



Plaintiff moved to quash the DWQ and Documents Requests on the theory that (1) the requests seek irrelevant information; (2) the requests are overbroad; and (3) the documents sought are privileged. *See* Pl. Mot. to Quash at 2-3. As background to each of these arguments, Plaintiff claims that Defendants' requests are "particularly improper because these communications and documents relate to the divorce proceedings between Plaintiff and Defendant, Christine Mastandrea." *See id.* at 2.

Each of Plaintiff's arguments are belied by his prior admissions in this case. When asked to admit that he had "hired investigators or individuals to follow" Defendant Christine Mastandrea, Defendant David K. Holeman, and Defendant Peter Tropoli, Plaintiff did not object on any grounds and denied the allegations. *See, e.g.*, Pl. Resp. to Whitestone's Requests for Admission, Request Nos. 34-36, attached hereto as Exhibit 3. Surely if Plaintiff never hired such investigators to investigate his soon-to-be-ex-wife or the other Individual Defendants, as he claims, then Defendants' DWQ and Document Requests can hardly be overbroad or seeking privileged information since Plaintiff has averred under oath that no such documents exist. *See* Exhibit 3 at 21 (Plaintiff's Verification). And if the documents do, in fact, exist, they are clearly relevant because, at the very least, they would go to Plaintiff's credibility, since he has denied under oath that such documents would exist.

Ultimately, Plaintiff's Motion is frivolous and should be denied.

## **ARGUMENT**

### **A. The DWQ and Document Requests Seek Information that May Lead to the Discovery of Admissible Evidence.**

Plaintiff's communications with the Private Investigators and any documents the Private Investigators may have with respect to the Individual Defendants are relevant for two main reasons: (1) Plaintiff has denied using investigators for such purposes; and (2) Plaintiff has claimed

that the Individual Defendants surreptitiously conspired against him and these requests attempt to determine the bases of those allegations.

First, the mere existence of responsive records is relevant to Plaintiff's credibility. Evidence that tends to implicate the credibility of a witness, especially a party, is always relevant. *See JLG Trucking, LLC v. Garza*, 466 S.W.3d 157, 162 (Tex. 2015) (“[I]t is well established that ‘any fact which bears upon the credit of a witness would be a relevant fact, ... whether it goes to his indisposition to tell the truth, his want of opportunity to know the truth, his bias, interest, want of memory, or other like fact.’”) (quoting *Evansich v. Gulf, C. & Santa Fe R.R. Co.*, 61 Tex. 24, 28 (1884)); *United States v. Abel*, 469 U.S. 45, 52, 105 S.Ct. 465, 469, 83 L.Ed.2d 450 (1984) (“[T]he jury, as finder of fact and weigher of credibility, has historically been entitled to assess all evidence which might bear on the accuracy and truth of a witness' testimony.”)

Plaintiff has denied ever hiring investigators to investigate the Individual Defendants:

**Request for Admission No. 34:** Admit that in the last 2 years you have hired investigators or individuals to follow Christine Mastandrea.

**Response:**  
Denied.

**Request for Admission No. 35:** Admit that in the last 2 years you have hired investigators or individuals to follow David K. Holeman.

**Response:**  
Denied.

**Request for Admission No. 36:** Admit that in the last 2 years you have hired investigators or individuals to follow Peter Tropoli.

**Response:**  
Denied

*See* Pl. Resp. to Whitestone's Requests for Admission, Request Nos. 34-36, attached hereto as Exhibit 3. The DWQ and Document Requests aim to demonstrate that Plaintiff did, in fact, hire investigators for this purpose. To the extent any responsive documents exist, it would tend to show that Plaintiff falsely denied hiring investigators to follow the Individual Defendants.

Second, the operative Petition alleges that the Individual Defendants conspired, in secret, to set in motion Plaintiff's termination. *See, e.g.*, Sec. Am. Petition ¶¶ 24 (“After a failed attempt to induce Mastandrea to step down as CEO, the Individual Defendants began a personal and vindictive campaign to wrongfully oust Mastandrea from the Company. These Individual Defendants, acting in furtherance of their own personal goals and ambitions, made false, misleading, and disparaging statements to various committees and trustees of Whitestone, leading to Mastandrea’s termination.”) Defendants are entitled to know the bases of this allegation and the DWQ and Document Requests aim to discover how Plaintiff could have personal knowledge of such facts. On this point, Plaintiff has testified in his deposition that he merely “assume[d]” that the Individual Defendants conspired together for such purposes. *See* Deposition Transcript of James C. Mastandrea (“Mastandrea Dep.”) at Mastandrea Dep. at 71:21-72:15. Whether that answer is truthful or evasive is relevant in its own right. *See JLG Trucking, LLC*, 466 S.W.3d at 162. More importantly, if Plaintiff used a third-party to gather evidence that he believes supports the allegations in his Petition, Defendants are entitled to know about it.

For each of these reasons, the DWQ and Document Requests seek relevant information.

**B. Plaintiff Does Not Offer Legitimate Bases to Quash**

Aside from relevance, Plaintiff offers two additional objections to the DWQ and Document Requests: (1) that the requests are overbroad; and (2) that the requests may seek privileged information. *See* Mot. at 2-3. Both objections are baseless.

As an initial matter, Plaintiff does not make any factual representations regarding either of the Private Investigators. He does not claim, for instance, that he ever utilized the Private Investigators whether it was to investigate any of the Individual Defendants or someone else. He likewise does not present any facts that could substantiate his claim of privilege (indeed, he

presents no facts whatsoever). As such, there is simply no reason to believe the DWQ and Document Requests would capture irrelevant information or would capture privileged information.

Additionally, in his efforts to paint these requests as overbroad, Plaintiff mischaracterizes their scope. Plaintiff claims that under the Document Requests, the Private Investigators “would be required to produce ‘all documents’ from January 1, 2021 to present regardless of whether such information is confidential or even relates to the issues in this case.” Mot. at 3. That argument is demonstrably false.

The DWQ and Document Requests are narrowly tailored under the circumstances. Defendants only seek documents created or modified since January 1, 2021. *See, e.g.*, Exhibit 1 at 12 ¶ 14 (“Unless otherwise stated in the document requests below, the time period covered by the requests is from January 1, 2021 to the present.”) Each of the Document Requests seeks a specific category of documents. *See* Mot. at 2. As explained above, the mere existence of these documents is sufficient to establish their relevance to this case since it would tend to implicate Plaintiff’s credibility. *See JLG Trucking, LLC*, 466 S.W.3d at 162.

Relatedly, the requests cannot be overbroad since, under Plaintiff’s prior telling, no responsive documents should even exist. Plaintiff has denied ever utilizing *any* private investigators to investigate the Individual Defendants. *See* Pl. Resp. to Whitestone’s Requests for Admission, Request Nos. 34-36, attached hereto as Exhibit 3. Given his prior denials, he cannot now say that there are *too many* documents responsive to Defendants’ requests for records relating to such investigations.

Finally, Plaintiff’s claim of privilege should be rejected because it is woefully undeveloped. *See* Mot. at 2. “The party who seeks to limit discovery by asserting a privilege has the burden of proof . . . [i]t was therefore [Plaintiff’s] burden to produce some evidence supporting

its claims of privilege.” See *Weisel Enterprises, Inc. v. Curry*, 718 S.W.2d 56, 58 (Tex. 1986). Plaintiff does not explain the nature of the privilege nor the basis for the assertion of privilege. Given the complete lack of argument supporting the claim of privilege, it must be rejected. See *id.*

## CONCLUSION

Defendants respectfully request that Plaintiff’s Motion be denied in its entirety.

**Dated:** August 24, 2023

Respectfully submitted,

KING & SPALDING LLP

/s/ R. Bruce Hurley

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*Counsel for Defendants and Counter-Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing notice has been served on all counsel of record on this August 24, 2023, via electronic filing, email transmission, and/or certified mail, return receipt requested.

