

No. \_\_\_\_\_  
In the  
Supreme Court of the United States

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IN RE THE ESTATE OF EDWARD M. BOLAND,  
Deceased,

PAUL BOLAND and MARY GETTEL, as heirs of the  
Estate of Dixie L. Boland,  
*Petitioners,*

v.

CHRIS BOLAND, BARRY BOLAND, ED BOLAND  
CONSTRUCTION, INC., AND NORTH PARK  
INVESTMENTS, LLC,  
*Respondents.*

**On Petition For A Writ of Certiorari To The  
United States Supreme Court From an Appeal  
to the Supreme Court of the State of Montana**

**APPENDIX TO  
PETITION FOR A WRIT OF CERTIORARI  
VOLUME II**

**Thomas E. Towe**  
***Counsel of Record***  
***For Petitioners***  
**PO Box 30457**  
**Billings, MT 59107**  
**(406) 248-7337**  
**towe@tbems.com**

**APPENDIX**  
**Volume II**

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(Excerpt)

FAURE HOLDEN

attorneys at law pc

Jean E. Faure-Jason T. Holden-Katie R. Ranta

December 1, 2017

Thomas E. Towe

Towe, Ball, Mackey, Sommerfeld & Turner, PLLP

P.O. Box 30457

Billings, MT 59107-0457

Re: Estate of Edward M. Boland

Dear Tom:

This letter responds to your November 17, 2017 letter wherein you request that Chris Boland "respond formally" to your request for clarification of his November 9, 2017 responses to your discovery requests.

...

37. Other: No.

No further responses or clarification will be provided to you except at the mediation scheduled for December 18, 2017 before Judge Moses. Chris may seek a protective order regarding any further discovery.

Very truly yours,

FAURE HOLDEN ATTORNEYS AT LAW, P.C.

By: /s/Katie R. Ranta for

Jason T. Holden

JTH/ta

c. Chris Boland

03/05/2017 09:18 FAX

1005

Ed's notes on back of 2013  
pg. (previous pg.)

250 EMP  
150 EMP  
120 LOAN  

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520  
160 LOT 3  

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680  
142 DIVIDEND  
822  

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5 CITI  
817

2175  
(L)  

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522  

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82  

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32  

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55  

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51

LOT 16  
30  

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31480  

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160

Dividends Home 65

P=

THOMAS E. TOWE, ESQ.  
TOWE, BALL, MACKEY, SOMMERFELD  
& TURNER, PLLP  
2525 Sixth Avenue North  
P.O. Box 30457  
Billings, Montana 59107-0457  
Telephone: (406) 248-7337  
Attorneys for Paul E. Boland,  
Co-Personal Representative

MONTANA EIGHTH JUDICIAL DISTRICT COURT  
CASCADE COUNTY

IN THE MATTER OF        ) Cause No. ADP 15-125  
THE ESTATE OF:         ) Judge: Gregory Pinski  
                              )  
EDWARD M. BOLAND,     )  
                              )  
Deceased.                )

---

**SECOND AFFIDAVIT OF PAUL BOLAND**

STATE OF MONTANA     )  
                              ) ss.  
County of Cascade     )

PAUL BOLAND, being first duly sworn, deposes  
and states as follows:

1. I was designated as a Co-Personal  
Representative with my brother, Chris Boland, in the  
Will in the above-entitled Estate. We both have

qualified and Letters have been issued to us accordingly.

2. Initially, I was concerned that Chris and our brother Barry and their wholly owned corporation, Ed Boland Construction, Inc., and their wholly owned LLC, North Park Investments, LLC, owed money to my father on the date of his death. When I raised this question with Chris, he immediately became cool to me, ceased responding to my questions, and ceased any further cooperation.

3. I also was concerned that Gary Bjelland who Chris hired as a lawyer for the Edward M. Boland Estate without consulting me was also the attorney for Ed Boland Construction, Inc. and Chris Boland personally. If Ed Boland Construction, Inc. owed monies to my father at the time of his death, there would be a serious conflict of interest. I raised this point Gary Bjelland. After many months, he finally agreed and withdrew as attorney for the Estate. Gary Bjelland nor Chris Boland's new attorney, Jason Holden will provide information I that I have and continue to request.

4. I raised a number of questions with Gary Bjelland. Most of these questions were sent in letters to him. He responded once by letter addressing some of my questions, but did not answer them fully. On all other correspondence my questions were simply ignored. Gary Bjelland admitted under oath that he refused to provide me information I sought.

5. Since I was concerned about how to proceed, I consulted with another attorney. I asked Laura Walker to give me advice on how to proceed. She advised me to go ahead and sign the papers that had been prepared to open the Estate, which I did. However, I was still troubled by Gary Bjelland's lack of interest in providing information and my Mother began asking for a new attorney after Gary Bjelland wrote her five adult children in a letter and did not address her requests. I was focused on Mom's health and Chris agreed to family counseling. So I asked Laura Walker not to deliver the papers just yet.

6. When I informed Chris "great news" regarding Mom's health, and that I would sign the PR papers, Chris told me I should "take all the time I needed to sign those papers." This statement was a shock to me because Chris and Gary Bjelland had been pushing me to sign the papers shortly after my Dad's funeral in January 2015 on a near daily basis. Even though they had stopped pushing me to sign the papers several weeks earlier, Chris nor Gary Bjelland had not given any indication that I should take my time doing so.

7. Gary Bjelland had it in writing via certified mail that I intended to be my Dad's Co-PR. The false claim that I was unwilling to be Co-PR is nothing but a lie to the Court. Within 10 days of Chris Boland telling me to take all the time I need to sign those papers, I was informed via mail that the Court had appointed Chris Boland and Barry Boland as Co-Personal Representatives. Chris Boland, Barry

Boland, and Gary Bjelland signed a statement representing to the Court that I refused to sign the papers, while knowing this to be untrue. Never did I indicate that I refused to be my Father's PR. To the contrary, I phoned and wrote Gary Bjelland several times concerning Dad's estate. One of my letters sent certified mail to Gary Bjelland stated clearly that I intended to be Co-PR. I had signed the papers in March with Laura Walker (I asked her not to deliver them et as Chris and I were then focused on attending counseling). Chris Boland and Gary Bjelland had been pushing me to sign the papers shortly after my Dad's funeral in January 2015 on a near daily basis, but then stopped pushing me to sign the papers. Chris told me to take all the time I needed.

8. I did contact my attorney, Laura Walker, who wrote Gary Bjelland and got the matter straightened out and I was then appointed Co-Personal Representative upon Barry Boland's resignation. However, in the time from Gary Bjelland's verbal commitment and agreement to Laura Walker that I would be a Co-PR to the time that Gary Bjelland delivered the papers to Laura Walker for my signature, Gary Bjelland, Chris Boland, and Barry Boland acted in bad faith and under the false claim made to the Court by doing estate business of setting up a bank account, depositing Dad's life insurance and issuing checks. A false claim had been committed on the Court and I believe that I should have nothing to do with the bank account that was set up under that claim.



9. Since my Father's passing I have asked Chris to cooperate and take care of some of the matter pressing on the probate. Each time he has refused.

10. I asked Chris to sign the deed to Jacquie Boland's house since he recognized that it was truly Jacquie's house and indicated in writing that he was willing to do anything and everything to help Jacquie get full control of her house. I had papers prepared deeding the house to the Dixie L. Boland Estate and then the Dixie L. Boland Estate could deed the house to Jacquie or her Trust pursuant to the terms of Dixie's Will. I delivered these papers to Chris Boland and he refused to sign. I have asked him many times and he still refuses to cooperate. He has not given any reason for his failure to do so.

11. I have asked Chris Boland to sign off on the 2005 Yukon that belongs to Jacquie Boland. It was in Ed Boland's name for convenience only and Jacquie needs the Title signed so she can trade it for a smaller vehicle so that she can afford transportation. Chris has refused. I have asked him many times and he still refuses to sign the document.

12. I have asked Chris Boland to sign off on the 2014 Toyota special handicap van that was acquired to help our father who became confined to a wheelchair. It is a specialized vehicle and has a very limited market. A potential buyer in Billings, Montana, needed a vehicle like this and agreed to purchase it for a reasonable price. I have asked Chris to sign the title several times and he has refused. The

result is there is a serious problem in selling this vehicle. The buyer has taken possession of the vehicle due to their immediate need, but have not paid any money and may eventually refuse the sale since they cannot obtain clear title due to Chris Boland's refusal to cooperate. Obviously, a vehicle that becomes older every day loses value quickly as time goes on. Again, Chris absolutely refuses to cooperate.

13. Certain funds have been deposited in the First Interstate Bank in Great Falls while Barry Boland was Co-Personal Representative. I have indicated I thought the funds should be deposited in some other bank since that estate business was done under false claim to the Court and Dad intentionally removed his personal banking from First Interstate Bank. I have requested many times that Chris Boland agree to redeposit the funds in some other bank so we could proceed with probating the Estate. He has continued to refuse.

14. After many months during which I tried to get Chris to cooperate in taking care of the most pressing things that needed to be done with the Estate, I hired Thomas E. Towe to represent me as Co-Personal Representative. One of the first things he did was ask Chris's new attorney, Jason Holden, if we could take care of (1) the deed to Jacquie's House, (2) the title to Jacquie's car, (3) the title to the handicap van that needs to be sold, and (4) the deposit to the Estate Bank account so checks could be made as required. Although Jason Holden agreed to visit with Chris about each item, they have never responded to any one of these requests. The record reflects Thomas E.

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Towe made an appearance in this case as my attorney on November 17, 2017, almost two months ago.

DATED this 17<sup>th</sup> day of January, 2018.

/s/ Paul Boland  
PAUL BOLAND

SUBSCRIBED AND SWORN TO before me by Paul Boland on this 17<sup>th</sup> day of January, 2018.

(Seal) /s/ Richele J. Serfoss  
Notary Public for the State of  
Montana

**CERTIFICATE OF SERVICE**

This is to certify that I have mailed a full and complete copy of the foregoing, by U.S. Mail, postage prepaid, to the following:

Jason T. Holden  
Faure Holden  
P.O. Box 2466  
Great Falls, MT 59403

this 18<sup>th</sup> day of January, 2018.

