



Andy Mowery <pohoaandy@gmail.com>

Transmittal of Gmail Password

Andy Mowery <pohoaandy@gmail.com>

Tue, Jan 2, 2024 at 8:44 PM

To: Lora B 4POHOA <lb4pohoa@gmail.com>, Clay Jones <joneswv66@gmail.com>, Poudre Overlook at FtC <atftcpoudreoverlook@gmail.com>, poudreoverlookhoa@gmail.com, David Graf <dgraf@moellergraf.com>, John M Tunna <j.tunna@icloud.com>

Lora,

I am aware of your testimony today before the HOA Homeowners Rights Task Force where you made an allegation that the gmail account for poudreoverlookhoa@gmail.com was "taken" from you. There is incontrovertible evidence that you attempted to simply delete the account (6/15/22 meeting recording) to operate without email at all. And, there is also evidence that you abandoned the account for a "fresh start" (multiple references). This is not to mention that the actual root password was SENT TO YOU VIA USPS CERTIFIED MAIL. You simply proceeded with abandonment, and now apparently wish to concoct a story **implying criminal theft of the account**.

I want to remind you that a false accusation of a crime is per se defamation in Colorado, and one of the primary reasons I went forward with litigation in 2019.

In my opinion, your portrayal in public recorded testimony was false, misleading, and defamatory towards me. Any listener only needs to google Poudre Overlook and find the sole individual (you emphasized it was only one person) who authored the blog you referred to. It does not matter that you did not say my name. I seek resolution of this new dispute caused by your actions, which were apparently the result of an AWAM that excluded me as a duly elected Director.

You never responded to this email from October of 2022. I will be forwarding it to members of the Task Force.

In addition, you were also made aware that Director Tunna accepted the same invitations you, Clay, and Walker ignored. He has had access along with me since soon after he joined the Board in December of 2022. It is false that I "took" the account personally, or that I have prevented access to the contents. You didn't tell the Task Force that other former Directors had access, or that the purpose was to ensure you didn't delete important emails or files.

The problem I saw in 2022 was a deliberate attempt to delete or otherwise spoliage the contents of the account (as evidenced by your proposal on 6/15/22, recorded on video). I cannot in good faith simply allow someone who has stated this intention to follow through on that action as it is my good faith opinion that this is not in the fiduciary interest of the Association while serving. That's much different than your allegation and narrative.

It is also a verifiable act that Sara Young downloaded a complete digital copy of the Gmail and Google Drive account AFTER resigning on 5/25/22, and that she justified her actions based upon a claim that distribution of these downloaded files to the other resigned Directors was necessary in case of some vague concern about future litigation. So, literally, **SEVERAL parties have copies of this Gmail account** - MUCH different than what you told the Task Force Today. Instead, you elicited legal advice from Ms. Jackson to file for injunctive relief against me - when they didn't buy into your claim that a law needed to be created to "force" me to "give" you the account.

I would like you to acknowledge these facts and confirm them with the Task Force without any delay. I believe they were made in retaliation for my good faith efforts, which would be protected by law in Nevada. I am using your actions to advocate for creating similar statutes in Colorado. If you are not following the documents or law, I believe I have a right, with or without this statute in place, to make good faith complaints rooted in citation of the applicable law or the experts in the law who have written about it.

I would like to add that the dispute over when a Bylaw becomes effective remains an open dispute and you have not

responded in almost 30 days. I believe that you cannot enforce the Bylaw on 2/2/23 for a removal on 1/25/23, because there were no retroactive provisions in the Bylaw, not to mention my actual resignation was effective prior to any removal vote. The length of emails to get a response and/or educate you on the matter is proportional to your stubbornness to admit a simple fact - the effort to ban me failed.

As a result, I believe I am duly elected to the Board, and if you actually took Action Without A Meeting to create your testimony today, that too would be another violation of CCIOA. I am requesting the AWAM records, as they are not posted on the Frontsteps website, where your other AWAM documentation is posted.

Meanwhile, the offer to send a gmail import invitation stands, as I continue to believe continuity of records is relevant and important to the needs of the Association.