*/s/ Mitchell B. Bryant* \_\_\_\_\_  
Mitchell B. Bryant

## Automated Certificate of eService

This automated certificate of service was created by the e filing system. The filer served this document via email generated by the e filing system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Yadir Rodriguez on behalf of R. Bruce Hurley

Bar No. 10311400

yrodriguez@kslaw.com

Envelope ID: 78897106

Filing Code Description: Motion (No Fee)

Filing Description: Defendants' Response in Opposition to

Plaintiff-Counter Defendant's Motion for Protective Order and Motion to Quash Defendants' Notice of Intention to take Deposition by Written

Questions

Status as of 8/24/2023 4:29 PM CST

### Case Contacts

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Yadir Rodriguez		yrodriguez@kslaw.com	8/24/2023 4:19:54 PM	SENT
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Associated Case Party: JohnJDee

Name	BarNumber	Email	TimestampSubmitted	Status
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# Exhibit 1



Fax: (713) 572-2009

or its designated agent, which deposition with attached questions may be used in evidence upon the trial of the above-styled and numbered cause pending in the above-named court. Notice is further given that request is hereby made as authorized under Rule 200, Texas Rules of Civil Procedure, to the officer taking this deposition to issue a subpoena duces tecum and cause it to be served on the witness to produce any and all records as described on the attached questions and/or Exhibit(s) and any other such record in the possession, custody or control of the said witness, and every such record to which the witness may have access, pertaining to:

**The attached Exhibit A.**

and to turn all such records over to the officer authorized to take this deposition so that photographic reproductions of the same may be made and attached to said deposition.

**Dated: August 9, 2023**

Respectfully submitted,

KING & SPALDING LLP

/s/ Bruce Hurley

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mkrimski@kslaw.com

*Counsel for Defendants and Counter-Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing instrument has been served on all counsel of record on this 9th day of August, 2023 via electronic filing, email transmission, and/or certified mail, return receipt requested.

*/s/ Bruce Hurley* \_\_\_\_\_

R. Bruce Hurley

IN THE NAME OF THE STATE OF TEXAS

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DEFENDANTS' SUBPOENA DUCES TECUM  
PURSUANT TO TEXAS RULE OF CIVIL PROCEDURE 176

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CAUSE NO. 2022-11380

JAMES C. MASTANDREA,	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
v.	§	
	§	
DAVID TAYLOR, JACK MAHAFFY,	§	HARRIS COUNTY, TEXAS
JEFF JONES, NANDITA BERRY,	§	
DAVID HOLEMAN, CHRISTINE	§	
MASTANDREA, PETER TROPOLI,	§	
and WHITESTONE REIT,	§	
	§	
Defendants,	§	
v.	§	215 <sup>TH</sup> JUDICIAL CIRCUIT
	§	
WHITESTONE REIT,	§	
	§	
Counter-Plaintiff,	§	
v.	§	
	§	
JAMES C. MASTANDREA,	§	
	§	
Counter-Defendant.	§	
	§	

To any Sheriff or Constable of the State of Texas or other person authorized to serve and execute subpoenas as provided in Texas Rules of Civil Procedure 176:

**YOU ARE HEREBY COMMANDED TO SUMMON**

Ian L. Skelton  
14610 TOPAZ CV  
WILLIS, TX 77378-3475

**TO APPEAR** before a certified Notary Public of my designation for

Worldwide Court Reporters, Inc.  
12621 Featherwood Dr., Suite 290  
Houston, TX 77034  
Phone: (713) 572-2000  
Fax: (713) 572-2009

or its designated agent, by the twentieth day of receipt of the subpoena at the office of the custodian and there under oath to make answers of certain written questions to be propounded to the witness and to bring and produce for inspection and photocopying

**Any and all records as described in the attached Exhibit A.**

and any other such record in the possession, custody or control of the said witness, and every such record to which the witness may have access, pertaining to:

**Exhibit A.**

at any and all times whatsoever, then and there to give evidence at the instance of the **Defendants Whitestone REIT (“Whitestone” or “the Company”), David Taylor, Jack Mahaffey, Jeff Jones, Nandita Berry, David Holeman, Christine Mastandrea, and Peter Tropoli (collectively “Defendants”)** represented by **Bruce Hurley**, Attorney of Record, in that Certain Cause No. **2022-11380**, pending on the docket of the **District Court of the 215th Judicial District of Harris County, Texas.**

This Subpoena is issued under and by virtue of Rule 200 and Notice of Deposition Upon Written Questions on file with the above named court, styled

**JAMES C. MASTANDREA VS.  
DAVID TAYLOR, ET AL.**

and there remain from day to day and time to time until discharged according to law.

Respectfully submitted,

**KING & SPALDING LLP**

/s/ Bruce Hurley

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**SUBPOENA DUCES TECUM RETURN**

Came to hand the \_\_\_\_ day of \_\_\_\_\_, 2023 at \_\_\_\_ o'clock \_\_\_\_ .M., and  
executed the \_\_\_\_\_ day of \_\_\_\_\_, 2023 at \_\_\_\_ o'clock \_\_\_\_ .M. by delivering to  
the within named \_\_\_\_\_  
in person at \_\_\_\_\_ in \_\_\_\_\_ County,  
Texas, a true copy of this Subpoena, and tendering said witness the sum of \$\_\_\_\_\_.

By: \_\_\_\_\_  
Person who is not a party to the suit, and is not less than 18 years of age.

**ACCEPTANCE OF SERVICE OF SUBPOENA BY WITNESS PER RULE 176 T.R.C.P.**

I, the undersigned witness named in the Subpoena acknowledge receipt of a copy thereof, and hereby accept service of the attached subpoena, and will produce and permit inspection and copying of the requested documents by the date and time directed in this subpoena.

***Rule 176.8(a) Contempt. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt to the court from which the subpoena is issued or a district court in the county in which the subpoena is served, and may be punished by fine or confinement, or both.***

\_\_\_\_\_  
SIGNATURE OF WITNESS





4. If your answer to Question 2 is yes but your answer to Question 3 is no, describe any and all responsive documents being withheld and state the basis for said withholding.

**Answer:** \_\_\_\_\_

5. How many pages of responsive documents are being produced?

**Answer:** \_\_\_\_\_

6. Are the documents you are producing the originals or true and correct copies of the originals?

**Answer:** \_\_\_\_\_

7. Are the documents you are producing clear, legible, and the best possible copies available?

**Answer:** \_\_\_\_\_

8. If your answer to Question 7 is no, please explain why.

**Answer:** \_\_\_\_\_

9. Are there any other locations where documents may be kept by you but which were not searched in response to this subpoena?

**Answer:** \_\_\_\_\_

10. If your answer to Question 9 was yes, state the name and address of said location(s).

**Answer:** \_\_\_\_\_

11. Have any documents responsive to this request been destroyed or are any documents responsive to this request missing?

**Answer:** \_\_\_\_\_

12. If your answer to Question 11 was yes, please describe the documents that have been destroyed or are missing.

**Answer:** \_\_\_\_\_

13. Were the records you are producing made and kept in the regular course of your business?

**Answer:** \_\_\_\_\_

14. In the regular course of your business, did the person who signed or otherwise prepared these records either have personal knowledge of the acts and events or obtain the information to make these records from sources who have such personal knowledge?

**Answer:** \_\_\_\_\_

15. Are these records under your care, supervision, direction, custody or subject to your control?

**Answer:** \_\_\_\_\_

16. Please hand exact duplicates of documents and records requested for photocopying to the notary public taking your deposition. Have you now provided all requested documents and records? If not, identify for the notary public the records and documents you did not produce and explain why you did not produce them.

**Answer:** \_\_\_\_\_

17. In the event that no records can be found, are there document archives or document retention policies which explain their absence? If yes, please explain and please identify who has knowledge of those archives and/or retention policies.

**Answer:** \_\_\_\_\_

**SIGNED:** \_\_\_\_\_

**Ian L. Skelton**

I, \_\_\_\_\_, a Notary Public in and for the State of \_\_\_\_\_

do hereby certify that the foregoing answers of the witness were made by the said witness and sworn and subscribed before me.

