THE PRESERVE AT SMITH CREEK HOA: FORENSIC FINANCIAL DOSSIER

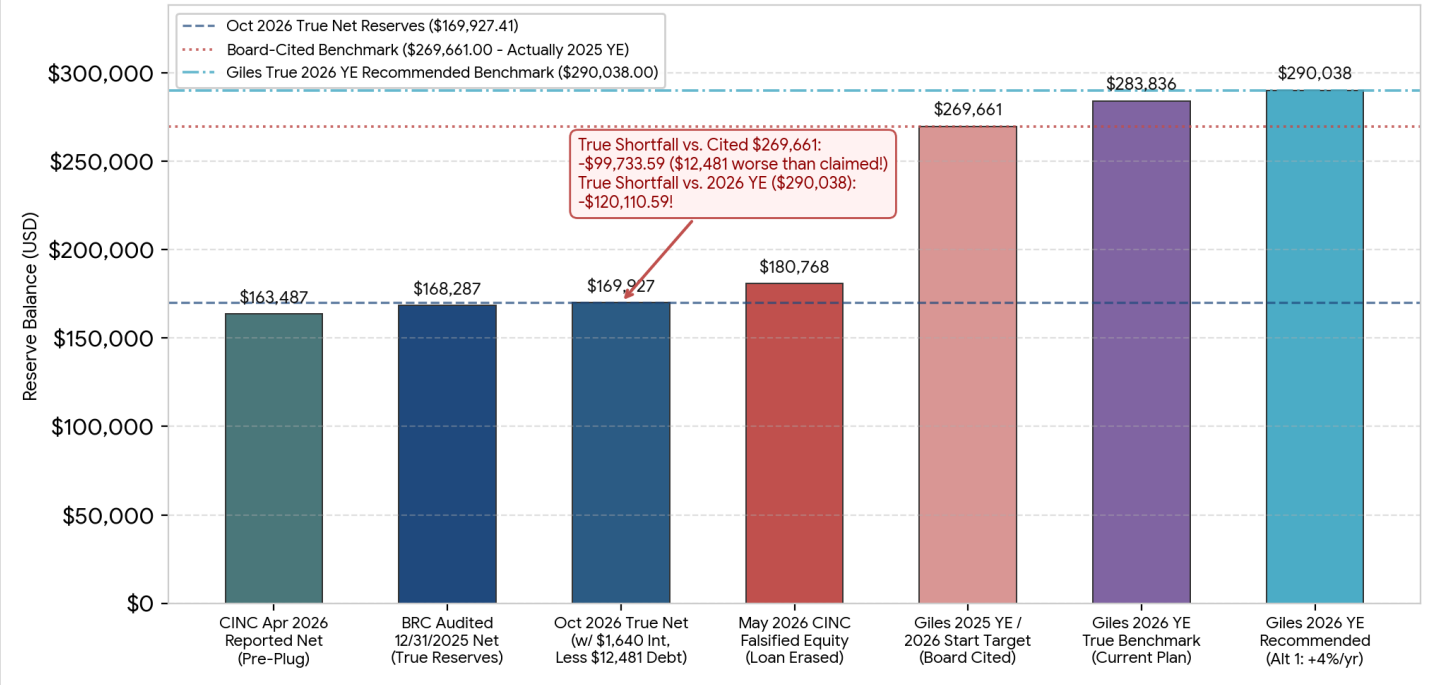
Compiled & Verified: October 28, 2026 | Complete Analysis of the 2025 BRC Audit, 2024 Draft Giles Reserve Study, 2024 Garner Road Lease & 2027 Budget

+$42,067.13	**-$35,192.00**	**-$99,733.59**	**$0.00**
Hidden 2026 Operating Surplus (Omitted from Spreadsheet 2A)	2025 Audited Operating Loss ($48,407 in Prof./Legal Fees)	True Net Reserve Shortfall vs. $269k ($12,481 Worse Than Claimed)	2026 & 2027 Budgeted Reserve Contribution (Line 43-4300-01)

