certificate
- Certificate of citizenship or naturalization
- Documents filed in a court proceeding
- Documents recorded by the Clerk of the Court
- Public records maintained in government offices
- Student records (transcripts, etc.) kept in public education offices
- Federal or state income tax forms, already filed
- Professional licenses issued by the State of Florida
- Any document for which photocopying is prohibited

This is not a complete list of public records. If the document is issued by a government entity, the notary should contact that entity to determine whether a certified copy is available. If one is available, then the notary public must decline to make an attested photocopy. Additionally, the notary should ask the person if the document has been filed in a court proceeding or in the official records at the courthouse.

The following documents can be photocopied from the original (if not officially filed or recorded) and attested to by a notary, because certified copies cannot be obtained from another public official:

- | | | |
|----------------------------|------------------|-----------------------|
| ■ Florida driver's license | ■ Medical record | ■ Lease |
| ■ Florida vehicle title | ■ U.S. passport | ■ Resident alien card |
| ■ Social Security card | ■ Bill of sale | ■ Personal letter |
| ■ Diploma | ■ Contract | |

The maximum fee a notary may charge for making an attested photocopy is \$10.

STATE OF FLORIDA COUNTY OF _____	
On this _____ day of _____, 20____, I attest that the preceding or attached document is a true, exact, complete, and unaltered photocopy made by me of _____(DESCRIPTION OF DOCUMENT)____ presented to me by the document's custodian, _____ _____, and, to the best of my knowledge, that the photocopied document is neither a public record nor a publicly recordable document, certified copies of which are available from an official source other than a notary public.	
(SEAL)	<i>Notary Signature</i> PRINT, TYPE OR STAMP NAME OF NOTARY



Solemnizing Marriage

Florida is one of only three states which authorize notaries public to perform marriage ceremonies. The following guidelines should be helpful.

Procedure

- The couple must obtain a valid Florida marriage license from a county court judge or clerk of the circuit court and present it to the notary public before the marriage ceremony.
- The notary public performs the marriage ceremony. An example of a simple, civil ceremony is printed below. It may be personalized, and the bride and groom may even exchange their own vows. But, the couple's vows must reflect their intentions to make a legally binding commitment to each other.
- The notary public is responsible for making a certificate on the appropriate portion of the marriage license and returning it to the office of the county court judge or clerk of the circuit court which issued the license within 10 days after solemnizing the marriage. § 741.08, Fla. Stat.

General Information

- A Florida notary public may perform a marriage ceremony only within the geographical boundaries of this state.
- A notary public may charge up to \$20 for solemnizing the rites of matrimony. §§ 117.045 & 28.24 (29), Fla. Stat.
- A notary public may perform a marriage ceremony for a person who is related to him or her by blood or marriage. The prohibition against notarizing the signature of a spouse, son, daughter, mother, or father does not apply because the notary is not notarizing the signature of the bride and groom, but is only certifying that the couple have been joined in marriage by the notary according to the laws of the State of Florida. Op. Att'y Gen. Fla. 91-70 (1991).
- The notary should check the expiration date of the license to ensure that the license is still valid. The notary should also require identification if the bride and groom are not personally known.
- It is recommended that two witnesses, other than the notary, sign the marriage certificate in the event that proof of the marriage ceremony is necessary in the future.

Additional information about solemnizing marriage is located in the Q&A section on pages 52-53.



Sample Ceremony

Notary states, "Dearly beloved, we are gathered here today (tonight) to join this man and this woman in (holy) matrimony."

Exchange of Vows

Notary asks the man, "(his name), do you take this woman to be your wife, to live together in (holy) matrimony, to love, honor, comfort her and keep her in sickness and in health, and forsaking all others, for as long as you both shall live?"

Man answers, "I do."

Notary asks the woman, "(her name), do you take this man to be your husband, to live together in (holy) matrimony, to love, honor, comfort him and keep him in sickness and in health, and forsaking all others, for as long as you both shall live?"

Woman answers, "I do."

Notary states, "Repeat after me:"

To the man: "I, (his name), take you (her name), to be my wife, to have and to hold from this day forward, for better, for worse, for richer, for poorer, in sickness and in health, to love and to cherish, till death do us part."

To the woman: "I, (her name), take you (his name), to be my husband, to have and to hold from this day forward, for better for worse, for richer for poorer, in sickness and in health, to love and to cherish, till death do us part."