GIVEN UNDER MY HAND AND SEAL on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

[SEAL]

Signed: \_\_\_\_\_

Notary Public in and for the State of \_\_\_\_\_



5. “Individual Defendants” refers collectively to the following individuals: David Taylor, Jack Mahaffey, Jeff Jones, Nandita Berry, David Holeman, Christine Mastandrea, and Peter Tropoli.
6. “Defendants” refers collectively to Whitestone and the Individual Defendants named in the action by Plaintiff Mastandrea: David Taylor, Jack Mahaffey, Jeff Jones, Nandita Berry, David Holeman, Christine Mastandrea, and Peter Tropoli.
7. “Communication(s)” is used in its broadest sense to encompass any transmission or exchange of information, ideas, facts, data, proposal, or any other matter, whether between individuals, between or among the members of a group, or between separate accounts controlled by the same individual, whether face-to-face, by telephone, or by means of written, electronic, or other medium.
8. “Document(s)”, “record(s)”, or “communication(s)” means any original and non-identical copy of any writing, recording, or photograph in your actual or constructive possession, custody, care or control, that directly or indirectly relates, in whole or in part, to any matter relevant to the issues in this action, including, but not limited to, paper documents, electronic data, magnetic data, correspondence, memoranda, notes, messages, diaries, minutes, books, reports, drafts, charts, ledgers, invoices, computer printouts, microfilms, videotapes, audio recordings, visual recordings, CD’s, digital photographs, e-mail, social media posts, text messages, graphs, drawings, or any other data compilation from which information can be obtained “Documents” has the full meaning of the term “documents or tangible things” as defined in Texas Rule of Civil Procedure 192.3(b).
9. The meaning of “relating (to)”, “related (to)”, and “relate(s) (to)” includes, without limitation, concerning, embodying, referring to, mentioning, pertaining to, regarding, reflecting, constituting, connected with, evidencing, commenting on, containing, comprising, identifying, stating, responding to, showing, describing, analyzing, or pertinent to; whether in whole or in part, directly or indirectly, the subject matter identified.
10. “Person” refers to the plural as well as the singular and includes any natural person, firm, corporation, association, partnership, or other form of legal entity.
11. “Third party” or “third parties” refers to individuals or entities that are not a party to this action.
12. The singular shall include the plural and vice versa; the terms “and” or “or” shall be both conjunctive and disjunctive; and the term “include” or “including” shall mean “including without limitation.”
13. If there are no documents or information responsive to a specific request, so indicate in your written response.
14. Unless otherwise stated in the document requests below, the time period covered by the requests is from January 1, 2021 to the present.

15. If any document responsive to any request is withheld by reason of any assertion of privilege, you shall submit a schedule at the time of production stating, for each document withheld, the following information:

- (a) The type of document (e.g., letter, memorandum, account statement, tax form, etc.);
- (b) The date the document was prepared and the date of any meeting or conversation reflected by or mentioned in the document;
- (c) The name of each author, co-author, or preparer of the document, and the name of each recipient or addressee, including each recipient of a copy of the document;
- (d) Whether the document reflects or refers to a meeting or conversation, and if so, the name of each person who was present at or was a party to the meeting or conversation;
- (e) The subject matter of the information contained in the document;
- (f) The nature of the privilege asserted; and
- (g) A brief explanation of the basis for the privilege.

16. Production of responsive Electronically Stored Information should include the following:

- (a) DAT load file with delimiters listed in the table below.
- (b) Include a header row with field names.
- (c) Data load files should be sorted in ascending order by the beginning bates number.

Value	Character	ASCII Number
Column	b	(020)
Quote Character	"	(254)
Newline	␣	(174)
Multi-Value	;	(059)
Nested Values	\	(092)

Fields:

Field Name	Field Name Description
Production Begin	The beginning bates number of the record. Must match a page identifier in the OPT/LFP files.
Production End	The ending bates number of the record
Page Count	Number of pages
File Path	Link to native files if present

DELIVERY DIRECTORY STRUCTURE

The directory structure of the volume should include the following directories, as applicable, organized into volumes.

Example folder structure for deliverable:

- Data
- Images
- Natives
- Text

Data – Load files only (.DAT, .OPT and .LFP).

Images – The Images directory should contain the image files only (single page TIFF/JPG).

Natives – The Natives directory should contain the native files.

Text – Extracted Text or OCR.

### **DOCUMENTS REQUESTED**

1. All communications with Plaintiff related to Christine Mastandrea.
2. All documents related to Christine Mastandrea.
3. All documents related to any requests from Plaintiff to surveil or monitor any of the Individual Defendants.
4. All documents related to any requests from Plaintiff to surveil or monitor any employee of Whitestone.
5. All documents related to any investigation, surveillance, or monitoring of any of the Individual Defendants.
6. All documents related to any investigation, surveillance, or monitoring of any employee of Whitestone.
7. All documents received from Plaintiff or an agent or party acting on Plaintiff's behalf.
8. All documents related to Plaintiff.
9. Any investigation file on any of the Individual Defendants.

# Exhibit 2





Fax: (713) 572-2009

or its designated agent, which deposition with attached questions may be used in evidence upon the trial of the above-styled and numbered cause pending in the above-named court. Notice is further given that request is hereby made as authorized under Rule 200, Texas Rules of Civil Procedure, to the officer taking this deposition to issue a subpoena duces tecum and cause it to be served on the witness to produce any and all records as described on the attached questions and/or Exhibit(s) and any other such record in the possession, custody or control of the said witness, and every such record to which the witness may have access, pertaining to:

**The attached Exhibit A.**

and to turn all such records over to the officer authorized to take this deposition so that photographic reproductions of the same may be made and attached to said deposition.

**Dated: August 9, 2023**

Respectfully submitted,

KING & SPALDING LLP

/s/ Bruce Hurley

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acockroft@kslaw.com  
mkrimski@kslaw.com

*Counsel for Defendants and Counter-Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing instrument has been served on all counsel of record on this 9th day of August, 2023 via electronic filing, email transmission, and/or certified mail, return receipt requested.

*/s/ Bruce Hurley* \_\_\_\_\_

R. Bruce Hurley



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12621 Featherwood Dr., Suite 290  
Houston, TX 77034  
Phone: (713) 572-2000  
Fax: (713) 572-2009

or its designated agent, by the twentieth day of receipt of the subpoena at the office of the custodian and there under oath to make answers of certain written questions to be propounded to the witness and to bring and produce for inspection and photocopying

**Any and all records as described in the attached Exhibit A.**

and any other such record in the possession, custody or control of the said witness, and every such record to which the witness may have access, pertaining to:

**Exhibit A.**

at any and all times whatsoever, then and there to give evidence at the instance of the **Defendants Whitestone REIT (“Whitestone” or “the Company”), David Taylor, Jack Mahaffey, Jeff Jones, Nandita Berry, David Holeman, Christine Mastandrea, and Peter Tropoli (collectively “Defendants”)** represented by **Bruce Hurley**, Attorney of Record, in that Certain Cause No. **2022-11380**, pending on the docket of the **District Court of the 215th Judicial District of Harris County, Texas.**

This Subpoena is issued under and by virtue of Rule 200 and Notice of Deposition Upon Written Questions on file with the above named court, styled

**JAMES C. MASTANDREA VS.  
DAVID TAYLOR, ET AL.**

and there remain from day to day and time to time until discharged according to law.

Respectfully submitted,

**KING & SPALDING LLP**

*/s/ Bruce Hurley*\_\_\_\_\_

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mkrimski@kslaw.com

**SUBPOENA DUCES TECUM RETURN**

Came to hand the \_\_\_\_ day of \_\_\_\_\_, 2023 at \_\_\_\_ o'clock \_\_\_\_M., and  
executed the \_\_\_\_ day of \_\_\_\_\_, 2023 at \_\_\_\_ o'clock \_\_\_\_M. by delivering to  
the within named \_\_\_\_\_  
in person at \_\_\_\_\_ in \_\_\_\_\_ County,  
Texas, a true copy of this Subpoena, and tendering said witness the sum of \$ \_\_\_\_\_.

By: \_\_\_\_\_  
Person who is not a party to the suit, and is not less than 18 years of age.

**ACCEPTANCE OF SERVICE OF SUBPOENA BY WITNESS PER RULE 176 T.R.C.P.**

I, the undersigned witness named in the Subpoena acknowledge receipt of a copy thereof, and hereby accept service of the attached subpoena, and will produce and permit inspection and copying of the requested documents by the date and time directed in this subpoena.

***Rule 176.8(a) Contempt. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt to the court from which the subpoena is issued or a district court in the county in which the subpoena is served, and may be punished by fine or confinement, or both.***

\_\_\_\_\_  
SIGNATURE OF WITNESS



4. If your answer to Question 2 is yes but your answer to Question 3 is no, describe any and all responsive documents being withheld and state the basis for said withholding.

**Answer:** \_\_\_\_\_

5. How many pages of responsive documents are being produced?

**Answer:** \_\_\_\_\_

6. Are the documents you are producing the originals or true and correct copies of the originals?

**Answer:** \_\_\_\_\_

7. Are the documents you are producing clear, legible, and the best possible copies available?

**Answer:** \_\_\_\_\_

8. If your answer to Question 7 is no, please explain why.

**Answer:** \_\_\_\_\_

9. Are there any other locations where documents may be kept by you but which were not searched in response to this subpoena?

