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**Jun 27 2023**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM HORRY COUNTY  
Court of Common Pleas

William H. Seals, Jr., Circuit Court Judge

Appellate Case No.: 2022-001529

Frederick E. Brown, Charles O. Pakosta, Conrad A. Calvano, Gayle N. Scott, and Philip D. Cox, individually and derivatively on behalf of Myrtle Beach Resort Homeowners' Association, Inc., and on behalf of all other similarly situated Co-owners, and Lori Niedzwiecki, and Robert S. Rosencrans, individually and derivatively on behalf of the Myrtle Beach Resort Homeowners' Association, Inc. for its right and benefit.....Appellants,

v.

Jeffery L. Richardson and Nancy L. Moore, individually and as current members of the Board of Directors for Myrtle Beach Resort Homeowners' Association, Inc., and Peter A. Grusauskas and Jim Perkins, individually and as former members of the Board of Directors for Myrtle Beach Resort Homeowners' Association, Inc.....Respondents,

and

Myrtle Beach Resort Homeowners' Association, Inc.....Nominal Respondent

**RECORD ON APPEAL  
VOLUME 4**

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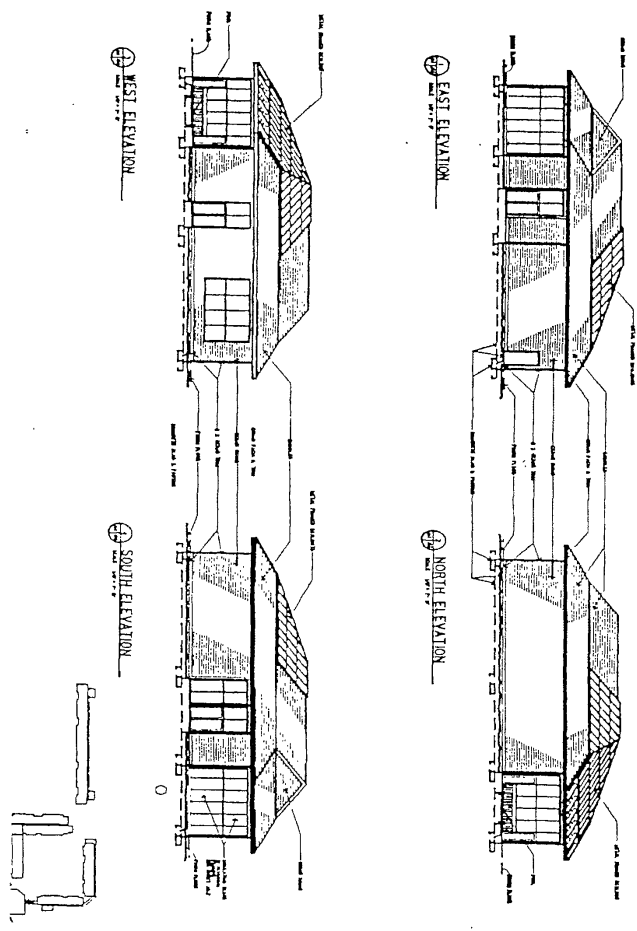
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DESIGNER: [REDACTED] CHECKED BY: [REDACTED] APPROVED BY: [REDACTED]	
CONTRACTOR: [REDACTED]	
ARCHITECT: [REDACTED]	
ENGINEER: [REDACTED]	
PLUMBER: [REDACTED]	
ELECTRICIAN: [REDACTED]	
MECHANICAL: [REDACTED]	
PAINTER: [REDACTED]	
ROOFER: [REDACTED]	
OTHER: [REDACTED]	

EXHIBIT 3  
BY-LAWS OF THE MYRTLE BEACH RESORT FIVE SEASONS CENTRE  
COUNCIL OF CO-OWNERS

BY LAWS OF  
MYRTLE BEACH RESORT FIVE SEASONS CENTRE  
COUNCIL OF CO-OWNERS

ARTICLE I  
Name

The name of the Association shall be the MYRTLE BEACH RESORT FIVE SEASONS CENTRE COUNCIL OF CO-OWNERS, INC.

ARTICLE II  
Offices

The principal office of the Association shall be located at the Myrtle Beach Resort Five Seasons Centre Council of Co-Owners, Horry County, South Carolina. The Association may have other offices within and without the State of South Carolina as the Board of Directors may determine or as the affairs of the Association may require from time to time. The Association shall have and continuously maintain in the State of South Carolina, a registered agent whose office shall be located in the State of South Carolina. The registered agent may be changed from time to time by the Board of Directors.

ARTICLE III  
Purpose

The purpose of this Association shall be to provide a collective government form of administration for the Co-Owners of the Myrtle Beach Resort Five Seasons Centre Council of Co-Owners (the "Regime") to manage and control said Condominium and the activities of the Units Owners therein and of all persons using or occupying the facilities of the said Condominium and all things pertinent to and/or related thereto and to carry out all activities, promulgate all Rules and Regulations and to have all responsibilities and purposes that are given to the Association in the Master Deed of the Myrtle Beach Resort Five Seasons Centre Council of Co-Owners (hereinafter called the "Master Deed") in the South Carolina Horizontal Property Regime Act, Title 27, Chapter 31, Code of Laws of South Carolina (1976), (the "Act") and in these By-Laws, and to be the Association for this Regime as defined and called for in the Act and the Master Deed.

ARTICLE IV  
Definitions

All terms and phrases used herein shall, unless the context otherwise requires, have the same definition and meaning as set forth in the Master Deed and/or in The Act, as the case may be.

ARTICLE V  
Members

Each and every Co-Owner of an Apartment or an interest in a Unit in the Regime shall be a Member of this Association. Further, there shall be appurtenant to each Apartment in the Regime the number of votes assigned in the Master Deed which shall be voted collectively by the Voting Member of that Apartment as set forth in the Master Deed. Upon the sale, conveyance, devise or other transfer of any kind or nature of any Apartment, such subsequent transferee shall automatically become a member hereof and likewise the vote appurtenant to the Apartment shall automatically pass and the membership of the transferor immediately terminated whether any membership certificate or voting certificate be

EXHIBIT 3-1

transferred or not; provided, however, the Association shall for all purposes be entitled to rely upon the right to membership and voting rights of the person shown as Co-Owner of an Apartment in its records until notified of such transfer by delivery of written notice thereof to the secretary of the Association.

ARTICLE VI  
Application

All present and future Co-Owners, tenants, future tenants, agents, servants, employees, guests, invitees and any other person using the facilities of the Regime or occupying any Apartment thereof shall be and are hereby subject to all matters, Rules and Regulations set forth in these By-Laws, Rules and Regulations promulgated by the Board of Directors hereof, and all things set forth in the Master Deed and in The Act.

A mere acquisition or rental of an Apartment or use of the facilities of the Regime shall signify these By-Laws and all Rules and Regulations and provisions contained within the Master Deed, the Act, or promulgated by the Board of Directors are accepted, ratified and shall be complied with.

ARTICLE VII  
Voting Majority

Section 1. There is hereby assigned to each Apartment the number of votes as described and assigned in the Master Deed which shall be voted by the voting member thereof as described in the Master Deed. The vote so assigned to each may not be split in any fashion. If one person is the Co-Owner of an Apartment, he shall be the Voting Member. If an Apartment be owned by more than one person, they shall designate one of them as the Voting Member and notify the Secretary in writing of such designation. In the event a corporation owns an Apartment, the corporation shall designate one agent thereof as the Voting Member and so notify the Secretary in writing. In the case of multiple or corporate ownership of an Apartment, the vote appurtenant thereto shall not be exercised until written designation of the Voting Member has been delivered to the Secretary. The Voting Member so designated shall remain the Voting Member, entitled to cast the vote of that Apartment on all matters to come before the Association for vote until the Secretary be given written notice of change. The vote assigned to each Apartment represents that percentage value of that Apartment as opposed to the Association as a whole as then comprised.

Section 2. As used in these By-Laws, the term Majority of Co-Owners shall mean those Co-Owners who are Voting Members holding fifty-one (51%) percent of the total vote of all the Co-Owners of the Regime as then constituted and thereby represents fifty-one (51%) percent of the basic value of the Submitted Property as a whole. Unless otherwise required herein, in the Master Deed or in the Act, majority vote shall constitute fifty-one (51%) percent of the total outstanding votes of all Co-Owners and shall be required to adopt any decisions affecting the Regime.

Section 3. Except as otherwise provided or required in these By-Laws, the Master Deed or the Act, the presence in person or by proxy of a Majority of Co-Owners, as is defined above, shall be required to constitute a quorum.

Section 4. Votes may be cast in person or by proxy. Each proxy shall be in a form as determined by the Board of Directors and must be filed with the Secretary at least fifteen (15) days before the appointed time for a

EXHIBIT 3-2

regular meeting and at least one day before the appointed time for a special meeting.

Section 5. Membership in the Association is not transferable or assignable (except as the same may be assigned by way of proper proxy properly executed). Transfer of a Co-Owner's Unit or his interest therein in any fashion shall automatically terminate his membership herein and all his voting rights.

ARTICLE VIII  
Administration

Section 1. The Association shall be managed and governed by a Board of Directors (herein called the Board) consisting of five (5) members. The initial Board of Directors shall be appointed by the Declarant as the initial Board of Directors and shall consist of three (3) members (who need not be present or future Co-Owners) and who shall serve until the Declarant calls a meeting of the Co-Owners to relinquish control and until their successors are elected and qualified. The Board of Directors to replace the initial Board of Directors appointed by the Declarant shall be nominated and elected at the organizational meeting called by Declarant to relinquish control. Of the total Directors to be then elected, the number of nominees equal to one-half (1/2) of the Board to be elected plus one and receiving the most votes shall be elected to the Board for a two-year term; the nominees receiving the next highest number of votes equal to the remaining positions on the Board shall be elected for a one-year term. Directors elected at subsequent elections shall be elected for a term of two years, and shall be elected at the regular Annual Meeting of the Association. At such regular Annual Meetings, the voting members shall vote for the number of Directors necessary as there are vacancies on the Board; provided, however, there shall be no cumulative voting unless required by law. The candidates receiving the most votes shall be declared elected as members of the Board to fill the Board positions vacant at that time. Board members shall serve until their successors are elected and qualified.

Section 2. Any Director (other than members of the initial Board appointed by Declarant) who shall cease to be a Co-Owner or who shall be delinquent in payment of any common expenses or Assessments (as defined in the Master Deed and/or in the Act) shall automatically cease to be a Member of the Board.

Section 3. Each Board Member (other than members of the initial Board appointed by Declarant) must be a Co-Owner (or the Voting Member for a corporate Co-Owner) and in good standing, current in payment of all fees, Assessments and Common Expenses.

ARTICLE IX  
Board of Directors

Section 1. Consistent with these By-Laws, the Board shall:

A. Transact all Association business and prescribe the Rules and Regulations for the use of the Regime and all facilities and property thereof and may appoint such officers, clerks, agents, servants or employees as it may deem necessary in its sole discretion and may fix their duties and compensation.

B. Annually set the Common Expenses for the operation of the Condominium.

EXHIBIT 3-3

C. Fix, impose and remit penalties for violations of these By-laws and Rules and Regulations of the Association.

D. Serve without compensation.

E. Elect from the Board within thirty (30) days after each Annual Meeting a President, Vice President, Secretary and Treasurer, all of whom shall serve without remuneration. In the event of a vacancy in any one of these offices during the year, the Board shall have the power to elect a member of the Board in good standing to fill the vacancy for the unexpired term. In the event of a vacancy on the Board, the President shall have the power to appoint with the approval of the majority of the Board, a member in good standing to fill the vacancy until the next Annual Meeting.

F. Carry out all other duties and obligations imposed and exercise all rights granted it by the Declaration and Exhibits thereto and The Act.

Section 2. There shall be at least one regular meeting of the Board quarterly at a time designated by the President. The President or two members of the Board may call special meetings of the Board as are deemed necessary or desirable and in the best interest of the Association.

Section 3. Notice of regular and any special meetings of the Board of Directors shall be given at least twenty-one (21) days previously thereto by written notice delivered personally or sent by mail to each Director at his address as shown in the records of the Association. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed with postage thereon prepaid. Any Director may waive notice of any meeting. The attendance of a Director at any meeting shall constitute a waiver of notice for such meeting except for the express purpose of objection to the transaction of any business because the meeting is not lawfully called or convened. Neither business to be transacted nor other purpose of any regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting unless specifically required by law or by these By-Laws.

Section 4. A simple majority of the members of the entire Board shall constitute a quorum for the purposes of transacting Association business and the affirmative vote of a simple majority of the entire Board shall be necessary to pass any resolution or authorize any act of the Association unless a different vote is required herein, in the Declaration, its Exhibits and/or The Act. Absentee voting is permitted provided such Director register his vote in writing with the Secretary within twenty-four (24) hours after the termination of such meeting.

Section 5. Any action required by law to be taken at any meeting of the Directors or any action which may be taken in a meeting of the Directors may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by two-thirds (2/3) of the Directors.

Section 6. The Board of Directors shall annually on or before November 15th of each year, prepare a budget for the up-coming calendar year to include such sums as it deems necessary and adequate to provide for the Common Expenses of the Regime and such other expenses as are deemed necessary or appropriate expenses of the Regime. The Board of Directors shall thereafter on or before December 1st deliver (which delivery may be by mail) the budget for the up-coming year together with statement of the amount(s) due from each Co-Owner for that year and the date or dates upon which payment

EXHIBIT 3-4

or payments are due to the Co-Owners. Thereafter, should any increase or decrease be determined appropriate by the Board of Directors in Assessments to be paid by Co-Owners, the Board shall notify all Co-Owners so affected at least thirty (30) days prior to the time such Assessment so changed shall be due. The Association shall have a lien upon each Apartment together with the Common Elements and Common Surplus appurtenant thereto for payment of all Assessments not paid when due in the amount of such unpaid Assessments together with the interest thereon from the date due together with the cost of collection thereof including a reasonable attorney's fees. Such shall be collected and/or lien foreclosed upon in the manner provided for in the Master Deed and Exhibits thereto and/or in the Act.

ARTICLE X  
Officers

Section 1. The principal officers of the Association shall be a President, Vice-President, Secretary and Treasurer, all of whom shall be elected by and from the Board. The Directors may appoint assistant treasurers and secretaries and such other officers as in their judgment may be necessary. No two offices (except for Assistants) may be held by the same person unless there be less directors than officers to be elected in which case one may hold more than one (1) office.

Section 2. The officers of the Association shall be elected annually by the Board of Directors immediately following the annual meeting of the Association and shall serve for the twelve (12) month period next succeeding. New offices may be created and filled at any meeting of the Board of Directors. Each officer shall hold office until his successor shall be duly elected and shall qualify.

Section 3. The President shall be the principal executive officer of the Association, shall preside at all meetings of the Board and all meetings of the membership, shall appoint committees and shall have general charge of and shall control the affairs of the Association according to such rules and regulations as the Board shall determine.

Section 4. There shall be a Vice-President who shall perform such duties as may be assigned to him by the Board. In case of death, disability or absence of the President, he shall be vested with all the powers and perform all duties of the President. The Vice-President shall also be chairman of the Operations Committee.

Section 5. There shall be a Secretary who shall record and keep possession of the minutes of the meetings of the Board and meetings of the Association and who shall perform or have performed the correspondence of the Board and shall have such further duties as may be assigned to the Secretary by the Board.

Section 6. There shall be a Treasurer who shall keep the funds of the Association and shall disburse them to meet the ordinary and usual expenses of the Regime and for other purposes as required by the Master Deed, the Act and/or upon order of the Board of Directors after such disbursement order has been entered in the minutes of the Board at a duly constituted meeting and shall have such other duties as may be assigned to him. He shall render a financial report to each regular meeting of the Board and to the Annual Meeting of the Association.

Section 7. If required by the Board of Directors, assistant treasurer(s), if any, shall be bonded at the expense of the Association. The assistant treasurers and the

EXHIBIT 3-5

assistant secretaries, in general, shall perform such duties as shall be assigned to them by the Treasurer or the Secretary or by the President. Any officer elected or appointed by the Board of Directors may be removed by the Board of Directors upon a two-thirds (2/3) majority vote whenever in its judgment the best interests of the Association will be served thereby, but such removal shall be without prejudice of the contract rights, if any, of the officers so removed.

Section 8. A vacancy in any office because of death, resignation, removal, disqualification or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

#### ARTICLE XI Meetings

Section 1. There shall be an Annual Meeting of the Association held during the first quarter of the calendar year and at a time and place designated by the President. Notice of the annual meeting shall be given to all Co-Owners by mail at least twenty days prior to the date of the meeting.

Section 2. Special meetings of the Association may be called by the Board. Also, upon request of Voting Members totaling fifty (50%) percent of the total votes of the Association in writing made to the Secretary stating the purpose therefor, a special meeting shall be called by the Secretary of the Association to be held within forty (40) days thereafter. Special meetings of the Association may be held at the call of the President upon five days notice by mail to all members. Such notice shall state the purpose for which the special meeting is called and no other business shall be transacted at said meeting.

Section 3. Voting Members holding fifty-one (51%) percent of the total votes of the Association must be present personally or by proxy to constitute a quorum at all Annual and Special meetings of the Association. Should voting members holding fifty-one percent of the vote not be present or constitute a quorum at an Annual Meeting of the membership, a special Board meeting may be called by the President or the Secretary and by action of two-thirds (2/3) of the entire membership of the Board of Directors a quorum may be declared provided there are voting members holding at least one-third (1/3) of the total outstanding votes of the Association present and that the business to be conducted at such meeting does not require that a greater number of voting members be present.

Section 4. Any action required by law to be taken at a meeting of the Association or any action which may be taken in a meeting of the Association may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by Voting Members holding not less than sixty-seven (67%) percent of the entire votes entitled to vote on the subject matter thereof and further provided the same is not otherwise prevented by these By-Laws, the Declaration or the Act.

Section 5. When notice to Co-Owners is required, the mailing of such notice to the last known address of the Co-Owner in the Association's records shall constitute notice.

EXHIBIT 3-6

ARTICLE XII  
Obligations of Co-Owners

Section 1. Each Co-Owner is obligated to pay all annual, monthly and special Assessments and charges levied or imposed by the Association and/or through its Board of Directors for such purposes as are enumerated in the Declaration, in the Act and in these By-Laws. Such charges or Assessments so levied shall be paid on or before the date(s) affixed by resolution of the Board. Written notice of the change in any Assessment and the date the payment shall be paid shall be sent to each Co-Owner at the address given by such Co-Owner to the Secretary of the Association. All common Assessments shall be prorated dependent upon each Co-Owner's percentage of ownership in the Common Elements as is determined and set forth in the Master Deed and the Exhibits thereto. Such Assessments shall include monthly payments to a general operating reserve in a reserve fund for replacements and all other things as required or set forth in Declaration, the Act and/or these By-Laws.

Section 2. The amount of Assessment levied shall be paid on or before the date due. If not so paid, the amount of such Assessment plus any other charges thereon including a late payment charge of ten (10%) percent of the payment due or ten and no/100 (\$10.00), whichever is greater (but in no event more than the maximum limit allowed by law), and costs of collection, including attorney's fees unless prohibited by law, shall constitute and become a lien on the Co-Owner's Apartment and share of the Common Elements and Common Surplus appurtenant thereto. Such lien rights shall be as provided for and in accordance with the terms and provisions of the Master Deed and the Act. The notice of Assessment which shall state the amount of such Assessment and such other charges and give the number of the Apartment which has been assessed shall be mailed to the Co-Owner thereof. Upon payment of such said Assessments and charges or other satisfaction thereof, if notice of a lien has been recorded, the Board shall, within a reasonable time, cause to be recorded a notice stating the satisfaction of said lien. The priority of the lien hereinabove set forth shall be as provided in the Master Deed and/or the Act.

Section 3. The lien provided herein may be foreclosed by suit by the Board acting on behalf of the Association in like manner as a mortgage, deed of trust or other lien upon real property securing a debt and in accordance with the provisions of the Act and in such event, the Association may be a bidder at the foreclosure sale. The Association through its Board or any duly authorized agent or designee may file notice of and foreclose such lien and also pursue any other remedy against any Co-Owner owing money which is available by law or in equity for the collection of debt.

Section 4. Upon request and payment as provided in the Act, the Board shall within the time set by the Act furnish a statement certifying that all Assessments then due have been paid or indicating the amount then due.

Section 5. Each and every Co-Owner shall perform promptly all maintenance and repair work required of individual Co-Owners by the Master Deed, the Act or these By-Laws or which is within his own Apartment which, if omitted, would affect the Master Deed in its entirety or in part belonging to some other Co-Owner(s). The Association shall be responsible for all maintenance and repair work required of the Association in the Master Deed, these By-Laws and/or the Act.

A Co-Owner shall reimburse the Association if there be any expenditures incurred in repairing and/or replacing any Common Elements or facilities damaged by such Co-Owner, his family, guests, invitees or lessees.

EXHIBIT 3-7

Section 6. Each Apartment, other than any Apartment owned by Declarant or designated as a Commercial Unit shall be utilized for residential purposes only, provided, however, such shall not prevent rent or lease of his Apartment by a Co-Owner to a lessee or rentor to use for residential purposes.

Section 7. No Co-Owner shall make any structural modifications or alterations in his Apartment or upon any Common Elements without the approval of the Association through the Board of Directors.

Section 8. No Co-Owner, his family, guests, invitees, or lessees shall place or cause to be placed in any common area or facilities any furniture, package(s) or object(s) of any kind. Such areas shall be used for no purpose other than normal transit through them and/or use of the facilities provided; provided, however, the provisions hereof shall not prevent the Co-Owner of a Commercial Unit from using portions of the Common Elements adjoining such Commercial Unit for uses normally attendant to such Commercial Unit, provided such does not unduly interfere with normal use of such Common Elements by other Co-Owners, their families, guests, invitees and lessees.

Section 9. Each Co-Owner shall and does hereby grant right of entry to the Board or its duly authorized agent in the case of any situation provided for in the Master Deed or the Act whether such Co-Owner is present at the time or not.

Section 10. No occupant of an Apartment shall post any advertisements or posters of any kind in or on the Regime property except as authorized by the Board or as is permitted in the Master Deed; provided, however, this provision shall not be applicable to Declarant or its assigns during the period it is managing, renting or selling units or prevent the owner of any Commercial Unit from displaying one or more signs (which must be architecturally and aesthetically harmonious with the appearance of the Property).

Section 11. Occupants of Apartments shall use extreme care about making noises or the use of musical instruments, radio, television and/or amplifiers that may disturb other occupants and in the event so notified by the Board or its duly authorized agent such occupant shall immediately cease and desist such activity.

It is prohibited to hang garments, rugs, etc. from the windows or from any sides or from any of the building or parts thereof.

It is prohibited to dust rugs, etc. from the windows or to clean rugs, etc. by beating on the exterior part of any of the building.

It is prohibited to throw or place garbage or trash outside the disposal installation(s) provided for such purposes.

Section 12. No Co-Owner, occupant or lessee of an Apartment shall install wiring for electrical or telephone installation, television antenna, machines or air conditioning units, etc. on the exterior of the buildings or that protrude through the walls or roof of any building except as authorized by the Board.

Section 13. Nothing herein contained shall limit in any manner the power of the Association and/or Board to issue or promulgate such Rules and Regulations as are deemed necessary or desirable for the use, occupancy and enjoyment of the Regime by the Co-Owners and/or occupants thereof.

EXHIBIT 3-8

Further, all obligations imposed by the Master Deed, its Exhibits and/or the Act are hereby incorporated by reference as further obligations as fully as if herein set forth.

Section 14. The Board of Directors shall have the right to enter into such agreements as it deems desirable to provide common services or to lease equipment for the use and enjoyment of the Co-Owners or any one or more Co-Owners. Such rights shall include but not be limited to the right to enter into lease and/or use and/or purchase agreements with third parties to provide recreational equipment and facilities and/or to install, sell and/or lease to the Regime an MATV system and/or cable television system and/or television sets and/or telephone systems and sets. Furthermore, Declarant shall have the right to enter into such agreements on behalf of and for the Association, its Board and the Co-Owners which agreement(s) shall be binding upon the Association and each and every Co-Owner.

#### ARTICLE XIII Mortgages

Section 1. Any Co-Owner who mortgages or grants a lien upon his Apartment or any interest therein shall notify the Board of Directors of the name and address of his mortgagee and the Board shall maintain such information in a book entitled "Mortgagees of Condominium Units."

Section 2. The Board shall, at the request of such mortgagee, report any unpaid Assessments due from the Co-Owner of such Apartment so mortgaged.

Section 3. Any and all Institutional Mortgagees shall have the rights and powers granted unto them by the Master Deed and/or the Act and nothing herein contained shall supersede such rights and powers. In the event any right or duty or power herein delegated or granted unto the Association or Board by these By-Laws is given to an Institutional Mortgagee by reason of the Master Deed and/or the Act or should that Institutional Mortgagee by reason of the Master Deed and/or the Act have any voice in such decisions, then such Institutional Mortgagee is hereby given and granted such rights and powers and vote in such decisions as are thereby granted.

#### ARTICLE XIV Rules and Regulations

The Board of Directors shall be and is hereby empowered to promulgate and issue such Rules and Regulations from time to time and to amend and alter any Rules and Regulations theretofore promulgated and issued as it may in its sole discretion determine necessary and desirable for the continued maintenance and upkeep, use and enjoyment of any Apartments, common areas or facilities contained within the Regime, subject, however, to such restrictions upon such as contained in the Master Deed, its Exhibits and the Act together with any Rules and Regulations issued thereunder. Such Rules and Regulations shall be binding upon and enforceable against all Co-Owners, their families, guest, invitees and/or lessees, and all occupants of Apartments.

#### ARTICLE XV Contracts, Checks, Deposits, Agreements and Funds

Section 1. The Board of Directors may authorize any officer or officers or agent or agents of the Association to enter into any contract or execute and deliver any

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instrument in the name of and on behalf of the Association and/or the Co-Owners thereof. Such authority may be general or confined to specific instances.

Section 2. All checks, drafts or orders for the payment of notes or other evidences of indebtedness issued in the name of the Association shall be signed by such officer or officers, agent or agents of the Association in such manner as shall from time to time be determined by the resolution of the Board. In the absence of such determination by the Board, such instruments shall be signed by the Treasurer (or duly authorized assistant treasurer) and by the President (or Vice President).

Section 3. All funds of the Association and/or received by it from or on behalf of the Co-Owners shall be deposited from time to time to the credit of the Association at such banks, insurance companies, trust companies or other depository as the Board may select or as the circumstances and purposes of such deposits may require; provided, however, all payments of Common Expenses by Co-Owners shall be paid by the Co-Owners into a lock-box account which shall be owned by the Association and maintained in a federally insured bank, designated by unanimous vote of the Board and concurred in by the Institutional Mortgagee(s) (if any), described in Article X, Section 2 of the Declaration. No payment shall be considered made until delivered into such lock box.

Section 4. The Board may accept on behalf of the Association any contribution, gift, bequest or devise for the general purposes or for any of the special purposes of the Association.

ARTICLE XVI  
Certificates of Membership

Section 1. The Board may provide for the issuance of certificates evidencing membership in the Association of each Co-Owner which shall be in such form as may be determined by the Board. Such certificates shall be signed by the President and by the Secretary and shall be sealed with the seal of the Association, if any. All certificates shall be consecutively numbered. The name and address of each Co-Owner and the date of the issuance of the certificates shall be entered on the records of the Association. If any certificate may become lost, mutilated or destroyed, a new certificate may be issued therefor upon such terms and conditions as the Board may determine.

Section 2. Upon purchase of the Apartment, a certificate of membership may be issued in the name of the Co-Owner thereof and delivered to him by the Secretary. Such certificate shall be non-transferable and shall be immediately surrendered to the Board upon termination of ownership for any reason. Further, should such Co-Owner fail to surrender such certificate upon termination of ownership such termination shall automatically terminate membership in the Association and such membership certificate shall become null and void.

Section 3. Any Co-Owner failing to pay Assessments when due may, in addition to any other remedies available against him, have his membership in the Association suspended by the Board. Any Co-Owner thus suspended shall immediately be notified in writing by the Secretary.

ARTICLE XVII  
Books and Records

Section 1. The Association and the Board shall keep correct and complete books and records of account, in accordance with generally accepted accounting principles, open to inspection by Co-Owners at reasonable times. Such records shall include:

- a. A record of all receipts and expenditures.
- b. An account for each Apartment setting forth any shares of Common Expenses or other charges due, the due dates thereof, the present balance due and any interest in Common Surplus.

The Association shall also keep minutes of the proceedings of the Association, of the Board and committees having any authority of the Board and/or the Association and shall keep at the registered office a record giving the names and addresses of the Co-Owners who are Voting Members.

Section 2. For purposes of voting at all meetings of the Association, that person designated as Voting Member for a particular Apartment shall be conclusively so presumed to be the Voting Member therefor until the Secretary be notified of a change in the Voting Member. The name of the Voting Members entitled to vote at any meeting may not be changed at such meeting without the express permission of the Board. For purposes of this section, deposit of notice in the United States mail prepaid or personal delivery shall constitute delivery.

ARTICLE XVIII  
Miscellaneous

Section 1. Each person elected and qualified as a Director or Officer shall be indemnified by the Association against expenses actually and necessarily incurred by and in connection with the defense by such person of any action, suit or proceeding in which he is made a party by reason of his being a Director or Officer except as to matter as to which he is adjudged to be liable for gross negligence or wilful misconduct. The right of indemnification shall inure to each Director or Officer when such matter occurred during the time that such person was a Director or Officer even though such action takes place after such Director or Officer has been succeeded in office by someone else. Such payment by the Association to the extent not paid by insurance shall be included as a part of the Common Expenses.

Section 2. Any question as to the interpretation of these By-Laws shall be determined by simple majority of the full Board.

Section 3. Robert's Rules of Order shall apply in any meeting of the Board or of the Association unless in conflict with the By-Laws, Master Deed or the Act in which case these By-Laws, the Master Deed and/or the Act shall control.

ARTICLE XIX  
Compliance

These By-Laws are set forth to comply with the requirements of the Act. In case any of these By-Laws conflict with the provisions of the Act, the Provisions of EXHIBIT 3-11

the Act shall apply where no variance is allowed. If variance is allowed, the provisions of these By-Laws shall apply. In the event of any conflict between these By-Laws and the Master Deed, the provisions of the Master Deed shall control.

ARTICLE XX  
Amendments

These By-Laws may be amended by a vote of sixty-seven (67%) percent of the total vote of the Regime unless some other or greater vote is required herein, in the Master Deed and/or in the Act; provided, however, no amendment may be enacted affecting the security or rights of an Institutional Mortgagee. No Amendment may be enacted affecting any right of the Declarant without consent of the Declarant.

ARTICLE XXI  
Dissolution

Termination of the Regime shall automatically dissolve this Association. It may also be dissolved in the manner provided by law. Upon dissolution those funds held by the Association for the Co-Owners shall be turned over to the Association's successor as governing entity of the Regime, or if the Regime be terminated, after payment of all debts and expenses, divided as provided according to the percentage ownership interests of the Co-Owners in the Common Elements and disbursed as provided in the Act and/or the Master Deed, provided, however, the residual of any property of any nature owned by the Association not held by it on behalf of the Co-Owners or any of them, shall, if appropriate, be turned over to one or more organizations which, themselves, are exempt from Federal Income Tax as organizations described in Sections 501(e) (3) and 170(c) of the Internal Revenue Code and from Alabama Income Tax, or to the Federal, State or Local Government for exclusively public purposes.

THESE BY-LAWS are hereby adopted, accepted and fully ratified as the By-Laws of the MYRTLE BEACH RESORT FIVE SEASONS CENTRE COUNCIL OF CO-OWNERS this 18 day of June, 1985.

WITNESSETH:

MYRTLE BEACH RESORT FIVE  
SEASONS CENTER COUNCIL OF  
CO-OWNERS

Marc P. Williams  
Carl Rogers

BY: Art P. H. (Seal)  
ATTEST: Myrtle Beach (Seal)

PROPERTY RIGHTS AND PERCENTAGE OF INTEREST  
MYRTLE BEACH RESORT FIVE SEASONS CENTRE COUNCIL OF CO-OWNERS

Each Co-Owner owns, in addition to his Apartment, an interest in the Common Elements of the Property, which percentage of ownership interest has been determined and computed by taking as a basis the value of each individual Apartment in relation to the value of the Property as a whole. The Regime consists of sixty-six (66) two bedroom Apartments, twenty-one (21) one bedroom Apartments, three (3) Commercial Units, for a total of ninety (90) Units.

The percentage of interest in the Common Elements of each Co-Owner of each Apartment represents the percentage of the total votes of all Co-Owners as set out below. There are three (3) votes appurtenant to each two bedroom Apartment, two (2) votes appurtenant to each one bedroom Apartment, four (4) votes appurtenant to Commercial Unit A, one (1) vote appurtenant to Commercial Unit B and two (2) votes appurtenant to Commercial Unit C. The percentage of the total vote that the vote assigned to each Apartment represents is shown on the chart entitled "Unit Information" in Exhibit 2. The percentage of ownership stated therein represents that Apartment's share in the Common Elements of the Property and share in the Common Elements of the Property and share in the Common Expenses and Assessments and Common Surplus of the Regime.

There are two hundred forty-seven (247) total votes in the Regime. Such voting rights and the percentage of the total vote appurtenant to each Apartment have been computed by taking as a basis the value of each individual Apartment in relation to the value of the Property as a whole. Each two bedroom Apartment has an equal value to every other two bedroom Apartment. Likewise, each one bedroom Apartment has an equal value to every other one bedroom Apartment. The Commercial Unit A has a value twice that of Commercial Unit C. The Commercial Unit B has a value equal to one-half that of Commercial Unit C.

There is appurtenant to each two bedroom Apartment an undivided 1.2150 percent ownership in the Common Elements of the Property and share in the Common Expenses and Assessments and Common Surplus of the Regime. The vote appurtenant to each two bedroom Apartment represents 1.2150 percent of the total vote of all Co-Owners in the Regime.

There is appurtenant to each one bedroom Apartment and to Commercial Unit C an undivided .8097 percent ownership in the Common Elements of the Property and share in the Common Expenses and Assessments and Common Surplus of the Regime. The vote appurtenant to each one bedroom Apartment and to Commercial Unit C represents .8097 percent of the total vote of all Co-Owners in the Regime.

There is appurtenant to Commercial Unit A an undivided 1.619 percent ownership in the Common Elements of the Property and share in the Common Expenses and Assessments and Common Surplus of the Regime. The vote appurtenant to each Commercial Unit A represents 1.619 percent of the total vote of all Co-Owners in the Regime.

There is appurtenant to Commercial Unit B an undivided .3776 percent ownership in the Common Elements of the Property and share in the Common Expenses and Assessments and Common Surplus of the Regime. The vote appurtenant to each Commercial Unit B represents .3776 percent of the total vote of all Co-Owners in the Regime.

In the event of inclusion of Phase I and Phase II (consisting of a total of 105 two bedroom units, 51 one bedroom units and 6 commercial units), there shall then be appurtenant to each two bedroom Apartment in the Regime an undivided .6977 percent ownership in the Common Elements of the Property and share in the Common Expenses and Assessments and Common Surplus of the Regime. In the event of inclusion of Phase II, there will be a total of 430 votes and the vote appurtenant to each two bedroom Apartment will represent .6977 percent of the total vote of all Co-Owners in the Regime. Further, in such an event there shall then be appurtenant to each one bedroom Apartment in the Regime an undivided .4651 percent ownership interest in the Common Elements of the Property and share in the Common Expenses and Assessments and Common Surplus of the Regime. In addition, the two votes appurtenant to each such one bedroom Apartment shall constitute .4651 percent of the total vote of Apartments of the Regime as then constituted (Phases I and II).

Further, in the event of the inclusion of Phase II into the Regime, there shall be appurtenant to Commercial Unit A an undivided .9302 percent ownership interest in the Common Elements of the Property and share in the Common Expenses and Assessments and Common Surplus of the Regime. In such event, the appurtenant undivided ownership interests in the Common Elements of the Property and share in the Common Expenses and Assessments and Common Surplus of the Regime of Commercial Unit B shall be .2308 percent, Commercial Unit C shall be .4651 percent, and each of the three new Commercial Units of Phase II shall be .4651 percent.

In the event of inclusion of Phase I, Phase II and Phase III (consisting of a total of 162 two bedroom units, 90 one bedroom units and 9 commercial units), there shall then be appurtenant to each two bedroom Apartment in the Regime an undivided .4380 percent ownership in the Common Elements of the Property and share in the Common Expenses and Assessments and Common Surplus of the Regime. In the event of inclusion of Phase III, there will be a total of 685 votes and the vote appurtenant to each two bedroom Apartment will represent .4380 percent of the total vote of all Co-Owners in the Regime. Further, in such an event there shall then be appurtenant to each one bedroom Apartment in the Regime an undivided .2920 percent ownership interest in the Common Elements of the Property and share in the Common Expenses and Assessments and Common Surplus of the Regime. In addition, the two votes appurtenant to each such one bedroom Apartment shall constitute .2920 percent of the total vote of Apartments of the Regime as then constituted (Phases I, II and III).

Further, in the event of the inclusion of Phase II into the Regime, there shall be appurtenant to Commercial Unit A an undivided .5839 percent ownership interest in the Common Elements of the Property and share in the Common Expenses and Assessments and Common Surplus of the Regime. In such event, the appurtenant undivided ownership interests in the Common Elements of the Property and share in the Common Expenses and Assessments and Common Surplus of the Regime of Commercial Unit B shall be .1361 percent, Commercial Unit C shall be .2920 percent, and each of the six new Commercial Units of Phase II and Phase III (three in Phase II and three in Phase III) shall be .2920 percent.

In the event of inclusion of Phase I, Phase II, Phase III and Phase IV (consisting of a total of 204 two bedroom units, 120 one bedroom units and 12 commercial units), there shall then be appurtenant to each two bedroom Apartment in the Regime an undivided .3421 percent ownership in the Common Elements of the Property and share in the Common Expenses and Assessments and Common Surplus of the Regime. In the event

of inclusion of Phase IV, there will be a total of 877 votes and the vote appurtenant to each two bedroom Apartment will represent .3421 percent of the total vote of all Co-Owners in the Regime. Further, in such an event there shall then be appurtenant to each one bedroom Apartment in the Regime an undivided .2281 percent ownership interest in the Common Elements of the Property and share in the Common Expenses and Assessments and Common Surplus of the Regime. In addition, the two votes appurtenant to each such one bedroom Apartment shall constitute .2281 percent of the total vote of Apartments of the Regime as then constituted (Phases I, II, III and IV).

Further, in the event of the inclusion of Phase IV into the Regime, there shall be appurtenant to Commercial Unit A an undivided .4561 percent ownership interest in the Common Elements of the Property and share in the Common Expenses and Assessments and Common Surplus of the Regime. In such event, the appurtenant undivided ownership interests in the Common Elements of the Property and share in the Common Expenses and Assessments and Common Surplus of the Regime of Commercial Unit B shall be .1025 percent, Commercial Unit C shall be .2281 percent, and each of the nine new Commercial Units of Phase II, Phase III and Phase IV (three in Phase II, three in Phase III and three in Phase IV) shall be .2281 percent.

EXHIBIT 5  
TELEVISION RENTAL AND SERVICE AGREEMENT

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STATE OF SOUTH CAROLINA )  
 ) TELEVISION RENTAL AND SERVICE  
COUNTY OF HORRY ) AGREEMENT

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of June, 1985, by and between CAPITAL TELECOMMUNICATIONS CORPORATION (hereinafter referred to as "Capital"), and MYRTLE BEACH RESORT FIVE SEASONS CENTRE COUNCIL OF CO-OWNERS, on behalf of itself and each and every Unit Owner thereof (hereinafter referred to as "Renter").

W I T N E S S E T H :

Capital and Renter do hereby mutually agree as follows:

1. Capital will furnish and rent unto Renter, and Renter does hereby rent from Capital, for the term and under the terms and conditions herein set forth, the number and type of television sets and/or equipment herein specified. Said equipment shall be delivered by Capital (with the exception of conduit which is to be supplied by Renter at its expense), in Units located upon premises owned or rented or otherwise lawfully operated by Renter located in the MYRTLE BEACH RESORT FIVE SEASONS CENTRE HORIZONTAL PROPERTY REGIME, (the "Condominium"), County of Horry, State of South Carolina. Capital shall not be liable for delay in, or failure to make, delivery of equipment or installation caused by circumstances beyond its reasonable control, including, but not limited to, acts of God, fire, flood, wars, accidents, labor or different contingencies. The number and types of television sets and/or equipment rented under the terms hereof are as follows and are the model, type and design selected by the Renter as suitable, in its judgment, for Renter's purpose:

- (a) One (1) 19-inch Solid State Television for each residential Unit included in the Condominium;
- (b) One locking furniture swivel for each television set so provided; and
- (c) Cable, access outlets, and distribution equipment and amplification equipment for signal distribution.

All equipment to be prepaid by Capital.

2. SERVICE: Capital shall keep and maintain, or cause to be kept and maintained, at its sole expense, said rented equipment in good operating order, condition and repair during the full term hereof except for damage to or repair to such equipment as might be made necessary by the negligent acts or omissions of the Renter, its agents and/or employees. Capital shall promptly replace any defective set or injured part or parts thereof; provided, however, that in the event replacement of any defective set or sets shall occur, such substituted equipment shall be subject to all the terms hereof. The extent, nature, type channel capacity, periods or the like of cable TV programming service shall be within Capital's sole discretion.

It is the obligation of the Renter to notify Capital of any deficiency in service as rendered by Capital or its service representative. Capital shall not be liable to Renter for any loss, damage or expense of any kind or nature directly or indirectly caused by the television equipment covered hereby, or because of any failure thereof, or because of any interruption of service or loss of use or for any loss of business or damage whatsoever or howsoever caused, and Capital shall in no event be liable for any special or

consequential damages. Renter further agrees there shall be no abatement of rental during the time that may be required for repair, adjustment, servicing or replacement of equipment covered hereby.

3. ASSIGNMENT OF AGREEMENT: Except as provided for herein, this Agreement shall not be assigned by Renter except upon prior written consent of Capital. Capital may assign this Agreement, its rights hereunder and all or any part of the rentals, charges and all other claims or rights to money due or to become due hereunder (except for those charges and rental fees or portions thereof made hereunder by Capital in order to provide service, maintenance and replacement herein required of Capital) at any time to an independent third party ("Assignee") and upon notice of any assignment from Assignee, Renter shall make all payments (except for those portions of payment which are made in order to provide service, maintenance and replacement hereunder) coming due thereafter to the Assignee without offset, counterclaim or defense of any kind. Renter's rights under this Agreement shall at all times be subject, junior and subordinate to any and all rights and remedies of the Assignee. Notwithstanding any assignment, Renter shall continue to look to Capital for the performance of its obligations hereunder and in no event shall the Assignee become liable or responsible to perform any of the obligations imposed upon Capital for service, maintenance or replacement by this Agreement. In the event of default by Capital of any provisions of this Agreement, Renter will remain responsible to Assignee to perform those of Renter's obligations hereunder assigned to Assignee. However, with consent of Assignee, Renter may (a) purchase for cash all equipment covered by this Agreement or (b) assume all obligations that Capital has with Assignee with respect to the equipment covered by this Agreement.

4. LOCATION: Renter shall not remove said equipment or any part thereof from the premises where installed nor sell or encumber any of said leased equipment. Renter further agrees to make no alteration in or repairs to said equipment except through the authorized service representative of Capital.

5. TERM: The term hereof shall be for a period of one hundred twenty (120) months beginning on the date of the completion of the delivery of the equipment on the premises of Renter, said date to be confirmed in writing by Renter upon request of Capital.

6. RENT PAYMENTS: As rental for said equipment, Renter shall pay to Capital, at Columbia, South Carolina, during the full term hereof, an initial cable hook-up fee of \$21.00 Dollars plus the sum of \$26.26 inclusive of applicable taxes per set delivered per month as "Base Rental" (which includes a television rental fee of \$14.18 and a cable fee of \$12.08). Upon each anniversary from the date of this Agreement during the term of this Agreement and any renewals hereof, the Base Rental may be adjusted by Capital in accordance with and by the same percentage as the percentage change in the cost of living index shown by the Consumer Price Index (or similar government index should the Consumer Price Index no longer be published) for the preceding twelve (12) month period and increases in royalty costs or similar fees paid to suppliers of cable programming from time to time; provided, further, in no event shall the Base Rental during the term of this Agreement and any renewals hereof ever be less than \$26.26 inclusive of applicable taxes per month. Capital may further charge to Renter any fees, charges or similar costs imposed by the Federal Communications Commission (FCC). Base Rental payments plus tax are due on or before the first day of the month, the first of which shall be due on or before the first

day of the month following the delivery of equipment. In the event that Renter requests partial delivery of equipment, Renter agrees to pay billing on an interim basis, with such billing based on rates for equipment in use, and upon completion of delivery, the full term of this Agreement shall commence.

7. OWNERSHIP: The equipment, together with wiring, reception and distribution facilities, rented under the terms hereof shall at all times be the sole property of contained. Said equipment shall remain personal property and, no matter how connected with or attached to the premises of Renter, will not become a part of the realty or fixtures therein, and Renter, if so requested by Capital, will obtain written consent of any other party holding a mortgage, encumbrance or lien on the premises of Renter, or of any Purchaser of the premises of Renter in the event of sale of same, that said equipment shall remain personal property. Renter shall not at any time during the term hereof transfer, assign, mortgage or otherwise encumber any interest in said personal property.

8. DELIVERY: Should Renter or his agent order delivery of equipment and installation on specified dates and the Renter's premises are not ready for installation of same, Renter assumes full responsibility for storage, insurance and any redelivery charges on equipment.

9. INSPECTION: Renter grants unto Capital the right to inspect said equipment at all reasonable times during the full term hereof.

10. INDEMNITY: Renter shall be responsible to all third parties, including paying guests, for any injury received as a result of the installation of said television sets in or about the premises of Renter and shall carry public liability insurance to save Capital harmless in the event of such injury, except such personal injury or property damage as may be occasioned solely by negligent acts or omissions of agents or employees of Capital.

11. INSURANCE: Capital agrees during the term of this lease to replace or repair any of its equipment, including television sets in guest rooms, which is stolen, burglarized, damaged by fire or maliciously damaged while on the premises of Renter, excepting television sets or equipment in storage awaiting use of service, providing, however: (a) Renter reports within 48 hours of occurrence any such loss or damage to Capital and to local law enforcement authorities--notice of loss to be sent to Capital by Certified Mail; (b) Renter furnishes in such report all available information regarding such loss, including name and address of last occupant of room and room number in which loss occurred (if applicable), auto license number and other pertinent information which would assist in recovery of loss; (c) Renter and its employees, agents and representatives cooperate fully with Capital and local law enforcement authorities in their subsequent efforts to effect recovery and prosecution if necessary. Renter agrees to notify Capital immediately in the event of subsequent recovery of property covered by any and all loss reports.

Renter agrees at all times to maintain and exercise due care, caution and watchfulness in the protection and accounting for the rented equipment. Failure to cooperate in providing such care, caution and watchfulness shall make the terms and provisions of Item 11 "INSURANCE" null and void and Renter shall be responsible for the replacement of and/or repair to equipment for which such insurance is provided.

EXHIBIT 5-3

In the event loss or damage proves to have been caused by employees, agents or representatives or Renter, or if Renter fails to comply with (a), (b) or (c) above, it shall be the responsibility of the Renter to pay Capital for its cost of replacement or repair of Capital's equipment involved in such loss. In the event that service by Capital is not included in this Agreement, Renter agrees to maintain the theft equipment installed hereunder; otherwise, theft and burglary insurance will be null and void in the event of any losses while the equipment is inoperative.

12. TAXES: Renter agrees to be responsible for the collection and payment of any local, state and federal fees, sales, use or property taxes or penalties that may be applicable now or any time during the term of this Agreement to the property covered hereby or the use or rental thereof.

13. RENEWAL: At the expiration of the term hereof, this Rental and Service Agreement shall be automatically renewed for additional terms of two (2) years, unless either party hereto should give written notice to the other party hereto at least sixty (60) days prior to the expiration of the term hereof, or at least sixty (60) days prior to the expiration of any additional term of two (2) years thereafter, of the desire of such party to terminate this agreement.

14. DEFAULT: In the event that any payment of rent shall have become due as herein provided and shall remain unpaid for ten (10) days, or in the event of any other breach of the terms or conditions of this Agreement by Renter, which breach shall not have been cured within ten (10) days after notice thereof by mail postage prepaid to Renter's last known address, or should Renter be adjudged as bankrupt or there be filed against Renter a petition under the bankruptcy laws, or if any insolvency proceeding is initiated by or against Renter, or if any equipment covered hereby is attached, seized or taken under any judicial process, all of the entire remaining unpaid rental payments shall, at the option of Capital, become immediately due and payable. If Renter does not (a) pay the entire remaining rental payments under this Agreement or (b) cure its breach of the provisions of this Agreement, then and in that event Capital shall have the right, without giving further notice to Renter, to remove the property thereby without liability and Renter shall forthwith pay any and all damages, including attorneys' fees, suffered by Capital. Further, in the event of non-payment, Capital shall be, and hereby is, subrogated to the lien rights of the Condominium as to each Unit Owner failing to pay his share of Common Expenses necessary to make the rental payments herein required to the extent of the amount(s) due and owing to Capital, but unpaid, which shall include the right to file notice of and perfect a lien(s) against such Unit Owner(s) as granted to Renter by the South Carolina Horizontal Property Act; PROVIDED, HOWEVER, such right and any lien filed thereunder shall be subordinate in lien and interest recorded prior to the recording of such notice of lien.

Renter agrees to pay late charges of five (\$.05) cents per dollar in addition to the regular monthly payment or installment if payments hereunder are not made within ten (10) days after due date, but not exceeding One Hundred and No/100 (\$100.00) Dollars, or the lawful maximum, if any. Capital's failure to exercise a right or remedy under this Agreement or to require strict performance by the Renter or any provision of this Agreement shall not waive or diminish Capital's right thereafter to demand strict compliance with any such right or provision or with any other rights or provisions. Waiver by Capital or any default by the Renter

EXHIBIT 5-4

shall not constitute waiver of any other or subsequent default.