TOWE, BALL, MACKEY,  
SOMMERFELD  
& TURNER, PLLP

By/s/ Marsha Koch \_\_\_\_\_

THOMAS E. TOWE, ESQ.  
TOWE, BALL, MACKEY, SOMMERFELD  
& TURNER, PLLP  
2525 Sixth Avenue North  
P.O. Box 30457  
Billings, Montana 59107-0457  
Telephone: (406) 248-7337  
Attorneys for the Estate of Dixie L. Boland

MONTANA EIGHTH JUDICIAL DISTRICT COURT  
CASCADE COUNTY

IN THE MATTER OF     ) Cause No. ADP 15-125  
THE ESTATE OF:         )  
                              )  
EDWARD M. BOLAND,     )  
                              )  
Deceased.             )

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**PETITION**  
**FOR ORDER TO RECOVER ASSETS**

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COME NOW Mary B Gettel and Paul E. Boland, Co-Personal Representatives of the Estate of Dixie L. Boland and petition the Court for an Order requiring the Co-Personal Representatives of the above Estate, the Estate of Edward M. Boland, to seek recovery for the Estate of Edward M. Boland of certain assets belonging to the Estate. These assets include the following items owed to the decedent at the date of his death:

1. Any indebtedness owed to the decedent at the date of his death by Ed Boland Construction, Inc.

2. Any dividends, contract payments, salary, or other payments owed by Ed Boland Construction, Inc., to the decedent at the date of his death.

3. Any claim against Ed Boland Construction, Inc., Barry Boland, or Chris Boland as a result of an under-evaluation of the value of the Decedent's ownership interest in Stock of Ed Boland Construction, Inc. in the sale and purchase of his 26.4 % ownership interest upon his death.

4. Any outstanding indebtedness owed to the decedent at the date of his death by his son Barry Boland.

5. Any outstanding indebtedness owed to the decedent at the date of his death by his son Christopher Boland.

6. Any indebtedness owed to the decedent at the date of his death by North Park Investments, LLC.

7. Any dividends, contract payments, salary, division or profits, or other payments owed by North Park Investments, LLC, to the decedent at the date of his death.

8. Any and all insurance proceeds from life insurance policies on the death of the decedent payable to the Estate of Edward M. Boland or otherwise owed to this estate.

9. Any and all shares of stock, limited liability company ownership interests, personal property, vehicles, equipment, and other property held by Christopher Boland, Barry Boland, Ed Boland Construction, Inc., or any other organization or person that belonged to and was owned by the decedent at the date of his death.

The Co-Personal Representatives of this Estate have an obligation to seek these assets so that they can be under their control and protection. §72-3-606, MCA. See also §72-3-614, MCA (Power to recover property is a transfer is voidable). In addition, any transaction affected by a substantial conflict of interest on the part of a Personal Representative may be voidable upon request of any person interested in the Estate. §72-3-615, MCA.

In this case, Co-Personal Representative Chris Boland has a substantial interest in the party holding the assets, namely, himself, his corporation Ed Boland Construction, Inc., and his LLC North Park Investments, LLC. Since he is not likely to turn over his own property or property owned by an entity of his and his brother voluntarily, he may be a Defendant of a law suit that would have to be brought by the Estate. Petitioners therefore request that Co-Personal Representative Paul Boland be authorized to take any necessary action including filing a law suit, if necessary, without the consent of Co-Personal Representative Chris Boland. In the alternative, Petitioners request the appointment of a Special Administrator as set forth in §72-3-701, et seq. MCA for this purpose.

WHEREFORE, Petitioner requests an Order from the Court as follows:

1) That the Personal Representatives seek out and obtain all property set forth in this Petition and owned by the Decedent at the date of his death;

2) That Co-Personal Representative Paul Boland be authorized to take any necessary action to obtain such property without the consent or concurrence of Co-Personal Representative Chris Boland on any action to which Chris Boland does not agree to proceed;

3) That, in the alternative, a Special Administrator be appointed as set forth in §72-3-701, MCA to seek out and obtain all such property.

DATED this 28<sup>th</sup> day of November, 2017.

TOWE, BALL, MACKEY,  
SOMMERFELD

& TURNER, PLLP  
Attorneys for the Estate  
of Dixie L. Boland

By: /s/Thomas E. Towe  
THOMAS E. TOWE, ESQ.

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(Excerpt)

Jason T. Holden ([jholden@faureholden.com](mailto:jholden@faureholden.com))  
Katie R. Ranta ([kranta@faureholden.com](mailto:kranta@faureholden.com))  
FAURE HOLDEN ATTORNEYS AT LAW, P.C.  
1314 Central Avenue  
P.O. Box 2466  
Great Falls, Montana 59403-2466  
Telephone: (406) 452-6500  
Facsimile: (406) 452-6503  
Attorneys for Christopher W. Boland

MONTANA EIGHTH JUDICIAL DISTRICT COURT,  
CASCADE COUNTY

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IN RE THE ESTATE OF: EDWARD M. BOLAND, Deceased,	Cause No. ADP 15-125  CHRIS BOLAND'S RESPONSES TO CO-PERSONAL REPRESENTATIVE'S SECOND DISCOVERY REQUESTS
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Christopher W. Boland ("Chris"), by and through his counsel of record, Faure Holden Attorneys at Law, P.C., hereby responds to Co-Personal Representatives Mary Gettel ("Mary") and Paul Boland's ("Paul") Second Discovery Requests.

...

DISCOVERY REQUEST NO. 111  
(INTERROGATORY): The information provided in response to the First Discovery Requests indicates that Ed Boland Construction, Inc., ceased paying dividend checks to Ed Boland after May 1, 2014. Please explain



the circumstances for taking this action. If it is based on an agreement, please furnish a copy of the agreement. If it is based on an oral agreement, please identify all witnesses to this agreement and be specific as to what each person who was present at the time of the agreement said.

ANSWER: Chris asserts and incorporates objections 1-12 listed above, and reserves any and all defenses and substantive objections.

...

MONTANA EIGHTH JUDICIAL DISTRICT COURT,  
CASCADE COUNTY

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The Estate Of	)	
Edward M. Boland	)	Cause No. BDV-17-795
Plaintiff,	)	
vs.	)	Order Consolidating
	)	Case
Ed Boland Construction,	)	
Inc. Chris Boland, Barry	)	
Boland, and North Park	)	
Investments, LLC,	)	
Defendants.	)	

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Pursuant to Local Rule 13, this case is consolidated with the Estate of Edward Boland, ADP-15-125, and is assume by Judge Gregory G. Pinski.

DATED this 15 day of February, 2018

/s/Gregory G. Pinski

Gregory G. Pinski, District Court Judge

cc: Thomas Towe,  
PO Box 30457, Billings, MT 59107-0457  
Defendants c/o Thomas Towe

(Excerpt)

THOMAS E. TOWE, ESQ.  
TOWE, BALL, MACKEY, SOMMERFELD  
& TURNER, PLLP  
2525 Sixth Avenue North  
P.O. Box 30457  
Billings, Montana 59107-0457  
Telephone: (406) 248-7337  
Attorneys for Paul Boland

MONTANA EIGHTH JUDICIAL DISTRICT COURT  
CASCADE COUNTY

The Estate of Edward M.	)	Cause No. BDV 17-0795
Boland,	)	Judge: Elizabeth A. Best
Plaintiff,	)	
vs.	)	<u>BRIEF IN SUPPORT</u>
Ed Boland Construction,	)	<u>OF MOTION FOR</u>
Inc., Chris Boland, Barry	)	<u>PARTIAL SUMMARY</u>
Boland and North Park	)	<u>JUDGMENT</u>
Investments, LLC,	)	
Defendants,	)	

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This Brief is in support of the Motion for Partial Summary Judgment filed by Paul Boland, Co-Personal Representative of the Estate of Edward M. Boland (hereinafter "Paul"), in the above case, Based on the documents which have been presented by answer to Subpoena or by responses to Discovery, it can be conclusively established that the Defendant Ed Boland Construction, Inc., owed the Decedent, Edward M. Boland, the sum of \$277,617.13 in dividends at the date

of his death. This is an accumulation of dividends from 2007 until date of death. This is Paul's Brief in support of his Motion for Partial Summary Judgment.

I.

Based on the tax returns of Ed Boland Construction, Inc., the Decedent was entitled to \$846,438.00 in dividends from 2007 through 2014. The Corporation's records show he was paid only \$568,820.67. The difference is \$27,617.13, the amount owed to the Decedent at the date of his death.

A. Dividends Owed.

On behalf of the Dixie L. Boland Estate, Paul submitted a Subpoena to Ed Boland Constructions, Inc., hereinafter "The Corporation"), for all of their tax returns from 2007 to the date of Ed Boland's death. These were produced. The Corporation is a Subchapter S corporation. Consequently, in each tax returns there is a K-1 which shows in Line 1 of Part 3 the total amount of ordinary business income that each shareholder must include in their own income tax for that year. A copy of each K-1 for 2007 through 2013 for Ed Boland is attached hereto as Exhibits D-1 2007-2013<sup>1</sup> The numbers are as follows:

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<sup>1</sup> Please note that all of the tax returns are subject to a Protective Order in the Dixie Boland Estate matter, Cause No. DP 16-0017, Yellowstone County.

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2007	\$ 77,865.00
2008	\$148,607.00
2009	\$127,725.00
2010	\$117,968.00
2011	\$131,879.00
2012	\$ 54,263.00
2013	\$ 84,671.00

The 2014 K-1 is missing; no K-1 was included in answer to the Subpoena. Paul has suggested that the documents may have been "sanitized" before delivery to Paul and his attorney because Chris did not want to show the K-1 for 2014. Almost certainly, it would show a substantial dividend due for that year, namely \$103,460.00. However, by simple mathematics one can easily compute Ed Boland's share of the dividends for 2014. By adding the K-1's for all three shareholders, one receives the exact amount of the "ordinary business income" shown on line 21 of the front page of the 1120S form for each year. Thus, in 2007, Line 1 of Part 3 of the three shareholders from their respective K-1's is as follows:

Ed Boland-	\$ 77,865.00
Chris Boland -	\$108,540.00
Barry Boland -	<u>\$108,540.00</u>
TOTAL	<b>\$294,945.00</b>

(See Exhibits D-2(1), D-2(2), and D-2(3).)