1. Executive Summary & Statutory Capitulation Timeline (Oct 18 – Oct 28, 2026)

- **Oct 18 & Oct 20, 2026:** The Board issued an *Audit Update* (`Audit Eblast 2A.pdf`) claiming BRC's 2025 audit confirmed Association finances "were and are properly maintained," blaming a member's lawsuit for not funding 2025 reserves, and proposing a **9.59% dues increase ($730 to $800/yr)** at the **November 5, 2026** ratification meeting based on a cited **$87,252.59 reserve shortfall** against a **$269,661.00** Giles Engineering benchmark.
- **Oct 21, 2026:** Formal 5-business-day statutory demand served under **N.C.G.S. §§ 47F-3-118, 55A-16-02, and 55A-16-20** (with the unlawful non-disclosure gag clause stricken) demanding the 2025 BRC Audit & CPA Management Letter, the Giles Engineering Study, and the Clubhouse Lease.
- **Oct 26, 2026:** Management logged into the portal and uploaded only `Audit Eblast 2A.pdf` (the Board's 2-page PR memo) while continuing to conceal the actual CPA report.
- **Oct 27 & Oct 28, 2026 (Capitulation & Partial Default):** Forced by the expiring statutory deadline, the Board sent a neighborhood eBlast on Oct 27 admitting the new $5,000/yr developer lease is not yet authorized, and on Oct 28 uploaded three PDFs to the bottom of *Resident Information*: (1) **2025 BRC Audit Report** (14-page PDF / 11 numbered pages); (2) **2024 Garner Road Associates Clubhouse Lease** (9-page PDF); and (3) **Feb 20, 2024 Giles Flythe Reserve Study** (47-page PDF stamped `DRAFT - FOR REVIEW PURPOSES ONLY`). **The Board still withheld BRC's CPA Management Letter on internal control deficiencies.**

Figure 1: Audited Net Reserve Balance vs. Falsified CINC Equity & Giles Engineering Benchmarks



2. Smoking Gun #1: BRC’s Audited Balance Sheet Proves the May 2026 $17,281.25 Plug Was False

Comparing **Page 3 & Page 4 of BRC’s Audit (as of 12/31/2025)** against the HOA's 2026 CINC Balance Sheets proves the May 2026 balance sheet manipulation to the penny:

- **Jan–Apr 2026 CINC Balance Sheets (Exact Cents):** Reported Reserve Cash of **$180,768.44**, Reserve Retained Earnings of **$163,487.19**, and an interfund liability (`20-5110-00 Loan from Reserves`) of **$17,281.25** owed to Operating (`$180,768.44 - $163,487.19 = $17,281.25`).
- **BRC’s 12/31/2025 Audit Adjustment (Pages 3 & 4, Rounded to Whole Dollars):** BRC credited the **$4,800.00** Clubhouse Lease rent (`$400/mo × 12`) to the Replacement Fund instead of the Operating Fund. Subtracting that $4,800.00 rent credit from the $17,281.25 CINC loan yields **$12,481.25**—which is the exact **$12,481** (`Due to operating fund`) liability certified on Page 3 of BRC's Audit! Adding $4,800.00 to CINC's $163,487.19 Reserve Retained Earnings yields **$168,287.19**—which is the exact **$168,287** (`Contract liabilities`) net Reserve balance certified on Page 3 of BRC's Audit!
- **The Unlawful May 2026 CINC Plug & Falsified Shortfall Claim:** In May 2026, management deleted the $17,281.25 loan without repayment or Board resolution and plugged all $17,281.25 into `30-3900-01 Retained Earnings - Reserves` ($180,768.44). On Oct 20, 2026—8 days *after* BRC signed the audit—the Board claimed an **$87,252.59** shortfall against $269,661.00 by using that falsified CINC balance plus $1,639.97 in 2026 interest (`$182,408.41`). Because **$12,481** belongs to the Operating Fund, true net reserves are only **$169,927.41** ($169,926.97 using BRC whole dollars), making the shortfall against $269,661.00 **$99,733.59 ($99,734.03 rounded)—$12,481 worse than the Board told homeowners!**

