

COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, SS. SUPERIOR COURT DEPARTMENT
JOHNSON GOLF MANAGEMENT, INC.,
Plaintiff,

V. C.A. NO.: MICV2008-04641

TOWN OF DUXBURY, and NORTH
HILL ADVISORY COMMITTEE,
consisting of MICHAEL
DOOLIN, CHAIRMAN, SCOTT
WHITCOMB, ROBERT M.
MUSTARD, JR., MICHAEL
MARLBOROUGH, ANTHONY
FLOREANO, MICHAEL T. RUFO,
THOMAS K. GARRITY,
RICHARD MANNING,
W. JAMES FORD, AND GORDON
CUSHING (EX OFFICIO),
CALM GOLF, INC., CHARLES
LANZETTA,
Defendants.

~~~~~

DEPOSITION OF DOUGLAS JOHNSON, taken on  
behalf of the Defendant, pursuant to the applicable  
provisions of the Massachusetts Rules of Civil  
Procedure, before Jennifer M. Rapoza, Professional  
Shorthand Reporter and Notary Public within and for  
the Commonwealth of Massachusetts, at the offices of  
Brody, Hardoon, Perkins & Kesten, LLP, One Exeter  
Plaza, Boston, Massachusetts 02116, on August 1,  
2012, at 10:52 a.m., as follows:

1 APPEARANCES:  
2

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## ALSO PRESENT:

JASON LARAMEE

PAUL CHERNOFF

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## DEPOSITION OF DOUGLAS JOHNSON

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1 DEPOSITION OF DOUGLAS JOHNSON

2 AUGUST 1, 2012

3 PROCEEDINGS:

4 (Exhibit-1, Audited Financial  
5 Statements and Supplementary Information, Years Ended  
6 September 30, 2006 and 2005; Exhibit-2, Independent  
7 Auditors' Report on Supplemental information;  
8 Exhibit-3, Audited Financial Statements and  
9 Supplementary Information, Years Ended September 30,  
10 2008 and 2007; Exhibit-4, Audited Financial Statements  
11 and Supplementary Information, Years Ended  
12 September 30, 2009 and 2008, marked for  
13 identification).

14 MR. KESTEN: Shall we reserve all  
15 objections, except as to form, as well as motions to  
16 -- I've lost it -- the usual stipulations?

17 MR. FOLLANSBEE: Yes. Those are  
18 fine.

19 MR. KESTEN: How about reading and  
20 signing?

21 MR. FOLLANSBEE: 30 days, waive the  
22 notary.

23 DOUGLAS JOHNSON, the deponent, having  
24 been satisfactorily identified and duly sworn by the

1 Notary Public, was examined and testified as follows:

2 EXAMINATION

3 BY MR. KESTEN:

4 Q. So I figured I'd just let you talk and go  
5 outside and get some coffee and you talk for the next  
6 couple of hours.

7 A. I don't have much to say.

8 Q. State your name for the record.

9 A. Douglas W. Johnson.

10 Q. What's your date of birth?

11 A. October 3rd, 1950.

12 Q. Where were you born?

13 A. Attleboro, Massachusetts.

14 Q. What's your educational background?

15 A. Graduate of Attleboro High School graduate  
16 of UMass Amherst.

17 Q. What year did you graduate UMass?

18 A. 1972.

19 Q. What'd you do after that? Walk us through  
20 your professions to the present.

21 A. I worked at Westchester Country Club in New  
22 York, Rye, New York.

23 Q. When'd you start?

24 A. 19 -- my last year of college -- '71 I

1 believe. I was a summer intern. Upon graduation, I  
2 went back there worked there till 1975.

3 Q. What'd you do there?

4 A. Assistant golf course superintendent.

5 Q. Which meant what? What'd you do?

6 A. I worked directly under the golf course  
7 superintendent.

8 Q. How'd you get interested in that right away?

9 A. Well, I spent a lot of time in sports as a  
10 kid played everything, football, basketball, baseball,  
11 golf, took up golf when I was ten years old and spend  
12 most of my life on a golf course now pretty much.

13 So I was interested in sports wanted to stay  
14 in sports so golf was the way to do it, so I -- upon  
15 graduation I stayed in -- I've been in golf since  
16 then.

17 Q. All right. So you were in Westchester as  
18 the assistant superintendent?

19 A. Correct.

20 Q. Until 70 what?

21 A. Seventy-five where I moved to Framingham. I  
22 got the head superintendent's position at Framingham  
23 Country Club private golf course.

24 Q. What years were you there?

1           A.     Seventy-five to '79 or maybe '78, yeah, '78,  
2           and then I moved to another superintendent's job in  
3           Coventry, Rhode Island. What was the name of the  
4           place? I was only there for one year, but...

5                         (Brief interruption).

6           Q.     Yeah. You were there for one year. Was it  
7           a private club?

8           A.     Private, correct.

9           Q.     And what were you there, the head  
10          superintendent?

11          A.     Head superintendent, they offered me the job  
12          there so I went -- I went there and then I left in  
13          1980 for Pine Brook Country Club in Weston.

14          Q.     So you were at Coventry, Rhode Island for  
15          one year you said?

16          A.     One year, I'm trying to remember the name of  
17          the -- I can't remember the name of the course.

18          Q.     That gets us in '79?

19          A.     Right.

20          Q.     And then it was in 1980 you went to pine --

21          A.     1980 I went to Pine Brook in Weston.

22          Q.     Pine Brook.

23          A.     Pine Brook in Weston.

24          Q.     As?

1           A.    A golf course superintendent property  
2 manager.

3           Q.    Then what?

4           A.    Stayed there till '89 and then I formed my  
5 own company. I decided that at that age I was looking  
6 to forward myself more and I think I had met the end  
7 of the road with being a golf course superintendent.

8                   I was at the top of my field. I was the  
9 highest paid superintendent in New England from the  
10 time I was I think about 28 or 30 years old so I  
11 decided to start my own company.

12          Q.    Did you work directly for the golf course in  
13 Pine Brook?

14          A.    Yes.

15          Q.    So they had their own --

16          A.    For the members board of directors.

17          Q.    And the company's name was Johnson Golf?

18          A.    It started out as Johnson Turf and Golf  
19 Management.

20          Q.    And is it a -- was it a corporation?

21          A.    A corporation in Massachusetts, correct.

22          Q.    How long was it Johnson Turf and Golf  
23 Management?

24          A.    I think we changed the name to just Johnson



1 Golf in 2003 or four.

2 Q. Who were the principals of Johnson Turf and  
3 Golf when you formed it?

4 A. Just myself.

5 Q. Solely owned?

6 A. Correct.

7 Q. How about when you changed the name?

8 A. Still the same I think, yeah, yeah.

9 Q. So what does Johnson Turf and Golf  
10 Management do to get business to make money for  
11 Johnson?

12 A. Well, that's why when I started it was  
13 Johnson Turf and Golf because I wasn't sure whether I  
14 was going to be able to just do golf courses.

15 I thought we may be able to get into the  
16 turf doing athletic fields doing that stuff too and  
17 other stuff.

18 We looked for business, and I did -- in 1989  
19 I got a contract working for New Hampshire. There  
20 were two banks, New Hampshire Savings, Bank of New  
21 Hampshire for Sky Meadow Country Club in Nashua, New  
22 Hampshire which was the bank property that was under  
23 the care of both banks.

24 They were trying to sell it, and at the time

1 about a \$35 million project with the golf course,  
2 condos, housing so they hired me to operate the place.

3 Q. So that was your first contract?

4 A. Correct.

5 Q. How long was the contract for?

6 A. I had eight one-year contracts.

7 Q. So --

8 A. Until '96.

9 Q. So you're like Walter Eldredge?

10 A. Pretty much, yeah.

11 Q. It's a baseball reference.

12 MR. FOLLANSBEE: I got it. Did  
13 Nina get it, though?

14 MS. COOK: Happily did not get it.

15 Q. Well, we're discussing contracts, one-year  
16 contracts. So it was one-year contracts. You did it  
17 for eight years?

18 A. Correct.

19 Q. When is the first time you got another  
20 contract?

21 A. I believe it was 1990. 1990 or '91 South  
22 Shore Country Club in Hingham.

23 Q. Is that a private club?

24 A. No, public municipal city -- town owned.

1 Q. Owned by Hingham?

2 A. Correct.

3 Q. And was that through a bidding process?

4 A. Yes.

5 Q. Was that the first time you've done that?

6 A. No. I think I had bid -- I actually think I  
7 bid Hingham the first time, like, in '88 when I was  
8 still working at Pine Brook 'cause I remember I didn't  
9 qualify.

