

DISTRICT COURT OF ADAMS COUNTY,
STATE OF COLORADO
1100 Judicial Center Drive
Brighton, CO 80601

Plaintiffs: **Edie Apke et al**, derivatively on behalf of **Todd Creek Farms Homeowners' Association**, a Colorado nonprofit corporation;

v.

Defendants: **TODD CREEK FARMS HOMEOWNERS' ASSOCIATION**, a Colorado nonprofit corporation; **Jason Pardikes**, in their official capacity as Director of Todd Creek Farms Homeowners' Association; **Wendi Setchfield**, in their official capacity as Director of Todd Creek Farms Homeowners' Association; **Maryjo Montoya**, in their official capacity as Director of Todd Creek Farms Homeowners' Association; **Ben Cooper**, in their official capacity as Director of Todd Creek Farms Homeowners' Association; **Sean Holdren**, in their official capacity as Director of Todd Creek Farms Homeowners' Association.

ROBINSON & HENRY, P.C.
Peter L. Towsky, #55556
Boyd A. Rolfson, #40035
Joseph P. Sanchez, #20975
1805 Shea Center Drive, #180
Highlands Ranch, CO 80129
P: 303-688-0944
F: 303-284-2942
peter@robinsonandhenry.com
joseph.sanchez@robinsonandhenry.com
boyd@robinsonandhenry.com
Attorneys for Plaintiffs

▲ COURT USE ONLY ▲

Case Number:
2023CV30537

Division:
C

PLAINTIFFS' MOTION FOR COURT ORDER OF UNREDACTED INVESTIGATION

Plaintiffs, by and through their attorneys, Robinson & Henry, P.C., hereby file the following Motion for Court Order of Unredacted Investigation ("Motion"). In support thereof, Plaintiffs state as follows:

CERTIFICATION of C.R.C.P. 121, § 1-15(8) COMPLIANCE

Undersigned counsel certifies pursuant to C.R.C.P. 121 § 1-15(8) that he has conferred with

counsel for all Defendants regarding the relief requested in this motion and Defendants oppose the requested relief.

I. INTRODUCTION

The Plaintiff respectfully moves this Court for an order authorizing the release of an unredacted copy of the Adams County Sheriff's Office investigation file, Case Number 11CN23006867, conducted by Detective Rush-Lara. The redacted investigation report (the "Report") unequivocally implicates the current President of Todd Creek Farms Homeowners Association ("TCF" or "HOA"), Jason Pardikes (whose name has been redacted) in actions and behaviors that undoubtedly constitute wonton and willful breach of fiduciary duty via conflicting interest transactions as alleged in the instant action.¹ Such transactions show that no less than \$140,000 USD was transferred from Method Landscaping Services LLC into the control of Jason Pardikes. The unredacted investigation file is necessary for the discovery process as it directly relates to three claims in the current lawsuit.

II. LEGAL STANDARD

Under the Colorado Open Records Act (CORA), a custodian may withhold records if they relate to investigations conducted by a sheriff, prosecuting attorney, or police department, or are contained in investigatory files compiled for criminal law enforcement purposes, and if disclosure would be contrary to the public interest. *Shook v. Pitkin Cnty. Bd. of Cnty. Comm'rs*, 2015 COA 84; Colo. Rev. Stat. 24-72-204(2)(a)(I). However, the court must balance the need for confidentiality against the necessity of disclosure for the compelling state interest in the administration of justice.

¹ Notably, this Report creates significant, substantial and numerous issues of material fact which likely render Defendants' currently pending motions for summary judgment and stay of discovery moot, at best, and necessitates the continuation of discovery. The Report also further solidifies the need for the appointment of a receiver, per Plaintiff's pending motion for the same.

Noting that the case law had articulated two different tests to apply when personal information was at issue, the court concluded that trial courts should apply a comprehensive framework to all discovery requests implicating the right to privacy, incorporating the principles from both tests as appropriate. After the requesting party showed the relevance of the information, the opposing party had to show a legitimate expectation of privacy. If it did so, the requesting party had to prove either a compelling state interest or a compelling need; that the information was not available from other sources; and that the requested discovery was the least intrusive means. *Judd v. Cedar St. Venture (In Re: Dist. Court, City & Cty. of Denver)*, 256 P.3d 687, 689 (Colo. 2011)

The party requesting the information must always first prove that the information requested is relevant to the subject of the action. Next, the party opposing the discovery request must show that it has a legitimate expectation that the requested materials or information is confidential and will not be disclosed. If the trial court determines that there is a legitimate expectation of privacy in the materials or information, the requesting party must prove **[**11]** either that disclosure is required to serve a compelling state interest or that there is a compelling need for the information. If the requesting party is successful in proving one of these **[*692]** two elements, it must then also show that the information is not available from other sources. Lastly, if the information is available from other sources, the requesting party must prove that it is using the least intrusive means to obtain the information. *Id.* at 691-92.

