

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

IN RE:)	
)	
GORDON PROPERTIES, LLC and)	Case No. 09-18086-RGM
CONDOMINIUM SERVICES, INC.,)	(Jointly Administered)
)	Chapter 11
Debtors in Possession.)	
<hr style="border: 1px solid black;"/>		

**EXAMINER’S MOTION FOR CLARIFICATION OF THE RIGHTS
OF GORDON PROPERTIES, LLC IN CONNECTION WITH
THE CONDUCT OF THE EXAMINER’S INVESTIGATION**

Gordon Properties, LLC (the “Debtor”) has accused the Examiner in this case of violating the Debtor’s due process rights and engaging in improper *ex parte* communications with others. The Debtor has purported to reserve its rights with respect to the Examiner’s allegedly improper actions, including objecting to the report of the Examiner and any request of the Examiner for compensation. In light of the extremely serious allegations lodged by the Debtor, the Examiner has no reasonable option, and indeed, is compelled, to seek urgent guidance of the Court as to whether he is, or is not, violating the Debtor’s due process rights and engaging in wrongful *ex parte* communications.

In an effort to fulfill his responsibility to investigate and report to the Court with respect to the proposed Settlement Agreement between Gordon Properties, LLC and its affiliates on the one hand, and First Owners’ Association of Forty Six Hundred Condominium, Inc. (the “FOA”) on the other hand, the Examiner has scheduled investigative interviews with members of FOA’s board of directors’ first and second Special Litigation Committees (collectively, the “SLCs”).

{LTB-00043668- }
Stephen E. Leach (Va. Bar No. 20601)
LEACH TRAVELL BRITT pc
8270 Greensboro Drive, Suite 700
Tysons Corner, Virginia 22102
(703) 584-8902

Examiner

Because the SLC's were represented by counsel, the Examiner has agreed that counsel for the SLC's should attend the interviews. But because the interviews are just that – interviews, not depositions or examinations conducted under Bankruptcy Rule 2004 – the Examiner has not invited counsel for the Debtor (or anyone else) to attend. Likewise, the Examiner has tentatively arranged for an investigative interview of Bryan Sells as the representative of the Debtor. Because the Debtor is represented by counsel, the Examiner has asked Debtor's counsel to be present. But the Examiner has not invited counsel for FOA or anyone else to attend the interview with Mr. Sells.

The Debtors have told the Examiner that the latter's failure to have Debtor's counsel present during the Examiner's interview of members of the SLCs violates the Debtor's due process rights and turns the interviews into wrongful *ex parte* communications between the Examiner and another party. The Debtor's position on the Examiner's violation of the Debtor's due process rights is laid out in the "strings" of e-mail communications between and among Debtor's counsel, the Examiner, and others, attached hereto as Exhibits A-1 (beginning June 23, 2013 at 6:05 p.m. and concluding on June 24, 2013 at 9:01 a.m.); A-2 (beginning June 24, 2013 at 9:07 a.m. and concluding that day at 3:18 p.m.), and A-3 (June 25, 2013 at 3:16 p.m.)

The Examiner believes that it is entirely proper (and should be entirely non-controversial) for him to conduct investigative interviews without the presence of counsel for parties other than the person being interviewed. The Examiner is concerned that the presence of counsel for what has been an adversary may chill communications and degrade the quality of the investigation. This concern is particularly acute in this case because of the interlocking nature of the parties to the proposed Settlement Agreement, which is part of the rationale for the appointment of an examiner in the first place.

The Debtor has advised the Examiner that, notwithstanding the Examiner's purported violation of its due process rights, the Debtor has decided not to seek emergency relief from the Court. Instead, the Debtor has told the Examiner that it reserves its right to object to the Examiner's report (and the Examiner's compensation) based on the violation of the Debtor's due process rights. In effect, the Debtor has decided to put its due process complaints in its pocket, to be pulled out if it does not like what the Examiner says in his report and to form the basis for a challenge to the Examiner's compensation. The Debtor's wish to suspend the Sword of Damocles over the Examiner threatens to chill the Examiner's investigation with the spectre of future litigation and is wholly unnecessary because the Court can make a determination on this point now – either the Examiner's investigation will violate the Debtor's due process rights by engaging in wrongful *ex parte* communications or it will not. Accordingly, the Examiner has no reasonable choice but to ask the Court for guidance as to whether he is violating the Debtor's due process rights and engaging in improper communications when he interviews members of the SLCs without the presence of Debtor's counsel.¹