10 But they were very nice about it when they  
11 told me I didn't meet the qualifications, and I  
12 understood why. And I remember one of the guys on the  
13 committee saying we admire your aggressiveness or  
14 something like that, but you don't qualify. They  
15 interviewed me, and I said I understand.

16 So that's when I -- I think I -- after that  
17 I think it was in either '87 or '88, that's when I  
18 pretty much had this thing of starting my own business  
19 back then a couple years before I went to Pine Brook.

20 Q. So the first time you ever bid on a public  
21 project was Hingham in '88 or thereabouts you think?

22 A. Correct, yeah, yeah.

23 Q. And when was the second time, the time you  
24 got it?

1           A.    I would say that was -- probably the second  
2           time was in '90, yeah, I would say, yeah, 'cause I  
3           knew then that I had to meet criteria to qualify and I  
4           had that criteria from getting Sky Meadow in '89, so I  
5           knew then when I bid on that, I would probably meet  
6           criteria as long as it was worded the right way.

7           Q.    How long was the contract with South Shore?

8           A.    I think the first one was only three years.  
9           I think it might have been a three-year contract with  
10          a two-year option at the town's right to exercise.

11          Q.    And did they?

12          A.    Yes.

13          Q.    Did you bid again or did it go out to a bid  
14          in -- what? was it '96?

15          A.    Yes, somewhere in there, correct, yeah.

16          Q.    And did you get it?

17          A.    Yes, we did.

18          Q.    For how long?

19          A.    I think it was the same type of deal three  
20          and two.

21          Q.    And did you stay there for that time?

22          A.    Yes.

23          Q.    And then?

24          A.    Bid it again and got it again.

1 Q. And that takes us to around 2006, 2007?

2 A. Yeah, yeah.

3 Q. And then?

4 A. No bid anymore, the town decided to run the  
5 golf course on their own. People had changed the  
6 feeling of -- of different people getting into power,  
7 they went their own way and decided not to even bid it  
8 out.

9 Q. So that was around 2006?

10 A. Correct.

11 Q. What's the next piece of business that  
12 Johnson Turf or Johnson Golf got?

13 A. Ninety-one a privately owned course but  
14 public, Locust Valley in my hometown of Attleboro.

15 Q. So was that bid?

16 A. It wasn't a public bid. I think Howard  
17 Fafared owned the property at the time I think he --  
18 if I remember, he entertained different proposals, but  
19 he accepted ours.

20 Q. So it wasn't a public bidding process?

21 A. No, no.

22 Q. And how long was that contract?

23 A. We were there for six years. I don't think  
24 the contract was six years. I'm going to say it might

1 have been a year-to-year deal too, but we ended up  
2 staying there for six years till I think it was '96 or  
3 seven, somewhere in there.

4 Q. And what happened there?

5 A. He decided to sell the property and he --  
6 actually, I think he -- I think the bank -- not the  
7 bank but somebody sold it, the RTC or someone was  
8 involved.

9 They decided to have a -- what do they call  
10 that -- a -- an action. The closed bid auction or --  
11 where you put a bid in a -- they had different bidders  
12 to buy the course. We were one of them and we didn't  
13 get it.

14 Q. So as of '96 you were or -- seven you were  
15 out of there?

16 A. Correct.

17 Q. What's the next one that you either bid on  
18 or got?

19 A. Well, Shaker Hills would be in ninety -- I  
20 believe in '93 I was hired as a consultant there.

21 Q. Where's Shaker Hills?

22 A. Shaker Hills is in Harvard, Mass.

23 Q. In Harvard?

24 A. Yeah, yes, yes.

1 Q. So you -- is Shaker Hills a private course?

2 A. Privately owned but public, high-end public  
3 golf course. That course was built in ninety, I  
4 think, two. They had a lot of issues.

5 I was recommended by a golf course architect  
6 who was the architect at the place to help them  
7 along. They had some terrible turf conditions.

8 Q. Who's that?

9 A. Brian Silva, Cornish and Silva.

10 Q. So you were recommended to help them with  
11 the turf, the grass?

12 A. Yeah. He recommended me to help the owners  
13 bring the place in, which we did, and then we were  
14 hired the year after that just for maintenance.

15 Q. That was '94?

16 A. Right. I think '94 we did the maintenance.  
17 And the course was -- the course actually had a rating  
18 in Golf Digest as -- did -- did I forget to mention  
19 Sky Meadow was voted in 19 -- I believe it was '91 we  
20 -- the best new public golf course in New Hampshire,  
21 and we grew in the final nine holes and opened it as  
22 an 18-hole golf course.

23 Q. How long did you work in Shaker Hills?

24 A. Just for that next year 'cause that was the

1 deal. At the time I was growing my business and I had  
2 a lot going on and I told the owners -- I said, "I'm  
3 not going to spend as much time here. I don't want to  
4 do that, but I'll set you up." So I actually set them  
5 up with staff that were some of my employees that did  
6 stay on there.

7 Q. Then what?

8 A. Probably a couple things I forgot about  
9 too. I know I was hired at the time in Burlington  
10 BankFive I think in 1990 and '91 to oversee another  
11 bank golf course in that area up in Frankestown, New  
12 Hampshire.

13 I'm trying to remember the name. It was  
14 around -- it was near Crotched Mountain, but I can't  
15 remember the name -- Tory Park. So I was hired by  
16 that bank somewhere in '90. I think I did that a  
17 couple years for BankFive.

18 As I said, then getting to '94, I think '94  
19 was the first time -- I think it was '94 that I bid on  
20 Duxbury, on North Hill in Duxbury.

21 Q. Who -- did you have any consultants or  
22 anyone helping you prepare bid documents?

23 A. No. I pretty much learned the hard way.

24 Q. You're learning.



1 A. There you go.

2 Q. So you bid on Duxbury in '94?

3 A. I believe it was either -- I think it was  
4 '94 the first time, but it might have been '91 'cause  
5 I'm still -- after listening to Cushing he said he  
6 started in '95. I thought it was '96, but it was in  
7 that area, but I did it once before we got it.

8 Q. So you bid on Duxbury and how far did you  
9 get?

10 A. Okay. We won the bid.

11 Q. Meaning?

12 A. We were qualified. We were the highest  
13 qualified bidder. It became a big thing in the town  
14 where the Gunnarson brothers were operating it at the  
15 time who were local people from Duxbury. When they  
16 awarded the bid to them, I -- I was somewhat -- I was  
17 upset so I contacted the inspector general's office.

18 Q. You say you won the bid. In your opinion,  
19 you won the bid?

20 A. Well, if you go by the specs that they  
21 write, we were qualified and we had the best money  
22 bid. I think at the time we offered them -- the  
23 group -- that group was paying them, like, 10,000 a  
24 year at the time. They raised their bid to 20 for

1       their proposal.

2               We were offering to give the town \$50,000  
3       which at that time was -- what? 400 percent, 500  
4       percent more than what they were getting before, but  
5       they still decided to award it to the Duxbury -- to  
6       the Gunnarsons.

7           Q.     Who was the procurement officer?

8           A.     A guy by the name of Thomas Groux.

9           Q.     Can you spell the last name?

10          A.     I think G-R-I-O-U-X (sic).

11          Q.     It sounds right but it doesn't mean --

12          A.     I might be wrong.

13          Q.     I know. According to him. Town has secured  
14       the procurement officer. So what did you do as a  
15       result -- what'd you do once you found out that they  
16       got it and you didn't?

17          A.     Called the inspector general's office, I  
18       told them what had happened and I said, "I would like  
19       you to investigate the process," which they did do.

20          Q.     How do you know?

21          A.     The IG's office came back and made them  
22       rebid it the next year and they asked me if it was  
23       acceptable at the time, and I don't -- I didn't have  
24       any lawyers then. I was -- I didn't realize that I

1 would need to get lawyers bidding golf courses, but I  
2 learned fast that's what I had to do.

3 Q. So the IG's office called somebody -- the  
4 IG's office called you?

5 A. Called me and told me what they did is they  
6 have instructed them to rebid the process the fall of  
7 that year or actually in the summer of that year and  
8 they would reaccept bids for the next year.

9 I remember in the town, though, too there  
10 was also -- when this was going on they had a public  
11 hearing, which I didn't go to, but one of my -- my  
12 main guy Joe Eckstrom did attend.

13 And there was a big -- it was like a show  
14 where people got up and spoke on behalf of Gunnarson  
15 and why they needed to keep them in town and they're  
16 great and, you know.