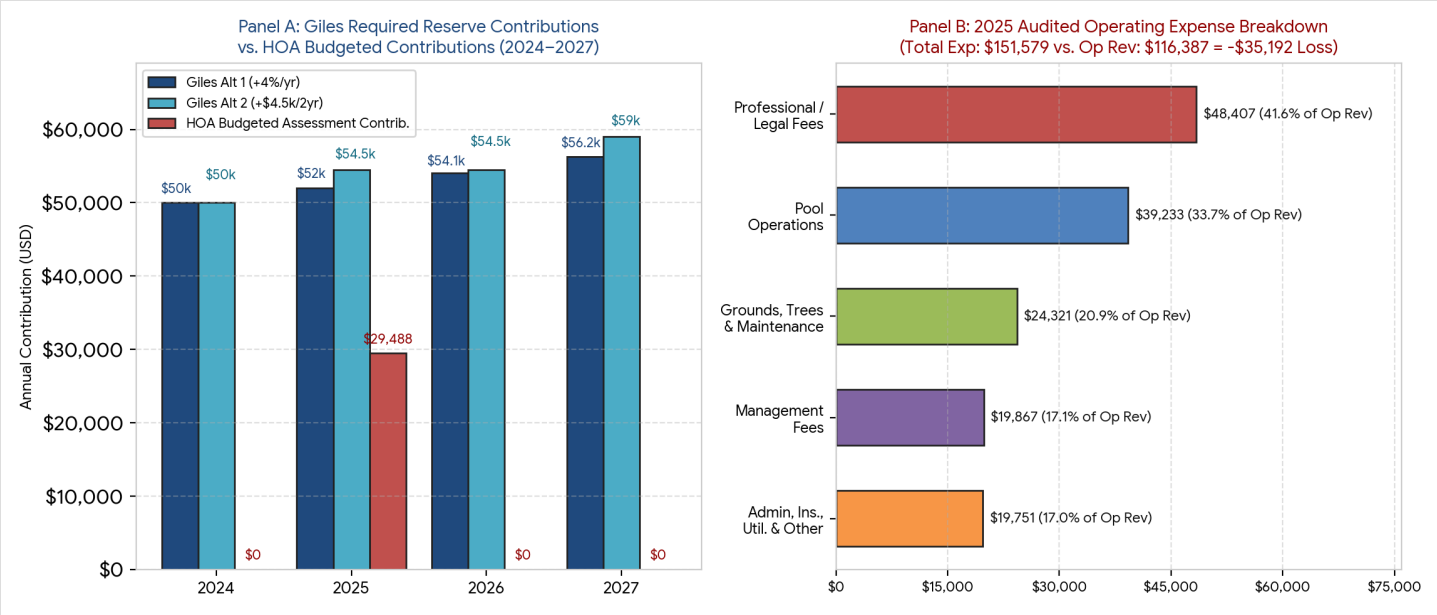
3. Smoking Guns #2 & #3: The Audit Disproves the Board's Lawsuit Lie, Reveals a -$35,192 Loss & Restates 2024 by -$132,675

Audit Issue	What the Board Claimed in Writing	What BRC's 2025 Audit Report Proves (Pages 1, 3, 4, 5, 8, 9)
2025 Reserve Funding vs. Lawsuit Scapegoating	***"Funding was not conducted due to the legal actions taken by a member, and the Board chose not to fund in order to cover the legal expenses..."*** **(Oct 18 eBlast)**	**FALSE: Page 4 proves homeowners funded $35,612 into Replacement Fund `Contract liabilities` in 2025 ($29,488 assessments + $4,800 rent + $1,324 interest). Page 5 proves Reserve bank cash rose by +$22,215 (from $158,553 to $180,768) while $13,397 repaid the prior interfund loan (from $25,878 down to $12,481)!**
Why Note 4 Says "Not Fully Funded" (ASC 606 Mechanism)	Board twisted Note 4 (*"The funding requirement for the current year to be fully funded was not met"*) to claim $0 was funded in 2025.	Under GAAP ASC 606 (Note 2, p. 7 & Note 6, p. 9), the $35,612 added to Reserves is deducted on line `Less: Contributions to Contract liabilities $(35,612)` and moved to the Balance Sheet ($132,675 + $35,612 = $168,287). Note 4 simply means reserves did not reach 100% full funding ($269,661) after 6 years of $0 budgeted contributions!
2025 Operating Deficit & Legal Fee Blowout	***"The audit has confirmed the Preserve Finances are in order..."*** **(Oct 18 eBlast)**	**Page 4 reveals Operating Revenue of $116,387 vs. Operating Expenses of $151,579—a massive -$35,192 Operating Deficit! Driven by $48,407 in Professional Fees (41.59% of Operating Revenue), $39,233 Pool, and $19,867 Management Fees (92.37% of revenue combined).**
2024 Financial Statements Restated (-$132,675)	*"...and that our books were and are properly maintained."* (Oct 18 eBlast)	Page 1 features a dedicated bold heading: **"2024 Financial Statements Restated... to correct a misstatement."** Note 6 (Page 9) proves the HOA failed for **6 consecutive years** to adopt GAAP ASC Topic 606 (effective Jan 1, 2019), forcing BRC to restate 1/1/2025 beginning fund equity by **-$132,675** ($268,818 down to $136,143).
Withheld CPA Management Letter (AU-C § 265)	**Admitted on Oct 18 that the audit includes *"recommendations for improvements"* to be shared with management.**	**Page 2 of the Audit references BRC's required communication of *"significant audit findings, and certain internal control related matters that we identified during the audit."* The Board withheld this Management Letter from the Oct 28 upload.**

