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SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF ORANGE

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TOWN OF WOODBURY and the TOWN OF
WOODBURY TOWN BOARD,

Plaintiffs,

-against-

Index No.
EF006036-2018

VILLAGE OF WOODBURY, VILLAGE OF WOODBURY
BOARD OF TRUSTEES and ORANGE COUNTY,

Defendants.

-----x

EXAMINATION BEFORE TRIAL of the Defendant,
VILLAGE OF WOODBURY BOARD OF TRUSTEES, by and through
THOMAS G. FLOOD, held on June 26th, 2019, at 11:49
a. m., at the offices of Catania, Mahon, Milligram
& Rider, PLLC, One Corwin Court, Newburgh, New York,
pursuant to Court Order, before a Notary Public of
the State of New York.

KIM A. ZGRODEK
PROFESSIONAL COURT REPORTER
PO BOX 600, MARLBORO, NEW YORK 12542
845-642-8633

1 A P P E A R A N C E S:

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By: RICHARD M. MAHON, II, ESQ.,
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15

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ORANGE COUNTY ATTORNEY'S OFFICE
Attorney for Defendant
Orange County.
255-275 Main Street
18 Goshen, New York 10924
19 (845)291-3150
20 (No appearance)

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S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by
and between the parties hereto, through their
respective counsel, that sealing, certification
and filing shall be waived;

It is further stipulated and agreed that
all objections except as to the form of the
question and responsiveness of the answer shall
be reserved to the time of trial;

It is further stipulated and agreed that the
transcript of testimony may be signed before any
notary public or other officer authorized to
administer oaths;

It is further stipulated and agreed that the
examining party will furnish the examined party
with a copy of the transcript of testimony free
of charge.

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THOMAS G. FLOOD,

having been first duly sworn by the notary public,
was examined and testified as follows:

BY MR. MAHON:

Q Would you state your name for the record, please?

A Thomas G. Flood.

Q Good morning, Mr. Flood. My name is Richard Mahon. I represent the Town of Woodbury and the Town Board of Woodbury in this litigation. I'm going to be asking you questions today about the land swap transaction and the allegations in the complaint.

I'm also going to be showing you some exhibits and asking you to look at them and I'll ask you questions about them.

If I ask you a question you don't understand, please let me know and I'll rephrase the question. If you want to take a break, that's fine with me. I would ask that all of your responses be verbal instead of a nod of the head or the shake of the head.

A Sure.

Q Okay?

A Yes.

1 Q Are you currently employed, sir?

2 A I am, yes.

3 Q And by whom?

4 A IBM.

5 Q In what capacity?

6 A I am a global program manager. I run a cloud
7 computer system.

8 Q Is this IBM over in --

9 A Sterling.

10 Q I'm sorry. Where?

11 A Sterling Forest.

12 Q Sterling Forest. Okay. Are you currently serving
13 on the Village Board of the Village of Woodbury?

14 A Yes.

15 Q And when did you begin first serving?

16 A Just a guess, it's been eleven years so do the
17 math.

18 Q 2006 or 7?

19 A 6.

20 Q Have you served continuously during that time?

21 A Yes.

22 Q Probably the longest serving board member then or
23 one of them?

24 A One of them. I'd have to say yes to that.

1 Q Before coming here today did you look at any
2 papers in preparation for your deposition?

3 A Yes.

4 Q What did you look at?

5 A Just some notes that I took from looking at an
6 e-mail that showed meeting minutes.

7 Q And did you speak to anybody -- aside from your
8 attorney did you speak to anybody in preparation
9 for your testimony?

10 A No.

11 Q I'm going to show you what's been marked -- we've
12 had I think ten or eleven depositions before you
13 so we have marked exhibits. I'm going to show you
14 what's been marked as Plaintiff's Exhibit 6. Take
15 a moment, please, and look at it if you would.

16 A Okay.

17 Q Do you recognize that document?

18 A I do.

19 Q What do you recognize it to be?

20 A Meeting minutes.

21 Q Just so we're clear on the first page of
22 Plaintiff's Exhibit 6 is it fair to say these were
23 the minutes of the village board meeting held on
24 July 27th, 2017?