In *ACLU v. Whitman*, 159 P.3d 707, the court addressed the viability of claims regarding police officers' privacy interests in investigation files requested under the Colorado Criminal Justice Records Act (CCJRA). The court emphasized that the expectation of privacy in records depends on the specific facts of each case and that a tri-partite balancing inquiry must be conducted to assess whether the claimant has a legitimate expectation of privacy, whether

disclosure serves a compelling state interest, and how disclosure can occur in the least intrusive manner.

III. Argument

A. Legitimate Expectation of Confidentiality vs Compelling Interests

The Adams County Sheriff's Office ("ACSO") will not release the unredacted investigation file without a court order because, per the ACSO, no arrests were made as a result of the investigation. However, despite Defendant Pardikes' legitimate expectation that personal information will not be disclosed if it does not serve a compelling state interest, the public interest, supported by a compelling state interest and/or compelling need is enough to overcome this expectation of privacy. *Judd*. In this case, the compelling state interest is the administration of justice, which necessitates the disclosure of the unredacted investigation file and the compelling need is to directly prove a number of claims in the action. Based on the blatant connection between Adams County Sheriff's Office investigation Case Number 11CN23006867 and the claims in the instant action, the administration of justice and the prosecution of the claims herein will be furthered by the release of the unredacted investigation file.

Upon review of the redacted investigation Report, which merely summarizes the evidence compiled in the investigation file being requested, it is clear that the target of the investigation is none other than Jason S. Pardikes ("Defendant" or "Pardikes").

On 04/24/2023 I, Det. M. Rush-Lara I met with Tonya Davidson who was concerned about possible HOA fees that have been stolen from the Todd Creek Homeowners Association by the current president [REDACTED]

See **Exhibit 1, Redacted Investigation Report, Page 3**. It is uncontested that as of April, 2023 Pardikes was the President of the Todd Creek Farms Homeowners Association ("TCF" or "HOA"). Additional contextual elaboration by Detective Rush-Lara further solidifies the

contention that Pardikes was the target of the Detective's investigation:

After the November 2019 election, [REDACTED] [REDACTED] assumed the position of Todd Creek Farms Homeowners Association President. [REDACTED] co-chair who was also elected was Julie Branting, who after a few meetings resigned from the board, the existing members also resigned from the board after [REDACTED] was elected. [REDACTED] filled all of the vacancies (4 open positions) on the board without any input from the community members.

It is also uncontested and incontrovertible that Pardikes became the President of TCF HOA after the 2019 election. *Id.* P4. Next, the Report refers to the signatory of the Method Landscaping contract in redacted form:

On March 19th, 2020, [REDACTED] entered into a contract on behalf of the HOA with Method Landscaping Services, LLC.

Id. Page 4. From previously disclosed documents, one can see that the signatory on behalf of the HOA in said contract is "President TCF" along with the purported signature of Pardikes, signed on March 19, 2020 – when Pardikes was undeniably the HOA's President. See **Exhibit 2, Method Landscaping Contract, Page 4.** Page 5, paragraph 2 of **Exhibit 1** references a June 18, 2016, Facebook post wherein [redacted] is with Renee Urbanowicz and [redacted] at Topgolf (Las Vegas). From other previously disclosed documents, we know that this June 18th post refers to Ryan Leuthner (the registered agent and supposed owner of Method) and Jason Pardikes:



Most importantly, the Report for Case Number 11CN23006867 details how this same President of the TCF HOA (Pardikes) conducted a series of financial transfers originating from the HOA to Method, in payment for services, and then from Method to a personal joint bank account held by Pardikes and his wife Angela, to Pardikes' companies, to Pardikes' credit card companies and cash withdrawals.


The paper trail begins with payments by the HOA to Method:

Check's 1327, 1412, 1379, 1407, \$46,170.98 of \$55,063.33 from check 1253 and check 1210 were all extra services provided by Method Landscaping. All of the services provided by Method Landscaping with the exception of the services provided in TCFHOA-9 were submitted by invoices to Todd Creek HOA. TCFHOA-9 invoice is unaccounted for in the documents submitted by Todd Creek HOA. A breakdown of the checks issued are as follows.

