

1 how they were going to hire a new procurement vendor
2 to go up -- the town was adamant about going out for
3 bid again. We want to go out and do it the right
4 way. We're going to hire a new procurement vendor and
5 we're going to come out with a new RFP.

6 It's specific in the transcript of the thing
7 because I read it the other night, and he did
8 neither. They didn't hire a new procurement vendor
9 versus the old one and they did not go out with an
10 RFP. They went out with an IFB, which I -- I actually
11 think that whole IFB was illegal anyway because the
12 selectmen didn't execute the contract.

13 Q. I just had it. Now, I've lost it.

14 MR. FOLLANSBEE: Off the record.

15 (Discussion off the record).

16 Q. (BY MR. KESTEN) Tell me about your contact
17 with the inspector general. I know you spoke to
18 Craven for everything.

19 A. Right.

20 Q. After you saw the RFP?

21 A. Right.

22 Q. Or after they denied the bid. Any other
23 contacts --

24 A. Yes.

1 Q. -- that you have had?

2 A. Yes. Steve and I went up there -- well, it
3 would have been -- what? I guess January or February
4 of 2011 when this whole IFB thing -- I was trying get
5 them to stop this and look into it 'cause after I read
6 it, I said, this isn't -- this is -- well, the first
7 one -- yeah, they were still all messed up.

8 They had no specifications even in the first
9 one where the town went from saying it's critical that
10 we have a company that's operated golf courses before
11 that language was all taken out.

12 You basically could have been a peanut
13 vendor and bid on this golf course when they got
14 through with the specs, so I was troubled by it. I
15 didn't like it.

16 So Steve and I went and visited the IG's
17 office where we were with -- what was -- Barbara
18 Hansberry and Nick -- Nick Read so we spoke to them,
19 sat there with them. I think we were there for
20 probably an hour and a half or so, went over the deal
21 with them.

22 Steve and I both expressed our frustration
23 that they hadn't investigated. We talked about we had
24 been in contact with Craven way back. Nobody's done

1 nothing. Why won't you please investigate this?

2 I was told -- well, they told both of us I
3 think something to the effect, well, we don't do that
4 anymore.

5 And I said, "You don't investigate." And I
6 said, "Well, I investigated -- the IG's office
7 investigated a case in Duxbury for me back in '93 and
8 '94," so it was very troubling.

9 And after that I wrote a letter to Read as a
10 tax payer and a Massachusetts corporation demanding
11 that they investigate this whole thing.

12 They never did a thing. It's very
13 frustrating. And then after that I remember
14 talking -- I called the attorney general's office and
15 spoke with someone there.

16 Q. Do you have any idea who?

17 A. Yeah, Brian O'Donnell who used to work in
18 the IG's office.

19 Q. What was his job then?

20 A. I don't believe that was his complaint. I
21 knew of him from previous -- when he was with the IG's
22 office, I thought he was a very competent guy that
23 would follow through.

24 Q. This is the same time frame?

1 A. Probably --

2 Q. January, February of 2010?

3 A. Yeah, I probably talked to O'Donnell in
4 February.

5 Q. And tell me what you remember about that
6 conversation.

7 A. I told him what was going on. I said,
8 "Brian, who do I go to?" I said, "What do I do? I
9 want them to investigate. They won't investigate."

10 Actually, that was before. I'm sorry.
11 Because he arranged for the meeting for me and Steve
12 to go see Hansberry. That's right, see, this was
13 before that.

14 So he -- Brian O'Donnell arranged for the
15 meeting and then we saw them and nothing ever
16 happened. They didn't investigate anything.

17 Q. Did you meet with Hansberry and Read before
18 or after they met with Troy and the town?

19 A. I think after.

20 Q. Did they tell you they'd met with them?

21 A. I believe they did.

22 Q. Had you seen that letter yet? When you met
23 with them, had you seen the letter they sent to the
24 town?

1 A. I'm going to -- probably, yeah, because
2 that's probably why we went up there. That's probably
3 spurring us to go up there because the letter from the
4 IG -- there were -- what? two of them. I'm trying to
5 remember.

6 But his thing was basically the town of
7 Duxbury telling me this and if this is true, they're
8 free to go back out to bid. I mean, too bad it wasn't
9 true what was being said.

10 But what was it Troy who said that -- or the
11 town said -- I don't know if it was just Troy -- but
12 the town said we just realized that CALM Golf only had
13 \$169 in assets. You just figured that out two --
14 almost two years later.

15 Q. It didn't say that.

16 A. Something like that.

17 Q. What it said was that at the time of the
18 bid, CALM didn't have the money for equipment.

19 A. Right. That's a good defense seeing it was
20 in black-and-white English and they have to be
21 evaluated looking at -- not to mention Judge Smith
22 pointed it out to them in February.