17 And then one of the selectmen made the  
18 statement publicly that perhaps this guy Johnson  
19 doesn't know what he's doing. He offered us too much  
20 money. That was the one that I could never forget in  
21 all my years.

22 Q. And you heard that from Eckstrom?

23 A. Heard that from Eckstrom who attended the  
24 meeting that one of the selectmen at the time said

1       that, correct.

2           Q.     So this was a meeting you think in what  
3       year?

4           A.     I'd say '94.  It could have been '93, but it  
5       was either '93 or '94.

6           Q.     Do you have any names associated with this  
7       selectman?

8           A.     No, but he -- I think if I knew the names of  
9       the selectmen, I think I could pick him out.  And I'm  
10      sure Joe could also.

11          Q.     Do you know who the town manager was at the  
12      time?

13          A.     Tom Groux.

14          Q.     He was?

15          A.     Yeah.

16          Q.     So did you bid the next time?

17          A.     Yes.  I bid that -- that -- I think they did  
18      it, like, early.  They did it, like, in June or July.

19                 I bid it that year and we won the bid which  
20      we started in -- it was a weird type of deal, though,  
21      'cause we started in October of that following year  
22      which is pretty -- sort of unusual, but we were happy  
23      to do it.

24          Q.     Why is that unusual?

1           A.   Well, usually they start January 1, you  
2 know, just from the golf season. October was a -- the  
3 golf season is still going on so you're sort of  
4 getting thrown into some stuff that, you know --  
5 issues of who's a member, who isn't a member, you  
6 know. It was a little -- it was somewhat difficult,  
7 but we were happy to do it.

8           Q.   So you start in October of -- Gordon thinks  
9 '95, you think '94?

10          A.   I think '96. It -- I'm fairly certain it  
11 had to be '96 because if it was October '96, our first  
12 contract went from late '96 -- it was a three year two  
13 month contract, so it would have been '97, '98, '99  
14 'cause that was the year that the contract ran out and  
15 we rebid in 2000 I'm pretty sure. Am I right?

16          Q.   For ten years?

17          A.   For ten years, right. Or was it -- well,  
18 now --

19          Q.   That sounds right, but okay. You don't have  
20 to worry --

21          A.   Okay.

22          Q.   -- because we can easily ascertain that.

23          A.   All right.

24          Q.   We'll come back to Duxbury. Tell me about

1 other contracts, other business that you had in the  
2 time period.

3 A. I'm trying to think of when we -- I'm trying  
4 to remember the years. I know we kept -- we kept  
5 growing with consultant things and other golf  
6 courses.

7 We ended up -- Highland Country Club in  
8 Attleboro, which was a private club, but that probably  
9 wasn't till, like, '04, Beverly country -- Beverly  
10 Golf and Tennis in 2002, George Wright in Boston in  
11 2000, Parker Golf Course in the -- that would be  
12 back -- Parker Golf Course in Taunton probably in '96  
13 or '97, Acushnet River Valley Golf Course in Acushnet  
14 in '97. We grew the golf course in and then managed  
15 it for three years.

16 Q. Abington?

17 A. Abington would have been -- yeah, when  
18 was -- when was that? 2005 somewhere in there. I  
19 think Abington started out in 2005.

20 I can't think of -- I'm sorry -- Pakachoag  
21 in 1996, which we're still there today in Auburn.  
22 We've been there for -- what? What is it? 16  
23 years -- oh, Whaling City in 2000 -- I guess I have  
24 too many to mention -- which we're still there today.

1           What else? I think they're all listed in my  
2           proposal. I can't remember though.

3           Q. As of 2008, how many public golf courses  
4           were you managing?

5           A. In 2008?

6           Q. At the time you bid for your contract in  
7           Duxbury.

8           A. Municipal I think four.

9           Q. Which ones?

10          A. Pakachoag, North Hill, Whaling City, and  
11          Strawberry Valley I think. It might have been our  
12          last year at Strawberry.

13          Q. But the first time you got into a dispute  
14          over bidding was that the first Duxbury bid?

15          A. Yeah. You mean back in '94?

16          Q. Yes.

17          A. Yes.

18          Q. And tell me about the other ones, other  
19          disputes.

20          A. Other disputes Beverly Golf and Tennis which  
21          that process actually started in 1997.

22          Q. Why don't you give us an outline of what  
23          happened?

24          A. The typical we won the bid, tried to cheat

1 us out of the contract, so when they -- I have this  
2 thing I think my total view of the -- of what I do is  
3 I think I've probably bid on over a hundred for  
4 certain public contracts, municipal golf courses, so  
5 I've bid on over a hundred.

6 I've lost many fair and square and I've been  
7 cheated out of a few, probably, five or six or  
8 something like that, which if I get cheated, I fight.  
9 And so that's my philosophy on what I do.

10 But Beverly -- getting back to your  
11 question, Beverly was a deal where we won the bid fair  
12 and square. They didn't give it to us.

13 We end up going to court. I win the case.  
14 I ended up taking that golf course as part of the  
15 settlement in 2002, so that was -- that would have  
16 been the first I think major lawsuit or litigation.

17 Q. When did you settle that case?

18 A. I think 2001 'cause it must have been -- we  
19 started 2002. We took -- part of the settlement was  
20 the golf course so I think it was settled in '01.

21 Q. And was that the end of the litigation?

22 A. Yes.

23 Q. What'd you get?

24 A. Well, we got the golf course. They did --



1       they paid -- I believe between attorney fees and  
2       reduction of rent I think it was probably about  
3       \$800,000, and then we got the contract for the -- for  
4       a number of years.

5           Q.     But the contract -- the contract I take it  
6       was -- I mean, you paid for the contract?

7           A.     Yeah. After -- there was a reduction the  
8       first year of rent money, 350, and then the years  
9       after that we paid the total amount of what we offered  
10      in the first place.

11          Q.     So what you got with the rent reduction and  
12      the actual cash was about 800,000?

13          A.     Yeah.

14          Q.     So we have the Duxbury dispute, Beverly.  
15      What else?

16          A.     City of Boston.

17          Q.     Ahh, yes. When you --

18          A.     Huh?

19          Q.     You talked to my friend Andrea?

20          A.     Correct.

21          Q.     And I think she called me the same day. I  
22      had no connection at the time, what do you take about  
23      this story. So tell us about that.

24          A.     Same thing we -- oh, wait a minute. Let me

1 think. Well, pretty much we bid. We won. They  
2 didn't give it to us.

3 We were operating the other Boston golf  
4 course at the time also. We had won that bid, George  
5 Wright, in 2001, so this was their other golf course,  
6 William J. Devine AKA Franklin Park that we -- we won  
7 that lawsuit.

8 Q. Was --

9 A. I mean won that bid -- won that bid.

10 Q. So Franklin Park was the one you were  
11 litigating?

12 A. Correct, first one. So they cheated us out  
13 of that bid so we end up going to court. We had a  
14 trial, I believe, 13-day trial by jury.

15 The jury took an hour and a half to  
16 deliberate and came back and said he was guilty of bad  
17 faith bid writing.

18 And the thing that really -- and they had a  
19 separate hearing, separate trial for damages which  
20 didn't take place till I think over a year later.

21 Well, judge -- his name was -- the guy that  
22 oversaw the trial was a guy named Judge Sikora.

23 Q. Mitch Sikora?

24 A. Yeah, right, okay, so all I remember is that

1 the end of the trial after the jury gave their verdict  
2 Judge Sikora said that I'm entitled to my lost  
3 profits. He didn't know if he was going to consider  
4 93A right now, but he certainly was going to consider  
5 attorney fees.

6 I think unfortunately for me as it stands  
7 now anyway when we went to damage trial,  
8 Judge Sikora, good for him, he was appointed to the  
9 appeals court so he left the case, and we got stuck  
10 with a judge named John Cratsley who somehow came up  
11 with that I wasn't entitled to anything.

12 Q. So was the damages trial in front of the  
13 judge?

14 A. Yes. We offered all kinds of evidence,  
15 audited financials. The other side used the operator  
16 of the golf course at the time saying he was losing  
17 money, not audited financials, total BS because in the  
18 period of time -- and my guys did a great job; they --  
19 they showed that this guy even though he wasn't making  
20 any money he bought another golf course in that period  
21 of time, and he would tell the banks -- we had his  
22 bank stuff that showed he was showing the banks that  
23 he was making money, but he tells this Judge Cratsley  
24 that he's not making money and this judge somehow

1 believes this story which was -- still to this day  
2 totally amazes me, totally amazes me.

3 Q. So what you believe you lost on was they  
4 were arguing that even if you had gotten the contract,  
5 you wouldn't have made any money?