The amount on Line 21, "Ordinary Business Income" is the same, namely, \$294,945.00. (Exhibit D-2(4).) A similar computation for each year from 2008 through 2013 produces the exact same result to the exact penny.

Consequently, for the year 2014, it is a simple matter to take the total income on Line 21 "Ordinary Business Income" of \$398,447.00 and subtract the entry on Line 1 of Part 3 of the K-1's for Chris Boland (\$147,493.00) and Barry Boland (\$147,494.00) to find out how much is on Ed Boland's K-1 for 2014. When these two sums are subtracted from \$398,447.00 of Ordinary Business Income, the result is \$103,460.00 which has to be the amount of income that would be reported for Ed Boland for 2014 on his own tax returns. If this number is added to the list above, the result is as follows:

2014	<u>\$103,460.00</u>
Total	\$846,438.00

This is income that was reported to the Internal Revenue Service for which Ed Boland had to pay taxes on his own personal tax returns for each year from 2007 to 2014. It is directly off the tax returns of The Corporation. In other words, \$846,438.00 is the amount that The Corporation reported to the IRS that Ed Boland received in taxable income from The Corporation for the years 2007 to 2014. If that number is wrong it was improperly reported to the Internal Revenue Service.

In addition, in response to Paul's First Discovery Requests, Chris produced a printout from their Quicken accounting system for all of the transactions for Ed Boland by Ed Boland Constructions, Inc. It includes all of the monies distributed to Ed Boland from January 1, 2007 through May 1, 2014, including payroll and dividends. (It was attached to earlier briefs as Exhibit B, but it is included herein as Exhibit C-4

(Bates Stamp C Boland 215-219.) In response to Discovery Request No. 77 asking that Chris produce any all documents relating to the dividends paid to Ed Boland between 2007 and the date of the request, the answer was as follows:

RESPONSE: Please see the attached ledger, Bate Nos. C Boland 215-219. All items entitled "check" are dividends.

On November 17, 2017, counsel for Paul made a request to counsel for Chris for further clarification. (A copy of these requests were previously submitted as Exhibit S and are included herein as Exhibit D-11.) Item No. 8 reads as follows:

8. [Request for Clarification of] Answer to Discovery Request no. 77. Document Bate Stamp C Boland 215 reflects that all payments ceased with the last check dated May 1, 2014. Since the Stock Purchase Agreement did not take effect until Ed Boland died on December 26, 2014, please explain what happened to the dividends from May 1, 2014 until December 26, 2014. Are there funds still owed by the corporation in payment of these dividends? If there is some reason why these dividends were not paid, please explain in detail so that no further clarification needs to be obtained.

The answer received is as follows:

8-12. Discovery Request No. 77: There was no Stock Purchase Agreement. The Shareholders Agreement and any amendments thereto controlled the purchase of Ed's 26.4% ownership interest at the time of his death. No dividends were paid for the 2014 calendar year, except to pay shareholders' taxes. ...The documents speak for themselves.

Exhibit TT at 2, and included herein as Exhibit D-12 at 2.) (See also Exhibit RR, Answer to Discovery Request no. 75 attached hereto.)

There are two things significant about this attempted clarification. First, this statement is clearly erroneous on its face. The document (Exhibit C-4) reflects a payment of \$14,000.00 before May 1, 2014, and therefore to state that no dividends were paid for the calendar year 2014, except to pay shareholders' taxes (the \$8,000.00 acknowledged to be due for Ed Boland's 2014 tax liability) appears to be in addition to the \$14,000.00 paid in dividends prior to May 1, 2014. (See Exhibit C-4 at 1; Answer to Discovery Request No. 80, Exhibit D-11 at 5.) The Defendant's document shows that payment of \$14,000.00 prior to May 1 was received as dividends in 2014 and if there is still \$8,000.00 owing "for taxes" there was \$23,000.00 owing to Ed for 2014; it would be wrong to say no dividends were paid except for \$8,000.00 "for taxes."<sup>2</sup>

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<sup>2</sup> It may be that Chris considers the \$14,000.00 paid before May 1 of 2014 to be payment for dividends owed from previous years and therefore not a part of 2014 dividends. If that is true, it suggests that Paul is correct and that there are indeed considerable additional dividends for years prior to 2014 that



Second, to say that, "No dividends were paid for 2014 calendar year, except to pay shareholders' taxes" (Exhibit D-12 at 2, ¶¶ 8-12), is practically an admission that further funds are owed. It is a common practice for pass-through entities such as partnerships, limited liability companies, and Sub-chapter S corporations, to distribute just enough money to reimburse there shareholders for the extra taxes the pass-through income will require them to pay on their personal returns, but withhold the full amount of the rest of the dividends owed to use by the pass through entity for other purposes, or because they are short of cash at that point. Of course, failure to pay the dividend at that time or that year does not prove that the shareholder is not entitled to be paid the balance of the dividends on which they have paid taxes at a later time. They are clearly owed a part of the undivided profits, at least to the amount of the unpaid dividends. Thus, to admit that the corporation had to pay Ed Boland \$8,000.00 to cover the extra taxes that year is an admission that other dividends were owed. Unless there is a written waiver or document indicating acceptance of less money as full payment of the obligation (or, more likely, the acceptance of the sum necessary to pay shareholders' taxes, would be postponed until a later date), the money is still owed.

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have not yet been paid and the account has not yet been fully adjusted. This is consistent with the handwritten notes from Ed Boland who claims approximately \$166,000.00 was still owed to him for 2008 through 2013 dividends shortly before his death. (See Exhibits ZZ, AAA, and BBB attached hereto as Exhibits C-6, C-7 and C-8.)

Interestingly, The Corporation's accountant, Robert G. Mau, suggests that just such an agreement does exist. (See Exhibit CC attached.) Counsel immediately requested this document as soon as the Mau letter was produced. (See Exhibit D-11 at 5, ¶ 18.) In response Paul received the following answer:

We believe the agreement referenced in C Boland 225 [the Mau letter] is the August 15, 2014 amendment to the Shareholders Agreement which was provided to you months ago by Bob Phennigs.

(Exhibit D-12 at 3, ¶ 18-19.) Again, this response does not appear to be accurate inasmuch as the Mau letter itself says, "This was a separate agreement from the Buy-Sell Agreement between the company and your dad for his shares of the company." Further attempts to obtain a copy of this agreement or to talk to the accountant about it have not been successful. In Paul's First Discovery Requests in the instant case, dated January 22, 2018, Paul asked to please explain the circumstances why no dividend checks were received after May 1, 2014, and to please provide a copy of any written agreement that affects that result or if it is an oral agreement explain the details of the agreement, and further please identify and produce the agreement referred to in the Mau letter. These requests are the substance of Discovery Request Nos. 13 and 14 of Plaintiff's First Discovery Requests in Cause No. BDV 17-075, which Defendants have asked not to respond until after the current rulings have been made by this Court on other Motions. Further, in Plaintiff's Second Discovery Requests in the instant case at Request No.

34, Paul asked for the contact information for the accountant Robert E. Mau, and in Discovery Request No. 35, Paul asked for the contact information for the previous accountant, Dick Peterson. Again, counsel for Defendants asked not to be required to respond to these Discovery Requests until some of the Motions currently before the Court are decided.

At the present time there is absolutely nothing to show that the total amount of Dividends on which Ed was required to pay taxes should not be due.

**B. Dividends Paid.**

Based on the computer printout of all payments for dividends between January 1, 2007 and May 1, 2014, the following dividends were paid:

2007	\$ 57,000.00
2008	\$ 54,016.43
2009	\$ 81,464.00
2010	\$ 66,918.44
2011	\$105,886.00
2012	\$117,536.00
2013	\$ 72,000.00
2014	\$ <u>14,000.00</u>

Total Dividends Received: \$568,820.67

From this it is a simple mathematical calculation to subtract the amounts received from the amounts to be paid according to the tax returns with the following results:

Amount from Tax Returns	\$846,438.00
Less Amount Paid	<u>\$568,820.67</u>

This Motion for Partial Summary Judgment addresses that amount and that amount only.

**C. Defendant's Only Response.**

Defendant's deny any further liability (other than \$8,000.00) claiming that final payment on all outstanding obligations for dividends owed by Ed Boland Constructions, Inc. was paid on June 6, 2014, by a check for \$230,000.00. (Exhibit RR at 7, Answer to ¶ 90.) The problem with this answer is that the check was written by, and paid by, North Park Investments, LLC, and not Ed Boland Construction, Inc. See Exhibit OO attached hereto which does reflect a payment of \$230,000.00 on that date, but is clearly from North Park Investments, LLC, and not The Corporation who incurred the dividends. North Park Investments, LLC, cannot pay the dividends owed by Ed Boland Construction, Inc. And there is absolutely nothing that shows Ed Boland agreed to accept something else instead of the dividends The Corporation owed him. Furthermore, there is considerable evidence to indicate that at least \$230,000.00, if not more, was owed to Ed by North Park Investments, LLC. For example, first see Exhibit C-6, Ed Boland's handwritten notes indicating that equipment and building of \$400,000.00 plus shared profits of \$116,666.00 were owed by North Park Investments. Second, see Exhibit C-7, Ed Boland's notes indicating a \$90,000.00 loan from South Park, plus an additional \$820,00.00 after excluding

dividends and monies owed by Chris and Barry of \$230,000.00 were owed by North Park Investments. And third, see C-8, again in Ed's own handwriting which indicates the South Park loan of \$90,000.00 plus equipment and building of \$400,000.00 is owed by North Park Investments not counting these dividends. If any of this is true, no part of the consideration for that check could be attributed to dividends of the corporation even if Ed Boland had agreed to it or even if he was competent to agree to it.