23 Q. When you left -- you left the contract in
24 March, right, is when they --

1 A. Yeah.

2 Q. -- you were moved out?

3 A. Yeah.

4 Q. March of 2011?

5 A. Yes.

6 Q. Did you have to lay off any employees?

7 A. Absolutely.

8 Q. Who?

9 A. Bill Kiniry, Bill Allen.

10 Q. Can you spell his last name?

11 A. K-I-N-I-R-Y.

12 Q. What was his job?

13 A. He was pro shop staff.

14 Q. Next name?

15 A. Bill Allen.

16 Q. Job?

17 A. Golf pro. Todd Bellone, B-E-L-L-O-N-E. We
18 used to call him Bologna.

19 Q. His job?

20 A. Golf course superintendent. Brandy we
21 relocated shortly after, a number of workers, you
22 know, laborers or cashiers, Joe's two girls, Joe
23 Eckstrom's two girls, Brittany and -- oh, wow, if he
24 knows I don't remember their name, it's not going to

1 be good.

2 MR. FOLLANSBEE: Brook.

3 A. Brook, that's it. Okay.

4 (Brief interruption).

5 (Whereupon Mr. Chernoff left the
6 proceedings).

7 A. And other people, a number of people. We
8 probably had for everything somewhere around 20 to 25
9 employees, you know, part-time people.

10 Q. And most of them were laid off?

11 A. Correct.

12 Q. Did Pilgrim hire any of your employees?

13 A. They tried to.

14 Q. At the next deposition, we'll find out if
15 they actually did.

16 A. I don't think they did. Oh, wait a minute.
17 I take that back. The girl there behind the bar,
18 Sarah something. He's shaking his head. Yeah, I got
19 that.

20 MR. LARAMEE: And Claude.

21 THE DEPONENT: Oh, really?

22 MR. LARAMEE: We had to lay him off
23 to the best of my knowledge.

24 Q. What's Claude's last name?

1 MR. LARAMEE: Holt.

2 A. Holt.

3 Q. Holt.

4 A. He worked on the grounds, yeah, Claude.

5 Q. How about Sarah's last name?

6 MR. LARAMEE: Hopkinton.

7 MR. KESTEN: Hawkinton?

8 MR. LARAMEE: Hopkinton.

9 THE DEPONENT: Hopkins.

10 MR. LARAMEE: Hopkins,

11 H-O-P-K-I-N-S.

12 Q. Let's talk about money. Golf profits
13 generally went down; right? People played less golf
14 in the 2000s? I've heard that.

15 A. Private clubs have been hurt a lot more than
16 public, but as a whole public golf has been flat.
17 Low-end public play still isn't bad, but it's still
18 flat, yes. I wouldn't say it's gone down like the
19 private clubs are getting killed, but public clubs,
20 sure, you know, it's flat. It's been flat.

21 Probably -- in probably -- well, it
22 depends. See, in Duxbury being nine holes --
23 actually, I think the last few years before the
24 lawsuit I think revenue was on an upscale, upswing,

1 but I'm not -- I don't recall off the top of my head,
2 but I think I remember that. I think we were doing
3 okay.

4 Q. How much do you believe you were -- well, in
5 terms of earnings, did you pay yourself?

6 A. My -- yeah, I paid myself, sure, yeah.

7 Q. So tell me what you lost. The profits the
8 corporation would have gotten; right?

9 A. Yes.

10 Q. And the money that you would have been
11 paid? You tell me what --

12 A. My accountant would probably be better at
13 that than I am. See, I get sometimes confused about
14 the financial stuff, but -- 'cause you got all these
15 other factors in there that are confusing.

16 I think -- I know that when our accountant
17 did this profit, loss analysis -- I actually spoke to
18 him the other day.

19 Q. Yeah.

20 A. He did it on past performance and future
21 projection, but I also went over with him the thing
22 that he didn't figure into the future was the
23 increases in fees for green fees and memberships.

24 And I think he came out with something like

1 140 something thousand dollars a year that we were
2 making at -- at -- when you take North Hill out of the
3 big company North Hill by itself.

4 North Hill was a good performer for us. It
5 was one of our better places over the years. I mean,
6 like anything else at one time we were running eight
7 golf courses.

8 I had one golf course that we were losing
9 400,000 a year so the main goal of that was to get the
10 heck out of that deal and we did -- and deal with ones
11 that were making money.

12 Q. That's a good business principle.

13 A. There you go. That's right.

14 Q. My father taught me that.

15 A. Some winners, some losers.

16 Q. Let me show you what I've marked as
17 Exhibit 1.

18 (Discussion off the record).