1 A Yes.

2 Q And you were present at that meeting?

3 A Yes.

4 Q And also present was the Village Mayor Queenan, is
5 that correct?

6 A Yes.

7 Q And I see that David Sutz was present as well, is
8 that correct?

9 A Yes.

10 Q As you sit here today do you recall him being
11 there at that meeting?

12 A No.

13 Q And I see that Maria Hunter of the planning board
14 was also present, do you see that?

15 A Yes.

16 Q As you sit here today do you recall her being at
17 that meeting?

18 A No.

19 Q I'm going to refer you first to page two. Look at
20 the bottom of page two. Do you see there's an
21 agenda item under II, Old Business, subparagraph
22 B, it says authorize mayor to sign-land exchange
23 with Town of Woodbury. Do you see that?

24 A Yes.

1 Q And please over to the next page, it carries over
2 and there was a motion offered. I'm going to read
3 a portion of that and then I'm going to ask you
4 some questions about it. Okay?

5 A Yes.

6 Q It says "Motion was then offered by Trustee Egan,
7 seconded by Trustee Crouse to authorize the mayor
8 to sign any and all documents relating to a
9 property exchange with the Town of Woodbury as
10 follows, upon final preparation, review and
11 authorization by counsel" and then it continues.
12 Do you see that?

13 A Yes.

14 Q My first question, where it says upon final
15 preparation, review and authorization by counsel,
16 when you voted upon that motion did you have an
17 understanding of what that meant?

18 A Yes.

19 Q What was your understanding?

20 A That we were exchanging land and that there would
21 be paperwork involved in that.

22 Q At that time in July of 2017 did your village
23 board have an attorney?

24 A Um, I don't know how to answer that because we

1 sometimes bring in an attorney. How do I -- I'm
2 not sure.

3 MR. GOLDEN: Just however you
4 consider how that works and if you don't
5 understand the question --

6 A I'm going to say yes. However, I know at times we
7 may bring in an attorney for specialized, you
8 know, deals.

9 Q Okay. And that's probably the most accurate
10 answer based on all the testimony I've heard. So
11 looking still at that motion language it says
12 "From the town to the village, section 219, block
13 5, lot 21 and a portion of lot 20." Then it says
14 (highway garage and salt shed). Do you see that?

15 A Yes.

16 Q Where it says a portion of lot 20, did you have an
17 understanding of what portion of that lot was
18 being conveyed?

19 A No.

20 Q Before taking this vote on this motion had you
21 seen a survey map that showed what portion was
22 being conveyed?

23 A I believe I have. I don't recall it.

24 Q And my question is before you took the vote did

1 you see the survey map before the vote was taken?

2 A I believe I did.

3 Q And where did you see that map?

4 A I would have seen it coming down to the village
5 office, preparing before the meeting to get, you
6 know, letters and what not might be in my mail and
7 to look at it that way.

8 Q Did Mayor Queenan show you a map of that property?

9 A I don't believe so.

10 Q Did you receive a copy electronically via e-mail?

11 A I may have.

12 Q But you're not sure?

13 A I'm not sure.

14 Q Did you have a chance to walk the property that
15 was being conveyed before this meeting?

16 MR. GOLDEN: Objection to the form of
17 the question but you can answer if you
18 understand it.

19 A Could you rephrase the question?

20 Q Okay. I'm not sure what's not to understand about
21 that.

22 MR. GOLDEN: Opportunity.

23 Q Right. The property that's described here, the
24 property that was being conveyed from the town to

1 the village, and that would be lots 21 and a
2 portion of lot 20, my question is did you
3 physically walk those lots before the vote was
4 taken?