4. Smoking Gun #4: The 32-Month Concealed "DRAFT" Giles Study & The $50,000/Yr Reserve Lie

- **Concealed for 32 Months While Management Posted the Outdated 2019 Study as a Decoy:** The Giles Reserve Study uploaded on Oct 28 (`6 MB`, 47 PDF pages) is dated **February 20, 2024** and stamped in bold on the cover: `DRAFT WITH UPDATED STARTING BALANCE - FOR REVIEW PURPOSES ONLY`. For **981 days (32.2 months)**, the Board hid this study from homeowners—and on **August 14, 2025** (18 months *after* receiving the Feb 2024 draft), management uploaded the outdated **2019 Reserve Study** (`Reserve Study Update.pdf`, `2 MB`) to the portal instead!
- **Three False Inputs Fed to Giles Flythe by George Pittman (Page 5, Page 12 & Appendix A Page 1):**
  1. Told Giles the community had **178 units** instead of 200–202 homes;
  2. Provided an unaudited 2024 starting reserve balance of **$174,051**—yet BRC's Audit (Page 5) proves that even a full year later (1/1/2025), actual Reserve bank cash was only **$158,553** (and net Reserve balance was only **$132,675**); and
  3. **The $50,000/Year Contribution Lie:** Told Giles the HOA's *"Current Reserve Funding Rate"* was **$50,000 per year** ($23.41/unit/mo)! Even at $50,000/yr, Giles warned the fund would go negative by 2039 (hitting -$833,645 by 2053) and recommended **Alternative 1 (+4%/yr): $50,000 (2024), $52,000 (2025), $54,080 (2026), and $56,243 (2027)** or **Alternative 2 (+$4,500 every 2 yrs): $50,000 (2024), $54,500 (2025), $54,500 (2026), and $59,000 (2027)** (Appendix A, Pages 11–13).
- **The Board Misread the $269,661 Benchmark & Skipped $40,019 in Scheduled 2026 Repairs:** On Appendix A, Page 11, **$269,661** is Giles's projected **2025 Year-End / 2026 Starting Balance** (assuming $50,000/yr contributions in 2024 and 2025). Giles's true **2026 Year-End Benchmark** is **$283,836** (Current Plan), **$290,038** (Alt 1), and **$293,040** (Alt 2)—even *after* spending

$40,019 in scheduled 2026 capital repairs ($30,000 to replace corroded pool bathroom partitions shown in Photo 18 + $7,000 pool filtration, Appendix A, Pages 4–5). Yet the Board budgeted **$0.00** for Reserve Contributions and spent **$0.00** on Reserve Repairs in 2026 and 2027!