19 Q. (BY MR. KESTEN) This is for your whole
20 company; right?

21 A. (Deponent viewing document). Correct.

22 Q. Exhibit 1?

23 A. (Deponent viewing document). Yeah.

24 Q. That's all my questions on that one. Take a

1 look at this one Exhibit 2. Now, take a look at
2 page -- you see there are numbers on the bottom 569 --

3 A. (Deponent viewing document). Yeah.

4 Q. 5695, Page 5695.

5 A. (Deponent viewing document). Okay.

6 Q. What you're looking at.

7 A. (Deponent viewing document). Yeah.

8 Q. That breaks it down by location; right?

9 A. (Deponent viewing document). Correct, yeah.

10 Q. And it says for '07, year ended
11 September 30th. Was that your fiscal year?

12 A. (Deponent viewing document). Yes, this is
13 fiscal year, yeah.

14 Q. And it has a net earning loss?

15 A. (Deponent viewing document). Uh-huh.

16 Q. For '07 at North -- actually, just all but
17 one location?

18 A. (Deponent viewing document). Uh-huh.

19 Q. Is that true? Did you lose money?

20 A. (Deponent viewing document). In '07?

21 Q. Yeah.

22 A. (Deponent viewing document). Probably with
23 Beverly still on there. See, I think Beverly would be
24 the big loss, but -- but I think -- I'm trying to

1 remember how they -- the accountant would know better
2 than me, but I know, for instance, like, Whaling
3 City -- see, it all depends what you bought.

4 Q. Well, honestly, we don't -- to tell you the
5 truth, we don't give a hoot about the other ones.

6 A. Yeah.

7 Q. Did you lose money at North Hill?

8 A. (Deponent viewing document). No.

9 Q. Well, you seem to have spent more than you
10 got?

11 A. (Deponent viewing document). Right. And I
12 think that would be --

13 Q. That's a loss.

14 A. (Deponent viewing document). That would be
15 due I would think to either possibly buying new
16 equipment, capital -- capitalizing equipment. See, I
17 don't even know what these -- I'm looking at the loss
18 and earnings, earnings loss before -- I don't even
19 know -- I don't know what that means. I'm not really
20 the best guy at this.

21 Q. Who's the best guy for me to have
22 discussions with?

23 A. The accountant.

24 Q. Who's that?

1 A. Brian Morrissey.

2 Q. Let's look at 5696.

3 A. (Deponent viewing document). Okay.

4 Q. Who prepares these? Brian?

5 A. (Deponent viewing document). Yeah, yeah.

6 Leone, Morrissey, whatever the company's called, yeah.

7 See, depreciation would be taken out automatically. I

8 know that. I know that's the way they read. So

9 there's like -- I don't know if that's 37 or 57.

10 Q. Right. But that's -- here everything else
11 is actual costs?

12 A. (Deponent viewing document). Yeah, that's
13 correct. So you take the 57 off that, then, of
14 course, from the payroll -- a portion of that payroll
15 figure would be what I was paid.

16 Q. Do you have any idea what you were paid?

17 A. (Deponent viewing document). Yeah. In '07
18 probably -- not out of this, but, I mean, I --
19 probably out of this because mine would be divided
20 among --

21 Q. Right.

22 A. (Deponent viewing document). See, I'm
23 trying to remember what we were running then.

24 Q. Eight.

1 A. Huh?

2 Q. Eight, seven.

3 A. (Deponent viewing document). So that
4 wouldn't be it. Probably, like, 25,000 or 30 out of
5 that maybe was me.

6 Q. Do you know what the difference is between
7 direct payroll and salaries and wages, which is on the
8 next page?

9 A. (Deponent viewing document). On the next
10 page after this one?

11 Q. Yeah.

12 A. (Deponent viewing document). On 5697,
13 Lenny?

14 Q. Yeah.

15 A. (Deponent viewing document). I don't see
16 it.

17 Q. At the top it says salaries and wages.

18 MR. FOLLANSBEE: And on the
19 previous page you have direct payroll.

20 Q. And then direct payroll.

21 A. (Deponent viewing document). Oh, direct
22 payroll, no.

23 Q. If we go to 5698.

24 A. (Deponent viewing document). 5698, see,

1 even on this.

2 Q. See, the next one -- the next one's for the
3 previous year and on that one he's got you making
4 51,000 and change?

5 A. (Deponent viewing document). On 5698?

6 Q. Yeah.

7 A. (Deponent viewing document). Is it 50
8 something or it looks like either a four or a six.

9 MR. FOLLANSBEE: It looks like 52.

10 A. (Deponent viewing document). Where am I at
11 here?

12 Q. Net earnings.

13 A. (Deponent viewing document). Net earnings.
14 Okay. Oh, yeah, right, yeah, yeah.

15 Q. But you can't really -- so you're telling me
16 you can't really help us much with this?

17 A. (Deponent viewing document). I know that
18 depreciation comes out then if you -- obviously,
19 there's a cap.

20 Q. Well, depreciation's there, so if you take
21 out --

22 A. Yeah, on some of them. But I think -- I
23 don't know. I don't know what that loss of whatever
24 earnings loss of how he does it or figures it. I

1 don't get it.