15. SURRENDER: Upon expiration of this Agreement, Renter shall remove the rented equipment from the premises referred to herein and surrender such equipment in good operating condition to Capital or its assignee and if the Renter fails to so remove and surrender the rented equipment, Capital shall have the right to enter any premises where the rented equipment may be located and take possession and remove all such equipment either with or without permission and without prejudice to any other rights or remedies of Capital.

If Capital determines, upon termination or expiration of this Agreement, that, as a result of causes other than its failure to provide service as expressly required herein, the equipment covered hereby is not in good operating condition, reasonable wear and tear excepted, the Renter shall upon demand by Capital either: (a) restore the equipment in good operating condition at its sole expense or (b) reimburse Capital for the reasonable expense of so restoring the equipment.

16. SUBORDINATION OF AGREEMENT: Should the equipment rented herein be covered by a Conditional Sales Contract, Chattel Mortgage or Security Agreement on which Capital is the purchaser or obligor, it is understood and agreed that this Agreement is subject and subordinate to the terms and conditions of said Conditional Sales Contract, Chattel Mortgage or Security Agreement.

17. NOTICE: Any notice required to be given by one party hereto to the other party hereto shall be in writing and sent by Certified Mail, addressed, postage prepaid, to the mailing address which shall be provided by the other party.

18. AMENDMENTS: This Agreement constitutes the entire and only Agreement between the parties with respect to renting the equipment covered hereby and any representation, promise or conditions with respect to said renting not set forth in this Agreement or such amendments as may be accepted in writing by the designated officers or either party, shall not be binding on either party.

19. SOUTH CAROLINA LAW: Should any question arise as to the validity, construction, interpretation or performance of this rental and service agreement in any court of any State of the United States, or of Canada, it is agreed that the laws of the State of South Carolina shall govern without reference to the place of execution or performance of same.

The invalidity of any provision of this Agreement shall not affect the validity of any other provision hereof. This Agreement and any amendment hereto shall become binding upon the parties hereto when executed by a duly authorized officer or agent of Renter.

20. EASEMENTS: Renter on behalf of itself and each and every of the Unit Owners does hereby grant to Capital during the term hereof and any renewals each and every such easement through, over, under and across the Submitted Property, the structures on and to be located thereon, including individual Units, as may be necessary and/or appropriate, for the purposes of location, installation, maintenance and service of the cable, access outlets, distribution amplification equipment herein rented, as well as the locking furniture swivels and television sets.

21. ASSIGNS: All rights, remedies and powers reserved or given to Capital shall inure to the benefit of Capital's assigns.

22. INTERIM BILLING: Renter shall be billed per terms herein on the first day of the month following delivery of each television increment, and when units are delivered, the 120-month rental term will commence.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

SIGNED, SEALED & DELIVERED  
In The Presence Of:

Carl Rozen  
Marc R. Williams

Carl Rozen  
Marc R. Williams

MYRTLE BEACH RESORT FIVE  
SEASONS CENTRE COUNCIL OF  
CO-OWNERS

By [Signature]  
Its President

CAPITAL TELECOMMUNICATIONS  
CORPORATION

By [Signature]  
Its Executive Vice President

EXHIBIT <sup>6</sup>  
TELEPHONE RENTAL AND SERVICE AGREEMENT

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STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY ) TELEPHONE RENTAL AND SERVICE  
AGREEMENT

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of June, 1985, by and between CAPITAL TELECOMMUNICATIONS CORPORATION (hereinafter referred to as "Capital"), and MYRTLE BEACH RESORT FIVE SEASONS CENTRE COUNCIL OF CO-OWNERS, on behalf of itself and each and every Unit Owner thereof (hereinafter referred to as "Renter").

W I T N E S S E T H :

Capital and Renter do hereby mutually agree as follows:

1. Capital will furnish and rent unto Renter, and Renter does hereby rent from Capital, for the term and under the terms and conditions herein set forth, the telephones and equipment herein specified. Said equipment shall be delivered by Capital (with the exception of conduit which is to be supplied by Renter at its expense), upon premises and in Units located upon said premises owned or rented or otherwise lawfully operated by Renter located in the MYRTLE BEACH RESORT FIVE SEASONS CENTRE HORIZONTAL PROPERTY REGIME, (the "Condominium"), County of Horry, State of South Carolina. Capital shall not be liable for delay in, or failure to make, delivery of equipment or installation caused by circumstances beyond its reasonable control, including, but no limited to, acts of God, fire, flood, wars, accidents, labor or different contingencies. The number and types of television sets and/or equipment rented under the terms hereof are as follows and are the model, type and design selected by the Renter as suitable, in its judgment, for Renter's purpose.

- (a) One (1) touch tone telephone for each residential Unit included in the Condominium mounted upon suitable bracket;
- (b) Non-exclusive use of one (1) central PBX system providing limited message forwarding and security; and
- (c) Cable and distribution equipment.

2. SERVICE: Capital shall keep and maintain, or cause to be kept and maintained, at its sole expense, said rented equipment in good operating order, condition and repair during the full term hereof except for damage to or repair to such equipment as might be made necessary by the negligent acts or omissions of the Renter, its agents and/or employees. Capital shall promptly replace any defective set or injured part or parts thereof; provided, however, that in the event replacement of any defective telephone set or sets shall occur, such substituted equipment shall be subject to all the terms hereof.

It is the obligation of the Renter to notify Capital of any deficiency in service as rendered by Capital or its service representative(s). Capital shall not be liable to Renter for any loss, damage or expense of any kind or nature directly or indirectly caused by the telephone sets or equipment covered hereby, or because of any failure thereof, or because of any interruption of service or loss of use or for any loss of business or damage whatsoever or howsoever caused, and Capital shall in no event be liable for any special or consequential damages. Renter further agrees there shall be no abatement of rental during the time that may be required for repair, adjustment, servicing or replacement of equipment covered hereby.

EXHIBIT 6-1

3. ASSIGNMENT OF AGREEMENT: Except as provided for herein, this Agreement shall not be assigned by Renter except upon prior written consent of Capital. Capital may assign this Agreement, its rights hereunder and all or any part of the rentals, charges and all other claims or rights to money due or to become due hereunder (except for those charges and rental fees or portions thereof made hereunder by Capital in order to provide service, maintenance and replacement herein required of Capital) at any time to an independent third party ("Assignee") and upon notice of any assignment from Assignee, Renter shall make all payments (except for those portions of payment which are made in order to provide service, maintenance and replacement hereunder) coming due thereafter to the Assignee without offset, counterclaim or defense of any kind. Renter's rights under this Agreement shall at all times be subject, junior and subordinate to any and all rights and remedies of the Assignee. Notwithstanding any assignment, Renter shall continue to look to Capital for the performance of its obligations hereunder and in no event shall the Assignee become liable or responsible to perform any of the obligations imposed upon Capital for service, maintenance or replacement by this Agreement. In the event of default by Capital of any provisions of this Agreement, Renter will remain responsible to Assignee to perform those of Renter's obligations hereunder assigned to Assignee. However, with consent of Assignee, Renter may (a) purchase for cash all equipment covered by this Agreement or (b) assume all obligations that Capital has with Assignee with respect to the equipment covered by this Agreement.

4. LOCATION: Renter shall not remove said equipment or any part thereof from the premises where installed nor sell or encumber any of said leased equipment. Renter further agrees to make no alteration in or repairs to said equipment except through the authorized service representative of Capital.

5. TERM: The term hereof shall be for a period of one hundred twenty (120) months beginning on the date of the completion of the delivery of the equipment on the premises of Renter, said date to be confirmed in writing by Renter upon request of Capital.

6. RENT PAYMENTS: Renter shall pay to Capital an installation fee of \$60.00 Dollars per Unit in which a telephone set is installed. In addition to the \$60.00 Dollar installation fee per Unit, as rental for said equipment Renter shall pay to Capital, at Columbia, South Carolina, during the full term hereof, the sum of \$20.48 inclusive of applicable taxes per telephone set delivered per month as "Base Rental". Upon each anniversary from the date of this Agreement during the term of this Agreement and any renewals hereof, the Base Rental may be adjusted by Capital in accordance with and by the same percentage as the percentage change in the cost of living index as shown by the Consumer Price Index (or similar government index should the Consumer Price Index no longer be published) for the preceding twelve (12) months and increases mandated or approved by the applicable Public Service Commission or Public Utility Commission for such telephone service from time to time; provided, further, in no event shall the Base Rental during the term of this Agreement and any renewals hereof ever be less than \$20.48 inclusive of applicable taxes per month. Base Rental payments plus tax are due on or before the first day of the month, the first of which shall be due on or before the first day of the month following the delivery of equipment. In the event that Renter requests partial delivery of equipment, Renter agrees to pay billing on an interim basis, with such billing shall be based on rates for equipment in use, and upon completion of delivery,

EXHIBIT 6-2

the full term of this Agreement shall commence. The rent charged herewith shall include local telephone service but not charges for long distance service, which shall be in addition to the base rental charge, if available.

7. OWNERSHIP: The equipment, together with PBX switchboard wiring, reception facilities rented under the terms hereof shall at all times be the sole property of Capital, its successors and assigns, and Renter shall have no property interest therein, except under any conditions herein contained. Said equipment shall remain personal property and, no matter how connected with or attached to the premises of Renter, will not become a part of the realty or fixtures therein, and Renter, if so requested by Capital, will obtain written consent of any other party holding a mortgage, encumbrance or lien on the premises of Renter, or of any Purchaser of the premises of Renter in the event of sale of same, that said equipment shall remain personal property. Renter shall not at any time during the term hereof transfer, assign, mortgage or otherwise encumber any interest in said personal property.

8. DELIVERY: Should Renter and/or his agent order delivery of equipment and installation on specified dates and the Renter's premises are not ready for installation of same, Renter assumes full responsibility for storage, insurance and any redelivery charges on equipment.

9. INSPECTION: Renter grants unto Capital the right to inspect said equipment at all reasonable times during the full term hereof.

10. INDEMNITY: Renter shall be responsible to all third parties, including paying guests, for any injury received as a result of the installation of said telephone sets and system in or about the premises of Renter and shall carry public liability insurance to save Capital harmless in the event of such injury, except such personal injury or property damage as may be occasioned solely by negligent acts or omissions of agents or employees of Capital.

11. INSURANCE: Capital agrees during the term of this lease to replace or repair any of its equipment, including telephone sets in Units, which is stolen, burglarized, damaged by fire or maliciously damaged while on the premises of Renter, excepting telephone sets or equipment in storage awaiting use of service, providing, however: (a) Renter reports within 48 hours of occurrence any such loss or damage to Capital and to local law enforcement authorities--notice of loss to be sent to Capital by Certified Mail; (b) Renter furnishes in such report all available information regarding such loss, including name and address of last occupant of room and room number in which loss occurred (if applicable), auto license number and other pertinent information which would assist in recovery of loss; (c) Renter and its employees, agents and representatives cooperate fully with Capital and local law enforcement authorities in their subsequent efforts to effect recovery and prosecution if necessary. Renter agrees to notify Capital immediately in the event of subsequent recovery of property covered by and all loss reports.

Renter agrees at all times to maintain and exercise due care, caution and watchfulness in the protection and accounting for the rented equipment. Failure to cooperate in providing such care, caution and watchfulness shall make the terms and provisions of Item 11 "INSURANCE" null and void and Renter shall be responsible for the replacement of and/or repair to equipment for which such insurance is provided.

EXHIBIT 6-3

In the event loss or damage proves to have been caused by employees, agents or representatives of Renter, or if Renter fails to comply with (a), (b) or (c) above, it shall be the responsibility of the Renter to pay Capital for its cost of replacement or repair of Capital's equipment involved in such loss. In the event that service by Capital is not included in this Agreement, Renter agrees to maintain the theft equipment installed hereunder; otherwise, theft and burglary insurance will be null and void in the event of any losses while the equipment is inoperative.

12. TAXES: Renter agrees to be responsible for the collection and payment of any local, state and federal fees, sales, use or property taxes or penalties that may be applicable now or any time during the term of this Agreement to the property covered hereby or the use or rental thereof.

13. RENEWAL: At the expiration of the term hereof, this Rental and Service Agreement shall be automatically renewed for additional terms of two (2) years, unless either party hereto should give written notice to the other party hereto at least sixty (60) days prior to the expiration of the term hereof, or at least sixty (60) days prior to the expiration of any additional term of two (2) years thereafter, of the desire of such party to terminate this Agreement.

14. DEFAULT: In the event that any payment of rent shall have become due as herein provided and shall remain unpaid for ten (10) days, or in the event of any other breach of the terms or conditions of this Agreement by Renter, which breach shall not have been cured within ten (10) days after notice thereof by mail postage prepaid to Renter's last known address, or should Renter be adjudged as bankrupt or there be filed against Renter a petition under the bankruptcy laws, or if any insolvency proceeding is initiated by or against Renter, or if any equipment covered hereby is attached, seized or taken under any judicial process, all of the entire remaining unpaid rental payments shall, at the option of Capital, become immediately due and payable. If Renter does not (a) pay the entire remaining rental payments under this Agreement or (b) cure its breach of the provisions of this Agreement, then and in that event Capital shall have the right, without giving further notice to Renter, to remove the property thereby without liability and Renter shall forthwith pay any and all damages, including attorneys' fees, suffered by Capital. Further, in the event of non-payment, Capital shall be, and hereby is, subrogated to the lien rights of the Condominium as to each Unit Owner failing to pay his share of Common Expenses necessary to make the rental payments herein required to the extent of the amount(s) due and owing to Capital, but unpaid, which shall include the right to file notice of and perfect a lien(s) against such Unit Owner(s) as granted to Renter by the South Carolina Horizontal Property Regime Act; PROVIDED, HOWEVER, such right and any lien filed thereunder shall be subordinate in lien and interest to any lien recorded prior to the recording of such notice of lien.

Renter agrees to pay late charges of five (\$.05) cents per dollar in addition to the regular monthly payment or installment if payments hereunder are not made within ten (10) days after due date, but not exceeding One Hundred and No/100 (\$100.00) Dollars, or the lawful maximum, if any. Capital's failure to exercise a right or remedy under this Agreement or to require strict performance by the Renter or any provision of this Agreement shall not waive or diminish Capital's right thereafter to demand strict compliance with any such right or provision or with any other rights or provisions. Waiver by Capital or any default by the Renter

EXHIBIT 6-4

shall not constitute waiver of any other or subsequent default.

15. SURRENDER: Upon expiration of this Agreement, Renter shall remove the rented equipment from the premises referred to herein and surrender such equipment in good operating condition to Capital or its assignee and if the Renter fails to so remove and surrender the rented equipment, Capital shall have the right to enter any premises where the rented equipment may be located and take possession and remove all such equipment either with or without permission and without prejudice to any other rights or remedies of Capital.

If Capital determines, upon termination or expiration of this Agreement, that, as a result of causes other than its failure to provide service as expressly required herein, the equipment covered hereby is not in good operating condition, reasonable wear and tear excepted, the Renter shall upon demand by Capital either: (a) restore the equipment in good operating condition at its sole expense or (b) reimburse Capital for the reasonable expense of so restoring the equipment.

16. SUBORDINATION OF AGREEMENT: Should the equipment rented herein be covered by a Conditional Sales Contract, Chattel Mortgage or Security Agreement on which Capital is the purchaser or obligor, it is understood and agreed that this Agreement is subject and subordinate to the terms and conditions of said Conditional Sales Contract, Chattel Mortgage or Security Agreement.

17. NOTICE: Any notice required to be given by one party hereto to the other party hereto shall be in writing and sent by Certified Mail, addressed, postage prepaid, to the mailing address which shall be provided by the other party.

18. AMENDMENTS: This Agreement constitutes the entire and only Agreement between the parties with respect to renting the equipment covered hereby and any representation, promise or conditions with respect to said renting not set forth in this Agreement or such amendments as may be accepted in writing by the designated officers or either party, shall not be binding on either party.

19. SOUTH CAROLINA LAW: Should any question arise as to the validity, construction, interpretation or performance of this rental and service agreement in any court of any State of the United States, or of Canada, it is agreed that the laws of the State of South Carolina shall govern without reference to the place of execution or performance of same.

The invalidity of any provision of this Agreement shall not affect the validity of any other provision hereof. This Agreement and any amendment hereto shall become binding upon the parties hereto when executed by a duly authorized officer or agent of Renter.

20. EASEMENTS: Renter on behalf of itself and each and every of the Unit Owners does hereby grant to Capital during the term hereof and any renewals each and every such easement through, over, under and across the Submitted Property, the structures on and to be located thereon, including individual Units, as may be necessary and/or appropriate, for the purposes of location, installation, maintenance and service of the cable, transmission and distribution equipment and switchboard and PBX equipment herein rented, as well as the telephone sets and mounting brackets; and in addition thereto, to provide electricity and such other utility

services to Capital as may be necessary to operate Capital's equipment rented hereby, at such locations upon the premises as are required by Capital, and at no cost to Capital.

21. ASSIGNS: All rights, remedies and powers reserved or given to Capital shall inure to the benefit of Capital's assigns.

22. INTERIM BILLING: Renter shall be billed per terms herein on the first day of the month following delivery of each telephone set increment, and when all sets are delivered, the 120-month rental term will commence.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

SIGNED, SEALED & DELIVERED  
In the Presence Of:

Carl Rogan  
Marc R. Williams

Carl Rogan  
Marc R. Williams

MYRTLE BEACH RESORT FIVE  
SEASONS CENTRE COUNCIL OF  
CO-OWNERS

By [Signature]  
Its President

CAPITAL TELECOMMUNICATIONS  
CORPORATION

By [Signature]  
Its Executive Vice President

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9

STATE OF SOUTH CAROLINA      FIRST AMENDMENT TO MASTER DEED  
COUNTY OF HORRY      OF MYRTLE BEACH RESORT  
FIVE SEASONS CENTRE  
COLLEGE G. RICHARDSON HORIZONTAL PROPERTY REGIME  
CLERK OF COURT

KNOW ALL MEN BY THESE PRESENTS, that this First Amendment to the Master Deed of Myrtle Beach Resort Five Seasons Centre Horizontal Property Regime is made on the date hereinafter set forth by Resort Development Corporation, formerly known as Resort Investment Corporation, (hereinafter called "Developer"):

WHEREAS, Developer has heretofore committed certain real property to Myrtle Beach Resort Five Seasons Centre Horizontal Property Regime (herein sometimes called the "Regime" or the "Condominium"), by the Master Deed of Myrtle Beach Resort Five Seasons Centre Horizontal Property Regime, which Master Deed and Exhibits thereto is recorded in the Office of the Clerk of Court for Horry County, South Carolina, in Deed Book 966 at Page 654 (herein called the "Master Deed"); and

WHEREAS, said Master Deed provides for the inclusion of additional phases in the Regime; and

WHEREAS, Developer now wishes to annex additional property improvements and apartments and amend said Master Deed for the purposes of creating Phase II of said Regime;

NOW, THEREFORE, Developer does hereby submit the property described as Phase II (the "Property"), being more particularly described hereinafter in this Amendment and Exhibits hereto, to the provisions of the Horizontal Property Act of South Carolina, Title 27, Chapter 31, Code of Laws of South Carolina, 1976, and does further submit said Property to the provisions of the Master Deed and the provisions of this Amendment.

ARTICLE I  
The Property

The Property hereby committed by this Amendment to the aforesaid Master Deed means and includes that property shown as contained within the Regime, Phase II, as described in the Exhibits to this Amendment, and includes the land, the buildings, all improvements and structures thereon and all easements, rights and appurtenances belonging thereto as described in the Exhibits to this Amendment and as subject to all easements, rights-of-way, rights of use, restrictions, obligations and covenants as described in this Amendment, the Master Deed, and of record. Therefore, the property committed to the Regime consists of the Property heretofore committed in the Master Deed (Phase I) and in addition thereto, that Property described in said Master Deed and herein and in the Exhibits hereto as Phase II.

That portion of the Common Elements so designated in the Exhibits which are appurtenant to Commercial Unit C are Limited Common Elements to that unit. Said Limited Common Elements so designated shall and may be used by the Co-Owners of Commercial Unit C, their heirs, assigns, successors and guests for housekeeping services and such other uses as are consistent with or required thereby.

ARTICLE II  
Rights and Obligations

There is appurtenant to each Apartment in Phase I and Phase II the number of votes, set forth in the Master Deed and its Exhibits and the Exhibits hereto which shall be voted by the Voting Member at all matters to come before the Council of Co-Owners (being more fully described in the Master Deed). By reason of Phase II having now been included within the Regime, there is appurtenant to each Apartment in the Regime an undivided

HORRY COUNTY ASSessor      1010 - 001

ownership interest in the Common Elements and share in the Common Expenses and Assessments and Common Surplus which is set forth in the Exhibits hereto. In addition, the percentage which the vote appurtenant to each Apartment constitutes of the total votes of all Apartments in the Regime is also set forth in the Exhibits hereto.

ARTICLE III  
Apartments

The location and approximate square footage of each Apartment in Phase II are as shown and described in the Exhibits to this Amendment. All real property and improvements not included within the Apartments, as Apartments are defined in the Master Deed or in this Amendment, or designated as Limited Common Elements, are and shall be Common Elements.

ARTICLE IV  
Easements, Rights and Obligations

There are easements reserved, and the right is reserved to grant further easements, including but not limited to, across the Common Elements of Phases I and II as set forth and described in the Master Deed and the Exhibits thereto and herein and in the Exhibits hereto. In addition, each Co-Owner in Phase II shall be, as are the Co-Owners of Phase I, subject to each and every one of the terms, provisions and requirements and granted the same rights as described in the Master Deed.

Pursuant to the provisions of Article XV of the Master Deed, Declarant, as agent for and on behalf of the Association and the Co-Owners, has entered into Addendums to existing Agreements with Capital Tele-Communications Corporation to provide for telephone and television service to Apartments located in Phase II for a term of one hundred twenty (120) months from the date of the Addendum.

ARTICLE V  
Pro Shop/Resales Building

There is included in Phase II of the Regime a Commercial Unit designated as Commercial Unit D in the Exhibits attached hereto. Commercial Unit D comprises the entire building designated as Pro Shop/Resales Building on the Exhibits less and excepting those Common Elements designated on the plans (more specifically Toilets and Pool Equipment Storage) and further less and excepting Commercial Unit E designated as the Pro Shop on the Exhibits.

The Apartment boundaries of Commercial Unit D shall constitute the exterior surfaces of the roof, the exterior walls and the undersurface of the bottom slab dividing the Apartment itself from the underlying land. This Apartment shall include the floor (including the pipes, wires, conduits and other public utility lines running therein) between the first and second floors of the building. The boundaries of Commercial Unit E shall be as set forth in the Master Deed. The boundaries of the Common Element Toilets and Pool Equipment Storage shall be the undecorated and/or unfinished surfaces of the perimeter walls, floors and ceilings surrounding the respective Common Elements.

By virtue of the fact that Commercial Unit D has differently defined perimeters than those of other Apartments, the Owner of Commercial Unit D shall be responsible for certain maintenance to this Apartment (e.g., exterior painting, roof repair, etc.) which other unit owners will not incur. As a consequence thereof, the Owner of Commercial Unit D shall be exempt from payment of certain fees which comprise a portion of the Common Expenses or Assessments.

The Owner of Commercial Unit D shall have the duty to maintain the same standards of repair and replacement (to include structural integrity of the Pro Shop/Resales Building) and shall be entitled to paint exterior walls, doors, windows or exterior surfaces of Commercial Unit D or place anything thereon or affix anything thereto (including signs) or re-roof the Building without the written Consent of the Board of Directors so long as the Building is properly maintained and is kept in a manner that is tasteful and in keeping with the character of the Myrtle Beach Resort.

The Owner of Commercial Unit D may affix signs to the Pro Shop/Resales Building, and Declarant hereby grants an easement appurtenant to Commercial Unit D for the installation and display of signs, which are tasteful and in keeping with the character of the Myrtle Beach Resort, on those Common Elements in the immediate proximity of Commercial Unit D.

There is appurtenant to Commercial Unit E and to those Common Elements located within the Pro Shop/Resales Building and which are designated as Toilets and Pool Equipment Storage, an easement for utility lines and service across, along and through those pipes, wires, conduits or other utility lines located within and which constitute a part of Commercial Unit D.

Commercial Unit D is burdened by a covenant that the Owner of said Apartment shall not intentionally discontinue utility service to Commercial Unit E and to those Common Elements within the Pro Shop/Resales Building which are designated as Toilets and Pool Equipment Storage for an unreasonable length of time.

With respect to Commercial Unit D, Commercial Unit E and those Common Elements designated as Toilets and Pool Equipment Storage within the Pro Shop/Resales Building, to the extent that provisions of the Master Deed conflict with those set forth above, the above provisions shall control.

ARTICLE VI  
Provisions in the Master Deed

All provisions in the Master Deed of Myrtle Beach Resort Five Seasons Centre Horizontal Property Regime shall remain unchanged except as provided herein and shall be, and hereby are, binding upon all present and future Co-Owners in Phases I and II, their mortgagees and lien holders and the Developer, except to the extent inclusion of Phase II within the Regime requires a necessary change and to the extent hereby amended. The foregoing Master Deed and this Amendment shall be construed together as to create one unified Horizontal Property Regime, pursuant to the laws of the State of South Carolina.

IN WITNESS WHEREOF, the Developer, on behalf of itself and to bind itself, and its successors in interest, including all Co-Owners who comprise and who shall comprise the Council of Co-Owners (which is known as Myrtle Beach Resort Five Seasons Centre Council of Co-Owners) has executed this First Amendment of Myrtle Beach Resort Five Seasons Centre Horizontal Property Regime as its act and deed, and in witness whereof, it, by and through its authorized officer, duly attested, has set its hand and seal this 29th day of May, 1986.

SIGNED, SEALED AND DELIVERED In the Presence of: f/k/a RESORT DEVELOPMENT CORPORATION Resort Investment Corporation

*Susan K. Berry*  
FIRST NAMED  
*Susan K. Berry*  
FIRST NAMED

By: *[Signature]*  
Its: *President*  
ATTEST:  
By: *[Signature]*  
Its: *Deputy Secretary*

STATE OF SOUTH CAROLINA )  
 ) ss.  
COUNTY OF RICHLAND )

PERSONALLY appeared before me the undersigned witness, who, being duly sworn, says that (s)he saw the within-named RESORT DEVELOPMENT CORPORATION, by and through its duly authorized officer, sign, seal and deliver the within FIRST AMENDMENT TO THE MASTER DEED OF MYRTLE BEACH RESORT FIVE SEASONS CENTRE HORIZONTAL PROPERTY REGIME as its act and deed; and that (s)he with the other witness whose signature appears above, witnessed the execution thereof.

ASusan K Berry  
WITNESS

SWORN to before me this 29th day of May, 1986.

Richard M. McKim  
Notary Public for South Carolina  
My Commission Expires: 7/1/94

FOR GOOD AND VALUABLE CONSIDERATION, the receipt whereof is hereby acknowledged, MYRTLE BEACH RESORT FIVE SEASONS CENTRE COUNCIL OF CO-OWNERS hereby agrees to and does on behalf of itself and all its present and future Co-Owners, accept all the benefits and all the duties, responsibilities, obligations and burdens imposed upon it and them by the provisions of this First Amendment to the Master Deed together with all the Exhibits hereto and as set forth in the Master Deed and in the Act.

IN WITNESS WHEREOF, the above named MYRTLE BEACH RESORT FIVE SEASONS CENTRE COUNCIL OF CO-OWNERS has caused these presents to be signed in its name by its duly authorized agent this 29th day of May, 1986.

SIGNED, SEALED AND DELIVERED  
In the Presence of:

MYRTLE BEACH RESORT FIVE SEASONS CENTRE COUNCIL OF CO-OWNERS

ASusan K Berry  
T-1111 W-1111

By: Monty G. Chatfield  
Its: M. G.

ASusan K Berry  
T-1111 W-1111

ATTEST:  
By: Richard M. McKim  
Its: Richard McKim

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND ) PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within-named MYRTLE BEACH RESORT FIVE SEASONS CENTRE COUNCIL OF CO-OWNERS, by and through its duly authorized agent, execute the within written FIRST AMPNDMENT TO THE MASTER DEED OF MYRTLE BEACH RESORT FIVE SEASONS CENTRE HORIZONTAL PROPERTY REGIME, and that (s)he with the other witness whose signature appears above, witnessed the execution thereof.

*[Handwritten Signature]*  
WITNESS

SWORN TO before me this  
27th day of May, 1986.

*[Handwritten Signature]*  
Notary Public for South Carolina  
My Commission Expires: 7/1/12

1010...020

EXHIBIT 1

LEGAL DESCRIPTION

MYRTLE BEACH RESORT FIVE SEASONS CENTRE  
(Adding Phase II to the Regime)

All that place, parcel, or tract of land, situate in the County of Horry, State of South Carolina, and Township of Socastee, situate, lying and being on the Southeastern side of U.S. Highway 17 designated as Phase II of The Myrtle Beach Resort Five Seasons Centre, and described on a plat prepared by Atlantic Land Surveying Co., Inc. dated May 1, 1986, and recorded with the Condominium Plats and Plans in Condominium Plat Book B at Page 570, Office of the Clerk of Court, Horry County, South Carolina. This also being a portion of the property shown on a plat of 44.668 +/- acres, Lot 5 of Lakewood Plantation Property, Socastee Township, Horry County, South Carolina, dated June 10, 1982, with latest revision dated June 14, 1985, prepared by Culler Land Surveying Co., Inc. with said plat being recorded with the Condominium Plats and Plans in Condominium Plat Book B, Page 426, Office of the Clerk of Court, Horry County, South Carolina, to wit:

Starting at a point labeled as the beginning point (this being a common corner with Phase I of Myrtle Beach Resort Five Seasons Centre) and running with a 50' right of way with a radius of 748.76 feet and a chord bearing of N. 33°10'07" W, for a distance of 160.92 feet to a point; thence continuing with said 50' right of way N. 27°00'00" W, for a distance of 128.0 feet to a point; thence continuing with said 50' right of way with a radius of 429.08 feet and a chord bearing of N. 32°55'26" W, for a distance of 89.45 feet to an iron, (this being a common corner with commercial area "A"); thence with the line of commercial area "A" N. 51°51'52" E, for a distance of 272.05 feet to an iron, (this being a common corner with commercial area "A" and Lakewood Campground); thence with the Lakewood Campground line S. 38°08'08" E, for a distance of 375.0 feet to an iron, (this being a common corner with Lakewood Campground and Phase I of Myrtle Beach Resort Five Seasons Centre); thence with the line of Phase I S. 51°51'52" W, for a distance of 318.83 feet to THE POINT OF BEGINNING.

The above described tract is bounded on the northeast by parcel designated as "Lakewood Campground", and on the south by a fifty (50') foot road easement.

Said parcel has appurtenant to it non-exclusive easements for access and ingress and egress to and from said parcel and for parking over, across and upon those portions of the Submitted Property suitable for vehicular and pedestrian traffic, and non-exclusive easements for the installation and maintenance upon the Submitted Property of utilities to use said parcel including, but not limited to, water, sewer, telephone, electrical, cable television and drainage structures, including the right to connect such utilities to those servicing the Submitted Property.

TOGETHER WITH a non-exclusive easement for purposes of ingress and egress for vehicular and pedestrian traffic from U.S. Highway 17 Business to and from the parcel designated as "Phase I", on a plat of 44.668 +/- Acres, Lot 5 of Lakewood Plantation Property, Socastee Township, Horry County, South Carolina in Plat Book 74 at Page 32, said easement being seventy-five (75') feet in width whereon it adjoins U.S. Highway 17 Business, thereupon being reduced to fifty (50') feet in width, the location and dimensions of which are shown upon the plat to which reference has been made above;

reference being craved thereto for additional description; AND a non-exclusive easement for the underground installation and maintenance of utilities including, but not limited to, water, sewer, telephone, electrical, cable television and drainage structures from U.S. Highway 17 Business to the parcel designated as "Phase I"; said easement being thirty (30') feet in width; all as more fully shown upon said plat to which reference has been made above; reference being craved thereto for additional description.

SUBJECT TO a non-exclusive permanent easement for purposes of ingress and egress for vehicular and pedestrian traffic from the fifty (50') foot road leading from U.S. Highway 17 Business to the parcel designated as "Phase I" on the plat referenced in the preceding paragraph (a/k/a Myrtle Beach Resort Horizontal Property Regime), which easement was previously granted by deed which was recorded in Deed Book 725 at Page 30, Horry County Records and shown on plat recorded in Plat Book 72 at Page 58 and Plat Book 74 at Page 32, Horry County Records and leading from said road to The Myrtle Beach Resort Oceanfront Spa Horizontal Property Regime, said easement being thirty (30') feet in width and more particularly described as follows: Commencing at an iron located at the Northwest corner of The Myrtle Beach Resort Oceanfront Spa Horizontal Property Regime, thence running S40°52'W for a distance of 27.5 feet to the center line of said easement; thence running along said center line N50°30'W for a distance of 180 feet, more or less, to a point intersecting with the Southeastern edge of said fifty (50') foot road, said easement being thirty (30') feet in width with fifteen (15') feet on either side of said center line. Said easement is more particularly described and delineated on a plat by Culler Land Surveying Company, Inc. dated June 10, 1982, last revised June 14, 1985 and recorded in Condominium Plat Book B, Page 426, Office of the Clerk of Court for Horry County, South Carolina; and being more particularly described in the easement from R. Grant Singleton and Elizabeth G. Singleton dated April 13, 1983 and recorded in the Office of the Clerk of Court for Horry County, South Carolina.

TOGETHER WITH a non-exclusive easement for ingress and egress and access only for vehicular and pedestrian traffic over those areas suitable for such traffic respectively within the Myrtle Beach Resort Horizontal Property Regime, Myrtle Beach Resort Oceanfront Spa Horizontal Property Regime, and The Renaissance Tower Horizontal Property Regime. This being the same easement granted to the Co-Owners, Occupants and visitors of the Regime by Article XIV of this Master Deed.

THE FOREGOING described parcel comprising the Regime is a part of the same property conveyed to Resort Investment Corporation by deed of R. Grant Singleton and Elizabeth G. Singleton which is recorded in the Office of the Clerk of Court for Horry County, South Carolina, in Deed Book 807 at Page 747. The foregoing non-exclusive easements from U.S. Highway 17 Business to the parcel designated as Phase I (which now constitutes Myrtle Beach Resort Horizontal Property Regime) were granted to Resort Investment Corporation by deed of R. Grant Singleton and Elizabeth G. Singleton which is recorded in the Office of the Clerk of Court for Horry County, South Carolina, in Deed Book 725 at Page 030.

ALSO SUBJECT TO all easements, reservations, restrictions, conditions and matters of record.

The aforesaid real property and the particular improvements thereon which are hereby committed (the location of such improvements) are shown and described on the plats and plans which are recorded in Condominium Plat Book first set forth above and those which are attached hereto as part of this Exhibit, all of which are incorporated in this Description,

Exhibit 1-2 PGP# 1048 PAGE 850

by reference and which constitute, together with this description, Exhibit 1 to the First Amendment to the Master Deed of Myrtle Beach Resort Five Seasons Centre. The improvements consisting of the buildings within which apartments are located and the location of individual apartments within the buildings are located as shown and described upon the aforesaid parts of these Exhibits, which locations and descriptions are also incorporated in this description by reference. Each apartment has appurtenant to it an undivided interest in the Common Elements as shown and described on the attached plats and plans and those recorded in the Condominium Plat Book to which reference is made above and as described in the Master Deed to which this is an Exhibit. All areas not contained within the Apartment as the term "Apartment" is defined in the aforesaid Master Deed constitute Common Elements. Additional improvements which constitute Common Elements are the sidewalks, all stairways, walkways, corridors and halls providing access to individual Apartments, an outdoor pool with concrete walk, putting greens, gazebo, spa, electrical rooms, pool equipment rooms, laundry rooms, bathrooms, and paved traffic and parking areas, the same being shown and designated in the Exhibits hereto.

FORM 10:8 PAGE 831

Exhibit 1-3

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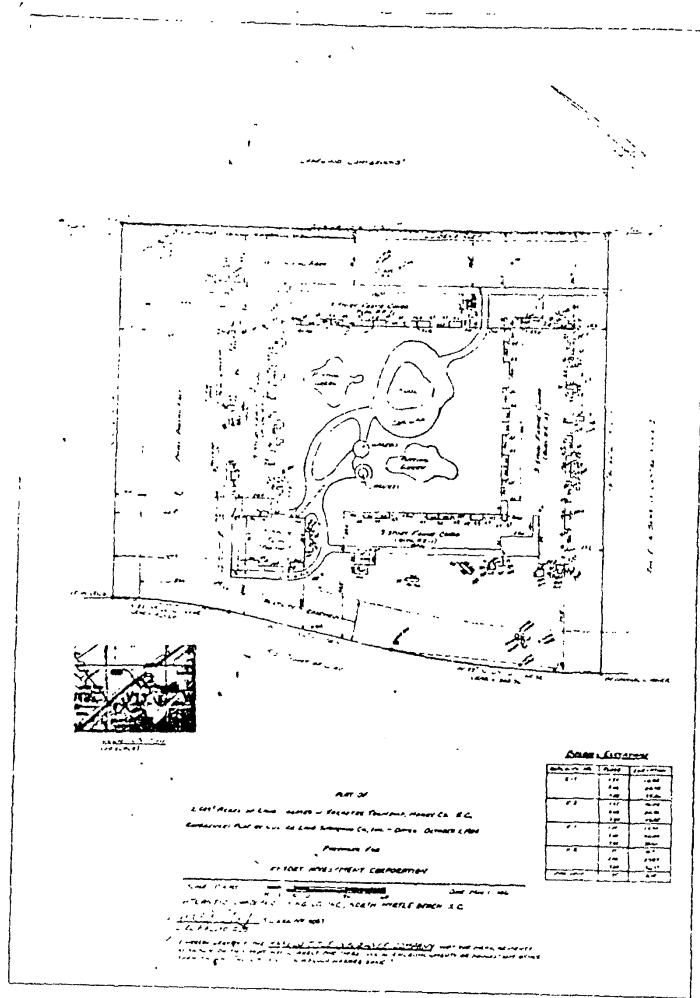


Exhibit 1 - 4

EXHIBIT 2

PHASE II DESCRIPTION, APARTMENT DESIGNATION  
ARCHITECTURAL PLANS AND UNIT INFORMATION

Phase II of the Regime consists of five buildings designated on the Architectural Plans as E-1, E-2, F-1 and F-2 (each containing three floors) and Pro Shop/Resales Building (containing two floors). Apartments in Buildings E-1, E-2, F-1 and F-2 begin with the prefix "6".

Each Apartment includes:

(a) The space enclosed by the unfinished surfaces of perimeter and interior walls, ceilings and floors there including vents, doors, windows and such other structural elements that are ordinarily regarded as enclosures of space.

(b) All interior dividing walls and partitions (including the space occupied by such walls and partitions).

(c) The decorated interior surfaces of all interior walls (including the decorated surfaces of all interior load-bearing walls) and floors, ceilings, consisting as the case may be of wallpaper, paint, plaster, carpeting, tiles and all other furnishings, materials and fixtures affixed or installed and for the sole and exclusive use of any dwellings space, commencing at the point of disconnection of the structural body of the building and from utility lines, pipes, or systems serving dwelling space. No pipes, wires, conduits or other public utility lines or installation constituting a part of the overall system designed for the service of any particular dwelling space of a building or any property of any kind, including fixtures and appliances within an apartment, which are not removable without jeopardizing the safety or usefulness of the remainder of the building shall be deemed to be part of any apartment.

Apartments numbered 6101, 6103, 6119, 6120, 6122, 6201, 6203, 6219, 6220, 6222, 6301, 6303, 6319, 6320 and 6322 are each one-bedroom units. A one-bedroom unit consists of an entry hall, kitchen, living/dining room, bathroom, bedroom and exterior balcony. Apartments numbered 6102, 6104, 6105, 6121, 6123, 6202, 6204, 6205, 6221, 6223, 6302, 6304, 6305, 6321 and 6323 are identical floor plans to the one-bedroom unit built as a mirror image.

Apartments numbered 6106, 6107, 6109, 6110, 6113, 6114, 6118, 6206, 6207, 6209, 6210, 6213, 6214, 6218, 6306, 6307, 6309, 6310, 6313, 6314 and 6318 are each two-bedroom units. A two-bedroom unit consists of an entry hall, kitchen, living/dining room, master bedroom and bathroom, a second bedroom and bathroom and an exterior balcony. Apartments numbered 6108, 6111, 6112, 6115, 6116, 6117, 6208, 6211, 6212, 6215, 6217, 6308, 6311, 6312, 6315, 6316 and 6317 are identical floor plans to the two-bedroom unit built as a mirror image. All Unit numbers, types, floor location, square footages (inclusive of balconies) and the fractional share of ownership of the Units computed to a percentage are set forth on the attached chart entitled "Unit Information."

All Commercial Units are located as shown on the attached Architectural Plans. Commercial Unit D is located on Floors 1 and 2 of the Pro Shop/Resales Building. Commercial Unit E is located on the Floor 1 of the Pro Shop/Resales Building.

The principal improvements included within the Common Elements are one (1) outdoor heated swimming pool with concrete walk, two (2) putting greens, one (1) gazebo, and one (1) spa, all located within the center courtyard created by buildings E-1, E-2, F-1, F-2 and the two (2) bathrooms located in the Pro shop/Resales Building. All landscaped, paved and parking areas shown on the exhibits hereto are general Common Elements as are all sewer and water lines to point of service.

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Exhibit 2-2

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034

UNIT INFORMATION  
(Phase II Units)

Building	Floor	Unit No.	Type	Square Footage	Percentage Ownership
F-2	1	6101	1BR	576	.4651
F-2	1	6102	1BR*	576	.4651
F-2	1	6103	1BR	576	.4651
F-2	1	6104	1BR*	576	.4651
F-2	1	6105	1BR*	576	.4651
F-1	1	6106	2BR	776	.6977
F-1	1	6107	2BR	776	.6977
F-1	1	6108	2BR*	776	.6977
F-1	1	6109	2BR	776	.6977
E-2	1	6110	2BR	776	.6977
E-2	1	6111	2BR*	776	.6977
E-2	1	6112	2BR*	776	.6977
E-2	1	6113	2BR	776	.6977
E-2	1	6114	2BR	776	.6977
E-2	1	6115	2BR*	776	.6977
E-2	1	6116	2BR*	776	.6977
E-2	1	6117	2BR*	776	.6977
E-2	1	6118	2BR	776	.6977
E-1	1	6119	1BR	576	.4651
E-1	1	6120	1BR	576	.4651
E-1	1	6121	1BR*	576	.4651
E-1	1	6122	1BR	576	.4651
E-1	1	6123	1BR*	576	.4651
F-2	2	6201	1BR	576	.4651
F-2	2	6202	1BR*	576	.4651
F-2	2	6203	1BR	576	.4651
F-2	2	6204	1BR*	576	.4651
F-2	2	6205	1BR*	576	.4651
F-1	2	6206	2BR	776	.6977
F-1	2	6207	2BR	776	.6977
F-1	2	6208	2BR*	776	.6977
F-1	2	6209	2BR	776	.6977
E-2	2	6210	2BR	776	.6977
E-2	2	6211	2BR*	776	.6977
E-2	2	6212	2BR*	776	.6977
E-2	2	6213	2BR	776	.6977
E-2	2	6214	2BR	776	.6977
E-2	2	6215	2BR*	776	.6977
E-2	2	6216	2BR*	776	.6977
E-2	2	6217	2BR*	776	.6977
E-2	2	6218	2BR	776	.6977
E-1	2	6219	1BR	576	.4651
E-1	2	6220	1BR	576	.4651
E-1	2	6221	1BR*	576	.4651
E-1	2	6222	1BR	576	.4651
E-1	2	6223	1BR*	576	.4651
F-2	3	6301	1BR	576	.4651
F-2	3	6302	1BR*	576	.4651
F-2	3	6303	1BR	576	.4651
F-2	3	6304	1BR*	576	.4651
F-2	3	6305	1BR*	576	.4651
F-1	3	6306	2BR	776	.6977
F-1	3	6307	2BR	776	.6977
F-1	3	6308	2BR*	776	.6977
F-1	3	6309	2BR	776	.6977
E-2	3	6310	2BR	776	.6977
E-2	3	6311	2BR*	776	.6977
E-2	3	6312	2BR*	776	.6977
E-2	3	6313	2BR	776	.6977
E-2	3	6314	2BR	776	.6977
E-2	3	6315	2BR*	776	.6977
E-2	3	6316	2BR*	776	.6977
E-2	3	6317	2BR*	776	.6977

UNIT INFORMATION  
(Phase II Units)

<u>Building</u>	<u>Floor</u>	<u>Unit No.</u>	<u>Type</u>	<u>Square Footage</u>	<u>Percentage Ownership</u>
E-2	3	6318	2BR	776	.6977
E-1	3	6319	1BR	576	.4651
E-1	3	6320	1BR	576	.4651
E-1	3	6321	1BR*	576	.4651
E-1	3	6322	1BR*	576	.4651
E-1	3	6323	1BR*	576	.4651
		Commercial Unit D		2,348	1.1645
		Commercial Unit E		295	.2308

\* Units built as a mirror image  
1BR = one bedroom  
2BR = two bedroom

The percentage ownership of each Phase I unit is set forth in Exhibit 3.