**Answer:** \_\_\_\_\_

10. If your answer to Question 9 was yes, state the name and address of said location(s).

**Answer:** \_\_\_\_\_

11. Have any documents responsive to this request been destroyed or are any documents responsive to this request missing?

**Answer:** \_\_\_\_\_

12. If your answer to Question 11 was yes, please describe the documents that have been destroyed or are missing.

**Answer:** \_\_\_\_\_



13. Were the records you are producing made and kept in the regular course of your business?

**Answer:** \_\_\_\_\_

14. In the regular course of your business, did the person who signed or otherwise prepared these records either have personal knowledge of the acts and events or obtain the information to make these records from sources who have such personal knowledge?

**Answer:** \_\_\_\_\_

15. Are these records under your care, supervision, direction, custody or subject to your control?

**Answer:** \_\_\_\_\_

16. Please hand exact duplicates of documents and records requested for photocopying to the notary public taking your deposition. Have you now provided all requested documents and records? If not, identify for the notary public the records and documents you did not produce and explain why you did not produce them.

**Answer:** \_\_\_\_\_

17. In the event that no records can be found, are there document archives or document retention policies which explain their absence? If yes, please explain and please identify who has knowledge of those archives and/or retention policies.

**Answer:** \_\_\_\_\_

**SIGNED:** \_\_\_\_\_

**Leatherneck Investigations, Inc.**

I, \_\_\_\_\_, a Notary Public in and for the State of \_\_\_\_\_

do hereby certify that the foregoing answers of the witness were made by the said witness and sworn and subscribed before me.

GIVEN UNDER MY HAND AND SEAL on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

[SEAL]

Signed: \_\_\_\_\_

Notary Public in and for the State of \_\_\_\_\_



5. “Individual Defendants” refers collectively to the following individuals: David Taylor, Jack Mahaffey, Jeff Jones, Nandita Berry, David Holeman, Christine Mastandrea, and Peter Tropoli.
6. “Defendants” refers collectively to Whitestone and the Individual Defendants named in the action by Plaintiff Mastandrea: David Taylor, Jack Mahaffey, Jeff Jones, Nandita Berry, David Holeman, Christine Mastandrea, and Peter Tropoli.
7. “Communication(s)” is used in its broadest sense to encompass any transmission or exchange of information, ideas, facts, data, proposal, or any other matter, whether between individuals, between or among the members of a group, or between separate accounts controlled by the same individual, whether face-to-face, by telephone, or by means of written, electronic, or other medium.
8. “Document(s)”, “record(s)”, or “communication(s)” means any original and non-identical copy of any writing, recording, or photograph in your actual or constructive possession, custody, care or control, that directly or indirectly relates, in whole or in part, to any matter relevant to the issues in this action, including, but not limited to, paper documents, electronic data, magnetic data, correspondence, memoranda, notes, messages, diaries, minutes, books, reports, drafts, charts, ledgers, invoices, computer printouts, microfilms, videotapes, audio recordings, visual recordings, CD’s, digital photographs, e-mail, social media posts, text messages, graphs, drawings, or any other data compilation from which information can be obtained “Documents” has the full meaning of the term “documents or tangible things” as defined in Texas Rule of Civil Procedure 192.3(b).
9. The meaning of “relating (to)”, “related (to)”, and “relate(s) (to)” includes, without limitation, concerning, embodying, referring to, mentioning, pertaining to, regarding, reflecting, constituting, connected with, evidencing, commenting on, containing, comprising, identifying, stating, responding to, showing, describing, analyzing, or pertinent to; whether in whole or in part, directly or indirectly, the subject matter identified.
10. “Person” refers to the plural as well as the singular and includes any natural person, firm, corporation, association, partnership, or other form of legal entity.
11. “Third party” or “third parties” refers to individuals or entities that are not a party to this action.
12. The singular shall include the plural and vice versa; the terms “and” or “or” shall be both conjunctive and disjunctive; and the term “include” or “including” shall mean “including without limitation.”
13. If there are no documents or information responsive to a specific request, so indicate in your written response.
14. Unless otherwise stated in the document requests below, the time period covered by the requests is from January 1, 2021 to the present.

15. If any document responsive to any request is withheld by reason of any assertion of privilege, you shall submit a schedule at the time of production stating, for each document withheld, the following information:

- (a) The type of document (e.g., letter, memorandum, account statement, tax form, etc.);
- (b) The date the document was prepared and the date of any meeting or conversation reflected by or mentioned in the document;
- (c) The name of each author, co-author, or preparer of the document, and the name of each recipient or addressee, including each recipient of a copy of the document;
- (d) Whether the document reflects or refers to a meeting or conversation, and if so, the name of each person who was present at or was a party to the meeting or conversation;
- (e) The subject matter of the information contained in the document;
- (f) The nature of the privilege asserted; and
- (g) A brief explanation of the basis for the privilege.

16. Production of responsive Electronically Stored Information should include the following:

- (a) DAT load file with delimiters listed in the table below.
- (b) Include a header row with field names.
- (c) Data load files should be sorted in ascending order by the beginning bates number.

Value	Character	ASCII Number
Column	b	(020)
Quote Character	"	(254)
Newline	␣	(174)
Multi-Value	;	(059)
Nested Values	\	(092)

Fields:

Field Name	Field Name Description
Production Begin	The beginning bates number of the record. Must match a page identifier in the OPT/LFP files.
Production End	The ending bates number of the record
Page Count	Number of pages
File Path	Link to native files if present

DELIVERY DIRECTORY STRUCTURE

The directory structure of the volume should include the following directories, as applicable, organized into volumes.

Example folder structure for deliverable:

- Data
- Images
- Natives
- Text

Data – Load files only (.DAT, .OPT and .LFP).

Images – The Images directory should contain the image files only (single page TIFF/JPG).

Natives – The Natives directory should contain the native files.

Text – Extracted Text or OCR.

### **DOCUMENTS REQUESTED**

1. All communications with Plaintiff related to Christine Mastandrea.
2. All documents related to Christine Mastandrea.
3. All documents related to any requests from Plaintiff to surveil or monitor any of the Individual Defendants.
4. All documents related to any requests from Plaintiff to surveil or monitor any employee of Whitestone.
5. All documents related to any investigation, surveillance, or monitoring of any of the Individual Defendants.
6. All documents related to any investigation, surveillance, or monitoring of any employee of Whitestone.
7. All documents received from Plaintiff or an agent or party acting on Plaintiff's behalf.
8. All documents related to Plaintiff.
9. Any investigation file on any of the Individual Defendants.

# Exhibit 3

CAUSE NO. 2022-11380

JAMES C. MASTANDREA,	§	IN THE DISTRICT COURT OF
	§	
v.	§	HARRIS COUNTY, TEXAS
DAVID TAYLOR, JACK MAHAFFEY,	§	
JEFF JONES, NANDITA BERRY,	§	
DAVID HOLEMAN, CHRISTINE	§	
MASTANDREA, PETER TROPOLI, and	§	
WHITESTONE REIT,	§	215 <sup>TH</sup> JUDICIAL DISTRICT

**PLAINTIFF/COUNTER-DEFENDANT JAMES C. MASTANDREA'S  
OBJECTIONS AND RESPONSES TO DEFENDANT/COUNTER-PLAINTIFF  
WHITESTONE REIT'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR ADMISSIONS**

TO: Defendant/Counter-Plaintiff, WHITESTONE REIT, by and through its attorneys of record, Bruce Hurley, Mitchell B. Bryant, King & Spalding LLP, 1100 Louisiana, Suite 4100, Houston, TX 77002.

COMES NOW, Plaintiff/Counter-Defendant, JAMES C. MASTANDREA, and files these objections and responses to Defendant/Counter-Plaintiff, WHITESTONE REIT's First Set of Interrogatories and Requests for Admissions. Plaintiff/Counter-Defendant reserves the right to supplement and amend these responses in accordance with the Texas Rules of Civil Procedure.