6 A. Yeah. He said -- I think he said he didn't  
7 know whether I was going to make money, which  
8 that's -- my understanding is that's not what the law  
9 says.

10 I don't believe the judge followed the law,  
11 the 30B. He pulled some case from the 1920s I think  
12 for something and yet the 30B stuff didn't even come  
13 to play until -- what? the late '80s or earlier '90s,  
14 so there was much more recent cases of case history  
15 that he completely ignored.

16 Q. Who represented you with that?

17 A. Kevin Burke and Steve Follansbee.

18 Q. When did that case happen?

19 A. We're still appealing it right now. We're  
20 trying to -- there was some stuff going on, something  
21 to do with -- 'cause that trial didn't even get heard  
22 till, like, I think '07 and --

23 Q. You mean the damages trial?

24 A. Yeah. And the woman who was the

1 stenographer lost -- I guess it was highly  
2 publicized -- this woman lost all kinds of transcripts  
3 and that was part of it, so that didn't help our  
4 situation either so just a mess.

5 But I'm still fighting because I think that,  
6 you know -- we won the trial. We're entitled to our  
7 lost profit. We showed audited financials. We  
8 showed -- we had an expert witness compare the two  
9 side by side income-wise, did everything right, and I  
10 paid a lot of money in attorney fees and yet I won the  
11 trial, but somehow I lost so I don't know how it works  
12 that way, but I guess sometimes it does.

13 Q. So we have Duxbury, Beverly, Boston?

14 A. Abington.

15 Q. Tell me about that.

16 A. Pretty much they're all sort of the same  
17 with a different -- I don't mean to laugh -- but, you  
18 know, again they wanted to cheat us out of the  
19 contract, that got settled though.

20 They -- they paid us a small amount of  
21 money, and I just said, get me out of here. I don't  
22 need this, you know.

23 You try to -- I don't want to fight with  
24 everybody. It just -- it --

1 MR. FOLLANSBEE: Just for clarity,  
2 there were two Abington. He's talking about the  
3 second one.

4 THE DEPONENT: Oh, that's right. I  
5 forgot. There was one before that.

6 Q. Tell me about Abington 1.

7 A. Okay. They -- they were very clear in their  
8 evaluation process as most of them are. If you can  
9 read black-and-white English, you pretty much can  
10 write a proposal or do a proposal.

11 So there was a part in there that had -- you  
12 had to have audited financials. It was one of their  
13 four or five criteria.

14 So the guys -- and they opened this one -- I  
15 don't think it was a -- it might not have been an  
16 RFP. It might have been a bid opening or either  
17 they -- that got thrown out and then they did this  
18 other type of bid opening, but you still needed that  
19 criteria of audited financials.

20 So all I remember was a public meeting, and  
21 there were about, probably, 75 or a hundred people in  
22 the audience. Steve and I were sitting there, and  
23 they had a group of this committee that was, like,  
24 five guys and they also had an attorney, Bob -- that

1       guy Bob Galvin.

2               So the committee was going through -- and  
3       they had a checklist of okay does this -- they had I  
4       think about four or five bidders -- does this company  
5       have this and they check off, yes, yes.

6               So when it came time for audited financials,  
7       they go okay Johnson's proposal does that have audited  
8       financials, so they checked yes, does Sterling have  
9       audited financials, well, no, does this one -- I think  
10      there was one other bid, there might have been four,  
11      no, okay, CALM Golf do they have audited financials,  
12      and so they're looking and looking and looking.

13              And these five guys they are taking, like,  
14      20 minutes. We're sitting there going, what's going  
15      on, so they're looking at the pages and finally Galvin  
16      comes over to him (indicating), he was in the room,  
17      and he says, well, what are you guys -- what's going  
18      on, well, we're trying to figure out -- well, here's  
19      the thing he explained to him audited versus review.

20              And one of the -- there's three types of  
21      audit -- an audit, a review or a -- there was one  
22      other thing. I can't remember. He says, well, no,  
23      those are not audited. He goes, so they're not  
24      audited.

1           So they are all looking at each other going,  
2           oh, so they took another ten minutes looking at the  
3           papers, and then finally one guy goes, well, I vote  
4           that we -- I make a motion that we accept his  
5           financials regardless of audited financials.

6           So Galvin automatically said, he can't do  
7           that, that's not what you -- your own evaluation  
8           criteria says, can't do it.

9           So they -- I don't even think they -- I  
10          think they took it under advisement. I don't think  
11          they offered us that bid until after that meeting  
12          'cause they were -- it's, like, these guys staring at  
13          paper and all I remember is they're staring at paper  
14          thinking to themselves, how do I get to change these  
15          papers, but it couldn't be done.

16          So that was the first time, and we ended up  
17          getting the contract for that period of time. It was  
18          done early enough where I -- we didn't -- I didn't sue  
19          them for any damages or anything, which I probably  
20          should have in retrospect for at least attorney fees,  
21          but I didn't.

22          Q.   Well, why would you sue them if you got the  
23          contract?

24          A.   Well, because I had to hire an attorney to



1 get a contract that I probably shouldn't have had to  
2 hire, you know. I probably should have sued them for  
3 attorney fees. I don't know, you know. I didn't  
4 though.

5 And then the second one was that process  
6 where they ended up settling with us for I think it  
7 was 50,000 or some number like that. It was small. I  
8 just didn't want to keep fighting with those people  
9 any longer.

10 Q. And was that settled?

11 A. I don't remember the lawsuit. I remember  
12 lawsuit. I don't remember the details, same stuff.

13 Q. How long was the contract supposed to be  
14 for?

15 A. I think three years.

16 Q. And you didn't get it?

17 A. No. They cheated us again, but then they  
18 changed all the specs and did all this -- it was --  
19 they threw the bids out first.

20 In my mind, I think I'm right anyway. I  
21 think they did throw the bids out the first time when  
22 we won and decided to rebid and then they changed  
23 specs sort of similar to what Duxbury did.

24 And I think Duxbury may have -- my

1 recollection is there was some contact between those  
2 two towns during that period of time, so they -- it's  
3 sort of the form of doing it I guess was to throw out  
4 the winning bid and then let's rebid it and we'll  
5 change some specifications along the way.

6 I remember they changed it to all -- instead  
7 of evaluating criteria that would really be helpful as  
8 far as your asset of the golf course of having someone  
9 that would -- that knew turf grass science, they  
10 changed it all to golf professional stuff which is  
11 totally ridiculous.

12 Golf pro knows nothing about turf. They're  
13 terrible business people. I mean, that's my opinion  
14 but well documented also.

15 Q. Are turf people terrible golfers?

16 A. Pretty much, not me I could play but for the  
17 most part, yes, you're right.

18 So they changed all the specs and then bid  
19 it. Then we -- they knew we would -- they had  
20 Kopelman and Paige represent them.

21 We went to court a couple times just Steve  
22 was representing me then. They filed for summary  
23 judgment. They got clobbered on that and then  
24 complemented Page 1, so they -- so we ended up

1 settling the case.

2 Q. When I was at Kopelman and Paige.

3 A. I thought it was -- wasn't it?

4 MR. FOLLANSBEE: He settled it.

5 Q. It wasn't me personally. I was involved in  
6 it, but not as deeply as I got involved in this one.  
7 I'm minding my own business.

8 Any other disputes that you've had --

9 A. One more.

10 Q. -- regarding public bidding?

11 A. Yeah, one more in Auburn.

12 Q. What happened in Auburn?

13 A. Well, what year was that? We had a ten --  
14 our first contract was ten years so I think it was '96  
15 to 2005 so it would have been in '06.

16 We bid again. Same scenario, we were the  
17 highest qualified bidder. They actually were trying  
18 to hire a group led by a couple of my employees who  
19 knew totally -- but they were townies -- they knew  
20 nothing about an operation of a total golf course.

21 But they worked, you know -- one guy worked  
22 on the grounds as just a laborer. The other guy  
23 worked as a cashier. So -- but they were townies and  
24 they figured they'd get it.

1           And, again, the same thing, the  
2           qualifications, they didn't meet this and that and all  
3           that. It got -- we went to court a few times.

4           One of my -- I'm trying to remember. They  
5           actually -- they either locked us out of that place  
6           similar to what Duxbury did for a day or two.

7           Even though we had a court injunction that  
8           we were supposed to run it, they locked us out of the  
9           place. They had the police blocked off. We couldn't  
10          get in.

11          I got a call at, like, six in the morning,  
12          whatever, and the police are here, they won't let me  
13          do my job, yeah, okay, I'll be right out. And I  
14          actually had Steve come out for that one.