10/2/2020 36

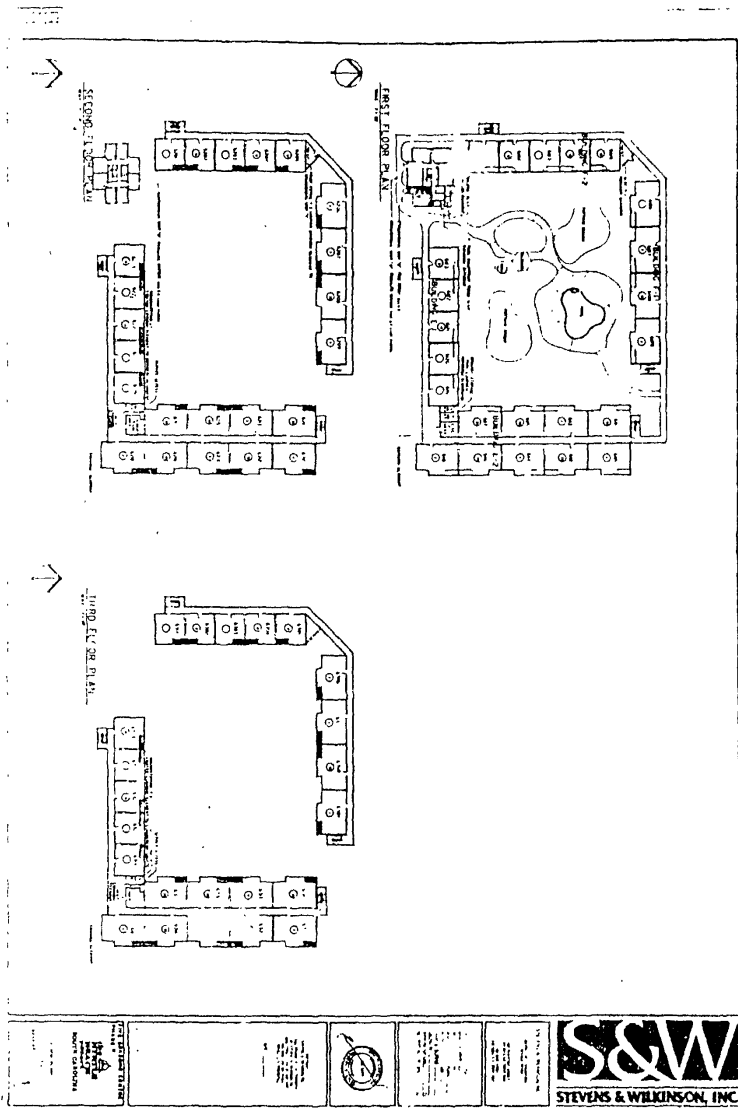


Exhibit 2 - 5

BOOK 1048 PAGE 827

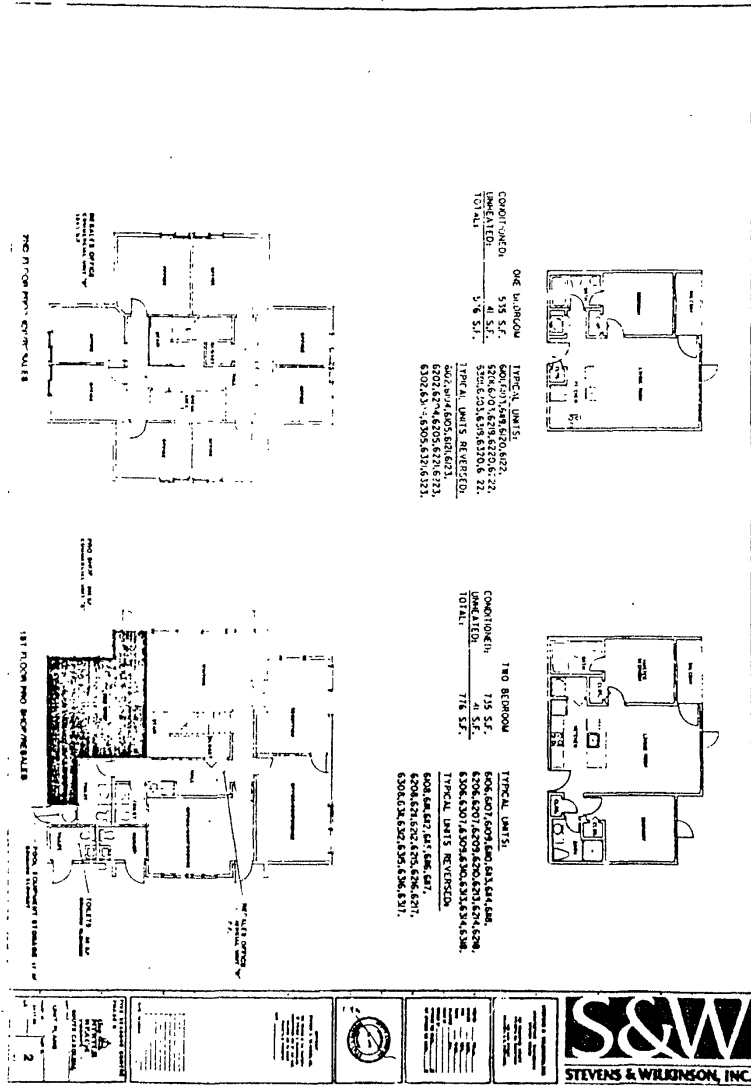


Exhibit 2 - 6

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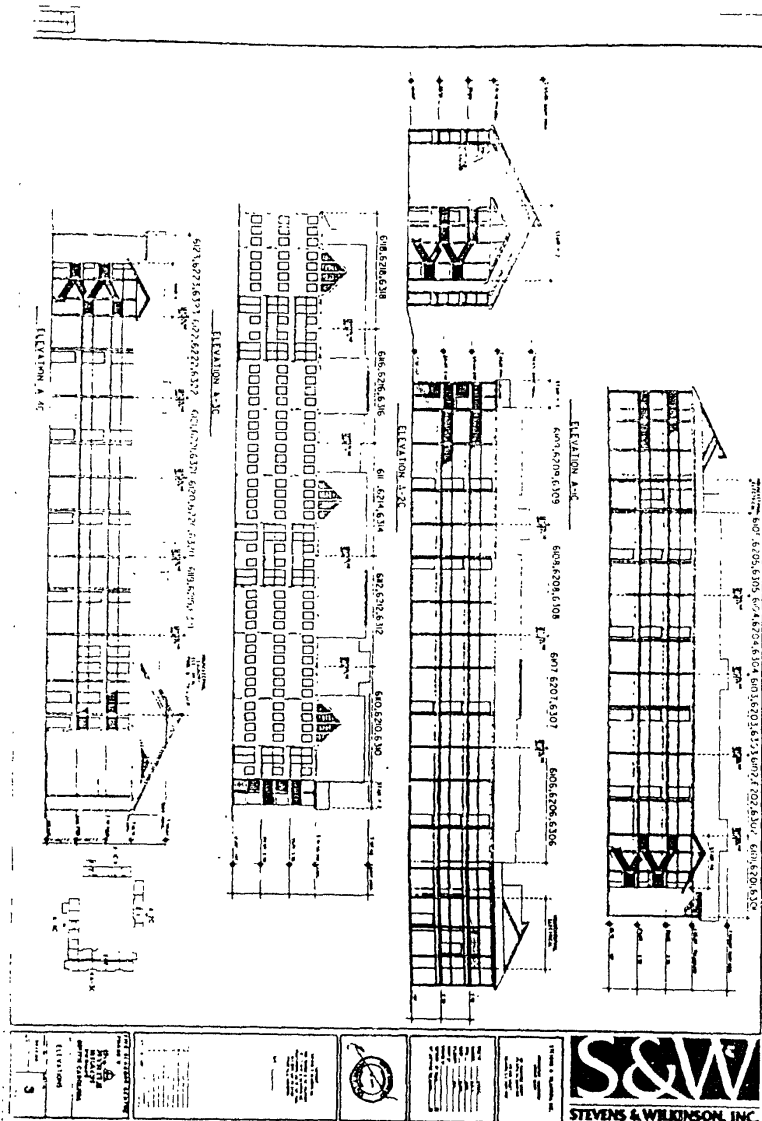


Exhibit 2 - 7

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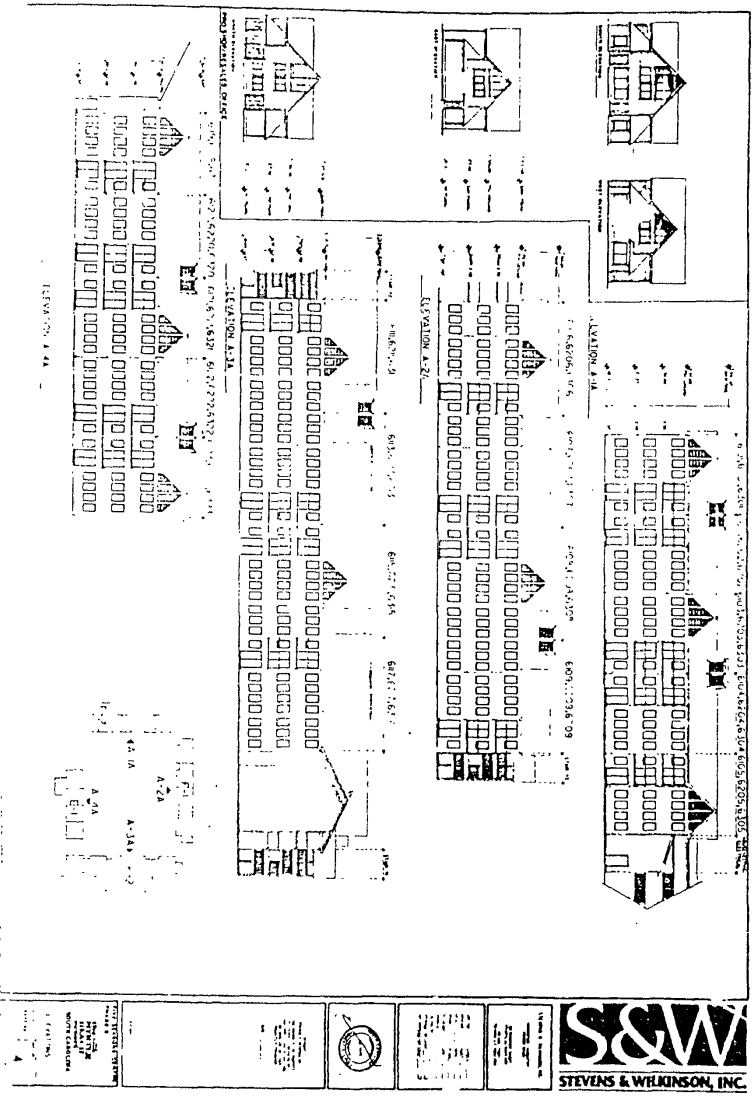


Exhibit 2 - 8

*all*

STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY )

ARCHITECT'S CERTIFICATE

I certify to the best of my knowledge, information and belief that the descriptions, surveys, plats, plot plans and building plans constituting this Exhibit "2" to the MASTER DEED AND FIRST AMENDMENT TO THE MASTER DEED OF THE MYRTLE BEACH RESORT FIVE SEASONS CENTRE HORIZONTAL PROPERTY REGIME or referred to in the Exhibit "2" adequately and accurately depict and show graphically the dimensions, area and location of each Apartment, and the Common Elements, including elevations, in accordance with the requirements of Title 27, Chapter 31, Code of Laws of South Carolina, 1976.

STEVENS & WILKINSON, INC.

BY: 



041

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## EXHIBIT 3

PROPERTY RIGHTS AND PERCENTAGE OF INTEREST  
MYRTLE BEACH RESORT FIVE SEASONS CENTRE COUNCIL OF CO-OWNERS

Each Co-Owner owns, in addition to his Apartment, an interest in the Common Elements of the Property, which percentage of ownership interest has been determined and computed by taking as a basis the value of each individual Apartment in relation to the value of the Property as a whole. The Regime consists of one hundred five (105) two bedroom Apartments, fifty-one (51) one bedroom Apartments, five (5) Commercial Units, for a total of one hundred sixty-one (161) Units.

The percentage of interest in the Common Elements of each Co-Owner of each Apartment represents the percentage of the total votes of all Co-Owners as set out below. There are three (3) votes appurtenant to each two bedroom Apartment, two (2) votes appurtenant to each one bedroom Apartment, four (4) votes appurtenant to Commercial Unit A, one (1) vote appurtenant to Commercial Unit B, two (2) votes appurtenant to Commercial Unit C, five (5) votes appurtenant to Commercial Unit D and one (1) vote appurtenant to Commercial Unit E. The percentage of the total vote that the vote assigned to each Apartment represents is shown below and is also shown on the chart entitled "Unit Information" in Exhibit 2 for Phase II units only. The percentage of ownership stated herein represents that Apartment's share in the Common Elements of the Property and share in the Common Expenses and Assessments and Common Surplus of the Regime.

There are four hundred thirty (430) total votes in the Regime. Such voting rights and the percentage of the total vote appurtenant to each Apartment have been computed by taking as a basis the value of each individual Apartment in relation to the value of the Property as a whole. Each two bedroom Apartment has an equal value to every other two bedroom Apartment. Likewise, each one bedroom Apartment has an equal value to every other one bedroom Apartment. The Commercial Unit A has a value twice that of Commercial Unit C. The Commercial Unit B and Commercial Unit E have a value equal to one-half that of Commercial Unit C. Commercial Unit D has a value five times that of Commercial Unit B.

There is appurtenant to each two bedroom Apartment an undivided .6977 percent ownership in the Common Elements of the Property and share in the Common Expenses and Assessments and Common Surplus of the Regime. The vote appurtenant to each two bedroom Apartment represents .6977 percent of the total vote of all Co-Owners in the Regime.

There is appurtenant to each one bedroom Apartment and to Commercial Unit C an undivided .4651 percent ownership in the Common Elements of the Property and share in the Common Expenses and Assessments and Common Surplus of the Regime. The vote appurtenant to each one bedroom Apartment and to Commercial Unit C represents .4651 percent of the total vote of all Co-Owners in the Regime.

There is appurtenant to Commercial Unit A an undivided .9302 percent ownership in the Common Elements of the Property and share in the Common Expenses and Assessments and Common Surplus of the Regime. The vote appurtenant to each Commercial Unit A represents .9302 percent of the total vote of all Co-Owners in the Regime.



There is appurtenant to Commercial Unit B and to Commercial Unit E an undivided .2308 percent ownership in the Common Elements of the Property and share in the Common Expenses and Assessments and Common Surplus of the Regime. The vote appurtenant to Commercial Unit A and to Commercial Unit E represents .2308 percent of the total vote of all Co-Owners in the Regime.

There is appurtenant to Commercial Unit D an undivided 1.1645 percent ownership in the Common Elements of the Property and share in the Common Expenses and Assessments and Common Surplus of the Regime. The vote appurtenant to Commercial Unit D represents 1.1645 percent of the total vote of all Co-Owners in the Regime.

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Exhibit 3-2

10/19/2021

dl3

ADDENDUM TO TELEVISION LEASE AGREEMENT

THIS ADDENDUM to the Television Lease Agreement dated June 18, 1985, by and between Capital Tele-Communications Corporation ("Capital") and Myrtle Beach Resort Five Seasons Centre Council of Co-Owners on behalf of itself and each and every Unit Owner thereof ("Lessee") is made this 29<sup>th</sup> day of May, 1986.

The parties agree to include the following terms within said Agreement:

With respect to Units in Phase II of Myrtle Beach Resort Five Seasons Centre (Residential Units 6101 through 6123, 6201 through 6223 and 6301 through 6323), the parties agree that for the purposes of Paragraph 5 of the Agreement, the date of completion of delivery of the equipment on the premises is the date of this Addendum and the term of the lease for Phase II Units shall be a period of one hundred twenty (120) months from the date of this Addendum.

IN WITNESS WHEREOF, the parties hereto have executed this ADDENDUM on the day and year first above written.

Signed, Sealed and Delivered  
In the Presence of:

*Susan Berry*  
*Myrtle Beach*

MYRTLE BEACH RESORT  
FIVE SEASONS CENTRE  
COUNCIL OF CO-OWNERS

By: *Patricia A.*  
Its: *President*

*Myrtle Beach*

CAPITAL TELE-COMMUNICATIONS  
CORPORATION

By: *Richard L. Payne*  
Its: *Vice President*

Exhibit 4

CC-1048 PAGE 844

*adw*

ADDENDUM TO TELEPHONE LEASE AGREEMENT

THIS ADDENDUM to the Telephone Lease Agreement dated June 18, 1985, by and between Capital Tele-Communications Corporation ("Capital") and Myrtle Beach Resort Five Seasons Centre Council of Co-Owners on behalf of itself and each and every Unit Owner thereof ("Lessee") is made this 29<sup>th</sup> day of May, 1986.

The parties agree to include the following terms within said Agreement:

With respect to Units in Phase II of Myrtle Beach Resort Five Seasons Centre (Residential Units 6101 through 6123, 6201 through 6223 and 6301 through 6323 and Commercial Unit D), the parties agree that for the purposes of Paragraph 5 of the Agreement, the date of completion of delivery of the equipment on the premises is the date of this Addendum and the term of the lease for Phase II Units shall be a period of one hundred twenty (120) months from the date of this Addendum.

Further, the parties agree that Capital shall furnish telephone equipment and service to Commercial Unit D pursuant to like terms and conditions set forth in the Agreement for Residential Units.

IN WITNESS WHEREOF, the parties hereto have executed this ADDENDUM on the day and year first above written.

Signed, Sealed and Delivered  
In the Presence of:

MYRTLE BEACH RESORT FIVE  
SEASONS CENTRE COUNCIL OF  
CO-OWNERS

James Berry  
Anthony C. McPherson

By: Anthony R. Hill  
Its: President

Myrtle J. Christfield

CAPITAL TELE-COMMUNICATIONS  
CORPORATION

By: Richard W. Rayburn  
Its: Vice-President

845

File No. ANDREWS

Policy No.: 507-001653

**Schedule B  
Exceptions From Coverage**

This policy does not insure against loss or damage (and the Company will not pay costs, attorney's fees, or expenses) which arise by reason of:

1. 1994 real property taxes, liens not yet due and payable, and all subsequent years.
2. Covenants, conditions, restrictions, reservations, easements, liens for assessments, options, powers of attorney, and limitations on title created by the South Carolina Horizontal Property Act and/or set forth in the Master Deed and By-Laws of Myrtle Beach Resort Five Seasons Centre Horizontal Property Regime, dated June 18, 1985, recorded in Deed Book 966, page 654, records of Horry County, and as subsequently amended; or in any instrument creating the estate or interest insured by this policy; and in any other allied instrument referred to in any of the instruments aforesaid; this policy insures that said restrictions have not been violated to date and that a future violation thereof will not cause forfeiture or reversion of title.
3. Reservations, restrictions, covenants, easements, and limitations contained in that certain Deed from R. Grant Singleton and Elizabeth G. Singleton to Resort Investment Corporation, recorded on September 28, 1981, in Deed Book 725, page 030, Office of the RMC for Horry County; this policy insures that said restrictions have not been violated to date and that a future violation thereof will not cause forfeiture or reversion of title.
4. Easement contained in that certain Deed from R. Grant Singleton and Elizabeth G. Singleton to Resort Investment Corporation, dated July 15, 1983, recorded in Deed Book 807, Page 747, Office of the RMC for Horry County.
5. Easement from R. Grant Singleton and Elizabeth G. Singleton to Resort Investment Corporation, recorded in Deed Book 789, Page 360, Office of the RMC for Horry County.
6. Easement recorded in Deed Book 764, Page 055, Office of the RMC for Horry County.

NOTE: Unless Schedule B Part II is attached, there are no subordinate matters that affect the title to the estate or interest referred to in Schedule A.

ALTA Loan/LH Loan/Construction Loan  
Schedule B-Part I  
Form 1191-14

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STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY )

*Doc. No. 78977-360*  
EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that R. GRANT SINGLETON and ELIZABETH G. SINGLETON, for and in consideration of the sum of One and 00/100 (\$1.00) Dollar, the receipt and sufficiency of which is hereby acknowledged, does hereby grant and convey unto RESORT INVESTMENT CORPORATION, a Delaware Corporation, authorized to do business in South Carolina, its successors and assigns, a non-exclusive permanent easement for purposes of ingress and egress for vehicular and pedestrian traffic from the fifty (50') foot road leading from U. S. Highway 17 to Phase I, Myrtle Beach Resort, which easement was previously granted by deed which is recorded in Deed Book 725 at page 30, Horry County records and shown on plat recorded in Plat Book 72 at page 58 and Plat Book 74 at page 32, Horry County records, and leading from said road to Phase II, Myrtle Beach Resort, said easement being thirty (30') feet in width and more particularly described as follows:

Commencing at an iron located at the Northwest corner of Phase II, thence running S 40° 32' W for a distance of 27.5 feet to the centerline of said easement, thence running along said centerline N 30° 30' W for a distance of 100.0 feet, more or less to a point intersecting with the South-eastern edge of said fifty (50') road, said easement being thirty (30') feet in width with fifteen (15') feet on either side of said centerline.

Said easement is more particularly described and delineated on a plat by Michael S. Culler, Jr., dated June 10, 1982, last revised April 13, 1983, and recorded in the records for Horry County in Plat Book 2 at page 30, said plat being incorporated by reference herein as a part of this easement.

IN WITNESS WHEREOF, the undersigned have executed this easement the 19 day of April, 1983.

WITNESSES:  
*H. Mook*  
*J. F. Mook*  
*Cathy R. Hill*  
*Cathy R. Hill*

*R. Grant Singleton* (L.S.)  
R. GRANT SINGLETON  
*Elizabeth G. Singleton* (L.S.)  
ELIZABETH G. SINGLETON

*415-83*  
*1:39 PM*

SHILEE G. HARRISON  
CLERK OF COURT

78

*360*

STATE OF SOUTH CAROLINA PROBATE FOR INDIVIDUAL  
COUNTY OF HORRY

PERSONALLY APPEARED BEFORE ME Samuel E. Smith  
and made oath that he saw the within named  
H. GRANT SIMCLINTON and ELIZABETH G. SIMCLINTON

sign, seal and as \_\_\_\_\_ act and deed deliver the within written  
instrument WARRANT

and that he with Andrew R. Turner witnessed the  
execution thereof

[Signature]

SWORN to before me this  
13 day of Apr, 19 21

[Signature] (SEAL)  
NOTARY PUBLIC IN AND FOR S. C.  
MY COMMISSION EXPIRES 7/1/22

STATE OF SOUTH CAROLINA PROBATE FOR INDIVIDUAL  
COUNTY OF \_\_\_\_\_

PERSONALLY APPEARED BEFORE ME \_\_\_\_\_  
and made oath that he saw the within named \_\_\_\_\_

sign, seal and as \_\_\_\_\_ act and deed deliver the within written  
\_\_\_\_\_ and

that he with \_\_\_\_\_ witnessed the  
execution thereof

SWORN to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

\_\_\_\_\_  
(SEAL)  
NOTARY PUBLIC IN AND FOR S. C.  
MY COMMISSION EXPIRES \_\_\_\_\_

2021 APR 23 2:48 PM  
30

*A. Sh. 76480 25021*  
*55*

FILED  
HORRY COUNTY  
1332 SEP 29 PM 2 17  
EASEMENT  
LILLIE G. RICHARDSON  
CLERK OF COURT

STATE OF SOUTH CAROLINA  
COUNTY OF HORRY

KNOW ALL MEN BY THESE PRESENTS, that RESORT INVESTMENT CORPORATION (herein "Resort") was heretofore the owner of certain real property containing 6.198 acres, more or less (herein "Phase I"), which was acquired by deed which is recorded in the Office of the Clerk of Court for Horry County, South Carolina, in Deed Book 725 at Page 33, and being shown as a 6.198+- parcel on a certain plat entitled "Plat of 44.668+- Acres, Lot 5 of Lakewood Plantation Property Near Myrtle Beach", which plat is recorded in the Office of the Clerk of Court for Horry County, South Carolina, in Plat Book 72 at Page 58; and

WHEREAS, Resort did establish upon said Phase I a certain horizontal property regime known as Myrtle Beach Resort Horizontal Property Regime (herein "Regime") by Master Deed which is recorded in the Office of the Clerk of Court for Horry County, South Carolina, in Deed 750 at Page 642 (herein "Master Deed"); and

WHEREAS, by the Master Deed, Resort did reserve unto itself, and the right to grant to others, easements over, across, under and upon the aforesaid Phase I for access and for ingress and egress for pedestrian and vehicular purposes and for utility services and drains; and

WHEREAS, Resort has now acquired by deed recorded in the Office of the Clerk of Court for Horry County, South Carolina, in Deed Book 758 at Page 471, a certain contiguous tract containing 6.205 acres, more or less (herein "Phase II"), shown and described as "Phase II" on a certain plat entitled "Plat of 44.668+- Acres, Lot 5 of Lakewood Plantation Property Near Myrtle Beach", which plat is recorded in the Office of the Clerk of Court for Horry County, South Carolina, in Plat Book 74 at Page 32 (Phase I also being shown upon said plat and being designated thereon as "Phase I"), which Phase II Resort intends to develop and improve and to make a part of and the second phase of the Regime by amendment to the Master Deed; and

WHEREAS, Resort wishes to hereby specifically reserve easements as described above across, over, under and upon Phase I for Phase II unto itself, its successors and assigns, such to be permanent in the event Phase II is not included within the Regime, but to be extinguished in the event Phase II is included within the Regime.

NOW, THEREFORE, Resort does hereby reserve and grant unto itself, its successors and assigns, NON-EXCLUSIVE EASEMENTS for ingress and egress for vehicular and pedestrian traffic over and across and upon the paved roads of Phase I (Myrtle Beach Resort Horizontal Property Regime as presently constituted (Phase I)) for the purposes of access and ingress and egress for vehicular and pedestrian traffic over, across and upon Phase I from the terminus of the access and ingress and egress easement from U.S. Highway 17 to Phase I shown on the plats to which reference has been made above to Phase II. AND, NON-EXCLUSIVE EASEMENTS for the underground installation and maintenance of utilities, including, but not limited to, water, sewer, telephone, electrical, cable television and drainage structures, from the terminus of the utility easement from U.S. Highway 17 to Phase I which is also shown on the plats described above, over, across, upon and under Phase I to Phase II, to connect to all utility facilities situate within Phase I; provided, however, that all expenses in connection therewith shall be at the sole expense of Resort, its successors

*Easement To Phase III*

BOOK 764 PAGE 055

and assigns, and that, further, the exercise of the foregoing easements shall not materially interfere with nor materially harm any improvements constructed on Phase I nor materially interfere with the rights of the owners and occupiers of the Regime (as presently constituted) to use of the surface.

The foregoing reservations and grants of easement shall be permanent, provided, however, in the event Phase II is included within the Regime, all as more fully described in the development plan of Myrtle Beach Resort Horizontal Property Regime which is set forth in the Master Deed, then these said easements and rights therein shall merge into said Horizontal Property Regime, and all owners and occupiers of the Regime shall have the rights and grants of easement as described in said Master Deed establishing said Horizontal Property Regime; provided, further, such establishment shall not, nor shall it be deemed to, extinguish Resort, its successors and assigns, reserving unto itself, and the right to grant to others, easements and rights of easement in the future as provided in the Master Deed.

IN WITNESS WHEREOF, RESORT INVESTMENT CORPORATION, a Delaware corporation duly authorized to do business in the State of South Carolina, by and through its duly authorized officer, has set its hand and affixed its corporate seal this 25th day of SEPTEMBER, 1982.

SIGNED, SEALED AND DELIVERED  
In the Presence Of: [Signature]  
Marjorie C. Butler  
RESORT INVESTMENT CORPORATION  
BY: [Signature] (SEAL)  
ATTEST: [Signature]

STATE OF SOUTH CAROLINA  
COUNTY OF HORRY  
PROBATE

PERSONALLY appeared before me the undersigned witness, who being duly sworn, says that (s)he saw the within-named RESORT INVESTMENT CORPORATION, by and through its duly authorized officer, sign, seal and deliver the within EASEMENT as its act and deed; and that (s)he, with the other witness whose signature appears above, witnessed the execution thereof.

[Signature]  
WITNESS

SWORN and subscribed to before me  
this 25th day of September, 1982.  
[Signature] (L.S.)  
NOTARY PUBLIC FOR SOUTH CAROLINA  
My Commission Expires: 2/1/73.

574

MYRTLE BEACH RESORT HORIZONTAL PROPERTY REGIME COUNCIL OF CO-OWNERS, by and through its duly authorized initial Board of Directors, does hereby accept, acknowledge and recognize the foregoing described grants and reservations of easement, on behalf of itself, the Council of Co-Owners of Myrtle Beach Resort Horizontal Property Regime and every present and future co-owner thereof.

SIGNED, SEALED AND DELIVERED  
in the presence of:  
[Signature]  
[Signature]

MYRTLE BEACH RESORT HORIZONTAL  
PROPERTY REGIME COUNCIL OF  
CO-OWNERS, BY AND THROUGH ITS  
DULY AUTHORIZED INITIAL BOARD OF  
DIRECTORS  
[Signature]  
[Signature]  
[Signature]

STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY )

PROBATE

PERSONALLY appeared before me the undersigned witness, who being duly sworn, says that (s)he saw the within-named MYRTLE BEACH RESORT HORIZONTAL PROPERTY REGIME COUNCIL OF CO-OWNERS, by and through its duly authorized initial Board of Directors, sign, seal and deliver the within EASEMENT as its act and deed; and that (s)he, with the other witness whose signature appears above, witnessed the execution thereof.

[Signature]  
WITNESS

SWORN and subscribed to before me  
this 21st day of September, 1981.

[Signature] (L.S.)  
NOTARY PUBLIC FOR SOUTH CAROLINA  
My Commission Expires [Signature]

4100 3:40 PM Sept. 28 1981  
3:40 PM

STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY ) TITLE TO REAL ESTATE

g

KNOW ALL MEN BY THESE PRESENTS, that we, R. Grant Singleton and Elizabeth G. Singleton in the State aforesaid for and in consideration of the sum of One (\$1.00) Dollar and other good and valuable consideration to us paid by Resort Investment Corporation, a Delaware corporation, Number One Main Street, P. O. Box 11496, Columbia, South Carolina 29211, in the State aforesaid, (Receipt of which is hereby acknowledged) have granted, bargained, sold and released; and by these presents do grant, bargain, sell and release unto the said Resort Investment Corporation, a Delaware corporation, its successors and assigns, subject to the covenants, conditions, reservations, restrictions, limitations and easements and agreements herein mentioned:

RECORDED  
1981

All and singular that certain piece, parcel or tract of land situate, lying and being in Socastee Township, County of Horry, State of South Carolina and being located approximately Five (5) miles south of Myrtle Beach, South Carolina and lying on the eastern side of U.S. Highway 17 Business, containing 6.198 acres, more or less, being shown and described as a 6.198 acres parcel on a certain plat entitled "Plat of 44.668 acres, more or less, Lot 5 of Lakewood Plantation Property near Myrtle Beach" prepared for Resort Investment Corporation by Culler Land Surveying Co., Inc. dated August 17, 1981 which plat is recorded in the office of the Clerk of Court for Horry County, South Carolina in Plat Book 72 at page 58. The said tract having the following metes and bounds, to wit:

RP  
C 24

Beginning at a corner on the northeastern boundary of the tract of land herein described being a common boundary line between the tract of land herein described and land formerly owned by Carl Perry upon which Lakewood Family Campground is located, said beginning corner being located upon said common land line at a point located sixteen hundred ninety-eight and 5/10 (1,698.5) feet south thirty-eight (38°) degrees, 08 minutes 08 seconds east from the intersection of U.S. Highway 17 Business with the common land line corner between property of R. Grant Singleton and Elizabeth G. Singleton and property now or formerly owned by Carl Perry upon which Lakewood Family Campground is now located, and running thence from said beginning corner along a straight line south forty (40°) degrees, fifty-two minutes (52') west, for a distance of two hundred twenty-nine and 20/100 (229.20) feet to a point, thence turning and proceeding in a straight line south thirty-eight (38°) degrees, zero eight minutes (08') zero eight seconds (08") east, for a distance of one thousand two hundred one and 36/100 (1,201.36) feet more or less to the high water mark of the Atlantic Ocean, thence turning and proceeding along the high water mark of the Atlantic Ocean in a direction approximately north forty (40°, degrees fifty-two (52') minutes zero zero (00") seconds

725 000 20

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east for a distance of approximately two hundred twenty-nine and 02/100 (229.20') feet to a point, thence turning and proceeding in a straight line north thirty-eight (38°) degrees, zero eight (08') minutes zero eight (08") seconds west for a distance of approximately one thousand two hundred one and 36/100 (1,201.36') feet, more or less, back to the point of beginning, reference being craved to said plat for additional description. The above described tract is bounded upon the northeast by lands formerly owned by Carl Perry and upon which Lakewood Family Campground is now located, on the northwest and the southwest by other lands of R. Grant Singleton and Elizabeth G. Singleton (being Parcels II and III which are the subject properties of Options dated October 18, 1980 between the parties hereto) and on the southeast by the Atlantic Ocean.

Together with all right, title and interest in and to all the land lying between the southeastern boundary of said tract and the low water mark of the Atlantic Ocean formed by an extension of the northeastern and southwestern boundaries of said tract. Provided however, no warranties of title are made as to said parcel lying between said boundary and the low water mark of the Atlantic Ocean.

Subject however, to all covenants, conditions, reservations, restrictions, limitations and easements of record and provided for in option agreements between the parties hereto dated October 18, 1980.

SUBJECT TO the reservation of a pedestrian and bicycle easement ten (10') feet in width along the northeastern boundary of said tract as more fully shown upon said plat to which reference has been made above; and FURTHER SUBJECT TO the reservation of an underground utility easement over and upon the aforescribed land for purposes of connection to water lines, sewer lines, drainage structures, electrical lines, telephone lines or other utilities; to R. Grant Singleton and Elizabeth G. Singleton, their heirs, successors, licensees and assigns.

*RFP  
2/28*

TOGETHER WITH a non-exclusive permanent easement to grantee, its successors, assigns and licensees, for purposes of ingress and egress for vehicular and pedestrian traffic from U.S. Highway 17 Business to and from the above described property, said easement being seventy-five (75') feet in width whereon it adjoins U.S. Highway 17 Business, thereupon being reduced to fifty (50') feet in width, the locations and dimensions of which are shown upon said plat to which reference has been made above; reference being craved thereto for additional description; AND a non-exclusive permanent easement for the underground installation and maintenance of utilities including, but not limited to, water, sewer, telephone, electrical, cable television and drainage structures from U.S. Highway 17 Business to the above described property; said easement being thirty (30') feet in width from U.S. Highway 17 Business unto the property described above and fifteen (15') feet in width upon lands of R. Grant Singleton and Elizabeth G. Singleton whereon it adjoins U.S. Highway 17 Business; all as more fully shown upon said plat to which reference has been made above; reference being craved thereto for additional description. SUBJECT TO HOWEVER, reservation unto R. Grant Singleton and Elizabeth G. Singleton, their heirs, designees, successors, assigns and licensees, to the right to use such easement and the improvements installed therein to facilitate the development of adjacent property which constitutes the remaining portion of the tract of 44.668 acres, more or less, shown upon said

plat to which reference has been made above only and the right to enter upon and to tie into and to tap onto the same for such purposes.

TOGETHER WITH a utility easement for a sewer pump station and a utility easement for a water booster pump as shown upon said plat to which reference has been made above; reference being craved thereto for additional description. SUBJECT TO the reservation unto R. Grant Singleton and Elizabeth G. Singleton, their heirs, designees, successors and assigns and licensees to use such easements and the improvements installed therein to facilitate the development of the adjacent property constituting the remaining portion of the total tract of 44.668 acres, more or less, which is shown upon said plat to which reference has been made above only and the right to enter upon and to tie into and tap onto the same for such purposes.

The property hereby conveyed shall be restricted to use as residential property only with related amenities (provided however, that in the event that the Grantee shall exercise the option for the purchase of the property designated as Parcel III hereinabove mentioned and shall close the purchase thereof, then thereafter the said property shall be restricted in such fashion as the Grantee herein shall solely determine and designate).

This is a portion of the identical property conveyed to R. Grant Singleton by deed of Sand-Star, Inc. dated July 9, 1980 and recorded July 21, 1980 in Deed Book 682, at page 499, office of the Clerk of Court for Horry County, S.C. This is a portion of the identical property conveyed to Elizabeth G. Singleton by deed of Sand-Star, Inc. dated July 9, 1980 and recorded July 21, 1980 in Deed Book 682, at page 502, office of the Clerk of Court for Horry County, S.C.

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said premises belonging, or in anywise incident or appertain.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said: Resort Investment Corporation, a Delaware corporation, its successors and assigns, subject to the covenants, conditions, reservations, restrictions, limitations and easements and agreements herein mentioned.

And we do hereby bind ourselves and our Heirs and Executors and Administrators, to warrant and forever defend all and singular the same premises unto the said: Resort Investment Corporation, its successors and assigns, against us and our heirs, and all persons whomsoever lawfully claiming, or to claim the same or any part thereof, with the exception of the right, title and interest of the Grantors in and to the abovesaid land lying between the eastern boundary of the land above described by metes and bounds and the low water mark of the Atlantic Ocean.

WITNESS the execution hereof by grantors this  
28th day of September in the year of  
our Lord one thousand nine hundred and eighty-one and in the  
Two Hundred Sixth year of the Sovereignty and Independence  
of the United States of America.

Signed, Sealed and Delivered  
in the Presence of  
[Signature] (L.S.)  
R. Grant Singleton  
[Signature] (L.S.)  
Elizabeth G. Singleton

STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY )

PERSONALLY appeared before me the undersigned  
witness and made oath that (s)he saw the within named R. Grant  
Singleton and Elizabeth G. Singleton Sign, Seal and as their  
Act and Deed deliver the within written Deed; and that (s)he  
with the other witness subscribed above witnessed the execution  
thereof.

SWORN TO before me this 28th  
day of September A.D. 1981.  
[Signature] (L.S.)  
Notary Public for South Carolina

My commission expires: 1-23-88

STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY ) RENUNCIATION OF DOWER

I, Ann W. Goodwin, do hereby  
certify unto all whom it may concern, that Mrs. Elizabeth G.  
Singleton, the wife of the within named Grantor did this day  
appear before me and upon being privately and separately  
examined by me, did declare that she does freely, voluntarily,  
and without any compulsion, dread or fear of any person or  
persons whomsoever, renounce, release and forever relinquish  
unto the within named Grantee its successors and assigns,  
all her interest, and estate, and also her right and claim  
of Dower, of, in or to, all and singular the premises within  
mentioned and released.

Given under my Hand and Seal this 28th day of  
September Anno Domini 1981.  
[Signature] (L.S.) Elizabeth G. Singleton  
Notary Public for South Carolina

My commission expires: 1-23-88

I Certify <sup>220</sup> Horry County Documentary  
Tax has been paid on this instrument.  
[Signature]

W. G. RICHARDSON  
Notary Public  
725 063



Q

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS,

*Deed Bk. 807 pg. 747*

1993 JUN 15 PM 12:21  
BILLE G. BIRNBAUGH  
CLERK OF COURT  
HORRY COUNTY

That we, R. GRANT SINGLETON and ELIZABETH G. SINGLETON (herein collectively "Grantor" or "Grantors"), in the State aforesaid, for and in consideration of the sum of One (\$1,000.00) Dollar and other good and valuable consideration to us paid by RESORT INVESTMENT CORPORATION, a Delaware corporation, Number One Main Street, Post Office Box 11496, Columbia, South Carolina 29211 (herein "Grantee"), in the State aforesaid, (Receipt of which is hereby acknowledged) have granted, bargained, sold and released; and by these presents do grant, bargain, sell and release unto the said RESORT INVESTMENT CORPORATION, a Delaware corporation, its successors and assigns, subject to the covenants, conditions, reservations, restrictions, limitations and easements herein mentioned:

All that piece, parcel or tract of land, situate in the County of Horry, State of South Carolina, and Township of Socastee, situate, lying and being on the eastern side of U.S. Highway 17, containing 44.62 acres, more or less, and designated as Tract Five, as shown on a plat of record in Plat Book 51, at page 38, office of the Clerk of Court for Horry County, South Carolina, dated March 25, 1969, with division lines being surveyed the 24th day of November 1969, and prepared by J. C. Causey and Arthur Thompkins, Jr., Registered Land Surveyors, and bounded and described as follows:

*103*

Commencing at a Pipe O corner on the southern margin of U.S. Highway 17, the common corner of lands deeded to Carl E. Perry by Lakewood Plantation, Inc. and the herein described tract, and thence running South 47 degrees West 665 feet to an iron N corner on the southeast edge of U.S. Highway 17; thence South 38 degrees 06 minutes East 2970 feet to an iron N at highwater mark on the Atlantic Ocean; thence North 40 degrees 52 minutes East 673 feet to an iron N corner, common corner of land deeded to Carl E. Perry by Lakewood Plantation, Inc. and the herein described tract; thence North 38 degrees, 06 minutes West 2898.3 feet to an iron N, the beginning corner.

Bounded on the Northwest by U.S. Highway 17, on the Northeast by lands deeded to Carl Perry by Lakewood Plantation, Inc., on the Southeast by the highwater mark of the Atlantic Ocean, and on the Southwest by Tract Four on said plat.

EXCEPTING THEREFROM, HOWEVER:

TRACT I:

That certain 6.198 acres, more or less, tract of land described in that certain deed from Grantors herein to Grantee herein dated and recorded September 28, 1981 office of the Clerk of Court for Horry County, S.C.

TRACT II:

That certain 6.205 acres, more or less, tract of land described in that certain deed from Grantors herein to Grantee herein dated and recorded August 17, 1982, office of the Clerk of Court for Horry County, S.C.

*807 PAGE 747*

*747*

TOGETHER WITH all right, title and interest in and to all of the land lying between the western boundary of the above property hereby conveyed and the center line of U.S. Highway 17, subject to existing easements of record, and all of that land lying between the eastern boundary of said property and the low watermark of the Atlantic Ocean. (Note: The warranty of Singleton does not cover the property in this paragraph.)

TOGETHER WITH any and all property rights and interests reserved unto the Grantors herein, pursuant to the terms of those certain Option Agreements between the parties hereto dated October 18, 1980 relating to the tract of land herein conveyed and also relating to those two certain tracts of land described herein as TRACTS I and II in the above EXCEPTION.

SUBJECT, HOWEVER, to all covenants, conditions, reservations, restrictions, limitations and easements of record.

This is a portion of the identical property conveyed to R. Grant Singleton by Deed of Sand-Star, Inc., dated July 9, 1980, and recorded July 21, 1980, in Deed Book 602, at page 499 in the Office of the Clerk of Court for Horry County, South Carolina; and this is a portion of the identical property conveyed to Elizabeth G. Singleton by deed of Sand-Star, Inc., dated July 9, 1980, and recorded July 21, 1980, in Deed Book 602, at page 502 in the Office of the Clerk of Court for Horry County, South Carolina.

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said RESORT INVESTMENT CORPORATION, a Delaware corporation, its successors and assigns, subject to the covenants, conditions, reservations, restrictions, limitations and easements herein mentioned.

And we do hereby bind ourselves and our Heirs and Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said RESORT INVESTMENT CORPORATION, a Delaware corporation, its successors and assigns, against us and our heirs, and all persons whomsoever lawfully claiming, or to claim the same or any part thereof, with the exception of the right, title and interest of the Grantors in and to the abovesaid land lying between the eastern boundary of the land hereby conveyed and the low water mark of the Atlantic Ocean and in and to the abovesaid land lying between the western boundary of the above property hereby conveyed and the center line of U.S. Highway 17.

WITNESS the execution hereof by Grantor this 15th day of July in the year of our Lord one thousand nine hundred and eighty three (1983) and in the Two Hundred Eighth (208th) year of the Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered in the Presence of

*Elizabeth G. Singleton*  
*Quaid D. Johnson*

*R. Grant Singleton* (L.S.)  
R. GRANT SINGLETON

*Elizabeth G. Singleton* (L.S.)  
ELIZABETH G. SINGLETON

744

STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY ) PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named R. GRANT SINGLETON and ELIZABETH G. SINGLETON sign, seal and as their act and deed deliver the within written instrument and that (s)he, with the other witness subscribed above witnessed the execution thereof.

SWORN TO before me this 15th day of July A.D. 1983. *Elizabeth C. Graham*  
*David W. Davidson* (L.S.)  
Notary Public for South Carolina  
My commission expires: 1-23-88

STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY ) RENUNCIATION OF DOWER

I, the undersigned Notary Public, do hereby certify unto all whom it may concern, that MRS. ELIZABETH G. SINGLETON, the wife of the within named Grantor, R. GRANT SINGLETON, did this day appear before me upon being privately and separately examined by me, did declare that she does freely, voluntarily, and without any compulsion, dread or fear of any person whomsoever, renounce, release and forever relinquish unto the within named Grantee, its successors and assigns, all her interest and estate, and all her right and claim of dower of, in and to all and singular the premises within mentioned and released.

GIVEN under my hand and seal this 15th day of July, 1983.  
*Elizabeth G. Singleton*  
*David W. Davidson* (L.S.) *Elizabeth G. Singleton*  
Notary Public for S.C. ELIZABETH G. SINGLETON  
My commission expires: 1-23-88

749

STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY )

AFFIDAVIT

FILED  
HORRY COUNTY  
1983 JUL 15 PM 12:24  
BILLIE G. RICHARDSON  
CLERK OF COURT

PERSONALLY appeared before me, the undersigned, R. Grant Singleton and Elizabeth G. Singleton, who first being duly sworn depose and say that the true and full consideration for that certain 32.217 acres, more or less, tract of land in Socastee Township, Horry County, S.C. conveyed by deed of this date from the deponents to Resort Investment Corporation, a Delaware corporation, is the sum of \$2,270,035.67 Dollars.

SWORN TO before me this 15th day of July 1983.

*Quinn D. Doolittle* (L.S.)  
Notary Public for S.C.

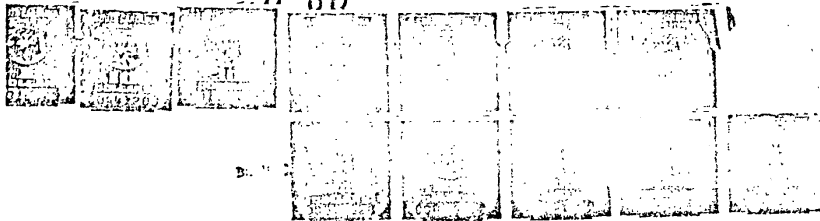
*R. Grant Singleton* (S.S.)  
R. Grant Singleton  
*Elizabeth G. Singleton* (S.S.)  
Elizabeth G. Singleton

My commission expires: 1-23-88

I Certify <sup>249755</sup> Horry County Documentary Tax has been paid on this instrument.

*Billie G. Richardson*

BILLIE G. RICHARDSON  
Clerk of Court



807 750

750

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# EXHIBIT E

ELECTRONICALLY FILED - 2021 Apr 23 2:48 PM - HORRY - COMMON PLEAS - CASE#2018CP2603173

10/15/2007 10:11:11 AM  
FILED IN 140 (2007)

7845

**ASSIGNMENT OF DECLARANT RIGHTS**  
(Myrtle 6 and 7)

THIS AGREEMENT, made as of this 21<sup>st</sup> day of February 1987, by and between RESORT DEVELOPMENT CORPORATION (formerly RESORT INVESTMENT CORPORATION) (hereinafter called "Assignor"), and VACATION PROPERTIES, INC., a North Carolina corporation qualified to do business in South Carolina as VP, Inc., and its successors and assigns (hereinafter called the "Assignee"),

WITNESSETH:

Deed 13-11-21  
Pg 40

WHEREAS, Assignor caused to be recorded a certain Master Deed of Myrtle Beach Resort Horizontal Property Regime ("Myrtle Beach Master Deed"), which is recorded in the Office of the Clerk of Court for Horry County, South Carolina in Deed Book 750, Page 642, and which established a horizontal regime known as the "Myrtle Beach Prudt Regime" and which is referred to herein as "Phase I";

WHEREAS, the Master Deed submitted the property more particularly described therein (the "Phase I Property") to the Myrtle Beach Resort Regime;

WHEREAS, Assignor caused to be recorded a certain Master Deed of Myrtle Beach Resort Oceanfront Spa Horizontal Property Regime (the "Oceanfront Master Deed"), which is recorded with the Clerk of Court of Horry County, South Carolina in Deed Book

HORRY COUNTY ASSESSOR

Map: Bk Parcel 3/1/87

1121-401

401

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Page \_\_\_\_\_ and which established a horizontal regime known as the "Myrtle Beach Resort Oceanfront Spa Regime" and which is referred to herein as "Phase II";

WHEREAS, the Oceanfront Master Deed submitted certain property more particularly described therein (the "Phase II Property") to the Myrtle Beach Resort Oceanfront Spa Regime;

WHEREAS, Assignor caused to be recorded a certain Master Deed of The Renaissance Tower Horizontal Property Regime (the "Renaissance Master Deed") which is recorded with the Clerk of Court of Horry County, South Carolina in Deed Book 916, Page 885, and which established a horizontal regime known as the "Renaissance Tower Regime" and which is referred to herein as "Phase III";

WHEREAS, the Renaissance Master Deed submitted certain property more particularly described therein (the "Phase III Property") to the Renaissance Tower Regime;

WHEREAS, Assignor caused to be recorded a certain Master Deed of Myrtle Beach Resort Five Seasons Center Horizontal Property Regime which is recorded with the Clerk of Court of Horry County, South Carolina in Deed Book 955, Page 254, as amended by a first amendment thereto recorded with the Clerk of Horry County, South Carolina in Deed Book 1046, Page 824 (as so amended, the

1321-482 *[Signature]*

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"Five Seasons Master Deed") which established a horizontal regime known as the "Five Seasons Centre Regime" and which is referred to herein as "Phases IV and V".

WHEREAS, the Five Seasons Master Deed submitted certain property more particularly described therein (the "Phase IV and V Property") to the Five Seasons Centre Regime;

WHEREAS, the Myrtle Beach Master Deed, the Oceanfront Master Deed, the Renaissance Master Deed, and the Five Season Master Deed are referred to collectively herein as the "Master Deed";

WHEREAS, the Phase I Property, the Phase II Property, the Phase III Property, and the Phase IV and V Property are collectively referred to herein as the "Regime Property";

WHEREAS, Assignor was the "Declarant" as defined in the Master Deed;

WHEREAS, Assignor reserved certain rights with respect to the Regime Property and desires hereby to assign those rights to the assignee;

WHEREAS, Assignor reserved certain rights with respect to the Regime Property, including but not limited to certain rights with respect to other property (the "Resort Property");

403

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Which Resort Property is all that certain property shown on a plat of 44.668 +/- acres dated June 10, 1982, with the latest revision date of September 23, 1985, prepared by Culler Land Surveying Co., Inc. with said plat being recorded with the Condominium Plats and Plans in Condominium Plat Book B, Page 426, and also recorded in Plat Book 74, Page 32, Office of the Clerk of Court of Horry County, South Carolina;

WHEREAS, Assignor will, on the date hereof, convey to Assignee certain real property more particularly described on Exhibit A attached hereto (the "Conveyed Property") which is included within the Resort Property;

WHEREAS, Assignor formerly owned certain other property included within the Resort Property, and such other property or portions thereof, together with the Conveyed Property, may now or hereafter be owned by the Assignee (such other property, together with the Conveyed Property, being referred to herein as the "Property");

WHEREAS, Assignor wishes to assign to Assignee certain rights, easements and licenses reserved by the Assignor under the Master Deed, subject to the terms and conditions set forth therein;

NOW, THEREFORE, the parties hereto agree as follows:

-4- 1121 401

ELECTRONICALLY FILED - 2021 Apr 23 2:48 PM - HORRY - COMMON PLEAS - CASE#2018CP2603173

1. Assignor hereby grants, conveys and assigns to Assignee the following:

a. all of the Assignor's right, title and interest (on a non-exclusive basis) in and to the easements reserved by Assignor under Article XIV of the Master Deed, including but not limited to easements for access to and for ingress and egress across portions of the Regime Property for pedestrian and vehicular purposes, and easements across the Regime Property for the purpose of providing access to the beach area which is part of the Regime Property, together with a license to use the beach area which is part of the Regime Property;

b. all of the Assignor's rights reserved by Assignor under Article XIV of the Master Deed to grant the easements described in subparagraph a. above to those persons or entities designated in Article XIV;

c. all of the Assignor's rights reserved by Assignor under Article XVIII of the Master Deed to add any part or all of portions of the Resort Property now owned or hereafter acquired by the Assignee to the Resort (as defined in the Master Deed), including but not limited to the Assignor's reserved right to grant easements for ingress and egress across areas of the Regime Property to the Atlantic Ocean and its beach;

d. all of the Assignor's rights reserved under Article XIV of the Master Deed to establish a master homeowners association for the present and future owners of any part or all of the Resort Property;

e. all of the Assignor's right, title and interest (on a non-exclusive basis) in and to the easements and licenses reserved by Assignor under Article XVIII and under Article XIX of the Master Deed to use the beach area of the Regime Property;

f. all of the Assignor's rights under Article XIX of the Master Deed to convey additional property located within the Resort Property to the Regime and its co-owners, subject to the restrictions set forth in said Article XIX.

2. In the event that the Assignee or any owner of any part or all of the Property is granted access to the beach area or the amenities area of a particular regime, the grantees of such rights, easements and licenses shall be required to pay fees commensurate with such use as required by the Master Deed.

3. The rights granted to Assignee herein are solely for the benefit of Assignee and future owners of any part or all of the Property.

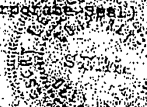
4. Nothing in this Agreement shall impose any obligations upon Assignee under the Master Deed, except as set forth expressly herein, and Assignor shall remain liable for the performance of all of its obligations under the Master Deed.

5. Assignor represents and warrants to Assignee that Assignor has good title to the rights, easements and licenses conveyed hereby.