Respectfully submitted,

/s/ Thomas R. Ajamie

Thomas R. Ajamie  
AJAMIE LLP  
State Bar No. 00952400  
711 Louisiana Street  
Suite 2150|  
Houston TX 77002  
(713) 860-1600  
tajamie@ajamie.com



*/s/ Mike O'Brien*

---

Mike O'Brien  
Mike O'Brien, P.C.  
State Bar No. 15170200  
14225 Highway 105  
Washington, TX 77880  
(713) 222-0088  
(713) 222-0888 fax  
mike@moblaw.com

ATTORNEYS FOR PLAINTIFF/COUNTER-  
DEFENDANT, JAMES C. MASTANDREA

**CERTIFICATE OF SERVICE**

I hereby certify that on 10th day of June, 2022, a true and correct copy of the foregoing document was served on all counsel of record via email transmission.

Bruce Hurley  
Email: [bhurley@kslaw.com](mailto:bhurley@kslaw.com)  
Mitchell B. Bryant  
Email: [mbbryant@kslaw.com](mailto:mbbryant@kslaw.com)  
KING & SPALDING LLP  
1100 Louisiana, Suite 4100  
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KING & SPALDING LLP  
110 N Wacker Drive, Suite 3800  
Chicago, IL 60606

*/s/Mike O'Brien*

---

Mike O'Brien

### **PRIORITY STATEMENT AND OBJECTION**

By way of further explanation, but without waiving any of the following objections, Plaintiff/Counter-Defendant believes that there are critical legal issues that need to be resolved to promote an efficient flow of discovery. In particular, Defendant/Counter-Plaintiff's discovery requests demand a broad range of sensitive, confidential and privileged information which Plaintiff/Counter-Defendant does not believe has any relationship to the legal and factual issues in this matter. While counsel for the parties are conferring on the scope of discovery, and Plaintiff/Counter-Defendant will produce relevant documentation, if an agreement can not be reached, Plaintiff/Counter-Defendant will be filing a Motion for Protection. Additionally, due to the sensitive and confidential nature of the documents, Plaintiff/Counter-Defendant is requesting a confidentiality agreement to be entered prior to the production of any documents and discovery.

## OBJECTIONS AND RESPONSES TO INTERROGATORIES

### Interrogatory No. 1:

Identify every computer, laptop, tablet, and phone provided to you by Whitestone since the beginning of your employment with Whitestone, including: (a) the make and model of the item; (b) the date the item was provided to you by Whitestone; (c) the dates on which Whitestone requested return of the item, if applicable; and (d) the date you returned the item, if applicable.

### Response:

Plaintiff objects to this Request as overly broad, vague, not reasonably limited to any relevant period of time, and an impermissible “fishing expedition” in violation of Tex.R.Civ.P. 192 and the holdings in *In re American Optical*, 988 S.W.2d 711, 713 (Tex. 1998) (*per curiam*); *K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431 (Tex. 1996); *Dillard Dept. Stores v. Hall*, 909 S.W.2d 491, 492 (Tex. 1995) (*per curiam*); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813, 815 (Tex. 1995) (*per curiam*); *Loflin v. Martin*, 776 S.W.2d 145, 148 (Tex. 1989).

Subject to the foregoing objection:

- (a) iPhone5  
iPhone SE  
iPhone XS  
iPad Air 1  
iPad Air 2  
iMac  
MacBook Air
- (b) I do not recall the date these devices were provided, but this information is in possession of Whitestone who provided the devices.
- (c) 1/21/22, 1/27/22, 1/31/22 and 3/16/22
- (d) These devices are in possession of my attorneys.

### Interrogatory No. 2:

Identify every computer, laptop, tablet, and phone you used for Whitestone business since the beginning of your employment with Whitestone that was not provided to you by Whitestone, including: (a) the make and model of the item; (b) the date you acquired the item; (c) if applicable, when you ceased using the item; and (d) whether they are still in your possession.

### Response:

Plaintiff objects to this Request as overly broad, vague, not reasonably limited to any relevant period of time, and an impermissible “fishing expedition” in violation of Tex.R.Civ.P. 192 and the holdings in *In re American Optical*, 988 S.W.2d 711, 713 (Tex. 1998) (*per curiam*); *K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431 (Tex. 1996); *Dillard Dept. Stores v. Hall*, 909 S.W.2d 491,

492 (Tex. 1995) (*per curiam*); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813, 815 (Tex. 1995) (*per curiam*); *Loftin v. Martin*, 776 S.W.2d 145, 148 (Tex. 1989).

Subject to the foregoing objection, I used the devices which were provided by Whitestone.

**Interrogatory No. 3:**

Identify every vehicle provided to you by Whitestone since the beginning of your employment with Whitestone, including: (a) the make and model of the item; (b) the date the item was provided to you by Whitestone; (c) the date Whitestone requested return of the item, if applicable; and (d) the date you returned the item, including all related keys, fobs, and accessories, if applicable.

**Response:**

Plaintiff objects to this Request as overly broad, vague, not reasonably limited to any relevant period of time, and an impermissible “fishing expedition” in violation of Tex.R.Civ.P. 192 and the holdings in *In re American Optical*, 988 S.W.2d 711, 713 (Tex. 1998) (*per curiam*); *K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431 (Tex. 1996); *Dillard Dept. Stores v. Hall*, 909 S.W.2d 491, 492 (Tex. 1995) (*per curiam*); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813, 815 (Tex. 1995) (*per curiam*); *Loftin v. Martin*, 776 S.W.2d 145, 148 (Tex. 1989).

Subject to the foregoing objection,

(a) 2015 Range Rover  
2020 Range Rover

(b) I do not recall the dates the vehicles were acquired, but they were provided by Whitestone pursuant to the benefits under my employment agreement.

(c) 1/21/22, 1/27/22, 1/31/22 and 3/16/22

(d) The vehicles are in storage and have not been returned because of a contractual agreement between Whitestone and me that the vehicles could be purchased.

**Interrogatory No. 4:**

Identify every camera you requested to be installed at Whitestone’s offices or that you are aware were installed at Whitestone’s offices, including: (a) the date of the request; (b) to whom the request was made; and (c) the location(s) of the camera(s).

**Response:**

Plaintiff objects to this Request as overly broad, vague, not reasonably limited to any relevant period of time, and an impermissible “fishing expedition” in violation of Tex.R.Civ.P. 192 and the holdings in *In re American Optical*, 988 S.W.2d 711, 713 (Tex. 1998) (*per curiam*); *K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431 (Tex. 1996); *Dillard Dept. Stores v. Hall*, 909 S.W.2d 491, 492 (Tex. 1995) (*per curiam*); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813, 815 (Tex. 1995) (*per curiam*); *Loftin v. Martin*, 776 S.W.2d 145, 148 (Tex. 1989).

Subject to the foregoing objection, I do not recall requesting that cameras be installed at Whitestone's offices, but I am generally aware that cameras were installed at Whitestone's offices. I do not recall who installed the cameras or their location.

**Interrogatory No. 5:**

Identify every listening device (excluding telephones or microphones in or installed on Company computers for telecommunications purposes) you requested to be installed at Whitestone's offices, including: (a) the date of the request; (b) to whom the request was made; and (c) the location(s) of the listening device(s).

**Response:**

Plaintiff objects to this Request as overly broad, vague, not reasonably limited to any relevant period of time, and an impermissible "fishing expedition" in violation of Tex.R.Civ.P. 192 and the holdings in *In re American Optical*, 988 S.W.2d 711, 713 (Tex. 1998) (*per curiam*); *K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431 (Tex. 1996); *Dillard Dept. Stores v. Hall*, 909 S.W.2d 491, 492 (Tex. 1995) (*per curiam*); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813, 815 (Tex. 1995) (*per curiam*); *Loftin v. Martin*, 776 S.W.2d 145, 148 (Tex. 1989).

Subject to the foregoing objection, I do not recall requesting that any listening device be installed at my request.

**Interrogatory No. 6:**

Provide the username for each social media profile utilized by Plaintiff Mastandrea.

**Response:**

Plaintiff objects to this Request as overly broad, vague, not reasonably limited to any relevant period of time, and an impermissible "fishing expedition" in violation of TEX.R.CIV.P. 192 and the holdings in *In re American Optical*, 988 S.W.2d 711, 713 (Tex. 1998) (*per curiam*); *K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431 (Tex. 1996); *Dillard Dept. Stores v. Hall*, 909 S.W.2d 491, 492 (Tex. 1995) (*per curiam*); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813, 815 (Tex. 1995) (*per curiam*); *Loftin v. Martin*, 776 S.W.2d 145, 148 (Tex. 1989).