15                   MR. FOLLANSBEE: On a Sunday.

16                   MR. KESTEN: Did you get 18 in?

17                   MR. FOLLANSBEE: It's only nine  
18          holes.

19                   THE DEPONENT: Nine holes.

20                   MR. KESTEN: So you can go back and  
21          play again.

22                   THE DEPONENT: It was a beautiful  
23          day too. I remember I was very upset because we would  
24          have made some good money that day, but I did like --

1 'cause Steve -- then what do you do? You file an  
2 emergency motion.

3 We went into court I think the next day, and  
4 I remember I loved the judge. I just thought he was  
5 the greatest thing because he -- he was -- there was  
6 no BS. It was, like, right to the point.

7 And Judge Houston -- and Steve got up  
8 first -- and he goes, no, no. I've heard from you.  
9 I've seen you explain. I want to hear from that guy  
10 right there and he really --

11 Q. Who was that guy?

12 A. The lawyer for the Town of Auburn and the  
13 town administrator was there, Bob Hennigan and the  
14 administrator, Charlie O'Connell I think was his  
15 name.

16 But he just laid into them and said, who do  
17 you guys think you are, they have a court order, this,  
18 that, and whatever and just really ripped them.

19 And I just said, this is the way it should  
20 be, so he -- that was -- that was good.

21 So after that we went back to running the  
22 golf course, and then Auburn decided to try to settle  
23 with us which they did and we did.

24 Q. Who represented Auburn?

1           A.    Bob Hennigan who actually I think is a very  
2 nice guy, good guy. We get along great with him now.  
3 I think they -- he knew -- they made some changes to  
4 their way of doing the golf course where normally --  
5 and this is in my opinion -- when cities and towns get  
6 into trouble, they appoint these committees that want  
7 input but really all they want is their own  
8 entitlements for the golf course. They don't care  
9 about the public. They don't care about anybody  
10 else.

11                So what Auburn did is took that all away and  
12 said no more, from now on we're going to have a  
13 town -- a designated town official will work with you  
14 guys on any issues between us and that is the way it  
15 is now. So that seemed to be the best way to do it.

16                No one looking for something for nothing.  
17 Nobody looking to get their buddy on or whatever and  
18 putting politics into the picture, so I thought -- I  
19 think it's worked out very well since that time which  
20 was -- now we've been there six more years. I think  
21 it's six years since then.

22           Q.    Any other disputes?

23           A.    I think I've covered them all, two Abington,  
24 Boston, Beverly, and just Duxbury I would say, yeah.

1 Q. Is the dispute in Duxbury?

2 A. Oh, I'm sorry. George Wright also another  
3 one with the City of Boston, that litigation's still  
4 going on right now.

5 Q. What happened there?

6 A. We had been operating the golf course for  
7 three years and we bid it again when it came up for  
8 bid and we won the bid.

9 They tried to award it to another company.  
10 We filed for an injunction. I believe it was  
11 Judge Brady first might have said to go back out to  
12 bid. They went back out to bid. We won it again.

13 Then they said, oh, no, forget it then,  
14 we're going to run our golf course. Judge Brady said,  
15 no, you're not either. You need to do this by the law  
16 30B which they never did.

17 They've been operating it for the last ten  
18 years in my opinion against the court orders --  
19 against court orders and illegally because they're  
20 running it themselves. They've hired subs without  
21 going out for bid so we're currently still in  
22 litigation with that one right now.

23 Q. In what courthouse?

24 A. Middlesex.

1 Q. Same room?

2 A. I think so.

3 MR. FOLLANSBEE: Scheduled for  
4 trial in a year.

5 MR. KESTEN: I just got a trial  
6 date in a case there in 14 months.

7 THE DEPONENT: Well, this Duxbury  
8 one took over a year.

9 MR. KESTEN: In our case we were  
10 scheduled for trial a year ago, and they postponed it  
11 and we met for trial of summary the other day, in  
12 September of '13.

13 MR. FOLLANSBEE: Yeah, I think we  
14 have July of '13 in that one.

15 THE DEPONENT: That was a good one  
16 though, Lenny. That was the one you mentioned  
17 Andrea. She -- she got involved where, like, the --  
18 the things that everybody does the same, all these  
19 cities and towns, is they want their own rules.

20 They don't want to -- even though we're  
21 paying these cities and towns top dollar, we run them  
22 professionally, equally, fairly for everybody, there's  
23 always a group at every course that wants their own  
24 way. And when they don't get their own way, you're



1 the bad guy.

2 It was well documented in Boston about what  
3 went on at that golf course. Andrea Estes herself  
4 interviewed a guy that admitted he was stealing cart  
5 keys.

6 I was on two radio shows Dennis and Callahan  
7 and Howie Carr show with call-in callers and it  
8 became -- actually, it wasn't funny to me, but the  
9 ignorance of these people was something that -- where  
10 I remember one -- actually Howie Carr goes -- he asked  
11 me to stay longer because he was getting so many calls  
12 and he just said this is incredible stuff that these  
13 guys think they're right when they steal cart keys  
14 from you and now they don't like you so they tell the  
15 mayor to boot you out and all this stuff.

16 It was pretty incredible stuff if you get  
17 into it. So that's why I'm still fighting the fight  
18 with that one because I'm still not happy about what  
19 happened in Franklin Park because the damage part of  
20 the trial we won.

21 And not to mention in the George Wright case  
22 two of the three evaluators were the same evaluators  
23 that have already been found guilty of bid rigging and  
24 bad faith, so they, you know, obviously, didn't want

1 me to get the contract, but that's where it stands  
2 now.

3 Q. You come into Duxbury in '96?

4 A. I'm fairly certain it was October '96.

5 Q. On a three-year contract?

6 A. Yes.

7 Q. And who'd you deal with? Was Gordon your  
8 primary contact for the town?

9 A. Pretty much, yes, and in -- also at the time  
10 they had the North Hill Advisory Committee, but it was  
11 strictly -- the goal with those guys, those early  
12 guys, Tom Rich, Greg Chandler, there's another guy  
13 named Sal, very nice people, their goal was to try to  
14 get the town to build nine more holes on the property.

15 They have a big piece of property there  
16 which as golfers these guys -- and they weren't even  
17 members of the course. I remember that was the thing  
18 that amazed me there where both Rich and Chandler who  
19 were was back-to-back chairman, their goal -- their  
20 interest was for the town's best interest not for  
21 their own which was very pleasant for me to deal  
22 with. With those guys, it was, you know, let's do  
23 what's right here and that was their main objective.

24 I actually think now that I've -- was the

1 contract in -- so maybe it was '95 we started,  
2 somewhere in there.

3 Q. 2008, you got a ten-year contract and you  
4 rebid in 2008?

5 A. That seems right then.

6 MR. FOLLANSBEE: Bid in '98 for '99  
7 season.

8 THE DEPONENT: Okay. That's what  
9 it is, so we probably did start in October '95 then,  
10 that would be --

11 Q. So -- so --

12 THE DEPONENT: But Gordon was  
13 involved. Gordon was, you know, the guy for the  
14 town's contact between us. I didn't have -- the one  
15 big thing that changed in that contract right off the  
16 bat was they had a new town manager.

17 And Rocco Longo came I believe -- well, it  
18 was that same year because the year before when they  
19 didn't -- they wouldn't give me the bid, it was Tom  
20 Groux, but Rocco Longo became the manager in that  
21 year, and we did get the bid.

22 Q. And once you -- so the Gunnarsons had run it  
23 before you?

24 A. Correct.

1           Q.    What was the condition of the course when  
2 you took over?

3           A.    Horrendous.

4           Q.    How so?

5           A.    Terrible, no grass, where there was grass it  
6 was crab grass. The clubhouse was a disgusting mess.  
7 I remember the way they left it for us it was just  
8 like a dirty filthy building.

9                   They left 55 gallon drums of grease, stuff  
10 that had maggots in it. They left us their mess to  
11 clean up when we went in.

12                   I remember it took me or my staff probably  
13 at least two weeks or more to clean that rathole up.  
14 It was terrible.

15           Q.    Had they bid on it?

16           A.    I believe so, yes. Yeah, they did. I think  
17 the climate had changed -- this is my own personal  
18 opinion in hindsight -- I think the climate changed  
19 because of one person, the new town manager.

20                   This guy was -- I got to know him, not very  
21 well; I only met with him once in a while -- but this  
22 guy was a by-the-book-no-nonsense guy.