6. This Agreement shall be binding on each party hereto and such party's successors and assigns.

ATTEST: *[Signature]*  
\_\_\_\_\_  
Its: *[Signature]*  
(Corporate Seal)

RESORT DEVELOPMENT CORPORATION  
By: *[Signature]*  
Its: *[Signature]*



1121-00405

ELECTRONICALLY FILED - 2021 Apr 23 2:48 PM - HORRY - COMMON PLEAS - CASE#2018CP2603173

ATTEST: *[Signature]*  
*[Signature]*  
Assistant Secretary  
(Corporate Seal)



VACATION PROPERTIES, INC.  
B/V/A VP, INC.  
By: *[Signature]*  
Its: *[Signature]*

1721-2487

ELECTRONICALLY FILED - 2021 Apr 23 2:48 PM - HORRY - COMMON PLEAS - CASE#2018CP2603173

**PROBATE**

STATE OF PENNSYLVANIA )  
COUNTY OF ALLEGHENY )

ss:

Before me, the undersigned notary public, personally appeared Stephen M. Lyons who being sworn, deposed and said that he saw Resort Development Corporation, by Donald R. Tomlin, Jr., its President, sign, seal and deliver the foregoing instrument and that he, together with Andrew Donadio witnessed the execution thereof.

Sworn to and subscribed before me, this 27th day of February, 1987.

WITNESS:

[Signature]

[Signature]  
NOTARY PUBLIC

My commission expires 10  
JANUARY 1991  
COUNTY OF ALLEGHENY  
APPROVED COMMISSIONER  
[Stamp]

408-3121-408

ELECTRONICALLY FILED - 2021 Apr 23 2:48 PM - HORRY - COMMON PLEAS - CASE#2018CP2603173

Notary Public for PA  
Exp. 12/31/2004

PROBATE

STATE OF PENNSYLVANIA  
COUNTY OF ALLEGHENY

ss:

Before me, the undersigned notary public, personally appeared Stephen M. Lyman, who being sworn, deposed and said that he saw Vacation Properties, Inc. d/b/a VE, Inc., by Donald J. Tomlin, Jr., its President, sign, seal and deliver the foregoing instrument and that he, together with Scott Brendt, witnessed the execution thereof.

Sworn to and subscribed before me, this 27th day of February, 1987.

WITNESS:  
[Signature]

[Signature]  
Notary Public  
My commission expires  
[illegible]  
[illegible]  
[illegible]  
[illegible]

1121-119

ELECTRONICALLY FILED - 2021 Apr 23 2:48 PM - HORRY - COMMON PLEAS - CASE#2018CP2603173

MYRTLE BEACH RESORT  
THE FIVE SEASONS CENTER  
PHASE VI

All that piece, parcel or tract of land situate in the County of Horry, State of South Carolina, and Township of Socastee, situate, lying and being on the southeastern side of U.S. Highway 17 containing 5.101 acres, more or less, and designated as a Portion of Lot 5 of Lakeside Plantation Tract and being a portion of the property shown on a Plat of 44.6667 Acres, Lot 5 of Lakeside Plantation Property, Socastee Township, Horry County, South Carolina, dated June 10, 1982, revised July 13, 1982 and July 19, 1982, prepared by Culler Land Surveying Co., Inc., which plat is recorded in the Office of the Clerk of Court for Horry County, South Carolina in Plat Book 74 at Page 37.

Beginning at an Iron stake which is 180.72 feet, more or less, Southeast from U. S. Highway 17 Frontage Road and which is the POINT OF BEGINNING of the property herein described; thence running S 51 degrees 51' 50" E for a distance of 126.73 feet to a point; thence turn and run S 45 degrees 00' E for a distance of 92.97 feet to a point; thence run S 36 degrees 00' E along a curve to the right for a distance of 118.60 feet; thence run S 27 degrees 00' E for a distance of 128.00 feet to a point; thence run S 39 degrees 15' E along a curve to the left for a distance of 138.36 feet; thence run S 51 degrees 10' E for a distance of 30.51 feet to a point; thence turn and run S 51 degrees 51' 50" W for a distance of 122.34 feet to a point; thence turn and run N 32 degrees 00' 10" W for a distance of 705.00 feet to the POINT OF BEGINNING.

BOOK 1121 PAGE 110

EXHIBIT A

ELECTRONICALLY FILED - 2021 Apr 23 2:48 PM - HORRY - COMMON PLEAS - CASE#2018CP2603173

MYRTLE BEACH REPORT  
THE FIVE SEASONS CENTRE  
PHASE VII

All that piece, parcel or tract of land situate in County of Horry, State of South Carolina, and Township of Socastee, situate, lying and being on the southeastern side of U.S. Highway 17 containing 1.835 acres, more or less, and designated as a portion of Lot 5 of Lakewood Plantation Tract and being a portion of the property shown on a plat of 44.667/- Acres, Lot 5 of Lakewood Plantation Property, Socastee Township, Horry County, South Carolina, dated June 10, 1982, revised July 13, 1982 and July 19, 1982, prepared by Cullum Land Surveying Co., Inc., which plat is recorded in the Office of the Clerk of Court for Horry County, South Carolina in Plat Book 74 at Page 32.

BEGINNING at an Iron Stake which is 285.72 feet, more or less, Southeast from U. S. Highway 17 Frontage Road and which is the POINT OF BEGINNING of the property herein described, thence running N 51 degree 51' 50" E for a distance of 157.34 feet to a point; thence turn and run S 51 degree 10' E for a distance of 80.49 feet to a point; thence run S 47 degrees 46' 19" E along a curve to the right for a distance of 133.25 feet; thence turn and run S 51 degree 51' 50" W for a distance of 199.90 feet to a point; thence turn and run N 38 degrees 08' 10" E for a distance of 68.0 feet to a point; thence turn and run S 6 degrees 51' 50" W for a distance of 132.56 feet to a point; thence turn and run S 51 degree 51' 50" W for a distance of 145.0 feet to a point; thence turn and run N 38 degrees 08' 10" W for a distance of 157.0 feet to a point; thence turn and run S 51 degrees 51' 50" W for a distance of 30.0 feet to a point; thence turn and run N 38 degrees 08' 10" W for a distance of 144.0 feet to the POINT OF BEGINNING.

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ELECTRONICALLY FILED - 2021 Apr 23 2:48 PM - HORRY - COMMON PLEAS - CASE#2018CP2603173

TOGETHER WITH a non-exclusive easement for purposes of ingress and egress for vehicular and pedestrian traffic from U.S. Highway 17 Business to and from the parcel designated as "Phase I", on a plat of 44.668 +/- Acres, Lot 5 of Lakewood Plantation Property, Socastee Township, Horry County, South Carolina in Plat Book 74 at Page 32, said easement being seventy-five (75) feet in width whereon it adjoins U.S. Highway 17 Business, thereupon being reduced to fifty (50) feet in width, the location and dimensions of which are shown upon the plat to which reference has been made above and which plat (the "Plat") is dated June 16, 1982, with latest revision being June 14, 1985, prepared by Cullier Land Surveying, Inc. recorded with the Condominium Plats and Plans in Condominium Plat Book B, Page 226, Office of the Clerk of Court, Horry County, South Carolina; reference being made thereto for additional description;

TOGETHER WITH a non-exclusive easement for the underground installation and maintenance of utilities including, but not limited to, water, sewer, telephone, electrical, cable, television and drainage structures from U.S. Highway 17 Business to the parcel designated as "Phase I", said easement being thirty (30) feet in width, all as more fully shown upon said Plat to which reference has been made above; reference being made thereto for additional description;

TOGETHER WITH a non-exclusive easement for ingress and egress and access only for vehicular and pedestrian traffic over those areas suitable for such traffic respectively within the Myrtle Beach Resort Horizontal Property Regime, Myrtle Beach Resort Oceanfront Spa Horizontal Property Regime, and the Renaissance Tower Horizontal Property Regime, the properties constituting such regimes being designated as, respectively, PHASE I, PHASE II and PHASE III on the Plat;

TOGETHER WITH an easement over such portion of Phase I, Phase II and Phase III as may be necessary to provide ingress and egress to and from the beach areas constituting portions of Phase I, Phase II and Phase III, together with a license to use and enjoy said beach areas, which easements and license were reserved by Assignor under each Master Deed establishing, respectively, the Myrtle Beach Resort Oceanfront Spa Horizontal Property Regime, the Myrtle Beach Resort Oceanfront Spa Horizontal Property Regime, and the Renaissance Tower Property Regime.

TOGETHER WITH all Grantor's reserved easements of access to, and rights to the use of, that certain property known as the Gabana Lot shown on the Plat.

SUBJECT to such conditions, reservations and easements set forth on the attachment hereto.

1121-412

# EXHIBIT F

ELECTRONICALLY FILED - 2021 Apr 23 2:48 PM - HORRY - COMMON PLEAS - CASE#2018CP2603173

ELECTRONICALLY FILED - 2021 Apr 23 2:48 PM - HORRY - COMMON PLEAS - CASE#2018CP2603173

02/23/89  
pg 239

STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY )  
ASSIGNMENT OF RIGHTS  
FEB 22 PM 4:57

This Agreement made this 27th day of June, A.M.C. 1989, by and between Vacation Properties, Inc. (hereinafter called the "Assignor") and The Myrtle Beach Resort Homeowners' Association, Inc., and its successors and assigns, (hereinafter called the "Assignee"):

For valuable consideration, the receipt of which is hereby acknowledged, the Assignor hereby grants, conveys and assigns to Assignee all of the Assignor's rights, title and interest in and to that Assignment of Declarant's Rights dated February 27th, 1987, a copy of which is attached hereto and incorporated by reference.

IN WITNESS WHEREOF, the undersigned have signed their hands and seals the first day and date above written.

WITNESSES:  
  
Diane M. Cafaro  
Patricia A. Burnett

ASSIGNOR:  
VACATION PROPERTIES, INC.  
BY: Jenna Gray J.B.  
Attest: [Signature]

Frank C. Coody  
[Signature]

ASSIGNEE:  
THE MYRTLE BEACH RESORT  
HOMEOWNERS' ASSOCIATION, INC.  
BY: Sam Brock  
Attest: President

Law Offices of  
PARSONS & PATRICK, P.A.  
P.O. Box 19314  
Myrtle Beach  
S.C. 29567

BOOK 1284 PAGE 239  
239  
8032388246 PAGE.002

JAN 24 89 16:59

STATE OF PENNSYLVANIA  
COUNTY OF Allegheny

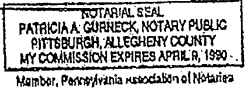
PROBATE

PERSONALLY APPEARED before me, the undersigned witness who after being first duly sworn, deposes and states that s/he was present and saw the within named VACATION HOMESITE, INC. by its duly authorized officers, sign, seal and as their act and deed, deliver the within written Assignment of Rights, and that s/he with the other subscribing witness witnessed the execution thereof.

Dianna M. Cafaro  
signature of witness #1

SWORN to before me this 27th  
day of January, 1989.

Patricia A. Gurneck  
Notary Public  
My Commission Expires:



STATE OF SOUTH CAROLINA  
COUNTY OF HORRY

PROBATE

PERSONALLY APPEARED before me, the undersigned witness, who after being first duly sworn deposes and states that s/he was present and saw the within named THE MYRLE BEACH RESORT HOMEOWNERS' ASSOCIATION, INC., by SAM BROCK, sign, seal and as its act and deed, deliver the within written Assignment of Rights, and that s/he with the other subscribing witness witnessed the execution thereof.

SWORN to before me this 27th  
day of January, 1989

Frank C. Goy  
Notary Public  
My Commission Expires: 6/9/90

BOOK 1284, PAGE 240

1121-401  
P 2-27-87  
PC 3-18-87

7045

ASSIGNMENT OF DEED AND RIGHTS  
(Myrtle 6 and 7)

HORRY COUNTY  
CLERK OF COURT  
800 1/2 W. 11th St.  
MYRTLE BEACH, S.C. 29577

THIS AGREEMENT, made as of this 27th day of February, 1987, by and between RESORT DEVELOPMENT CORPORATION (formerly RESORT INVESTMENT CORPORATION) hereinafter and VACATION RESORTS, INC., a North Carolina corporation qualified to do business in South Carolina as VP, Inc., and its successors and assigns (hereinafter called the "Assignee"),

Deed Bk 1121  
Pg 401

MISSISSIPPI:

WHEREAS, Assignor caused to be recorded a certain Master Deed of Myrtle Beach Resort Horizontal Property Regime ("Myrtle Beach Master Deed") which is recorded in the Office of the Clerk of Court for Horry County, South Carolina in Deed Book 750, Page 642, and which established a horizontal regime known as the "Myrtle Beach Resort Regime" and which is referred to herein as "Phase I";

WHEREAS, the Master Deed submitted the property more particularly described therein (the "Phase I Property") to the Myrtle Beach Resort Regime;

WHEREAS, Assignor caused to be recorded a certain Master Deed of Myrtle Beach Resort Oceanfront Spa Horizontal Property Regime (the "Oceanfront Master Deed") which is recorded with the Clerk of Court of Horry County, South Carolina in Deed Book \_\_\_\_\_,

HORRY COUNTY ASSESSOR  
192-00-01-013

Map, Bk Parcel 3/19/85

BOOK 1121 PAGE 401

24/1/87

Page \_\_\_\_\_ and which established a horizontal regime known as the "Myrtle Beach Resort Oceanfront Spa Regime" and which is referred to herein as "Phase II";

WHEREAS, the Oceanfront \_\_\_\_\_ property more particularly described therein (the "Property") to the Myrtle Beach Resort Oceanfront Spa Regime,

WHEREAS, Assignor caused to be recorded a certain Master Deed of The Renaissance Tower Horizontal Property Regime (the "Renaissance Master Deed") which is recorded with the Clerk of Court of Horry County, South Carolina in Deed Book <sup>X</sup> 916, Page 663 and which established a horizontal regime known as the <sup>Unit 917</sup> "Renaissance Tower Regime" and which is referred to herein as "Phase III";

WHEREAS, the Renaissance Master Deed submitted certain property more particularly described therein (the "Phase III Property") to the Renaissance Tower Regime;

WHEREAS, Assignor caused to be recorded a certain Master Deed of Myrtle Beach Resort Five Seasons Centre Horizontal Property Regime which is recorded with the Clerk of Court of Horry County, South Carolina in Deed Book 966, Page 654, as amended by a first amendment thereto recorded with the Clerk of Horry County, South Carolina in Deed Book 1048, page 824 (as so amended, the

-2- BOOK 1121 PAGE 402

402

BOOK 1284 PAGE 242

"Five Seasons Master Deed") which established a horizontal regime known as the "Five Seasons Centre Regime" and which is referred to herein as "Phases IV and V";

WHEREAS, the Five Seasons Centre Regime Property (the "Regime Property") to the Five Seasons Centre Regime;

WHEREAS, the Myrtle Beach Master Deed, the Oceanfront Master Deed, the Renaissance Master Deed, and the Five Season Master Deed are referred to collectively herein as the "Master Deed";

WHEREAS, the Phase I Property, the Phase II Property, the Phase III Property, and the Phase IV and V Property are collectively referred to herein as the "Regime Property";

WHEREAS, Assignor was the "Declarant" as defined in the Master Deed;

WHEREAS, Assignor reserved certain rights with respect to the Regime Property and desires hereby to assign those rights to the Assignee;

WHEREAS, Assignor reserved certain rights with respect to the Regime Property, including but not limited to certain rights with respect to other property (the "Resort Property"),

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which Resort Property is all that certain property shown on a plat of 44.658 +/- acres dated June 10, 1982 with the latest revision date of September 23, 1985, prepared by Culler Land Surveying Co., Inc. with said plat being recorded with the Condominium Plat and Plans in Condominium Plat Book No. 1 of the Office of the Clerk of the County, South Carolina.

WHEREAS, Assignor will, on the date hereof, convey to Assignee certain real property more particularly described on Exhibit A attached hereto (the "Conveyed Property") which is included within the Resort Property;

WHEREAS, Assignor formerly owned certain other property included within the Resort Property, and such other property or portions thereof, together with the Conveyed Property, may now or hereafter be owned by the Assignee (such other property, together with the Conveyed Property, being referred to herein as the "Property");

WHEREAS, Assignor wishes to assign to Assignee certain rights, easements and licenses reserved by the Assignor under the Master Deed, subject to the terms and conditions set forth herein;

NOW, THEREFORE, the parties hereto agree as follows:

-4- BOOK 1121 PAGE 404 404  
BOOK 128 PAGE 245

1. Assignor hereby grants, conveys and assigns to Assignee the following:

- a. all of the Assignor's right, title and interest (on a non-exclusive basis) in and to the easements and licenses reserved by Assignor under Article XVIII of the Master Deed to grant the easements and licenses to persons or entities designated in Article XIV of the Master Deed for ingress and egress across any portions of the Regime Property for residential and vehicular purposes, and easements across the Regime Property for the purpose of providing access to the beach area which is part of the Regime Property, together with a license to use the beach area which is part of the Regime Property;
- b. all of the Assignor's rights reserved by Assignor under Article XIV of the Master Deed to grant the easements described in subparagraph a. above to those persons or entities designated in Article XIV;
- c. all of the Assignor's rights reserved by Assignor under Article XVIII of the Master Deed to add any part or all of portions of the Resort Property now owned or hereafter acquired by the Assignee of the Resort (as defined in the Master Deed), including but not limited to the Assignor's reserved right to grant easements for ingress and egress across areas of the Regime Property to the Atlantic Ocean and its beach;
- d. all of the Assignor's rights reserved under Article XIV of the Master Deed to establish a master homeowners association for the present and future owners of any part or all of the Resort Property;
- e. all of the Assignor's right, title and interest (on a non-exclusive basis) in and to the easements and licenses reserved by Assignor under Article XVIII and under Article XIX of the Master Deed to use the beach area of the Regime Property;
- f. all of the Assignor's rights under Article XIX of the Master Deed to convey additional property located within the Resort Property to the Regime and its co-owners, subject to the restrictions set forth in said Article XIX.

405

2. In the event that the Assignee or any owner of any part or all of the Property is granted access to the beach area or the amenities area of a particular regime, the grantee of such rights, easements and licenses shall be yastive to any fees commensurate with such use as may be determined by the Board.

3. The rights granted to Assignee herein are solely for the benefit of Assignee and future owners of any part or all of the Property.

4. Nothing in this Agreement shall impose any obligations upon Assignee under the Master Deed, except as set forth expressly herein, and Assignor shall remain liable for the performance of all of its obligations under the Master Deed.

5. Assignor represents and warrants to Assignee that Assignor has good title to the rights, easements and licenses conveyed hereby.

6. This Agreement shall be binding on each party hereto and such party's successors and assigns.

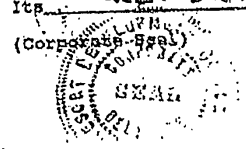
ATTEST/WITNESS:

RESORT DEVELOPMENT CORPORATION

*[Signature]*  
\_\_\_\_\_  
Asst. Sec.

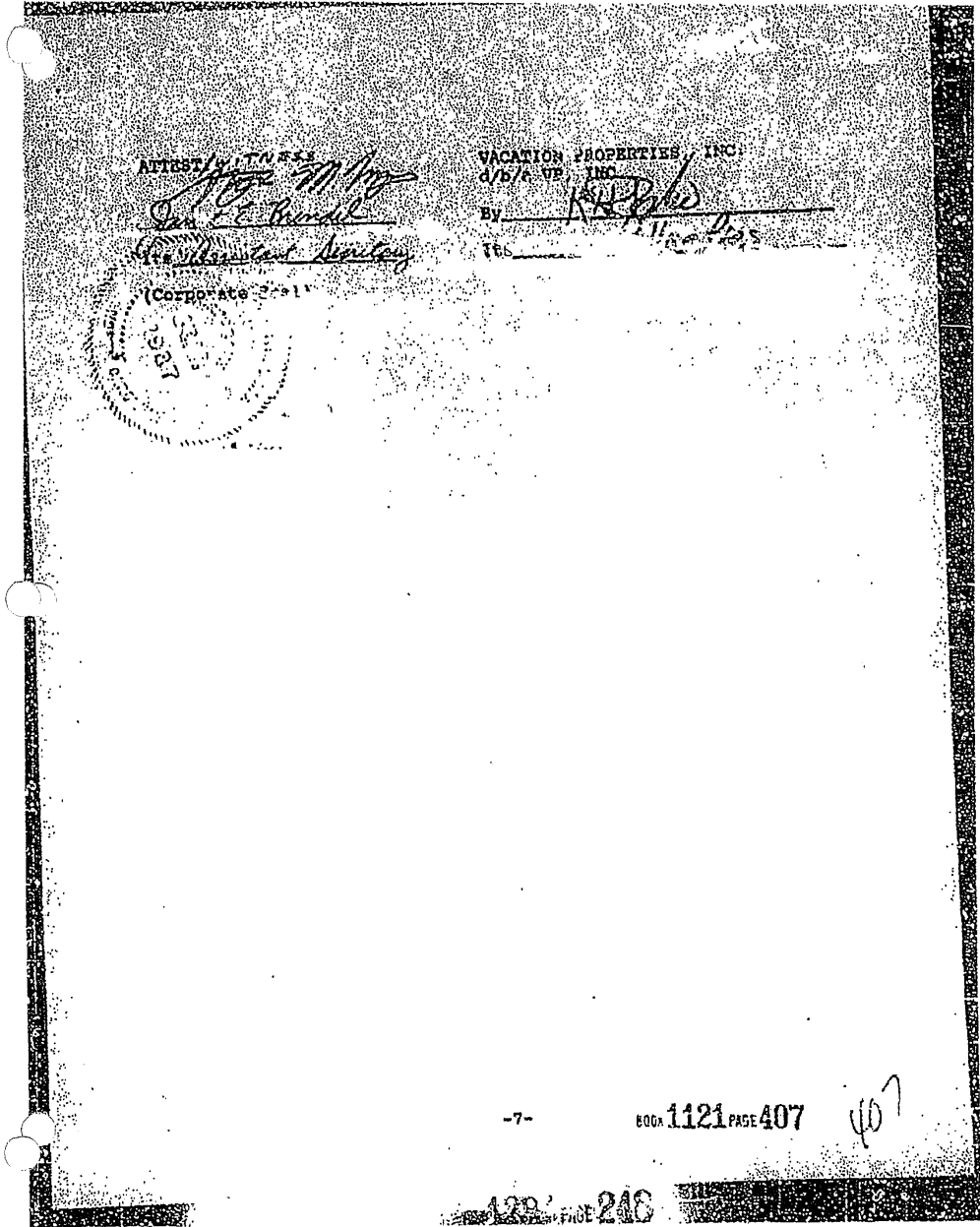
By *[Signature]*  
\_\_\_\_\_  
Its Pres.

Its \_\_\_\_\_  
(Corporate Seal)



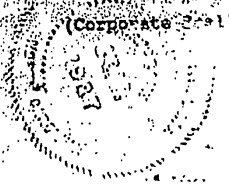
BOOK 1121 PAGE 406

BOOK 1284 PAGE 247



ATTEST/WITNESS  
*[Signature]*  
*[Signature]*  
Assistant Secretary  
(Corporate Seal)

VACATION PROPERTIES, INC.  
d/b/a VE, INC.  
BY *[Signature]*  
VICE PRESIDENT



407

ELECTRONICALLY FILED - 2021 Apr 23 2:48 PM - HORRY - COMMON PLEAS - CASE#2018CP2603173

PROBATE

STATE OF PENNSYLVANIA )  
COUNTY OF ALLEGHENY ) ss.

Before me, the undersigned notary public, personally appeared Stephen M. Lyons, who being sworn, deposed and said that he saw Resort Development Corporation, by Donald R. Tomlin, Jr., its President, sign, seal and deliver the foregoing instrument and that he, together with Andrew Dominick witnessed the execution thereof.

Sworn to and subscribed before me, this 27th day of February, 1987.

WITNESS:  
[Signature]

[Signature]  
Notary Public

My commission expires: -10  
Notary Public

1121 408 10

PROBATE

STATE OF PENNSYLVANIA  
COUNTY OF ALLEGHENY

Before me, the undersigned notary public, personally appeared Stephen M. Wilson, who being sworn, deposed and said that he saw Vacation Properties, Inc. d/b/a VP, Inc. By Ronald R. Tomlin, Jr., its President, sign, seal and deliver the foregoing instrument and that he, together with Janet Bonds, witnessed the execution thereof.

Sworn to and subscribed before me this 27th day of February, 1987.

WITNESS:

[Signature]

[Signature]  
NOTARY PUBLIC  
My commission expires  
JANUARY 1, 1988  
JEROME H. BARKER  
SHERMAN COUNTY  
PENNSYLVANIA

1987 FEB 27 4:05

ELECTRONICALLY FILED - 2021 Apr 23 2:48 PM - HORRY - COMMON PLEAS - CASE#2018CP2603173

PHASE VI

All of the above parcels or tract of land...  
...South Carolina...  
...Highway...  
...County...  
...plat...  
...at page 21.

Beginning at an iron stake which is 188.72 feet, more or less, Southeast from D. E. Highway 11...  
...the POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED...  
...thence running N 51 degrees 51' 10" E for a distance of 118.73 feet to a point; thence turn and run S 45 degrees 00' E for a distance of 82.97 feet to a point; thence run N 38 degrees 01' E along a curve to the right for a distance of 121.11 feet; thence run S 27 degrees 00' E for a distance of 132.00 feet to a point; thence run N 38 degrees 01' E along a curve to the left for a distance of 138.51 feet; thence run S 51 degrees 10' E for a distance of 30.51 feet to a point; thence turn and run S 51 degrees 51' 10" W for a distance of 322.34 feet to a point; thence turn and run N 38 degrees 00' 10" W for a distance of 715.80 feet to the POINT OF BEGINNING.

1121 PAGE 410

Exhibit A

PAGE 210

RYDLE PLACE RESORT  
THE PINE BLANCH ESTATES  
PAGE VII

All the pieces, parcel or tract of land shown on this  
County of Horry, State of South Carolina, and  
Socastee Township, Horry County, South Carolina, containing  
U.S. Highway 17 Frontage Road, which is  
designated as a portion of Lot 3 of  
and being a portion of the property shown on  
64,660 +/- Acres, Lot 3 of Lakewood Plantation, Socastee  
Socastee Township, Horry County, South Carolina, as the same is  
1982, revised July 10, 1983 and July 16, 1984, as filed by  
Culler Land Surveying Co., Inc., which plat is recorded in the  
Office of the Clerk of Court for Horry County, State of Carolina  
in Plat Book 74 at Page 33.

BECKINGHO at an iron stake which is 889.75 feet, more or  
less, southeast from U. S. Highway 17 Frontage Road, which  
is the POINT OF BEGINNING of the property here described,  
thence run by N 51 degrees 51'50" E 200.0 feet to a point;  
feet to a point; thence turn and run S 51 degrees 51'50"  
distance of 100.49 feet to a point; thence run S 46 degrees  
46'10" E along a curve to the right for a distance of 13.25  
feet; thence turn and run S 21 degrees 51'50" E for a distance  
of 153.90 feet to a point; thence turn and run S 06 degrees  
06'10" E for a distance of 66.0 feet to a point; thence turn  
and run S 21 degrees 51'50" N for a distance of 153.90 feet to a  
point; thence turn and run S 31 degrees 51'50" E for a distance  
of 105.0 feet to a point; thence turn and run S 06 degrees  
06'10" N for a distance of 25.0 feet to a point; thence turn  
and run S 21 degrees 51'59" W for a distance of 50.0 feet to a  
point; thence turn and run N 18 degrees 05'10" E for a distance  
of 244.6 feet to the POINT OF BEGINNING.

PG 111

PAGE 111

111  
250

# EXHIBIT G

ELECTRONICALLY FILED - 2021 Apr 23 2:48 PM - HORRY - COMMON PLEAS - CASE#2018CP2603173

142573  
Pg 329

FILED  
STATE OF SOUTH CAROLINA, S.C.  
COUNTY OF HORRY  
APR 25 PM 2:02  
R.M.C.

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR THE MYRTLE BEACH RESORT  
HOMEOWNERS' ASSOCIATION, INC.

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE MYRTLE BEACH RESORT HOMEOWNERS' ASSOCIATION, INC. is made by The Myrtle Beach Resort Homeowners' Association, Inc. a South Carolina corporation and Myrtle Beach Resort Horizontal Property Regime, Inc. (Phase I), Myrtle Beach Resort Oceanfront Spa Horizontal Property Regime, Inc. (Phase II), Renaissance Tower Horizontal Property Regime, Inc. (Phase III), and Myrtle Beach Resort Five Seasons Centre Council of Co-Owners, Inc. (Phase IV), collectively referred to hereinafter as the "Declarant".

WITNESSETH:

WHEREAS, Resort Development Corporation reserved the right and privilege to establish The Myrtle Beach Resort Homeowners' Association consisting of all Co-Owners of all phases of the Myrtle Beach Resort, including Phase I (Myrtle Beach Resort Horizontal Property Regime), Phase II (Myrtle Beach Resort Oceanfront Spa Horizontal Property Regime), Phase III (Renaissance Tower Horizontal Property Regime) and Phase IV (Myrtle Beach Resort Five Seasons Centre Horizontal Property Regime), as set out in the respective Master Deeds in each of the above referenced phases at the Myrtle Beach Resort; and

WHEREAS, Resort Development Corporation has previously granted, conveyed and assigned to Vacation Properties, Inc., all of its rights under the respective Master Deeds to establish an "umbrella" homeowners' association as is more particularly set out in that assignment dated February 27th, 1987 and recorded in the office of the Register of Mesne Conveyances (R.M.C.) for Horry County in Deed Book 1121 at Page 401; and

WHEREAS, Vacation Properties, Inc., granted, conveyed and assigned to The Myrtle Beach Resort Homeowners' Association, Inc., all of said rights referenced above by Assignment of Rights dated January 27, 1989 and filed of record in the Office of the R.M.C. for Horry County in Deed Book 1284 at Page 239.

HORRY COUNTY ASSESSOR  
192-05 - Blocks 01 thru 05

Map , Bik Parcel

4-26-91jd

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David L. Patrick  
P. O. Box 18000  
Myrtle Beach,  
S.C. 29587

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NOW, THEREFORE, the Declarants hereby declare that all the property described in Exhibit A shall be held, transferred, sold, conveyed, leased, occupied and used subordinate and subject to the following assessments, restrictions, covenants, charges, liens and conditions which are hereby imposed for the purpose of protecting the value and desirability of these properties and which restrictions, assessments, charges, liens, conditions and covenants shall touch and concern and run with title to the real property subjected to this Declaration and which shall be binding on all parties having any right, title or interest in these described properties or any portion of them. This instrument also binds the respective heirs, devisees, fiduciary representatives, successors, successors in title and/or assigns, and shall inure to the benefit of anyone or anything who/which purchase or takes any interest in real property within the property subject to this instrument.

ARTICLE I  
DEFINITIONS

1.1 Definitions. When used in this Declaration, unless the context shall prohibit or require otherwise, the following words shall have all the following meanings, and all definitions shall be applicable to the singular and plural forms of any such term(s):

1.1.0 "Act" shall mean the South Carolina Horizontal Property Regime Act, Title 27, Chapter 31, Code of Laws of South Carolina, 1976, as Amended.

1.1.1 "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of The Myrtle Beach Resort Homeowners' Association, Inc., as it may be constituted or amended from time to time.

1.1.2 "Assessment" shall mean and refer to a share of the Common Expenses, capital improvements or other charges from time to time assessed against Co-Owners in the manner herein provided.

1.1.3 "Association" shall mean and refer to The Myrtle Beach Resort Homeowners' Association, Inc., a South Carolina non-profit Corporation.

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S.C. 29527

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1.1.4 "Board of Directors" shall mean and refer to the Board of Directors of the Association, which is the governing body of the Association.

1.1.5 "By-Laws of the Association" shall mean and refer to those By-Laws of The Myrtle Beach Resort Homeowners' Association, Inc., which govern the administration and operation of the Association, as may be amended from time to time, which By-Laws are attached as Exhibit "B" to this Declaration.

1.1.6 "Commercial Unit" shall mean and refer to any unit designated as a commercial space in the Master Deed of the appropriate Condominium Association.

1.1.7 "Common Areas" means as defined in the Individual Condominium Associations' respective Master Deeds.

1.1.8 "Common Expenses" shall mean and refer to all expenditures, including debt retirement, capital improvements, and operating expenses, lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation or maintenance of financial, equipment, or material reserves, consistent with the provisions and intent of this Declaration.

1.1.9 "Condominium Association" or "Individual Condominium Association" shall mean and refer to the four individual horizontal property regimes making up the Myrtle Beach Resort including the Myrtle Beach Resort Horizontal Property Regime (Phase I); Myrtle Beach Resort Oceanfront Spa (Phase II); Renaissance Tower Horizontal Property Regime (Phase III); and the Myrtle Beach Resort Five Seasons Centre (Phase IV).

1.1.10 "Co-Owner or "Owner" means as defined in the South Carolina Horizontal Property Regime Act and specifically means an owner of a Dwelling or a Commercial Unit at the Myrtle Beach Resort.

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David L. Powell  
P. O. Box 15600  
Myrtle Beach, SC 29587

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1.1.11 "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for The Myrtle Beach Resort and all supplements or amendments to it as filed for record in the Office of the R.M.C for Horry County, South Carolina.

1.1.12 "Development or Property" shall mean and refer to The Myrtle Beach Resort which includes the four individual horizontal property regimes referenced above.

1.1.13 "Dwelling", with an initial capital letter, shall mean and refer to any improved property located within the Development intended for the use as a residential condominium unit.

1.1.14 "Member" shall mean any person or entity holding a membership in the Association as provided herein.

1.1.15 "Occupant" shall mean and refer to any person, including without limitation, any Owner or any guest, invitee, licensee, lessee, tenant, transient paying guest, or family member of an Owner lawfully occupying or otherwise using a Dwelling or Commercial Unit within the Development.

1.1.16 "Person" shall mean and refer to a natural person, corporation, partnership, association, proprietorship, trust, or any other legal entity or any combination thereof.

1.1.17 "Recreational Amenities" shall include such recreational facilities located within the Myrtle Beach Resort, including, without limitation, tennis courts, sporting or exercise areas, meeting areas, swimming pools, tennis courts, locker room facilities, clubhouses, food and beverage facilities, lagoons, beach access paths, jogging trails and bike paths.

1.1.18 "Voting Member" shall mean a member elected by the Board of each individual Condominium Association to this Association's Board of Directors as specified herein and in the By-Laws.

Law Office of  
Daniel E. Patrick  
P. O. Box 15000  
Myrtle Beach,  
S.C. 29587

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ARTICLE II  
PROPERTY RIGHTS

2.1 Easements for Utilities. There is hereby reserved for the benefit of the Association, and its respective successors and assigns the alienable, transferable and perpetual right and easement, as well as the power to grant and accept easements to and from any private or public authority, agency, public service district, public or private utility or other person upon, over, under and across all of the Common Areas and all portions of other areas in which Dwellings or Commercial Units are not constructed or erected; for the purpose of installing, replacing, repairing, maintaining and using master television antenna and/or cable systems, security and similar systems, and all utilities, including but not limited to storm sewers and drainage systems and electrical, gas, telephone, water and sewer lines. Such easements may be granted or accepted by the Association, its successors or assigns. To the extent possible, all utility lines serving the Development and located therein shall be located underground. By virtue of any such easement granted, it shall be expressly permissible for the providing utility company or other supplier or servicer, with respect to the portions of the Development so encumbered: (i) to erect and maintain pipes, lines, manholes, pumps and other necessary equipment and facilities; (ii) to cut and remove any trees, bushes or shrubbery; (iii) to grade, excavate and fill; or (iv) to take any other similar action reasonably necessary to provide economical and safe installation, maintenance, repair, replacement and use of such utilities and systems.

2.2 Easements for Walks, Trails and Signs. There is hereby reserved for the benefit of the Association and its successors and assigns the alienable, transferable and perpetual right and easement upon, over and across all lands which may remain unimproved for the installation, maintenance and use of sidewalks, jogging trails, bike paths, traffic directional signs and related improvements.

2.3 Easements for the Association. There is hereby reserved a general right and easement for the benefit of the Association's Directors, officers, agents and employees, including but not limited to any property manager employed by the Association and any employees of such manager, to enter

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S.C. 29687

into the Property and any portion thereof in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to the occupant, the Individual Condominium Association, or the Owner(s) of the Dwelling or Commercial Unit.

**2.4 Maintenance Easement.** There is hereby reserved for the benefit of the Association and its respective agents, employees, successors and assigns, an alienable, transferable and perpetual right and easement to enter upon any unimproved portions of any Property for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds, stumps or other unsightly growth and removing trash, so as to maintain reasonable standards of health, fire safety and appearance within the Development; provided that such easements shall not impose any duty or obligation upon the Association to perform any such actions. Furthermore, there is hereby reserved for the benefit of the Association and its agent, employees, successors and assigns an alienable, transferable and perpetual right and easement, but not the obligation, to enter upon any unimproved portions of the Property which is located within twenty (20') feet from the water's edge of any lagoon, pond or other body of water within the Development for the purpose of mowing such areas and keeping same clear and free from unsightly growth and trash, as well as for the purpose of maintaining such body of water, such maintenance to include, without limitation, dredging and the maintenance of reasonable water quality standards.

**2.5 Environmental Easement.** There is hereby reserved for the benefit of the Association and its agents, employees, successors and assigns, an alienable, transferable and perpetual right and easement on, over and across all unimproved portions of the Property for the purposes of taking any action necessary to effect compliance with environmental rules, regulations and procedures from time to time promulgated or instituted by the Board of Directors or by any governmental entity, such easements to include without limitation the right to implement erosion control procedures and practices, the right to drain standing water and the right to dispense pesticides.

**2.6 Wells.** There is hereby reserved for the benefit of the Association and its agents, employees, successors and assigns an alienable, transferable and perpetual right and easement: (i) to pump water from lagoons, ponds and other bodies of water located within the Development for the purpose of

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irrigating any portions of the Development; (ii) to drill, install, locate, maintain and use wells, pumping stations, water towers, siltation basins and tanks and related water and sewer treatment facilities and systems within the Common Areas.

### ARTICLE III

#### MEMBERSHIP AND VOTING

3.1 **Membership.** Every Owner shall be deemed to have a membership in the Association. Membership shall be appurtenant to and may not be separated from Ownership of any Dwelling or Commercial Unit, and Ownership of such Dwelling or Commercial Unit shall be the sole qualification for such membership. No Owner, whether one or more persons, shall have more than one membership per Dwelling or Commercial Unit.

3.2 **Board of Directors.** The Board of Directors of each Individual Condominium Association at the Myrtle Beach Resort shall elect a representative to sit on the Board of Directors of this Association. This Board of Directors shall act in accordance with the By-Laws which are attached hereto as Exhibit B. The Association shall be operated by the Board of Directors, and the Members of the Association shall have only such powers as are specified herein or in the By-laws.

### ARTICLE IV

#### POWERS OF THE ASSOCIATION

4.1 The Association, acting through the Board of Directors, shall also have the power to: (a) maintain all streets and roads within the Property, including cleaning and periodic resurfacing; (b) provide for all refuse collection (c) obtain, for the benefit of the Property, by purchase, lease or otherwise, as deemed proper by the Board of Directors, cable or master television service and telephone service; (d) maintain the oceanfront area; (e) grant easements, rights-of-way or strips of land, where necessary, for utilities, and sewer facilities and other services over the Common Areas to service the Property; (f) maintain such policy or policies of liability and fire insurance with respect to property owned by

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Myrtle Beach,  
S.C. 29587

the Association; (g) employ or contract with a management company to perform all or any part of the duties and responsibilities of the Association, including further duties and responsibilities which may be delegated to the Association by the Individual Condominium Associations and to equitably apportion assessments of same; (h) install and maintain security devices, detectors and communication facilities and contract for employment of security services, guards and watchmen for the project; (i) take such other reasonable action as the Board shall deem advisable with respect to the Myrtle Beach Resort for the benefit of the overall Property.

#### ARTICLE V

#### COVENANT FOR ASSESSMENTS

5.1 Creation of the Lien. Each Individual Condominium Association together with each Co-Owner is deemed to covenant and agrees to pay to the Association Assessments for the Association expenses including common expenses as provided for herein.

Such assessments, together with interest, costs, and reasonable attorney's fees for the collection thereof shall be a charge on any Dwelling Unit or Commercial Unit, and shall be a continuing lien upon it, until full payment of such Assessment is made.

A Co-Owner shall become liable for payment of Assessments upon issuance of a Statement of Assessments by the Association.

On any Assessment that remains unpaid for over ten (10) days after its due date, at the sole discretion of the Board, a late charge not to exceed Ten and No/100 Dollars (\$10.00) or Ten Percent (10%) of the amount due, whichever is greater, shall also be due and payable to defray the expense of late collection.

Further, the Association shall have a lien on each Dwelling Unit or Commercial Unit together with the common elements appurtenant thereto in the amount of each Assessment not paid when due as provided herein, which may be collected and/or the lien foreclosed upon as provided in the South Carolina Horizontal Property Regime Act. Reasonable attorney's fees incurred by the Board incident to the collection of such Assessments or the enforcement (including but not limited to

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foreclosure) of such lien and all other charges allowed by the Act shall be payable by the delinquent Co-Owner and secured by such lien. The Board may take such action as it deems necessary to collect Assessments as provided in the Act and further may settle and/or compromise same if deemed in its best interest.

No Co-Owner may exempt himself from liability for his share of the Assessments by waiving the use or enjoyment of any of the common elements or otherwise.

5.2 Association Assessments may be assessed directly to the Co-Owners or may be collected by the Individual Condominium Associations at the discretion of the Board. The Assessments levied by the Association, as well as the manner of collecting same, shall be determined by the Board of Directors at a regularly scheduled or at a special meeting and the approval of the budget for the Association shall require the vote of 67% or more of all Voting Members of the Association.

5.3 Allocation of Assessments. Assessments for budgeted expenses shall be allocated and assessed as follows: Myrtle Beach Resort Horizontal Property Regime (Phase I) - 24.8515%; Myrtle Beach Resort Oceanfront Spa Horizontal Property Regime (Phase II) - 26.8317%; Renaissance Tower Horizontal Property Regime (Phase III) - 32.3762%; Myrtle Beach Resort Five Seasons Centre Horizontal Property Regime (Phase IV) - 15.9406%.

The allocation of each Co-Owner's share of the Assessments shall be determined by multiplying that Co-Owner's share of ownership in the common area of such Co-Owner's Individual Condominium Association as shown in the respective Master Deed times the percentage as shown above for the respective Individual Condominium Association.

Provided, however, in respect to television and telephone rental expenses, each Co-Owner will pay an amount determined by dividing the total of such expenses incurred by such Co-Owner's Individual Condominium Association pursuant to its agreement with this Association by the total number of Dwellings within that particular Individual Condominium Association.

ARTICLE VI

GENERAL PROVISIONS

6.1 Amendments. Amendments to this Declaration shall be proposed and adopted in the following manner:

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P. O. Box 10000  
Surfside Beach,  
S.C. 29947

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6.1.1 Notice of the subject matter of the proposed amendment shall be included in the notice of the Board meeting of the Association at which such proposed amendment is to be considered and shall be delivered to each Board member of the Association. Provided, however, that any amendment shall be consistent with the Master Deed of the Individual Condominium Associations.

At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board of Directors of the Association or by the Board of an Individual Condominium Association. Such amendment must be approved by a vote of 67% or more of the Board of Directors of the Association.

6.1.2 Amendments to this Declaration may also be adopted in a meeting duly called by the Owners pursuant to the Association By-Laws, provided notice of the subject matter of the proposed amendment is included in a notice of such meeting. At such meeting the proposed amendment, as noticed, must be approved by either 67% or more of the Board of Directors of the Association or by majority of the total Owners at the Myrtle Beach Resort.

6.2 Enforcement. Each Co-Owner and Occupant shall comply strictly with the By-laws and the published rules and regulations of the Association adopted pursuant to this Declaration, as either of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in this Declaration, as same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for imposing fines, for suspending rights of use in and to the Recreational Amenities, or for instituting an action to recover sums due, for damages and/or for injunctive relief, such actions to be maintainable by the Board of Directors on behalf of the Association, or in a proper case, by an aggrieved Owner. Should the Association employ legal counsel to enforce any of the foregoing, all costs incurred in such enforcement, including court costs and reasonable attorneys' fees, shall be paid by the violating Owner or Occupant. Inasmuch as the enforcement of the provisions of this Declaration, the By-Laws and the rules and regulations of the Association are essential for the effectuation of the general plan of development contemplated hereby and for the protection of present and future Owners, it is hereby declared that any breach thereof may not adequately be compensated by recovery of damages, and that the Association, in addition to all other remedies, may require and shall be entitled to the remedy of injunction to restrain any such violation or breach or any threatened violation or breach. No delay, failure or omission on the part of the

Law Office of  
David L. Parich  
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Myrtle Beach,  
S.C. 29527

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Association in exercising any right, power or remedy herein provided shall be construed as an acquiescence thereto or shall be deemed a waiver of the right to enforce such right, power or remedy thereafter as to the same violation or breach, or as to a violation or breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement. No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against the Association for or on account of any failure to bring any action on account of any violation or breach, or threatened violation or breach, by any person of the provisions of this Declaration, the By-Laws or any rules and regulations of the Association, however long continued.

6.3 Duration. The provisions of this Declaration shall run with and bind title to the Property, shall be binding upon and inure to the benefit of all Owners and Mortgagees and their respective heirs, executors, legal representatives, successors and assigns, and shall be and remain in effect for a period of thirty (30) years from and after the date of the recording of this Declaration, provided that rights and easements which are stated herein to have a longer duration shall have such longer duration. Upon the expiration of said thirty (30) year period, this Declaration shall be automatically renewed for successive ten (10) year periods. The number of ten (10) year renewable periods shall be unlimited, with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration if, during the last year of an initial thirty (30) year period or the last year of any ten (10) year renewal period, seventy-five percent (75%) of the total votes of the Association are cast in favor of termination of this Declaration at the end of the then current term. In the event that the Association votes to terminate this Declaration, an instrument evidencing such termination shall be filed of record in the Records of the R.M.C. Office for Horry County, South Carolina, such instrument to contain a certificate wherein the President of the Association swears that such termination was duly adopted by the requisite number of votes. Every purchaser or grantee of any interest in any Property, by acceptance of a deed or other conveyance therefor, thereby agrees that the provisions of this Declaration shall run with and bind title to the Property as provided hereby.

6.4 Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of the Board of Directors, will best effect the intent of the general plan of development. The provisions hereof shall be liberally interpreted and, if necessary, they

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shall be so extended or enlarged by implication as to make them fully effective. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of this Declaration shall be the date of its filing for record in the Records of the R. M. C. Office for Horry County, South Carolina. The captions of each Article and Paragraph hereof as to the contents of each Article and Paragraph are inserted only for convenience and are in no way to be construed as refining, limiting, extending or otherwise modifying or adding to the particular Article or Paragraph to which they refer. This Declaration shall be construed under and in accordance with the laws of the State of South Carolina.

**6.5 Gender and Grammar.** The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other entities or to individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

**6.6 Severability.** Whenever possible, each provision of this Declaration shall be interpreted in such a manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

**6.7 Rights of Third Parties.** This Declaration shall be recorded for the benefit of the Association, the Individual Condominium Associations, the Owners and their Mortgagees as herein provided, and by such recording, no adjoining property owner or third party shall have any right, title or interest whatsoever in the Development, except as provided herein, or in the operation or continuation thereof or in the enforcement of any of the provisions hereof, and subject to the rights of Declarant and Mortgagees herein provided. The Association shall have the right to extend, modify, amend or otherwise change the provisions of this Declaration without the consent, permission or approval of any adjoining owner or third party.

Law Office of  
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Spartanburg, South  
Carolina  
S.C. 29087

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IN WITNESS WHEREOF, the duly authorized officer of the undersigned Declarant have executed this Declaration under seal this 16th day of April, 1991.

WITNESSETH: THE MYRTLE BEACH RESORT HOMEOWNERS ASSOCIATION, INC.

*[Signature]* BY: *[Signature]*  
ITS: *President*

*[Signature]* BY: *[Signature]*  
ITS: *President*

*[Signature]* BY: *[Signature]*  
ITS: *President*

*[Signature]* BY: *[Signature]*  
ITS: *President*

*[Signature]* BY: *[Signature]*  
ITS: *President*

Law Offices of David L. Patrick  
P. O. Box 18008  
Spartanburg, South Carolina 29307

STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY ) PROBATE

PERSONALLY APPEARED BEFORE ME Shirley W. Walls

who states under oath that (s)he saw the within named Myrtle Beach Resort Homeowners' Association, Inc. by Alfred R. Wells its President as its act and deed, sign, seal and deliver the within Declaration of Covenants, Conditions and Restrictions for Myrtle Beach Resort Master Association and that (s)he with Daniell J. J. J. witnessed the execution thereof.

*[Signature]*

SWORN to before me this 6 day of April, 1991.

*[Signature]*  
Notary Public for South Carolina

STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY ) PROBATE

PERSONALLY APPEARED BEFORE ME Judy B. Reynolds

who states under oath that (s)he saw the within named Myrtle Beach Resort Horizontal Property Regime, Inc., by Freddy Brown, its President as its act and deed, sign, seal and deliver the within Declaration of Covenants, Conditions and Restrictions for Myrtle Beach Resort Master Association and that (s)he with Annette Jordan witnessed the execution thereof.

*[Signature]*

SWORN to before me this 6 day of April, 1991.

*[Signature]*  
Notary Public for South Carolina

My Commission Expires: 4-30-91

Law Office of  
David L. Patrick  
P.O. Box 11909  
Spartanburg, S.C. 29587

STATE OF SOUTH CAROLINA )  
COUNTY OF Aiken ) PROBATE

PERSONALLY APPEARED BEFORE ME <sup>(1)</sup> Michelle S. Hoos who states under oath that (s)he saw the within named Myrtle Beach Resort Oceanfront Spa Horizontal Property Regime, Inc., by <sup>(1)</sup> Sam Rod its President as its act and deed, sign, seal and deliver the within Declaration of Covenants, Conditions and Restrictions for Myrtle Beach Resort Master Association and that (s)he with <sup>(2)</sup> Arthur & Crest witnessed the execution thereof.

Michelle S. Hoos

SWORN to before me this 12<sup>th</sup> day of April, 1991.

