

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT  
IN AND FOR POLK COUNTY, FLORIDA

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INDIAN LAKE ESTATES, INC. )  
a Florida corporation, )  
Red Grange Boulevard )  
Indian Lake Estates, FL 33855 )  
Plaintiff, )

vs. )

Case No. GCG-96-2230

RONALD J. POWELL )  
1 Deland Avenue )  
Indian Lake Estates, FL 33855 )  
and )  
KEVIN A. WATKINS, )  
1038 Nameoke Street )  
Far Rockaway, NY 11691 )  
Defendants. )

DEPT 115 33.00  
DEPT 291 4.50  
DEPT 128 27.00  
397 #  
CHECKS 64.50  
3981A

02/06/98

**FINAL JUDGMENT**

THIS MATTER came on for trial before this Court on January 13, 1998. Present were representatives of the plaintiff, INDIAN LAKE ESTATES, INC., and also present were the defendants, RONALD POWELL and KEVIN WATKINS. The Court, having received into evidence 57 exhibits from the plaintiff and deposition transcripts as well as summation of the exhibits and proffered testimony of the plaintiff's witnesses by counsel for plaintiff; having also received summation by counsel for the defendant, Powell; having considered extensive legal argument of counsel for the parties; and having reviewed the record of previous orders entered in this cause, does hereby find as

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LANCE HOLDEN ESQ  
P O BOX 9498  
WINTER HAVEN FL 33883

follows:

A. The Indian Lake Estates subdivision is comprised of the following property:

- Unit No. 1, Plat Book 39, page 1
- Unit No. 2, Plat Book 39, page 14
- Unit No. 3, Plat Book 39, page 18
- Unit No. 4, Plat Book 39, page 30
- Unit No. 5, Plat Book 39, page 31
- Unit No. 6, Plat Book 39, page 45
- Unit No. 6 (Revised), Plat Book 40, page 41
- Unit No. 7, Plat Book 39, page 46
- Unit No. 8, Plat Book 39, page 47
- Unit No. 9, Plat Book 39, page 48
- Unit No. 9 (Revised) Plat Book 40, page 42
- Unit No. 10, Plat Book 40, page 14
- Unit No. 11, Plat Book 40, page 15
- Unit No. 12, Plat Book 40, page 19
- Unit No. 13, Plat Book 40, page 20
- Unit No. 14, Plat Book 40, page 21
- Unit No. 15, Plat Book 40, page 48
- Unit No. 16, Plat Book 40, page 49
- Unit No. 17, Plat Book 40, page 50
- Woodlands*, a replat of Unit 15, and a portion of Unit 16, Plat Book 87, page 34

all of the Polk County public records.

B. The Indian Lake Estates subdivision was originally developed by an entity known as "Indian Lake Estates, Inc." Over time, that developer encountered financial difficulties and ultimately ended up in bankruptcy.

C. By final decree dated July 30, 1964, in that Polk County circuit court action styled as *Special Investments, Inc. v. Indian Lake Estates, Inc.*, Case No. 54238-71-532 and 56401-74-135, the Honorable William K. Love ruled that title to the amenities at Indian Lake Estates was held in trust by the original developer for the

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benefit of all property owners, and that all maintenance fees thereafter collected by the original developer were to be used solely for the purpose of maintenance at Indian Lake Estates. That final decree further required quarterly reporting to the court as to the collection and manner of expenditures of such fees, as well as application to the court for such expenditures. Jurisdiction was retained by the *Special Investments* court to effectuate that decree.

D. By order dated February 16, 1966, Judge Love, in *Special Investments*, substituted that entity known as "Indian Lake Maintenance, Inc." for maintenance fee collection and expenditure quarterly reporting to the court.

E. Through various deeds recorded in the Polk County public records, title to the Indian Lake Estates amenities was conveyed from the original developer to various entities, whereby title to the amenities was eventually vested in that corporation known as "Lakesite Development, Inc."

F. By final judgment dated May 28, 1976, Judge Love, in *Balzer v. Indian Lake Maintenance, Inc.*, ruled that all residential lots and all commercial lots at Indian Lake Estates were subject to the residential restrictive covenants and commercial covenants, respectively (as further demonstrated by the March 30, 1976 stipulation filed by the parties in *Balzer*), and that the covenants binding all residential and all commercial lots at Indian Lake Estates, Inc. were enforceable; subject to the limitations found within the covenants.

G. The *Balzer* decision was upheld on appeal in *Balzer v. Indian Lake Maintenance, Inc.*, 346 So.2d 146 (Fla. 2<sup>nd</sup> DCA 1977).

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H. Through the December 1, 1980 final judgment in that circuit court action styled as *Lakesite Properties, Inc. v. Indian Lake Civic Association*, Case No. GCG-78-363, the Honorable William A. Norris, Jr. found that Indian Lake Civic Association, Inc. constituted a representative of and on behalf of its members and all other property owners at Indian Lake Estates and that the Indian Lake Estates amenities (then owned by Lakesite Development, Inc.) were for the specific use and benefit of all title holders of lots at Indian Lake Estates.

I. By order dated June 6, 1985, Indian Lake Civic Association, Inc. was authorized to purchase at private sale the stock of Indian Lake Maintenance, Inc., in that Polk County circuit court action styled as *Oxford First Corp. v. Broadscope, Inc.*, Case No. GCG-84-855.

J. By order dated June 1, 1989, the Honorable Susan W. Roberts, in *Special Investments*, discontinued the maintenance fee reporting requirements previously established by Judge Love through the *Special Investments* 1964 final decree and the 1966 order.