Plaintiff further objects to this Request because it is unduly burdensome and will subject Plaintiff to unnecessary expense, harassment, annoyance or invasion of personal, constitutional or property rights.

Subject to the foregoing objections, I use my personal name for the "username" on Facebook and LinkedIn.

**Interrogatory No. 7:**

Provide the email address for each personal email account utilized by Plaintiff Mastandrea.

**Response:**

Plaintiff objects to this Request as overly broad, vague, not reasonably limited to any relevant period of time, and an impermissible “fishing expedition” in violation of Tex.R.Civ.P. 192 and the holdings in *In re American Optical*, 988 S.W.2d 711, 713 (Tex. 1998) (*per curiam*); *K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431 (Tex. 1996); *Dillard Dept. Stores v. Hall*, 909 S.W.2d 491, 492 (Tex. 1995) (*per curiam*); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813, 815 (Tex. 1995) (*per curiam*); *Loflin v. Martin*, 776 S.W.2d 145, 148 (Tex. 1989).

Plaintiff further objects to this Request because it is unduly burdensome and will subject Plaintiff to unnecessary expense, harassment, annoyance or invasion of personal, constitutional or property rights.

Subject to the foregoing objections, ewccjcm@com.

**Interrogatory No. 8:**

State the legal and, in general, the factual basis for your allegation in Paragraph 1 of the Original Petition that “Defendants have ... caused Whitestone and its shareholders to suffer economically and reputationally amid the untangling of the illicit role each corporate actor played in this wrongful scheme to personally and professionally injure Mastandrea.”

**Response:**

Plaintiff object to this interrogatory in that it constitutes a contention interrogatory that requires Plaintiff to marshal all of his available proof, or the proof Plaintiff intends to offer at trial in violation of Rule 197.1 of the Texas Rules of Civil Procedure.

Subject to this objection, Defendants took actions to remove me as CEO after I refused to resign so that Defendants, David Holeman, Christine Mastandrea and Peter Tropoli could take over management of Whitestone. Since there was no basis for my resignation or removal, these Defendants had to fabricate falsehoods, and made untrue statements to the Board of Trustees members resulting in my termination on January 18, 2022. The full extent of the plan to take over management of Whitestone by removing me as CEO will be revealed through phone conversations, emails, witness statements, and depositions to be taken in this case.

**Interrogatory No. 9:**

Identify in detail every “fabricated falsehood [ ]” made by Whitestone as referenced in Paragraph 1 of the Original Petition, including (a) the manner in which each “fabricated falsehood” was made (e.g., by document, by telephone conversation, or by meeting); (b) date on which each “fabricated falsehood” was made; and (c) the identity of each person to whom the “fabricated falsehood” was made.

**Response:**

Plaintiff object to this interrogatory in that it constitutes a contention interrogatory that requires Plaintiff to marshal all of his available proof, or the proof Plaintiff intends to offer at trial in violation of Rule 197.1 of the Texas Rules of Civil Procedure.

Subject to this objection, Defendants took actions to remove me as CEO after I refused to resign so that Defendants, David Holeman, Christine Mastandrea and Peter Tropoli could take over management of Whitestone. Since there was no basis for my resignation or removal, these Defendants had to fabricate falsehoods, and made untrue statements to the Board of Trustees members resulting in my termination on January 18, 2022. The full extent of the plan to take over management of Whitestone by removing me as CEO will be revealed through phone conversations, emails, witness statements, and depositions to be taken in this case.

**Interrogatory No. 10:**

Identify every “certain Whitestone executive [ ]” referenced in Paragraph 2 of the Original Petition.

**Response:**

The “certain Whitestone executive” referenced in paragraph 2 of the Original Petition include the defendants, David Holeman, Christine Mastandrea and Peter Tropoli.

**Interrogatory No. 11:**

Identify each individual you claim advised the “Named Trustees” of the “falsity of the allegations” as alleged in Paragraph 2 of the Original Petition, and include in your response: (a) each date on which the individual advised the “Named Trustees” of the “falsity of the allegations;” (b) the method of communication used to advise the Named Trustees (e.g., document, telephone conversation, or meeting); (c) a detailed summary of the information that was communicated by the individual to the Named Trustee; (d) and the identity all persons present when the individual advised each of the “Named Trustees” of the “falsity of the allegations.”

**Response:**

James Mastandrea and his counsel advised the Named Trustees of the falsity of the allegations through letters and phone conversations once the allegations were raised and continuing both before and after the letter of termination dated January 18, 2022.

**Interrogatory No. 12:**

State the legal and, in general, the factual basis for your allegation in Paragraph 17 of the Original Petition that “[a]ny further demand would be futile.”

**Response:**

The allegation that “demand is futile” is based on the fact that the current management of Whitestone—David Holeman, Christine Mastandrea and Peter Tropoli—are making the decisions on what actions are taken by the Company in this regard, and they are the persons who took the wrongful actions outlined in the Original Petition.

**Interrogatory No. 13:**

Identify every “false, misleading, and disparaging statement [ ]” made by Whitestone as referenced in Paragraph 25 and Paragraph 26 of the Original Petition, including (a) the manner in which each “false, misleading, and disparaging statement [ ]” was made (e.g., by document, by telephone conversation, or by meeting); (b) date on which each “false, misleading, and disparaging statement [ ]” was made; and (c) the identity of each person to which the “false, misleading, and disparaging statement [ ]” was made.

**Response:**

Plaintiff object to this interrogatory in that it constitutes a contention interrogatory that requires Plaintiff to marshal all of his available proof, or the proof Plaintiff intends to offer at trial in violation of Rule 197.1 of the Texas Rules of Civil Procedure.

Subject to the foregoing objection, the false, misleading and disparaging statements were that Plaintiff violated the confidentiality agreement of his employment contract by disclosing confidential information that was not in connection with the services provided under the employment agreement or in furtherance of the business of the Company; or took actions which Plaintiff willfully, intentionally and without Board Approval knew to be materially adverse to the interests of the Company and its shareholders, collectively.

The dates of such statements, based on my current state of knowledge, is from the time I was asked to resign by David Holeman in August 2021 to the time I was notified of my termination on January 18, 2022. The actual manner of communication, whether by in person conversation, email or phone, will be supplemented after discovery through depositions or formal discovery requests.

**Interrogatory No. 14:**

Identify every “allegation” referenced in Paragraph 35 of the Original Petition where Plaintiff pleads, “the allegations [Plaintiff] was aware of are false and not adequately investigated and substantiated[.]”

**Response:**

Plaintiff object to this interrogatory in that it constitutes a contention interrogatory that requires Plaintiff to marshal all of his available proof, or the proof Plaintiff intends to offer at trial in violation of Rule 197.1 of the Texas Rules of Civil Procedure.

Subject to the foregoing objection, the allegations used to terminate me are untrue and known to defendants to be false. I requested in writing that the Named Trustees adequately investigate these allegations before making a decision, but they failed to do so.

**Interrogatory No. 15:**

State the legal and, in general, the factual basis for your allegation that the “allegations” are “false and not adequately investigated and substantiated,” as alleged in Paragraph 35 of the Original Petition.



**Response:**

Plaintiff object to this interrogatory in that it constitutes a contention interrogatory that requires Plaintiff to marshal all of his available proof, or the proof Plaintiff intends to offer at trial in violation of Rule 197.1 of the Texas Rules of Civil Procedure.

Subject to the foregoing objection, the allegations used to terminate me are untrue and known to defendants to be false. I requested in writing that the Named Trustees adequately investigate these allegations before making a decision, but they failed to do so.

**Interrogatory No. 16:**

Identify in detail every “irregularit[y] in the procedural mechanisms” referenced in Paragraph 37 of the Original Petition.

**Response:**

Plaintiff object to this interrogatory in that it constitutes a contention interrogatory that requires Plaintiff to marshal all of his available proof, or the proof Plaintiff intends to offer at trial in violation of Rule 197.1 of the Texas Rules of Civil Procedure.

The irregularity in procedural mechanisms include the matters set forth in James Mastandrea’s letter of January 17, 2022, the day before my termination, and the refusal to provide the factual basis for my termination. I received the letter of termination on January 18, 2022. However, it does not set forth any factual basis, but only conclusions. To this date, I still have not received the underlying factual basis for my termination, nor a copy of the information actually used by the Named Trustees to terminate me. The Board just accepted as true, and without adequate investigation, the allegations against me.