¹ In the interests of full disclosure, the Examiner has had a lengthy "*ex parte*" interview with counsel for the FOA. Counsel for the Debtor was not given notice of this interview. Likewise, the Examiner has been contacted by, and spoken with, individual unit owners of the 4600 Condominium without notice to, or the participation of, counsel for either the Debtor or the FOA. The Examiner has also spoken with former counsel for the FOA without notice to, or the participation of, counsel for the Debtor or the FOA.

Wherefore, the Examiner prays that the Court determine whether the Examiner's interviews and conduct described above violate the Debtor's due process rights and constitute improper conduct.

Date: June 26, 2013

Respectfully submitted,

/s/ Stephen E. Leach

Stephen E. Leach (VA Bar No. 20601)

LEACH TRAVELL BRITT pc

8270 Greensboro Drive, Suite 700

McLean, Virginia 22102

Telephone: (703) 584-8902

Telecopier: (703) 584-8901

E-mail: sleach@ltblaw.com

Examiner

Certificate of Service

I hereby certify that on the 26th day of June, 2013, I caused a copy of this Motion for Clarification to be served by via e-mail, upon the following:

John T. Donelon, Esquire
125 S. Royal Street
Alexandria, VA 22314
donelanlaw@gmail.com

Joseph A. Guzinski, Esquire
Office of the United States Trustee
115 S. Union Street, Room 210
Alexandria, VA 22314
joseph.a.guzinski@usdoj.gov

Donald F. King, Esquire
James W. Reynolds, Esquire
Odin, Feldman & Pittleman
1775 Wiehle Avenue, Suite 400
Reston, VA 20190
donking@ofplaw.com
jim.reynolds@ofplaw.com

Jeremy Brian Root, Esquire
Blankingship & Keith, P.C.
4020 University Drive, Suite 300
Fairfax, VA 22030
jroot@bklawva.com

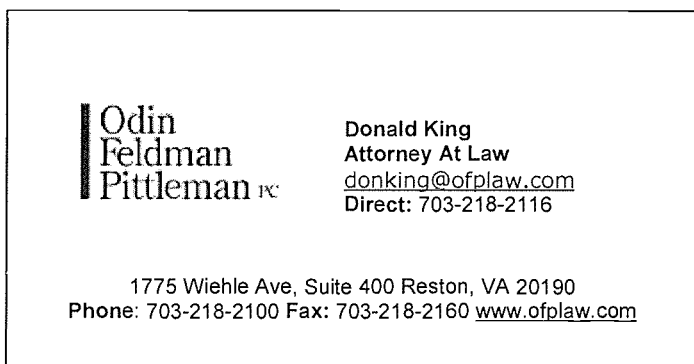
/s/ Stephen E. Leach
Stephen E. Leach

EXHIBIT A-1

Steve Leach

From: King, Don <donking@ofplaw.com>
Sent: Monday, June 24, 2013 9:01 AM
To: Steve Leach
Cc: Donelan, John; Marc Sarata; Kristen Burgers
Subject: RE: Leach Interviews

Steve, we reject your suggestion that you are authorized to conduct *ex parte* communications with parties and witnesses. We are happy to continue with the informal discovery plan we agreed upon with the court, but we expect to be noticed and provided an opportunity to attend the interviews. How can a party be expected to prepare for and respond to anticipated testimony when we have been kept in the dark. Please advise as to when you expect to interview Ms. Hernandez and Ms. Brungart. I will be in attendance. We do not intend to attend the interview of Mr. Reichenbach. Please let me know when you intend to interview Gordon Properties' representative. Mr. Donelan will be entitled to attend if he wishes. Regards, Don.