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**ED BOLAND CONSTRUCTION, INC.**  
**All Transactions for BOLAND, EDWARD**  
 January 1, 2007 through May 1, 2014

Transaction Type	Date	Account	Amount
Jan 1, '07 - May 1, 14			
Check	05/01/2014	1010 - 1ST INTERS...	1,000.00
Check	04/01/2014	1010 - 1ST INTERS...	1,000.00
Check	03/28/2014	1010 - 1ST INTERS...	2,000.00
Check	03/01/2014	1010 - 1ST INTERS...	1,000.00
Check	02/24/2014	1010 - 1ST INTERS...	2,000.00
Check	02/01/2014	1010 - 1ST INTERS...	1,000.00
Check	01/07/2014	1010 - 1ST INTERS...	5,000.00
Check	01/01/2014	1010 - 1ST INTERS...	1,000.00
Check	12/01/2013	1010 - 1ST INTERS...	1,000.00
Check	11/01/2013	1010 - 1ST INTERS...	1,000.00
Check	10/01/2013	1010 - 1ST INTERS...	1,000.00
Check	09/12/2013	1010 - 1ST INTERS...	10,000.00
Check	09/01/2013	1010 - 1ST INTERS...	1,000.00
Check	08/01/2013	1010 - 1ST INTERS...	1,000.00
Check	07/01/2013	1010 - 1ST INTERS...	1,000.00
Check	06/01/2013	1010 - 1ST INTERS...	1,000.00
Check	05/01/2013	1010 - 1ST INTERS...	1,000.00
Check	04/15/2013	1010 - 1ST INTERS...	50,000.00
Check	04/01/2013	1010 - 1ST INTERS...	1,000.00
Check	03/01/2013	1010 - 1ST INTERS...	1,000.00
Check	02/01/2013	1010 - 1ST INTERS...	1,000.00
Check	01/01/2013	1010 - 1ST INTERS...	1,000.00
Check	12/31/2012	1010 - 1ST INTERS...	5,536.00
Check	12/01/2012	1010 - 1ST INTERS...	1,000.00
Check	11/01/2012	1010 - 1ST INTERS...	1,000.00
Check	10/01/2012	1010 - 1ST INTERS...	1,000.00
Check	09/01/2012	1010 - 1ST INTERS...	1,000.00
Check	08/01/2012	1010 - 1ST INTERS...	1,000.00
Check	07/01/2012	1010 - 1ST INTERS...	1,000.00
Check	06/01/2012	1010 - 1ST INTERS...	1,000.00
Check	05/01/2012	1010 - 1ST INTERS...	1,000.00
Check	05/01/2012	1010 - 1ST INTERS...	100,000.00
Check	04/01/2012	1010 - 1ST INTERS...	1,000.00
Check	03/01/2012	1010 - 1ST INTERS...	1,000.00
Check	02/01/2012	1010 - 1ST INTERS...	1,000.00
Check	01/01/2012	1010 - 1ST INTERS...	1,000.00
Check	12/02/2011	1010 - 1ST INTERS...	9,832.00
Check	12/01/2011	1010 - 1ST INTERS...	1,000.00
Check	11/01/2011	1010 - 1ST INTERS...	1,000.00
Check	10/01/2011	1010 - 1ST INTERS...	1,000.00
Check	09/01/2011	1010 - 1ST INTERS...	1,000.00
Check	08/08/2011	1010 - 1ST INTERS...	9,054.00
Check	08/01/2011	1010 - 1ST INTERS...	1,000.00
Check	07/01/2011	1010 - 1ST INTERS...	1,000.00
Check	06/01/2011	1010 - 1ST INTERS...	1,000.00
Check	05/01/2011	1010 - 1ST INTERS...	1,000.00
Check	04/11/2011	1010 - 1ST INTERS...	75,000.00
Check	04/01/2011	1010 - 1ST INTERS...	1,000.00
Check	03/01/2011	1010 - 1ST INTERS...	1,000.00
Check	02/01/2011	1010 - 1ST INTERS...	1,000.00
Paycheck	01/27/2011	1010 - 1ST INTERS...	582.88
Paycheck	01/20/2011	1010 - 1ST INTERS...	582.88
Paycheck	01/13/2011	1010 - 1ST INTERS...	582.89
Paycheck	01/06/2011	1010 - 1ST INTERS...	582.88
Check	01/01/2011	1010 - 1ST INTERS...	1,000.00
Check	12/31/2010	1010 - 1ST INTERS...	4,464.00
Paycheck	12/30/2010	1010 - 1ST INTERS...	579.98
Paycheck	12/23/2010	1010 - 1ST INTERS...	579.98
Paycheck	12/16/2010	1010 - 1ST INTERS...	579.98
Paycheck	12/09/2010	1010 - 1ST INTERS...	579.98
Paycheck	12/02/2010	1010 - 1ST INTERS...	579.98
Check	12/01/2010	1010 - 1ST INTERS...	1,000.00
Paycheck	11/25/2010	1010 - 1ST INTERS...	579.98
Paycheck	11/18/2010	1010 - 1ST INTERS...	579.98
Paycheck	11/11/2010	1010 - 1ST INTERS...	579.98
Paycheck	11/04/2010	1010 - 1ST INTERS...	579.98
Check	11/01/2010	1010 - 1ST INTERS...	1,000.00

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**ED BOLAND CONSTRUCTION, INC.**  
**All Transactions for BOLAND, EDWARD**  
 January 1, 2007 through May 1, 2014

Transaction Type	Date	Account	Amount
Paycheck	10/28/2010	1010 - 1ST INTERS...	579.98
Paycheck	10/21/2010	1010 - 1ST INTERS...	579.98
Paycheck	10/14/2010	1010 - 1ST INTERS...	579.98
Paycheck	10/07/2010	1010 - 1ST INTERS...	579.98
Check	10/01/2010	1010 - 1ST INTERS...	1,000.00
Paycheck	09/30/2010	1010 - 1ST INTERS...	579.98
Paycheck	09/23/2010	1010 - 1ST INTERS...	579.98
Paycheck	09/16/2010	1010 - 1ST INTERS...	579.98
Paycheck	09/09/2010	1010 - 1ST INTERS...	579.98
Paycheck	09/02/2010	1010 - 1ST INTERS...	579.98
Check	09/01/2010	1010 - 1ST INTERS...	1,000.00
Paycheck	08/26/2010	1010 - 1ST INTERS...	579.98
Paycheck	08/19/2010	1010 - 1ST INTERS...	579.98
Paycheck	08/12/2010	1010 - 1ST INTERS...	579.98
Paycheck	08/05/2010	1010 - 1ST INTERS...	579.98
Check	08/01/2010	1010 - 1ST INTERS...	1,000.00
Paycheck	07/29/2010	1010 - 1ST INTERS...	579.98
Paycheck	07/22/2010	1010 - 1ST INTERS...	579.98
Paycheck	07/15/2010	1010 - 1ST INTERS...	579.98
Paycheck	07/08/2010	1010 - 1ST INTERS...	579.98
Check	07/06/2010	1010 - 1ST INTERS...	454.44
Check	07/01/2010	1010 - 1ST INTERS...	1,000.00
Paycheck	07/01/2010	1010 - 1ST INTERS...	579.98
Paycheck	06/24/2010	1010 - 1ST INTERS...	579.98
Paycheck	06/17/2010	1010 - 1ST INTERS...	579.98
Paycheck	06/10/2010	1010 - 1ST INTERS...	579.98
Paycheck	06/03/2010	1010 - 1ST INTERS...	579.98
Check	06/01/2010	1010 - 1ST INTERS...	1,000.00
Paycheck	05/27/2010	1010 - 1ST INTERS...	579.98
Paycheck	05/20/2010	1010 - 1ST INTERS...	579.98
Paycheck	05/13/2010	1010 - 1ST INTERS...	579.98
Paycheck	05/06/2010	1010 - 1ST INTERS...	579.98
Check	05/01/2010	1010 - 1ST INTERS...	1,000.00
Paycheck	04/29/2010	1010 - 1ST INTERS...	579.98
Paycheck	04/22/2010	1010 - 1ST INTERS...	579.98
Paycheck	04/15/2010	1010 - 1ST INTERS...	579.98
Paycheck	04/08/2010	1010 - 1ST INTERS...	579.98
Paycheck	04/01/2010	1010 - 1ST INTERS...	579.98
Check	04/01/2010	1010 - 1ST INTERS...	1,000.00
Paycheck	03/25/2010	1010 - 1ST INTERS...	579.98
Paycheck	03/18/2010	1010 - 1ST INTERS...	579.98
Paycheck	03/11/2010	1010 - 1ST INTERS...	579.98
Paycheck	03/04/2010	1010 - 1ST INTERS...	579.98
Check	03/01/2010	1010 - 1ST INTERS...	1,000.00
Paycheck	02/25/2010	1010 - 1ST INTERS...	579.98
Paycheck	02/18/2010	1010 - 1ST INTERS...	579.98
Paycheck	02/11/2010	1010 - 1ST INTERS...	579.98
Paycheck	02/04/2010	1010 - 1ST INTERS...	579.98
Check	02/01/2010	1010 - 1ST INTERS...	1,000.00
Paycheck	01/28/2010	1010 - 1ST INTERS...	579.98
Paycheck	01/21/2010	1010 - 1ST INTERS...	579.98
Check	01/20/2010	1010 - 1ST INTERS...	50,000.00
Paycheck	01/14/2010	1010 - 1ST INTERS...	579.98
Paycheck	01/07/2010	1010 - 1ST INTERS...	579.98
Check	01/01/2010	1010 - 1ST INTERS...	1,000.00
Paycheck	12/31/2009	1010 - 1ST INTERS...	583.98
Check	12/31/2009	1010 - 1ST INTERS...	4,464.00
Paycheck	12/24/2009	1010 - 1ST INTERS...	583.98
Check	12/22/2009	1010 - 1ST INTERS...	10,000.00
Paycheck	12/17/2009	1010 - 1ST INTERS...	583.98
Paycheck	12/10/2009	1010 - 1ST INTERS...	583.98
Paycheck	12/03/2009	1010 - 1ST INTERS...	583.98
Check	12/01/2009	1010 - 1ST INTERS...	1,000.00
Paycheck	11/26/2009	1010 - 1ST INTERS...	583.98
Paycheck	11/19/2009	1010 - 1ST INTERS...	583.98
Paycheck	11/12/2009	1010 - 1ST INTERS...	583.98
Paycheck	11/05/2009	1010 - 1ST INTERS...	583.98
Check	11/01/2009	1010 - 1ST INTERS...	1,000.00