**Interrogatory No. 17:**

With the exception of your lawyer, identify every third-party, including current and former employees and trustees of Whitestone, with whom you have communicated regarding the allegations in the Petition and/or the initiation of this lawsuit, including: (a) a detailed description of what was communicated; (b) the method of each communication (e.g., by document, by telephone conversation, or by meeting); (c) date and time of each communication; and (d) the identity of each person involved in each communication.

**Response:**

After the lawsuit was filed, I spoke by phone with Bradford Johnson, Rebecca Elliott, and John Dee informing them that I had filed suit. I told them if they wanted a copy of the Petition, it was available since it was public record and being reported in the press.

**Interrogatory No. 18:**

Identify every interest of Whitestone’s furthered by the removal of Whitestone’s Company 1 OP unit redemption rights.

**Response:**

The interests of Whitestone are furthered by a non-threatening negotiation to grow Whitestone by thoughtful consideration of the “decoupling” of Company 1 that was fully vetted by special committees of both Company 1 and Whitestone. David Holeman’s handling of this matter led to certain actions being taken by Company 1 through its Board of Trustees.

**Interrogatory No. 19:**

State the legal and, in general, the factual basis for your allegations in Paragraph 49 of the Original Petition.

**Response:**

Paragraph 49 states with specificity the breaches of fiduciary duty. The factual basis is outlined in Paragraph 49 and Plaintiff incorporates his answers to Interrogatories 8 through 16.

**Interrogatory No. 20:**

State the date on which the Whitestone Board of Trustees authorized you to engage in discussions with Company 2 regarding Company 2’s potential or actual acquisition of Whitestone or Whitestone’s assets.

**Response:**

The date the Board took action on a potential/actual acquisition of Whitestone, or its assets is contained in the minutes of the Board. I have not located a copy but will supplement when it is produced by Whitestone in discovery since it is in its possession.

## **RESPONSES TO REQUESTS FOR ADMISSION**

### **Request for Admission No. 1:**

Admit that you owed a duty of loyalty to Whitestone as Whitestone's Chief Executive Officer.

### **Response:**

Plaintiff objects to this request because it asks Plaintiff to admit to a pure question of law. *Cedyco Corp. v. Whitehead*, 253 S.W.3d 877, 880-81 (Tex. App.—Beaumont, 2008, pet. denied). Subject to this objection, it is Plaintiff's general understanding that all officers, directors or trustees of Whitestone owe a duty of loyalty.

### **Request for Admission No. 2:**

Admit that you owed a duty of care to Whitestone as Whitestone's Chief Executive Officer.

### **Response:**

Plaintiff objects to this request because it asks Plaintiff to admit to a pure question of law. *Cedyco Corp. v. Whitehead*, 253 S.W.3d 877, 880-81 (Tex. App.—Beaumont, 2008, pet. denied). Subject to this objection, it is Plaintiff's general understanding that all officers, directors or trustees of Whitestone owe a duty of care.

### **Request for Admission No. 3:**

Admit that you suggested revisions to the Company 1 Letter of Intent on or around January and February 2021.

### **Response:**

Denied because the content of the draft letter of intent and the "suggested revisions" were pursuant to direction of Company 1 representatives.

### **Request for Admission No. 4:**

Admit that you suggested revisions to a Whitestone Board resolution to include the following language: "RESOLVED FURTHER, that the Board will not redeem the [Company 1] Operating Partnership, LP operating partnership units currently owned that are the subject of the Letter of Intent and the Proposed Transaction."

### **Response:**

Denied because the "suggested revisions" were made pursuant to Board of Trustees discussions, and not my "suggested revisions."

### **Request for Admission No. 5:**

Admit that you prepared draft Letter of Intent language for a potential transaction with Company 2 on or around September 14, 2021.

### **Response:**

Admitted in part, denied in part because I prepared a draft Letter of Intent for a potential transaction with Company 2 as part of my services and in furtherance of the business of Whitestone, but the

ultimate decision on the language of the Letter of Intent was done by others at Whitestone, and eventually approved by Whitestone's Board of Trustees.

**Request for Admission No. 6:**

Admit that on or about September 7, 2021 you shared material non-public information without a Non-Disclosure Agreement and without Board approval, with Company 2 representative(s) when discussing a potential transaction with Company 2.

**Response:**

Denied because Plaintiff did not share "material, non-public" information without a Non-Disclosure Agreement and without Board approval on September 7, 2021.

**Request for Admission No. 7:**

Admit that on or about September 7, 2021 you asked Company 2's representative(s) to email your personal email account when discussing a potential transaction with Company 2.

**Response:**

Admitted.

**Request for Admission No. 8:**

Admit that you asked Company 2's representative(s) to email your personal email account when discussing a potential transaction with Company 2 in order to prevent Whitestone from discovering your activities.

**Response:**

Denied.

**Request for Admission No. 9:**

Admit you, or your agents or representatives, were in possession of a 2020 Range Rover as of April 11, 2022.

**Response:**

Admitted.

**Request for Admission No. 10:**

Admit the 2020 Range Rover described in Request for Admission No. 9 is Whitestone's property.

**Response:**

Denied that the 2020 Range Rover is "Whitestone's property" because the vehicle is leased. In addition, the use of the vehicle was part of the benefits under the Employment Agreement breached by Whitestone.

**Request for Admission No. 11:**

Admit you, or your agents or representatives, were in possession of a 2015 Range Rover as of April 11, 2022.

**Response:**

Admitted.

**Request for Admission No. 12:**

Admit the 2015 Range Rover described in Request for Admission No. 11 is Whitestone's property.

**Response:**

Denied that the 2015 Range Rover is "Whitestone's property" because the vehicle is leased. In addition, the use of the vehicle was part of the benefits under the Employment Agreement breached by Whitestone.

**Request for Admission No. 13:**

Admit you were in possession of an iPhone 5, associated with phone no. (832) 588-5174 as of May 11, 2022.

**Response:**

Admitted in part and denied in part because the iPhone 5 associated with phone no. (832) 588-5174 is in possession of my attorneys as of May 11, 2022 but is not in my possession.

**Request for Admission No. 14:**

Admit the iPhone 5, associated with phone no. (832) 588-5174 and described in Request for Admission No. 16, is Whitestone's property.

**Response:**

Admitted in part and denied in part because Plaintiff is not making a claim to the iPhone 5 but has a superior right to certain information placed on the referenced iPhone 5.

**Request for Admission No. 15:**

Admit you were in possession of an iPhone SE, associated with phone no. (281) 714-5900 as of May 11, 2022.

**Response:**

Admitted in part and denied in part because the iPhone 5 associated with phone no. (281) 714-5900 is in possession of my attorneys as of May 11, 2022 but is not in my possession.

**Request for Admission No. 16:**

Admit the iPhone SE, associated with phone no. (281) 714-5900 and described in Request for Admission No. 15, is Whitestone's property.

**Response:**

Admitted in part and denied in part because Plaintiff is not making a claim to the iPhone SE, but has a superior right to certain information placed on the referenced iPhone SE.

**Request for Admission No. 17:**

Admit you were in possession of an iPhone XS, associated with phone no. (216) 577-1250 as of May 11, 2022.

**Response:**

Admitted in part and denied in part because the iPhone 5 associated with phone no. (216) 577-1250 is in possession of my attorneys as of May 11, 2022 but is not in my possession.

**Request for Admission No. 18:**

Admit the iPhone XS, associated with phone no. (216) 577-1250 and described in Request for Admission No. 17, is Whitestone's property.

**Response:**

Admitted in part and denied in part because Plaintiff is not making a claim to the iPhone XS but has a superior right to certain information placed on the referenced iPhone XS.

**Request for Admission No. 19:**

Admit you were in possession of an iPad Air 1 as of May 11, 2022.

**Response:**

Admitted in part and denied in part because the iPad Air 1 is in possession of my attorneys as of May 11, 2022 but is not in my possession.

**Request for Admission No. 20:**

Admit the iPad Air 1 described in Request for Admission No. 19 is Whitestone's property.

**Response:**

Admitted in part and denied in part because Plaintiff is not making a claim on the iPad Air 1 but has a superior right to certain information placed on the referenced iPad Air 1.

**Request for Admission No. 21:**

Admit you were in possession of an iPad Air 2 as of April 11, 2022.

**Response:**

Admitted in part and denied in part because the iPad Air 2 is in possession of my attorneys but is not in my possession.

