



**Business Law:  
Dealing with Documents:  
How to Handle a Demand to  
Inspect Your Corporate Records**

Presented by:

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# Carlos A. Kelly, Esq.

- **Practice Areas:**
  - *Business Litigation*
  - *Real Estate Litigation*
  - *Eminent Domain/Takings Litigation*
  - *Blogger*
    - *Legal Scoop on Southwest Florida Real Estate*



# Mark A. Niede, Esq.



- **Practice Areas:**
  - *Intellectual Property*
  - *Trademarks*
  - *Copyright*
  - *Corporate Law*
  - *Blogger*
    - *Southwest Florida Business and IP Bulletin*

# The Letter

Frederick W. Flintstone  
55 Cobblestone Road  
Bedrock

Mr. Slate  
President  
Slate Rock & Gravel Co.  
Bedrock

September 15, 2016

Re: Books & records of Slate Rock & Gravel Co.

Dear Mr. Slate

As you know, I would like to inspect the books and records of Slate Rock & Gravel Co. (“Rock”). The purpose of this letter is to demand that you provide me with the minutes of all meetings of Rock shareholders, a list of all shareholders, all ledgers of revenues and expenses for the past ten (10) years, a list of all Rock inventory purchased and sold for the past ten (10) years, all advertising materials Rock has ever run in *The Daily Granite* and *The Daily Slab*. My assistant will come to Rock headquarters tomorrow after hours to inspect the requested records and all other records that are important to the operation of Rock over the past twenty (20) years.

Yabba Dabba Do,  
Fred

# Unqualified Right to Records

## Florida Statute 607.1602

- Any shareholder can inspect and copy
  - Articles of incorporation
  - Bylaws and Amendments
  - Board Resolutions authorizing additional classes of stock
  - Minutes of Shareholder meetings for last three years
  - Communications to Shareholders, including financials, for last three years
  - Names and addresses of current officers and directors
  - Most recent annual report

# Unqualified Right to Records

## Florida Statute 607.1602

- On five days\* written notice
- At corporate office, during business hours
- Cannot deny request

\*15 for non-Florida Shareholders



# Qualified Right to Records

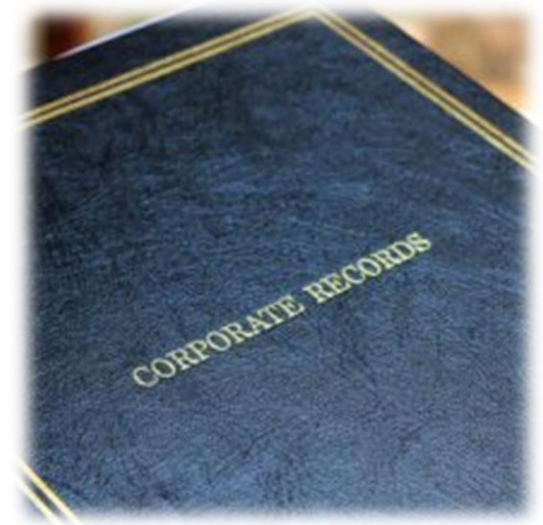
- If a shareholder demand is:
  - In good faith
  - For a proper purpose
  - Describes that purpose
  - Describes records sought
  - Records are related to purpose
  - In writing
  - Five/fifteen days notice





# Qualified Right to Records

- Then shareholder can inspect not only general information, but also:
  - Accounting records
  - Records of shareholders
  - “Any other books and records”





# Qualifications

- **In good faith**
  - Construed broadly in favor of shareholder
- **Proper purpose**
  - Reasonably related to interests as a shareholder
- **Describes purpose AND records**
  - Must state facts
  - Records must relate to that purpose

# Qualifications

- **Examples**
  - Valuation of shares, % ownership
  - Validity of expenditures
  - Determine financial healthy



# Records Available

- All basic unqualified information
- Accounting records
- Shareholder records
- “Any other books and records”



# Any Other Books and Records

- Few limitations if related to purpose and can include:
  - Contracts
  - Employment Agreements
  - Non-disclosure Agreements
  - Insurance Policies
- No requirement to create information (other than annual financials)

# Qualified Record Requests

- Company can object
- Shareholder can bring action
- Court might limit scope



# Record Requests and Confidentiality

- Some records – even unconditional – are not pure public knowledge
- Good Practice
  - Seek Shareholder’s Agreement to a confidentiality agreement
- Best Practice
  - Draft confidentiality provisions into Shareholder Agreements
- Court limitations

# Record Requests and Confidentiality

- Similar statutes apply to:
  - LLCs
  - Partnerships
  - Limited Partnerships
- Same general parameters





# On Receipt of Demand

- Take seriously
- Gather people to respond
  - Accountants
  - Attorneys
- Consider scope of requests
- Limit, if necessary
- Fight, if necessary
- Maintain confidentiality





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