Todd Creek HOA paid Method Landscaping, from 01/01/20 to 04/28/2021 a total of \$232,518.08
 The Method Landscaping contract for one year from 03/2020 to 04/2021 totaled \$ 26,677.05
 Check 1252 issued on 03/23/20 for, "1/3 Down Payment Grounds Mainten..." \$ 8,892.35
 Check 1253 issued on 03/23/2020 for another, "1/3 Down Payment Grounds Mainten..." \$ 55,083.33
 (Contract details, initial down payment March 2020 \$8,892.35, June 1st 2020 \$8,892.35, August 1st 2020 \$8,892.35) Total \$26,677.05. \$8,892.35 + \$55,083.33=\$63,975.68 -pd 03/23/2020 – over contact by \$27,278.63. There were no other contracts

Printed by: YANCY, KAMI


13 of 15



Adams County Sheriff's Office

Incident / Investigation Supplement Report

Case No. : 11CN23006867
Printed Date: 1/13/2025 9:55 AM



indicating what the overage was to cover at this time.
 Check 1349 issued 05/12/20 for, 'Grounds Maintenance', not trail maintenance. \$63,975.68
 By July of 2020 \$63,975.68 + \$27,278.63 = \$91,254.31 over initial contract with no other contract on record to outline what the overage was to be used for. There was no invoice submitted for the work done on the trail only the quote submitted on 03/09/2020 and signed by [REDACTED]

| | |
|--|--------------|
| Check 1379 issued 05/13/20 for, "Landscaping Additional Work" (TCFHOA-3) | \$ 5,605.00 |
| Check 1377 issued 6/25/2020 for, "Landscaping Contract" (TCFHOA-4) | \$ 1,250.00 |
| Check 1382 issued 07/13/2020 with no memo | \$63,975.69 |
| Registry for check states final payment for trail work \$91,254.31 + \$63,975.69 = \$155,230 | |
| TFCHOA-2 total was for \$165,250.00, showing a \$10,020.00 discrepancy. | |
| Check 1407 issued 09/17/20 for "Monument, Culvert, Culveets" (memo line) | \$18,242.50 |
| (TCFHOA-5, TCFHOA-6 & TCFHOA-7 invoices) | |
| Check 1412 issued 09/28/20 for, "Landscaping Additional Work" (TCFHOA-8) | \$ 1,425.00 |
| Check 1210 issued 04/28/2021, "Invoice HOA-9" | \$ 14,088.53 |

Exhibit 1, Redacted Investigation Report, Page 20-21.


The financial trail continues, describing numerous transfers from Method Landscaping Services' JP Morgan Chase account to various checking and savings accounts held by [redacted] and Angela Pardikes, JSP Consulting, JSP Consulting DBA The Neutrino Group, BNS

Construction. It should be noted that Jason Pardikes' wife's is Angela Pardikes. Equally important, each JSP Consulting LLC, The Neutrino Group, and BNS Construction are owned and operated by Jason Pardikes and are associated with Pardikes' known addresses. See **Exhibit 3 - Sec. of State Records.** The following excerpt from the Report details some of the pertinent transactions from Method's account into accounts in possession and control of Pardikes:

After receiving all of the bank account records/statements from Chase Bank for [REDACTED] JSP Consulting LLC DBA The Neutrino Group, and all accounts associated to [REDACTED] I determined [REDACTED] was associated to the following JP Morgan Chase accounts.


Printed by: YANCY, KAMI

3 of 5



Adams County Sheriff's Office

Incident / Investigation Supplement Report



Case No. : 11CN23006867 Printed Date: 1/13/2025 9:54 AM

Method Landscaping account ending in [REDACTED]

Personal Checking belonging to [REDACTED] and Angela Pardies ending in [REDACTED]
 Savings account belonging to [REDACTED] ending in [REDACTED]
 Chase credit card for JSP Consulting ending in [REDACTED]
 Personal credit card in the name of [REDACTED] ending in [REDACTED]
 JSP Consulting DBA The Neutrino Group checking account ending in [REDACTED]
 JSP Consulting DBA The Neutrino Group Saving account ending in [REDACTED]
 JSP Consulting Line of Credit account ending in [REDACTED]
 BNS Construction checking account ending in [REDACTED].
 [REDACTED] is also associated to 4 minor savings accounts.

Upon review of the accounts associated to [REDACTED] I located the following transactions.

On 04/07/2020 Check 2501 was written from the Method Landscaping account [REDACTED] for Twenty-four thousand dollars (\$24,000.00) payable to [REDACTED] Which was then deposited into [REDACTED], Angel's joint checking account [REDACTED] on 04/07/2020.