<sup>(1)</sup> Arthur & Crest  
Notary Public for South Carolina  
My Commission Expires: 10-5-94  
COMMONWEALTH OF MASSACHUSETTS  
SRODROCK )  
COUNTY OF HAMPSHIRE ) PROBATE

PERSONALLY APPEARED BEFORE ME <sup>(1)</sup> Pamela S. Malchik who states under oath that (s)he saw the within named Renaissance Horizontal Property Regime, Inc., by Sam Rod its President as its act and deed, sign, seal and deliver the within Declaration of Covenants, Conditions and Restrictions for Myrtle Beach Resort Master Association and that (s)he with <sup>(2)</sup> Arthur & Crest witnessed the execution thereof.

Pamela S. Malchik

SWORN to before me this 11<sup>th</sup> day of April, 1991.

<sup>(1)</sup> Sam Rod  
Notary Public for ~~South Carolina~~ Massachusetts  
My Commission Expires: 11/21/94

Law Offices of  
Donald L. Patrick  
P. O. Box 19000  
Myrtle Beach,  
S.C. 29587

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STATE OF SOUTH CAROLINA )  
COUNTY OF Horry ) PROBATE

PERSONALLY APPEARED BEFORE ME  
Denise L. Patrick who states under oath that  
(s)he saw the within named Myrtle Beach Resort Five Seasons Centre  
Council of Co-Owners, Inc. by William Cole its  
President as its act and deed, sign, seal and deliver  
the within Declaration of Covenants, Conditions and Restrictions  
for Myrtle Beach Resort Master Association and that (s)he with  
Annette Jordan witnessed the execution thereof.



SWORN to before me this  
3rd day of April, 1991.

Annette Jordan  
Notary Public for South Carolina  
My Commission Expires: 4-25-96

Law Offices of  
Daniel L. Patrick  
P. O. Box 15009  
Myrtle Beach,  
S.C. 29507

EXHIBIT "A"

PHASE I - MYRTLE BEACH RESORT HORIZONTAL PROPERTY REGIME

ALL AND SINGULAR that certain piece, parcel or tract of land lying and being in Socastee Township, County of Horry, State of South Carolina, and being located approximately five (5) miles south of Myrtle Beach, South Carolina, and lying on the eastern side of U.S. Highway 17 Business, containing 6.198 acres, more or less, and being shown and described as a 6.198, more or less acres parcel on a certain plat entitled "Plat of 44.668, more or less, acres, Lot 5 of Lakewood Plantation Property Near Myrtle Beach" prepared for Resort Investment Corporation by Culler Land Surveying Company, Inc., dated August 17, 1981, which plat is recorded in the Office of the Clerk of Court for Horry County, South Carolina, in Plat Book 72 at Page 58; also being shown and described on the plats recorded in the Condominium Plat Book, all as is more particularly described in the Master Deed for the aforesaid Horizontal Property Regime recorded on June 15, 1982, in the Office of the Clerk of Court for Horry County in Deed Book 750 at Page 642.

PHASE II - MYRTLE BEACH RESORT OCEANFRONT SPA  
HORIZONTAL PROPERTY REGIME

ALL AND SINGULAR that certain piece, parcel or tract of land, situate, lying and being in Socastee Township, County of Horry, State of South Carolina, and being located approximately 5 miles south of Myrtle Beach, South Carolina, and lying on the eastern side of U.S. Highway 17 Business, containing 6.205 acres, more or less, and being shown and described as "Phase II (6.205 Ac)" on a certain plat entitled "Plat of 44.668+- Acres, Lot 5 of Lakewood Plantation Property Near Myrtle Beach" dated June 10, 1982, revised July 13, 1982, and July 19, 1982, prepared by Culler Land surveying Company, Inc., which plat is recorded in the Office of the Clerk of Court for Horry County, South Carolina, 1 Plat Book 74 at Page 32; also being shown and described on the plats and architectural plans and drawings prepared by Culler Land Surveying Company, Inc. and Stevenson & Wilkinson, Inc., respectively, which are recorded in the Condominium Plat Book at Book 2, Page 31, all as is more particularly described in the Master Deed for the aforesaid Horizontal Property Regime recorded on April 15, 1983, in the Office of the Clerk of Court for Horry County in Deed Book 789 at Page 362.

Law Office of  
David L. Patrick  
P. O. Box 15600  
Myrtle Beach,  
S.C. 29587

BOOK 1465 PAGE 345

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EXHIBIT "A" CONTINUED

PHASE III - RENAISSANCE TOWER HORIZONTAL PROPERTY REGIME

ALL THAT piece, parcel, or tract of land, situate in the County of Horry, State of South Carolina, and Township of Socastee, situate, lying, and being on the South Eastern side of U.S. Highway 17 containing 8.672 acres, more or less, and designated as a Portion of Lot 5 of Lakewood Plantation Tract, further designated as Phase III of The Myrtle Beach Resort, and described on a Map prepared by Culler Land Surveying Co., Inc. dated November 16, 1984, also being shown as Phase III on a Plat of 44.668 +/- Acres, lot 5 of Lakewood Plantation Property, Socastee Township, Horry County, South Carolina, revised November 27, 1984, prepared by Culler Land Surveying Co., Inc., all as is more particularly described in the Master Deed for the aforesaid Horizontal Property Regime recorded on November 28, 1984, in the Office of the Clerk of Court for Horry County in Deed Book 917 at Page 885.

PHASE IV - MYRTLE BEACH RESORT FIVE SEASONS CENTRE

(Phase I)

ALL THAT piece, parcel, or tract of land, situate in the County of Horry, State of South Carolina, and Township of Socastee, situate, lying and being on the Southeastern side of U.S. Highway 17 designated as Phase I of The Myrtle Beach Resort Five Seasons Centre, and described on a plat prepared by Culler Land Surveying Co., Inc. dated June 4, 1985, also being shown as Phase I, Myrtle Beach Resort Five Seasons Centre on a plat of 44.668 +/- acres, Lot 5 of Lakewood Plantation Property, Socastee Township, Horry County, South Carolina, dated June 10, 1982, with latest revision dated June 14, 1985, prepared by Culler Land Surveying Co., Inc., all as is more particularly described in the Master Deed for the aforesaid Horizontal Property Regime recorded on June 20, 1985, in the Office of the Clerk of Court for Horry County in Deed Book 966 at Page 654.

(Phase II)

ALL THAT piece, parcel, or tract of land, situate in the County of Horry, State of South Carolina, and Township of Socastee, situate, lying and being on the Southeastern side of U.S. Highway 17 designated as Phase II of The Myrtle Beach Resort Five Seasons Centre, and described on a plat prepared by Atlantic Land Surveying Co., Inc. dated May 1, 1986, all as is more particularly described in that First Amendment to the Master Deed for the aforesaid Horizontal Property Regime recorded on May 29, 1986, in the Office of the Clerk of Court for Horry County in Deed Book 1048 at Page 824.

Law Office of  
David L. Pasick  
P. O. Box 15469  
Berkeley Beach,  
S.C. 29507

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EXHIBIT "B"

AMENDED

BY-LAWS

OF

THE MYRTLE BEACH RESORT HOMEOWNERS' ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION

The name of the Association is The Myrtle Beach Resort Homeowners' Association, Inc., hereinafter referred to as the "Association." The principal office of the Association shall be located at Highway 17 South, Surfside Beach, South Carolina, but meetings of members and directors may be held at such places within the State of South Carolina, County of Horry, as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to The Myrtle Beach Resort Homeowners' Association, Inc., its successors and assigns.

Section 2. "Member" shall mean and refer to each and every Co-Owner at The Myrtle Beach Resort which includes (a) Myrtle Beach Resort Horizontal Property Regime; (b) Myrtle Beach Resort Oceanfront Spa Horizontal Property Regime; (c) Renaissance Tower Horizontal Property Regime; (d) Myrtle Beach Resort Five Seasons Centre Horizontal Property Regime.

"Voting Member" shall mean and refer to that representative from the Board of Directors of each Individual Condominium Association who has been elected by that Board as a representative to the Board of Directors of this Association.

Section 3. "Individual Condominium Associations" shall mean and refer to those Associations at The Myrtle Beach Resort presently including: (a) Myrtle Beach Resort Horizontal Property Regime, Inc.; (b) Myrtle Beach Resort Ocean Front Spa Horizontal Property Regime, Inc.; (c) Renaissance Tower Horizontal Property Regime; (d) Myrtle Beach Resort Five Seasons Centre Council of Co-Owners, Inc.

Law Office of  
David L. Pritch  
P. O. Box 15009  
Surfside Beach,  
S.C. 29587

Section 4. All terms and phrases used herein shall, unless the context otherwise requires, have the same definition and meaning as set forth in the various Master Deeds of the Horizontal Property Regimes comprising The Myrtle Beach Resort and/or in the South Carolina Horizontal Property Regime Act, as the case may be.

### ARTICLE III

#### MEETING OF MEMBERS

Section 1. "Annual Meetings." The annual meeting of Voting Members shall be held during the first six months of each calendar year at a time and place designated by the President.

Annual meetings of the Members shall be held only if required by a vote of the majority of the Voting Members or upon petition signed by greater than Thirty Percent (30%) of the entire outstanding membership. In the event the annual meeting of Members is held pursuant to these By-Laws such meeting shall be at a time and place designated by the President, or a majority of the Board of this Association, or by a petition signed by a number greater than Thirty Percent (30%) of the outstanding members.

Section 2. "Special Meetings." Special meetings of the Voting Members may be called at any time by the President or by a majority of the Directors of this Association. A special meeting of the Members may be called at any time as provided for under Section 1. for annual meetings.

Section 3. "Notice of Meetings." Written notice of each meeting of the Members or Voting Members shall be given by, or at the direction of the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days (but not more than sixty (60) days) before such meeting to each Member or Voting Member entitled to vote thereat, addressed to the Member's or Voting Member's address last appearing on the books of the Association, or supplied by such Member or Voting Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and in the case of a special meeting, the purpose of the meeting.

Law Offices of  
David L. Fritch  
P. O. Box 15600  
Spartanburg, South Carolina  
S.C. 29587

RECORDED & INDEXED BY THE CLERK OF THE COUNTY OF Horry, South Carolina

Section 4. "Quorum." The presence at the meeting of a majority of the Voting Members, represented in person or by proxy, shall constitute a quorum at a meeting of the Voting Members. The presence at the meeting of a majority of the Members, represented in person or by proxy, shall constitute a quorum at a meeting of the Members.

Any action required by law to be taken at a meeting of the Association or any action which may be taken in the meeting of the Association may be taken without a meeting if a consent in writing, setting forth the actions so taken, shall be signed by Voting Members, or Members, as the case may be, holding not less than sixty-seven percent (67%) of the entire votes entitled to vote on the subject matter thereof and further provided the same is not otherwise prevented by these By-Laws, the Declarations, or the respective Master Deeds of the individual Horizontal Property Regimes of the Myrtle Beach Resort, or the Act.

Section 5. "Proxies." At all meetings of Voting Members or Members, each Voting Member or Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable.

#### ARTICLE IV

Board of Directors: Voting: Selection: Term of Office: Duties

Section 1. The Association shall be managed by a Board of Directors consisting of not less four (4) Directors. Each Individual Condominium Association of the Myrtle Beach Resort shall have a representative from its Regime a Director on the Board of the Association. Each Board Member of this Association shall also be a board member of the Individual Condominium Association which he or she represents.

Section 1.A. "Voting." Each Director is hereby assigned the number of votes that represents the number of Apartments (whether residential or commercial) that exists in that Director's Individual Condominium Association.

Law Offices of  
David L. Patrick  
P. O. Box 11600  
Surfside Beach,  
S.C. 29587

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**Section 2. "Term of Office."** Each Director shall hold office until the next annual meeting of Voting Members and/or until each successor has been elected and qualified. Provided, however, that a Director's term in office may be terminated and a successor elected at any meeting of Members called pursuant to the provisions in these By-Laws.

**Section 3. Regular Meetings:** There shall be at least one (1) regular meeting of the Board quarterly at a time designated by the President. The President or two (2) members of the Board may call as many special meetings of the Board as are deemed necessary or desirable and in the best interest of the Association.

**Section 4. Presentation of Annual Budget:** The Board of Directors shall annually, on or before November 1st of each year, prepare a budget for the upcoming calendar year to include such sums as it deems adequate. The Board of Directors, on or before November 1st, shall deliver the budget for the upcoming year together with the statement of the amounts due from the Co-Owners of the respective Regimes for that year and the date or dates upon which payments are due from the Individual Condominium Associations. Thereafter, should an increase or decrease be determined appropriate by the Board of Directors in assessments to be paid by Co-Owners, the Board shall notify all Individual Condominium Associations at least thirty (30) days prior to the time such assessments so changed shall be due. The Association shall have a lien upon each apartment together with the common elements and common surplus appurtenant thereto for payment of all assessments not paid when due in the amount of such unpaid assessments together with late charges thereon from the date due together with the cost of collection thereof including a reasonable attorney's fee.

**Section 5. Notice:** Notice of any special meeting shall be given at least five (5) days previous thereto by written notice delivered personally, or by telegram or mailed to each director at this business address. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. The attendance of a Director at a meeting shall constitute a Waiver of Notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

Law Offices of  
David L. Pashak  
P. O. Box 11600  
Nurridge Beach,  
S.C. 29567

**Section 6. Quorum.** At any meeting of the Directors a majority of the Directors fixed by these By-Laws shall constitute a quorum for the transaction of business, but if less than said number is present at a meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice.

**Section 7. Voting:** Any action taken at a meeting of the Board of Directors shall be only upon the affirmative vote of 67% of the entire votes of the Association.

**Section 8. Consistent with these By-Laws and applicable Declarations, the Board shall:**

- (a) transact all Association business and prescribe the rules and regulations for the use of the assets, facilities and property for which it is so charged and may appoint such officers, clerks, agents, servants or employees as it may deem necessary in its sole discretion and may fix their duties and compensation;
- (b) annually set a budget for the Association;
- (c) fix, impose and remit penalties for violations of these By-Laws and the rules and regulations of the Association;
- (d) elect from the Board within thirty (30) days after each annual meeting the President, Vice-President, Secretary and Treasurer;
- (e) carry out all other duties and obligations imposed and exercise all rights granted in by these By-Laws, the Declaration, and the Act.

**Section 9. Vacancies.** Vacancies occurring on this Board of Directors shall be filled immediately by an election of the Director's successor by that Individual Condominium Association which the Director in question represents. Provided, however, that in the event of a vacancy, and prior to any election by the Individual Condominium Association, the highest presiding officer of the Individual Condominium Association shall automatically be a Director and Voting Member of this Association. For purposes of this section, the ranking of the Officers of each Individual Condominium Association shall be in this order: President, Vice President, Secretary and Treasurer.

Law Offices of  
David L. Peacock  
P. O. Box 18988  
Berkeley Beach,  
N.C. 28527

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**Section 10. Resignation.** A Director may resign at any time by giving written notice to the Board, the President or the Secretary of the Association. Unless otherwise specified in the notice, the resignation shall take effect upon receipt thereof by the Board or such officer, and the acceptance of the resignation shall not be necessary to make it effective.

**Section 11. Compensation.** No compensation shall be paid to Directors, as such, for their services, but by resolution of the Board a fixed sum and expenses for actual attendance at each regular or special meeting of the Board may be authorized. Nothing herein contained shall be construed to preclude any Director from serving the Association in any other capacity and receiving compensation therefor.

**Section 12. Presumption of Assent.** A Director of the Association who is present at a meeting of the Directors at which action on any Association matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the Secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action.

**Section 13. Executive and Other Committees:** The Board, by resolution, may designate from among its members an executive committee and other committees, each consisting of one or more Directors. Each such committee shall serve at the pleasure of the Board.

ARTICLE V

CONTRACTS, LOANS, CHECKS AND DEPOSITS

**Section 1. "Contracts."** The Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

**Section 2. "Loans."** No loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Directors. Such authority may be general or confined to specific instances.

**Section 3. "Check, Drafts, Etc."** All checks, drafts or other orders for the payment of money, notes or other evidences signed by such officer or officers, agent or agents of the Association and in

Law Offices of  
Donald L. Patrick  
P. O. Box 15089  
Surfside Beach,  
S.C. 29587

such manner as shall from time to time be determined by resolution of the Directors.

Section 4. "Deposits." All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Directors may select.

#### ARTICLE VI

##### BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

#### ARTICLE VII

##### CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: The Myrtle Beach Resort Homeowners' Association, Inc.

#### ARTICLE VIII

These By-Laws may be amended at a regular or special meeting of the voting Members or at a regular or special meeting of the Members, by a vote representing 67% or greater of the total votes of the Association. Provided, however, that any amendment to these By-Laws shall be consistent with the Declarations of this Association and the Master Deeds of the Individual Condominium Associations.

#### ARTICLE IX

##### Miscellaneous

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, we, being all of the Directors and Shareholders of The Myrtle Beach Resort Homeowners' Association, Inc., have hereunto set our hands this 16th day of April, 1991.

Law Office of  
Donald L. Pusch  
P. O. Box 15908  
Myrtle Beach,  
S.C. 29587

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WITNESSETH:

MYRTLE BEACH RESORT HORIZONTAL  
PROPERTY REGIME, INC.

  
Annette Jordan


BY:   
James R. Brunner  
ITS: Authorized Board Representative

STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY )


PROBATE

PERSONALLY APPEARED BEFORE ME Judith B. Reynolds

, who states under oath that  
(s)he saw the within named Myrtle Beach Resort Horizontal Property  
Regime, Inc., by James R. Brunner, its Authorized Board Member, as  
its act and deed, sign, seal and deliver the within Amended By-Laws  
of the Myrtle Beach Resort Homeowners' Association, Inc. and that  
(s)he with Annette Jordan witnessed the execution  
thereof.



SWORN to before me this  
9th day of April, 1991.

  
Annette Jordan  
Notary Public for South Carolina

My Commission Expires: 4-25-96

Live Office of  
Daniel L. Pearch  
P. O. Box 16000  
Myrtle Beach,  
S.C. 29527

BOOK 1465 PAGE 354

WITNESSETH:

MYRTLE BEACH RESORT OCEANFRONT SPA  
HORIZONTAL PROPERTY REGIME, INC.

(1) [Signature]  
(2) Lauren W. Spack

BY: (1) George Kidney  
George Kidney  
ITS: Authorized Board Representative

STATE OF GEORGIA )  
COUNTY OF COBB )

PROBATE

PERSONALLY APPEARED BEFORE ME Lauren W. Spack

, who states under oath that (s)he saw the within named Myrtle Beach Resort Oceanfront Spa Horizontal Property Regime, Inc., by George Kidney, its Authorized Board Representative, as its act and deed, sign, seal and deliver the within Amended By-Laws of the Myrtle Beach Resort Homeowners' Association, Inc., and that (s)he with Lauren W. Spack witnessed the execution thereof.

SWORN to before me this 14th day of April, 1991.

Lauren W. Spack  
Notary Public for ~~South Carolina~~ Georgia

My Commission Expires: None  
My Commission Expires: None

Law Offices of  
David L. Fendel  
P. O. Box 15400  
Myrtle Beach,  
S.C. 29587

BOOK 1465 PAGE 355

WITNESSETH: RENAISSANCE TOWER HORIZONTAL PROPERTY REGIME, INC.

(1) Jean Marshall BY: (1) Alfred H. Wells  
(2) Janice E. Horvath ITS: Authorized Board Representative

STATE OF VIRGINIA )  
COUNTY OF HENRICO ) PROBATE

PERSONALLY APPEARED BEFORE ME: JEAN O. MARSHALL, who states under oath that (s)he saw the within named Renaissance Horizontal Property Regime, Inc., by Alfred H. Wells, its Authorized Board Representative, as its act and deed, sign, seal and deliver the within Amended By-Laws of the Myrtle Beach Resort Homeowners' Association, Inc. and that (s)he with (2) Janice E. Horvath witnessed the execution thereof.

Jean Marshall

SWORN to before me this 15th day of April, 1991.

(3) Janice E. Horvath  
Notary Public for ~~SOUTH CAROLINA~~ Virginia  
My Commission Expires: (4) June 13, 1993  
(5)

Law Offices of  
David L. Pugh  
P. O. Box 19000  
Myrtle Beach,  
S.C. 29527

BOOK 1465 PAGE 356

WITNESSETH:

MYRTLE BEACH RESORT FIVE SEASONS  
CENTRE COUNCIL OF CO-OWNERS, INC.

(1) William G. Ullery

BY: [Signature]  
Bill Hunt

(2) Beverly C. Harmon

ITS: Authorized Board Representative

STATE OF SOUTH CAROLINA )  
COUNTY OF BERNARD )

PROBATE

PERSONALLY APPEARED BEFORE ME

(1) William G. Ullery, who states under oath that (s)he saw the within named Myrtle Beach Resort Five Seasons Centre Council of Co-Owners, Inc., by Bill Hunt, its Authorized Board Representative, as its act and deed, sign, seal and deliver the within Amended By-Laws of the Myrtle Beach Resort Homeowners' Association, Inc. and that (s)he with (2) Beverly C. Harmon witnessed the execution thereof.

(1) William G. Ullery

SWORN to before me this  
10th day of APRIL, 1991.

(2) Beverly C. Harmon  
Notary Public for South Carolina  
My Commission Expires: 5/16/2000

Law Offices of  
David L. Pundak  
P. O. Box 16000  
Myrtle Beach,  
S.C. 29587

BOOK 146 PAGE 357

357

# EXHIBIT H

ELECTRONICALLY FILED - 2021 Apr 23 2:48 PM - HORRY - COMMON PLEAS - CASE#2018CP2603173

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )

AFFIDAVIT

PERSONALLY appeared before me Daniel L. Patrick, who, after being duly sworn, does state as follows:

1. I am a licensed attorney in the state of South Carolina, now "of counsel" with the firm of Patrick and Stathos, L.L.C.
2. The Myrtle Beach Resort project ("Resort") located in Horry County, South Carolina includes four horizontal property regimes: the Myrtle Beach Resort Horizontal Property Regime ("HPR"), Myrtle Beach Resort Ocean Front Spa Horizontal Property Regime ("OF Spa"), The Renaissance Tower Horizontal Property Regime ("RT") and the Myrtle Beach Resort Five Seasons Centre Horizontal Property Regime ("5 Seasons"), together with commercial properties located at the entrance to the Resort and beachfront as well as the entry/exit roads at the Resort.
3. The Master Deeds in Article XVIII of both the OF Spa (filed in April 1983) and the RT (filed in November 1984) provide that the Declarant (developer) may "establish The Myrtle Beach Resort Homeowners' Association... and all Co-owners shall... automatically become members thereof." The Master Deeds further provide that, if established, the Master Association board shall be comprised of one representative from each regime.
4. By 1986 I was legal Counsel for the four regimes.
5. By 1986 the original developer of the Resort, Resort Development Corporation f/k/a Resort Investment Corporation, had transferred to a successor certain rights and title it held at the Resort. Shortly thereafter the successor filed bankruptcy.
6. By February of 1987, the original developer assigned to its successor's Trustee-in-Bankruptcy ("Bankruptcy Trustee") certain remaining rights it had at the Resort including the right to establish a master homeowners' association for the present and future owners at the Resort, as referred to in paragraph 3 above.
7. On April 30, 1987, the four regimes, by their respective authorized representatives, incorporated The Myrtle Beach Resort Homeowners' Association, Inc. ("Association").
8. By assignment recorded February 3, 1989, the Bankruptcy Trustee transferred to the Association all rights it had acquired as referenced in paragraph 6 above. In 1989 the Trustee also transferred to the Association the commercial property mentioned in paragraph 2 above.
9. In April 1991 the Declaration of Covenants, Conditions and Restrictions ("DCCR") of Association and its By-laws were recorded in Horry County. The DCCR was signed by the authorized representatives of all four regimes and by the authorized representative of the Association.
10. I drafted the DCCR and By-laws ("governing documents") according to my clients' directions and consistent with the existing Master Deeds which require one board member from each Regime to be on the board of the Association.

ODP  
/


11. Those governing documents provide for a super-majority of 67% of the voting membership (1 elected from each Regime and totaling 4) or a majority of all members (which total 1,010) to take any action including without limitation, election of officers; entering into, terminating, or altering contracts; creating new or modifying or terminating existing rules, regulations, or procedures.

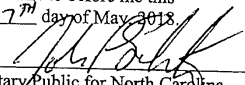
12. The super-majority provision was requested and agreed to by all board members to protect minority interests. To reach the super-majority requires no less than 3 of the 4 voting members to concur.

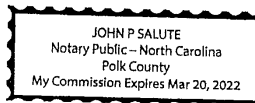
13. The enumerated powers of the Association set out in the DCCR (Article IV) were intended to be mandatory obligations, not optional. They include, among other obligations, employing security services for the overall Myrtle Beach Resort project, which includes all four regimes set out in paragraph 2 herein (DCCR 4.1(L)). From the beginning there has always been just one security company site-wide under contract at any given time, at first through the developer and then under the Association. In particular because of the cross-easements contained in the various Master Deeds of the regimes for vehicular and pedestrian ingress and egress and for the use of amenities it was reasoned that having multiple contracts for security created the risk of irreparable damage to the Resort because of potential conflicting security rules, enforcement, and oversight. Also having differing directions given to security from various regimes would conflict with the developer's design of a seamless Resort as reflected in the Master Deeds of all regimes..

14. It is my understanding that the gate pass "fee" is no longer being collected through direction or acquiescence of the RT and OF Spa representatives on the board of the Association without the requisite vote of the board. That fee was adopted approximately 15 years ago by the Association board to help offset the added expenses incurred by the Association as a result of the number of guests, including in particular, additional security costs. I am now informed that the line item for security in the Association's 2018 budget is substantially less than that in 2017. I am also informed that, unless the gate fee is immediately restored, the Master Association will be severely underfunded for security and with the influx of guests as high season is here will potentially cause irreparable damage.

15. Patrick & Stathos, LLC (of which I am no longer a member, but "of counsel") and its predecessor (of which I was either sole owner or principle member) has continuously represented the Master Association since its inception. To my knowledge neither the super-majority requirement nor the mandatory obligations in the governing documents recorded over 27 years ago have been challenged until recently.

  
Daniel L. Patrick

SWORN to before me this  
17<sup>th</sup> day of May 2018.  
  
Notary Public for North Carolina  
John P. Salute  
Print name of Notary Public  
My Commission Expires: 3/20/22



# EXHIBIT I

ELECTRONICALLY FILED - 2021 Apr 23 2:48 PM - HORRY - COMMON PLEAS - CASE#2018CP2603173

# EXHIBIT J

ELECTRONICALLY FILED - 2021 Apr 23 2:48 PM - HORRY - COMMON PLEAS - CASE#2018CP2603173

STATE OF SOUTH CAROLINA COUNTY OF HORRY  Frederick E. Brown, et al.,   vs.  Jeffery L. Richardson, et al.,   Myrtle Beach Resort Homeowners' Association, Inc.,  <hr style="width: 25%; margin-left: 0;"/> Nominal Defendant.	IN THE COURT OF COMMON PLEAS THE FIFTEENTH JUDICIAL CIRCUIT CASE NO. 2018-CP-26-03173   <b>PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT</b>
--	--

**TO: MOLLY HUGHES CHERRY, ESQUIRE ATTORNEY FOR THE DEFENDANTS  
AND NICHOLAS J. RIVERA, ESQUIRE, ATTORNEY FOR THE NOMINAL  
DEFENDANT**

PLEASE TAKE NOTICE that Plaintiffs, by and through her undersigned attorneys, will move before the Presiding Circuit Court Judge for Horry County, South Carolina, for an Order granting summary judgment in favor of Plaintiffs pursuant to Rule 56 of the South Carolina Rules of Civil Procedure.

Plaintiffs move for summary judgment on the basis that there are no genuine issues of material fact and Plaintiffs are entitled to judgment as a matter of law on all of following issues or matters set forth below:

- The MBRHOA's Declaration and Bylaws are valid, enforceable, and/or legal.
- The MBRHOA's Board of Directors' powers under Section 4.1, Article IV of the Declaration are not optional, but affirmative obligations binding on each of the individual Board members.

- MBRHOA's Board of Directors cannot delegate their powers, duties, or obligations under subsections (a) through (i) of Section 4.1, Article IV of the Declaration to the individually condominium regimes.
- The MBRHOA's Board of Directors cannot sell the common properties and/or commercial units owned by the Association without a vote of the 1,010 members of the Association.

**RELEVANT AND UNDISPUTED FACTS**

The Myrtle Beach Resort Homeowners' Association, Inc. ("MBRHOA") oversees and governs the Myrtle Beach Resort. Myrtle Beach Resort is comprised of four individual horizontal property regimes: (1) Myrtle Beach Resort Horizontal Property Regime; (2) Myrtle Beach Resort Ocean Front Spa Horizontal Property Regime ("HPR"); (3) Renaissance Tower Horizontal Property Regime; and (4) Myrtle Beach Resort Five Seasons Centre Horizontal Property Regime (collectively, "regimes"). However, regardless of which regime an individual unit owner is a member of, he or she is still a member of the MBRHOA. The governing documents of the MBRHOA is that "Declaration of Covenants, Conditions, and Restrictions for the Myrtle Beach Resort Homeowners' Association, Inc." dated April 16, 1991, and filed on April 25, 1991, in the Deed Book 1465 at Page 329 in the Office of the Horry County Register of Deeds (the "Declaration").

The MBRHOA manages and administers certain aspects of the Myrtle Beach Resort and the regimes that make it up, including the common elements. As structured, the MBRHOA is managed by a four-member Board of Directors and each member of the Board is from one of the horizontal property regimes that make up the MBRHOA. The Board has the power and the obligation to perform certain services or actions on behalf of the property owners under subsections (a) through (i) of Section 4.1, Article IV of the Declaration in order to control and manage the MBRHOA for their benefit. Moreover, each Director is assigned the number of votes that represents the number of units (whether residential or commercial) that exists in that director's

individual regime.<sup>1</sup> There are 1,010 combined residential and commercial votes for any action taken at a meeting of the Board members for MBRHOA in the Myrtle Beach Resort. Under the MBRHOA's By-Laws Section 7 in order for any action to be approved by the Board, at least sixty-seven percent (67%) of the entire representative votes of the members of the MBRHOA must approve.

Over the years, the four (4) member Board of Directors for the MBRHOA and the underlying associations have disagreed about the legality of the MBRHOA, interpretation of the restrictive covenants, the duties of the MBRHOA, and numerous other aspects pertaining to the upkeep and repair of the MBRHOA.

#### **PROCEDURAL HISTORY**

On May 24, 2018, Board of Directors for both the HPR and Five Seasons Associations, as well as two currently serving MBRHOA members from the same, ("Plaintiffs") filed this lawsuit in Horry County individually and derivatively on behalf of the MBRHOA and its members against the Defendants, Jeffery L. Richardson ("Richardson"), Nancy L. Moore ("Moore"), and Jim Perkins ("Perkins"), who are either former and/or present Directors on the Board of Directors for the MBRHOA. The MBRHOA is a nominal defendant in this action. Plaintiffs Complaint alleged four (4) causes of action: (1) ultra vires acts and reckless, willful, and wanton conduct; (2) breach of Master HOA's Declaration and By-laws; (3) Declaratory Judgment; and (4) Injunctive Relief. The Defendants answered the Complaint, denying the allegations of wrongdoing.

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<sup>1</sup> For example, the voting director of Myrtle Beach Resort Horizontal Property Regime has 251 votes; the voting director of Myrtle Beach Resort Ocean Front Spa Horizontal Property Regime has 271 votes; the voting director of Renaissance Tower Horizontal Property Regime has 327 votes; and the voting director of Myrtle Beach Resort Five Seasons Centre Horizontal Property Regime has 161 votes.

On November 14, 2018, the Plaintiffs filed a Motion for the Appointment of a Temporary Custodian to operate and manage the MBRHOA.

On December 12, 2018, the Honorable William H. Seals, Jr. denied Plaintiff's Motion for the Appointment of a Temporary Custodian but granted Plaintiffs' request for equitable relief and issued an Order appointing Attorney Kenneth Moss ("Moss") as a fifth board member for the MBRHOA with the authority to vote to resolve the dissension and deadlock between the four-member Board of Directors with regards to the governance issues of the resort.

On May 13, 2019, the parties attempted to mediate the case with Attorney William H. Lyles without success.

On December 6, 2019, the Plaintiffs' filed a Motion to amend their complaint to assert additional claim for judicial dissolution of MBRHOA, or reasonable alternatives to dissolution and an additional injunctive relief claim.

On December 19, 2019, Plaintiffs filed a Motion to Appoint a Custodian for MBRHOA requesting the court to exercise its statutory authority relying upon S.C. Code Ann. §§ 33-31-1430 and 1432.

On February 14, 2020, the Honorable William A. McKinnon granted Plaintiffs' Motion to amend their complaint limiting it to S.C. Code Ann. § 33-31-1430(a)(2)(ii) and authorized the Plaintiffs to re-file their Motion to appoint a Custodian, if they so choose.

On February 17, 2020, Plaintiffs filed their Amended Complaint.

On February 28, 2020, MBRHOA filed a motion to dismiss Plaintiffs' Amended Complaint pursuant to Rule 12(b)(7), SCRCP and Rule 19, SCRCP.

On February 28, 2020, the parties filed a joint motion for case assignment to the Business Court Program.

FURTHERMORE, this Motion is brought pursuant to Rule 56, SCRCP and is supported by the applicable statutory law and case law, the pleadings and discovery in this case, and any and all affidavits, memoranda of law and supporting material as may be filed with the Court prior to the hearing of this Motion or presented during oral arguments of the same. The moving party, as counsel for the Plaintiffs, hereby certifies that consultation with opposing counsel for the Defendants would serve no useful purpose at the present time.

BELLAMY, RUTENBERG, COPELAND  
EPPS, GRAVELY & BOWERS, P. A.

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Myrtle Beach, South Carolina

March 24, 2020

# EXHIBIT K

ELECTRONICALLY FILED - 2021 Apr 23 2:48 PM - HORRY - COMMON PLEAS - CASE#2018CP2603173

STATE OF SOUTH CAROLINA  
COUNTY OF HORRY

FREDERICK E. BROWN, *et al.*,  
Plaintiffs,

vs.

JEFFERY L. RICHARDSON, *et al.*,  
Defendants.

and

MYRTLE BEACH RESORT  
HOMEOWNERS' ASSOCIATION, INC.,  
Nominal Defendant.

IN THE COURT OF COMMON PLEAS  
FIFTEENTH JUDICIAL CIRCUIT

CIVIL CASE NO. 2018-CP-26-03173

**NOTICE OF MOTION AND MOTION  
FOR PARTIAL SUMMARY  
JUDGMENT ON PLAINTIFFS' THIRD  
CAUSE OF ACTION**

**TO: PLAINTIFFS ABOVE NAMED AND HOWELL BELLAMY THEIR ATTORNEY:**

YOU WILL PLEASE TAKE NOTICE THAT Defendants Jeffery L. Richardson, Nancy L. Moore, Peter A. Grusauskas, and Jim Perkins, by and through their undersigned counsel, hereby move for an order pursuant to Rule 56 of the South Carolina Rules of Civil Procedure granting Defendants judgment as a matter of law on Plaintiffs' Third Cause of Action. Specifically, Defendants request the Court grant judgment by declaring section 4.1 of Article IV of the Declaration of Covenants, Conditions and Restrictions for the Myrtle Beach Resort Homeowners' Association, Inc. (hereafter, the "Declarations") grants additional powers to the Board of Directors for the Myrtle Beach Resort Homeowners' Association, Inc. (hereafter, the "Master Association"). This section constitutes a grant of powers, not a mandate.

Section 4.1, Article IV of the Declarations states in relevant part:

4.1 The Association, acting through the Board of Directors, shall also have the power to: (a) maintain all streets and roads within the Property, including cleaning and periodic resurfacing; (b) provide for all refuse collection (c ) obtain, for the benefit of the Property, by purchase, lease or otherwise, as deemed proper by the Board of Directors , cable or master television service and telephone service; (d) maintain the

oceanfront area; (e) grant easements, rights-of way or strips of land, where necessary, for utilities, and sewer facilities and other services over the Common Areas to service the Property; (f) maintain such policy or policies of liability and fire insurance with respect to property owned by the Association; ( g) employ or contract with a management company to perform all or any part of the duties and responsibilities of the Association, including further duties and responsibilities which may be delegated to the Association by the Individual Condominium Associations and to equitably apportion assessments of same; ( h) install and maintain security devices, detectors and communication facilities and contract for employment of security services, guards and watchmen for the project; ( i) take such other reasonable action as the Board shall deem advisable with respect to the Myrtle Beach Resort for the benefit of the overall Property.

This Motion is supported by the recorded Declarations, the By-Laws, and a Memorandum of Law to be filed with the Court. Please be present to defend if so minded.

s/ Bruce Wallace

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Attorneys for Defendants  
Jeffrey L. Richardson, et al.

March 22, 2021

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 ) THE FIFTEENTH JUDICIAL CIRCUIT  
 COUNTY OF HORRY ) CASE NO. 2018-CP-26-03173  
 )  
 )  
 Frederick E. Brown, et al, )  
 Plaintiffs, ) AFFIDAVIT OF MICHAEL R. PARADES, PCAM  
 )  
 vs. )  
 )  
 Jeffery L. Richardson, et.al, )  
 )  
 Defendants, )  
 )  
 Myrtle Beach Resort Homeowners' )  
 Association, Inc., )  
 )  
 Nominal Defendant. )

**PERSONALLY APPEARED BEFORE ME**, the undersigned, who being duly sworn, deposes and states:

1. My name is Michael R.Parades. I am over the age of eighteen (18) years and competent to make this Affidavit based on my personal knowledge, experience and training, and expertise in the field of community association governance, management, and affirmative duties of a Board of Directors regarding the administration, financial management, maintenance, repair, and replacement of common components of the General and Limited Common Elements. A copy of my Curriculum Vitae, marked **Exhibit A**, is attached hereto and incorporated by reference as part of this Affidavit.
2. I attended the College of Charleston, in Charleston, SC, from which I received a B.S. in Business Administration, Summa Cum Laude, 1979,
3. I am currently the President of Parades Consulting Services and provide consulting services to community associations primarily in the areas of governance, management, and affirmative duties of Community Association Boards of Directors. I have been qualified by the South Carolina State courts as an expert witness in the field of community association management, community association governance, and affirmative duties of Community Association Boards of Directors.
4. I am not a party to the above-entitled action, nor am I related to any of the above-captioned parties

5. This Affidavit is submitted in opposition to the allegations contained in Defendants', Nancy L. Moore, Jeffrey L. Richardson, Peter Grusauskas and Jim Perkins, Notice of Motion and Motion for Summary Judgment on the Remaining Claims, e-filed on January 26, 2022.

**PROJECT DESCRIPTION**

6. The Master HOA was created as an umbrella or "Master Association as evidenced by the Articles of Incorporation filed with the Office of the South Carolina Secretary of State on April 30, 1987 and as governed by the Master HOA's Declaration of Covenants, Conditions and Restrictions and By-Laws and filed of record on April 25, 1991 in the Office of the Register of Mesne Conveyances (R.M.C.) for Horry County in Deed Book 1465 at Page 329 and attached as **Exhibits B 1 and B-2.**

7. Master HOA is charged with administering certain affairs of the Myrtle Beach Resort, a resort within Horry County, South Carolina, presently including: (a) Myrtle Beach Horizontal Property Regime, Inc. ("HPR") consisting of Two Hundred Fifty-One (251) Residential Units; (b) Myrtle Beach Resort Ocean Front Spa Horizontal Property Regime, Inc. ("OFS") consisting of Two Hundred Sixty-Seven (267) Residential Units and Four (4) Commercial Units for a total of Two Hundred Seventy-One (271) Units; (c) Renaissance Tower Horizontal Property Regime, Inc. ("RT") consisting of Three Hundred Twenty-Two (322) Residential Units and Five (5) Commercial Units for a total of Three Hundred Twenty-Seven (327) Units; (d) Myrtle Beach Resort Five Seasons Centre Council of Co-Owners, Inc. ("FS") consisting of One Hundred Fifty-Six (156) Residential Units and Five (5) Commercial Units for a total of One Hundred Sixty-One (161) Units, (Collectively known as "Four Individual Condominium Regimes"). Thus, the Master HOA consists of Nine Hundred Ninety-Six (996) Residential Units and Fourteen (14) Commercial Units as well as many recreational amenities available to owners and guests of the Master HOA.

8. The Four Individual Condominium Regimes agreed to the Master HOA's creation and to be bound by its Declaration and By-Laws. It should be noted that each Condominium Regime President was listed as Co-Declarant to further affirm the validity of the Master HOA Covenants, Conditions, and Restrictions and related By-Laws.

9. In addition, thereto, the authority of the Master HOA, stems from, and is in accordance with the Master Deeds of the aforementioned Four Individual Condominium Regimes, which specifically reserve to the developer the right to establish the Master HOA.

10. Moreover, all developer's reserved rights were assigned to the Master HOA by that Assignment of Rights dated January 27, 1989 and filed of record in the Office of the R.M.C. for Horry County in Deed Book 1284 at Page 239.

11. The Four Individual Condominium Regimes as well as the Defendants and their successors or designees are subject to the provisions of the Master HOA's Declaration of CCRs and By-Laws.

**RELEVANT PROVISIONS OF MASTER HOA'S DECLARATION AND BYLAWS**

12. Insofar as it is relevant to the assertions in this Complaint, Article I defines certain terms used in the Master HOA's Declaration as follows:

1.1.0 "Act" shall mean the South Carolina Horizontal Property Regime Act, Title 27, Chapter 31, and Code of Laws of South Carolina, 1976, as Amended.

1.1.2 "Assessment" shall mean and refer to a share of the Common Expenses, capital improvements or other changes from time to time assessed against Co-Owners in the manner herein provided.

1.1.3 "Association" shall mean and refer to the Myrtle Beach Resort Homeowners Association, Inc., a South Carolina non-profit Corporation.

1.1.4 "Board of Directors" shall mean and refer to the Board of Directors of the Association, which is the governing body of the Association.

1.1.5 "By-Laws of the Association" shall mean and refer to those By-Laws of the Myrtle Beach Resort Homeowners Association, Inc., which govern the administration and operation of the Association, as may be amended from time to time, which By-Laws are attached as Exhibit "B" to this Declaration.

1.1.6 "Commercial Unit" shall mean and refer to any unit designated as commercial space in the Master Deed of the appropriate Condominium Association.

1.1.7 "Common Area" shall mean and refer to any unit designated as commercial space in the Master Deed of the appropriate Condominium Association.

1.1.8 "Common Expenses" shall mean and refer to all expenditures, including debt retirement, capital improvements, and operating expenses, lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation or maintenance of financial, equipment, or material reserves, consistent with the provisions and intent of this Declaration.

1.1.9 "Condominium Association" or "Individual Condominium Association" shall mean and refer to the four individual horizontal property regimes making up the Myrtle Beach Resort including the Myrtle Beach Resort Horizontal Property Regime (Phase I);

Myrtle Beach Resort Oceanfront Spa (Phase II); Renaissance Tower Horizontal Property Regime (Phase III); and Myrtle Beach Resort Five Seasons Centre (Phase IV).

13. Article V discusses the covenant for assessments as expressed in the Master HOA's Declaration as follows:

- **5.1 Creation of the Lien. Each individual Condominium Association together with each Co-Owner is deemed to covenant and agrees to pay to the Association Assessments for the Association expenses including common expenses as provided for herein.**

Such assessments, together with interest, costs, and reasonable attorney's fees for the collection thereof shall be a charge on any Dwelling Unit or Commercial Unit, and shall be a continuing lien upon it, until full payment of such Assessment is made. A Co-owner shall become liable for payment of Assessments upon issuance of a Statement of Assessments by the Association.

On any Assessment that remains unpaid for over ten (10) days after its due date, at the sole discretion of the Board, a late charge not to exceed Ten and no/100 (\$10.00) or Ten Percent (10%) of the amount due, whichever is greater, shall also be due and payable to defray the expense of the late collection.

Further, the Association shall have a lien on each Dwelling Unit or Commercial Unit together with the common elements appurtenant thereto in the amount of each Assessment not paid when due as provided herein, which may be collected and/or the lien foreclosed upon as provided in the South Carolina Horizontal Property Regime Act. **Reasonable attorney's fees incurred by the Board incident to the collection of such Assessments or the enforcement (including but not limited to foreclosure) of such lien and all other charged allowed by the Act shall be payable by the delinquent Co-owner and secured by such lien.** The Board may take such action as it deems necessary to collect Assessments as provided in the Act and further may settle and/or compromise same if deemed in its best interest.

**No Co-Owner may exempt himself from liability for his share of the Assessments by waiving the use of enjoyment of the common elements.**

- **5.2 Association Assessments may be assessed directly to the Co-owners or may be collected by the Individual Condominium Association at the discretion of the Board.** The assessments levied by the Association as well as the manner of collecting same, shall be determined by the Board of Directors at a regularly

scheduled or at a special meeting **and the approval of the budget for the Association shall require the vote of 67% or more of all Voting Members of the Association.**

- *5.3 Allocation of Assessments for budgeted expenses shall be allocated and assessed as follows: Myrtle Beach Horizontal Property Regime (Phase I)- 24.8515%; Myrtle Beach Resort Ocean Front Spa Horizontal Property Regime – 26.8317%; Renaissance Tower Horizontal Property Regime, Inc. (Phase III) – 32.3762%; and Myrtle Beach Resort Five Seasons Centre Council of Co-Owners, Inc. (Phase IV) – 15.9406%.*

14. Insofar as it is relevant to the assertions in this Complaint, Article II defines certain terms used in the Master HOA's By-laws as follows:

- (a) "Association" shall mean and refer to the Myrtle Beach Resort Homeowners' Association, Inc., its successors and assigns.
- (b) "Member" shall mean and refer to each and every Co-Owner at The Myrtle Beach Resort which includes (a) Myrtle Beach Resort Horizontal Property Regime, Inc.; (b) Myrtle Beach Oceanfront Spa Horizontal Property Regime; (c) Renaissance Towner Horizontal Property Regime; (d) Myrtle Beach Resort Five Seasons Centre Horizontal Property Regime.
- (c) "Voting Member" shall mean and refer to that representative from the Board of Directors of each Individual Condominium Association who has been elected by that Board as a representative to the Board of Directors of this Association.
- (d) "Individual Condominium Associations" shall mean and refer to those Associations at The Myrtle Beach Resort presenting including: (a) Myrtle Beach Resort Horizontal Property Regime, Inc.; (b) Myrtle Beach Oceanfront Spa Horizontal Property Regime; (c) Renaissance Towner Horizontal Property Regime; (d) Myrtle Beach Resort Five Seasons Centre Horizontal Property Regime.

15. Article IV of the By-Laws discusses voting, selection, term of office, and duties of the Board of Directors for the Master HOA. Article IV provides in pertinent part:

Section 1. The Association shall be managed by a Board of Directors consisting of not less than four (4) Directors. Each Individual Condominium Association of the Myrtle Beach Resort shall have a representative from its Regime as a Director on the board of the Association. Each Board Member of this Association shall also be a board member of the Individual Condominium Association which he or she represents.

Section 1 a. "Voting." Each Director is hereby assigned the number of votes that represents the number of Apartments (whether residential or commercial) that exists

in that Director's Individual Condominium Association.

Section 7. Voting: *Any action taken at a meeting of the Board of Directors shall be only upon the affirmative vote of 67% of the entire votes of the Association.*

**NOTE: Any and all actions MUST be approved by at least three (3) Board members.**

Section 8. Consistent with these By-Laws and applicable Declarations, the Board shall:

- a. Transact all Association business and prescribe the rules and regulations for the use of the assets, facilities and property for which it is so charged and may appoint such officers, clerks, agents, servants or employees as it may deem necessary in its sole discretion and may fix their duties and compensation; and*
- b. Annually set a budget for the Association; and*
- c. Fix, impose and remit penalties for violations of these By-Laws and the Rules and Regulations of the Association; and
- d. Elect from the Board within thirty (30) days after each annual meeting the President, Vice-President, Secretary and Treasurer; and
- e. Carry out all other duties and obligations imposed and exercise all rights granted it by these By-Laws, the Declarations and the Act.*

**PART 1: RELEVANT FACTUAL BACKGROUND-PAYMENT OF ASSESSMENTS**

16. The nominal Defendant, The Myrtle Beach Resort Homeowners Association, Inc., ("HOA") is a non-profit corporation organized and existing under the laws of the State of South Carolina and doing business in Horry County, South Carolina.

17. The Defendant, Renaissance Tower Horizontal Property Regime ("RT") is charged with administering the affairs of Renaissance Tower, a condominium resort within Horry County, South Carolina.

18. The Defendant, Empress Management Company, Inc. is a property management company organized and existing under the laws of the State of South Carolina doing business as a property management company and is charged with administering the affairs of Plaintiff HOA.

19. The Plaintiff HOA is an umbrella or "Master Association" charged with administering the affairs of Myrtle Beach Resort, a resort within Horry County, South Carolina, consisting of the Myrtle Beach Resort HPR, Ocean Front Spa HPR, Five Seasons HPR and Defendant Renaissance Tower (collectively "Regimes.")

20. The Master HOA was created as an umbrella or "Master Association" as evidenced by the Articles of Incorporation filed with the South Carolina Secretary of State on April 30, 1987 and as governed by Declarations of Covenants, Conditions and Restrictions filed April 25, 1991 in Deed Book 1465 at Page 329 ("HOA Declaration.")

21. The aforementioned Regimes, including Renaissance Tower, agreed to Plaintiffs HOA'S creation and to be bound by its HOA Declaration.

22. In addition thereto, the authority of the Master HOA, stems from, and is in accordance with the individual Master Deeds of the aforementioned Regimes which specifically reserved to the developer the right to establish the Master HOA.

23. Moreover, all developers reserved rights were assigned to the Master HOA by that Assignment of Rights dated January 27, 1989 and recorded February 2, 1989 in Deed Book 1284 at Page 239.

24. ***The Defendant Renaissance Tower is subject to the HOA Declaration.***

25. In performance of its administrative duties under the Declaration, the Master HOA has levied assessments against the Defendant Renaissance Tower for its share of expenses of administration of the HOA.