Exchange of Rings

Notary asks the man to place the ring on the woman's finger and to repeat the following, "I give you this ring as a token and pledge of our constant faith and abiding love." (Repeat the same for the woman).

Pronouncement

Notary asks the couple to join hands, then declares, "By virtue of the authority vested in me under the laws of the State of Florida, I now pronounce you husband and wife. The bride and groom may now kiss."

Verifying a VIN

Florida law requires that, when applying for a Florida title for the first time on a used motor vehicle, the owner must sign a sworn statement that the vehicle identification number (VIN) and the odometer reading on the vehicle are correct.

Additionally, a physical inspection of the vehicle must be done by an authorized person to certify the VIN. Notaries public are included in the list of persons authorized to certify this information. § 319.23(3)(a)(2), Fla. Stat.

A form prepared by the Department of Highway Safety and Motor Vehicles, HSMV 82042 (Rev. 5/95)S, is used for this purpose.

Part A requires the owner's sworn statement regarding the correct VIN and odometer reading. A jurat, or notarial certificate, is provided in this section. The notary should make sure that the information in Part A is complete prior to the notarization.

Part B requires the notary public, or other authorized person, to certify that he or she has physically inspected the vehicle and found the VIN to be identical to the number recorded on the form. The notary public must include the date, sign the document, print his or her name, and affix his or her notary seal.



**STATE OF FLORIDA
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES
DIVISION OF MOTOR VEHICLES
Neil Kirkman Building — Tallahassee, FL 32399-0500
VEHICLE IDENTIFICATION NUMBER AND ODOMETER VERIFICATION**

PART A — OWNER'S VEHICLE IDENTIFICATION AFFIDAVIT AND ODOMETER DECLARATION
(Completion of this part requires a physical inspection of the vehicle by the owner.)

AFFIDAVIT:

DATE _____

This is to certify that I, the undersigned, am the lawful owner of the motor vehicle described on this form and that I have, on the date entered above, made a physical inspection of the motor vehicle and have recorded the vehicle identification number and other identification information and the odometer reading and certification in the spaces provided on this form.

VEHICLE IDENTIFICATION (MOTOR NUMBER ALL MAKES THROUGH 1954 — IDENTIFICATION NUMBER 1955 AND LATER.)

Vehicle Identification Number	Year	Make	Model	Body	Previous State of Title

ODOMETER DECLARATION

WARNING: Florida law requires that you state the mileage in connection with an application for a Certificate of Title. Providing a false statement may result in fines or imprisonment.

I STATE THAT THIS MOTOR VEHICLE'S 5 DIGIT OR 6 DIGIT ODOMETER NOW READS _____, _____ (NO TENTHS) MILES, DATE READ _____ AND TO THE BEST OF MY KNOWLEDGE IT REFLECTS THE ACTUAL MILEAGE OF THE VEHICLE DESCRIBED ON THIS DOCUMENT UNLESS ONE OF THE FOLLOWING IS CHECKED:

CAUTION: DO NOT CHECK IF ACTUAL MILEAGE

1. **IN EXCESS OF ITS MECHANICAL LIMITS.** I HEREBY CERTIFY THAT, TO THE BEST OF MY KNOWLEDGE, THE ODOMETER READING REFLECTS THE AMOUNT OF MILEAGE IN EXCESS OF ITS MECHANICAL LIMITS.

2. **NOT THE ACTUAL MILEAGE.** I HEREBY CERTIFY THAT THE ODOMETER READING IS NOT THE ACTUAL MILEAGE. **WARNING - ODOMETER DISCREPANCY.**

OWNER'S SIGNATURE AND PRINTED NAME (ONLY ONE SIGNATURE REQUIRED FOR MULTIPLE OWNERS)

(Owner's Signature) _____ (Owner's Printed Name)

NOTARIZATION:

Sworn to (or affirmed) and subscribed before me this _____ day, _____, 19____, by _____ (Name of Person Making Statement)

(Signature of Notary Public) State of _____

(Print, Type or Stamp Commissioned Name of Notary Public)

Personally Known OR Produced Identification Type of Identification Produced: _____ (SEAL)

PART B — VERIFICATION OF VEHICLE IDENTIFICATION
(Completion of this part requires a physical inspection of the above described motor vehicle by a licensed Florida Dealer, Florida Notary Public, Police Officer or Division of Motor Vehicles Inspector completing the verification of the vehicle identification number.)