5. Smoking Gun #5: The 2024 Developer Clubhouse Lease ($400/Mo, 100% Free Utilities & Backdated Execution)

The 9-page lease (`The Preserve Clubhouse Lease 2024.pdf`) between the HOA and Declarant **Garner Road Associates, LLC (Robert Wayne Bailey, Sr.)** exposes textbook self-dealing under **N.C.G.S. § 47F-3-105** and *Conleys Creek*:

- **100% Free Utilities, Taxes, Insurance & Maintenance Paid by Homeowners:** Sections 1, 3, and 14 grant the Developer exclusive use of the Clubhouse Office, non-exclusive use of the Conference Room and Closet, and 4 marketing events/year specifically *"to assist in the marketing of new homes within other phases of this community"* (Preserve West). Under **Sections 6, 8, 9, and 10**, the Developer pays **$0 security deposit**, can terminate early at any time once lots are sold (Section 15), and **the HOA is forced to pay 100% of all real property taxes, insurance, electricity, gas, water, sewer, HVAC repairs, maintenance, telephone, and internet FREE OF CHARGE to the Developer!** (In the 2027 budget, Lot 29 utilities, cleaning, HVAC, maintenance, and insurance lines total **$27,100**—with $5,950 in direct building cleaning/HVAC/maintenance/gas/alarm alone—while the Developer pays only $4,800/yr!).
- **Backdated Execution, Notarized by George Pittman After Termination & Unpaid 2023 Rent:** Although Page 1 states the lease was made **June 1, 2024**, Wayne Bailey signed it on **August 19, 2024** (Page 8), and HOA Treasurer **Herbert H. Hewitt** signed it on **September 12, 2024**—notarized by former manager **George E. Pittman** two months *after* Wake HOA Management was terminated on July 31, 2024 (Page 7)! Furthermore, Section 5 (Page 2) admits that in late 2024, the Developer was just then agreeing to pay **$4,200.00 for the 2023 calendar year**! (The sloppy cut-and-paste document also contradicts itself between a 48-month term in Section 4 and a 2024–2026 schedule in Section 5, and skips Section 18 entirely, jumping from 17.4 to 19.5).
- **A 9.59% Dues Hike for Homeowners vs. a 4.17% Rent Hike for the Developer (And Shifting the Rent from Reserves to Operating):** For 2027, the Board hits homeowners with a **9.59% increase (+$70/yr)** while proposing to raise the Developer's rent by just **$16.67/month (+4.17%, from $4,800 to $5,000/yr)**—which the Oct 27 eBlast admits is not even signed or authorized yet! Moreover, in the 2025 Audit (Page 4), the $4,800 rent was credited to the **Reserve Fund**, whereas on the 2027 Budget Spreadsheet, the Board shifts that rent into the **Operating Fund** (`41-4105-00`).

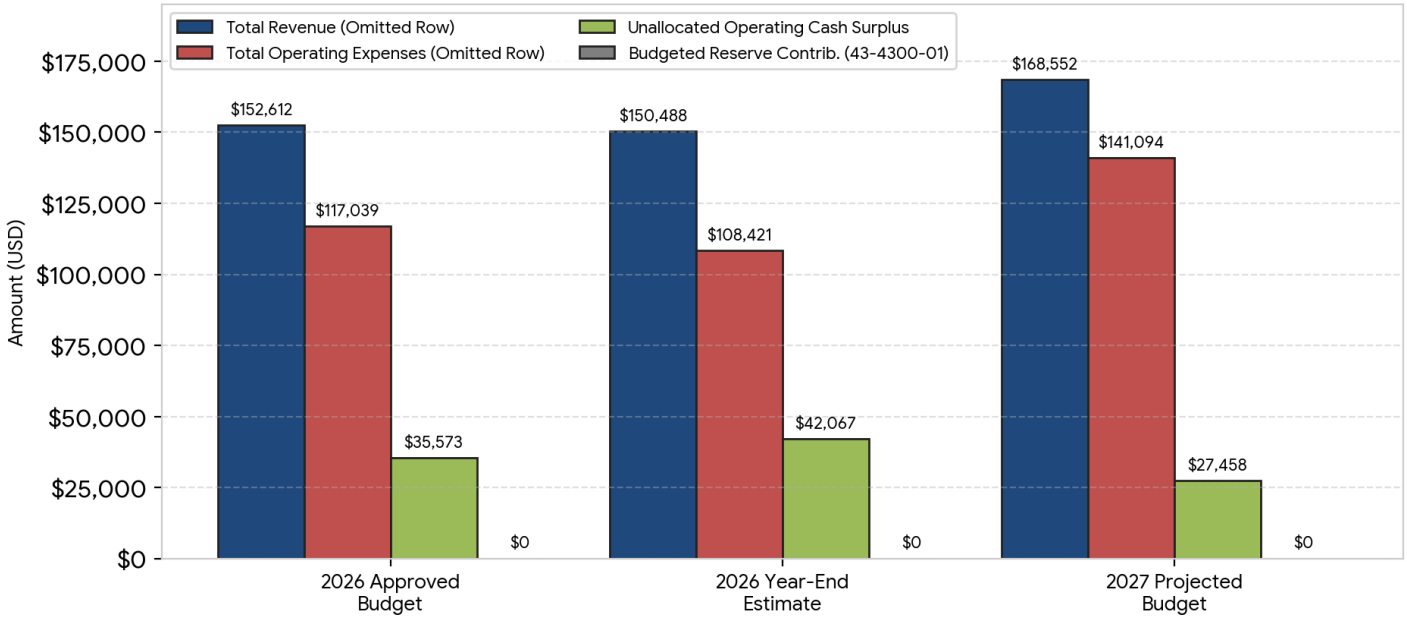
6. Reconstruction of the 2027 Budget Spreadsheet (Omitted Totals & Preserve West Voting Dilution)