23                   Because I had a -- right off the bat, we had  
24 an incident that I was put in a position where I had

1 to -- I had to go to him or through Gordon because I  
2 was put in a position oddly enough by one of these  
3 guys who signed that letter of complaint to the town  
4 or to the newspaper in 2004, John --

5 Q. Which guy?

6 A. John Kirkland.

7 Q. What happened?

8 A. Kirkland was, like, the chairman of the  
9 North Hill Men's Association, and he came to me -- it  
10 was probably the second time I went down there once we  
11 had started and he asked if he could talk to me.

12 And I said, "Sure," so we sat down.

13 And he said, "Look", you know, he said, "I'm  
14 on the North Hill Advisory Committee and I'm also  
15 chairman of the North Hill Men's Association Golf" --  
16 it's nothing more than a group of golfers. He said,  
17 "The Gunnarsons used to give me a free membership and  
18 I would like to know if you're going to do that for  
19 me."

20 So I wouldn't give him an answer. I just  
21 said, "I'm going to have to think about this and I can  
22 get back to you," whatever. I thought about it for  
23 one day, and I said, what is going on here.

24 And then I -- I decided that is someone

1       trying to set me up, by thinking if I'm going to give  
2       this guy freebies or what do I do.

3               So I called Cushing up and I told him. I  
4       said, "I need to tell you something." And Cushing in  
5       turn told Rocco Longo.

6               And I remember that Friday, the next Friday,  
7       whenever it was, Cushing called me and asked me to be  
8       at Rocco's office. I had never met Rocco; that was  
9       the first time.

10              He said, "Be at his office at one."

11              So I said, "Okay." And I went to the  
12      office.

13              He wanted to know what happened. I told  
14      him. And he said, "Well, you can -- you can leave  
15      now."

16              And out in the hall was this John Kirkland  
17      who came in after me and just from what Cushing told  
18      me later Rocco said -- asked Kirkland, did you ask  
19      Johnson for a free membership?

20              And he said, yeah.

21              And Rocco said to him, okay, I have -- and  
22      he had the police -- the chief of police there, and he  
23      said, you got two choices, you can resign from the  
24      committee right now or I'm going to have the chief

1 take you down and fingerprint you or something like  
2 that. I remember Cushing telling me the story later.

3 So he resigned from the committee. So I  
4 remember the first time I saw -- it didn't bother me  
5 one bit. The guy came up to me when I was down there  
6 a short time after and he said -- he said to me, "You  
7 could have handled that differently."

8 And I go, no, I couldn't. You're not going  
9 to put me in that kind of position ever again nor is  
10 anybody so he was off the committee, you know. He got  
11 his punishment and I was out of his life after that.

12 Q. So were things smooth? Did you have any  
13 other major bumps in those first three years?

14 A. No. Things -- things were fine. There was  
15 always a group there because North Hill -- they call  
16 themselves the North Hill Men's Association, that was  
17 always somewhat of an issue. They -- the league,  
18 itself, was made up of part members, part friends,  
19 some residents, some nonresidents.

20 But what they did is they used to block  
21 their tee times off on weekends and holidays. So, in  
22 other words, if it was a group of 50 people on a  
23 Saturday, Sunday morning, they're taking up tee times  
24 for a hundred people, which if you schedule tee times

1 every ten minutes for, you know -- every ten minutes  
2 four people go out, you've taken up 25 ten minute  
3 slots. You figure that out minute-wise it's 250  
4 minutes. That's over six hours.

5 And sometimes they would not even show up.  
6 Well, we made the tee time, but we're not going to  
7 show up not to mention that thing bothered me right  
8 away from Day 1, that policy, or what they were  
9 doing.

10 We let them do it because it was done before  
11 so we let them do that stuff until I guess after the  
12 next contract. And then I started looking into ways  
13 of not doing this because it wasn't fair to other  
14 residents who wanted to play golf.

15 It wasn't fair to the general public that  
16 these guys would get to -- get these tee times and  
17 nobody else, so in 2004 that became the issue.

18 I remember going to my attorneys, Kevin and  
19 Steve, at the time and said, can you guys read this  
20 for me and make sure that I can do this where I only  
21 give these guys one tee time not two.

22 Because being a nine-hole course that's the  
23 thing they're booking up two tee times. The guy would  
24 come and go, okay, give me six in the morning and



1 quarter of nine in the morning so you blocked  
2 everything up.

3 People -- normal people couldn't get out on  
4 the course, and even it -- it affects everything. It  
5 affects revenue. I'm paying the town at the time a  
6 lot of money a lot more money than they've ever seen.

7 So, I mean, that was -- and the word from my  
8 lawyers was, yes, I could do that, so that caused the  
9 huge stir that basically started this lawsuit.

10 Q. Tell me about the -- you've operated other  
11 golf courses that were nine-hole golf courses; right?

12 A. Correct.

13 Q. Which ones?

14 A. Pakachoag, John Parker was, Strawberry  
15 Valley was, Highland was, that was a private club,  
16 though, that was only nine holes, yeah, four or five  
17 for sure out of those ones.

18 Q. Did they allow this procedure? What do you  
19 call this? I would call it double booking. What do  
20 you --

21 A. No one else ever allowed it. It was done  
22 nowhere else.

23 Q. So the first place you'd run into it was the  
24 Duxbury course?

1           A.    Correct, correct, yes.  And I actually told  
2   the group I said, look -- and I sent out a letter  
3   before they signed up for their membership contrary to  
4   what they put in the newspaper 'cause there was  
5   rebuttal for that also -- but I told them, look, I'm  
6   not telling you you can't play 18 holes.

7                   What I'm telling you is if I book those  
8   times, you guys are going to have to wait.  We'll fit  
9   you in.  You might have to wait 20 minutes.  We'll  
10   sneak you in.  And that was only for Saturday, Sundays,  
11   and holidays.  Weekdays if you want to book 18 holes,  
12   you're a member, go do it, fine.

13                  But that wasn't good enough for these guys.  
14   They just -- it's just not what they want.  They want  
15   what they want and that's what the deal was.

16           Q.    So the first three years you didn't make it  
17   an issue.  You just went with it?

18           A.    Went with it.

19           Q.    And there were no issues you recall those  
20   first three years other than Kirkland trying to get  
21   free membership?

22           A.    The only issues I remember, and they weren't  
23   issues, is that the golf course received so many  
24   positive compliments over and over, Cushing even made

1 a letter out of it about the difference in the  
2 condition.

3 I got people doing that up till the time we  
4 were there in 2010. Guys would come and go, I grew up  
5 in Duxbury. This place never looked like this. This  
6 is incredible. You people should be very proud of  
7 what you've done.

8 And we were proud of what we had done  
9 because we took over a tough place, you know. They  
10 had a pool table upstairs when we went in there and  
11 they used to do Keno there. This place was a bar and  
12 a golf course when we started. That's what North Hill  
13 was.

14 It was a place for townies that would -- a  
15 lot of drinking, a lot of drugs went on, and that  
16 didn't come from me. That came from Gordon Cushing  
17 and Rocco Longo when I started.

18 Rocco's deal was he wanted me to straighten  
19 this place up, and we did. We did it, and it became  
20 a -- it's a family friendly golf course is what it  
21 turned into where families would come out.

22 We had a junior membership there that would  
23 sell out in two days. 150 junior memberships would  
24 sell out in two days. The first year -- we were out

1       there last year. They didn't get 50 junior  
2       memberships 'cause most of them went with my pro who  
3       went over to Pembroke and they followed Bill Allen.

4               So -- but that isn't the goal anymore. The  
5       goal there anymore in my opinion is not for families.  
6       It's for -- it's for the -- well, obviously, the  
7       liquor license.

8               They applied and got a one a.m. liquor  
9       license. You don't need a one a.m. liquor license at  
10      a golf course. You don't. What's the reason for  
11      that? You just don't need it.

12              Q.    So tell me -- so the first two years are  
13      smooth. You bid. For the next contract, they made it  
14      ten years.

15              A.    Correct.

16              Q.    The provision that the winning bidder had to  
17      build a clubhouse?

18              A.    Correct, that's right.

19              Q.    Anything else that was unusual about that  
20      besides the length of the ten year and the clubhouse?

21              A.    No, no.

22              Q.    Who bid against you?

23              A.    No Gunnarson -- Gunnarsons I don't think  
24      bid. By that time, they were -- they were involved in

1 Bay Pointe. They're a rather small operation anyways,  
2 the two brothers, so I don't think they bid.

3 But a guy by the name of Steve Daley bid  
4 against us who was an employee of Gunnarson but a  
5 townie from Duxbury that bid.

6 And there was someone from the Cape, an  
7 outfit from the Cape that was Bob Saint Thomas'  
8 group. I forget the name but they were legit. They  
9 were a legitimate company. They bid.

10 There might have been one more who was  
11 legit. Daley wasn't legit because he wasn't a  
12 company. He couldn't qualify.