I, the undersigned, certify that I have physically inspected the above described vehicle and find that the vehicle identification number on the vehicle to be identical to the vehicle identification number recorded on this form.

Date: _____ FLORIDA NOTARY SEAL

Signature: _____ Printed Name: _____

Any Law Enforcement Officer _____ Badge Number _____

Florida Dealer License Number _____

Florida Compliance Examiner / Inspector Badge or ID Number _____

NOTICE: ANY ALTERATION OR ERASURE MAY VOID THIS DOCUMENT

HSMV 82042 (Rev. 5/95) S

This VIN verification form is also found on the Application for Certificate of Title With/Without Registration, HSMV 82040 (Rev. 5/96)S. These forms and all other forms related to vehicle registration are available from the tag office of the Tax Collector's Office in each county.

Certifying the Contents of a Safe-Deposit Box

Florida law provides that a financial institution may open a safe-deposit box if the rental fee is past due, providing that proper notice has been made and that certain other conditions are met. A notary public is authorized and required to be present for the opening of the safe-deposit box, to inventory the contents of the vault, and to make an appropriate certificate of the opening. The notary is not required to estimate the value of the contents of the safe-deposit box.

As with other notarial acts, the maximum fee a notary may charge for performing the authorized duties at the opening of a safe-deposit box is \$10.

The law authorizing notaries to perform this function became effective on July 3, 1992, and is found in section 655.94(1), Florida Statutes.

Procedure for the Notary Public

- The notary must be present at the time the safe-deposit box is opened and may not be a director, officer, employee, or stockholder of the financial institution. An officer of the institution must also be present with the notary at the opening of the safe-deposit box.
- When the safe-deposit box is opened, the notary should inventory the contents of the box and should complete a certificate reciting the name of the lessee, the date of the opening, and a list of the contents. Florida law does not provide a form certificate; however, the following form, prepared by the Notary Section, should be sufficient.
- Once the certificate is completed, copies should be made. The notary should place the original certificate in a package with the contents of the safe-deposit box and seal the package. The notary must then write on the outside of the package the name of the lessee and the date of the opening.
- The notary should leave the sealed package and a copy of the certificate with the financial institution.
- If the notary keeps a record book or journal of notarial acts, details of the act should be recorded. It may be a good idea to require the person opening the box, the officer of the institution, and any other witness to sign the journal as well.

STATE OF FLORIDA

COUNTY OF _____

On the ___ day of _____, 20___, safe-deposit box number _____ rented in the name of _____ was opened by _____ (name of financial institution) in my presence and in the presence of _____ (name of officer)_____. The contents of the box consisted of the following:

(List contents here.)

(SEAL)

Notary Public

(PRINT, TYPE OR STAMP NAME OF NOTARY)

Signature

(PRINT OR TYPE NAME OF PERSON OPENING BOX)

Signature

(PRINT OR TYPE NAME OF OFFICER OF FINANCIAL INSTITUTION)

Prohibited Acts for Notaries

From Chapter 117, Florida Statutes

A notary public may not notarize a signature on a document if:

- The person whose signature is being notarized is not in the presence of the notary at the time the signature is notarized. §117.107(9).
- The document is incomplete. §117.107(10).
- The notary public actually knows that the person signing the document has been adjudicated mentally incapacitated. §117.107(4).
- The person whose signature is to be notarized is the spouse, son, daughter, mother, or father of the notary public. §117.107(11).
- The notary public has a financial interest in or is a party to the underlying transaction. §117.107(12).



Also, a notary public may not:

- Give legal advice, unless the notary public is a licensed attorney. §117.01(4)(f).
- Take an acknowledgment of execution in lieu of an oath if an oath is required. §117.03.
- Obtain or use a notary commission in a name other than his or her legal name. §117.05(1).
- Notarize his or her own signature. §117.05(1).
- Charge more than \$10 for any one notarial act or more than \$20 for solemnizing the rites of matrimony. §§117.05(2), 117.045, 28.24(29), & 839.11.
- Notarize a signature on a document unless the notary personally knows the signer or has satisfactory evidence of identification. §117.05(5).
- Act as a notary public after his or her commission has expired. §117.05(8).
- Translate the phrase “Notary Public” into a language other than English in an advertisement for notarial services. §117.05(11).
- Attest to the trueness of a photocopy of a public record if a copy can be made by another public official. §117.05(12)(a).
- Use a name or initial in signing certificates other than that by which the notary public is commissioned. §117.107(1).
- Sign a blank form of affidavit or certificate of acknowledgment. §117.107(3).
- Take the acknowledgment of a person who is blind until the notary public has read the instrument to such person. §117.05(14)(a).
- Take the acknowledgment of a person who does not speak or understand the English language, unless the nature and effect of the instrument to be notarized is translated into a language which the person does understand. §117.107(6).
- Change anything in a written instrument after it has been signed by anyone. §117.107(7).
- Notarize a signature on a document if it appears that the person is mentally incapable of understanding the nature and effect of the document at the time of notarization. §117.107(5).