This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify {Email Address} immediately and delete this e-mail from your system. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

IRS Circular 230 Disclosure:

We are required to advise you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used by any taxpayer (i) for the purpose of avoiding any penalties that may be imposed under the Internal Revenue Code, or (ii) in promoting, marketing or recommending any entity, investment plan or arrangement, or any other transaction or matter discussed herein to any taxpayer other than the intended recipient hereof.

WARNING: Computer viruses can be transmitted via email. The recipient should check this email and any attachments for the presence of viruses. The company accepts no liability for any damage caused by any virus transmitted by this email. E-mail transmission cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. The sender therefore does not accept liability for any errors or omissions in the contents of this message, which arise as a result of e-mail transmission.

From: Steve Leach [<mailto:sleach@ltblaw.com>]
Sent: Sunday, June 23, 2013 9:43 PM
To: King, Don
Cc: Donelan, John; Marc Sarata; Kristen Burgers
Subject: RE: Leach Interviews

Don,

It never occurred to me (and I disagree) that Gordon Properties is entitled to have a representative present for an interview (not a deposition) of member of the FOA board or the SLC. John told me that he was going to inform you of

my (unsurprising) plan to interview the members of the first and second SLC's. My response was that I do not control what he does. But it, likewise, had not occurred to me that I have any obligation to advise Gordon Properties of my effort to interview anyone other than a representative of Gordon Properties. In that regard, I would like to interview a representative of Gordon Properties on an entirely voluntary basis, but would like to schedule such an interview after I have interviewed the members of the SLC's. John is not invited to such an interview, nor do I intend to provide him with further notice thereof (beyond his receipt of this email).

Regards,

Steve

From: King, Don [<mailto:donking@ofplaw.com>]
Sent: Sunday, June 23, 2013 7:46 PM
To: Steve Leach
Cc: Donelan, John
Subject: FW: Leach Interviews

Steve, I'm somewhat startled that you have chosen not to discuss this directly with me. Mr. Donelan is not my agent. In the first instance, I disagree with your position. We have agreed to be informal rather than requiring you to utilize normal discovery methods to conduct your investigation. Nonetheless, the debtors have not waived their rights and they do not accept that you have the authority to communicate *ex parte* with parties and witness. Having said that, it might be that we do not care about it in any event. I will let you know after speaking with my client whether he wishes that I be present for these interviews.

From: John T. Donelan [<mailto:donelanlaw@gmail.com>]
Sent: Sunday, June 23, 2013 6:05 PM
To: King, Don
Subject: Leach Interviews

Don,

Steve Leach and I are in the process of scheduling his interviews with members of the Special Litigation Committees.

He advised me that his position is that you are not entitled to be present. It is my understanding that you have not spoken to him about this matter.

After some reflection on this question, I do not believe that pushing the matter of your presence at the interviews of Martina, or any SLC Committee member, will benefit our joint goal to have the Settlement Agreement approved. Steve is concerned that the members of the SLC were bullied by Gordon Properties and Bryan Sells and I think that permitting him to examine the issues ordered by the court in a less confrontational matter, (without you present), may be beneficial to our clients.

John

JOHN T. DONELAN, ESQUIRE

Law Office of John T. Donelan
125 South Royal Street
Alexandria, Virginia 22314
Tel: 703-684-7555
Fax: 703-684-0981

**Odin
Feldman
Pittleman PC**

Donald King
Attorney At Law
donking@ofplaw.com
Direct: 703-218-2116

1775 Wiehle Ave, Suite 400 Reston, VA 20190
Phone: 703-218-2100 Fax: 703-218-2160 www.ofplaw.com

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify {Email Address} immediately and delete this e-mail from your system. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

IRS Circular 230 Disclosure:

We are required to advise you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used by any taxpayer (i) for the purpose of avoiding any penalties that may be imposed under the Internal Revenue Code, or (ii) in promoting, marketing or recommending any entity, investment plan or arrangement, or any other transaction or matter discussed herein to any taxpayer other than the intended recipient hereof.

WARNING: Computer viruses can be transmitted via email. The recipient should check this email and any attachments for the presence of viruses. The company accepts no liability for any damage caused by any virus transmitted by this email. E-mail transmission cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. The sender therefore does not accept liability for any errors or omissions in the contents of this message, which arise as a result of e-mail transmission.