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ED BOLAND CONSTRUCTION, INC.  
**All Transactions for BOLAND, EDWARD**  
 January 1, 2007 through May 1, 2014

Transaction Type	Date	Account	Amount
Paycheck	10/29/2009	1010 - 1ST INTERS...	583.98
Paycheck	10/22/2009	1010 - 1ST INTERS...	583.98
Paycheck	10/15/2009	1010 - 1ST INTERS...	583.98
Paycheck	10/08/2009	1010 - 1ST INTERS...	583.98
Check	10/01/2009	1010 - 1ST INTERS...	1,000.00
Paycheck	09/24/2009	1010 - 1ST INTERS...	583.98
Paycheck	09/17/2009	1010 - 1ST INTERS...	583.98
Check	09/14/2009	1010 - 1ST INTERS...	15,000.00
Paycheck	09/10/2009	1010 - 1ST INTERS...	583.98
Paycheck	09/03/2009	1010 - 1ST INTERS...	583.98
Check	09/01/2009	1010 - 1ST INTERS...	1,000.00
Paycheck	08/27/2009	1010 - 1ST INTERS...	583.98
Paycheck	08/20/2009	1010 - 1ST INTERS...	583.98
Paycheck	08/13/2009	1010 - 1ST INTERS...	583.98
Paycheck	08/06/2009	1010 - 1ST INTERS...	583.98
Check	08/01/2009	1010 - 1ST INTERS...	1,000.00
Paycheck	07/30/2009	1010 - 1ST INTERS...	583.98
Paycheck	07/23/2009	1010 - 1ST INTERS...	583.98
Paycheck	07/16/2009	1010 - 1ST INTERS...	583.98
Paycheck	07/09/2009	1010 - 1ST INTERS...	583.98
Paycheck	07/02/2009	1010 - 1ST INTERS...	583.98
Check	07/01/2009	1010 - 1ST INTERS...	1,000.00
Paycheck	06/25/2009	1010 - 1ST INTERS...	583.98
Paycheck	06/18/2009	1010 - 1ST INTERS...	583.98
Paycheck	06/11/2009	1010 - 1ST INTERS...	583.98
Paycheck	06/04/2009	1010 - 1ST INTERS...	583.98
Check	06/01/2009	1010 - 1ST INTERS...	1,000.00
Paycheck	05/26/2009	1010 - 1ST INTERS...	583.98
Paycheck	05/21/2009	1010 - 1ST INTERS...	583.98
Paycheck	05/14/2009	1010 - 1ST INTERS...	583.98
Paycheck	05/07/2009	1010 - 1ST INTERS...	583.98
Check	05/01/2009	1010 - 1ST INTERS...	1,000.00
Paycheck	04/30/2009	1010 - 1ST INTERS...	583.98
Paycheck	04/23/2009	1010 - 1ST INTERS...	583.98
Paycheck	04/16/2009	1010 - 1ST INTERS...	583.98
Paycheck	04/09/2009	1010 - 1ST INTERS...	583.98
Check	04/07/2009	1010 - 1ST INTERS...	40,000.00
Paycheck	04/02/2009	1010 - 1ST INTERS...	583.98
Check	04/01/2009	1010 - 1ST INTERS...	1,000.00
Paycheck	03/26/2009	1010 - 1ST INTERS...	583.98
Paycheck	03/19/2009	1010 - 1ST INTERS...	583.98
Paycheck	03/12/2009	1010 - 1ST INTERS...	567.98
Paycheck	03/05/2009	1010 - 1ST INTERS...	567.98
Check	03/01/2009	1010 - 1ST INTERS...	1,000.00
Paycheck	02/26/2009	1010 - 1ST INTERS...	567.98
Paycheck	02/19/2009	1010 - 1ST INTERS...	567.98
Paycheck	02/12/2009	1010 - 1ST INTERS...	567.98
Paycheck	02/05/2009	1010 - 1ST INTERS...	567.98
Check	02/01/2009	1010 - 1ST INTERS...	1,000.00
Paycheck	01/29/2009	1010 - 1ST INTERS...	567.98
Paycheck	01/22/2009	1010 - 1ST INTERS...	567.98
Paycheck	01/15/2009	1010 - 1ST INTERS...	567.98
Paycheck	01/08/2009	1010 - 1ST INTERS...	567.98
Paycheck	01/01/2009	1010 - 1ST INTERS...	567.98
Check	01/01/2009	1010 - 1ST INTERS...	1,000.00
Check	12/29/2008	1010 - 1ST INTERS...	1,385.33
Paycheck	12/25/2008	1010 - 1ST INTERS...	566.98
Paycheck	12/18/2008	1010 - 1ST INTERS...	566.98
Paycheck	12/11/2008	1010 - 1ST INTERS...	566.98
Paycheck	12/04/2008	1010 - 1ST INTERS...	566.98
Check	12/01/2008	1010 - 1ST INTERS...	1,000.00
Paycheck	11/27/2008	1010 - 1ST INTERS...	566.98
Paycheck	11/20/2008	1010 - 1ST INTERS...	566.98
Paycheck	11/13/2008	1010 - 1ST INTERS...	566.98
Paycheck	11/06/2008	1010 - 1ST INTERS...	566.98
Check	11/01/2008	1010 - 1ST INTERS...	1,000.00
Paycheck	10/30/2008	1010 - 1ST INTERS...	566.98



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ED BOLAND CONSTRUCTION, INC.  
 All Transactions for BOLAND, EDWARD  
 January 1, 2007 through May 1, 2014

Transaction Type	Date	Account	Amount
Paycheck	10/23/2008	1010 - 1ST INTERS...	566.98
Paycheck	10/16/2008	1010 - 1ST INTERS...	566.98
Paycheck	10/09/2008	1010 - 1ST INTERS...	566.98
Paycheck	10/02/2008	1010 - 1ST INTERS...	566.98
Check	10/01/2008	1010 - 1ST INTERS...	1,000.00
Paycheck	09/25/2008	1010 - 1ST INTERS...	566.98
Paycheck	09/18/2008	1010 - 1ST INTERS...	566.98
Check	09/16/2008	1010 - 1ST INTERS...	20,000.00
Paycheck	09/11/2008	1010 - 1ST INTERS...	566.98
Paycheck	09/04/2008	1010 - 1ST INTERS...	566.98
Check	09/01/2008	1010 - 1ST INTERS...	1,000.00
Paycheck	08/28/2008	1010 - 1ST INTERS...	566.98
Paycheck	08/21/2008	1010 - 1ST INTERS...	566.98
Paycheck	08/14/2008	1010 - 1ST INTERS...	566.98
Paycheck	08/07/2008	1010 - 1ST INTERS...	566.98
Check	08/01/2008	1010 - 1ST INTERS...	1,000.00
Paycheck	07/31/2008	1010 - 1ST INTERS...	566.98
Paycheck	07/24/2008	1010 - 1ST INTERS...	566.98
Paycheck	07/17/2008	1010 - 1ST INTERS...	566.98
Paycheck	07/10/2008	1010 - 1ST INTERS...	566.98
Paycheck	07/03/2008	1010 - 1ST INTERS...	566.98
Check	07/01/2008	1010 - 1ST INTERS...	1,000.00
Paycheck	06/26/2008	1010 - 1ST INTERS...	566.98
Paycheck	06/19/2008	1010 - 1ST INTERS...	566.98
Paycheck	06/12/2008	1010 - 1ST INTERS...	566.98
Paycheck	06/05/2008	1010 - 1ST INTERS...	566.98
Check	06/01/2008	1010 - 1ST INTERS...	1,000.00
Paycheck	05/29/2008	1010 - 1ST INTERS...	566.98
Check	05/27/2008	1010 - 1ST INTERS...	20,000.00
Paycheck	05/22/2008	1010 - 1ST INTERS...	566.98
Paycheck	05/15/2008	1010 - 1ST INTERS...	566.98
Paycheck	05/08/2008	1010 - 1ST INTERS...	566.98
Check	05/01/2008	1010 - 1ST INTERS...	1,000.00
Paycheck	05/01/2008	1010 - 1ST INTERS...	566.98
Paycheck	04/24/2008	1010 - 1ST INTERS...	566.98
Paycheck	04/17/2008	1010 - 1ST INTERS...	566.98
Paycheck	04/10/2008	1010 - 1ST INTERS...	566.98
Paycheck	04/03/2008	1010 - 1ST INTERS...	566.98
Check	04/01/2008	1010 - 1ST INTERS...	1,000.00
Liability Adjust	03/31/2008	3000 - Opening Bal...	
Paycheck	03/27/2008	1010 - 1ST INTERS...	566.98
Paycheck	03/20/2008	1010 - 1ST INTERS...	566.98
Paycheck	03/13/2008	1010 - 1ST INTERS...	566.98
Paycheck	03/06/2008	1010 - 1ST INTERS...	566.98
Check	03/01/2008	1010 - 1ST INTERS...	1,000.00
Paycheck	02/26/2008	1010 - 1ST INTERS...	566.98
Paycheck	02/21/2008	1010 - 1ST INTERS...	566.98
Paycheck	02/14/2008	1010 - 1ST INTERS...	566.98
Paycheck	02/07/2008	1010 - 1ST INTERS...	566.98
Check	02/01/2008	1010 - 1ST INTERS...	1,000.00
Paycheck	01/31/2008	1010 - 1ST INTERS...	566.98
Paycheck	01/24/2008	1010 - 1ST INTERS...	566.98
Check	01/23/2008	1010 - 1ST INTERS...	631.10
Paycheck	01/17/2008	1010 - 1ST INTERS...	566.98
Paycheck	01/10/2008	1010 - 1ST INTERS...	566.98
Paycheck	01/03/2008	1010 - 1ST INTERS...	566.98
Check	01/01/2008	1010 - 1ST INTERS...	1,000.00
Paycheck	12/27/2007	1010 - 1ST INTERS...	566.98
Paycheck	12/20/2007	1010 - 1ST INTERS...	566.98
Paycheck	12/13/2007	1010 - 1ST INTERS...	566.98
Check	12/11/2007	1010 - 1ST INTERS...	25,000.00
Paycheck	12/06/2007	1010 - 1ST INTERS...	566.98
Check	12/01/2007	1010 - 1ST INTERS...	1,000.00
Paycheck	11/29/2007	1010 - 1ST INTERS...	566.98
Paycheck	11/22/2007	1010 - 1ST INTERS...	566.98
Paycheck	11/15/2007	1010 - 1ST INTERS...	566.98
Paycheck	11/08/2007	1010 - 1ST INTERS...	566.98
Paycheck	11/01/2007	1010 - 1ST INTERS...	566.98