Penalties for Violations

Grounds for Suspension

The State Constitution authorizes the Governor to suspend a notary public from office for “malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform his official duties, or commission of a felony.” s.7, Art. IV, Fla. Const.

Subsection 117.01(4) of the Florida Statutes provides:

The Governor may suspend a notary public for any of the grounds provided in s. 7, Art. IV of the State Constitution. Grounds constituting malfeasance, misfeasance, or neglect of duty include, but are not limited to, the following:

- (a) A material false statement on the application.
- (b) A complaint found to have merit by the Governor.
- (c) Failure to cooperate or respond to an investigation by the Governor’s Office or the Department of State regarding a complaint.
- (d) Official misconduct as defined in s. 839.25.
- (e) False or misleading advertising relating to notary public services.
- (f) Unauthorized practice of law.
- (g) Failure to report a change in business or home address or telephone number within the specified period of time.
- (h) Commission of fraud, misrepresentation or any intentional violation of Chapter 117.
- (i) Charging fees in excess of fees authorized by Chapter 117.
- (j) Failure to maintain the bond required.

Civil Penalty

Section 117.107(9) of the Florida Statutes provides in part:

A notary public may not notarize a signature on a document if:

The person whose signature is being notarized is not in the presence of the notary public at the time the signature is notarized. Any notary public who violates this paragraph is guilty of a civil infraction, punishable by penalty not exceeding \$5,000, and that conduct constitutes malfeasance and misfeasance in the conduct of official duties. It is no defense to the civil infraction specified in this paragraph that the notary public acted without intent to defraud. A notary public who violates this paragraph with the intent to defraud is guilty of violating s.117.105.

Criminal Penalties

- No person shall obtain or use a notary public commission in other than his legal name, and it is unlawful for a notary public to notarize his own signature. Any person applying for a notary public commission must submit proof of his identity to the Department of State if so requested. Any person who violates the provisions of this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082 s 775.083, or s. 775.084. § 117.05(1).
- Any person who acts as or otherwise willfully impersonates a notary public while not lawfully appointed and commissioned to perform notarial acts is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. § 117.05(7).
- Any person who unlawfully possesses a notary public official seal or any papers or copies relating to notarial acts is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. § 117.05(3)(e).
- Any notary public who knowingly acts as a notary public after his commission has expired is guilty of a misdemeanor of the second degree, punishable in s. 775.082 or s. 775.083. § 117.05(8).
- A notary public who falsely or fraudulently takes an acknowledgment of an instrument as a notary public or who falsely or fraudulently makes a certificate as a notary public or who falsely takes or receives an acknowledgment of the signature on a written instrument is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s.775.084. §117.105.

Other Prohibited Acts

- Do not notarize a photograph (*see next article*).
- Do not notarize a copy of a birth certificate, or any other vital record or public record (*see page 15*).
- Do not certify a translation of a document from one language into another. (*see page 64 for correct procedure*)
- Do not provide signature guarantees. This duty is usually performed by officials in the banking and securities industry.
- Do not certify the authenticity of objects, such as art or sports memorabilia.
- Do not judge contests or certify contest results.
- Do not certify a person's residency or citizenship status.
- Do not prepare legal documents, or immigration papers, unless you are an attorney licensed to practice in Florida.



Don't Notarize Photographs

Occasionally, you may be asked to “notarize” a photograph. Please be aware that certifying or notarizing photographs is not an authorized notarial act under Florida law.

You may, however, notarize a person's signature on a written statement concerning the photograph. For example, if John Doe wants to certify that the person in a particular photograph is John Doe, he could sign a sworn written statement stating that the photograph is of John Doe. You could then notarize his signature on that statement in the same way that you notarize any sworn written statement. His statement could be made on the back of the photograph or on a separate paper to be attached to the photograph.