13 The guys that bid -- one of -- they owned --  
14 they ran Chatham Bars Inn for the Town of Chatham so  
15 they were a legit company.

16 Q. That's a great places.

17 A. Yeah, I know it, I know.

18 Q. And who's the procurement officer? Was it  
19 Rocco?

20 A. Yeah, at that time, it was still Rocco.

21 Q. And you got the bid?

22 A. Yeah.

23 Q. Let me know about this house.

24 A. There was a house.

1 Q. Yeah.

2 A. That we -- I guess it would be '95. It was  
3 like a -- it was a big house. It was four bedrooms,  
4 you know. It was dated. It was an older house, but  
5 it certainly provided a benefit for us.

6 I had over the years probably two different  
7 superintendents living there in those years and then  
8 when -- or after -- and then my daughter when we made  
9 her manager of the place, she lived there until the  
10 time that it became unlivable or the town wasn't going  
11 to fix it up. There were a number of issues with that  
12 house.

13 Q. When did your daughter become the  
14 superintendent?

15 A. You mean the manager?

16 Q. Yeah.

17 A. Clubhouse manager. It would have been after  
18 the second contract. It was well after that because  
19 Kerri was there first. I'm going to guess, like, '04  
20 or five.

21 Q. And who lived there before? You said  
22 superintendents lived there?

23 A. Yeah.

24 Q. Who were they?

1 A. John Hiltz is one.

2 Q. Can you spell that?

3 A. H-I-L-T-Z. And it might have -- he came from  
4 the south shore, so, you know what, he may have been  
5 there all the way up till then. He might have been  
6 there for ten years.

7 Q. And he lived in the house?

8 A. He lived in the house, correct. And we  
9 had -- John was single so we also had I think -- or he  
10 was single I should say for a while till his last  
11 couple of years. He got married and then his wife,  
12 and she, I think, had kids, moved in.

13 We also had I think two or three grounds  
14 crew guys that worked for him on the crew that lived  
15 in there within a single year, say, from '95 to  
16 probably 2002 or somewhere in there, 2002, 2003 or  
17 whenever -- whenever he left. He took a job.

18 Q. Did that count as compensation?

19 A. Oh, sure, yeah, yeah.

20 Q. Did you have an amount that they had to  
21 declare or did --

22 A. No. I stayed out of that. I looked at that  
23 as their deal and, you know, when they fill their  
24 taxes out, they need to do what they need to do. I

1 mean, I didn't get involved.

2 Q. But you would have paid them more --

3 A. Correct.

4 Q. -- if they --

5 A. If they didn't have housing, that's correct,  
6 yes.

7 Q. Who paid the utilities?

8 A. I think they did, yeah, because I don't  
9 remember paying those utilities.

10 Q. And then your daughter moves in '04, '05?

11 A. Yes.

12 Q. What's her name?

13 A. Kelly.

14 Q. By herself or who else lived there?

15 A. Yeah. She moved in. I want to say then we  
16 had Amy. Amy never lived there, no, no, yeah, Kelly  
17 moved in.

18 Q. How long did she live there?

19 A. I think, like, three years, three, somewhere  
20 in there.

21 Q. What happened to the house?

22 A. The house -- pipes froze more than once.  
23 They used to freeze all the time depending on the  
24 weather for the winter, but there was constant



1 problems with that place.

2 The place was not insulated. I complained  
3 all the time to the town to do something. I do  
4 remember, though, they did put new windows in at some  
5 point, probably, '96 or somewhere in there.

6 But it was like that was throwing good money  
7 into a bad deal I would say. I mean, they either  
8 needed to do something with this place, you know, pump  
9 in insulation or do something. The house was freezing  
10 cold in the winter. There was just no getting around  
11 it.

12 It had an underneath garage that had no  
13 insulation where -- that's where the pipes used to  
14 freeze under that. It happened every -- it would  
15 happen every winter. It just would depend when, you  
16 know, when they would freeze so that was -- that was  
17 the normal thing.

18 Q. And so at some point it became  
19 uninhabitable; right?

20 A. Correct.

21 Q. When was that?

22 A. That was late -- I guess it would be late  
23 '06 because they knocked it down in '07. It was  
24 probably December of '06 the pipes froze. They burst

1 so that became an issue now of, okay, this is a major  
2 repair.

3 Q. Was Kelly living there at the time?

4 A. Yeah.

5 Q. Was it at all related to someone not paying  
6 the utility bill?

7 A. No, no. I mean, water would have to be  
8 running through the pipe for it to break, so, no, it  
9 didn't have anything to do with a utility bill.

10 Q. Just a really cold night?

11 A. Yeah.

12 Q. And the pipes froze. So what happened?

13 A. The pipes froze, burst. We probably  
14 notified -- I'm sure we notified Gordon, and I would  
15 assume Gordon notified the town manager. And they had  
16 to make a decision about what they were going to do.

17 But Kelly did have to move out of the house  
18 then because it was really I guess, you know --  
19 without -- I don't believe we knew what they were  
20 going to do with the house, probably, for a few months  
21 later.

22 But I'm sure it was decided fairly quickly  
23 they were going to just do away with the house because  
24 they didn't do anything with the place.

1           And once the pipes burst and the water was  
2 shut off, I mean, the house is just sitting there.  
3 Well, I guess they could have -- they could have fixed  
4 it, but that's not what they decided to do.

5           And I know there was some discussion between  
6 the North Hill Advisory Committee that some felt that  
7 it would be a good idea to keep the house as an asset  
8 and others didn't. But I believe MacDonald was the  
9 one -- was the one that decided that -- let's just rip  
10 it down and do away with it.

11           Q.   And how did they deal with you about that?

12           A.   I asked Gordon for a meeting with  
13 MacDonald. Joe Eckstrom went with me. I sat down  
14 with him and I said point-blank, "How are you going to  
15 compensate me for the house?"

16           And he looked right at me and he said, "I'm  
17 giving you nothing."

18           Q.   Who told you that?

19           A.   Richard MacDonald. And I think Cushing was  
20 somewhat embarrassed where this thing about I agreed  
21 to a fence is sort of laughable because we had -  
22 Cushing brought up the fence and said, "Well, wait a  
23 minute, you know, we might be able to get you a fence  
24 around the cart barn," and I don't know if there was

1 anything else included or what.

2 And I'm just going -- I bit my tongue  
3 because we were going out to bid the next year and I  
4 wasn't -- I didn't want to get into it with MacDonald.  
5 I did not want to get into it with the guy, so I bit  
6 my tongue. But he looked at me right in the eye and  
7 said, "You're getting nothing."

8 And so they did do this fence, but for them  
9 to think that I accepted -- first of all, the fence  
10 doesn't become my fence where it compensates me. It's  
11 an asset to their property so it doesn't affect me one  
12 way or another whether they did a fence or didn't do a  
13 fence, so...

14 Q. So you're saying you never agreed to -- you  
15 never made the deal?

16 A. Right.

17 Q. So he said, I'm giving you nothing?

18 A. Right.

19 Q. And then what happens? How did the fence  
20 get into it?

21 A. Gordon I think in embarrassment was trying  
22 to figure out, you know, how he could make things  
23 appear better than they were due -- 'cause the room  
24 just went silent.

1           And he brought up, well, we might be able to  
2           get a fence for you and I think he was talking about  
3           something else too. And I'm just going whatever.

4           Oh, and then they talked about, well, you  
5           know, we could -- instead of testing the water four  
6           times a year, we'll only have you test it twice a  
7           year.

8           And, again, what are you talking about? It  
9           cost \$135 to test the water. It doesn't make up for  
10          the house of -- the value of what the rental -- of  
11          renting a house in Duxbury is, you know.

12          So I dropped it. I didn't -- I wasn't going  
13          to fight this guy. I wasn't going to fight him  
14          because the bid was coming up the next year and I  
15          didn't want to get into it with him.

16          Q.    So this was '07?

17          A.    Correct, yeah.

18          Q.    But the -- you believe or you said  
19          repeatedly the problem started in '03, '04? Is that  
20          when the real problems started with your relationship  
21          with the people in the town?

22          A.    Oh, absolutely, '04. Well, once the letter  
23          went out that you weren't going to be able to make two  
24          tee times, that started it all.

1           This group there are I think 20 something of  
2           them that signed a letter --

3                       (Whereupon Mr. Chernoff left the  
4           proceedings).

5           A.    -- to the newspaper first, and they called  
6           the town out too. I think even what Troy said at his  
7           depo was truthful where they hated him too because he  
8           said, look, the guy legally can do this in his  
9           contract.