5 A Yes, I -- comma --

6 Q If you need to explain, you can explain.

7 MR. GOLDEN: You can explain.

8 A Okay. I walk three to five miles every day. It's
9 where I cut through.

10 Q I see.

11 A So I wasn't walking for the purpose of -- for the
12 meeting.

13 Q All right. In other words, you weren't walking
14 the lot for the purpose of the meeting but you
15 have walked that lot before, is that what you're
16 saying?

17 A Yes.

18 Q Did you ever have occasion to walk the lot before
19 the meeting with Mayor Queenan?

20 A No.

21 Q I'm going to show you what's been marked as
22 Plaintiff's Exhibit 1.

23 A Can I get rid of this? (Indicating).

24 Q Yes. You can move it over here. (Indicating).

1 And with that before you make any comments I want
2 to show you a larger map as well. Here it is.
3 What you have in front of you is Plaintiff's
4 Exhibit 1 and then Plaintiff's Exhibit 8 which is
5 a larger map. Do you recognize what is shown
6 first on Plaintiff's Exhibit 8?

7 A Yes.

8 Q And what do you recognize it to be?

9 A It's an illustration of -- it's a survey of the
10 properties that contained the garage, the barn,
11 the senior citizens center, the area that we're
12 talking about here.

13 Q And did you see this map before the vote was taken
14 on July 27th, 2017?

15 A I don't recall.

16 Q Take a look at Plaintiff's Exhibit 1 if you would
17 which is a smaller version of this map. It's also
18 been stamped by the surveyor. Did you have
19 occasion to see that map before the vote was
20 taken?

21 A Yeah. I don't recall.

22 Q Well, you mentioned before that you did see a
23 survey of the property unless I misunderstood
24 you --

1 A Right.

2 Q -- before the vote was taken, is that correct?

3 A Right.

4 Q And by looking at Plaintiff's Exhibit 8 can you
5 tell if it was the same survey?

6 A No, I can't.

7 Q Do you recall what was shown on the survey that
8 you saw?

9 A I don't recall.

10 Q And just to be clear I think you testified that
11 you received that survey in your mailbox?

12 A Yeah. Can I --

13 Q If you need to explain, please explain.

14 MR. GOLDEN: Explain.

15 A I've seen it. I don't know if I've seen this one.
16 There was something in our e-mail. I looked at a
17 blueprint similar to this. (Indicating).

18 Q If you look on the Plaintiff's Exhibit 8 on the
19 right-hand side in the legend there there's the
20 name Steven J. Green. On the large map you can
21 see it much better.

22 A Yeah. Uh-huh.

23 Q Do you know who Steven J. Green is?

24 A I would assume he's the architect or the person

1 who drew this.

2 Q I guess what I'm asking you is have you ever met
3 him personally?

4 A No.

5 Q Have you ever talked on the phone with Steven
6 Green?

7 A No.

8 Q Have you ever transmitted an e-mail to Steven
9 Green?

10 A No.

11 Q Have you ever received an e-mail from him?

12 A I don't know. I may have.

13 Q When we were looking at Plaintiff's Exhibit 6
14 before which was the motion that was made, and
15 I'll show it to you again, we're looking at the
16 wording of the motion and I read you the portion
17 where it said upon final preparation, review and
18 authorization by counsel. Do you see those words?

19 A Yes.

20 Q After the date of this motion, after July 27th,
21 2017 did any of the village board members or the
22 mayor tell you that that event had actually
23 happened, that there was final preparation, review
24 and authorization by counsel?

1 A I don't recall.

2 Q Did you ever receive any e-mail or other
3 communications indicating that such preparation,
4 review and authorization by counsel had occurred?

5 A I may have.

6 Q As you sit here today do you recall that?

7 A No.

8 Q I'm going to show you what's been marked as
9 Plaintiff's Exhibit 3. Please take a moment and
10 tell me if you've seen that document before.