K. By amended order dated November 12, 1992, the Honorable J. Tim Strickland in *Special Investments* authorized the consolidation of Indian Lake Civic Association, Inc., Lakesite Development, Inc., and Indian Lake Maintenance, Inc. (all of which are specifically described hereinabove). The corporation resulting from consolidation, Indian Lake Civic Association, Inc., was held to be the successor corporation to the original developer (Indian Lake Estates, Inc.), and was confirmed as having all rights and responsibilities given or reserved to the original developer arising

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from the covenants encumbering all lots located within the Indian Lake Estates subdivision.

L. By final judgment dated December 27, 1993, the Honorable Oliver L. Green, Jr. in that Polk County circuit court action styled as *Indian Lake Civic Association, Inc. v. Kastenbein*, Case No. GCG-92-2672, specifically found that the corporation resulting from the consolidation of Indian Lake Civic Association, Inc., had the authority to enforce the restrictive covenants, which bind all lots at Indian Lake Estates. The *Kastenbein* court further entered injunctive relief against the defendants in conjunction with the enforcement of the restrictive covenants.

M. Through final judgment dated May 25, 1995, the Honorable Oliver L. Green, Jr., in that Polk County circuit court action styled as *Morrow v. Indian Lake Maintenance*, Case No. GCG-94-661, upheld a change in the restrictive covenants whereby the Indian Lake Estates residential maintenance fees were increased.

N. By resolution dated July 5, 1972, recorded in O.R. Book 1474, page 623 of the Polk County public records, the board of county commissioners for Polk County authorized Indian Lake Administrative Authority, Inc. to establish a covenant review board for the enforcement of restrictive covenants at the Indian Lake Estates subdivision.

O. From 1972 through 1989, Indian Lake Administrative Authority, Inc. (later known as Indian Lake Civic Association, Inc.) did, in fact, participate in the county review process for any building permits for the Indian Lake Estates subdivision, and has continually maintained, though the present, a review board or committee for the

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enforcement of all residential and commercial restrictive covenants.

P. On or about June 28, 1994, the consolidation of Indian Lake Civic Association, Inc., Indian Lake Maintenance, Inc., and Lakesite Development, Inc., as judicially confirmed by Judge Strickland in 1992 in *Special Investments*, was completed through filing the necessary documentation with the Florida Department of State.

Q. As far back as 1972 that entity now merged and known as Indian Lake Estates, Inc. was routinely involved in the review process of any construction or any other activity giving rise to possible application of the Indian Lake Estates residential or commercial restrictive covenants. This process has continued through the present, and no other entity has engaged in, or purported to have the authority for, the enforcement of restrictive covenants in this manner, which review process can be found in the various paragraphs of all of the restrictive covenants.

R. Through the years, the covenant review committee for Indian Lake Estates, Inc. has promulgated written standards for review of sign and construction applications in connection with any approval by "the Corporation" described and required by all of the restrictive covenants, which standards have been modified from time to time.

S. Although since the inception of Indian Lake Estates, there has not been absolute compliance with the restrictive covenants, there has been a ~~conceded~~ <sup>demonstrated</sup> effort for the enforcement of all commercial and residential restrictive covenants as far back as 1972.

T. The signs erected and maintained by the defendants, as described in

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Counts I and II of the complaint, were in violation of the Indian Lake Estates commercial restrictive covenants at the time the plaintiff commenced this action. During the pendency of this lawsuit, the defendant Powell also erected a third sign in the residential area which also violated the residential restrictive covenants. Although two of the three signs were later taken down, the defendants still maintain that sign located at Lot 26, Block 321, Unit 10, *Indian Lake Estates*, according to the plat thereof recorded in Plat Book 40, page 14 of the Polk County public records.

U. By order dated August 27, 1997, and pursuant to Fla.R.Civ.P. 1.380, this court entered an order requiring the defendant Powell to pay certain fees to Indian Lake Estates, Inc. as a consequence of numerous discovery violations described in that order. The defendant Powell has not paid any money to the plaintiff in relation to said order. Wherefore, based upon the foregoing, this Court does hereby

**ORDER AND ADJUDGE** as follows:

1. The plaintiff, INDIAN LAKE ESTATES, INC., is authorized to enforce all residential and commercial restrictive covenants at the Indian Lake Estates subdivision, including any review process or approval required of Indian Lakes Estates, Inc. or "the Corporation" described in all of the commercial and residential restrictive covenants.

2. The defendants, RONALD J. POWELL and KEVIN WATKINS, are hereby mandatorily enjoined to completely take down and remove that sign located on Lot 26, Block 321, Unit 10, *Indian Lake Estates*, more fully described above, within five (5) days of the date of this final judgment.

3. The defendants, RONALD J. POWELL and KEVIN WATKINS, individually

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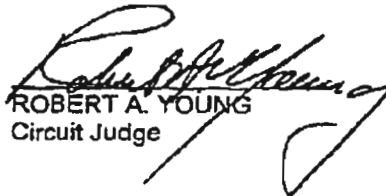
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or collectively, are further permanently enjoined from directly or indirectly displaying, erecting, or maintaining any signs, billboards, placards, or any similar form of structure or media at the Indian Lake Estates subdivision without first obtaining permission for same (including complying with any review process) from the plaintiff, Indian Lake Estates, Inc., as of the date of this final judgment.

4. This Court retains jurisdiction to effectuate the terms and conditions of this final judgment and to enter a final judgment for any unpaid fees and costs.

DONE AND ORDERED in Bartow, Polk County, Florida, this 29<sup>th</sup> day of

Jan, 1998.

  
ROBERT A. YOUNG  
Circuit Judge

Case No. GCG-96-2230  
Copies furnished to:

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P.O. Box 7575  
Indian Lake Estates, FL 33855

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STATE OF FLORIDA COUNTY OF POLK  
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THIS 2-5-98  
BY Richard M. Weiss  
Deputy Clerk