2 Q. So in terms of what you actually lost he'd
3 be the person to ask?

4 A. Yeah, yeah, I would say yes.

5 Q. Here is Number 3. Is that 5701 on the
6 bottom?

7 MR. FOLLANSBEE: Yeah, that's
8 Exhibit Number 3.

9 THE DEPONENT: Yeah, the one thing
10 I do --

11 MR. FOLLANSBEE: No question.

12 THE DEPONENT: Okay. I was trying
13 to think.

14 Q. What were you going to say?

15 A. Now, do I answer or no?

16 MR. FOLLANSBEE: Yes. Now, you
17 answer it.

18 A. Okay. Somewhere in that -- I'm trying to
19 think of where it said that something lost -- I built
20 that clubhouse so that had to somehow -- and I don't
21 know how he does it; you'd have to ask him -- but that
22 clubhouse expenses I'm certain comes out of that
23 figure also.

24 So, you know, if you -- that would be

1 figured in for sure, and he'd have to explain to you
2 how. I'm imagining that he must have done it over ten
3 years, the cost of the clubhouse divided by ten. That
4 comes out for a loss for me somehow. My guess so it
5 would be probably 60,000 a year or a little more
6 maybe, something like that, stuff like that so just
7 sort of guessing.

8 Q. Okay. So exhibit -- what do I have here 3?
9 3, is once again for the whole company; right?

10 A. (Deponent viewing document). Yeah.

11 Q. Put that away. And Exhibit 4 somebody
12 marked these all up. I'm just making sure there's
13 nothing else. Here's 4. 4 is also for the whole
14 company; right?

15 A. (Deponent viewing document). Right.

16 Q. See on 4 on Page 3.

17 A. (Deponent viewing document). Page 3, yes.

18 Q. I'll ask a question.

19 A. Okay.

20 Q. What happened to your revenues in '09?

21 A. (Deponent viewing document). Less golf
22 courses. In '09 we went down to three.

23 Q. What'd you have before?

24 A. Well, see --

1 Q. Why'd you lose them?

2 A. At our peak, we had eight. That was in that
3 first -- probably, '05 when you showed me that first
4 one '05 or six. I think we went from eight to five to
5 three and now to two.

6 Q. How come?

7 A. Well, some were dogs that we wanted to get
8 rid of. And if, you know -- we're under contract, of
9 course, if we're losing money, we got to live with it,
10 but if we can get out of it, we get out of it.

11 And then, you know, didn't rebid, maybe, on
12 some of them. Let it expire, that's what basically
13 Abington, and we -- that wasn't in really any great
14 shape so we got out of that.

15 Q. Now, we had --

16 MR. FOLLANSBEE: What page was that
17 on, Lenny? Is it Page 3 of the document?

18 MR. KESTEN: Yeah.

19 Q. Take a look at Page 12.

20 A. (Deponent viewing document). Okay.

21 (Whereupon Mr. Chernoff joined the
22 proceedings).

23 Q. In North Hill, you lost \$80,000?

24 A. (Deponent viewing document). Yeah. See,

1 again, this earnings loss from operations I don't
2 know. General administrative expenses probably was
3 the portion which would be higher because we only had
4 three places of my salary. I would guess. I'm just
5 guessing, but I don't know how he does this. And,
6 again, if the clubhouse is factored in -- well, maybe,
7 by '09 it might not even have been. Yeah, it would
8 have been factored in.

9 Q. No. It was after the -- contract's all done
10 now.

11 A. I know.

12 Q. It's a new contract. It's your first year
13 on the --

14 A. (Deponent viewing document). Yeah. You
15 might be right. It might have been done over ten
16 years. I don't know how he did it so I don't know. I
17 know the revenue's down for sure. You can see that
18 because that place was doing -- what? 570 before that
19 so or something.

20 Q. Let's look at '08, Page 13.

21 A. (Deponent viewing document). Okay.

22 Q. Now, your revenue went down. See, your
23 revenue in '08 --

24 (Whereupon Ms. Pickering Cook left

1 the proceedings).

2 A. (Deponent viewing document). Page 13.

3 Q. Still 200.

4 A. (Deponent viewing document). Yeah, see, in
5 '08 it was 629.

6 Q. Correct. However --

7 A. (Deponent viewing document). But two oh
8 eight would have been the last year of --

9 Q. However, your net earnings were \$55,094?

10 A. (Deponent viewing document). Yeah. But,
11 again, I think you have to factor in all the other --
12 what these other things are, which I don't even know.
13 I probably paid myself more.