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ED BOLAND CONSTRUCTION, INC.  
All Transactions for BOLAND, EDWARD  
January 1, 2007 through May 1, 2014

Transaction Type	Date	Account	Amount
Check	11/01/2007	1010 - 1ST INTERS...	1,000.00
Paycheck	10/25/2007	1010 - 1ST INTERS...	565.98
Paycheck	10/18/2007	1010 - 1ST INTERS...	565.98
Paycheck	10/11/2007	1010 - 1ST INTERS...	565.98
Paycheck	10/04/2007	1010 - 1ST INTERS...	565.98
Check	10/01/2007	1010 - 1ST INTERS...	1,000.00
Paycheck	09/27/2007	1010 - 1ST INTERS...	565.98
Paycheck	09/20/2007	1010 - 1ST INTERS...	565.98
Paycheck	09/13/2007	1010 - 1ST INTERS...	565.98
Paycheck	09/06/2007	1010 - 1ST INTERS...	565.98
Check	09/01/2007	1010 - 1ST INTERS...	1,000.00
Paycheck	08/30/2007	1010 - 1ST INTERS...	565.98
Paycheck	08/23/2007	1010 - 1ST INTERS...	565.98
Paycheck	08/16/2007	1010 - 1ST INTERS...	565.98
Paycheck	08/09/2007	1010 - 1ST INTERS...	565.98
Paycheck	08/02/2007	1010 - 1ST INTERS...	565.98
Check	08/01/2007	1010 - 1ST INTERS...	1,000.00
Paycheck	07/26/2007	1010 - 1ST INTERS...	565.98
Paycheck	07/19/2007	1010 - 1ST INTERS...	565.98
Paycheck	07/12/2007	1010 - 1ST INTERS...	565.99
Paycheck	07/05/2007	1010 - 1ST INTERS...	565.98
Check	07/01/2007	1010 - 1ST INTERS...	1,000.00
Paycheck	06/28/2007	1010 - 1ST INTERS...	565.98
Paycheck	06/21/2007	1010 - 1ST INTERS...	565.98
Paycheck	06/14/2007	1010 - 1ST INTERS...	565.98
Paycheck	06/07/2007	1010 - 1ST INTERS...	565.98
Check	06/01/2007	1010 - 1ST INTERS...	1,000.00
Paycheck	05/31/2007	1010 - 1ST INTERS...	565.98
Paycheck	05/24/2007	1010 - 1ST INTERS...	565.98
Paycheck	05/17/2007	1010 - 1ST INTERS...	565.98
Paycheck	05/10/2007	1010 - 1ST INTERS...	565.98
Paycheck	05/03/2007	1010 - 1ST INTERS...	565.98
Check	05/01/2007	1010 - 1ST INTERS...	1,000.00
Paycheck	04/26/2007	1010 - 1ST INTERS...	565.98
Paycheck	04/19/2007	1010 - 1ST INTERS...	565.98
Paycheck	04/11/2007	1010 - 1ST INTERS...	565.98
Paycheck	04/05/2007	1010 - 1ST INTERS...	565.98
Check	04/01/2007	1010 - 1ST INTERS...	1,000.00
Paycheck	03/29/2007	1010 - 1ST INTERS...	565.98
Paycheck	03/22/2007	1010 - 1ST INTERS...	565.98
Paycheck	03/15/2007	1010 - 1ST INTERS...	565.98
Paycheck	03/08/2007	1010 - 1ST INTERS...	565.98
Paycheck	03/01/2007	1010 - 1ST INTERS...	565.98
Check	03/01/2007	1010 - 1ST INTERS...	1,000.00
Paycheck	02/22/2007	1010 - 1ST INTERS...	565.98
Paycheck	02/15/2007	1010 - 1ST INTERS...	565.98
Check	02/09/2007	1010 - 1ST INTERS...	20,000.00
Paycheck	02/08/2007	1010 - 1ST INTERS...	565.98
Paycheck	02/01/2007	1010 - 1ST INTERS...	565.98
Check	02/01/2007	1010 - 1ST INTERS...	1,000.00
Paycheck	01/25/2007	1010 - 1ST INTERS...	565.98
Paycheck	01/18/2007	1010 - 1ST INTERS...	565.98
Paycheck	01/11/2007	1010 - 1ST INTERS...	565.98
Paycheck	01/04/2007	1010 - 1ST INTERS...	565.98
Check	01/01/2007	1010 - 1ST INTERS...	1,000.00
Jan '1, '07 - May 1, '14			691,000.26

Schedule K-1  
(Form 1120S)Department of the Treasury,  
Internal Revenue ServiceFor calendar year 2007, or tax  
year beginning \_\_\_\_\_ 2007  
ending \_\_\_\_\_

2007

☐ Final K-1☐ Amended K-1b71407  
OMB No. 1545-0047Shareholder's Share of Income, Deductions,  
Credits, etc. See page 2 of form and separate instructions.**Part I** Information About the Corporation

A Corporation's employer identification number  
81-~~XXXXXX~~

B Corporation's name, address, city, state, and ZIP code  
ED BOLAND CONSTRUCTION, INC  
PO BOX 7107  
GREAT FALLS, MT 59405-7107

C IRS Center where corporation filed return  
OGDEN, UT

**Part II** Information About the Shareholder

D Shareholder's identifying number  
~~XXXXXXXXXX~~

E Shareholder's name, address, city, state, and ZIP code  
BOLAND, ED  
4601 7TH AVE SOUTH  
GREAT FALLS, MT 59405

F Shareholder's percentage of stock  
ownership for tax year \_\_\_\_\_ 26.4 %

FOR FURNISH ONLY

**Part III** Shareholder's Share of Current Year Income,  
Deductions, Credits, and Other Items

1	Ordinary business income (loss)	13	Credits
	77,865.		
2	Net rental real estate income (loss)		
3	Other net rental income (loss)		
4	Interest income		
	1,649.		
5a	Ordinary dividends		
5b	Qualified dividends	14	Foreign transactions
6	Royalties		
7	Net short-term capital gain (loss)		
8a	Net long-term capital gain (loss)		
8b	Collectibles (28%) gain (loss)		
8c	Unrecaptured section 1250 gain		
9	Net section 1231 gain (loss)		
10	Other income (loss)	15	Alternative minimum tax (AMT) items
11	Section 179 deduction	16	Items affecting shareholder basis:
	33,000.	G	7,275.
12	Other deductions		
A	1,410.	D	38,000.
P	44,865.		
Q	274,934.		
		17	Other information
		A	1,649.

\*See attached statement for additional information.

BAA For Paperwork Reduction Act Notice, see Instructions for Form 1120S.  
SHAREHOLDER 1

Schedule K-1 (Form 1120S) 2007

SPS0412L 09/19/07

CONFIDENTIAL

CONFIDENTIAL

Boland Const. 0185

471108

Schedule K-1  
(Form 1120S)

2008

Final K-1

Amended K-1

OMB No. 1545-0130

Department of the Treasury  
Internal Revenue Service

For calendar year 2008, or tax

year beginning \_\_\_\_\_, 2008

ending \_\_\_\_\_

Shareholder's Share of Income, Deductions,  
Credits, etc. See page 2 of form and separate instructions

## Part I Information About the Corporation

A Corporation's employer identification number  
81-6B Corporation's name, address, city, state, and ZIP code  
ED BOLAND CONSTRUCTION, INC  
PO BOX 7107  
GREAT FALLS, MT 59406-7107C IRS Center where corporation filed return  
OGDEN, UT

## Part II Information About the Shareholder

D Shareholder's identifying number  
[REDACTED]E Shareholder's name, address, city, state, and ZIP code  
BOLAND, ED  
4601 7TH AVE SOUTH  
GREAT FALLS, MT 59405F Shareholder's percentage of stock  
ownership for tax year 26.4 %FOR  
IRS  
USE  
ONLYPart III Shareholder's Share of Current Year Income,  
Deductions, Credits, and Other Items

1	Ordinary business income (loss)	13	Credits
	148,607.		
2	Net rental real estate income (loss)		
3	Other net rental income (loss)		
4	Interest income		
	1,420.		
5a	Ordinary dividends		
5b	Qualified dividends	14	Foreign transactions
6	Royalties		
7	Net short-term capital gain (loss)		
8a	Net long-term capital gain (loss)		
8b	Collectibles (28%) gain (loss)		
8c	Unrecaptured section 1250 gain		
9	Net section 1231 gain (loss)		
10	Other income (loss)	15	Alternative minimum tax (AMT) items
11	Section 179 deduction	16	Items affecting shareholder basis
	43,713.	C	6,664.
12	Other deductions		
A	1,176.	D	52,000.
Q	104,894.		
R	289,480.		
		17	Other information
		A	1,420.

\*See attached statement for additional information.

BAA For Paperwork Reduction Act Notice, see Instructions for Form 1120S.

SHAREHOLDER 1

Schedule K-1 (Form 1120S) 2008

SPSA0412L 12/10/08

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Boland Const. 0232

Schedule K-1  
(Form 1120S)Department of the Treasury  
Internal Revenue Service

2009

For calendar year 2009, or tax

year beginning

ending

Final K-1

Amended K-1

OMB No. 1545-0130

Shareholder's Share of Income, Deductions,  
Credits, etc. ▶ See page 2 of form and separate instructions.