The Board omitted the **"Total Income"** and **"Total Expense"** rows from `Spreadsheet 2A`. Summing every line item exposes why:

GL Account / Category	2026 Approved	2026 YE Estimate	2027 Projected	Forensic Significance
40-4010-00 General Assessments	$147,460.00	$144,367.00	$163,200.00	$70 hike on 202 existing homes (+$14,140) + only $1,600 (2 lots) from Preserve West!
40-4065-00 Capital Contribution ($300 Fee)	$0.00	$0.00	$0.00	Wiped to $0 despite Apr ($6,000) refunds, Sep +$6,450 plug & Oct 20 letter claiming PW fees!
41-4105-00 Rental Fees & Other Income	$5,152.00	$6,121.00	$5,352.00	Includes $4,800/$5,000 Clubhouse rent (shifted from Reserves) + $1.00 Pond/Trail placeholders.
TOTAL REVENUE (OMITTED BY BOARD)	**$152,612.00**	**$150,488.00**	**$168,552.00**	**Omitted from official spreadsheet sent to homeowners on Oct 20, 2026.**
60-6040 / 67-6760 / 75-7510 (Mulch/Club/Soc)	$12,000.00	$250.00	$8,750.00	Board spent $0 on mulch, $50 on clubhouse maint, and $200 on social in 2026.
80-8410-00 Legal Expense	**$10,000.00**	**$5,283.94**	**$20,000.00**	**Doubled by +$10,000 (eating 70.7% of existing owners' dues hike) despite $5,283.94 estimate!**
80-8460-00 Accounting Fees - Other	**$100.00**	**$1,550.64**	**$1,600.00**	**The $9,000.00 BRC audit fee claimed in the Oct 18 eBlast is 100% missing from 2026 estimates!**
All Other Operating Expenses (Summed)	$94,939.00	$101,336.29	$110,744.00	Includes $5,113.31 in Mgmt Other Fees (with $2,100 Feb discovery fee) & $1,200 Debit Card line.
TOTAL OPERATING EXPENSES (OMITTED)	**$117,039.00**	**$108,420.87**	**$141,094.00**	**2026 operating expenses ran $8,618.13 UNDER budget, disproving "rising costs" claim!**
NET UNALLOCATED OPERATING SURPLUS	**+$35,573.00**	**+$42,067.13**	**+$27,458.00**	**+$32,673.13 expense bloat in 2027 shrinks the operating surplus from $42k down to $27k!**
	$0.00	**$0.00**	**$0.00**	

43-4300-01 Reserve Contribution				**$0.00 budgeted for Reserves across all 3 columns despite $99.7k–$120.1k reserve shortfall!**

Figure 3: Reconstruction of Omitted "Total" Rows on the 2027 Budget Spreadsheet (Spreadsheet 2A)