14 Of course, it would all depend on what we
15 made what I got paid so I don't -- I guess Brian would
16 have to answer these better than I because I'm not --
17 and I don't even know if going through those the
18 fiscal year where North Hill was done. They were
19 given stuff on calendar year so I don't know how that
20 factors in either.

21 Q. So Brian Morrissey would be the person that
22 I would have to --

23 A. Correct.

24 Q. -- ask questions of about how much money you

1 were actually making or you lost?

2 A. Yeah.

3 MR. KESTEN: I have no other
4 questions.

5 EXAMINATION

6 BY MR. KREIGER:

7 Q. When did you change from Johnson Turf and
8 Golf Management to Johnson Golf?

9 A. I think in '03 or four. I think '03 but I'm
10 not positive.

11 (Discussion off the record).

12 Q. (BY MR. KREIGER) Oh, three or four. When
13 had the company started?

14 A. 1989.

15 MR. FOLLANSBEE: Off the record for
16 a second.

17 (Discussion off the record).

18 Q. (BY MR. KREIGER) Did Johnson Turf and Golf
19 Management ever do any other kinds of property besides
20 golf courses?

21 A. Yes.

22 Q. What did they do?

23 A. We did some small athletic field work. We
24 did some for the -- in the early days the Town of

1 Weston somewhere else, so we -- we actually bid on a
2 couple of athletic field projects in the beginning.

3 That's what I was going to say if the
4 company was formed as Johnson Turf and Golf because my
5 background is agronomical turf. And I didn't really
6 know in the beginning whether I was going to have
7 enough golf business to just call it golf.

8 So we started out trying to get business
9 wherever we could and then the golf part of it just
10 completely grew in the '90s, so I -- in 2002 or three,
11 whatever it was, I decided we're not going to be doing
12 athletic fields so let's get the name Johnson Golf and
13 only use that name.

14 Q. And when you worked for Weston on their
15 fields, you used the same equipment that you used on
16 golf courses?

17 A. No.

18 Q. Some of the same equipment?

19 A. Outside of very limited equipment, golf
20 equipment is much more technical.

21 Q. Did the same people, same employees work on
22 the Weston fields that worked on golf courses?

23 A. Yeah, it'd be a much easier job for them.

24 Q. Athletic fields would be a much easier job?

1 A. Yes. Athletic fields are cut at -- the
2 mowing height of athletic fields is basically what a
3 rough is on a golf course which is the highest grass
4 you have. Athletic field turf is nothing like greens,
5 tees, or fairways, much higher grass.

6 Q. Did you do anything else besides athletic
7 fields other than golf courses?

8 A. No.

9 Q. Did you bid on any other jobs besides
10 athletic fields?

11 A. When I was at Sky Meadow, I did bid on one
12 thing; it was a movie theater landscaping which I did
13 up there and that would be in, like, 1990.

14 Q. What's movie theater landscaping?

15 A. They had a -- they built a movie theater in
16 Nashua so I was running Sky Meadow at the time so we
17 would -- I think we were just driving by one day and
18 stopped in and the guy says, hey, you guys do
19 landscaping too.

20 And I go, well, I -- I can landscape, so --

21 Q. So this is just like parking lot
22 landscaping?

23 A. Yeah.

24 Q. This is not a drive in?

1 A. Not fields just like beds with flowers and
2 trees and shrubs, yeah, we put them all in.

3 Q. You described the litigation that you've
4 been involved in regarding golf courses before?

5 A. Yes.

6 Q. Has Johnson Turf and Golf or Johnson Golf
7 ever been involved in litigation other than over golf
8 courses?

9 A. I don't think so.

10 Q. And the litigation you described was with
11 municipalities; correct?

12 A. Correct.

13 Q. Have you ever been involved in litigation
14 over private golf courses?

15 A. No.

16 Q. Have you ever worked for a municipality with
17 whom you were not in litigation eventually?

18 A. Oh, definitely, yes.

19 Q. In Massachusetts?

20 A. Yes. That I was not --

21 Q. Yeah.

22 A. -- in litigation?

23 Q. Yeah.

24 A. Sure.

1 Q. What towns or cities were those?

2 A. Hingham, if I had my thing, I could look at
3 my list. Do you have a copy of, like, my proposal or
4 anything I could look at?

5 Q. So is it all the municipalities in the
6 proposal except for the ones for which you've had
7 litigation?

8 A. Yeah, like, in my proposal I have the list
9 of all the places that I've worked. John Parker in
10 Taunton there's no litigation.