On 06/02/2020 an electronic transfer for Ten-thousand dollars (\$10,000.00) occurred originating from the Method Landscaping account [REDACTED] to [REDACTED] joint checking account [REDACTED]. On 06/12/2020 another Ten-thousand dollar (\$10,000.00) electronic transfer occurs originating from the Method Landscaping account [REDACTED] and deposited to [REDACTED] joint checking account [REDACTED].

On 07/08/2020 an electronic transfer for Fourteen-thousand dollars (\$14,000.00) occurred originating from the Method Landscaping account [REDACTED] and is deposited into [REDACTED] joint checking account [REDACTED].

On 08/05/2020 two electronic transfers were completed, one for twelve-thousand two hundred seventeen dollars and forty-six cents (\$12,217.46) and one for seven-thousand nine hundred thirty-one dollars and fifty cents (\$7,931.50) (totaling \$20,148.96) the transfers originated from BNS Constructions account and were deposited into [REDACTED] joint checking account [REDACTED]. Records showed another Chase Bank Account opened by [REDACTED] BNS Construction LLC. BNS Construction [REDACTED] was opened on 06/24/2020 with check #2506 for five thousand dollars (\$5,000.00). Check #2506 was written from the Method Landscaping account [REDACTED] to BNS Construction [REDACTED], in addition to the writing check 2506 [REDACTED] also withdrew five-thousand-dollar (\$5,000.00) in cash from the Method Landscaping account [REDACTED] on 06/24/2020.

On 08/05/2020 an electronic transfer for Twenty-five thousand dollars (\$25,000.00) occurs, originating from the Method Landscaping account [REDACTED] and deposited into BNS Constructions checking account [REDACTED]. On 08/12/2020 two transfers totaling \$20,148.96, one for \$7,931.50 and \$12,217.46 originate from BNS checking account [REDACTED] and goes into Jason's joint checking account [REDACTED].

Upon review of the accounts associated to [REDACTED] I located the following transactions. Which were also described above.

| Method Landscaping | | [REDACTED] Accounts | |
|--------------------|---------------------|--|-------------------------------------|
| 04/01/2020 | Ck 2501 \$24,000.00 | Dep to account ending in [REDACTED] | - Personal Joint |
| 04/07/2020 | WD \$5,000.00 | Cash withdraw by [REDACTED] | unknown what was done |
| 06/02/2020 | ET \$10,000.00 | ET from [REDACTED] | - Personal Joint |
| 06/12/2020 | ET \$10,000.00 | ET from [REDACTED] | - Personal Joint |
| 06/24/2020 | CK 2506 \$5,000 | Opened BNS Construction ending in [REDACTED] | |
| 06/24/2020 | WD \$5,000.00 | Cash withdraw by [REDACTED] | unknown what was done |
| 07/08/2020 | ET \$14,000.00 | ET from [REDACTED] | - Personal Joint |
| 08/05/2020 | ET \$25,000.00 | ET from [REDACTED] | BNS Construction |
| 08/12/2020 | ET \$20,148.96 | ET from BNS to [REDACTED] | - Personal Joint (in two transfers) |
| 09/28/2020 | WD \$7,500.00 | Cash withdraw by [REDACTED] | unknown what was done |
| 10/20/2020 | WD \$7,500.00 | Cash withdraw by [REDACTED] | unknown what was done |
| 11/05/2020 | WD \$9,000.00 | Cash withdraw by [REDACTED] | unknown what was done |
| 12/09/2020 | WD \$2,500.00 | Cash withdraw by [REDACTED] | unknown what was done |

Exhibit 1, Redacted Investigation Report, Page 26. The Report also details payments made from Method's JP Morgan Chase account to Pardikes' credit cards:

The following credit card payments were made using the Method Landscaping account.

| | | |
|------------|--------------------------|--------------------------------|
| 08/19/2020 | Kubota Credit \$1,000 | Credit in [REDACTED] name |
| 09/21/2020 | Barclay Card \$9,353.79 | Credit Card in [REDACTED] name |
| 10/13/2020 | Barclay Card \$11,547.50 | Credit Card in [REDACTED] name |
| 11/05/2020 | Kubota Credit \$2,000.00 | Credit Card in [REDACTED] name |
| 11/06/2020 | Barclay Card \$7,612.65 | Credit Card in [REDACTED] name |
| 12/07/2020 | Barclay Card \$4,246.34 | Credit Card in [REDACTED] name |
| 12/08/2020 | Kubota Credit \$2,000.00 | Credit Card in [REDACTED] name |
| 05/11/2021 | Barclay Card \$7050.00 | Credit Card in [REDACTED] name |

Exhibit 1, Redacted Investigation Report, Page 27.