Keep in mind that you should not certify or attest that the person in the photograph is John Doe. Rather, you should certify that the statement concerning the photograph was signed and sworn to in your presence by John Doe. This is accomplished by using the standard notarial certificate (jurat) provided in the Florida Statutes for oaths. Remember, you should never apply your notary seal to and sign any document without completing a proper notarial certificate.

Don't Provide Certified Copies of Birth Certificates

The Notary Section continues to receive numerous inquiries about certifying copies of birth certificates. A notary public may NOT make a certified photocopy of a birth certificate, whether it was issued in Florida, another state, or a foreign country. Birth certificates are official records and certified copies may be obtained from the public official who is the custodian of the records.

The typical problem arises when a person is leaving the country within a few days and is required by his or her travel agency to have a "notarized" birth certificate. The word "notarized" immediately sends the person to a notary public. Actually, a person should obtain a "certified" copy of his or her birth certificate, rather than a "notarized" copy. Notaries should decline to certify or notarize these documents for two reasons.



First, a notary public may not attest to the trueness of a photocopy of a public record if a copy can be made by another public official. The Florida Department of Health retains vital records such as birth certificates, death certificates, marriage licenses, and certain divorce records. The Department produces certified copies of these documents when requested by an authorized person.

Second, a notary public may only attest to the trueness of a photocopy of an original document. Most people do not possess their original birth certificate; they only have a certified copy.

Additionally, Florida law prohibits even the photocopying of birth certificates. This would eliminate the alternative procedure of attaching an affidavit to a photocopy of a birth certificate in which a party swears that the photocopy is a true copy of the birth certificate.

Officials at the Bureau of Vital Statistics in Jacksonville, where Florida vital records are housed, report that birth certificates and other vital records are available from their office and may be available for the last 30 years from the county health department in most counties in Florida. The Jacksonville office takes orders by telephone using a major credit card for payment and even offers express or overnight delivery for an additional fee. It is best, of course, to request such records in writing allowing 2-3 weeks for delivery.

If you are requested to make a certified copy of a birth certificate, or other vital record, please decline and refer the party to the public office holding that record. If the document is a Florida vital record, the party may go to the county health department or write to:

**Department of Health
Bureau of Vital Statistics
Vital Records Section
1217 Pearl Street
Jacksonville, Florida 32202**

For telephone orders or additional information, the party may call the Jacksonville office at (904) 359-6931 or (904) 359-6912.

Don't Notarize Blank Documents

Apparently, it is a common practice for people to sign a blank power of attorney form to facilitate the sale of a motor vehicle. Notaries should be careful not to notarize incomplete documents.

Many notarized blank forms have been found at car dealerships by DMV investigators and are often presented to officials at U.S. Customs in Miami. According to officials at these agencies, incomplete forms will not be accepted, and if notarized, they will be presented to the State Attorney's Office and to the Governor's Office for investigation and appropriate action.

EXHIBIT “6”



Department Menu ▼

Commissioned Notaries Public

Name	Birth Date	Notary ID	Commission	Expire Date	Bnd Agy ID	Address
Priddy, James M.	10/20/XX	733634	CC 519098	12/18/99	OLD REPUBLIC	Ocala, FL 34472
Priddy III, James C	10/1/XX	443946	FF 20489	08/26/17	NNAF	Palm Bch Gardens, FL 33410-0000

2 Record(s) Selected

[\[Department of State\]](#) [\[Division of Elections\]](#) [\[Elections Online\]](#)

Department of State
Division of Corporations
Notary Commissions
P.O. Box 6327
Tallahassee, FL. 32314



Department Menu ▼

Commission Detail

Notary ID:	443946
Last Name:	Priddy III
First Name:	James
Middle Name:	C
Birth Date:	10/1/XX
Transaction Type:	REN
Certificate:	FF 20489
Status:	ACT
Issue Date:	08/27/13
Expire Date:	08/26/17
Bonding Agency:	National Notary Association - Florida
Mailing Address:	Palm Bch Gardens, FL 33410-0000

[\[Department of State\]](#) [\[Notary Public Access System\]](#) [\[Email Us\]](#)

Florida Department of State Division of Corporations
P.O. Box 6327
Tallahassee, FL. 32314
Phone (850) 245-6945