## Part I Information About the Corporation

A Corporation's employer identification number  
81-XXXXXXB Corporation's name, address, city, state, and ZIP code  
ED BOLAND CONSTRUCTION, INC.  
PO BOX 7107  
GREAT FALLS, MT 59406-7107C IRS Center where corporation filed return  
OGDEN, UT

## Part II Information About the Shareholder

D Shareholder's identifying number  
XXXXXXE Shareholder's name, address, city, state, and ZIP code  
BOLAND, ED  
4601 7TH AVE SOUTH  
GREAT FALLS, MT 59405F Shareholder's percentage of stock  
ownership for tax year 2009 26.4 %Part III Shareholder's Share of Current Year Income,  
Deductions, Credits, and Other Items

1	Ordinary business income (loss)	127,725.	13	Credits
2	Net rental real estate income (loss)			
3	Other net rental income (loss)			
4	Interest income	898.		
5a	Ordinary dividends			
5b	Qualified dividends		14	Foreign transactions
6	Royalties			
7	Net short-term capital gain (loss)			
8a	Net long-term capital gain (loss)			
8b	Collectibles (28%) gain (loss)			
8c	Unrecaptured section 1250 gain			
9	Net section 1231 gain (loss)			
10	Other income (loss)		15	Alternative minimum tax (AMT) items
11	Section 179 deduction	60,188.	16	Items affecting shareholder basis
12	Other deductions			
A		791.	D	77,000.
C		67,536.		
R		227,150.		
			17	Other information
			A	898.

\*See attached statement for additional information.

BAA For Paperwork Reduction Act Notice, see Instructions for Form 1120S.

Schedule K-1 (Form 1120S) 2009

SHAREHOLDER 1

SPSA0412L 12/15/09

CONFIDENTIAL

Boland Const. 0273

CONFIDENTIAL

Schedule K-1  
(Form 1120S)Department of the Treasury  
Internal Revenue Service

2010

For calendar year 2010, or tax

year beginning \_\_\_\_\_, 2010  
ending \_\_\_\_\_☐ Final K-1☐ Amended K-1

671110

OMB No. 1545-0130

Shareholder's Share of Income, Deductions,  
Credits, etc. See page 2 of form and separate instructions.**Part I** Information About the CorporationA Corporation's employer identification number  
81-5B Corporation's name, address, city, state, and ZIP code  
ED BOLAND CONSTRUCTION, INC.  
PO BOX 7107  
GREAT FALLS, MT 59406-7107C IRS Center where corporation filed return  
OGDEN, UT**Part II** Information About the ShareholderD Shareholder's identifying number  
[REDACTED]E Shareholder's name, address, city, state, and ZIP code  
BOLAND, ED  
4601 7TH AVE SOUTH  
GREAT FALLS, MT 59405F Shareholder's percentage of stock  
ownership for tax year 26.4 %**Part III** Shareholder's Share of Current Year Income,  
Deductions, Credits, and Other Items

1	Ordinary business income (loss)	13	Credits
	117,968.		
2	Net rental real estate income (loss)		
3	Other net rental income (loss)		
4	Interest income		
	413.		
5a	Ordinary dividends		
5b	Qualified dividends	14	Foreign transactions
6	Royalties		
7	Net short-term capital gain (loss)		
8a	Net long-term capital gain (loss)		
8b	Collectibles (28%) gain (loss)		
8c	Unrecaptured section 1250 gain		
9	Net section 1231 gain (loss)		
10	Other income (loss)	15	Alternative minimum tax (AMT) items
11	Section 179 deduction	16	Items affecting shareholder basis
	51,372.	C	7,565.
12	Other deductions		
A	595.	D	62,000.
Q	66,595.		
R	224,252.		
		17	Other information
		A	413.

\*See attached statement for additional information.

BAA For Paperwork Reduction Act Notice, see Instructions for Form 1120S.  
SHAREHOLDER 1

Schedule K-1 (Form 1120S) 2010

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SPSA0412L 07/19/10

CONFIDENTIAL

Boland Const. 0332

671111

Schedule K-1  
(Form 1120S)

2011

Final K-1

Amended K-1

OMB No. 1545-0130

Department of the Treasury  
Internal Revenue Service

For calendar year 2011, or tax

year beginning \_\_\_\_\_, 2011

ending \_\_\_\_\_

Shareholder's Share of Income, Deductions,  
Credits, etc. See page 2 of form and separate instructions.**Part I** Information About the CorporationA Corporation's employer identification number  
81-~~XXXXXXXXXX~~B Corporation's name, address, city, state, and ZIP code  
ED BOLAND CONSTRUCTION, INC  
PO BOX 7107  
GREAT FALLS, MT 59406-7107C IRS Center where corporation filed return  
OGDEN, UT**Part II** Information About the ShareholderD Shareholder's identifying number  
~~XXXXXXXXXX~~E Shareholder's name, address, city, state, and ZIP code  
BOLAND, ED  
4601 7TH AVE SOUTH  
GREAT FALLS, MT 59405F Shareholder's percentage of stock  
ownership for tax year ..... 26.4 %**Part III** Shareholder's Share of Current Year Income,  
Deductions, Credits, and Other Items

1	Ordinary business income (loss)	13	Credits
	131,879.		
2	Net rental real estate income (loss)		
3	Other net rental income (loss)		
4	Interest income		
	69.		
5a	Ordinary dividends		
5b	Qualified dividends	14	Foreign transactions
6	Royalties		
7	Net short-term capital gain (loss)		
8a	Net long-term capital gain (loss)		
8b	Collectibles (28%) gain (loss)		
8c	Unrecaptured section 1250 gain		
9	Net section 1231 gain (loss)		
10	Other income (loss)	15	Alternative minimum tax (AMT) items
11	Section 179 deduction	16	Items affecting shareholder basis
	21,887.	C	6,795.
12	Other deductions	D	87,000.
A	726.		
Q	109,992.		
R	244,756.		
		17	Other information
		A	69.

\*See attached statement for additional information.

FOR IRS USE ONLY

131,879  
69  
131,948  
21,887  
109,061  
109,335  
6,795  
102,540

BAA For Paperwork Reduction Act Notice, see Instructions for Form 1120S.

Schedule K-1 (Form 1120S) 2011

SHAREHOLDER 1

SPSAD412L 08/02/11

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Boland Const. 0394

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Schedule K-1  
(Form 1120S)Department of the Treasury  
Internal Revenue Service

2012

For calendar year 2012, or tax

year beginning \_\_\_\_\_, 2012  
ending \_\_\_\_\_☐ Final K-1☐ Amended K-1

671112

OMB No. 1545-0130

Shareholder's Share of Income, Deductions,  
Credits, etc. See page 2 of form and separate instructions.**Part I** Information About the CorporationA Corporation's employer identification number  
81-XXXXXXB Corporation's name, address, city, state, and ZIP code  
ED BOLAND CONSTRUCTION, INC  
PO BOX 7107  
GREAT FALLS, MT 59406-7107C IRS Center where corporation filed return  
OGDEN, UT**Part II** Information About the ShareholderD Shareholder's identifying number  
XXXXXXE Shareholder's name, address, city, state, and ZIP code  
BOLAND, ED  
4601 7TH AVE SOUTH  
GREAT FALLS, MT 59405F Shareholder's percentage of stock  
ownership for tax year: 26.4 %**Part III** Shareholder's Share of Current Year Income,  
Deductions, Credits, and Other Items

1	Ordinary business income (loss)	54,263.	13	Credits
2	Net rental real estate income (loss)			
3	Other net rental income (loss)			
4	Interest income	28.		
5a	Ordinary dividends			
5b	Qualified dividends		14	Foreign transactions
6	Royalties			
7	Net short-term capital gain (loss)			
8a	Net long-term capital gain (loss)			
8b	Collectibles (28%) gain (loss)			
8c	Unrecaptured section 1250 gain			
9	Net section 1231 gain (loss)			
10	Other income (loss)		15	Alternative minimum tax (AMT) items
11	Section 179 deduction		16	Items affecting shareholder basis
12	Other deductions		C	7,476.
A		1,201.	D	112,000.
Q		54,263.		
R		209,527.		
			17	Other information
			A	28.

\*See attached statement for additional information.

BAA For Paperwork Reduction Act Notice, see Instructions for Form 1120S.

IRS.gov/form1120s

Schedule K-1 (Form 1120S) 2012

SHAREHOLDER 1

SPSAD412L 12/27/12

CONFIDENTIAL

Boland Const. 0451





671114

OMB No. 1545-0123

Schedule K-1  
Form 1120SDepartment of the Treasury  
Internal Revenue Service

2014

For calendar year 2014, or tax

year beginning

ending

☒ Final K-1☐ amended K-1Shareholder's Share of Income, Deductions,  
Credits, etc.

See back of form and separate instructions.

## Part I Information About the Corporation

A Corporation's employer identification number

81-

B Corporation's name, address, city, state, and ZIP code

ED BOLAND CONSTRUCTION, INC.

PO BOX 7107

GREAT FALLS

MT 59406-7107

C IRS Center where corporation filed return

E-FILE

## Part II Information About the Shareholder

D Shareholder's identifying number

E Shareholder's name, address, city, state, and ZIP code

ED BOLAND

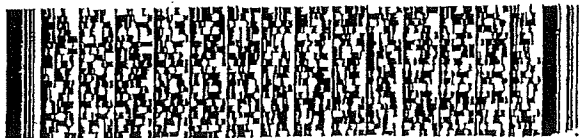
4601 7TH AVE SOUTH

GREAT FALLS

MT 59405

F Shareholder's percentage of stock  
ownership for tax year

25.966027 %



For IRS Use Only

Part III Shareholder's Share of Current Year Income,  
Deductions, Credits, and Other Items

1	Ordinary business income (loss)	13	Credits
	103,460		
2	Net rental real estate income (loss)		
3	Other net rental income (loss)		
4	Interest income		
5a	Ordinary dividends		
5b	Qualified dividends	14	Foreign transactions
6	Royalties		
7	Net short-term capital gain (loss)		
8a	Net long-term capital gain (loss)		
8b	Collectibles (28%) gain (loss)		
8c	Unrecaptured section 1250 gain		
9	Net section 1231 gain (loss)		
10	Other income (loss)	15	Alternative minimum tax (AMT) items
		A	-7,166
11	Section 179 deduction	16	Items affecting shareholder basis
*	68,715	C*	STMT
12	Other deductions	D	28,600
A	1,313		
Q*	STMT		
R	325,200		
		17	Other information

\* See attached statement for additional information.