11 A I have not seen this document.

12 Q Did you ever discuss this land transaction with
13 David Sutz?

14 A No.

15 Q Have you ever discussed it with any other town
16 board member for the Town of Woodbury?

17 A Yes.

18 Q Who else did you talk to about it?

19 A The mayor.

20 Q No. The town board.

21 A Oh, oh, I'm sorry. I'm thinking the village. No.

22 Q Do you know who Maria Hunter is?

23 A Yes.

24 Q And who is she?

1 A Well, she was on the planning board.

2 Q For the Village of --

3 A Woodbury.

4 Q Okay. Did you have occasion to talk to Maria
5 about this land transfer?

6 A Never.

7 Q When was the last time you spoke to Mayor Queenan
8 about this land transfer?

9 A Last week.

10 Q What was the substance of what you said and he
11 said generally?

12 A Just prep. I was just trying to understand what
13 the deposition might be like. Length of time.
14 You know, should I, you know, go back and read or
15 anything like that so --

16 Q Okay. And after the motion in Plaintiff's Exhibit
17 6, after the motion took place did you ever
18 inquire to find out if the deeds had actually been
19 recorded, if the transaction was completed?

20 A No.

21 Q Did anyone ever tell you that?

22 MR. GOLDEN: Objection to the form.

23 Q Aside from your attorney.

24 A Could you ask the question again, please?

1 Q Yeah. What I'm asking simply is this, after you
2 voted for this --

3 A Yup.

4 Q -- the village board voted, did there come a time
5 when somebody said, hey, the transaction has been
6 done and the deeds have been recorded, words to
7 that effect?

8 A I don't recall.

9 Q So before this lawsuit started you were not aware
10 that the deeds had actually been recorded for this
11 transaction?

12 A I would have gotten e-mails. I would have went
13 through them so I'm going to say yes to that.

14 Q I'm sorry.

15 A I'm going to say yes.

16 Q That you were aware?

17 A I was aware.

18 Q And that was before the lawsuit started?

19 A Yeah. Oh, yeah. Yes.

20 Q And do you recall through what means or from what
21 source you became aware of that?

22 A It would have just been through, you know, the
23 e-mails, you know. That's it.

24 Q I'm going to show you what's been marked as

1 Plaintiff's Exhibit 5. Please tell me if you've
2 seen that document before.

3 A No.

4 Q Do you know who Laura Breslin is?

5 A Yes.

6 Q And who is she?

7 A She's the assessor.

8 Q For which municipality?

9 A For the town.

10 Q Did you ever speak with Laura Breslin about this
11 land swap transaction?

12 A No.

13 Q Did you ever receive any e-mails from her or other
14 communications about this property transfer?

15 A I don't recall.

16 Q After the vote on July 27th, 2017 did you have an
17 understanding of who would be preparing the
18 documents to follow through on the transaction?

19 A Could you ask your question differently?

20 Q After you guys voted on July 27th, 2017 did you
21 have an understanding of who would be physically
22 preparing the documents, whether the deed or the
23 documents that go with the deed for the land
24 transfer?

1 A Can you give me an example of who might be doing
2 that?

3 Q If you give me those --

4 A (Indicating).

5 Q I appreciate your trying to clarify. I'm showing
6 you Plaintiff's Exhibit 3 and if you see there's a
7 deed there signed by David Sutz and then there's a
8 Schedule A and with the Schedule A there's a
9 document, it's called Equalization and Assessment
10 Form. You've probably seen one of those before.
11 Did you have an understanding of who would be
12 preparing these type of deed documents for the
13 conveyance after you voted on it?

14 A No.

15 MR. MAHON: Okay. I have no further
16 questions. Thank you.

17 (Whereupon, the examination of
18 Thomas G. Flood was concluded.)

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EXAMINATION BY:

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Mr. Mahon

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EXHIBITS MARKED FOR ID:

(None)

INFORMATION TO BE SUPPLIED/FILLED IN:

(None)

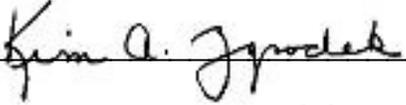
QUESTIONS MARKED FOR RULINGS:

(None)

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C E R T I F I C A T I O N

I, Kim A. Zgrodek, a Shorthand Reporter and Notary Public of the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.



Kim A. Zgrodek

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