26. Pursuant to the aforementioned HOA Declaration, the terms of which are incorporated herein by reference, each of the Regimes, including Defendant Renaissance Tower is deemed to covenant and agree to pay the Master HOA assessments for the HOA's expenses, including common expenses, as provided for within the HOA Declaration.

27. The Master HOA craves reference to the provisions of the HOA Declaration which provided for the administration of the property by the Master HOA and the collection of the aforementioned assessments. Pursuant to Article V of the HOA Declaration, the Master HOA's assessments may be assessed directly to each of the owners or may be collected by the owner's individual condominium association.

28. Since inception, each of the Regimes collected assessments from its owners and thereafter the respective Regimes, pursuant to the HOA Declaration, paid their respective proportionate share of the association assessments to the Master HOA.

29. However, the Defendant Renaissance Tower beginning January 2016, Purposefully began withholding payment of its monthly assessments to the Master HOA, even after having collected the same from its owners; therefore breaching the Master HOA Declaration. This was the beginning of the strategy by Defendant Renaissance Tower to gain control of the Master HOA. This strategy was led by Defendants Richardson and Grusauskas.

30. In an effort to mitigate its damages, the Master HOA delivered letters to owners of property at Renaissance Tower advising them of the Defendant Renaissance Tower's actions and requested that the owners pay their share of assessments directly to the Master HOA.

31. Upon information and belief, the Defendant Renaissance Tower further instructed its owners NOT to pay association assessments directly to the Master HOA after delivery of the Master HOA letters.

32. On December 9, 2016, the Master HOA brought a collection action against the Defendant Renaissance Tower for failure to pay assessments, to date, in the amount of Three Hundred Thirty Four Thousand Four Hundred Three Dollars and 28/100 (\$334,403.28), pursuant to the Declaration of Covenants, Conditions and Restrictions for the Myrtle Beach Resort filed in the Harry County Register of Deed Office in Deed Book 1465 at Page 329 on April 25, 1991.

***It should be noted that the Defendants never obtained approval of the Board as a whole yet the Defendants filed a claim with the Master HOA insurance, who has been and continues to pay the Defendants defense costs.***

33. Defendant Renaissance Tower filed an answer and asserted counterclaims against the Master HOA for accounting, breach of contract, unjust enrichment, breach of fiduciary duty and declaratory judgment action seeking an Order that Master HOA did not have the authority to provide and assess Defendant for services, such as security, which Defendant believes it did not receive benefit from, and to collect assessments from Defendant's members.

34. The Defendant Renaissance Tower's unilateral action of withholding the association assessments caused a financial hardship to the Master HOA and further caused irreparable damage and harm to the Master HOA and the other paying Regimes.

35. The Master HOA was damaged by the unilateral refusal of the Defendant Renaissance Tower to pay association assessments which Defendant Renaissance Tower admitted that it had collected from its owners.

36. As a result, the Master HOA was forced to spend funds from its reserves to meet its operational and contractual expenses as determined by the HOA Declaration ***with the understanding the funds borrowed from its reserves for operating expenses would be repaid once Defendant Renaissance Tower brought their account current.***

37. On February 21, 2017, the Circuit Court granted the Master HOA's Motion for a Temporary Injunction (see **Exhibit C-1**) and ordered Defendant Renaissance Tower pay the Horry County Clerk of Court the funds it had collected from its Co-Owners for 2016 to date. **Furthermore, any future assessments collected by the Defendant and alleged to belong to the Plaintiff SHALL also be paid unto the Clerk of Court for Horry County and such funds SHALL be held in the same interest bearing account pending resolution of the litigation. These funds SHALL not be disbursed until further Order of the Court.**

38. The Consent Order was filed and the case was referred to the Master in Equity for Horry County to take testimony, make findings of fact and conclusions of law and determine the issues with finality.

39. On August 10, 2017, the Master in Equity for Horry County issued a Consent Order Regarding Disbursement of Assessments to Myrtle Beach Resort Homeowners, Inc. (see **Exhibit C-2**) ordering the Clerk of Court for Horry County shall release to Plaintiff \$200,000 of the amount Defendant has deposited to enable Plaintiff to pay operating expenses. Item c. of the Order further provides **"The amendment set forth herein excepted, the Order for Injunction remains in full force and effect."**

40. The Master in Equity then issued an Order Amending the Scheduling Order dated September 12, 2017 and disbursing funds from the Clerk of Court filed November 28, 2017 (see **Exhibit C-3**) which provides in part:

- a. Ten (10) days from the date of this Order, the Clerk of Court for Horry County shall disburse all but Twenty Thousand Dollars and 00/100 (\$20,000.00) of the funds on deposit with the Court to Plaintiff, this being a total of Two Hundred Twenty Thousand Seven Hundred Nineteen Dollars and 65/100 being remitted to Plaintiff, and Plaintiff has agree to accept same.
- b. The Clerk of Court for Horry County shall retain possession of the remaining Twenty Thousand Dollars and 00/100 (\$20,000.00) that it has on deposit related to this matter pending further Order of the Court.
- c. The Defendant shall pay One Hundred Eighty-Five Thousand Two Hundred Sixty-Eight Dollars and 65/100, which has not been deposited with the Clerk of Court's office, in past due assessments directly to (Master HOA) within (10) days of this Order; and

**NOTE: Defendant deliberately did not comply with Consent Order (C-2) to pay assessments collected to the Horry County Clerk of Court but instead held the money in Renaissance Tower interest bearing account.**

- d. The Defendant **SHALL pay all future assessments to Plaintiff directly in accordance with the Declaration of Covenants and Restrictions for Myrtle Beach Resort filed on April 25, 1992 in Deed Book 1465 at page 329 in the Horry County Register of Deeds Office.**

***NOTE: Again, Defendant deliberately did not comply with Consent Order (C-2) to pay assessments collected to Plaintiff directly but instead held the money in Renaissance Tower interest bearing account.***

41. In December 2017, at the direction of the Master HOA Board, the Master HOA Attorney opened a new account at Conway National Bank (CNB) for the purpose of receiving the distribution of lawsuit proceeds from the court. ***These proceeds were to be used to reimburse funds borrowed from the Master HOA reserves to pay for operations.***

The total amount deposited in late December was \$405,988.38. In January 2018, Jim Perkins, OFS representative on the Master Board and Sarah Morrow, Empress Management owner, went to CNB to change bank signature cards. Instead of transferring funds to repay The Master HOA reserves that had been used to fund operating costs, they transferred \$165,988.00 to the Master HOA Operating account to pay operating bills, thereby starting the cycle again. The remaining \$240,000.00 was transferred to the operating account in August by check signed by Jim Perkins, who was no longer a Board member and not authorized to transfer funds.

42. Upon review of the January 2018 financial statements, by Mr. Parades, Plaintiff's expert witness, the question was raised about where the funds deposited in CNB had gone. Barbara Johnson, Empress Manager stated she had no idea. In fact, Barbara Johnson was at the January 11, 2018 Board meeting when all present were advised that authorized signers had been changed and \$165,988 was withdrawn from the CNB account and deposited in the operating account to pay operating costs. It should be also noted that in August 2018, the remaining CNB funds were withdrawn by Jim Perkins and deposited in the operating account.

43. On April 20, 2018, the Master in Equity for Horry County issued a Final Consent Settlement Order, (see **Exhibit C-4**) bringing an end to this case and ordering disbursement of the remaining \$20,000.00 funds being held by the Horry County Clerk of Court. Further, the Master ordered that \$10,000.00 be paid by Plaintiff to Defendant as damages for Defendant's counterclaims. Nothing in this order waived Defendant's obligation to pay assessments for its share of expenses to the Plaintiff.

44. At the time of the Final Consent Order, the Defendant still owed the monthly assessment for October, November and December 2017 in addition to accrued late fees and collection costs. The total owed was \$116,357.74. Defendant, Jeff Richardson, has alleged that the Final Consent Order relieved him from paying assessments for the last three months

of 2017. As a reading of the various court orders in Exhibit C-1 through C-4 will indicate at no time did either Judge absolve Defendant from paying assessments. The fact that Defendant ignored the Court's order to pay assessments directly to Plaintiff simply allowed Defendant to return to prior behavior of collecting the assessments from his Co-Owners and keeping the money in an interest bearing account of the Defendant Renaissance Tower.

45. The Master HOA changed management companies January 1, 2018. The old management company, First Services Residential, provided the new management company, Empress Management, with a detail schedule of what was owed by Renaissance Tower as of January 31, 2018. The total owed of \$150,657.98, is the balance due that was loaded into the Empress Management accounting records, **see Exhibits D-1, D-2 and D-3**.

46. During 2018 no action was taken by the Board to collect the balance owed by Renaissance Tower. Jeff Richardson, President of Renaissance Tower and also a Master HOA Board member, continued to allege that Renaissance Tower was paid in full. See October 13, 2018 Board meeting minutes item 2.

47. In 2019, the Master HOA engaged the Hobbs Group to perform the annual audit. When the audit report was issued, the receivable due from Renaissance Tower had disappeared with no explanation. Plaintiff requested production of the Hobbs Group audit work papers to understand the reason for the write off of the legitimate receivable from the Renaissance Tower.

48. A review of the audit work papers, by Mr. Parades, revealed the write off of the receivable actually was recorded against the 12/31/17 balance to avoid having to footnote the reason for the write off. The support for the write off was a memo written by the Master HOA attorney, Robert E. Lee, (see **Exhibit E**), May 19, 2019 offering an opinion to support Renaissance Tower was in fact paid in full. This memo was sent to the Master HOA Board members. At the time, it was unclear why the memo was written and questionable as to the opinion. In reviewing the 2018 audit work papers, it became evident that the reason the memo was written was to support the intent of the Defendant Board members, Mr. Moss the Court appointed 5<sup>th</sup> Board member and the Attorney R.E. Lee to write off the receivable due from Renaissance Tower. This memo was given to the auditors, by Empress at the direction of Attorney Lee with the knowledge of Mr. Moss, the Court appointed 5<sup>th</sup> Board member, as support for the direction to write off the receivable, (see **Exhibit F**).

49. As further support that Mr. Richardson is lying regarding the Final Consent Order relieving Renaissance Tower from paying the monthly assessment for October, November and December 2017, see letter from Sam Stathos, who was counsel for the Master HOA in the collection action against Renaissance Tower, **see Exhibit G**).

50. To prove the \$116,357.74 was owed, I prepared a schedule utilizing the Cumulative General Ledgers for 2016, 2017, 2018 and 2019, (**see Exhibit H**). This schedule details the monthly assessments to RT, payments by RT to the Master HOA or the Court in accordance with Court Orders in C-1 through C-4.

51. Finally, after all of the information was provided to the Board President, Mr. Moss, and Attorney Lee, both agreed the balance was owed and should not have been written off. Mr. Moss wrote a letter December 11, 2020 to John Hobbs, (**see Exhibit I**) directing that the entry be reversed. In his letter, Mr. Moss acknowledged the following:

- (1) *the write off was never approved by the Board as a whole;*
- (2) *no documents could be found that would justify the write off;*
- (3) *the write off should never have been done*

What the letter is **NOT** saying and is key to the issues in this lawsuit, which is the following:

- (1) that Attorney Lee wrote the memo of May 19, 2019 to support the write off and intentionally ignored what the various Court Orders required;
- (2) Attorney Lee directed Barbara Johnson, Empress Manager, to forward the memo to Mr. Hobbs;
- (3) Mr. Ross, Mr. Lee and Empress tried to write off a legitimate receivable from RT to benefit Mr. Richardson. The plan failed.

**THEY GOT CAUGHT!**

## **PART 2: RELEVANT FACTUAL BACKGROUND-COMMON MASTER SERVICES**

Beginning in 2016, Defendant's began a series of actions with the intent to disrupt, bankrupt and force the existing Master HOA Board to relinquish control of the Master HOA under the theory that the two largest Regimes (Renaissance Tower and Ocean Front Spa) represented the largest percentage of owners in the Myrtle Beach Resort and therefore should be the entities that controlled the Master HOA. As such they would then be able to change the percentage share each Regime paid toward the Master HOA expenses, could control security and other common services with the intent being to lower the monthly costs for each Ocean Front Spa and Renaissance Tower owner.

The actions of this group included stopping payment of their share of the Master HOA monthly Expenses (**see Part 1, above**) thereby creating financial chaos and impacting operation of the resort; to begin undermining the existing Management Company First Services Residential (FSR). FSR was also

responsible for Resort wide security service through its subsidiary Watchman Services. Defendant's goals were to obtain new management and reduce the level of security service to reduce the annual cost of security. The Defendant individuals were members of their individual Regime Boards and also the Master HOA Board.

The records show that in their capacity as Master HOA Board members, they began to take actions without consulting the other Master Board members and without appropriate authority to make changes to the Master HOA services such as Security, Trash collection, telephone and cable TV services, etc.

In addition, from 2014 to 2016 there were several lawsuits filed by members of the Defendants primarily targeting FSR. In 2017, FSR filed a lawsuit against the various defendants who sued them. All of these suits were consolidated and settled in mediation in FSR's favor in 2018. The settlement was appealed to the SC Court of Appeals. The SC Court of Appeals issued its opinion in December 2021 upholding the Settlement agreement. It is interesting to note that all of these lawsuits were settled in favor of FSR and other Plaintiffs. Defendants petitioned the SC Court of Appeals in 2018 (**Exhibit J**) and the case has been finally resolved by the SC Court of Appeals issuing its Opinion March 23, 2022 denying Defendants Petition for Rehearing.

It should also be noted that because of the issues being generated by the Defendants without basis, FSR made the decision to **NOT** offer renewal of Management and Security Services at the expiration of their contracts in December 2017. The direct impact of their non-renewal was the Master Board was only able to obtain one proposal for Management Services. That proposal was from Empress Management who were subsequently engaged, **and in the opinion of the author has greatly contributed to the on-going chaos and management dysfunction at the Myrtle Beach Resort.**

**PART 3: RELEVANT FACTUAL BACKGROUND-FAILURE OF GOVERNANCE STRUCTURE, ABUSE OF AUTHORITY, OPPRESSION OF MEMBERS, TRANSACTING BUSINESS IN A FRAUDULENT OR ILLEGAL MANNER AND FRAUD RESULTING IN WASTAGE OF MASTER HOA ASSETS**

1. On January 1, 2018, Empress Management took over responsibility for the day to day management of the Master HOA. What was already a bad governance problem became worse. Specifically, the funds that had been collected as a result of the collection law suit (approximately \$405,000) were placed in a new bank under signature authority of Defendant Perkins and Association legal counsel Sam Stathos. These funds were to be used to replace funds borrowed from the Reserve account in 2016 and 2017. In early January, Defendant Perkins, Attorney Stathos and Management Company owner Sarah Morrow went to the bank, removed Stathos as an authorized signatory, added Morrow as an authorized signatory and

transferred approximately \$165,000 to the Master HOA operating account to be used to pay operating costs.

The use of these funds started the process of using reserves for operating expense all over again because the Defendant Master Board members refused to authorize a budget to properly fund operations, specifically no gate pass fee revenue. Subsequently, in August Defendant Perkins authorized transfer of the remaining \$240,000 that had been collected and was to have been used to refund monies borrowed from reserves but was instead diverted to the Operating Fund. As Defendant Perkins was no longer a Board member, he was not authorized to transfer the money. Further the two Plaintiff Master HOA Board members were not advised of the transfer. **This was a breach of the Master HOAs Covenants in that Plaintiff Board members had no idea that the funds were used for operations instead of to repay the reserves, Further, this was an Ultra Vires action by the Defendant Board members as the transfer was NOT approved by the Board as a whole.**

2. In 2018, minutes of Board meetings were produced sporadically by management and on several occasions were found to not be an accurate reflection of what occurred in meetings. All of the minutes were stamped DRAFT and never subsequently approved by the Board as a whole. **Failure to produce approved minutes of Board meetings is a violation of the SC Nonprofit Corporation Act, Section 33-31-840 (b).**
3. Starting in 2017, Defendant Master Board members began asserting that since Renaissance Tower HPR and Ocean Front Spa HPR combined represented 59% of the ownership they believed they prevailed in any votes. They chose to ignore what the Covenants plainly provide for. (see Exhibit K).
4. With the change in Management, more and more often votes on issues became deadlocked as the **Defendant Master HOA Board members refused to fulfill their affirmative obligations.** Two examples were the recommendation to add a line item in the 2018 Budget to fund the shortfall in the Reserve Fund of \$353,000 and to include a budget line item to fund the deficit from 2017 of \$290,000 related the Defendant Master Board members directing gate fees no longer be collected as they stated they were not legal. **This action is both a breach of the Covenants and an Ultra Vires Action.**
5. Another example of action by Defendants was the lien fees charged to the Master HOA for allegedly not paying the monthly regime fees for the commercial units owned by the Master HOA at Renaissance Tower. In fact, the monthly regime fees were paid but the checks were never deposited. Defendant Richardson continually used the liens as a tool trying to get the Master HOA to pay for expenses that were

legitimately Renaissance Tower expenses (see **Exhibit L**).

6. During her deposition in October 2018, in answer to a question from attorney Bellamy, Barbara Johnson (Empress Manager assigned to Master HOA) stated the Board was essentially deadlocked on about everything. When asked if in her opinion “this is a dysfunctional Board?”, she said **ABSOLUTELY** (see **Exhibit M page 1**).

Further, during her deposition, Attorney Bellamy asked Ms. Johnson if “Jeff Richardson ever made any kind of overt threat to you that you had to remove First Service Residential from—what I would call the association building, or that he was essentially going to find another management company?” Ms. Johnson responded “Yes, he did.” (see **Exhibit M page 2**).

7. At the November 12, 2018 Board meeting, (see **Exhibit N**) among the topics discussed was the engagement of a new corporate counsel for the Master HOA the primary reason for the change in corporate counsel was revealed during Jeff Richardson’s deposition in 2021. Specifically because Mr. Stathos, at the direction of the Master Board filed the collection lawsuit against Renaissance Tower, (see **Part 1 above**), Mr. Richardson did not intend to pay him for outstanding services to the Master HOA.

When the topic arose regarding a new corporate counsel, it was “**Jeff Richardson and Nancy Moore who both stated that Robert E. Lee was the best because he was the cheapest.**” By a vote of 3-1 it was agreed to engage Mr. Lee. Sadly, that has turned into another element of the dysfunctional governance of the Master HOA and resulted in tremendous waste of Master HOA resources because of Mr. Lee’s billings. Furthermore, Mr. Lee had very little experience in POA/HOA management and lived in Florence, SC.

**Worse, when Plaintiff Master Board members asked for copies of Mr. Lee’s invoices which total in excess of \$250,000, Mr. Lee advised they were subject to attorney/client privilege. More on this is my opinion.**

8. While there were draft minutes prepared of meetings in 2018, virtually none were distributed timely to the entire Board, none were officially approved as many had errors. For 2019 to present, there have been no minutes draft or otherwise distributed to the Plaintiff Board members. A number of actions have been taken that absent approved minutes are not legal. **This is a very serious violation of the Covenants, SC Nonprofit Corporation Act and another ultra vires action by the Defendants.**
9. Finally, while numerous actions by the Defendant Board members have been documented, another egregious action recently occurred. Specifically, Defendants Renaissance Tower and their representative proposed dredging a drainage pond on

their property to be paid for by the Master HOA. This project was approved by the Defendant Board Members and their now co-cohorts, Mr. Moss and Mr. Lee.

A review of the proposal (see **Exhibit 0**) clearly shows the dredging is being done to facilitate it being used as a heat sink for the Renaissance Tower HVAC system. It should be noted the **Contract specifies that others are responsible for permits, licenses or fees and that the job is make the pond deep enough for a cooling tower heat sink**

There has been no Engineering study to determine if the pond needs to be dredged so that it will function properly as a drainage pond. In fact, the pond was inspected by a licensed Civil Engineer who stated the pond does NOT need dredging. What the conspirators were trying to do is mis-state why dredging was needed in order for the Master HOA to pay the \$161,460 cost of the project that rightly should be paid for by Renaissance Tower.

I have managed numerous HOAs and POAs along the coast and have always had to have a permit to do any kind of dredging. This drainage pond is in the 40 ft setback from the Critical Line, has fish and other marine life and likely other contaminants. Yet when I asked if anyone had talked to regulatory authorities about permitting requirements, I learned that no one had. I have been advised the project has been completed.

I was asked to look at all information available for the proposed project and state my opinion based on my experience over the last 30+ years. I prepared a memo documenting my opinion, (see **Exhibit P**).

#### PARTIAL LIST OF DOCUMENTS REVIEWED.

Further, please be advised that my stated factual findings and opinions are, also, based upon my review of the following reports, documents and/or information provided to me in this matter, including but not limited to, the following:

- a) Declaration of Covenants, Conditions, and Restrictions for the Myrtle Beach Resort Homeowners' Association, Inc. and Amended By-Laws of the Myrtle Beach Resort Homeowners' Association, Inc. recorded in the Office of the Register of Deeds of Horry County in Deed Book 1465, Page 329 on April 25, 1991.
- b) Master Deed of Myrtle Beach Resort Horizontal Property Regime, Inc. and By-Laws of the Myrtle Beach Resort Horizontal Property Regime, Inc. recorded in the Office of the Register of Deeds for Horry County in Book 750, Page 642 on June 4, 1982.
- c) Master Deed of Myrtle Beach Ocean Front Spa Horizontal Property Regime, Inc. and

By-Laws recorded in the Office of the Register of Deeds for Horry County in Book 789, Page 362 on April 15, 1983.

- d) Master Deed of The Renaissance Tower Horizontal Property Regime, Inc. and By-Laws recorded in the Office of the Register of Deeds for Horry County in Book 917, Page 855 on November 28, 2002.
- e) Master Deed and By-Laws of Myrtle Beach Resorts Five Seasons Centre Horizontal Property Regime, Inc. recorded in the Office of the Register of Deeds for Horry County in Book 966, Page 654 on June 20, 1985.
- f) Assignment of Declarant Rights dated February 27, 1987 and recorded in the Office of Register of Deed for Horry County in Book 1121, Page 401. ‘
- g) Depositions of Lori Niedzwiecki, Robert Rosencrans, Barbara Johnson and Jeffrey Richardson.
- h) All correspondence and backup documents related to The Renaissance Tower balance owed to Plaintiff HOA.
- i) All service contracts produced.
- j) Financial records, which included:
  - a. Monthly financial reports for January 2018 through May 2021
  - b. Cumulative General Ledgers for FYE 2018, 2019 and YTD July 31, 2020
  - c. Reserve Study done March 2016
  - d. Audit reports for 2016, 2018 and 2019
- k) All documents produced by Empress Management
- l) 2018 and 2019 Audit work papers produced by The Hobbs Group
- m) All legal filings
- n) All meeting minutes, Board and Annual, produced for 1987 through mid-2020
- o) All First Service documents
- p) Numerous email correspondence and other correspondence between various parties to this lawsuit
- q) Two site visits

**FACTUAL AND PROFESSIONAL OPINIONS WITH RESPECT TO  
THE COORDINATED ACTIONS TAKEN, ABUSE OF AUTHORITY,  
FRAUDULENT BUSINESS ACTIONS, OPPRESSIVE UNFAIR ACTIONS  
AGAINST PLAINTIFF BOARD MEMBERS AND WASTAGE OF CORPORATE  
ASSETS BY DEFENDANTS, RICHARDSON, MOORE, GRUSAUSKS, PERKINS  
RENAISSANCE TOWER HPR AND OCEAN FRONT SPA HPR**

1. Based upon my understanding of the project, the documents and electronic media reviewed, the site conditions observed, the pleadings and discovery responses by the parties reviewed, and the interpretation of the information presented herein, I offer the following factual and professional opinions regarding this case which are based upon my education, training, experience, and expertise, and reasonable degree of certainty:
2. Over the past six years, Defendants have engaged in a *pattern of behavior* demonstrating their intent to gain control of the Master HOA Board through a coordinated action. These actions include:
  - a. Breach of the provisions of the Master HOA's Covenants, Conditions and Restrictions by withholding monthly assessments from January 2016 through December 2017 to thereby create financial hardship for the Master HOA in an attempt to coerce the Plaintiffs to agree to change in control of the Master HOA.
  - b. The withholding of monthly assessments resulting in the Master HOA using accumulated reserves to pay for regular operating expenses under the condition that when the Defendants finally brought their accounts current, the Reserve fund would be repaid.
  - c. As the record shows, once the majority of the unpaid assessments were collected, Defendants, without approval of the Board as a whole, used those monies for operations rather than paying back the borrowings from Reserves. **This was a clear breach of the Master HOA's intent and the action was never approved by the Board.**
  - d. Subsequently, the Defendant Master HOA Board members refused to approve a budget line item to fund the Reserve deficiency, **a clear violation of their Affirmative obligations**
  - e. The Defendant HOA Board members should not have been allowed to vote on the budget based on conflict of interest.

3. Based on my review of documents and discussion with plaintiffs, there is no question that the Master Board has been unable to provide direction and appropriate financial management of the Master for at least the past five (5) years as the Board in most cases has been deadlocked in a tie with the HPR and FS on one side (**PLAINTIFFS**) and RT and OFS on the other (**DEFEND**
4. As the records show, there have been several instances of Ultra Vires action taken by the Defendants that have caused direct harm to the Master. Among the more severe instances are:
  - a. The Defendant group halted collection of “gate pass fees”, which resulted in a loss of approximately \$290,000 in annual revenue that was used to offset various operating expenses and assist funding to the Maintenance Reserves without approval of the Master HOA Board.
  - b. The Defendant group refused to approve an increase in the Operating budget for 2017, 2018 and 2019 that would fund operating expenses previously offset by gate pass revenues.
  - c. It should be noted that Plaintiffs have made the effort to get a budget passed that will make the Master whole and provide operating funds for routine expenses. *Each effort has resulted in the Defendants refusal to fulfill their affirmative obligation to prepare a budget to cover all expenses.*
  - d. Defendants continue to totally ignore the governing documents and commit Ultra Vires Acts such as:
    1. At the March 22, 2018 Board meeting, which only had the Defendant members present, as the Defendant Board members made the determination that the Plaintiff members were conflicted and could not vote, a resolution to evict the Defendant management agent from common property was passed. In fact there was no conflict of interest.
    2. From 2016 to present and continuing, there is a conflict of interest with the Defendant Master Board members in that they are not current with payment of assessments to the Master, refuse to pass a budget that includes funding operations for the loss of revenue previously generated by gate fees (\$290,000) and refusal to pass a budget that includes funding to make up the approximate \$400,000 spent from Reserves.

3. The Defendant Board members also claim the governing documents are not valid and contest the legality yet continue to serve on the Board and breach their duty to fulfill their affirmative obligations.
5. A review of the minutes, when they are prepared, of Board meetings in 2018 clearly support the statements by Ms. Johnson in her deposition regarding the dysfunctional Board as enumerated in item in **Exhibit M-1**.
6. As discussed above, there is more than adequate evidence demonstrating a coordinated plan that includes virtually all the defendant group with the intent to harm the Plaintiff by opposing virtually all actions to operate, maintain the common assets and provide a secure environment for Resort guests. The actions by the Defendants has and will cause Special damages including but not limited to:
  - a.) attorneys' fee and costs associated with multiple lawsuits by and against the Defendant group;
  - b.) diminution in the value of the Resort member's property as a result of the allegations made by the Defendant group and never ending litigation;
  - c.) inability to conduct business as usual due to votes on any issue of the Master resulting in a 2 to 2 tie;
  - d.) disruption of contracted services for the Resort impacting credit rating and the ability to obtain competitive pricing for goods and services;
  - e.) impacting insurability of properties within the resort due to the numerous lawsuits that have occurred over the past 4-5 years.

In summary, the inability of the Board to function as a Board in the best interest of the members of the Master Association due to the actions/inactions by the Defendants are serious violations of State statute, the CCRs and Bylaws of the Master HOA and if NOT stopped immediately will result in irreparable harm to the Resort and its members/owners. Based on the reasons set forth in the Motion and above, the Court appointed Mr. Ken Moss, as a 5<sup>th</sup> Board member, whose role was to provide tie-breaking votes on matters critical to provide the tie breaking vote on issues of operation and management of the Master Association has been a disaster. Unfortunately,

The Master HOA appears to have been taken over by the appointed 5<sup>th</sup> Board member and the legal counsel engaged in late 2018. They have continually abused the power of their positions, abused their authority and appear to have done so to charge exorbitant legal fees. To the extent available, **Exhibit Q** reflects the total cost for legal and the 5<sup>th</sup> Board member from January 2019 through May 2021. Subsequent financial information and bills have not been provided to

Plaintiff Board members based on a decision of Attorney Lee. Specifically, he states that all legal bills are attorney/client privilege. He forgets who is the client and perhaps does not want anyone to question his billings. He has already had his license suspended once for insurance fraud.

Having been in this industry for 30+ years, and understanding when legal counsel is needed, I have never seen legal costs of this magnitude when most litigation is being paid by insurance appointed legal counsel. It is very interesting to note that the current Master HOA legal counsel has stated that no invoices be provided to Board members due to attorney/client privilege. I fail to understand this logic as the Master HOA board members are the client. The only conclusion I can make is the Master HOA attorney is trying to hide something.

7. The Affidavit of Robert Rosencrans, Plaintiff Board member, is attached as **Exhibit R**. Mr. Rosencrans' Affidavit provides additional factual information supporting the governance failures, ultra vires acts by the Defendants, Oppressive Unfair Actions against Plaintiff Master HOA Board members and wastage of Corporate Assets of the Master HOA.
8. Finally, the Deposition of Jeff Richardson taken September 18, 2020 (**see Exhibit S**) strongly supports the action taken by the Defendant group since at least 2016 and the fact that Mr. Richardson, despite service on the Master HOA Board, feels he has no obligation to fulfill the fiduciary duties incumbent on his position as a member of the Master Board and the SC Nonprofit Corporation Act.

*Based on all of the above, it is my Professional Opinion with a reasonable degree of certainty that there exists an Abyss between the Plaintiff group on the one side and the Defendant group on the other, along with the current management company, the court appointed 5<sup>th</sup> Board member and the current legal counsel have will continue their pattern of behavior. They will take actions that are illegal, breach their affirmative obligations set forth in the Master HOA Covenants and Bylaws, said actions being oppressive to the 410 unit owners of the Plaintiff group and will result in significant wastage of Master HOA assets and increased risk for the Master HOA as a whole.*

**For all the reasons listed above, based on my education, training and 30+ years of experience in the POA/HOA Management industry, it is my Professional Opinion that the only solution to protect Plaintiffs is for the Court to order a Judicial dissolution of the Master HOA.**

I reserve the right to amend the above stated opinions as additional information is available to me.

I affirm that the foregoing is true to the best of my personal knowledge, information and belief. I understand that the penalty for intentionally providing false information involves prosecution for perjury and the penalties associated with doing the same.

FURTHER AFFIANT SAYETH NOT

Michael Parades  
Michael Parades, PCAM

SWORN to and subscribed before me this  
14 day of April, 2022.

[Signature]

Notary Public for Charleston County  
My Commission Expires: 03-28-2027



# EXHIBIT

A

**MICHAEL R. PARADES, PCAM**  
9 Harrill Ct., Charleston, SC 29412  
Phone: 843-364-6962 Email: [paradesm@gmail.com](mailto:paradesm@gmail.com)

**EXPERIENCE**

**7/09-Present Community Association Consulting:**

Provide consulting services to community associations in primary areas of governance, management and fiduciary duty. Services as expert witness in litigation involving community associations. Other services available upon request.

**11/13-12/17 General Manager, P'On Assembly, Inc.**

Provide management services including financial management, operations management and assist Board of Trustees in governance of 762 home community.

**7/09-6/12 Realtor-Dunes Properties: Real estate sales**

**12/05-6/09 DISTRICT MANAGER-SC-Sentry Management, Inc.** Supervise and manage delivery of professional management services for Community Association clients in South Carolina.

**1/88-12/05 PRESIDENT/CEO - CCM Management, Inc. AAMC, Charleston, S.C.** Supervise and manage delivery of professional management services for Community Association clients. Responsibilities include preparation of bid specifications, contract negotiations and contractor oversight; supervision of all financial operations for each Community including monthly billings, collections, payments for services and financial statement preparation. Provide other specialized services such as assistance in drafting amendments to governing documents; insurance claim negotiations; services as insurance trustee; construction project management coordination of litigation by Communities and services as expert witness for Community management.

**6/87-12/87 REGIME ADMINISTRATION MANAGER - Seabrook Island Ocean Club Incorporated, Charleston, S.C.** Manage property operations for 22 Property Owner Associations totaling 827 units. Responsibilities include preparation of bid specifications, contract negotiations and contractor oversight; supervision of all financial statement preparation.

**1985-4/87 CONTROLLER - Seabrook Island Ocean Club Incorporated, Charleston, S.C.** Managed all financial matters for the resort corporation, the real estate limited partnership and for the wholly owned utility company; prepared and coordinated all work required by external auditors for tax returns, SEC filings and annual audits; originated corporate policies and procedures; formulated 20 million dollar operating

**Updated 3/15/22**

and capital budget forecasts; supervised preparation and analysis of financial statements cash management; scheduled work flow prioritization of 26 people in three departments and preparation of biweekly payroll for over 400 people; organized and participated in 15 million dollar asset purchase by new owners; and prepared for initial stock offering. Supervised and scheduled all data processing systems including complete hardware replacement and software upgrades, resulting in an improved information processing system which increased operations efficiency and reduced costs.

- 1983 - 1985** **ACCOUNTING MANAGER** - Support Systems International Incorporated, Charleston, S.C. Managed and systematized monthly financial statements for 125 cost centers, including consolidated financial statements for parent manufacturing corporation and sales and service subsidiaries; supervised, prepared and executed financial data reviews, budget variance reports, multi-state tax filings, and annual detailed analysis for external auditors; assessed corporate policies and procedures; developed and recommended changes to perpetuate an efficient organization and reduce costs; and organized and supervised transition period after 50 million dollar purchase of primary competitor.
- 1979 - 1983** **SENIOR ACCOUNTANT** - Deloitte Haskins & Sells, Columbia, S.C. In charge of various audits with primary emphasis in Real Estate Development, Hospitality, Health Care Industries, and Governmental Accounting.
- 1978 - 1979** **BOOKKEEPER** - Addlestone International Corporation, Charleston S.C. Responsible for payroll, inventory, accounts payable, and associated records of parent corporation and subsidiaries.
- 1967 - 1976** **UNITED STATES NAVY** - Nuclear trained Machinist's Mate, submarine qualified. Attained qualifications as Engineering Officer of the Watch and Engineering Watch Supervisor. Honorably discharged.

#### **EDUCATION**

- 1977 - 1979** COLLEGE OF CHARLESTON, Charleston, S.C., Bachelor of Science, Business Administration, Summa Cum Laude. Honors include awarded Alumni Medal in 1979 and Wall Street Journal Award in 1980.

#### **PROFESSIONAL DESIGNATIONS**

- 1981** Certified Public Accountant(CPA) by South Carolina, retired 2005
- 1998** Professional Community Association Manager (PCAM) by National Board of Certification for Community Association Managers (NBC-CAM), retired..
- 2003-2006** Accredited Association Management Company (AAMC) by National Board of Certification for Community Association Managers (NBC-CAM)
- 2005** Qualified as Expert Witness in SC State Court in matters related to Community Association Management, Community Association Governance and Board Fiduciary Duties
- 2009-2011** Licensed as Real Estate Salesman by SC Real Estate Commission, retired.
- 2010-2012** Qualified by SC Real Estate Commission as Instructor for classes related to Homeowner Associations.

**Updated 3/15/22**

**MEMBERSHIPS**

Community Associations Institute (CAI)  
Association of Professional Community Managers  
CAI-PMMP National Faculty, Retired  
Community Associations Institute of South Carolina (CAI-SC)-Past President  
Past Vice chair CAI-SC Legislative Action Committee  
SC Association of Realtors and National Association of Realtors-past member

**Updated 3/15/22**

Updated 3/15/22

ELECTRONICALLY FILED - 2022 Apr 13 9:40 AM - HORRY - COMMON PLEAS - CASE#2018CP2603173

**MICHAEL R. PARADES, PCAM**  
**Addendum-Lawsuits**

**Lawsuits Involved as Fact Witness**

Courtside Villa I Owners Assn.	Settlement in favor of Courtside I
Courtside Villa II Owners Assn.	Settlement in favor of Courtside II
Raquet Club Villa Owners Assn.	Settlement in favor of Racquet Club
Pelican Watch Villa Owners Assn.	Settlement in favor of Pelican Watch
Atrium Villa Owners Assn.	Settlement in favor of Atrium
Shadowwood Villa Owners Assn.	Settlement in favor of Shadowwood
Beach Club Villa Owners Assn.	Settlement in favor of Beach Club
Links Clubhouse Villa Owners Assn.	Settlement in favor of Links Clubhouse
Yacht Harbor Villa Owners Assn.	Settlement in favor of Yacht Harbor
Riverside Villa Owners Assn.	Verdict in favor of Riverside with punitive damages awarded.
Stono Watch Villa Owners Assn.	Settlement in favor of Stono Watch
Little Oak Condominium Assn.	Settlement in favor of Little Oak.
Pointe James Property Owners Assn.	Settlement in favor of Pointe James POA

Note: I represented all of the above Owners Associations as the Management Agent.

**Other Lawsuits Involved as Fact Witness**

3 Chisolm Street HOA, Inc (09-CP-10-267)	As former Management Company/Manager
Montclair POA, Inc.(08-CP-10-6897)	As former Management Company/Manager

**Lawsuits Involved as Expert Witness**

**Kenneth Schneider vs Board of Directors Bohicket Marina Villa Owners Assn. (Testified)**

Case certified as a class action. Jury verdict in favor of Mr. Schneider. Verdict was appealed to the SC Court of Appeals and upheld. I was qualified as an expert witness in matters of Community Association governance, management and Board fiduciary duties.

I was engaged as an expert witness on behalf of Mr. Schneider by Leath, Bouch & Crawford

**Bluebeards Castle Villas I Board of Directors**  
**Bluebeards Castle Hilltop Villas Board of Directors,**  
**Bluebeards Castle Villas III Board of Directors**  
**Vs**

**Fairfield Resorts, Inc., Equivest Finance Inc., RCI Resort Management, Inc.,**  
**Equivest Capital, Inc., John S. Cavanaugh and Bluebeard's Castle Pirates Pension**

This was an action in the Superior Court of the Virgin Islands. The case was settled in favor of the Plaintiff.

I was engaged as an expert witness on behalf of the Plaintiffs by Rogers Townsend and Thomas

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**Louis and Brenda Distefano vs Board of Directors Windswept Villas III, HPR (Deposed)**

Breach of fiduciary responsibility. Settlement in favor of Distefano

I was engaged as an expert witness on behalf of the Plaintiffs by Leath Bouch & Crawford.

**Montecito Enclave, LLLP, et al vs Guggenheim Enclave, LLC et al (06-CP-10-1316) (Deposed)**

This was an action alleging failure to disclose and improper maintenance. Defendant paid nuisance settlement to be released from the lawsuit.

I was engaged as an expert witness on behalf of the Defendant by Buist Moore Smythe & McGee. The Defendant has been dismissed from the lawsuit.

**Blackhurst vs Spences Point Council of Co-Owners, HOA Services and Lund Property Management. (Deposed)**

This is an action involving a fire at the property resulting in death of an owner. Plaintiff is alleging Wrongful death. The lawsuit was settled and payment from the Defendant's insurance policy made to the Plaintiff.

I was engaged as an expert witness on behalf of Defendant Spences Point by Halio & Halio.

**Jay Kalan and Kalan Enterprises, Plaintiffs  
Vs Peckerhead Pub, Lynne Wilkin and Michael Godfrey, Defendants and Third Party Plaintiffs  
Vs Dry Creek, LLC, Nathaniel Rackett, Heritage Plaza HPR, Hilton Head Kitchen and Bath and  
Kenneth Schultz, Third Party Defendants. (07-CP-07-2504)**

This lawsuit has been dismissed.

I was engaged as an expert witness on behalf of the Defendants/Third Party Plaintiffs by the Law Offices of Fletcher M. Johnson.

**Ellington Woods I, II, III, IV, V, Alan Arthur and John Doe (Testified)  
Vs  
Dunes West Property Owners Association, Inc. (10-CP-008911)**

This is an action related to alleged breach of Covenants by the Defendant. This case was tried in front of Judge Mikel Scarborough May 2014. I was qualified as an expert witness in community governance, community management and Board fiduciary responsibilities. Judge has issued orders denying plaintiff motion to decertify class and denying plaintiff motions related to various defense claims. The orders were very clear as to the Judge's probable final ruling. Settlement in favor of Plaintiff.

I was engaged as an expert witness on behalf of the Plaintiffs by Tecklenburg & Jenkins.

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**Susan K. Bryant vs Board of Directors for Ellington Woods III HOA**

This was an action alleging negligence and breach of fiduciary responsibilities. The lawsuit has been dismissed.

I was engaged as an expert witness on behalf of the Defendants by Clawson & Staubes.

**Misty Lake Association, Inc. vs Bridlebridge Homeowners' Association, Inc. (07-CP-32-3492) (Deposed)**

This case is primarily a dispute over the obligation of the Defendant to pay assessments to the Plaintiff. The case was heard by the Lexington County, SC Master-in-Equity. This case ended with Master-in-Equity ruling in favor of Bridlebridge Homeowner's Association, Inc.

I was engaged as an expert witness on behalf of the Plaintiff by Rogers, Townsend & Thomas.

**Defendant counsel stipulated my qualifications as an expert witness and the Master qualified me accordingly as an expert witness in matters of community governance, community management and Board fiduciary obligations.**

**Various Kensington Place owners individually vs M.U.I. Corporation and Kensington Place Owners Association. (08-CP-46-2158) (Deposed) (Testified)**

This is primarily a Breach of Fiduciary Duties action against the Developer and the Developer controlled Board of Directors. I was engaged as an expert witness on behalf of the Plaintiffs by Leach Bouch & Crawford.

The case was tried the week of October 20, 2014. Defendant M.U.I. reached settlement with Plaintiffs during the trial. Trial continued against remaining defendant. **I was qualified as an expert witness by Judge John Hayes. Trial resulted in verdict in favor of plaintiff.**

**Rivers Point Row POA vs John B. Hagerty, John W. Derbyshire, Linda L. Derbyshire and Rivers Point Row, LLC. (08-CP-10-6740) (Deposed)**

This is an action for Breach of Fiduciary Duty and failure to disclose against the Developer. I was engaged as an expert witness on behalf of the Defendants by Wills & Massaion. The lawsuit was settled in favor of the Plaintiffs.

**John Schuler & Jeff Merrell vs Hyperion Towers Homeowners Assn Board of Directors (08-CP-26-3365) (Deposed)**

This is a class action for Breach of Fiduciary Duty by the Board of Directors. I was engaged as an expert witness on behalf of the Plaintiffs by the Stanley Law Firm. The lawsuit was settled in favor of the Plaintiffs.

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**Bruce Langson, Representing a class of similarly situated people vs Lyons Cove Homeowners Assn Board of Directors. (09-CP-26-5507)**

This is a class action for Breach of Fiduciary Duty by the Board of Directors. I was engaged as an expert witness on behalf of the Plaintiffs by the Stanley Law Firm. The lawsuit was settled in favor of the Plaintiff.

**Bluffton Village Lot 11 Horizontal Property Regime and Bluffton Village Lot 11 Owners' Association, Inc. Plaintiffs (08-CP-07-1724)**

**vs Bluffton Village, LLC f/k/a Rowkris Development I, LLC, Strecansky & Co., Inc a/k/a Strecansky & Co. of the Low Country, Inc., The Pro Framing Corporation, Pro Plastering & Stucco, Inc., American Block Company, Inc. d/b/a Builders Plus Distribution Company, Inc., Pana Roofing, Inc., Shelter Wood Windows, A Division of Shelter Superstore Corporation and Park-Vue Patio Doors, A Division of Merrill Millwork, Inc., Defendants**

**AND Strecansky & Co., Inc. a/k/a Strecansky & Co. of the Low Country, Inc. Third Party Plaintiff**

**Vs Golden Triangle Repair, Inc., Tupelo Builders, Inc. William Vitto Architect, Inc., William Vitto, Individually, Pro Plastering and Stucco, Inc., Pro-Slab, Inc., Fox Interiors, Malphrus Construction Company, SOCAR, Inc., Shaw Manufacturing's Wrought Iron Works, Hydro-Stop Inc. and Don Brashears, Joan M. Burr, George York, Mary Vaux and Jan Horan, Third-Party Defendants,**

This case is a design/construction defect case in which Defendant and Third-Party Plaintiff have denied liability and counterclaimed failure to maintain against the Board of Directors. I was engaged as an expert witness on behalf of the Defendant and Third-Party Plaintiff (Strecansky & Co) by Rogers, Townsend & Thomas. The lawsuit has been settled.

**Bluffton Village Lot 13 Horizontal Property Regime and Bluffton Village Lot 13 Owners' Association, Inc. Plaintiffs (08-CP-07-4638)**

**vs Bluffton Village, LLC f/k/a Rowkris Development I, LLC, Strecansky & Co., Inc a/k/a Strecansky & Co. of the Low Country, Inc., James Hilton, Synco Enterprises, The Pro Framing Corporation, Pro Plastering & Stucco, Inc., American Block Company, Inc. d/b/a Builders Plus Distribution Company, Inc., Pana Roofing, Inc., Shelter Wood Windows, A Division of Shelter Superstore Corporation and Park-Vue Patio Doors, A Division of Merrill Millwork, Inc., Defendants**

**AND Strecansky & Co., Inc. a/k/a Strecansky & Co. of the Low Country, Inc. Third Party Plaintiff**

**Vs Golden Triangle Repair, Inc., Tupelo Builders, Inc. William Vitto Architect, Inc., William Vitto, Individually, Pro Plastering and Stucco, Inc., Pro-Slab, Inc., Fox Interiors, Malphrus Construction Company, SOCAR, Inc., Shaw Manufacturing's Wrought Iron Works, Hydro-Stop Inc. and James**

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**A. Buckley, Nannette Manning, Tony A. Ritter, Jr., B.J. Frazier and Stephanie Brooke Mendenhall, Third-Party Defendants,**

This case is a design/construction defect case in which Defendant and Third-Party Plaintiff have denied liability and counterclaimed failure to maintain against the Board of Directors. I was engaged as an expert witness on behalf of the Defendant and Third-Party Plaintiff (Strecansky & Co) by Rogers, Townsend & Thomas. The lawsuit has been settled.

**Jay Kalan, MD and Kalan Enterprises, Inc, Plaintiffs**

vs

**Peckerhead Pub LLC, Lynne D. Wilken and Michael E. Godfrey, Defendants and 3<sup>rd</sup> Party Plaintiffs**

Vs

**Dry Creek LLC, Nathaniel Rackett, Heritage Plaza HPR and Hilton Head Kitchen and Bath, Inc., 3<sup>rd</sup> Party Defendants**

This case involved breach of Board fiduciary duty and failure to maintain against the Developer Board. I was engaged as an expert witness on behalf of the defendants by The Law Offices of Fletcher Johnson. The case has been dismissed.

**Simmons Pointe HOA, Inc., Plaintiff (10-CP-10-4926) (Deposed)**

Vs

**Patricia Tyner, Defendant and 3<sup>rd</sup> Party Plaintiff**

Vs

**Ravenel Associates, Inc. and John Collins, 3<sup>rd</sup> Party Defendants**

This case started as a association lien foreclosure action where the defendant counterclaimed against the management company and Board President alleging breach of fiduciary duty and other causes.

I was engaged as an expert witness on behalf of Ravenel Associates, Inc. by Clawson & Staubes. The case has been settled.

**Lisa A. Viera, Plaintiff (US District Court 3:10-CV-1659-MJP) (Deposed)**

Vs

**Gramercy Capital Corporation d/b/a Gramercy Realty, EMCOR Facilities Services, Inc, TRW& Associates, Inc., Commercial Roof Solutions, LLC and Liquid Plastics, Inc. Defendants**

Lawsuit relates to personal injury due to negligence of defendants.

I was engaged as an expert witness on behalf of EMCOR by Carlock, Copeland & Stair, LLP. The case has been settled in favor of Plaintiff.

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**William Erickson and Randy McDaniel on behalf of themselves and all other similarly situated, Plaintiffs (2010-CP-18-2787)**

**Vs**

**Alison Dailey, in her capacity as Chairman and Director of the Highlands of Legend Oaks POA, Inc. Defendant**

Lawsuit related to claim of negligence and breach of fiduciary duties by Developer who controlled Board of Directors.

I was engaged as an expert witness on behalf of Plaintiffs by Leath Bouch & Seekings, LLP. Lawsuit has been settled in favor of Plaintiffs.

**Meridian Place HOA, Inc., Plaintiff (2010-CP-10-0506)**

**Vs**

**Ravenel Associates Regime and Association Management, Inc., Ravenel Associates, Property Management Services, Inc., Ravenel Associates, Inc.**

Lawsuit is a breach of contract lawsuit.

I was engaged as an expert witness on behalf of Plaintiff by the Martin Law Firm. This case has been settled.

**Rivergate Homeowners Association, etal, Plaintiffs (2010-CP-26-03901)**

**Vs**

**WW & LB Development Co. LLC, Wayne Winderman Individually, etal, Defendants**

Lawsuit is a claim of negligence and breach of fiduciary duties by developer controlled Board of Directors.

I was engaged as an expert witness on behalf of Plaintiffs by The Stanley Law Firm. The lawsuit has been settled in favor of Plaintiffs.

**Richard Fisher etal, Plaintiffs (2009-CP-22-01655) (Deposed)**

**Vs**

**Shipyards Village Council of Co-Owners, Inc., Defendants**

Lawsuit is a claim of negligence and breach of fiduciary duties by past Boards of Directors. At motions hearing on May 21, 2012, judge ruled as matter of law that defendants had violated their fiduciary duties. Defendants appealed the judge's ruling.

I was engaged as an expert witness on behalf of Plaintiffs by Bellamy, Rutenberg, Copeland, Epps, Gravely & Bowers, P.A. Appeal has been heard and is awaiting ruling by the SC Court of Appeals. SC Court of Appeals ruling partially upheld and partially reversed lower court ruling. Remanded to lower court for trial to be scheduled. Plaintiff has appealed to SC Supreme Court who accepted appeal and case

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was heard November 2015. Case heard, ruling issued and remanded back to lower court. Settlement in favor of Plaintiffs reached at mediation.