Finally Detective Rush-Lara's Report concludes that:

My findings are that regardless of [REDACTED] [REDACTED] [REDACTED] being the registered agent of Method Landscape Services LLC, it is [REDACTED] [REDACTED] who has been the sole operator of Method Landscape Services LLC., since March 2020. [REDACTED] [REDACTED] and [REDACTED] had an existing relationship prior to March of 2020 and that relationship dates back several years. The maintenance that was done as per the contract between Method Landscape Services and the Todd Creek HOA was partially completed. As indicated by homeowners witnessing some of the grounds maintenance and trail work done, and the additional work that had to be done by Jacob's Construction when the contract was reacquired in April of 2021. It is clear that Method Landscape Services LLC. received payment for grounds and trail maintenance from March of 2020 until April of 2021 totaling \$232,518.08. It is clear that [REDACTED] did transfer money from the Method Landscape Services LLC bank account to his personal checking account and did also write himself checks from the Method Landscape Services account as well as take out cash withdrawals from the Method account. [REDACTED] also opened an account for BNS Construction using money from the Method Landscape Services LLC. account. Actions which may constitute a violation of the fiduciary responsibility as President of the HOA but not of a criminal nature. I am closing this investigation and have nothing further at this time.

Exhibit 1, Redacted Investigation Report, Page 22.

Based on the foregoing, as well as the remainder of the Report's context and detail not explicitly enumerated herein, there is no doubt that the entire unredacted investigation file is essential to prove the claims of breach of fiduciary duty as they relate to conflicting interest transactions undertaken by Jason Pardikes, the President of Todd Creek Farms HOA via Method Landscaping Services LLC. The redacted Report is damning, but the unredacted file will provide the necessary evidence to substantiate the plaintiffs' claims as summarized in the Report. The compelling interests in ensuring a fair trial and the administration of justice outweighs any confidentiality concerns.

B. Least Intrusive Manner

The disclosure of the unredacted investigation file can be managed in a manner that minimizes intrusion into confidentiality. The court can order an in-camera review of the

unredacted file to determine the relevance and necessity of the information for the current lawsuit. This approach ensures that only the pertinent information is disclosed, thereby protecting any sensitive information that does not relate to the case. Additionally, while multiple subpoenas to numerous banking institutions and credit card companies spanning over a year could provide this information, the investigation file is the most economical and least intrusive route to this information given that it has already been compiled in the ACSO's comprehensive investigation. In summary, the proposed release of the unredacted investigation file and/or in-camera review of the same is the least intrusive manner with which this information can be obtained.

IV. Conclusion

For the reasons stated above, the Plaintiff respectfully requests that this Court grant the motion for an order authorizing the release of an unredacted copy of the Adams County Sheriff's Office investigation file, Case Number 11CN23006867. The unredacted file is crucial for the discovery process and directly relates to three claims in the current lawsuit, serving a compelling state interest in the administration of justice.

Dated: January 17, 2025

Respectfully submitted,

ROBINSON & HENRY, P.C.

/s/ Peter Towsky

Peter L. Towsky, Esq., #55556

Joseph P. Sanchez, Esq. #20975

Boyd A. Rolfson, Esq., #40035

1805 Shea Center Drive, Suite 180

Highlands Ranch, CO 80129

D: (720) 531-9124

O: (303) 688-0944

peter@robinsonandhenry.com
joseph.sanchez@robinsonandhenry.com
boyd@robinsonandhenry.com

Attorneys for Plaintiffs Edie Apke, et al

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that, on January 17, 2025, a copy of the **PLAINTIFFS' MOTION FOR COURT ORDER OF UNREDACTED INVESTIGATION** was filed with the Court via Colorado Court E-Filing System, and served to the following parties:

ORTEN CAVANAGH HOLMES & HUNT LLC

Jonah G. Hunt, #34379
Marcus T. Wile, #49471
1445 Market Street, Suite 350
Denver, CO 80202
JHunt@ochhoalaw.com
MWile@ochhoalaw.com

JACHIMIAK PETERSON KUMMER LLC

Joseph R. Kummer, No. 39984
Chrysovalantou G. Hoppe, No. 44218
Taylor A. Clapp, No. 52800
860 Tabor Street, Suite 200
Lakewood, Colorado, 80401
jkummer@jpk.law
choppe@jpk.law
taclapp@jpk.law

ROBINSON & HENRY, P.C.

By: /s/ Joyce M. Vigil
Joyce M. Vigil | Senior Paralegal

Pursuant to C.R.C.P. 121 a true and correct copy of the foregoing with original or scanned signatures is maintained at the offices of Robinson & Henry, P.C. and will be made available for inspection or review upon request.