2:09 PM

11/08/17

North Park Investments  
All Transactions for ED BOLAND  
All Transactions

Transaction Type	Date	Source Name	Account	Amount
Check	05/08/2014	ED BOLAND	1055 - 1ST INTERS...	230,000.00
Check	01/09/2014	ED BOLAND	1055 - 1ST INTERS...	5,000.00
Check	01/08/2014	ED BOLAND	1055 - 1ST INTERS...	0.00
Check	01/08/2014	ED BOLAND	1055 - 1ST INTERS...	25,000.00
Check	06/27/2007	ED BOLAND	1055 - 1ST INTERS...	180,000.00
Total				<u>440,000.00</u>

App. 94

Loucks & Glassley Certified Public Accountants  
P.O. Box 3189, Great Falls, MT 59403  
(406) 761-8265  
Fax (406) 761-0600

June 14, 2017

Barry Boland  
6270 Timothy Court  
Missoula, MT 59803

Re: Ed Boland Construction, Inc.

Dear Barry:

I am writing this letter to describe the 2014 accounting treatment for the income allocation of Ed Boland Construction, Inc.

In the fall of 2014, our firm was hired by you to perform accounting and tax services for the Company. At a meeting with you, Chris Boland and your attorney Gary Bjelland in the late fall of 2014, a copy of an agreement done early in 2014 between you, Chris and your dad Ed Boland was shown to me. The agreement had been prepared by the Company's previous accountant Dick Peterson. The agreement stated for 2014 Ed Boland would not receive any share of the 2014 income and the income would be reported by you and Chris, the other shareholders of the Company. This was a separate agreement from the buy-sell agreement between the company and your dad for his shares of the company.

Your company had previously elected to be taxed as an "S" corporation in 1998. As an "S" corporation, the Company shareholders generally must have equal rights. This income is to be allocated based on the ownership percentage during the year. If this agreement had went through as written by Dick Peterson, the "S" corporation would have terminated the "S" corporation status.

I discussed this problem with you, Chris and your attorney at our meeting. Your attorney also thought this was a problem. To resolve this situation and maintain your status as an "S" corporation, it was decided to allocate Ed Boland his proportional share of the income through his date of death. At the year-end accounting, Ed's share of the income was \$30,535. The Company would pay the estate of Ed Boland \$8,000 for the estimated amount of extra tax due because of Ed picking up his correct share of the taxable income on his final tax return. The \$8,000 amount is included as a liability to the estate of Ed Boland on the books of the Company. In essence, the goal of this was to leave Ed in approximately the same tax position as the original Peterson agreement. In that case the would not pick up any income and not owe any tax in the way I handled it, he picked up the income 2014 and should be paid the \$8,000 to reimburse him for the estimated taxes that were paid on the allocated income. If the \$8,000 is paid and it covers the extra taxes owed, he is in the exact same financial position either way.

Very truly yours,

/s/Robert G. Mau

Robert G. Mau, CPA

Jason T. Holden ([jholden@faureholden.com](mailto:jholden@faureholden.com))  
Katie R. Ranta ([kranta@faureholden.com](mailto:kranta@faureholden.com))  
FAURE HOLDEN ATTORNEYS AT LAW, P.C.  
1314 Central Avenue  
P.O. Box 2466  
Great Falls, Montana 59403-2466  
Telephone: (406) 452-6500  
Facsimile: (406) 452-6503  
Attorneys for Christopher W. Boland

MONTANA EIGHTH JUDICIAL DISTRICT COURT,  
CASCADE COUNTY

IN RE THE ESTATE OF: Cause No. ADP-15-125  
EDWARD M. BOLAND, Notice of Issue  
Deceased.

Pursuant to Local Rule 7(B), Defendants give  
notice regarding the following Motions:

Christopher W. Boland's Motion to Approve  
Settlement (doc. 31) is fully briefed and ready for  
hearing;

Paul E. Boland's Petition for Order to Recover  
Assets (doc. 26) is fully brief and ready for hearing;

Christopher W. Boland's Motion to File Under  
Seal (doc. 33) is ready for an Order Approving Filing  
Under Seal as no response was filed and the time to do  
so expired;

App. 97

Christopher W. Boland's Motion to Remove Co-Personal Representative Paul E. Boland (doc. 35) is fully briefed and ready for hearing.

DATED this 29<sup>th</sup> day of January, 2018.

FAURE HOLDEN ATTORNEYS AT LAW, P.C.

By /s/ Jason T. Holden

Jason T. Holden

(Excerpt)

THOMAS E. TOWE, ESQ.  
TOWE, BALL, MACKEY, SOMMERFELD  
& TURNER, PLLP  
2525 Sixth Avenue North  
P.O. Box 30457  
Billings, Montana 59107-0457  
Telephone: (406) 248-7337  
Attorneys for Paul E. Boland,  
Co-Personal Representative

MONTANA EIGHTH JUDICIAL DISTRICT COURT  
CASCADE COUNTY

IN THE MATTER OF        ) Cause No. ADP 15-125  
THE ESTATE OF:         ) Judge: Gregory Pinski  
                              )  
EDWARD M. BOLAND,     )  
                              )  
Deceased.                )

BRIEF IN SUPPORT OF MOTION TO SET ASIDE  
ORDER DATED MARCH 13, 2018

This Brief is in support of the Motion to Set Aside the Order of March 13, 2018, upon the grounds that it contains three serious errors or mistakes. It may also be taken as a Rule 60 Motion for relief from judgment or order upon the grounds of mistake, inadvertence, surprise, or excusable neglect, for the reason that the judgment is void, or for any other reason that justifies relief. This is the Brief in support of that Motion.



I.

A Petition in Probate Court which raises factual issues cannot be decided without due process, including a Notice and Hearing unless the parties stipulate the facts or upon a Motion for Summary Judgment.

...

In effect, the result at the present time is comparable to a claimant filing a complaint in civil court and after an answer has been filed to the complaint and while discovery is ongoing with unresolved discovery issues outstanding, the court issues a final ruling on the complaint without giving either party an opportunity to present evidence. This goes to the very center of the constitutional guarantees of due process of law in both the federal and state constitutions. *Montanans for Justice v. State ex rel. McGrath*, 2006 MT 277, ¶ 30, 334 Mont. 237, ¶ 30, 146 P.3d 759, ¶ 30 (2006). Due process requirements of the constitution require notice and a **meaningful hearing**. *Id.* In this connection it is clear that the Court, in its Order, was concerned about several instances in which the evidence was conflicting. Even if the procedure was ripe for summary judgment—which it clearly was not because the discovery issues were still outstanding—summary judgment could not have been granted to Chris because there were a number of material issues of fact. In fact, every single issue raised by Paul and Mary had some significant evidence in support sufficient to prevent Summary Judgment. And discovery was just beginning. For the

Court to issue a decision without notice and without a Hearing while issues of discovery are still pending is not only highly unusual, but an obvious denial of due process.

...

THOMAS E. TOWE, ESQ.  
TOWE, BALL, MACKEY, SOMMERFELD  
& TURNER, PLLP  
2525 Sixth Avenue North  
P.O. Box 30457  
Billings, Montana 59107-0457  
Telephone: (406) 248-7337  
Attorneys for Paul E. Boland,  
Co-Personal Representative

MONTANA EIGHTH JUDICIAL DISTRICT COURT  
CASCADE COUNTY

IN THE MATTER OF     ) Cause No. ADP 15-125  
THE ESTATE OF:         )  
                              )  
EDWARD M. BOLAND,     )  
                              )  
Deceased.             )

**MOTION FOR AN ORDER**  
**COMPELLING DISCOVERY**

COMES NOW Paul Boland, Co-Personal Representative of the above Estate, and moves the Court for an Order compelling discovery under Rule 37(a) of the Montana Rules of Civil Procedure. Counsel has submitted its Second Discovery Requests to Christopher W. Boland, a copy of which is attached hereto, and Christopher W. Boland refuses to answer. See Brief attached.

On January 9, 2018, Paul Boland's counsel received a document that purports to be a Response to

Paul's Second Discovery Request. However, it is nothing but a refusal to answer. Following each of the Discovery Requests the following statement appears:

Answer: Chris asserts and incorporates objections 1-12 listed above, and reserves any and all defenses and substantive objections.

Each Response was exactly the same. In other words, Chris refuses to answer any of the Discovery Requests. A copy of Chris's Responses are attached hereto.

DATED this 18<sup>th</sup> day of January, 2018.

TOWE, BALL, MACKEY, SOMMERFELD  
& TURNER, PLLP  
Attorneys for Paul E. Boland  
By: /s/ Thomas E. Towe  
THOMAS E. TOWE, ESQ.

**CERTIFICATE**

Pursuant to the requirement in Rule 37(a)(1) of the Montana Rules of Civil Procedure that a Motion must include a Certificate, that the movant has in good faith conferred or attempted to confer with the person or party failing to make discovery in an effort to obtain it without Court action, counsel makes this statement in this Certificate: Before filing this Motion, counsel for Paul Boland contacted Jason Holden, counsel for Chris Boland and asked him if there was anything he could do to persuade him to answer the Discovery Requests. He indicated that he would come to Billings and "meet and confer" on January 15, 2018. Counsel for Paul

immediately accepted his offer. The Parties then did meet and confer on January 15, 2018, but Chris still refuses to Answer the Discovery Requests contained in Paul's Second Discovery Requests. Christopher W. Boland has filed a Motion for a Protective Order on this very same set of Discovery Requests. While some cooperation on checking for existing documents and obtaining phone numbers of potential witnesses was indicated, Jason Holden has made it clear that Christopher W. Boland will not respond to Paul's Second Discovery Requests or to any other discovery.

DATED this 18<sup>th</sup> day of January, 2017. (error should be 2018)

TOWE, BALL, MACKEY, SOMMERFELD  
& TURNER, PLLP

Attorneys for Paul E. Boland

By: /s/ Thomas E. Towe

THOMAS E. TOWE, ESQ.