7. Master 18-Year Forensic Chronology (2008–2026) & Controlling NC Law

- **2008–2016 (BearPaw Management Self-Dealing):** Declarant Wayne Bailey operated BearPaw Management, extracting $500 of $525 in homeowner dues and charging rent while forcing the HOA to pay all Clubhouse overhead. Dissolved after a 1,500-page NCREC complaint and handed to George Pittman (Wake HOA Management).
- **Aug 2019 – Jan 2024 (The 4-Year $38,000 "Ghost Cash" Gap):** Matured BB&T Reserve CD ($38,376.88) deposited into Operating #4431 on 8/19/2019; -$38,000 wiped off CINC Operating Equity in Dec 2019/Jan 2020 without a P&L entry; actual bank cash sat ~$38,000 higher than reported on monthly Balance Sheets for 48 consecutive months until +$38,019.67 was plugged back into CINC in Jan 2024.
- **2019–2024 (Six Years of $0 Budgeted Reserve Contributions & Electronic Raids):** $0.00 budgeted P&L reserve contributions for 6 straight years; electronic transfers from Reserve #4449 to Operating #4431 of $9,588.00 (1/15/2020), $9,740.94 (9/24/2020), and $14,187.56 in 6 transfers on a single day (11/19/2021); $300 closing fee transfers halted after 9/15/2022; $15,107 in unexplained checks cleared Nov 2022 during omitted P&L months.
- **Jul 2024 – May 2026 ($20,855.08 Float & $17,281.25 / $12,481 Loan Cover-Up):** $20,855.08 stranded in Old Operating #4431 at 7/31/2024 transition (less 1 mo recurring bills of $3,573.83 = $17,281.25). Carried as `20-5110-00 Loan from Reserves` ($17,281.25) through Apr 2026 before CAM erased it into Reserve Retained Earnings in May 2026—now proven false by BRC's audited 12/31/2025 Balance Sheet showing $12,481 still owed to Operating!
- **2026 Commingling & Ledger Shuffles:** Account `4065` booked ($6,000.00) in negative revenue (twenty $300 refunds) in Mar/Apr 2026, plugged with +$6,450.00 in Sep 2026, and wiped to $0.00 on the 2027 budget; $178.21 in unbudgeted street lights (`7030`) shifted to Common Building Gas (`7050`) in Sep 2026; post-annexation legal bills surged to $2,853.13 (Jul) and $5,782.00 (Sep).
- **Controlling North Carolina Law:**
  - **N.C.G.S. § 47F-3-103(a) & § 47F-3-105 / *Conleys Creek* (255 N.C. App. 236) / *Governors Club* (152 N.C. App. 240):** Personal director fiduciary liability for favoring declarant interests; authority to terminate unconscionable declarant leases; tolling of statute of limitations under § 47F-3-111(c).
  - **N.C.G.S. § 47F-1-104(c) & *Armstrong v. Ledges* (360 N.C. 547):** Prohibits using annexation/voting devices (50+ developer lots annexed while paying dues on only 2 lots) to evade statutory protections or shift developer burdens onto existing homeowners.
  - **N.C.G.S. §§ 47F-3-118, 55A-8-31(d), 55A-16-01, 55A-16-02, 55A-16-04(c), 55A-16-20(a):** Disqualifies conflicted director votes on the developer lease; mandates production of the withheld CPA Management Letter and attachment of written member inquiries to permanent corporate records.

8. Instant Rebuttals to Board Spin & The 7 Written Questions for the Oct 29 Meeting Record

How to Crush the Board's 3 Likely Deflections Tomorrow Night (Oct 29 at 6:30 PM):
1. If they claim "The $27,458 unallocated surplus at year-end will go to Reserves": Point out that their own spreadsheet shows a **$42,067.13 surplus in 2026 before any dues hike**—and by bloating 2027 operating/legal expenses by +$32,673, they are *shrinking* the surplus to $27,458, which is less than half of the **$56,243–$59,000** Giles says is required in 2027!
2. If they claim "Page 4 of the Audit shows $0 Total Revenue in the Replacement Fund, or the -$132,675 restatement is just a GAAP rule": Point to the 4 lines directly above Total Revenue on Page 4 proving **$35,612** ($29,488 assessments + $4,800 rent + $1,324 interest) was funded into Replacement Fund `Contract liabilities` under ASC 606 (raising net Reserves from $132,675 to $168,287 and Reserve cash by +$22,215 on Page 5)—and note that ASC 606 became mandatory on **January 1, 2019**, proving the HOA failed to follow GAAP for 6 straight years!
3. If they claim "Preserve West lots don't pay dues until sold to homeowners": Ask why the Board allowed the Developer to annex **50+ lots right now** to wield 50+ votes at the November 5 budget ratification meeting while paying dues on only **2 lots ($1,600)**!