10          Q.    Well, let's walk through it --

11          A.    Okay.

12          Q.    -- a little more precisely. So you  
13           wanted -- you decide to change. Why'd you decide to  
14           change it in midstream sort of?

15          A.    Because I never liked the policy to begin  
16           with. Second of all, I wanted to try to maximize our  
17           revenue on the golf course.

18          Q.    Was revenue dropping?

19          A.    No, not at the time. It was probably about  
20           the same, but -- but they did do -- there was -- the  
21           thing that -- that bothered me also was in that new  
22           contract, the ten-year deal, they made it -- I'm  
23           trying to remember from memory -- but I'm pretty sure  
24           where they -- they only increased rates every three

1 years one or the other.

2 And it was -- they didn't -- at the prebid,  
3 they did not explain that that way. I guess it was  
4 messed up where it was supposed to be that every three  
5 years -- like, in Year 1 the membership fees would go  
6 up, but Year 2 the green fees would go up.

7 But instead the way it was worded it was  
8 Year 1 and then those membership rates went for three  
9 years, then the green fees for three years, and so  
10 on.

11 So there really was a -- it was sort of a  
12 joke that these guys were getting discounted --  
13 basically discounted -- that's what it was anyway.  
14 They're not members. They were getting discount  
15 golf.

16 These guys were paying, like, short money,  
17 \$600 or something a year to play. We had it figured  
18 out. I gave it to the town and everything. I -- we  
19 were able to track rounds and people playing.

20 Members -- if they had to pay, like, a  
21 normal green fee person off the street, they would  
22 have been paying, like, \$2500 a piece instead they're  
23 paying 600, and now they're bitching about, look, we  
24 want the course to ourselves so that wasn't working

1 too good.

2 I mean, especially, like I said, where we're  
3 paying -- we're paying top dollar to the town. I  
4 don't think there was another nine-hole golf course  
5 that I know of that was -- town owned that was  
6 receiving, say, an average of a hundred thousand  
7 dollars a year for a contract.

8 Q. But you've been living like this for seven  
9 years, six, seven years?

10 A. Right, but --

11 Q. That's how it was. So what happens in '03,  
12 '04 that gets you to I've had enough?

13 A. Well, I think it took -- it took a time to  
14 change it. I mean, my view was I didn't like it from  
15 the beginning, but I finally decided to pull the  
16 trigger I guess, you know, so...

17 Q. There was no particular event that you  
18 remember that caused you to say I'm going to --

19 A. Well, then if you add up the little things,  
20 I do remember, like, my staff would go nuts. These  
21 guys would come and, like, if this was a -- they could  
22 make tee times a week in advance also ahead of the  
23 general public, so the general public I think could  
24 make them five days in advance.



1           So what you would have is a bunch of guys  
2       would come in and they'd grab the start sheet like  
3       this (indicating) for the week before, turn it around,  
4       then put their name in there and put four names --  
5       three names -- four names total underneath it.

6           Well, that next Saturday or Sunday a lot of  
7       times only two of them were showing up, sometimes  
8       none, three, so it was a constant loss of potential  
9       revenue where finally after that period of time I  
10      said, I don't want to deal with this anymore, you  
11      know. You can make a tee time, but I'm not dealing  
12      with two of them.

13           'Cause then you got them all booked and then  
14      when the day comes and they don't show up and they've  
15      got two tee times, you're losing potentially in some  
16      cases eight green fees, anywhere from four to eight or  
17      anywhere in between, you know, so I said, enough is  
18      enough. I've done this for a long enough time. We  
19      don't need to do this anymore.

20           Q.   Who were the prime offenders as far as you  
21      could tell?

22           A.   North Hill Men's Association. We used to --  
23      I remember my daughter when she managed the place  
24      calling me up, there was a guy named Tom Siminski, who

1 had a son. He was the -- he became the president of  
2 that league or association.

3 He would have his son play, and my daughter  
4 used to -- the old man was a member, but the kid  
5 wasn't. My daughter would have to chase him down the  
6 fairway to collect his 18 bucks.

7 The burden was always on us to -- they  
8 couldn't come in and just do their thing. This guy --  
9 they'd walk out the door and sneak around and hop on  
10 the golf course, so it was just, you know, after we  
11 felt enough -- especially me, I said enough is enough.

12 Q. Who was managing the golf course for you at  
13 the time that you made this decision?

14 A. That was -- what? '04. I think Kelly was.  
15 Yeah, I would say Kelly for sure.

16 Q. So you --

17 MR. FOLLANSBEE: Good time for a  
18 break.

19 MR. KESTEN: Okay.

20 (Brief break from 12:09 p.m. to  
21 12:16 p.m.).

22 (Mr. Chernoff was not present after  
23 the break).

24 Q. (BY MR. KESTEN) Mr. Johnson, you remember

1 another lawsuit?

2 A. Yes.

3 Q. Tell us about it.

4 A. City of New Bedford.

5 Q. Uh-huh.

6 A. We -- which we're still at today. We signed  
7 a 35-year contract with them to -- it started in the  
8 year 2000 a lot of capital improvements. We invested  
9 three million dollars into the project.

10 And the lawsuit started when the -- the  
11 contract stated that for the first seven years the  
12 membership rates would -- they were kept low. I  
13 agreed to it, of course, for the first seven years,  
14 but in year -- or maybe six years, it was either in  
15 Year 7 or Year 8 the fees were supposed to -- the  
16 membership would go up to the going rate of the area  
17 of similar courses.

18 So we did all our homework, did all that,  
19 and then put it before the park and rec board and they  
20 rejected it came up with their own theory of how to  
21 redo it and so we took them to -- they might -- I  
22 think they took me to court. Yeah. I wasn't the  
23 plaintiff.

24 I think they were mad because I wouldn't go

1 along with their rates and so we went to court in I  
2 want to say '08 I think late '08, and the judge -- the  
3 judge ruled that they -- what's the word? not violated  
4 the contract, but they breached the contract by not  
5 allowing me to go up with my rates when they were  
6 supposed to go up.

7 Q. So is that case still going though?

8 A. Yes.

9 Q. How so? If you won, then --

10 A. We won that part and then we had other  
11 issues. I wanted to address them all. We had water  
12 issues where they were supposed to supply us with  
13 wells, but because it was an old EPA site wells  
14 weren't possible.

15 So even though I had a contract that said I  
16 wasn't going to pay, they gave me an addendum which  
17 reimbursed me. It was, like, a blind reimbursement of  
18 we'll give you this much money.

19 (Where upon Mr. Chernoff joined the  
20 proceedings).

21 A. I said to them, well, how do we know what  
22 the water's going to cost when we haven't even run the  
23 water yet and so that came out more.

24 So I complained, complained, complained for

1       those years because we were spending -- they were  
2       reimbursing me, like, five grand. The water was  
3       costing me, like, 20 grand so we added that onto the  
4       complaint so there's that issue to deal with too.

5               Then they had an issue of I was supposed to  
6       give them money for -- we let members own their own  
7       golf carts which I felt -- well, that's another thing  
8       that was nuts, but if a member retired his cart, we  
9       were supposed to reimburse the city back, so it  
10      became, okay, look you owe me this, you owe me that,  
11      so we're still -- bottom line is we're still  
12      litigating that.

13           Q.   Where is that case? In what court?

14           A.   That is Bristol County.

15           Q.   Who's representing the city?

16           A.   John Markey I believe he's the city  
17      solicitor.

18           Q.   City solicitor?

19           A.   Yeah.

20           Q.   And Scott Lang is the mayor?

21                   MR. FOLLANSBEE: No, he's out.

22                   THE DEPONENT: No, he's not there  
23      anymore. Now, you can see what takes up all my time.

24                   MR. KREIGER: Jon Mitchell's the

1 mayor?

2 MR. FOLLANSBEE: Yes.

3 THE DEPONENT: Is it Mitchell? Is  
4 that his name?

5 MR. FOLLANSBEE: I think he's the  
6 new mayor.

7 THE DEPONENT: Oh.

8 Q. So let's go back to '04 so you send out a  
9 letter saying no more new tee times, no more double  
10 tee times?

11 A. On weekends and holidays.

12 Q. Right.

13 A. Yes.

14 Q. What happens?

15 A. They sent a letter to the newspaper. I  
16 believe it was 20 something, 22 or 24 of the -- of  
17 that particular group complained to the newspaper,  
18 called the town out, said the town had no guts to  
19 stand up to me.

20 Q. In the newspaper?

21 A. In the newspaper.

22 Q. You're talking about that letter?

23 A. Correct, in the newspaper, made these  
24 accusations that I didn't like members just totally