This email has been scanned by the Boundary Defense for Email Security System. For more information please visit <http://www.apptix.com/email-security/antispam-virus>

This email has been scanned by the Boundary Defense for Email Security System. For more information please visit <http://www.apptix.com/email-security/antispam-virus>

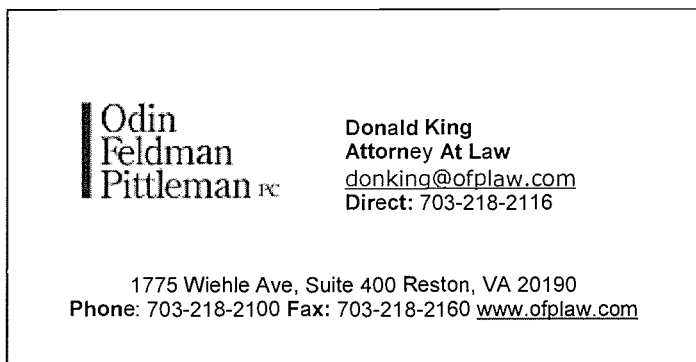
This email has been scanned by the Boundary Defense for Email Security System. For more information please visit <http://www.apptix.com/email-security/antispam-virus>

EXHIBIT A-2

Steve Leach

From: King, Don <donking@ofplaw.com>
Sent: Monday, June 24, 2013 3:18 PM
To: Steve Leach; 'joseph.a.guzinski@usdoj.gov'
Cc: 'donelanlaw@gmail.com'; Marc Sarata; Kristen Burgers
Subject: RE: Gordon Properties

And that is the essence of our due process objection.



This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify {Email Address} immediately and delete this e-mail from your system. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

IRS Circular 230 Disclosure:

We are required to advise you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used by any taxpayer (i) for the purpose of avoiding any penalties that may be imposed under the Internal Revenue Code, or (ii) in promoting, marketing or recommending any entity, investment plan or arrangement, or any other transaction or matter discussed herein to any taxpayer other than the intended recipient hereof.

WARNING: Computer viruses can be transmitted via email. The recipient should check this email and any attachments for the presence of viruses. The company accepts no liability for any damage caused by any virus transmitted by this email. E-mail transmission cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. The sender therefore does not accept liability for any errors or omissions in the contents of this message, which arise as a result of e-mail transmission.

From: Steve Leach [<mailto:sleach@ltblaw.com>]
Sent: Monday, June 24, 2013 2:24 PM
To: King, Don; 'joseph.a.guzinski@usdoj.gov'
Cc: 'donelanlaw@gmail.com'; Marc Sarata; Kristen Burgers
Subject: RE: Gordon Properties

Don,

I don't know what anyone is going to say, but if I can't rely on information provided by an investigation, then there is no reason to conduct the investigation in the first place.

Steve



Stephen E. Leach
Partner
sleach@ltblaw.com


Leach Travell Britt pc
8270 Greensboro Drive
Suite 700
Tysons Corner, Virginia 22102
Tel 703.584.8902
Cell 703.946.1365
Fax 703.584.8901
www.ltblaw.com

Internal revenue service circular 230 disclosure: as provided for in treasury regulations, advice (if any) relating to federal taxes that is contained in this communication (including attachments) is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the internal revenue code or (2) promoting, marketing or recommending to another party any plan or arrangement addressed herein.

This electronic mail transmission may contain confidential or privileged information. If you believe you have received this message in error, please notify the sender by reply transmission and delete the message without copying or disclosing it.

From: King, Don [<mailto:donking@ofplaw.com>]
Sent: Monday, June 24, 2013 1:26 PM
To: Steve Leach; 'joseph.a.guzinski@usdoj.gov'
Cc: 'donelanlaw@gmail.com'; Marc Sarata; Kristen Burgers
Subject: RE: Gordon Properties

Sorry, that should have said "Steve."