11 Q. So if we look at that list and then --

12 A. Yeah.

13 Q. -- take out the ones where you were in
14 litigation --

15 A. Yeah.

16 Q. -- the rest are the ones where you don't
17 have litigation?

18 A. Correct, yeah. Good idea.

19 Q. Are you familiar with litigation by other
20 golf course management companies against
21 municipalities in Massachusetts?

22 A. There's been some, yes.

23 Q. How many do you know about, how many cases?

24 A. I know ELM litigated against Melrose, that

1 one stands out. I don't know. Off the top of my
2 head, I don't know how many. I don't think there's a
3 lot, but I know there's others.

4 Q. Sounds like you have more litigation against
5 municipalities over golf courses than other management
6 companies?

7 A. As -- how -- I mean, on a percentage basis
8 of bids or just in general? I don't know of any
9 companies that have probably had litigation as much as
10 I have, but I'll guarantee that I've been on a lot
11 more contracts than most companies also. At one time,
12 we were the biggest company in New England -- golf
13 management company in New England.

14 Q. When was that? Roughly what years?

15 A. Probably from probably from the early 2000s
16 to 2007.

17 Q. And why did you fall out of first place, if
18 you will, in 2007?

19 A. Scaled down, as I said before, the way golf
20 was going with some places if you're losing money,
21 that's something you want to get out of.

22 And you bid on what you bid, not to mention
23 the biggest thing of all was my reputation has been
24 tainted tremendously by some of these lawsuits.

1 I've won every lawsuit I've been involved in
2 and yet I'm the bad guy even though I pay cities and
3 towns more money than what they ever got from anybody
4 else in every instance.

5 Q. You may have basically answered this for
6 Lenny, but do you have any estimate of Johnson Golf's
7 lost revenue or lost profit for the years -- well, in
8 Duxbury for any years or does that all have to come
9 from Brian?

10 A. Well, only from what -- I'm recalling what
11 Brian gave for that loss profit thing which again I
12 said I didn't -- I don't think he added in -- he did
13 that from past performance on just Duxbury and it was
14 somewhere around 150,000.

15 But that did not add in the -- on a new
16 contract the fee increases which would be another 90
17 to a hundred thousand a year not to mention my lease
18 payments would have gone from 110 to 84,000 which
19 would have been lowered.

20 The other damages just off the top of my
21 head that I can think of when CALM -- not CALM, what's
22 his name -- when Pilgrim Golf got in there, we had to
23 pay out 40 something thousand dollars.

24 We had operated the place for three months

1 and what they did -- and I don't blame the judge -- he
2 took whatever money we took in and divided by four for
3 each quarter.

4 We only ran it for the first three months,
5 but they were the winter months, January, February,
6 March so we took it on the chin for about 40 something
7 thousand there, then I have the damages of the house
8 for over four years of them knocking the house down
9 not giving me compensation.

10 So the damages off the top of my head I'd
11 say a five-year contract and the damages are probably
12 a million and half, somewhere in there.

13 Q. So it sounds like Brian worked up your lost
14 profits and he's -- they're in these financial
15 statements, but then you think he omitted certain
16 things or you'd make certain adjustments to his
17 numbers?

18 A. Yeah. I think in there was an -- like, he
19 did -- he's done an evaluation on Duxbury on itself.
20 I think -- I think you guys have that.

21 But don't forget we shelled out a lot of
22 money over -- I believe it was over 600,000 for that
23 clubhouse when we bought it so that has to show up as
24 a loss somewhere in my books.

1 I'm not an accountant, but I'm just guessing
2 if you take the money that was -- plus interest that
3 was paid for over ten years, that's 650,000 that's
4 65,000 a year that I'm taking on the chin, so that
5 amount -- that comes to that amount not to mention
6 whatever salary I get paid at that time, whatever he
7 allocated towards that.

8 So I think his -- I think what he did with
9 his -- and you'd have to ask him -- I think you would
10 have to take the lost profit performer that he did and
11 ask him how he did it. He's a very competent guy so
12 I'm sure he has all the answers. I don't.

13 Q. Well, I'm just trying to figure out how to
14 understand your damages.

15 A. Yeah.

16 Q. Because you and Brian were named as expert
17 witnesses on damages on the pretrial memo that was
18 filed in court last November with no explanation of
19 who was going to --

20 A. I am not an expert, sir. I'm not an expert
21 at breaking that down. I mean, Brian did the
22 financials, audited them, so he would certainly know
23 better than I would of what went where, why things
24 went where or whatever.

1 Q. So are you going to offer any expert
2 testimony on damages? You can testify to what --

3 A. I think Brian would.

4 Q. Well, that's what I'm trying to figure out.

5 A. Yeah.

6 Q. If I should ask you these questions or just
7 Brian?

8 A. I would ask just Brian because I'm
9 speculating on what I'm saying. The only thing I do
10 remember when he told me when I -- it was similar to
11 New Bedford when I invested three million bucks, he
12 said the problem is you're going to look like you're
13 operating at a loss for a long time because you've
14 invested money that you're not able to put on your
15 balance sheet as an asset. That's the only thing I do
16 understand, you know. Like, that's a loss to me.