**Request for Admission No. 22:**

Admit the iPad Air 2 described in Request for Admission No. 21 is Whitestone's property.

**Response:**

Admitted in part and denied in part because Plaintiff is not making a claim on the iPad Air 2 but has a superior right to certain information placed on the referenced iPad Air 2.

**Request for Admission No. 23:**

Admit you were in possession of an iMac as of May 11, 2022.

**Response:**

Admitted in part and denied in part because the iMac is in possession of my attorneys as of May 11, 2022 but is not in my possession.

**Request for Admission No. 24:**

Admit the iMac described in Request for Admission No. 26 was Whitestone's property.

**Response:**

Admitted in part and denied in part because Plaintiff is not making a claim to the iMac but has a superior right to certain information placed on the referenced iMac.

**Request for Admission No. 25:**

Admit you were in possession of a MacBook Air (SN: SC02F675WQ6L5) as of May 11, 2022.

**Response:**

Admitted in part and denied in part because the MacBook Air (SN: SC02F675WQ6L5) is in possession of my attorneys as of May 11, 2022 but is not in my possession.

**Request for Admission No. 26:**

Admit the MacBook Air (SN: SC02F675WQ6L5) described in Request for Admission No. 25 is Whitestone's property.

**Response:**

Admitted in part and denied in part because Plaintiff is not making a claim to the MacBook Air but has a superior right to certain information placed on the referenced MacBook Air (SN: SC02F675WQ6L5).

**Request for Admission No. 27:**

Admit you were in possession of a MacBook Air (SN: SC02F675WQ6L5) as of May 11, 2022.

**Response:**

Admitted in part and denied in part because the MacBook Air (SN: SC02F675WQ6L5) is in possession of my attorneys as of May 11, 2022 but is not in my possession.

**Request for Admission No. 28:** Admit the MacBook Air (SN: SC02F675WQ6L5) described in Request for Admission No. 27 is Whitestone's property.

**Response:**

Admitted in part and denied in part because Plaintiff is not making a claim to the MacBook Air but has a superior right to certain information placed on the referenced MacBook Air (SN: SC02F675WQ6L5).

**Request for Admission No. 29:**

Admit that you, or your agents or representatives, have taken digital copies of devices containing Whitestone's confidential information after your termination.

**Response:**

Admitted in part, denied in part because to my knowledge, my attorneys took forensic images of the computer laptop at their own direction in order to preserve evidence, and to identify and protect confidential, privileged information.

**Request for Admission No. 30:**

Admit that you, or your agents or representatives, have taken forensic images of devices containing Whitestone's confidential information after your termination.

**Response:**

Admitted in part, denied in part because to my knowledge, my attorneys took forensic images of the computer laptop at their own direction in order to preserve evidence, and to identify and protect confidential, privileged information.

**Request for Admission No. 31:**

Admit you have not submitted a request to Whitestone that it sue the Individual Defendants for breaches of fiduciary duty.

**Response:**

Admitted in part, denied in part because although no request has been made to Whitestone, no request is necessary to pursue Plaintiff's personal claims, and in any event, such a request to Whitestone would be futile.

**Request for Admission No. 32:**

Admit that you shared Whitestone's confidential information with trustees or agents of Company 1 without consent of Whitestone's trustees.

**Response:**

Denied.

**Request for Admission No. 33:**

Admit that you shared Whitestone's confidential information with representative or agents of Company 2 without consent of Whitestone's trustees.

**Response:**

Denied.

**Request for Admission No. 34:**

Admit that in the last 2 years you have hired investigators or individuals to follow Christine Mastandrea.



**Response:**

Denied.

**Request for Admission No. 35:**

Admit that in the last 2 years you have hired investigators or individuals to follow David K. Holeman.

**Response:**

Denied.

**Request for Admission No. 36:**

Admit that in the last 2 years you have hired investigators or individuals to follow Peter Tropoli.

**Response:**

Denied.

**Request for Admission No. 37:**

Admit that you worked for a company that filed for bankruptcy while you were an owner or officer of said company.

**Response:**

Admitted that I worked for an aviation company that could not survive the consequences of the tragic 9/11 events.

**Request for Admission No. 38:**

Admit that your Employment Agreement states that in the event that legal action is instituted to enforce any provision, then each party shall pay its own costs and expenses thereof.

**Response:**

Admitted there is such language in the Employment Agreement.

**Request for Admission No. 39:**

Admit that your Employment Agreement states that none of the trustees or officers shall have any liability in their personal or individual capacity for satisfaction of claims in connection with the Employment Agreement.

**Response:**

Plaintiff objects to this request to the extent it requests a merits preclusive response. *Medina v. Zuniga*, 593 S.W.3d 238, 244 (Tex. 2019). Subject to this objection, this request is denied because the trustee's or officer's action or failure to act was the result of active and deliberate dishonesty and was material to the cause of action adjudicated in this proceeding.

**Request for Admission No. 40:**

Admit that you were informed that CBRE estimated the value of the Company 1 assets in excess of \$97,000,000 on or about January 2021.

**Response:**

Admitted.

**Request for Admission No. 41:**

Admit that you were informed that Colliers estimated the value of the Company 1 assets in excess of \$87,000,000 on or about January 2021.

**Response:**

Admitted.

**Request for Admission No. 42:**

Admit that you were informed that JLL estimated the value of the Company 1 assets in excess of \$73,000,000 on or about October 2020.

**Response:**

Admitted.

**Request for Admission No. 43:**

Admit that David K. Holeman was appointed on July 30 by the Board of Trustees of Whitestone in 2020 to assist the Whitestone Special Committee or its designees with such information requested by the Special Committee related to the Proposed Transaction without sharing such information with you.

**Response:**

Admitted in part, denied in part because it is admitted that David Holeman was appointed by Board of Trustees, but denied as to any other matters.

**Request for Admission No. 44:**

Admit that on multiple occasions you directed Whitestone employees to perform work on your personal behalf.

**Response:**

Denied.

**Request for Admission No. 45:**

Admit that at all times since January 1, 2017 to the present, you have served as Chief Executive Officer and Chairman of Company 1.

**Response:**

Admitted in part, denied in part because it is admitted that Plaintiff retained the title of CEO and Chairman but “at all times” the responsibilities and duties were performed by Dennis Chookaszian, not Plaintiff.

**Request for Admission No. 46:**

Admit that on or about December 10, 2021, you attended a Board Meeting of Company 1 to review the consideration of a shareholder rights plan.

**Response:**

Denied.

**Request for Admission No. 47:**

Admit that on or before December 27, 2021, you were aware that the Board of Trustees of Company 1 was considering adoption of a shareholder rights plan in order to attempt to prevent Whitestone REIT from exercising its redemption rights.

**Response:**

Denied.

**Request for Admission No. 48:**

Admit that the purpose of the shareholder rights plan referenced in Request for Admission No. 48 was to prevent Whitestone REIT from exercising its redemption rights.

**Response:**

Denied.

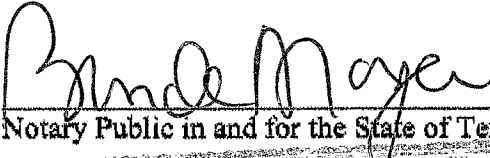
VERIFICATION

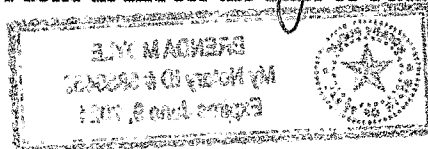
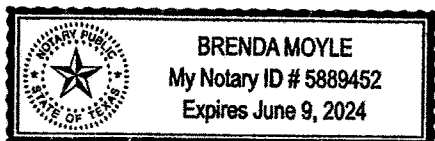
STATE OF TEXAS §  
  §  
COUNTY OF HARRIS §

Before me, the undersigned authority, personally appeared James C. Mastandrea, who, being duly sworn on his oath, stated that he is duly qualified and authorized to make this Verification, that he has read the foregoing Responses to Defendant, Whitestone Reit's First Set of Interrogatories, and that the factual statements therein are true and correct and within his knowledge.

  
James C. Mastandrea

Subscribed to and sworn before me on June 10, 2022, to which certify my hand and seal of office.

  
Notary Public in and for the State of Texas



### Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Brenda Moyle on behalf of Mike O'Brien  
Bar No. 15170200  
brenda@moblaw.com  
Envelope ID: 65348312  
Status as of 6/10/2022 4:39 PM CST

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