 <p>Odin Feldman Pittleman PC</p>	<p>Donald King Attorney At Law donking@ofplaw.com Direct: 703-218-2116</p>
<p>1775 Wiehle Ave, Suite 400 Reston, VA 20190 Phone: 703-218-2100 Fax: 703-218-2160 www.ofplaw.com</p>	

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify {Email Address} immediately and delete this e-mail from your system. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

IRS Circular 230 Disclosure:

We are required to advise you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used by any taxpayer (i) for the purpose of avoiding any penalties that may be imposed under the Internal Revenue Code, or (ii) in promoting, marketing or recommending any entity, investment plan or arrangement, or any other transaction or matter discussed herein to any taxpayer other than the intended recipient hereof.

WARNING: Computer viruses can be transmitted via email. The recipient should check this email and any attachments for the presence of viruses. The company accepts no liability for any damage caused by any virus transmitted by this email. E-mail transmission cannot be guaranteed to be secure or

error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. The sender therefore does not accept liability for any errors or omissions in the contents of this message, which arise as a result of e-mail transmission.

From: King, Don
Sent: Monday, June 24, 2013 1:14 PM
To: 'Steve Leach'; 'joseph.a.guzinski@usdoj.gov'
Cc: 'donelanlaw@gmail.com'; Marc Sarata; Kristen Burgers
Subject: RE: Gordon Properties

Leach, please confirm for me whether you believe you have the right to repeat what you are told by any party or witness in your report to the court or in any testimony you might give or evidence you might introduce. Regards, Don.

From: Steve Leach [<mailto:sleach@ltblaw.com>]
Sent: Monday, June 24, 2013 11:43 AM
To: King, Don; 'joseph.a.guzinski@usdoj.gov'
Cc: 'donelanlaw@gmail.com'; Marc Sarata; Kristen Burgers
Subject: RE: Gordon Properties

Don,

I would like to start tomorrow (after all, I am facing a July 18 deadline for a report to the court). But I have to work with both John Donelan's busy schedule and the interviewees' schedules. So I may not be able to start until next Monday.

I don't know how broad your objection to my investigation is, but I will *voluntarily* disclose that I have been approached by individual unit owners (who are not on the FOA board) with whom I have spoken and with whom I intend to continue to speak. I do not feel individual unit owners (as unit owners) are represented by John Donelan and see no need for him or anyone else to participate in those discussions. If you (or John) object to this conduct, add it to your objection to my interviews of the SLC members, etc.

Steve



Stephen E. Leach
Partner
sleach@ltblaw.com

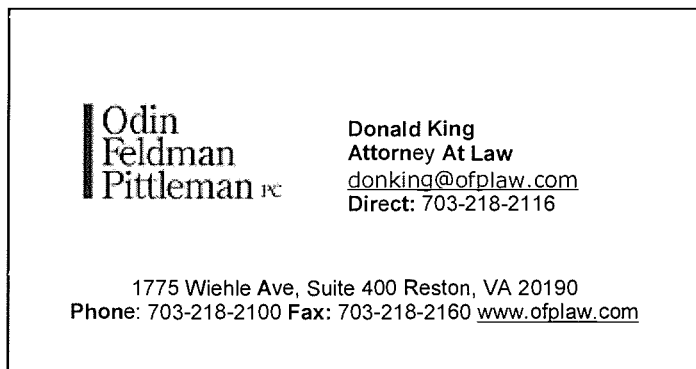
Leach Travell Britt pc
8270 Greensboro Drive
Suite 700
Tysons Corner, Virginia 22102
Tel 703.584.8902
Cell 703.946.1365
Fax 703.584.8901
www.ltblaw.com

Internal revenue service circular 230 disclosure: as provided for in treasury regulations, advice (if any) relating to federal taxes that is contained in this communication (including attachments) is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the internal revenue code or (2) promoting, marketing or recommending to another party any plan or arrangement addressed herein.

This electronic mail transmission may contain confidential or privileged information. If you believe you have received this message in error, please notify the sender by reply transmission and delete the message without copying or disclosing it.

From: King, Don [mailto:donking@ofplaw.com]
Sent: Monday, June 24, 2013 11:33 AM
To: Steve Leach; 'joseph.a.guzinski@usdoj.gov'
Cc: 'donelanlaw@gmail.com'; Marc Sarata; Kristen Burgers
Subject: Re: Gordon Properties

Steve, please tell me when you intend to conduct your first "interview." Thank you, Don.