17 In other words, the City of New Bedford in
18 that case gets the benefit of the asset just as in
19 Duxbury -- the Town of Duxbury gets the asset of the
20 clubhouse instead of -- I paid for it, but they get
21 the asset as a benefit not me.

22 So it has to come from somewhere. How he
23 does it, I don't know.

24 Q. So this entire area of your damages --

1 A. Yeah.

2 Q. -- in terms of expert testimony should come
3 from Brian?

4 A. Yes, I would say, yes.

5 Q. How much was the clubhouse?

6 A. Clubhouse cost us somewhere almost --
7 somewhere around six hundred thousand. I think a
8 little less, but then when you add in interest paid
9 over the years -- I don't know how he did it -- but it
10 might come to -- I think we paid it off in '09 late
11 '09.

12 Q. What years did you build the clubhouse?

13 A. I think we built it in 2000. We didn't
14 build it in '99. I think we built in 2000 and we paid
15 it off in late, late '09.

16 Q. Had you borrowed the whole amount?

17 A. I think we did, yeah, yeah. It was all
18 under -- we had a line of credit of, like, two million
19 bucks that was paid off, the whole thing was paid off
20 October of '09 I think.

21 Q. The whole thing meaning the whole clubhouse?

22 A. Yeah, and --

23 MR. FOLLANSBEE: The whole line of
24 credit.

1 A. So, yeah, I think at that time we had, like,
2 a million seven. We paid the whole thing off, yeah.

3 Q. So all the interest that was running those
4 years was for other things as well as the clubhouse?
5 If you borrowed a million seven, you had --

6 A. Yeah, yeah. There was other stuff in there
7 from other capital sure because we -- like I said, at
8 that time we -- that -- at one time I know we did sink
9 in 2000 a lot of our own money, but over the years
10 definitely we had to finance some of that project for
11 sure.

12 MR. KREIGER: Okay. I don't have
13 any further questions.

14 MR. FOLLANSBEE: Just a couple by
15 way of background.

16 EXAMINATION

17 BY MR. FOLLANSBEE:

18 Q. Going back to Attorney Kesten's questions
19 about your background, what was your degree at UMass
20 Amherst in?

21 A. Plant soil science which is considered
22 pretty much agronomy.

23 Q. And you indicated that you had been involved
24 in golf since you were ten years old. Did you ever

1 achieve any notable results as a golfer yourself?

2 A. I was a junior state champion when I was 16.

3 Q. And what year was that; do you remember?

4 A. 1967.

5 Q. What'd you shoot in your final round that
6 day?

7 A. Like, 72 or something like that.

8 Q. Now, that I have him under oath --

9 MR. FOLLANSBEE: Off the record.

10 (Discussion off the record).

11 Q. (BY MR. FOLLANSBEE) When you were listing
12 the various golf courses that you had managed do you
13 remember managing the Saint Mark's Golf Course?

14 A. Yes.

15 Q. And what kind of golf course was that? 18
16 or nine?

17 A. Nine holes, that's right.

18 Q. And what were the tee time policies there
19 regarding 18 hole tee times?

20 A. Nine hole tee times only.

21 Q. Now, with regard to individuals who may have
22 said that you weren't going to be getting the contract
23 after the end of the 2008 season, did you get any
24 feedback from an individual named Tyler that worked

1 for your firm?

2 A. Yes.

3 Q. Concerning a man named Mr. Daley?

4 A. I do remember that now.

5 Q. Who was Mr. Daley?

6 A. He was one of the people who was going to be
7 bidding.

8 Q. And what do you remember about the feedback
9 you got through Tyler about Mr. Daley?

10 A. Tyler told me that Mr. Daley told him
11 Johnson wouldn't be coming back that he had the
12 selectmen in his pocket.

13 Q. And what year was that?

14 A. That was in 2007 -- no, I'm sorry -- early
15 2008, summer of 2008, and I believe I sent Cushing a
16 letter to that effect also.

17 Q. And did you eventually fire Tyler?

18 A. Yes.

19 Q. Why did you fire him?

20 A. He was stealing.

21 Q. In addition to stealing, what else was he
22 doing with the members at North Hill?

23 A. Well, he -- at that time, there was still --
24 the men's association which was broken up pretty good,

1 very few of them still played golf anymore at North
2 Hill -- but they would still play as a group
3 probably -- not the 40 or 50 they used to be, but
4 probably, like, 15 or 16, and they were pretty rowdy
5 out there.