**Charles Clinton etal, Plaintiffs (2010-CP-22-00400)**

**Vs**

**Sandpiper Run Council of Co-Owners, Inc., Richard Allen, Roland David Roty, Thomas Dulin, Leland Cropper and Robert Jaeger, individually and as members of the Board of Directors of Sandpiper Run Council of Co-Owners, Inc.**

Lawsuit is a claim of negligence and breach of fiduciary duties by Board of Directors. I was engaged as an expert witness on behalf of Plaintiffs by Bellamy, Rutenberg, Copeland, Epps, Gravely & Bowers, P.A. Lawsuit has been settled in favor of the Plaintiffs.

**US Bankruptcy Court Case No. 09-08102-hb, Chapter 11**

**IN RE: South Capital Group Inc., Debtor**

I was engaged as an expert witness on behalf of a group of homeowners located in Flora Springs Park HOA by the Finkel Law Firm. The HOA was developed by the Debtor, who transferred development rights to another firm that changed the overall development scheme of the community without approval of the membership to the detriment of original purchasers. Action has been settled with payment of damages by Debtor to the group of homeowners.

**Ann Staten, Plaintiff (2011-CP-10-498) (Deposed)**

**Vs**

**Dovefield HOA, W. Dean Murphy, III, Kelsey Murphy, Party X and Party Y**

Case was a claim by owner of Board breach of fiduciary duties resulting in property damage and personal injury. I was engaged as an expert witness on behalf of the Defendant Dovefield HOA by Clawson & Staubes. The case was dismissed.

**Marlene Lee, as Guardian ad Litem for Alfonzo Lee, Jr.**

**Vs**

**Singleton Rental Property, Inc. and The Agent Owned Realty Company/Premier Group, Inc. Case No. 13-CP-18=213 (Deposed)**

Case is claim for bodily injury in fire due to negligence. I was engaged as an expert witness on behalf of the Defendant Agent Owned by Hampton Green Law. The case has been settled.

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**Magnolia Point Property Owners Association, Inc.**  
Vs  
**Springwood Estates LLC, Richard E. Lester, Mike Harrington and Caroline Bahr**

**Case No. 2012-CP-26-7448 (Deposed)**

Case is claim of breach of fiduciary duties for failure to properly fund reserves. I was engaged as an expert witness on behalf of the Defendants by the Bellamy Law Firm. The case was settled for a nominal sum in favor of Plaintiff.

**John Henderson**  
Vs  
**Coral Sands Owners Association, Inc., Coral Resorts LLC, Trew Holdings LLC, Coral Holdings LLC, Reba Management, Inc and Van Der Meer Tennis University, Inc.**

**Federal Court Action No. 9:13-cv-962-SB**

Case is an action for negligence resulting in personal injury. I was engaged as an expert witness on behalf of Plaintiff by The Richter Law Firm. Lawsuit has been settled in favor of Plaintiff.

**Cameron Hutson Rowe, a minor child by Deirdre Eileen Rowe as Guardian Ad Litem and Deirdre Eileen Rowe, Plaintiffs**  
Vs  
**The State of South Carolina, The SC Department of Transportation, The County of Dorchester, The Dorchester County Department of Public Works, The Town of Summerville, Community Management Group, LLC, Irongate Civic Associations, Inc. Meadwestvaco Corporation, Defendants**  
**CASE NO: 2010 GP-18-1903**

Case is an action for negligence resulting in personal injury. I was engaged as an expert witness on behalf of Defendant Community Management Group, LLC., by E. Glenn Elliott Esq., Aiken Bridges. The case was settled.

**Bridge Tender Owners' Association, Inc., Plaintiff**  
Vs  
**Bridge Tender, LLC; A. Edward Jackson, III; Superior Construction Corp.; Chris R. Clark, AIA; The Earthworks Group, Inc., d/b/a Earthworks Group Planning & Design Consultants; Derrick Spivey, Inc. and S.C.S.S. Inc. a/k/a South Carolina Special Services, Defendants**

**Case No: 2012 CP-26-7487**

Case involves numerous potential actions from design/construction defect to Board breach of Fiduciary duties. I was engaged as an expert witness on behalf of Defendant Superior Construction Group by J. Ryan Oates, Esq. Murphy & Grantland PA. The case was settled before trial.

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**Sallie Ann Laidlaw and Richard H. Laidlaw, plaintiffs**  
**Vs**  
**Investo, LP; Childress Klein Properties, Inc. and CK Retail Brokerages, LLP, defendants.**  
**(DEPOSED)**

**Case No: 2013-CP-08-504 (Deposed)**

Case is an action for negligence resulting in personal injury. I was engaged as an expert witness on behalf of Plaintiffs by Geroge J. Kefalos, P.A. The case has been settled.

**Broadway Station Owners Association, Inc., et al vs Easlan Capital Inc., et al**

**Case No: 2012-CP-26-0510**

Case is an action involves several actions by HOA against original apartment owner who sold property to a subsequent grantor who then converted apartments to condominiums and sold those condominiums to the general public. Allegations include original design/construction defects, failure to disclose and breach

I was originally engaged by Ryan Oates at Murphy & Grantland, P.A. on behalf of defendant, Easlan Capital. Murphy & Grantland were replaced by as counsel by William Watkins and Katie Stanton of Wall Templeton. The case has been settled on terms favorable to defendants.

**Colonial Villas II HOA vs Colonial Charters Development, Inc., et.al.**

**Case No: 2012-CP-26-9905 (Deposed)**

Case was claim for negligence, Breach of Warranties, Unfair Trade Practices, Fraud and misrepresentation by the Developer when the Developer controlled the Board. I was engaged on behalf of Plaintiff by Stacy Stanley of the Stanley Law Firm. Case has been settled in favor of Plaintiff.

**Langston, et.al. vs Lyons Cove HOA Board of Directors**

**Case No: 2013-CP-26-1497 (Deposed)**

Case involved property damages to common and personal property due to lack of and negligent maintenance by HOA Board of Directors. I was engaged as expert witness on behalf of the Plaintiffs by Stacy Stanley of the Stanley Law Firm. Case has been settled in favor of the Plaintiffs.

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**Dennis and Janet Skibinski vs Racquet Club Villa Owners Association and Sentry Management, Inc.**

**Case No: 2014-CP-10-03858 (Deposed)**

Case involves allegation Plaintiffs breach fiduciary duties resulting in unspecified damages. I was engaged as an expert witness on behalf of Defendants by Arthur Justice, Jr. Esq. of Turner Padgett. Case was dismissed.

**Cynthia Hickman Ray, Personal Representative of the Estate of Marie Melton Smith, Plaintiff Vs Colonial Villas II HOA, Inc., Mark's Lawn Service and Mark Bullard, Defendants**

**Case No: 2014-CP-26-0010 (Deposed)**

Case was claim of negligence resulting in resident's death. I was engaged on behalf of Defendant Colonial Villas II by Carrie A. Fox, Esq. of Aiken Bridges. Case was dismissed.

**North Hampton POA vs Ethan Carney, Chicora Association Management LLC, Chris Yarbro Construction LLC, Chris Yarbro, Cecil Horne and Waterbridge Marine LLC, Waterbridge Construction LLC and Waterbridge Marine Contractors**

**Case No: 2015-CP-26-0100**

Case involved damages to Condo buildings for negligently installed roof by non-licensed contractor. I was engaged by Nick Fata, Esq on behalf of Plaintiff. Case settled at mediation in favor of Plaintiff.

**Emira Rinella, Plaintiff vs Bridgeport HOA Inc.**

**Case No: 2015-CP-26-5979 (Deposed)**

Case was dispute over responsibility to repair damage to private property due to storm drain pipe leak on common property. I was engaged as expert witness on behalf of Plaintiff by John G. Hofler, III, Esq of Aiken Bridges. Case was settled in favor of Plaintiff.

**Chris Manley vs Hilton Head Long Term Rentals Inc. and Stuart Gaynes**

**Case No: 2016-CP-07-----**

Case involved personal injury claim due to negligence by Property Management Co. I was engaged as expert witness on behalf of Plaintiff by Alexandra S. Williams, Esq. of Ben Traywick Law Firm. Case was settled in mediation.

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**Jill Keck Humphries, Dennis L Johnston Jr., Delona Penny Rice, Whitmel L. Brown, Jr., Gary Steven Robinson, Elizabeth Erin Humphries and Nancy Johnson, PLAINTIFFS**

**Vs**

**Tilghman Beach and Racquet Club Condominium Association, Inc., James H Austin, III, Daniel G. Coe, C. Doug Madison, George P. While and Steele Brice Windle III individually as members of the Board of Directors for Tilghman Beach and Racquet Club Condominium Association Inc.**

**Case No: 2016-CP-26-4465**

Case involves failure of Board of Directors to fulfill its affirmative obligations to levy necessary assessments to repair the buildings in the HOA. I was engaged as expert witness on behalf of the Plaintiffs by Howell Bellamy, III. Case has been settled in favor of Plaintiff.

**Larry F Simmons and Eugene K. Stahl, Plaintiffs**

**Vs**

**Tuscany Master Association, Inc., et.al.**

**Case No: 2017-CP-26-**

Case is requesting Court order requiring defendants to comply with Plaintiffs Demand to inspect Corporate Records. I was engaged as expert witness on behalf of Plaintiffs by Howell Bellamy, III. Defendant issued requested records and Consent Order was filed to close case.

**Preserve at Fenwick Hall POA, Inc., a S.C. Non-Profit Corporation by and through its Directors, Michel LaPlante, John LaPlante, as Directors, Pursuant to SC Code of Laws 33-31-304, Preserve JMP, LLC, Michel "Mitch" LaPlante, Marianne LaPlante Scarlatta, John LaPlante and Lauren LaPlante, PLAINTIFFS**

**Vs**

**The Preserve at Fenwick Hall POA, Inc. (as nominal defendant only), Jay Sifly, Carol Vernon, Nicholas Chalfa, Susan Crawford and Dennis Curtin, and Property Management Services, Inc. DFENDANTS**

**Case No: 2017-CP-10-6038**

Case involves dispute of Declarant Control Rights, Control of ARB and when Assessments begin for Declarant owned Lots/Parcels. I was engaged as expert witness on behalf of Defendants by Kevin Mimms, Esq. Case has been settled.

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**Frederick E. Brown, Charles O Pakosta, Conrad A. Calvano, Gayle L. Scott, Lori Niedzwiecki and Philip D. Cox** individually and derivatively on behalf of **Myrtle Beach Resort Homeowners' Association, Inc.** and on behalf of all similarly situated Co-owners, and **Lori Niedzwiecki and Robert S. Rosencrans** individually and derivatively on behalf of the **Myrtle Beach Homeowners' Association, Inc.** for its right and benefit, Plaintiffs

Vs

**Jeffrey L Richardson and Nancy L. Moore** individually and as current members of the Board of Directors for **Myrtle Beach Resort Homeowners' Association, Inc.**, **Peter Grusauskas and Jim Perkins** individually and as former members of the Board of Directors for **Myrtle Beach Homeowners' Association, Inc.** Defendants

**Myrtle Beach Homeowners' Association, Inc.** Nominal Defendant

Case No. 2018-CP-26-03173

Case involves Ultra Vires actions by two or more Board members that will or have done irreparable harm to Master Association and its members. I was engaged as the expert witness by Howell Bellamy, III to represent the Plaintiffs. Case has been transferred to Judge Markely Dennis in the SC Business Court.

**William F. Cappel and Kathryn E. Cappel**, Plaintiffs

Vs

**Underwriters at Lloyd's of London, Carney's Steamaway & Pest Control, LLC and Dunes Realty**, Defendants

Case No. 2016-CP-26-6428

Case involves claim of negligence on behalf of defendants involving fire that destroyed beach front rental property. I was engaged as an expert witness for Dunes Realty by Jillian Barton of Robertson, Hollingsworth Manos and Rahn, LLC. The case has been settled.

**Ridgeland at the Park Horizontal Property Regime, Inc., etal**, Plaintiffs

**The Falls at Sherwood Property Owners Association, Inc., Ridgeland Holdings, LLC., Ridgeland at the Park, LLC., C. Dan Joyer, Jr., Lydia W. Kellett, Carol A. Black, Robert C. Black, Blair A Stanicek and Arlene M Staicek, Wells Fargo Bank, NA., South State Bank, Branch Banking and Trust Co., First Citizens Bank & Trust Co. Inc., Movement Mortgage, LLC., SCBT, LLC f/k/a SCBT, NA., Bank of North Carolina, Regent Bank, Sun Trust Mortgage, Inc., Franklin American Mortgage Co., The State of South Carolina**, Defendants

Case No. 2016-CP-23-00541

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Case involves alleged Ultra Vires actions by Developer resulting in taking of common property for Developer's advantage. I was engaged as an expert witness for the plaintiffs by Ryan McCabe of McCabe Trotter & Beverly PC. The case has been settled.

**American Property Insurance Company, Plaintiff**

**Vs.**

**Wynbrooke Homeowners Association, Inc., Defendant**

**Case No. 4:17-cv-03000-RBH**

I was engaged as an expert witness by Defendant on advice of its legal counsel, Paige Bellamy.

This was a case filed in Federal Court by the Insurance provider for the Defendant disputing claimed roof damage caused by a hurricane. The case was settled by full payment by the Insurance provider of the Defendant's claim.

**David A. Almason, Plaintiff**

**Vs**

**Southgate on Fairview Condominium Association, Inc., William Douglas Management, Inc. and Karen L. Woerner, Defendants**

**Mecklenburg County Case No. 19-CVS-829**

I was engaged as an expert witness on behalf of the Defendant by James Dedman, IV of Gallivan White and Boyd.

This was a case relating to alleged Breach of Fiduciary Duty, Constructive Fraud and Negligence by the Defendants regarding damages caused by water leaks into the interior of a villa unit. Defendants Motion for Summary Judgement was approved by the Judge and the case was dismissed.

**Lawrence R. Stine, Plaintiff**

**Vs**

**Forest Beach Villas HPR Council of Co-Owners, Inc., IMC Resort Services, Inc., Roofcrafters Roofing LLC, A Foreign Limited Liability Company Organized in Georgia, Defendants**

**CASE NO: 2017-CP-07-02335**

I have been engaged as an expert witness for the Defendants by Timothy Dargan of Luzuringa Mims, LLP.

The case relates to alleged damages to the Plaintiffs villa by water intrusion due to Breach of Fiduciary duty of defendant to properly maintain the building. The case has been settled on favorable terms to Defendant.

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**Dileep Karmarkar and Sushama Karmarkar, individually and on behalf of The Legends and its Shareholders, Plaintiffs,**

**Vs**

**Legends Properties, LLC, Legends Scottish Village, LLC, LDY Properties, LLC, Legends Golf Holding, LLC, Larry D. Young, Jigger Holdings, LLC, Daniel L. Young, Parkland Property Owners Association, Inc., New Town Management, LLC, and Legends Property Owners Association, Inc.**

**Civil Action NO. 2018-CP-26-04834**

I have been engaged as an expert witness for the Defendants by Arthur Justice of Turner Padgett.

The case relates to ownership and maintenance requirements for the main access road into Legend Oaks Plantation. The case is in Discovery.

**Eric Conley, Plaintiff**

**Vs**

**Windswept Villas Horizontal Property Regime, Windswept Villas HPR, Windswept Villas II council of Co-Owners, Inc., Windswept Villas III Horizontal Property Regime, Inc., Windswept Villas I HPR, Windswept Villas I horizontal Property Regime, Akers Ellis Real Estate, LLC, Ravenel Associates, Inc., Akers Ellis Real Estate and Rentals, LLC, Akers Ellis Rentals, LLC and Akers Ellis Resort Management, LLC, Defendants**

**CASE NO.: 2018-CP-10-1133**

I have been engaged as an expert witness for certain defendants by Timothy Dargan of Luzuringa Mims LLC.

This case involves claims of negligence resulting in alleged personal injury. The case has been settled on favorable terms to Defendant.

**Joaquim P. Taveres and Grace Ferraz-Taveres, Plaintiffs**

**Vs**

**Xanadu Association, Inc., IMC Resort Services, Inc., and Ryan Moore d/b/a High Tide Restoration & Cleaning, Inc. d/b/a Rainbow International of the Lowcountry, Defendants**

**CIVIL ACTION NO. 2019-CO-07-01639**

I have been engaged as an expert witness for the Defendants by J. Barnwell Fishburne of Luzuringa Mims LLC.

This case involves alleged claims of Ultra Vires action, negligence, negligent supervision and failure to maintain common elements. The case has been settled on favorable terms to Defendants.

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**Jason B. Grice and Tamra Broach, Plaintiffs**  
**VS**  
**Collins Creek Landing Owner's Association, Inc., Defendants**  
**Civil Action No.: 2019-CP-22-00232**

I have been engaged as an expert witness for the Plaintiffs by Howell Bellamy, III of the Bellamy Law Firm.

The case is an enforcement action by the Defendants against the Plaintiffs for violation of the Collins Creek Landing Owner's Association, governing documents. The Plaintiff believes the enforcement procedures are being applied capriciously and arbitrarily by the Defendant and not in accordance with the recorded governing documents. The case has been settled on favorable terms to Plaintiffs.

**Emad Tadros, M.D. as Trustee of the Grace Living Trust dated October 12, 2010, as amended,**  
**Plaintiff**  
**vs**  
**Holder Properties, Inc.; John R. Holder, Individually; ADESS/Columbia, LLC; ADESSO**  
**Horizontal Property Regime and ADESSO Homeowners Association, Defendants**

**Civil Action No.: 2019-CP-40-00919**

I was engaged as an expert witness for Plaintiff by Charles Blackwell, Esq,

This is an action alleging Negligence/Gross Negligence; Breach of Master Deed; Declaratory Judgement; Injunctive Relief Violation of SC Unfair Trade Practices Act; Negligent Misrepresentation and Constructive Fraud.

Plaintiff lost on Summary Judgment. A Motion to Reconsider has been filed and is awaiting hearing. I am no longer involved with this action,

**Bounds, Plaintiff**  
**vs**  
**Harper Construction, etal, Defendant**

**Civil Action No.: 2019-CP-10-5335**

I was engaged as an expert witness by George James, Esq. for the Defendants.

This was an action alleging negligence/gross negligence of repair for flooring in a home. The case was settled on terms favorable to the Defendant.

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**Atkin, etal**  
vs  
**Clam Farm Partnership, etal**

**Civil Action No.: 2019-CP-10-5277**

I was engaged as an expert witness by Robert T. Lyles, Jr. Esq. on behalf of the Plaintiffs.

The case involves Construction defects and Breach of Fiduciary Duties by the Developer controlled Board of Directors. The case is in Discovery.

**Voight and Reynolds, etal, Plaintiffs**  
vs  
**Parsonage Point Development, LLC, etal, Defendants**

**Civil Action No.: 2019-CP-10-4583**

I was engaged as an expert witness by Theodor Manos, Esq. on behalf of the Defendants.

This case is a claim of Failure to Maintain/Repair and Defective construction/Conversion. The case is in Discovery.

**Putich, Plaintiffs**  
vs  
**Heritage Lake Owners Association, Inc., etal, Defendants**

**Civil Action No.: 2020-CP-07-01118**

I was engaged as an expert witness by Barnwell Fishburne, Esq. of the LM Law firm on behalf of the Defendants.

This case is a claim of breach of an affirmative obligation by the Board of Directors. The case is in Discovery.

ELECTRONICALLY FILED - 2022 Apr 13 9:40 AM - HORRY - COMMON PLEAS - CASE#2018CP2603173

Updated 3/15/22

**Wilner, Plaintiff**  
vs  
**The Haven at New Riverside COA, Inc., etal, Defendants**

**Civil Action No.: 2020-CP-07-737**

I was engaged as an expert witness by Andy Halio, Esq, on behalf of the Defendants.

The case is a claim involving negligence of Defendants resulting in injury to the Plaintiff. The case is in Discovery.

ELECTRONICALLY FILED - 2022 Apr 13 9:40 AM - HORRY - COMMON PLEAS - CASE#2018CP2603173

# **EXHIBIT**

## **B-1**

ELECTRONICALLY FILED - 2022 Apr 13 9:40 AM - HORRY - COMMON PLEAS - CASE#2018CP2603173

1429 19  
Pg 329  
FILED

STATE OF SOUTH CAROLINA, S.C. )  
COUNTY OF HORRY APR 25 PM 2:02 )  
R.M.C. )  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR THE MYRTLE BEACH RESORT  
HOMEOWNERS' ASSOCIATION, INC.

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE MYRTLE BEACH RESORT HOMEOWNERS' ASSOCIATION, INC. is made by The Myrtle Beach Resort Homeowners' Association, Inc., a South Carolina corporation and Myrtle Beach Resort Horizontal Property Regime, Inc. (Phase I), Myrtle Beach Resort Oceanfront Spa Horizontal Property Regime, Inc. (Phase II), Renaissance Tower Horizontal Property Regime, Inc. (Phase III), and Myrtle Beach Resort Five Seasons Centre Council of Co-Owners, Inc. (Phase IV), collectively referred to hereinafter as the "Declarant".

WITNESSETH:

WHEREAS, Resort Development Corporation reserved the right and privilege to establish The Myrtle Beach Resort Homeowners' Association consisting of all Co-Owners of all phases of the Myrtle Beach Resort, including Phase I (Myrtle Beach Resort Horizontal Property Regime), Phase II (Myrtle Beach Resort Oceanfront Spa Horizontal Property Regime), Phase III (Renaissance Tower Horizontal Property Regime) and Phase IV (Myrtle Beach Resort Five Seasons Centre Horizontal Property Regime), as set out in the respective Master Deeds in each of the above referenced phases at the Myrtle Beach Resort; and

WHEREAS, Resort Development Corporation has previously granted, conveyed and assigned to Vacation Properties, Inc., all of its rights under the respective Master Deeds to establish an "umbrella" homeowners' association as is more particularly set out in that assignment dated February 27th, 1987 and recorded in the office of the Register of Mesne Conveyances (R.M.C.) for Horry County in Deed Book 1121 at Page 401; and

WHEREAS, Vacation Properties, Inc., granted, conveyed and assigned to The Myrtle Beach Resort Homeowners' Association, Inc., all of said rights referenced above by Assignment of Rights dated January 27, 1989 and filed of record in the Office of the R.M.C. for Horry County in Deed Book 1284 at Page 239.

Law Office of  
Daniel L. Patrick  
P. O. Box 16569  
Surfside Beach,  
S.C. 29587

HORRY COUNTY ASSESSOR  
192-05 - Blocks of 4754 05  
Map . . . Blk Parcel  
4-26-91  
1

BOOK 1465 PAGE 329

329

NOW, THEREFORE, the Declarants hereby declare that all the property described in Exhibit A shall be held, transferred, sold, conveyed, leased, occupied and used subordinate and subject to the following easements, restrictions, covenants, charges, liens and conditions which are hereby imposed for the purpose of protecting the value and desirability of these properties and which restrictions, easements, charges, liens, conditions and covenants shall touch and concern and run with title to the real property subjected to this Declaration and which shall be binding on all parties having any right, title or interest in these described properties or any portion of them. This instrument also binds the respective heirs, devisees, fiduciary representatives, successors, successors in title and/or assigns, and shall inure to the benefit of anyone or anything who/which purchase or takes any interest in real property within the property subject to this instrument.

ARTICLE I  
DEFINITIONS

1.1 Definitions. When used in this Declaration, unless the context shall prohibit or require otherwise, the following words shall have all the following meanings, and all definitions shall be applicable to the singular and plural forms of any such term(s):

1.1.0 "Act" shall mean the South Carolina Horizontal Property Regime Act, Title 27, Chapter 31, Code of Laws of South Carolina, 1976, as Amended.

1.1.1 "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of The Myrtle Beach Resort Homeowners' Association, Inc., as it may be constituted or amended from time to time.

1.1.2 "Assessment" shall mean and refer to a share of the Common Expenses, capital improvements or other charges from time to time assessed against Co-Owners in the manner herein provided.

1.1.3 "Association" shall mean and refer to The Myrtle Beach Resort Homeowners' Association, Inc., a South Carolina non-profit Corporation.

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P. O. Box 16688  
Surfside Beach,  
S.C. 29887

1.1.4 "Board of Directors" shall mean and refer to the Board of Directors of the Association, which is the governing body of the Association.

1.1.5 "By-Laws of the Association" shall mean and refer to those By-Laws of The Myrtle Beach Resort Homeowners' Association, Inc., which govern the administration and operation of the Association, as may be amended from time to time, which By-Laws are attached as Exhibit "B" to this Declaration.

1.1.6 "Commercial Unit" shall mean and refer to any unit designated as a commercial space in the Master Deed of the appropriate Condominium Association.

1.1.7 "Common Areas" means as defined in the Individual Condominium Associations' respective Master Deeds.

1.1.8 "Common Expenses" shall mean and refer to all expenditures, including debt retirement, capital improvements, and operating expenses, lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation or maintenance of financial, equipment, or material reserves, consistent with the provisions and intent of this Declaration.

1.1.9 "Condominium Association" or "Individual Condominium Association" shall mean and refer to the four individual horizontal property regimes making up the Myrtle Beach Resort including the Myrtle Beach Resort Horizontal Property Regime (Phase I); Myrtle Beach Resort Oceanfront Spa (Phase II); Renaissance Tower Horizontal Property Regime (Phase III); and the Myrtle Beach Resort Five Seasons Centre (Phase IV).

1.1.10 "Co-Owner or "Owner" means as defined in the South Carolina Horizontal Property Regime Act and specifically means an owner of a Dwelling or a Commercial Unit at the Myrtle Beach Resort.

Law Office of  
Dwight L. Patrick  
P. O. Box 18989  
Myrtle Beach,  
S.C. 29587

1.1.11 "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for The Myrtle Beach Resort and all supplements or amendments to it as filed for record in the Office of the R.M.C for Horry County, South Carolina.

1.1.12 "Development or Property" shall mean and refer to The Myrtle Beach Resort which includes the four individual horizontal property regimes referenced above.

1.1.13 "Dwelling", with an initial capital letter, shall mean and refer to any improved property located within the Development intended for the use as a residential condominium unit.

1.1.14 "Member" shall mean any person or entity holding a membership in the Association as provided herein.

1.1.15 "Occupant" shall mean and refer to any person, including without limitation, any Owner or any guest, invitee, licensee, lessee, tenant, transient paying guest, or family member of an Owner lawfully occupying or otherwise using a Dwelling or Commercial Unit within the Development.

1.1.16 "Person" shall mean and refer to a natural person, corporation, partnership, association, proprietorship, trust, or any other legal entity or any combination thereof.

1.1.17 "Recreational Amenities" shall include such recreational facilities located within the Myrtle Beach Resort, including, without limitation, tennis courts, sporting or exercise areas, meeting areas, swimming pools, tennis courts, locker room facilities, clubhouses, food and beverage facilities, lagoons, beach access paths, jogging trails and bike paths.

1.1.18 "Voting Member" shall mean a member elected by the Board of each individual Condominium Association to this Association's Board of Directors as specified herein and in the By-Laws.

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ARTICLE II  
PROPERTY RIGHTS

2.1 Easements for Utilities. There is hereby reserved for the benefit of the Association, and its respective successors and assigns the alienable, transferable and perpetual right and easement, as well as the power to grant and accept easements to and from any private or public authority, agency, public service district, public or private utility or other person upon, over, under and across all of the Common Areas and all portions of other areas in which Dwellings or Commercial Units are not constructed or erected; for the purpose of installing, replacing, repairing, maintaining and using master television antenna and/or cable systems, security and similar systems, and all utilities, including but not limited to storm sewers and drainage systems and electrical, gas, telephone, water and sewer lines. Such easements may be granted or accepted by the Association, its successors or assigns. To the extent possible, all utility lines serving the Development and located therein shall be located underground. By virtue of any such easement granted, it shall be expressly permissible for the providing utility company or other supplier or servicer, with respect to the portions of the Development so encumbered: (i) to erect and maintain pipes, lines, manholes, pumps and other necessary equipment and facilities; (ii) to cut and remove any trees, bushes or shrubbery; (iii) to grade, excavate and fill; or (iv) to take any other similar action reasonably necessary to provide economical and safe installation, maintenance, repair, replacement and use of such utilities and systems.

2.2 Easements for Walks, Trails and Signs. There is hereby reserved for the benefit of the Association and its successors and assigns the alienable, transferable and perpetual right and easement upon, over and across all lands which may remain unimproved for the installation, maintenance and use of sidewalks, jogging trails, bike paths, traffic directional signs and related improvements.

2.3 Easements for the Association. There is hereby reserved a general right and easement for the benefit of the Association's Directors, officers, agents and employees, including but not limited to any property manager employed by the Association and any employees of such manager, to enter

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into the Property and any portion thereof in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to the occupant, the Individual Condominium Association, or the Owner(s) of the Dwelling or Commercial Unit.

**2.4 Maintenance Easement.** There is hereby reserved for the benefit of the Association and its respective agents, employees, successors and assigns, an alienable, transferable and perpetual right and easement to enter upon any unimproved portions of any Property for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds, stumps or other unsightly growth and removing trash, so as to maintain reasonable standards of health, fire safety and appearance within the Development; provided that such easements shall not impose any duty or obligation upon the Association to perform any such actions. Furthermore, there is hereby reserved for the benefit of the Association and its agent, employees, successors and assigns an alienable, transferable and perpetual right and easement, but not the obligation, to enter upon any unimproved portions of the Property which is located within twenty (20') feet from the water's edge of any lagoon, pond or other body of water within the Development for the purpose of mowing such areas and keeping same clear and free from unsightly growth and trash, as well as for the purpose of maintaining such body of water, such maintenance to include, without limitation, dredging and the maintenance of reasonable water quality standards.

**2.5 Environmental Easement.** There is hereby reserved for the benefit of the Association and its agents, employees, successors and assigns, an alienable, transferable and perpetual right and easement on, over and across all unimproved portions of the Property for the purposes of taking any action necessary to effect compliance with environmental rules, regulations and procedures from time to time promulgated or instituted by the Board of Directors or by any governmental entity, such easements to include without limitation the right to implement erosion control procedures and practices, the right to drain standing water and the right to dispense pesticides.

**2.6 Wells.** There is hereby reserved for the benefit of the Association and its agents, employees, successors and assigns an alienable, transferable and perpetual right and easement: (i) to pump water from lagoons, ponds and other bodies of water located within the Development for the purpose of

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Suite 400  
Spartanburg, SC 29587

irrigating any portions of the Development; (ii) to drill, install, locate, maintain and use wells, pumping stations, water towers, siltation basins and tanks and related water and sewer treatment facilities and systems within the Common Areas.

ARTICLE III

MEMBERSHIP AND VOTING

3.1 Membership. Every Owner shall be deemed to have a membership in the Association. Membership shall be appurtenant to and may not be separated from Ownership of any Dwelling or Commercial Unit, and Ownership of such Dwelling or Commercial Unit shall be the sole qualification for such membership. No Owner, whether one or more persons, shall have more than one membership per Dwelling or Commercial Unit

3.2 Board of Directors. The Board of Directors of each Individual Condominium Association at the Myrtle Beach Resort shall elect a representative to sit on the Board of Directors of this Association. This Board of Directors shall act in accordance with the By-Laws which are attached hereto as Exhibit E. The Association shall be operated by the Board of Directors, and the Members of the Association shall have only such powers as are specified herein or in the By-laws.

ARTICLE IV

POWERS OF THE ASSOCIATION

4.1 The Association, acting through the Board of Directors, shall also have the power to: (a) maintain all streets and roads within the Property, including cleaning and periodic resurfacing; (b) provide for all refuse collection (c) obtain, for the benefit of the Property, by purchase, lease or otherwise, as deemed proper by the Board of Directors, cable or master television service and telephone service; (d) maintain the oceanfront area; (e) grant easements, rights-of-way or strips of land, where necessary, for utilities, and sewer facilities and other services over the Common Areas to service the Property; (f) maintain such policy or policies of liability and fire insurance with respect to property owned by

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Daniel L. Patrick  
P. O. Box 15529  
Surfside Beach,  
S.C. 29587

the Association; (g) employ or contract with a management company to perform all or any part of the duties and responsibilities of the Association, including further duties and responsibilities which may be delegated to the Association by the Individual Condominium Associations and to equitably apportion assessments of same; (h) install and maintain security devices, detectors and communication facilities and contract for employment of security services, guards and watchmen for the project; (i) take such other reasonable action as the Board shall deem advisable with respect to the Myrtle Beach Resort for the benefit of the overall Property.

ARTICLE V  
COVENANT FOR ASSESSMENTS

5.1 Creation of the Lien. Each Individual Condominium Association together with each Co-Owner is deemed to covenant and agrees to pay to the Association Assessments for the Association expenses including common expenses as provided for herein.

Such assessments, together with interest, costs, and reasonable attorney's fees for the collection thereof shall be a charge on any Dwelling Unit or Commercial Unit, and shall be a continuing lien upon it, until full payment of such Assessment is made.

A Co-Owner shall become liable for payment of Assessments upon issuance of a Statement of Assessments by the Association.

On any Assessment that remains unpaid for over ten (10) days after its due date, at the sole discretion of the Board, a late charge not to exceed Ten and No/100 Dollars (\$10.00) or Ten Percent (10%) of the amount due, whichever is greater, shall also be due and payable to defray the expense of late collection.

Further, the Association shall have a lien on each Dwelling Unit or Commercial Unit together with the common elements appurtenant thereto in the amount of each Assessment not paid when due as provided herein, which may be collected and/or the lien foreclosed upon as provided in the South Carolina Horizontal Property Regime Act. Reasonable attorney's fees incurred by the Board incident to the collection of such Assessments or the enforcement (including but not limited to

Law Offices of  
Doreen L. Patrick  
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Surfside Beach,  
S.C. 29887

foreclosure) of such lien and all other charges allowed by the Act shall be payable by the delinquent Co-Owner and secured by such lien. The Board may take such action as it deems necessary to collect Assessments as provided in the Act and further may settle and/or compromise same if deemed in its best interest.

No Co-Owner may exempt himself from liability for his share of the Assessments by waiving the use or enjoyment of any of the common elements or otherwise.

5.2 Association Assessments may be assessed directly to the Co-Owners or may be collected by the Individual Condominium Associations at the discretion of the Board. The Assessments levied by the Association, as well as the manner of collecting same, shall be determined by the Board of Directors at a regularly scheduled or at a special meeting and the approval of the budget for the Association shall require the vote of 67% or more of all Voting Members of the Association.

5.3 Allocation of Assessments. <sup>the Sub Area fees</sup> Assessments for budgeted expenses shall be allocated and assessed as follows: Myrtle Beach Resort Horizontal Property Regime (Phase I) - 24.8515%; Myrtle Beach Resort Oceanfront Spa Horizontal Property Regime (Phase II) - 26.8317%; Renaissance Tower Horizontal Property Regime (Phase III) - 32.3762%; Myrtle Beach Resort Five Seasons Centre Horizontal Property Regime (Phase IV) - 15.9406%.

The allocation of each Co-Owner's share of the Assessments shall be determined by multiplying that Co-Owner's share of ownership in the common area of such Co-Owner's Individual Condominium Association as shown in the respective Master Deed times the percentage as shown above for the respective Individual Condominium Association.

Provided, however, in respect to television and telephone rental expenses, each Co-Owner will pay an amount determined by dividing the total of such expenses incurred by such Co-Owner's Individual Condominium Association pursuant to its agreement with this Association by the total number of Dwellings within that particular Individual Condominium Association.

ARTICLE VI

GENERAL PROVISIONS

6.1 Amendments. Amendments to this Declaration shall be proposed and adopted in the following manner:

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Daniel L. Patrick  
P. O. Box 18668  
Burlande Beach,  
N.C. 28587

6.1.1 Notice of the subject matter of the proposed amendment shall be included in the notice of the Board meeting of the Association at which such proposed amendment is to be considered and shall be delivered to each Board member of the Association. Provided, however, that any amendment shall be consistent with the Master Deed of the Individual Condominium Associations.

At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board of Directors of the Association or by the Board of an Individual Condominium Association. Such amendment must be approved by a vote of 67% or more of the Board of Directors of the Association.

6.1.2 Amendments to this Declaration may also be adopted in a meeting duly called by the Owners pursuant to the Association By-Laws, provided notice of the subject matter of the proposed amendment is included in a notice of such meeting. At such meeting the proposed amendment, as noticed, must be approved by either 67% or more of the Board of Directors of the Association or by majority of the total Owners at the Myrtle Beach Resort.

6.2 Enforcement. Each Co-Owner and Occupant shall comply strictly with the By-laws and the published rules and regulations of the Association adopted pursuant to this Declaration, as either of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in this Declaration, as same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for imposing fines, for suspending rights of use in and to the Recreational Amenities, or for instituting an action to recover sums due, for damages and/or for injunctive relief, such actions to be maintainable by the Board of Directors on behalf of the Association, or in a proper case, by an aggrieved Owner. Should the Association employ legal counsel to enforce any of the foregoing, all costs incurred in such enforcement, including court costs and reasonable attorneys' fees, shall be paid by the violating Owner or Occupant. Inasmuch as the enforcement of the provisions of this Declaration, the By-Laws and the rules and regulations of the Association are essential for the effectuation of the general plan of development contemplated hereby and for the protection of present and future Owners, it is hereby declared that any breach thereof may not adequately be compensated by recovery of damages, and that the Association, in addition to all other remedies, may require and shall be entitled to the remedy of injunction to restrain any such violation or breach or any threatened violation or breach. No delay, failure or omission on the part of the

Law Office of  
Jenifer L. Patrick  
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Myrtle Beach,  
S.C. 29587

Association in exercising any right, power or remedy herein provided shall be construed as an acquiescence thereto or shall be deemed a waiver of the right to enforce such right, power or remedy thereafter as to the same violation or breach, or as to a violation or breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement. No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against the Association for or on account of any failure to bring any action on account of any violation or breach, or threatened violation or breach, by any person of the provisions of this Declaration, the By-Laws or any rules and regulations of the Association, however long continued.

6.3 Duration. The provisions of this Declaration shall run with and bind title to the Property, shall be binding upon and inure to the benefit of all Owners and Mortgagees and their respective heirs, executors, legal representatives, successors and assigns, and shall be and remain in effect for a period of thirty (30) years from and after the date of the recording of this Declaration, provided that rights and easements which are stated herein to have a longer duration shall have such longer duration. Upon the expiration of said thirty (30) year period, this Declaration shall be automatically renewed for successive ten (10) year periods. The number of ten (10) year renewable periods shall be unlimited, with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration if, during the last year of an initial thirty (30) year period or the last year of any ten (10) year renewal period, seventy-five percent (75%) of the total votes of the Association are cast in favor of termination of this Declaration at the end of the then current term. In the event that the Association votes to terminate this Declaration, an instrument evidencing such termination shall be filed of record in the Records of the R.M.C. Office for Horry County, South Carolina, such instrument to contain a certificate wherein the President of the Association swears that such termination was duly adopted by the requisite number of votes. Every purchaser or grantee of any interest in any Property, by acceptance of a deed or other conveyance therefor, thereby agrees that the provisions of this Declaration shall run with and bind title to the Property as provided hereby.

6.4 Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of the Board of Directors, will best effect the intent of the general plan of development. The provisions hereof shall be liberally interpreted and, if necessary, they

shall be so extended or enlarged by implication as to make them fully effective. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of this Declaration shall be the date of its filing for record in the Records of the R. M. C. Office for Horry County, South Carolina. The captions of each Article and Paragraph hereof as to the contents of each Article and Paragraph are inserted only for convenience and are in no way to be construed as refining, limiting, extending or otherwise modifying or adding to the particular Article or Paragraph to which they refer. This Declaration shall be construed under and in accordance with the laws of the State of South Carolina.

6.5 Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other entities or to individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

6.6 Severability. Whenever possible, each provision of this Declaration shall be interpreted in such a manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

6.7 Rights of Third Parties. This Declaration shall be recorded for the benefit of the Association, the Individual Condominium Associations, the Owners and their Mortgagees as herein provided, and by such recording, no adjoining property owner or third party shall have any right, title or interest whatsoever in the Development, except as provided herein, or in the operation or continuation thereof or in the enforcement of any of the provisions hereof, and subject to the rights of Declarant and Mortgagees herein provided. The Association shall have the right to extend, modify, amend or otherwise change the provisions of this Declaration without the consent, permission or approval of any adjoining owner or third party.

Law Offices of  
Daniel L. Patech  
P.O. Box 15668  
Jortside Beach,  
S.C. 29557

IN WITNESS WHEREOF, the duly authorized officer of the undersigned Declarant have executed this Declaration under seal this 16th day of April, 1991.

WITNESSETH: THE MYRTLE BEACH RESORT HOMEOWNERS' ASSOCIATION, INC.  
BY: [Signature]  
ITS: PRESIDENT

MYRTLE BEACH RESORT HORIZONTAL PROPERTY REGIME, INC.  
BY: [Signature]  
ITS: President

MYRTLE BEACH RESORT OCEANFRONT SPA HORIZONTAL PROPERTY REGIME, INC.  
BY: [Signature]  
ITS: President

RENAISSANCE TOWER HORIZONTAL PROPERTY REGIME, INC.  
BY: [Signature]  
ITS: President

MYRTLE BEACH RESORT FIVE SEASONS CENTRE COUNCIL OF CO-OWNERS, INC.  
BY: [Signature]  
ITS: President

Law Offices of Daniel L. Patrick  
P. O. Box 18069  
Myrtle Beach, S.C. 29587

STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY ) PROBATE

PERSONALLY APPEARED BEFORE ME Shirley W. Wells

(s)he saw the within named Myrtle Beach Resort Homeowners' Association, Inc., by Alfred H. Wells, its President, as its act and deed, sign, seal and deliver the within Declaration of Covenants, Conditions and Restrictions for Myrtle Beach Resort Master Association and that (s)he with Daniel L. Patrick witnessed the execution thereof.

[Signature]

SWORN to before me this 6<sup>th</sup> day of April, 1991.

[Signature]  
Notary Public for South Carolina

STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY ) PROBATE

PERSONALLY APPEARED BEFORE ME Judy B. Reynolds

(s)he saw the within named Myrtle Beach Resort Horizontal Property Regime, Inc., by Freddy Brown, its President, as its act and deed, sign, seal and deliver the within Declaration of Covenants, Conditions and Restrictions for Myrtle Beach Resort Master Association and that (s)he with Annette Jordan witnessed the execution thereof.

[Signature]

SWORN to before me this 1<sup>st</sup> day of April, 1991.

[Signature]  
Notary Public for South Carolina

My Commission Expires: 4-25-91

Law Office of  
Daniel L. Patrick  
P. O. Box 18088  
Surfside Beach,  
S.C. 29587

STATE OF SOUTH CAROLINA )  
COUNTY OF Aiken ) PROBATE

PERSONALLY APPEARED BEFORE ME Michelle S. Hoar, who states under oath that (s)he saw the within named Myrtle Beach Resort Oceanfront Spa Horizontal Property Regime, Inc., by Sam Ruch, its President, as its act and deed, sign, seal and deliver the within Declaration of Covenants, Conditions and Restrictions for Myrtle Beach Resort Master Association and that (s)he with Arthur J. Curb witnessed the execution thereof.

Michelle S. Hoar  
SWORN to before me this 12<sup>th</sup> day of April, 1991.

Arthur J. Curb  
Notary Public for South Carolina  
My Commission Expires 10-5-94

~~STATE~~ )  
COUNTY OF HAMPSHIRE ) PROBATE

PERSONALLY APPEARED BEFORE ME Pamela S. Malchik, who states under oath that (s)he saw the within named Renaissance Horizontal Property Regime, Inc., by Frank Jordan, its President, as its act and deed, sign, seal and deliver the within Declaration of Covenants, Conditions and Restrictions for Myrtle Beach Resort Master Association and that (s)he with Frank Jordan witnessed the execution thereof.

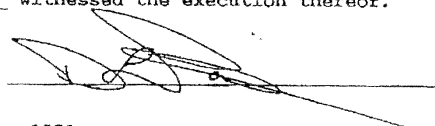
Pamela S. Malchik  
SWORN to before me this 11<sup>th</sup> day of April, 1991.

Frank Jordan  
Notary Public for ~~South Carolina~~ Massachusetts  
My Commission Expires: 11/24/96

Law Office of  
Dorothy L. Parisek  
P.O. Box 15988  
Surfside Beach,  
S.C. 29587

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY ) PROBATE

PERSONALLY APPEARED BEFORE ME  
Daniel L. Patrick, who states under oath that  
(s)he saw the within named Myrtle Beach Resort Five Seasons Centre  
Council of Co-Owners, Inc., by William Cole, its  
President, as its act and deed, sign, seal and deliver  
the within Declaration of Covenants, Conditions and Restrictions  
for Myrtle Beach Resort Master Association and that (s)he with  
Annette Jordan witnessed the execution thereof.



SWORN to before me this  
3rd day of April, 1991.

Annette Jordan  
Notary Public for South Carolina  
My Commission Expires: 4-25-96

Law Offices of  
Daniel L. Patrick  
P. O. Box 18688  
Surfside Beach,  
S.C. 29587

BOOK 1465 PAGE 344

EXHIBIT "A"

PHASE I - MYRTLE BEACH RESORT HORIZONTAL PROPERTY REGIME

ALL AND SINGULAR that certain piece, parcel or tract of land lying and being in Socastee Township, County of Horry, State of South Carolina, and being located approximately five (5) miles south of Myrtle Beach, South Carolina, and lying on the eastern side of U.S. Highway 17 Business, containing 6.198 acres, more or less, and being shown and described as a 6.198, more or less acres parcel on a certain plat entitled "Plat of 44.668, more or less, acres, Lot 5 of Lakewood Plantation Property Near Myrtle Beach" prepared for Resort Investment Corporation by Culler Land Surveying Company, Inc., dated August 17, 1981, which plat is recorded in the Office of the Clerk of Court for Horry County, South Carolina, in Plat Book 72 at Page 58; also being shown and described on the plats recorded in the Condominium Plat Book, all as is more particularly described in the Master Deed for the aforesaid Horizontal Property Regime recorded on June 15, 1982, in the Office of the Clerk of Court for Horry County in Deed Book 750 at Page 642.

PHASE II - MYRTLE BEACH RESORT OCEANFRONT SPA  
HORIZONTAL PROPERTY REGIME

ALL AND SINGULAR that certain piece, parcel or tract of land, situate, lying and being in Socastee Township, County of Horry, State of South Carolina, and being located approximately 5 miles south of Myrtle Beach, South Carolina, and lying on the eastern side of U.S. Highway 17 Business, containing 6.205 acres, more or less, and being shown and described as "Phase II (6.205 Ac)" on a certain plat entitled "Plat of 44.668+- Acres, Lot 5 of Lakewood Plantation Property Near Myrtle Beach" dated June 10, 1982, revised July 13, 1982, and July 19, 1982, prepared by Culler Land surveying Company, Inc., which plat is recorded in the Office of the Clerk of Court for Horry County, South Carolina, in Plat Book 74 at Page 32; also being shown and described on the plats and architectural plans and drawings prepared by Culler Land Surveying Company, Inc. and Stevenson & Wilkinson, Inc., respectively, which are recorded in the Condominium Plat Book at Book 2, Page 31, all as is more particularly described in the Master Deed for the aforesaid Horizontal Property Regime recorded on April 15, 1983, in the Office of the Clerk of Court for Horry County in Deed Book 789 at Page 362.

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Janet L. Patrick  
P. O. Box 16069  
Surfside Beach,  
S.C. 29587

BOOK 1465 PAGE 345

EXHIBIT "A" CONTINUED

PHASE III - RENAISSANCE TOWER HORIZONTAL PROPERTY REGIME

ALL THAT piece, parcel, or tract of land, situate in the County of Horry, State of South Carolina, and Township of Socastee, situate, lying, and being on the South Eastern side of U.S. Highway 17 containing 8.672 acres, more or less, and designated as a Portion of Lot 5 of Lakewood Plantation Tract, further designated as Phase III of The Myrtle Beach Resort, and described on a Map prepared by Culler Land Surveying Co., Inc. dated November 16, 1984, also being shown as Phase III on a Plat of 44.668 +/- Acres, lot 5 of Lakewood Plantation Property, Socastee Township, Horry County, South Carolina, revised November 27, 1984, prepared by Culler Land Surveying Co., Inc., all as is more particularly described in the Master Deed for the aforesaid Horizontal Property Regime recorded on November 28, 1984, in the Office of the Clerk of Court for Horry County in Deed Book 917 at Page 885.

PHASE IV - MYRTLE BEACH RESORT FIVE SEASONS CENTRE

(Phase I)

ALL THAT piece, parcel, or tract of land, situate in the County of Horry, State of South Carolina, and Township of Socastee, situate, lying and being on the Southeastern side of U.S. Highway 17 designated as Phase I of The Myrtle Beach Resort Five Seasons Centre, and described on a plat prepared by Culler Land Surveying Co., Inc. dated June 4, 1985, also being shown as Phase I, Myrtle Beach Resort Five Seasons Centre on a plat of 44.668 +/- acres, Lot 5 of Lakewood Plantation Property, Socastee Township, Horry County, South Carolina, dated June 10, 1982, with latest revision dated June 14, 1985, prepared by Culler Land Surveying Co., Inc., all as is more particularly described in the Master Deed for the aforesaid Horizontal Property Regime recorded on June 20, 1985, in the Office of the Clerk of Court for Horry County in Deed Book 966 at Page 654.

(Phase II)

ALL THAT piece, parcel, or tract of land, situate in the County of Horry, State of South Carolina, and Township of Socastee, situate, lying and being on the Southeastern side of U.S. Highway 17 designated as Phase II of The Myrtle Beach Resort Five Seasons Centre, and described on a plat prepared by Atlantic Land Surveying Co., Inc. dated May 1, 1986, all as is more particularly described in that First Amendment to the Master Deed for the aforesaid Horizontal Property Regime recorded on May 29, 1986, in the Office of the Clerk of Court for Horry County in Deed Book 1048 at Page 824.