This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify {Email Address} immediately and delete this e-mail from your system. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

IRS Circular 230 Disclosure:

We are required to advise you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used by any taxpayer (i) for the purpose of avoiding any penalties that may be imposed under the Internal Revenue Code, or (ii) in promoting, marketing or recommending any entity, investment plan or arrangement, or any other transaction or matter discussed herein to any taxpayer other than the intended recipient hereof.

WARNING: Computer viruses can be transmitted via email. The recipient should check this email and any attachments for the presence of viruses. The company accepts no liability for any damage caused by any virus transmitted by this email. E-mail transmission cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. The sender therefore does not accept liability for any errors or omissions in the contents of this message, which arise as a result of e-mail transmission.

From: Steve Leach <sleach@ltblaw.com>
To: King, Don; Guzinski, Joe <joseph.a.guzinski@usdoj.gov>
Cc: Donelan, John <donelanlaw@gmail.com>; Marc Sarata <msarata@ltblaw.com>; Kristen Burgers <kburgers@ltblaw.com>
Sent: Mon Jun 24 11:16:50 2013
Subject: RE: Gordon Properties

Don,

I do not need to convince Gordon Properties of what is self-evident.

If Gordan Properties can cite case law or court rules that forbid an examiner from conducting interviews without the presence of third parties (as distinct from depositions), I'll be more than happy to review that authority. Otherwise, I have told you how I plan to proceed.

Regards,

Steve



Stephen E. Leach
Partner
sleach@ltblaw.com

Leach Travell Britt pc
8270 Greensboro Drive
Suite 700
Tysons Corner, Virginia 22102
Tel 703.584.8902
Cell 703.946.1365
Fax 703.584.8901
www.ltblaw.com

Internal revenue service circular 230 disclosure: as provided for in treasury regulations, advice (if any) relating to federal taxes that is contained in this communication (including attachments) is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the internal revenue code or (2) promoting, marketing or recommending to another party any plan or arrangement addressed herein.

This electronic mail transmission may contain confidential or privileged information. If you believe you have received this message in error, please notify the sender by reply transmission and delete the message without copying or disclosing it.

From: King, Don [<mailto:donking@ofplaw.com>]
Sent: Monday, June 24, 2013 10:04 AM
To: Steve Leach; Guzinski, Joe
Cc: Donelan, John; Marc Sarata; Kristen Burgers
Subject: RE: Gordon Properties

Steve, I'm prepared to be convinced of the correctness of your view. Can you cite me to any authority that allows you to conduct an examination of a party without notice to and opportunity to attend by another party?

The logo for the law firm Odin Feldman Pittleman PC, featuring the firm name in a serif font with a vertical bar to the left.	<p>Donald King Attorney At Law donking@ofplaw.com Direct: 703-218-2116</p>
<p>1775 Wiehle Ave, Suite 400 Reston, VA 20190 Phone: 703-218-2100 Fax: 703-218-2160 www.ofplaw.com</p>	

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify {Email Address} immediately and delete this e-mail from your system. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

IRS Circular 230 Disclosure:

We are required to advise you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used by any taxpayer (i) for the purpose of avoiding any penalties that may be imposed under the Internal Revenue Code, or (ii) in promoting, marketing or recommending any entity, investment plan or arrangement, or any other transaction or matter discussed herein to any taxpayer other than the intended recipient hereof.

WARNING: Computer viruses can be transmitted via email. The recipient should check this email and any attachments for the presence of viruses. The company accepts no liability for any damage caused by any virus transmitted by this email. E-mail transmission cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. The sender therefore does not accept liability for any errors or omissions in the contents of this message, which arise as a result of e-mail transmission.

From: Steve Leach [<mailto:sleach@ltblaw.com>]
Sent: Monday, June 24, 2013 9:33 AM
To: King, Don; Guzinski, Joe
Cc: Donelan, John; Marc Sarata; Kristen Burgers
Subject: RE: Gordon Properties

Don,

I appreciate the parties' willingness to provide me with documents without formal document production requests, but I have to disagree that because the parties are willing to provide me with information informally, that I must treat a fact-finding interview as a deposition. No one is required to cooperate with me voluntarily and I have no intention of conducting formal discovery (if the parties don't care to cooperate with the examiner, that is their decision). But I have the right to conduct informal, investigative interviews without third parties present and will proceed to do so until and unless (a) the court tells me not to, or (b) no one is willing to cooperate with me by attending an interview.