Sincerely,

Andy

On Wed, Oct 12, 2022 at 7:45 PM Andy Mowery <pohoaandy@gmail.com> wrote:

Lora,

I spoke with Clay today, and in the context of a discussion about any past enforcement of covenants related to dogs, he mentioned to me that you have not imported the emails or documents from the poudreoverlookhoa@gmail.com account. I think, unless we get cooperation (which now appears less likely), we can anticipate a need to litigate enforcement. And, since I've already heard from multiple homeowners that they are both aware that we never enforced the rules on the Hammonds (2 Pit Bulls), and that we allowed this dog for considerable time without enforcement, a request from attorneys for these owners may include inspection of our prior communications. While we can hope they don't, it's not reasonable to abandon these records and open ourselves up to charges of spoliation - particularly since the example I have shown you on prior litigation already exists.

In fact, he repeated the claim that I was still preventing access to poudreoverlookhoa@gmail.com by not releasing the password. As I had previously stated by email, my concern was about preservation of records and continuity of information to new boards. This has repeatedly been brought up as a major issue in all Colorado HOAs, and one of the reasons I asked you to allow a meeting with David Graf.

I was surprised that Clay said he didn't believe it was necessary to preserve the old records - some of which are actually required to be preserved by statute. In addition, we still have a records retention policy that would require not just the older emails, but also the documents stored in Google Drive. I think it would be an error to abandon these records for any reason (even negligence), but in particular if the reason you will give others is that you were prevented access by me. I would contest that claim. In fact, this is patently false - you have had access via delegate accounts that remain tied to that account, and, you were sent the password via USPS Certified Mail on August 19th. Attached is the transmittal for your review.

When I asked Clay whether he himself had seen that document (the transmittal), he informed me that you both had a key to the PO Box (why I would not also have a key is interesting, but an aside). We never had a vote on access to the PO Box, or anything such as who would be "administrator" to monitor and collect mail.

That aside, he stated that ***you physically received this Transmittal and the contents (not him)***. I know that it was received because, for instance, you responded to the Document Request. However, you never confirmed receipt of the password. I'm asking for that confirmation from you now. I will have to check my records for the green USPS Certified Mail card that shows who accepted it with signature from USPS.

What I do know is that in spite of me offering to help with importation of the old emails into the new account you created, you've never responded. And, from Clay's comments, it sounds like you are ABANDONING these records. Again, I think that would be a very problematic decision should there EVER be litigation in the future. If another party demanded records by subpoena, for instance, and you or a future board were to have to admit to this abandonment, it could be considered **spoliation**. And, considering you've also not responded to the inquiry about the policy enacted in 2020 to deliberately delete emails leading to AWAMs (Action Without A Meeting), a legal

adversary could have a field day with such knowledge - and that cat is already out of the bag.

This is not a minor issue or nitpicking. Attorneys I know would be aghast if they found out their clients had Directors or Officers handling Association records in this manner. You took control of the President and Officer roles, and this responsibility seems to be unimportant to you. I am concerned that this could create expenses for all homeowners, as a result.

Therefore, I'm asking for a direct answer to the following (Just yes/no, please):

1. Did you receive the poudreoverlookhoa@gmail.com password?
2. Did you ever use the password to log into the account?
3. Have you imported emails from 2017 into the new email account atftcpoudreoverlook@gmail.com?
4. Have you imported all documents from the Google Drive account at poudreoverlookhoa@gmail.com into the Google Drive account at atftcpoudreoverlook@gmail.com?
5. Did you receive the USPS Certified Mail package with this attached transmittal yourself?
6. Did you share the contents with Clay?
7. Did you only share the Document Request and not the password?
8. Are you actually planning to abandon all prior records of emails and the documents in Google Drive from poudreoverlookhoa@gmail.com?
9. When you said you were creating the new gmail account for a "fresh start", did that mean you intended to abandon entirely the old account?
10. Why did you allow Sara Young to download the entire Gmail and Google Drive account after she resigned, and allow her to distribute those records to former Board members?
11. Have you preserved the Gmail and Google Drive account for pohoadocrev@gmail.com?

I understand you are convinced you'll be rid of me next week. I think, if you cannot handle the technology, it would be much wiser to simply get this work done. I'm offering to help, and you still have not demonstrated any competence in handling Google technology (as evidenced by exposing everyone's email with your broadcast message today, failing to recognize how to correctly use BCC). I think you need help, and if you don't trust me, pick someone like Ben Johnson. I think you may be letting your ego get in the way of prioritizing the actual needs of the Association (the non-profit corporation).

Thank you for your timely response.

Sincerely,

Andy