Protocol for the Floor (Oct 29 at 6:30 PM): (1) Turn on your phone voice recorder (legal under N.C.G.S. § 15A-287 one-party consent); (2) Hand signed Copy #1 of the 7 Written Inquiries to the Board Secretary on the record pursuant to N.C.G.S. § 55A-16-01; (3) Read the 7 questions aloud from Copy #2; (4) Email the PDF of the signed questions to the Board & CAM immediately after adjournment.

1. **False 2025 Reserve Claim vs. -$35,192 Loss (Audit pp. 1, 4, 5, 9):** Why did the Board claim on Oct 18 that 2025 reserves were not funded due to a member's lawsuit when Pages 4–5 of BRC's Audit prove homeowners funded $35,612 into Reserves (+ $22,215 cash added & $13,397 loan repaid), while the Operating Fund ran a -$35,192 deficit driven by $48,407 in Professional Fees (41.6% of revenue) and 2024 required a -$132,675 GAAP restatement?

2. **Unlawful May 2026 Balance Sheet Plug ($17,281.25 / $12,481, Audit p. 3):** Page 3 of BRC's Audit certifies that $12,481 of the $180,768 Reserve cash is owed back to Operating (`Due to operating fund: $12,481`), leaving net Reserves of $168,287. Why did management erase that loan in May 2026 to inflate Reserve Retained Earnings to $180,768.44, and why did the Board use that falsified figure on Oct 20 to understate our reserve shortfall by $12,481?
3. **32-Month Concealment of the Feb 2024 "DRAFT" Giles Study (Giles App. A, pp. 1, 4–5, 11–13):** Why did the Board hide the Feb 20, 2024 Draft Giles Study (6 MB) for 32 months—uploading the old 2019 study (2 MB) in Aug 2025 instead—and why did the Board cite this study to hike dues while ignoring its recommendation to contribute $56,243–$59,000 in 2027 (budgeting $0.00), misreading the 2025 year-end balance ($269,661) as the 2026 benchmark ($283,836–$293,040), and skipping $40,019 in scheduled 2026 repairs?
4. **Withheld CPA Management Letter (Audit p. 2):** Why did the Board withhold BRC's Management Letter on internal control deficiencies ("recommendations for improvements") from the Oct 28 upload in violation of the Oct 21 statutory demand, and will you post it tonight?
5. **Omitted Budget Totals, $42,067.13 Surplus, Doubling Legal Fees & Missing $9,000 Audit Fee:** Why did the Board omit the Total rows on Spreadsheet 2A (hiding a $42,067.13 operating surplus in 2026), use 70.7% of our dues hike to double Legal Expense to $20,000 despite a $5,283.94 estimate for 2026, and omit the $9,000 BRC audit fee from the 2026 estimate?
6. **Unconscionable Garner Road Clubhouse Lease ($400/Mo & 100% Free Utilities):** Why does the 2024 Developer Lease (notarized by George Pittman in Sep 2024 and admitting 2023 rent wasn't paid until late 2024) give the Developer a Preserve West sales office for $400/mo while forcing homeowners to pay 100% of utilities, taxes, HVAC, internet, and insurance free of charge—and why raise homeowner dues 9.59% while raising Developer rent just 4.17% (+$16.67/mo)?
7. **Preserve West Voting Dilution (50+ Lots Annexed vs. 2 Lots Paying Dues):** Why did the Board allow the annexation of 50+ Preserve West lots to inflate the 51% voting threshold needed to reject the budget on November 5, while budgeting only $1,600.00 in 2027 assessments from Preserve West (just TWO lots), forcing existing homeowners to pay 99% of the Association's dues?