Regards,

Steve



Stephen E. Leach
Partner
sleach@ltblaw.com

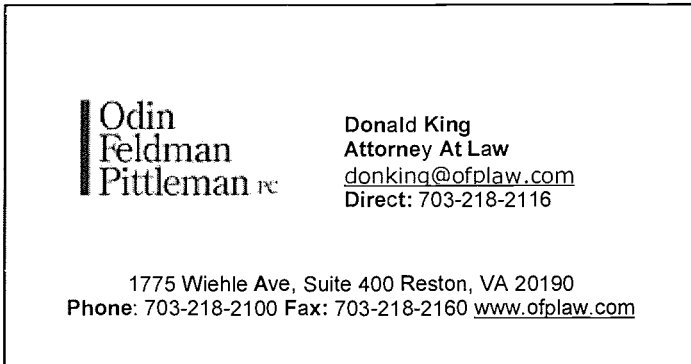
Leach Travell Britt pc
8270 Greensboro Drive
Suite 700
Tysons Corner, Virginia 22102
Tel 703.584.8902
Cell 703.946.1365
Fax 703.584.8901
www.ltblaw.com

Internal revenue service circular 230 disclosure: as provided for in treasury regulations, advice (if any) relating to federal taxes that is contained in this communication (including attachments) is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the internal revenue code or (2) promoting, marketing or recommending to another party any plan or arrangement addressed herein.

This electronic mail transmission may contain confidential or privileged information. If you believe you have received this message in error, please notify the sender by reply transmission and delete the message without copying or disclosing it.

From: King, Don [<mailto:donking@ofplaw.com>]
Sent: Monday, June 24, 2013 9:27 AM
To: Steve Leach; Guzinski, Joe
Cc: Donelan, John; Marc Sarata; Kristen Burgers
Subject: RE: Gordon Properties

Steve, respectfully, the only reason it is an "interview" is because we have agreed to dispense with the rules of discovery and allow you to conduct informal discovery. If we were operating under normal discovery rules, you could not conduct an *ex parte* examination of a party simply by calling it an interview.



This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify {Email Address} immediately and delete this e-mail from your system. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

IRS Circular 230 Disclosure:

We are required to advise you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used by any taxpayer (i) for the purpose of avoiding any penalties that may be imposed under the Internal Revenue Code, or (ii) in promoting, marketing or recommending any entity, investment plan or arrangement, or any other transaction or matter discussed herein to any taxpayer other than the intended recipient hereof.

WARNING: Computer viruses can be transmitted via email. The recipient should check this email and any attachments for the presence of viruses. The company accepts no liability for any damage caused by any virus transmitted by this email. E-mail transmission cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. The sender therefore does not accept liability for any errors or omissions in the contents of this message, which arise as a result of e-mail transmission.

From: Steve Leach [<mailto:sleach@ltblaw.com>]
Sent: Monday, June 24, 2013 9:16 AM
To: King, Don; Guzinski, Joe
Cc: Donelan, John; Marc Sarata; Kristen Burgers
Subject: RE: Gordon Properties

Joe,

I am happy to speak with you about this surprising issue. Of course I have the right to conduct interviews (not depositions) without counsel for Gordon Properties present.

Regards,

Steve



Stephen E. Leach
Partner
sleach@ltblaw.com

Leach Travell Britt pc
8270 Greensboro Drive
Suite 700
Tysons Corner, Virginia 22102

Tel 703.584.8902
Cell 703.946.1365
Fax 703.584.8901
www.ltblaw.com

Internal revenue service circular 230 disclosure: as provided for in treasury regulations, advice (if any) relating to federal taxes that is contained in this communication (including attachments) is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the internal revenue code or (2) promoting, marketing or recommending to another party any plan or arrangement addressed herein.

This electronic mail transmission may contain confidential or privileged information. If you believe you have received this message in error, please notify the sender by reply transmission and delete the message without copying or disclosing it.