6 I remember we had another league out there
7 that there was almost -- there was a couple of fights
8 almost. I remember Kelly had to reprimand the men's
9 association North Hill that these guys weren't --
10 Doolin did come and play on those Thursday nights, I
11 do remember that. So they would be causing trouble.
12 They'd trash the place and they were reprimanded.

13 But he was also fired because we found
14 out -- I didn't find this out till after we fired
15 him -- but I guess the fire department was called
16 there one night because smoke detectors went off and
17 they were down in the basement, this guy Ford, a
18 couple of other of these guys, and they were smoking
19 dope down there.

20 Q. Now, the termination of Tyler in '08 did you
21 get any feedback from any of the members of the North
22 Hill Advisory Committee during the summer of 2008
23 about Tyler leaving?

24 A. Yes. We were able because Tyler's e-mail

1 was on our computer there was all kinds of e-mails
2 being sent from this Ford, others, Doolin might have
3 been in on it, a couple others, but they were just
4 very negative towards us, a lot of foul language about
5 us, yeah.

6 They just -- they told him he was the best
7 thing that ever happened to the place, and I guess
8 that was because I didn't smoke any dope with them.

9 MR. KESTEN: What was wrong with
10 that?

11 Q. Other than the interaction that you had with
12 Attorney Troy in this lawsuit, did you have any other
13 interaction with him with the exception of the change
14 order regarding the pilot program?

15 A. Not that I can remember.

16 Q. And just for clarity as far as Betsy
17 Sullivan until the day you talked to her in this room
18 at her deposition had you ever had a conversation with
19 her?

20 A. Never.

21 Q. And other than the one minute that you
22 presented a settlement package to her in January of
23 2010 have you ever talked to her and met her?

24 A. No. I sat in the audience though when we

1 went for our liquor license in '09 to get that
2 renewed. She was against renewing my liquor license.
3 I think the vote was two to one where Selectmen Donato
4 and Witten voted to give me the license, and she I
5 think said no.

6 Q. I think that might be it. Oh, where --
7 never mind, I think you addressed that. As far as
8 golf courses, there's a complete list of them in your
9 proposal?

10 A. Yes.

11 MR. FOLLANSBEE: That's fine. I
12 have nothing further.

13 REEEXAMINATION

14 BY MR. KESTEN:

15 Q. Let me just go through that. I'm looking at
16 your proposal. Present operations North Hill Country
17 Club lawsuit, Pakachoag Golf Course in Auburn?

18 A. Yeah.

19 Q. That was the litigation there; right?

20 A. Correct. That settled.

21 Q. Settled. Whaling City Golf Course, New
22 Bedford, that's litigation right now?

23 A. Uh-huh.

24 Q. Yes?

1 A. Yes.

2 MR. FOLLANSBEE: You have to say
3 yes.

4 Q. Strawberry Valley Golf Course in Abington
5 that was in litigation?

6 A. Right.

7 Q. Highland Country Club in Attleboro?

8 A. No litigation.

9 Q. Then South Shore Country Club in Hingham?

10 A. None.

11 Q. Saint Mark's?

12 A. None.

13 Q. Acushnet River Valley?

14 A. None.

15 Q. John Parker?

16 A. None.

17 Q. George Wright?

18 A. Yes.

19 Q. Beverly --

20 A. Yeah.

21 Q. -- Golf and Tennis?

22 A. Yes.

23 Q. Sky Meadow, New Hampshire?

24 A. No.

1 Q. Locus Valley, Attleboro?

2 A. No.

3 Q. Shaker Hills in Harvard?

4 A. No.

5 Q. Did I say South Shore Country Club?

6 A. Yeah.

7 MR. KESTEN: Okay. Let's take a
8 break for ten minutes.

9 (Deposition of DOUGLAS JOHNSON
10 concluded at 3:24 p.m.).
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C E R T I F I C A T E

I, DOUGLAS JOHNSON, hereby certify under the pains and penalties of perjury that I have read the foregoing transcript of my testimony and further certify that said transcript is a true and accurate record of my testimony (with the exceptions of the corrections, additions, and deletions noted below).

PAGE	LINE	CORRECTIONS, ADDITIONS AND/OR DELETIONS
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Signed under the pains and penalties of perjury this ____ day of _____ 2012.

DOUGLAS JOHNSON

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

I, JENNIFER M. RAPOZA, Professional Shorthand Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the deponent whose deposition is hereinbefore set forth was duly sworn and that such deposition is a true record of the testimony given by the deponent.

I further certify that I am neither related to or employed by any of the parties in or counsel to this action, nor am I financially interested in the outcome of this action.

In witness whereof, I have set my hand and seal this 20th day of August, 2012.

Jennifer M. Rapoza, Notary Public in and
for the Commonwealth of Massachusetts.
My Commission Expires July 8, 2016.