From: King, Don [<mailto:donking@ofplaw.com>]
Sent: Monday, June 24, 2013 9:07 AM
To: Guzinski, Joe
Cc: Steve Leach; Donelan, John
Subject: Gordon Properties

Joe, I need your intervention with respect to the actions of the examiner appointed by the UST in this matter. You will recall that, at the request of the court, we agreed to informal discovery by the examiner. However, the examiner apparently has interpreted informal discovery to mean that he is entitled to undertake *ex parte* communications with parties and witnesses. The examiner will not allow the parties' counsel to be present during discussions with parties and witnesses. I am not aware of any basis for such actions, at least not without a court order authorizing such *ex parte* communications. We have requested that the examiner provide notice and an opportunity to be present to the parties at any interviews, but it does not appear that the examiner is inclined to do so. Your assistance is requested. Thank you, Don.

**Odin
Feldman
Pittleman PC**

Donald King
Attorney At Law
donking@ofplaw.com
Direct: 703-218-2116

1775 Wiehle Ave, Suite 400 Reston, VA 20190
Phone: 703-218-2100 Fax: 703-218-2160 www.ofplaw.com

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify {Email Address} immediately and delete this e-mail from your system. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

IRS Circular 230 Disclosure:

We are required to advise you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used by any taxpayer (i) for the purpose of avoiding any penalties that may be imposed under the Internal Revenue Code, or (ii) in promoting, marketing or recommending any entity, investment plan or arrangement, or any other transaction or matter discussed herein to any taxpayer other than the intended recipient hereof.

WARNING: Computer viruses can be transmitted via email. The recipient should check this email and any attachments for the presence of viruses. The company accepts no liability for any damage caused by any virus transmitted by this email. E-mail transmission cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. The sender therefore does not accept liability for any errors or omissions in the contents of this message, which arise as a result of e-mail transmission.

EXHIBIT A-3

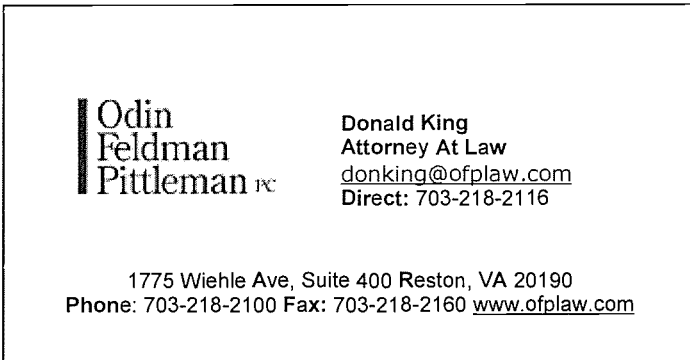
Steve Leach

From: King, Don <donking@ofplaw.com>
Sent: Tuesday, June 25, 2013 3:16 PM
To: Steve Leach
Cc: Guzinski, Joe; Donelan, John
Subject: Gordon Properties

Steve:

You have rejected the debtors' request that they be afforded their due process rights with respect to your examination of FOA's representatives. Although the debtors have elected not to seek emergency relief from the Court, the debtors nonetheless reserve all rights with respect to your actions, including, without limitation, objecting to your report and any request for compensation.

Regards, Don.



This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify {Email Address} immediately and delete this e-mail from your system. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

IRS Circular 230 Disclosure:

We are required to advise you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used by any taxpayer (i) for the purpose of avoiding any penalties that may be imposed under the Internal Revenue Code, or (ii) in promoting, marketing or recommending any entity, investment plan or arrangement, or any other transaction or matter discussed herein to any taxpayer other than the intended recipient hereof.

WARNING: Computer viruses can be transmitted via email. The recipient should check this email and any attachments for the presence of viruses. The company accepts no liability for any damage caused by any virus transmitted by this email. E-mail transmission cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. The sender therefore does not accept liability for any errors or omissions in the contents of this message, which arise as a result of e-mail transmission.

This email has been scanned by the Boundary Defense for Email Security System. For more information please visit <http://www.apptix.com/email-security/antispam-virus>