Law Office of  
Daniel L. Patrick  
1. C. Box 18009  
Myrtle Beach,  
S.C. 29587

BOOK 1465 PAGE 346

# **EXHIBIT**

**B-2**

EXHIBIT "E"

AMENDED

BY-LAWS

OF

THE MYRTLE BEACH RESORT HOMEOWNERS' ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION

The name of the Association is The Myrtle Beach Resort Homeowners' Association, Inc., hereinafter referred to as the "Association." The principal office of the Association shall be located at Highway 17 South, Surfside Beach, South Carolina, but meetings of members and directors may be held at such places within the State of South Carolina, County of Horry, as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to The Myrtle Beach Resort Homeowners' Association, Inc., its successors and assigns.

Section 2. "Member" shall mean and refer to each and every Co-Owner at The Myrtle Beach Resort which includes (a) Myrtle Beach Resort Horizontal Property Regime; (b) Myrtle Beach Resort Oceanfront Spa Horizontal Property Regime; (c) Renaissance Tower Horizontal Property Regime; (d) Myrtle Beach Resort Five Seasons Centre Horizontal Property Regime.

"Voting Member" shall mean and refer to that representative from the Board of Directors of each Individual Condominium Association who has been elected by that Board as a representative to the Board of Directors of this Association.

Section 3. "Individual Condominium Associations" shall mean and refer to those Associations at The Myrtle Beach Resort presently including: (a) Myrtle Beach Resort Horizontal Property Regime, Inc.; (b) Myrtle Beach Resort Ocean Front Spa Horizontal Property Regime, Inc.; (c) Renaissance Tower Horizontal Property Regime; (d) Myrtle Beach Resort Five Seasons Centre Council of Co-Owners, Inc.

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Surfside Beach,  
S.C. 29587

BOOK 1465 PAGE 347

Section 4. All terms and phrases used herein shall, unless the context otherwise requires, have the same definition and meaning as set forth in the various Master Deeds of the Horizontal Property Regimes comprising The Myrtle Beach Resort and/or in the South Carolina Horizontal Property Regime Act, as the case may be.

ARTICLE III

MEETING OF MEMBERS

Section 1. "Annual Meetings." The annual meeting of Voting Members shall be held during the first six months of each calendar year at a time and place designated by the President.

Annual meetings of the Members shall be held only if required by a vote of the majority of the Voting Members or upon petition signed by greater than Thirty Percent (30%) of the entire outstanding membership. In the event the annual meeting of Members is held pursuant to these By-Laws such meeting shall be at a time and place designated by the President, or a majority of the Board of this Association, or by a petition signed by a number greater than Thirty Percent (30%) of the outstanding members.

Section 2. "Special Meetings." Special meetings of the Voting Members may be called at any time by the President or by a majority of the Directors of this Association. A special meeting of the Members may be called at any time as provided for under Section 1. for annual meetings.

Section 3. "Notice of Meetings." Written notice of each meeting of the Members or Voting Members shall be given by, or at the direction of the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days (but not more than sixty (60) days) before such meeting to each Member or Voting Member entitled to vote thereat, addressed to the Member's or Voting Member's address last appearing on the books of the Association, or supplied by such Member or Voting Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and in the case of a special meeting, the purpose of the meeting.

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Daniel L. Pezick  
P. O. Box 15888  
Myrtle Beach,  
S.C. 29587

Section 4. "Quorum." The presence at the meeting of a majority of the Voting Members, represented in person or by proxy, shall constitute a quorum at a meeting of the Voting Members. The presence at the meeting of a majority of the Members, represented in person or by proxy, shall constitute a quorum at a meeting of the Members.

Any action required by law to be taken at a meeting of the Association or any action which may be taken in the meeting of the Association may be taken without a meeting if a consent in writing, setting forth the actions so taken, shall be signed by Voting Members, or Members, as the case may be, holding not less than sixty-seven percent (67%) of the entire votes entitled to vote on the subject matter thereof and further provided the same is not otherwise prevented by these By-Laws, the Declarations, or the respective Master Deeds of the Individual Horizontal Property Regimes of the Myrtle Beach Resort, or the Act.

Section 5. "Proxies." At all meetings of Voting Members or Members, each Voting Member or Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable.

#### ARTICLE IV

Board of Directors: Voting: Selection: Term of Office: Duties

Selection 1. The Association shall be managed by a Board of Directors consisting of not less four (4) Directors. Each Individual Condominium Association of the Myrtle Beach Resort shall have a representative from its Regime as a Director on the Board of the Association. Each Board Member of this Association shall also be a board member of the Individual Condominium Association which he or she represents.

Section 1.A. "Voting." Each Director is hereby assigned the number of votes that represents the number of Apartments (whether residential or commercial) that exists in that Director's Individual Condominium Association.

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P. O. Box 16069  
Surfside Beach,  
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Section 2. "Term of Office." Each Director shall hold office until the next annual meeting of Voting Members and/or until each successor has been elected and qualified. Provided, however, that a Director's term in office may be terminated and a successor elected at any meeting of Members called pursuant to the provisions in these By-Laws.

Section 3. Regular Meetings: There shall be at least one (1) regular meeting of the Board quarterly at a time designated by the President. The President or two (2) members of the Board may call as many special meetings of the Board as are deemed necessary or desirable and in the best interest of the Association.

Section 4. Presentation of Annual Budget: The Board of Directors shall annually, on or before November 1st of each year, prepare a budget for the upcoming calendar year to include such sums as it deems adequate. The Board of Directors, on or before November 1st, shall deliver the budget for the upcoming year together with the statement of the amounts due from the Co-Owners of the respective Regimes for that year and the date or dates upon which payments are due from the Individual Condominium Associations. Thereafter, should an increase or decrease be determined appropriate by the Board of Directors in assessments to be paid by Co-Owners, the Board shall notify all Individual Condominium Associations at least thirty (30) days prior to the time such assessments so changed shall be due. The Association shall have a lien upon each apartment together with the common elements and common surplus appurtenant thereto for payment of all assessments not paid when due in the amount of such unpaid assessments together with late charges thereon from the date due together with the cost of collection thereof including a reasonable attorney's fee.

Section 5. Notice: Notice of any special meeting shall be given at least five (5) days previously thereto by written notice delivered personally, or by telegram or mailed to each director at this business address. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. The attendance of a Director at a meeting shall constitute a Waiver of Notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

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Dentel L. Patrick  
P. O. Box 13088  
Surfside Beach,  
S.C. 29987

Section 6. Quorum. At any meeting of the Directors a majority of the Directors fixed by these By-Laws shall constitute a quorum for the transaction of business, but if less than said number is present at a meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice.

Section 7. Voting: Any action taken at a meeting of the Board of Directors shall be only upon the affirmative vote of 67% of the entire votes of the Association.

Section 8. Consistent with these By-Laws and applicable Declarations, the Board shall:

- (a) transact all Association business and prescribe the rules and regulations for the use of the assets, facilities and property for which it is so charged and may appoint such officers, clerks, agents, servants or employees as it may deem necessary in its sole discretion and may fix their duties and compensation;
- (b) annually set a budget for the Association;
- (c) fix, impose and remit penalties for violations of these By-Laws and the rules and regulations of the Association;
- (d) elect from the Board within thirty (30) days after each annual meeting the President, Vice-President, Secretary and Treasurer;
- (e) carry out all other duties and obligations imposed and exercise all rights granted it by these By-Laws, the Declaration, and the Act.

Section 9. Vacancies. Vacancies occurring on this Board of Directors shall be filled immediately by an election of the Director's successor by that Individual Condominium Association which the Director in question represents. Provided, however, that in the event of a vacancy, and prior to any election by the Individual Condominium Association, the highest presiding officer of the Individual Condominium Association shall automatically be a Director and Voting Member of this Association. For purposes of this section, the ranking of the Officers of each Individual Condominium Association shall be in this order: President, Vice President, Secretary and Treasurer.

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Daniel L. Patrick  
P. O. Box 16098  
Surfside Beach,  
S.C. 29587

Section 10. Resignation. A Director may resign at any time by giving written notice to the Board, the President or the Secretary of the Association. Unless otherwise specified in the notice, the resignation shall take effect upon receipt thereof by the Board or such officer, and the acceptance of the resignation shall not be necessary to make it effective.

Section 11. Compensation. No compensation shall be paid to Directors, as such, for their services, but by resolution of the Board a fixed sum and expenses for actual attendance at each regular or special meeting of the Board may be authorized. Nothing herein contained shall be construed to preclude any Director from serving the Association in any other capacity and receiving compensation therefor.

Section 12. Presumption of Assent. A Director of the Association who is present at a meeting of the Directors at which action on any Association matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the Secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action.

Section 13. Executive and Other Committees: The Board, by resolution, may designate from among its members an executive committee and other committees, each consisting of one or more Directors. Each such committee shall serve at the pleasure of the Board.

ARTICLE V

CONTRACTS, LOANS, CHECKS AND DEPOSITS

Section 1. "Contracts." The Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

Section 2. "Loans." No loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Directors. Such authority may be general or confined to specific instances.

Section 3. "Check, Drafts, Etc." All checks, drafts or other orders for the payment of money, notes or other evidences signed by such officer or officers, agent or agents of the Association and in

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P.O. Box 18659  
Surfside Beach  
S.C. 29587

such manner as shall from time to time be determined by resolution of the Directors.

Section 4. "Deposits." All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Directors may select.

ARTICLE VI

BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE VII

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: The Myrtle Beach Resort Homeowners' Association, Inc.

ARTICLE VIII

These By-Laws may be amended at a regular or special meeting of the voting Members or at a regular or special meeting of the Members, by a vote representing 67% or greater of the total votes of the Association. Provided, however, that any amendment to these By-Laws shall be consistent with the Declarations of this Association and the Master Deeds of the Individual Condominium Associations.

ARTICLE IX

Miscellaneous

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, we, being all of the Directors and Shareholders of The Myrtle Beach Resort Homeowners' Association, Inc., have hereunto set our hands this 16th day of April, 1991.

Law Offices of  
Daniel L. Patrick  
101 S. Box 15989  
Myrtle Beach,  
S.C. 29587

BOOK 1465 PAGE 353

WITNESSETH: MYRTLE BEACH RESORT HORIZONTAL PROPERTY REGIME, INC.

[Signature] BY: James R. Brunner  
Annette Jordan ITS: Authorized Board Representative

STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY ) PROBATE

PERSONALLY APPEARED BEFORE ME Judith B. Reynolds who states under oath that (s)he saw the within named Myrtle Beach Resort Horizontal Property Regime, Inc., by James R. Brunner, its Authorized Board Member, as its act and deed, sign, seal and deliver the within Amended By-Laws of the Myrtle Beach Resort Homeowners' Association, Inc. and that (s)he with Annette Jordan witnessed the execution thereof.

[Signature]

SWORN to before me this 9th day of April, 1991.

Annette Jordan  
Notary Public for South Carolina

My Commission Expires: 4-25-96

Law Offices of  
Daniel L. Patrick  
P. O. Box 16688  
Myrtle Beach,  
S.C. 29587

BOOK 1465 PAGE 354

WITNESSETH: MYRTLE BEACH RESORT OCEANFRONT SPA  
HORIZONTAL PROPERTY REGIME, INC.

(2) [Signature] BY: (1) George Kidney  
George Kidney  
(2) Lauren W. Duca ITS: Authorized Board Representative

STATE OF GEORGIA )  
COUNTY OF COBB ) PROBATE

PERSONALLY APPEARED BEFORE ME Lauren W. Duca, who states under oath that (s)he saw the within named Myrtle Beach Resort Oceanfront Spa Horizontal Property Regime, Inc., by George Kidney, its Authorized Board Representative, as its act and deed, sign, seal and deliver the within Amended By-Laws of the Myrtle Beach Resort Homeowners' Association, Inc., and that (s)he with Lauren W. Duca witnessed the execution thereof.

[Signature]

SWORN to before me this 11th day of April, 1991.

(2) Lauren W. Duca  
Notary Public for ~~SCARLETT~~ Georgia  
My Commission Expires: Notary Public, Cobb County, Georgia  
My Commission Expires: February 21, 1992

Law Offices of  
Daniel L. Patrick  
P.O. Box 16089  
Spartanburg, S.C. 29587

BOOK 1465 PAGE 355

WITNESSETH: RENAISSANCE TOWER HORIZONTAL PROPERTY REGIME, INC.

(1) Jean Marshall BY: (1) Alfred H. Wells  
(2) Charles E. Houchens ITS: Authorized Board Representative

STATE OF VIRGINIA )  
COUNTY OF HENRICO ) PROBATE

PERSONALLY APPEARED BEFORE ME JEAN O. MARSHALL, who states under oath that (s)he saw the within named Renaissance Horizontal Property Regime, Inc., by Alred H. Wells, its Authorized Board Representative, as its act and deed, sign, seal and deliver the within Amended By-Laws of the Myrtle Beach Resort Homeowners' Association, Inc. and that (s)he with Charles E. Houchens witnessed the execution thereof.

(1) Jean Marshall

SWORN to before me this 15th day of April, 1991.

(2) Charles E. Houchens  
Notary Public for ~~XXXXXXXXXXXX~~ Virginia  
My Commission Expires: June 13, 1993  
(5) My Commission Expires June 13, 1993

Law Offices of  
Daniel L. Peacock  
P. O. Box 18989  
Surfside Beach,  
S.C. 29587

BOOK 1465 PAGE 356

WITNESSETH:

MYRTLE BEACH RESORT FIVE SEASONS  
CENTRE COUNCIL OF CO-OWNERS, INC.

<sup>(1)</sup> William A. Ullery

BY: [Signature]  
Bill Hunt

<sup>(2)</sup> Beverly C. Harmon

ITS: Authorized Board Representative

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

PROBATE

PERSONALLY APPEARED BEFORE ME

<sup>(1)</sup> William G. Ullery, who states under oath that (s)he saw the within named Myrtle Beach Resort Five Seasons Centre Council of Co-Owners, Inc., by Bill Hunt, its Authorized Board Representative, as its act and deed, sign, seal and deliver the within Amended By-Laws of the Myrtle Beach Resort Homeowners' Association, Inc. and that (s)he with Beverly C. Harmon witnessed the execution thereof.

<sup>(2)</sup> William A. Ullery

SWORN to before me this  
10th day of APRIL, 1991.

<sup>(3)</sup> Beverly C. Harmon  
Notary Public for South Carolina

My Commission Expires: 5/16/2000

Law Offices of  
Daniel L. Patrick  
P. O. Box 18809  
Surfside Beach,  
S.C. 29587

BOOK 1465 PAGE 357

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# **EXHIBIT**

**C-1**

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF HORRY )

The Myrtle Beach Resort Homeowners' Association, Inc., )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 Renaissance Tower Horizontal Property Regime, )  
 )  
 Defendant. )

IN THE COURT OF COMMON PLEAS  
 FIFTEENTH JUDICIAL CIRCUIT  
 Civil Action No. 2016-CP-26-7895

FILED  
 2017 FEB 21 AM 11:34

ORDER FOR TEMPORARY INJUNCTION

This matter is before the court pursuant to the Plaintiff's Motion for Temporary Injunction pursuant to Rule 65 of the *South Carolina Rules of Civil Procedure*. A hearing was held on February 1, 2017 at which time the Court considered the pleadings and affidavits filed by the Plaintiff, affidavit submitted by the Defendant and heard arguments from counsel.

**UNDISPUTED FACTS**

The Plaintiff, The Myrtle Beach Resort Homeowners' Association, Inc., is a non-profit corporation, organized and existing under the laws of the State of South Carolina and doing business in Horry County, South Carolina. The Plaintiff is an umbrella or "Master Association" charged with administering the affairs of Myrtle Beach Resort, a resort within Horry County, South Carolina consisting of four individual regimes governed by their respective Master Deeds which are charged with administering the affairs of their respective submitted properties. The Defendant Renaissance Tower Horizontal Property Regime is also a non-profit corporation, organized and existing under the laws of the State of South Carolina and doing business in Horry County, South Carolina. It is one of the aforementioned regimes within the Myrtle Beach Resort and it is charged with administering the affairs of Renaissance Tower, a condominium resort.

*[Handwritten signature]*

The Plaintiff is governed by its Declaration of Covenants, Conditions and Restrictions for The Myrtle Beach Resort Homeowners' Association, Inc. filed April 25, 1991 in the Horry County Register of Deeds Office in Deed Book 1465 at Page 329 ("Declaration"). The Declaration provides that every owner within Myrtle Beach Resort is a member of the Plaintiff and Article 5.1 of the Declaration further states that "Each Individual Condominium Association together with each Co-Owner is deemed to covenant and agrees to pay to the Association Assessments for the Association expenses including common expenses." The members of the Plaintiff include all of the Co-Owners of the Defendant. The method of assessing the Plaintiff's assessments is further stated in Article 5.2 of the said Declaration whereby the Plaintiff assessments "may be assessed directly to the Co-Owners or may be collected by the Individual Condominium Associations at the discretion" of the Plaintiff's Board. The Defendant has collected the 2016 Plaintiff's assessments from its owners but it has withheld payment of the same to the Plaintiff due to Defendant's questions and concerns related to Plaintiff's administration of the Myrtle Beach Resort and its use of Defendant's owners' assessments. As a result of this dispute, the Plaintiff is having difficulty fulfilling its obligations under the Declaration.

**STANDARD FOR AWARD OF TEMPORARY INJUNCTIVE RELIEF**

Rule 65 of the South Carolina Rules of Civil Procedure sets forth the requirements for issuing a Temporary Injunction. Under the relevant case law, a party seeking injunctive relief must demonstrate irreparable harm, a likelihood of success on the merits and the absence of an adequate remedy at law. *Rawlison Road Homeowners Ass'n, Inc. v. Jackson*, 395 S.C. 25, 35, 716 S.E.2d 337, 343 (Ct. App. 2011). Courts in South Carolina recognize that an injunction is a drastic remedy and should only be issued to prevent irreparable harm suffered by the moving party. Moreover, the Court must balance the equities and examine the particular facts of each case and the equities of each party and determine which side, if any, is entitled to equitable relief. *AJG Holdings, LLC v. Dunn*, 382 S.C. 43, 674 S.E.2d 505 (Ct. App. 2009). The Court must consider each of

25/4  


the three elements to determine whether the drastic remedy of a Temporary Injunction should be granted.

**I. Irreparable Harm**

Plaintiff has made a *prima facie* showing that the Defendant's action to withhold the 2016 assessments has irreparably harmed the Plaintiff's financial stability and reputation within the real estate, lending and tourism sectors of the local community. Moreover, the Plaintiff has made a *prima facie* showing that it will be irreparably harmed if the funds currently being held by the Defendant are not available to the Plaintiff at the conclusion of the current litigation.

**II. Likelihood of Success on the Merits**

This Court is without the benefit of an evidentiary hearing to fully explore the facts that may be ultimately presented at a trial. However, the Plaintiff has established a *prima facie* case for the relief requested in that the Plaintiff has a likelihood of success on the merits of the case.

**III. No Adequate Remedy at Law**

If the Plaintiff ultimately prevails on the merits, there may not be a source for the funds the Plaintiff is seeking. Therefore, there is not an adequate remedy at law because money damages alone, at the end of trial, will not adequately compensate the Plaintiff.

**CONCLUSION**

The Plaintiff has made a *prima facie* showing that warrants the issuance of a Temporary Injunction.

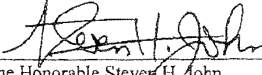
NOW, THEREFORE, a Temporary Injunction is granted in favor of the Plaintiff.

AND IT IS ORDERED THAT the Defendant shall immediately pay the funds it has collected from its owners for the assessments alleged to be due Plaintiff for year 2016 unto the Clerk of Court for Horry County. Said funds shall be placed in an interest-bearing account pending the outcome of this litigation. Furthermore, any future assessments collected by the Defendant and alleged to belong to the Plaintiff shall also be

30  
[Signature]

paid unto the Clerk of Court for Horry County and such funds shall be held in the same interest bearing account pending the resolution of the litigation. These funds shall not be dispersed until further Order of this Court.

AND IT IS SO ORDERED.

*Resident*  
  
\_\_\_\_\_  
The Honorable Steven H. John  
Presiding Judge  
Fifteenth Judicial Circuit

February 17, 2017  
Conway, South Carolina

*shj*

# **EXHIBIT**

**C-2**

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )  
 )  
Myrtle Beach Resort Homeowners' )  
Association Inc., )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
Renaissance Tower Horizontal )  
Property Regime, Inc. )  
 )  
Defendant. )

IN THE COURT OF COMMON PLEAS  
CIVIL ACTION NO.: 2016-CP-26-7895

**CONSENT ORDER REGARDING  
DISBURSEMENT OF ASSESSMENTS  
TO MYRTLE BEACH RESORT  
HOMEOWNERS' ASSOCIATION, INC.**

**THIS MATTER** comes before the Court and is related to the Scheduling Order and Trial Date (“Scheduling Order”) issued by the undersigned and filed on July 7, 2017 and the Order for Temporary Injunction (“Order for Injunction”) issued by the Honorable Steven H. John filed on February 21, 2017.

Pursuant to the Order for Injunction, Defendant Renaissance Tower Horizontal Property Regime, Inc. (“Defendant”) was required to pay the funds it collected from its owners alleged to be due to Plaintiff for year 2016 over to the Clerk of Court for Horry County who was to deposit the same into an interest-bearing account. Defendant was also required to place any future assessments it collected from its owners and alleged to be due to Plaintiff in the same interest bearing account pending the resolution of this litigation. From its records, Defendant deposited \$312,398.31 with the Horry County Clerk of Court on March 1, 2017. Defendant also deposited \$128,321.34 with the Horry County Clerk of Court on July 10, 2017. Relatedly, the Scheduling Order required Defendant’s counsel to confer with Defendant’s Board and advise Plaintiff’s counsel by 3:00 PM on July 7, 2017 whether Defendant would agree to release a portion of the funds to the Plaintiff.

1607606v1

The Court understands that Defendant's counsel timely conferred with Defendant's Board and communicated to Plaintiff's counsel that Defendant would agree to release \$200,00.00 of the funds on deposit with the Court to Plaintiff, and Plaintiff has agreed to accept the same.

**ACCORDINGLY**, and by and with the consent of the undersigned, **IT IS ORDERED**, **ADJUDGED AND DECREED** as follows:

a. That, within ten (10) days after the date of this Order, the Clerk for Court of Horry County shall release to Plaintiff \$200,000.00 of the amount Defendant has deposited with the Court; and

b. That the Clerk of Court for Horry County shall retain possession of the remaining amounts it has on deposit related to this matter pending further Order of the Court; and

c. The amendment set forth herein excepted, the Order for Injunction remains in full force and effect; and

d. Nothing contained herein shall be construed as a waiver by the Plaintiff to seek the release of additional funds from the Clerk of Court if necessary to support its operations during the pendency of this action, nor shall this consent order be considered a waiver of any of Plaintiff's claims and defenses, including its collection action asserting that the Defendant has failed to pay assessments allegedly owed to the Plaintiff under the parties' governing documents, Defendant's defenses related thereto, and Defendant's claims related to Plaintiff's alleged breach and/or breaches of contract, fiduciary duty, unjust enrichment, declaratory judgment and accounting;

e. Nothing contained herein shall in any way be considered and/or construed by Plaintiff and/or Defendant as an admission of liability of any issue related to this matter.

**IT IS SO ORDERED.**

\_\_\_\_\_  
Honorable Cynthia Graham Howe  
Horry County Master In Equity  
Fifteenth Judicial Circuit

August \_\_\_\_\_, 2017  
Conway, South Carolina

WE CONSENT:

**HARRELL, MARTIN & PEACE, P.A.**

By: /s/ Taylor A. Peace  
TAYLOR A. PEACE, ESQ  
135 Columbia Avenue  
P.O. Box 1000  
Chapin, South Carolina 29036  
(803) 345-3353  
tpeace@harrellmartin.com  
ATTORNEYS FOR DEFENDANT

**MCNAIR LAW FIRM, P.A.**

By: /s/ Alicia E. Thompson  
ALICIA E. THOMPSON, ESQ  
2411 Oak Street, Suite 206  
PO Box 336  
Myrtle Beach, SC 29577  
(843) 444-1107  
athompson@mcnair.net  
ATTORNEY FOR PLAINTIFF

**PATRICK AND STATHOS, LLC**

By: /s/ Sam G. Stathos  
SAM G. STATHOS, ESQ  
412 N. Poplar Drive (29575)  
PO Drawer 15669  
Surfside Beach, SC 29587  
(843) 238-5618  
sgs@patrickandstathos.com  
ATTORNEY FOR PLAINTIFF

ELECTRONICALLY FILED - 2022 Apr 13 9:40 AM - Horry - COMMON PLEAS - CASE#2018CP2603173  
ELECTRONICALLY FILED - 2017 Aug 10 10:34 AM - Horry - COMMON PLEAS - CASE#2016CP2607895



Horry Common Pleas

**Case Caption:** Myrtle Beach Resort Homeowners Association Inc VS Renaissance Tower Horizontal Property Regime  
**Case Number:** 2016CP2607895  
**Type:** Order/Consent Order

So Ordered

s/Cynthia Graham Howe, 3073, Master in Equity

Electronically signed on 2017-08-09 16:49:03 page 4 of 4

ELECTRONICALLY FILED - 2022 Apr 13 9:40 AM - HORRY - COMMON PLEAS - CASE#2018CP2603173  
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# **EXHIBIT**

**C-3**

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF HORRY )  
 )  
 Myrtle Beach Resort Homeowners' )  
 Association, Inc., )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 Renaissance Tower Horizontal )  
 Property Regime, Inc., )  
 )  
 Defendant. )

IN THE COURT OF COMMON PLEAS  
 FIFTEENTH JUDICIAL CIRCUIT  
 CIVIL ACTION NO.: 2016-CP-26-7895

**ORDER AMENDING SCHEDULING  
 ORDER DATED SEPTEMBER 12, 2017  
 AND DISBURSING FUNDS FROM  
 CLERK OF COURT**

This matter is before the Court upon the Motion for Status Conference and Amended Scheduling Order ("Motion") filed on October 25, 2017 by Defendant Renaissance Tower Horizontal Property Regime, Inc. ("Defendant") under Rule 16 of the South Carolina Rules of Civil Procedure. In attendance by telephone at the November 9, 2017 status conference and hearing on the Defendant's Motion were Taylor Peace, Esq. on behalf of the Defendant and Sam Stathos, Esq., Henrietta Golding, Esq., and Alicia Thompson, Esq. on behalf of the Plaintiff, Myrtle Beach Resort Homeowners' Association, Inc. ("Plaintiff").

This Court retains jurisdiction over this matter pursuant to an Order of Reference executed by the Honorable Benjamin H. Culbertson on March 14, 2017 and filed on March 22, 2017. The undersigned has reviewed the Defendant's Motion, has considered the arguments of the parties at the November 9, 2017 status conference and hearing, and is familiar with the legal issues, the pleadings, and the procedural history of the above captioned action. For the reasons set forth below, the Court **GRANTS** Defendant's Motion to amend the Amended Scheduling Order filed on September 12, 2017, and further orders that the Defendant shall pay past due assessments, except for \$20,000.00 held by the Clerk of Court, and future assessments owed directly to the

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 ELECTRONICALLY FILED - 2018 May 24 5:09 PM - HORRY - COMMON PLEAS - CASE#2018CP2603173  
 ELECTRONICALLY FILED - 2017 Nov 28 3:41 PM - HORRY - COMMON PLEAS - CASE#2016CP2607895

Plaintiff, with additional funds to be released to Plaintiff from the Clerk of Court for Horry County in the amount of \$220,719.65.

1. On February 21, 2017, the Circuit Court granted the Plaintiff's Motion for a Temporary Injunction and ordered that the Defendant pay to the Clerk of Court the funds that it collected from its owners for assessments for the year 2016 as well as future assessments until such further Order of the Court.

2. The Consent Order of Reference was filed on March 22, 2017 referring this case to the undersigned, Master in Equity for Horry County, "to take testimony, make her findings of fact and conclusions of law, and determine the issues with finality, with any appeal being directly to the South Carolina Supreme Court or Court of Appeals as provided for in the South Carolina Rules of Civil Procedure."

3. After the matter was referred, the parties scheduled the trial for July 10 and 11, 2017.

4. On June 23, 2017, Defendant filed a Motion for Continuance and for a Scheduling Order.

5. A Scheduling Order was entered on July 7, 2017 compelling Defendant's responses to discovery requests and setting deadlines for expert related discovery and for the trial. The new trial date, pursuant to the Scheduling Order, was October 9, 2017 and October 10, 2017.

6. Because the Plaintiff was unable to operate due to insufficient assessments collected, Plaintiff requested that funds be released from the Clerk of Court for Horry County. The parties entered into a Consent Order Regarding Disbursement of Assessments on August 10, 2017 releasing \$200,000.00 on deposit with the Court to Plaintiff.

7. The parties determined that the deadlines set forth in the Scheduling Order for expert related discovery and for trial were impracticable. A Consent Amended Scheduling Order was entered on September 12, 2017 scheduling trial for December 11, 2017 and December 12, 2017.

8. On October 25, 2017, Defendant filed the Motion before this Court requesting that new deadlines be entered for expert related discovery and for the trial.

9. At the November 9, 2017 status conference and hearing on the Motion, Defendant asserted that several logistical issues arose that caused delay in serving the audit report by the deadline of October 3, 2017. Defendant sought additional time to subpoena records from third-parties not named in the above captioned action in order to complete the Defendant's expert report.

10. Plaintiff agreed that the deadlines in the Amended Scheduling Order needed to be revised, for there was insufficient time available to prepare a rebuttal report to Defendant's expert report, as the Defendant's final expert report had not yet been served as of the date of the November 9, 2017 hearing. The Plaintiff asserted that the delay was caused, not by Plaintiff's failure to produce documents, but instead, due to the coordination between the Defendant and its expert in preparing the report. Plaintiff also argued that rescheduling the trial dates only prejudiced the Plaintiff, the party that had complied with the Amended Scheduling Order to date, because it was operating at an estimated deficit of \$432,023.00 as of December 31, 2017. Plaintiff requested that, if a Second Amended Scheduling Order was entered, the remaining funds held by the Clerk of Court, as well as past due and future assessments, be paid to Plaintiff. According to Defendant's attorney, the Defendant had not deposited with the Clerk of Court any funds it had collected since July, 2017.

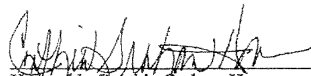
3  
HA

Therefore, it appears that an Order Amending the Amended Scheduling Order dated September 12, 2017 and Disbursing Additional Funds From the Clerk of Court is appropriate. Accordingly, the Court enters the Second Amended Scheduling Order and orders the release of funds as follows:

- ✓ 1. Defendant's final expert report shall be served on the Plaintiff no later than **December 31, 2017**;
- ✓ 2. Plaintiff may retain an expert and respond to Defendant's expert's report no later than **February 28, 2018**;
- ✓ 3. This action shall be tried on Wednesday, **March 14, 2018** and Thursday, **March 15, 2018**, commencing at 10:00 a.m. each day;
- ✓ 4. Ten (10) days from the date of this Order, the Clerk of Court for Horry County shall disburse all but \$20,000.00 of the funds on deposit with the Court to Plaintiff, this being a total of \$220,719.65 being remitted to the Plaintiff, and Plaintiff has agreed to accept the same;  $220,719.65 + 185,268.65 = 385,988.30$
- ✓ 5. The Clerk of Court for Horry County shall retain possession of the remaining \$20,000.00 that it has on deposit related to this matter pending further Order of the Court;
6. The Defendant shall pay \$185,268.65, which has <sup>not</sup> not been deposited with the Clerk of Court's office, in past due assessments directly to Plaintiff within ten (10) days of this Order;
7. The Defendant shall pay all future assessments to Plaintiff directly in accordance with the Declaration of Covenants and Restrictions for Myrtle Beach Resort filed in Deed Book filed on April 25, 1991 in Deed Book 1465 at Page 329 in the Horry County Register of Deeds Office.

NOTE: DEFENDANT DID NOT COMPLY WITH PREVIOUS COURT ORDER. DEFENDANT DEPOSIT ASSESSMENTS REC'D IN ITS ACCOUNT RATHER THAN PAY INTO HARRY COUNTY CLERK OF COURT

IT IS SO ORDERED.

  
Honorable Cynthia Graham Howe  
Horry County Master in Equity

Conway, South Carolina  
November 28, 2017

① 385,988.30  
20,000.00  
405,988.30  
4  
TOTAL xferred to HCA and put in new CNB account out of Horry's new starting deposit

# **EXHIBIT**

**C-4**

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF HORRY )  
 )  
 Myrtle Beach Resort Homeowners' )  
 Association, Inc., )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 Renaissance Tower Horizontal )  
 Property Regime, Inc., )  
 )  
 Defendant. )

IN THE COURT OF COMMON PLEAS  
 FIFTEENTH JUDICIAL CIRCUIT  
 CIVIL ACTION NO.: 2016-CP-26-7895

**FINAL CONSENT SETTLEMENT  
 ORDER**

This matter is before the Court upon motion and with the consent of the above captioned Plaintiff, Myrtle Beach Resort Homeowners' Association, Inc. ("Plaintiff") and Defendant, Renaissance Tower Horizontal Property Regime, Inc. ("Defendant") (collectively hereinafter referred to as the "Parties"), for entry of this Final Consent Settlement Order ("Settlement Order") pursuant to Rule 43(k) of the South Carolina Rules of Civil Procedure.

Whereas, Plaintiff brought this collection action against the Defendant for failure to pay assessments pursuant to the Declaration of Covenants, Conditions and Restrictions for the Myrtle Beach Resort filed in the Horry County Register of Deeds Office in Deed Book 1465 at Page 329 on April 25, 1991 ("Declaration"); and

Whereas, Defendant asserted counterclaims against the Plaintiff for accounting, breach of contract, unjust enrichment, breach of fiduciary duty, and declaratory judgment action seeking an Order that Plaintiff does not have the authority to provide and assess Defendant for services, such as security, which the Defendant believes it did not receive a benefit from, and to collect assessments from Defendant's members and the Master Deed for Renaissance Tower Horizontal

Property Regime filed in Deed Book 917 at Page 885 in the Horry County Clerk of Court on November 28, 1984; and

Whereas, the Parties have now reached a full settlement of all issues in the aforesaid litigation and desire the below set forth agreement between the Parties to be a full and final settlement of the litigation and binding upon both Parties, their respective successors, and assigns forever.

NOW, THEREFORE, in consideration of the obligations set forth herein, the Parties do mutually agree and bind themselves, their successors, and assigns to the Settlement Order hereinafter set forth pursuant to S.C.R.C.P., Rule 43(k):

1. Within ten (10) days of the entry of this Settlement Order, the Clerk of Court of Horry County shall release to Plaintiff the funds held in escrow that the Defendant has deposited with the Court totaling \$20,000.00, plus any interest that has accrued, by issuing a check to Plaintiff's counsel, Patrick & Stathos, LLC.

2. Within ten (10) days of receipt of the funds by Plaintiff as set forth in Paragraph 1, the Plaintiff shall pay the Defendant \$10,000.00 by issuing a check to Harrell, Martin, & Peace, P.A.

3. The Parties shall dismiss with prejudice any and all claims, including counterclaims, pending in 2017-CP-26-00083 by separate stipulation of dismissal which shall be filed contemporaneously with this Settlement Order.

4. All claims in this action, including counterclaims, in the above captioned action are dismissed with prejudice.

5. Release by the Plaintiff. Plaintiff, upon the entry of the Consent Order and the fulfillment of the obligations set forth herein, does for itself and its successors, predecessors,

assigns, agents, attorneys, employees, directors, members, officers, and all other persons, organizations or entities who have or may claim an interest herein, hereby releases and forever discharges the Defendant, its individual members, successors, predecessors, insurers, assigns, directors, officers, agents, attorneys, employees, and all persons, organizations or entities who might be claimed to be jointly and/or severally liable with them, of and from any and all obligations, liabilities, damages, claims, causes of action, losses, damages, costs, expenses, and attorneys' fees of every kind and nature, in law or in equity, based upon, arising from or relating to the above captioned action or ~~is~~<sup>case</sup> as to any other matter whatsoever that existed as of the entry of this Settlement Order.

Notwithstanding the foregoing, Plaintiff does not release, waive, or otherwise discharge any claims or defenses arising out of, related to, or in connection with the Defendant's liens filed on Plaintiff's commercial units in the Renaissance Tower Horizontal Property Regime filed in Lien Book 257 at Page 777 on March 14, 2018, Lien Book 257 at Page 775 on March 14, 2018, and in Lien Book 257 at Page 773 on March 14, 2018 ("Liens").

6. Release by Defendant. Defendant, upon the entry of the Settlement Order and the fulfillment of the obligations set forth herein, does for itself and its successors, predecessors, assigns, agents, attorneys, employees, directors, members, officers, and all other persons, organizations or entities who have or may claim an interest herein, hereby releases and forever discharges the Plaintiff, its individual members, successors, predecessors, insurers, assigns, directors, officers, agents, attorneys, employees, and all persons, organizations or entities who might be claimed to be jointly and/or severally liable with them, of and from any and all obligations, liabilities, damages, claims, causes of action, losses, damages, costs, expenses, and attorneys' fees of every kind and nature, in law or in equity, based upon, arising from or relating

to the above captioned action ~~above captioned action or to~~ as to any other matter whatsoever that existed as of the entry of this Settlement Order.

Notwithstanding the foregoing, Defendant does not release, waive, or otherwise discharge any claims or defenses arising out of, related to, or in connection with the Liens.

7. No Admission of Liability. It is expressly understood that this Settlement Order is not to be construed as an admission of any violation of governing documents of the Parties, or any federal, state or local statute, regulation or law, or of any duty that may be owed by the Parties. The Parties deny, and continue to vigorously deny, any and all liability for any of the claims asserted in the above captioned action. The terms made herein have been offered in consideration of the above Release and in order to avoid further expense.

8. Breach of the Settlement Order. Any act contrary to the terms and intent of this Settlement Order shall constitute a breach of this Settlement Order and shall give rise to a cause of action by the non-breaching Party, who may seek all available damages and remedies at law or in equity. The non-breaching Party may also file an order and rule to show cause seeking contempt remedies as a result of any breach of this Settlement Order. The prevailing Party in pursuing or defending any enforcement proceeding shall be entitled to attorneys' fees and costs.

9. Governing Law. This Settlement Order shall be governed by and construed in accordance with the laws of the State of South Carolina.

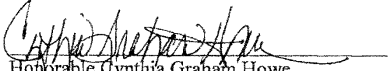
10. Entire Agreement. The Parties agree that this Settlement Order shall not be subject to any claims of mistake of fact, that it expresses a full and complete settlement, regardless of the adequacy or inadequacy of the amounts paid, that it is intended to avoid further litigation and dispute, that it is final and complete, and that it is not capable of being challenged and is irreversible.

11. Severability. Each provision of this Settlement Order is intended to be severable. If any term or provision is held to be invalid, void or unenforceable by a court of competent jurisdiction for any reason whatsoever, such ruling shall not affect the remainder of this Settlement Order.

12. Voluntary Execution. The Parties voluntarily, and with full understanding of the contents of this Settlement Order, entered into this Settlement Order after having had ample time to review and study this Settlement Order through independent legal counsel as to the terms and effect hereof. The Parties have full authority to enter into this Settlement Order by vote of their respective board of directors.

NOW THEREFORE, BY THE CONSENT OF THE PARTIES, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that this case is hereby resolved and concluded consistent with the terms herein and as set forth in the Settlement Order. The Horry County Clerk of Court shall appropriately enter this Final Settlement Order.

**IT IS SO ORDERED.**

  
Honorable Cynthia Graham Howe  
Horry County Master in Equity

Conway, South Carolina  
April 20, 2018

*WE SO MOVE AND CONSENT:*

**McNAIR LAW FIRM, P.A.**

s/Alicia E. Thompson  
Henrietta U. Golding, SC Bar # 2173  
Alicia E. Thompson, SC Bar #77056  
McNair Law Firm, P.A.  
2411 N. Oak Street, Suite 206 (29577)  
Post Office Box 336  
Myrtle Beach, SC 29578-0336  
Tel: (843) 444-1107  
Fax: (843) 443-9137  
Email: [hgolding@mcnair.net](mailto:hgolding@mcnair.net)  
[athompson@mcnair.net](mailto:athompson@mcnair.net)

**PATRICK AND STATHOS, LLC**

s/Sam G. Stathos  
Sam G. Stathos  
Patrick and Stathos, LLC  
412 North Poplar Drive  
Surfside Beach, SC 29575  
Phone: 843-238-5618  
Fax: 843-238-8246

*Attorneys for Plaintiff Myrtle Beach Resort  
Homeowners' Association, Inc.*

*ISO MOVE AND CONSENT*

**HARRELL, MARTIN & PEACE, P.A.**

s/Taylor A. Peace  
Taylor A. Peace, Esquire  
Harrell, Martin & Peace, P.A.  
135 Columbia Avenue  
P. O. Box 1000  
Chapin, South Carolina 29036  
803.345.3353  
Email: [tpeace@harrellmartin.com](mailto:tpeace@harrellmartin.com)

*Attorneys for Defendant Renaissance Tower  
Horizontal Property Regime, Inc.*

ELECTRONICALLY FILED - 2022 Apr 13 9:40 AM - Horry - COMMON PLEAS - CASE#2018CP2603173  
ELECTRONICALLY FILED - 2018 Apr 26 3:11 PM - Horry - COMMON PLEAS - CASE#2018CP2607895

STATE OF SOUTH CAROLINA  
 COUNTY OF HORRY  
 IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE  
 CASE NO. 2016 CP-26-7895

The Myrtle Beach Resort Homeowners'  
 Association, Inc.

Renaissance Tower Horizontal  
 Property Regime, Inc.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: <b>Henrietta U. Golding, Alicia E. Thompson</b>	Attorney for: <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
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**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.  See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  Other Final Consent Settlement Order
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRPC;  Bankruptcy;  Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:  See attached order. (formal order to follow)  Statement of Judgment by the Court:

**ORDER INFORMATION**

This order  ends  does not end the case.  
 Additional Information for the Clerk:

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A	N/A	N/A
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-filing Note: In E-filing counties, the Court will electronically sign this form using a separate electronic signature page.

  
 Master in Equity

3073  
 Judge Code

4/20/18  
 Date

ELECTRONICALLY FILED - 2022 Apr 13 9:40 AM - HORRY - COMMON PLEAS - CASE#2018CP2603173  
 ELECTRONICALLY FILED - 2018 Apr 28 3:11 PM - HORRY - COMMON PLEAS - CASE#2016CP2607895



# **EXHIBIT**

**D-1**

05/17/2019 4:08 PM

Resident Transaction Report Myrtle Beach Resort Homeowners Assoc., Inc. Dates 01/01/2011 to 05/17/2019
--

Page 1

37-0137 MBR HOA  
Myrtle Beach SC 29575

First/Service  
Residential

ELECTRONICAL  
RECORD

Unit	Space	Owner	Type	Date	CC	Description	Check	Amount	Balance
00RT	00RT	01 Renaissance Tower HP 1100 London Street Suite 103 Myrtle Beach SC 29572	App#	5174			Beq Bal		0.00
			Chg	01/01/2011	AM	Jan MPOA		32,156.42	32,156.42
			Pay	01/06/2011		PAYMENT	6110074	-5,000.00	27,156.42
			Rev	01/06/2011		Wrong code used	6110074	5,000.00	32,156.42
			Pay	01/06/2011		Reapply pymt	010611	-5,000.00	27,156.42
			Chg	02/01/2011	AM	Feb MPOA		32,156.42	59,312.84
			Pay	02/09/2011		RT MPOA dues	9110014	-20,000.00	39,312.84
			Pay	02/17/2011		R.T. partial pymt	110063	-10,000.00	29,312.84
			Pay	02/18/2011		Partial dues	110060	-10,000.00	19,312.84
			Pay	02/28/2011		RT pymt	110270	-19,312.84	0.00
			Chg	03/01/2011	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	03/21/2011		R.Tower Mar dues	110165	-32,156.42	0.00
			Chg	04/01/2011	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	04/07/2011		Apr Master dues-RT	110092	-32,156.42	0.00
			Chg	05/01/2011	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	05/02/2011		RT pymt	110168	-32,156.42	0.00
			Chg	06/01/2011	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	06/01/2011		RT pymt	110190	-32,156.42	0.00
			Chg	07/01/2011	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	07/01/2011		RT pymt-partial	110112	-17,000.00	15,156.42
			Pay	07/08/2011		R.Tower pymt	110058	-15,156.42	0.00
			Chg	08/01/2011	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	08/01/2011		R.T. pymt	110254	-32,156.42	0.00
			Chg	09/01/2011	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	09/01/2011		RT pymt	110111	-32,156.42	0.00
			Chg	10/01/2011	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	10/13/2011		RT pymt	110121	-32,156.42	0.00
			Chg	11/01/2011	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	11/16/2011		RT pymt	110103	-32,156.42	0.00
			Chg	12/01/2011	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	12/07/2011		RT pymt	110126	-32,156.42	0.00
			Chg	01/01/2012	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	01/03/2012		RT pymt	120272	-32,156.42	0.00
			Chg	02/01/2012	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	02/03/2012		RT- Xfer online	575	-32,156.42	0.00
			Chg	03/01/2012	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	03/08/2012		Online xfer	627	-32,156.42	0.00
			Chg	04/01/2012	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	04/03/2012		Online Xfer - RT	ACH	-32,156.42	0.00
			Chg	05/01/2012	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	05/04/2012		RT online Xfer	713	-32,156.42	0.00
			Chg	06/01/2012	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	06/06/2012		RT Auto pymt	ACH	-32,156.42	0.00
			Chg	07/01/2012	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	07/06/2012		RT pymt -xfer	ACH	-32,156.42	0.00
			Chg	08/01/2012	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	08/06/2012		Xfer from RT	Xfer	-32,156.42	0.00
			Chg	09/01/2012	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	09/06/2012		RT Payment	Xfer	-32,156.42	0.00
			Chg	10/01/2012	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	10/03/2012		RT pymt	Xfer	-32,156.42	0.00
			Chg	11/01/2012	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	11/05/2012		RT Xfer	Xfer	-32,156.42	0.00
			Chg	12/01/2012	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	12/03/2012		RT pymt	Xfer	-32,156.42	0.00
			Chg	01/01/2013	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	01/02/2013		RT Xfer dues	130097	-32,156.42	0.00
			Chg	02/01/2013	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	02/05/2013		RT pymt	Xfer	-32,156.42	0.00
			Chg	03/01/2013	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	03/04/2013		RT pymt	Xfer	-32,156.42	0.00
			Chg	04/01/2013	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	04/04/2013		RT pymt	Xfer	-32,156.42	0.00
			Chg	05/01/2013	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	05/03/2013		RT pymt	Xfer	-32,156.42	0.00
			Chg	06/01/2013	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	06/03/2013		RT pymt	Xfer	-32,156.42	0.00
			Chg	07/01/2013	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	07/01/2013		Pymt	Xfer	-32,156.42	0.00
			Chg	08/01/2013	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	08/01/2013		RT pymt	Xfer	-32,156.42	0.00
			Chg	09/01/2013	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	09/04/2013		RT pymt	Xfer	-32,156.42	0.00
			Chg	10/01/2013	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	10/01/2013		RT pymt	Xfer	-32,156.42	0.00
			Chg	11/01/2013	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	11/01/2013		RT pymt	Xfer	-32,156.42	0.00

This is Account History  
from FSR ACCOUNTING  
SYSTEM

05/17/2019 4:08 PM

Resident Transaction Report Myrtle Beach Resort Homeowners Assoc., Inc. Dates 01/01/2011 to 05/17/2019
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Page 2

37-0137 MBR HOA  
Myrtle Beach SC 29575

FirstService  
Residential

ELECTRONICALLY  
RECORDED

Unit	Space	Owner	Type	Date	CC	Description	Check	Amount	Balance
			Chg	12/01/2013	AM	Monthly Assessment		32,156.42	32,156.42
			Pay	12/02/2013		RT pymt	Xfer	-32,156.42	0.00
			Chg	01/01/2014	AM	Monthly Assessment		32,156.42	32,156.42
			Cr	01/01/2014	AM	Adj Jan 2014		-1,065.26	31,091.16
			Pay	01/04/2014		Pymt-RT	Xfer	-31,091.16	0.00
			Chg	02/01/2014	AM	Monthly Assessment		31,091.16	31,091.16
			Pay	02/03/2014		Pymt	Xfer	-31,091.16	0.00
			Chg	03/01/2014	AM	Monthly Assessment		31,091.16	31,091.16
			Pay	03/04/2014		RT pymt	Xfer	-31,091.16	0.00
			Chg	04/01/2014	AM	Monthly Assessment		31,091.16	31,091.16
			Pay	04/01/2014		RT pymt	Xfer	-31,091.16	0.00
			Chg	05/01/2014	AM	Monthly Assessment		31,091.16	31,091.16
			Pay	05/02/2014		RT pymt	Xfer	-31,091.16	0.00
			Chg	06/01/2014	AM	Monthly Assessment		31,091.16	31,091.16
			Pay	06/02/2014		RT pymt	xfer	-31,091.16	0.00
			Chg	07/01/2014	AM	Monthly Assessment		31,091.16	31,091.16
			Pay	07/01/2014		Pymt	xfer	-31,091.16	0.00
			Chg	08/01/2014	AM	Monthly Assessment		31,091.16	31,091.16
			Pay	08/01/2014		RT pymt	xfer	-31,091.16	0.00
			Chg	09/01/2014	AM	Monthly Assessment		31,091.16	31,091.16
			Pay	09/02/2014		Pymt	Xfer	-31,091.16	0.00
			Chg	10/01/2014	AM	Monthly Assessment		31,091.16	31,091.16
			Pay	10/01/2014		Pymt	Xfer	-31,091.16	0.00
			Chg	11/01/2014	AM	Monthly Assessment		31,091.16	31,091.16
			Pay	11/03/2014		PYmt	Xfer	-31,091.16	0.00
			Chg	12/01/2014	AM	Monthly Assessment		31,091.16	31,091.16
			Pay	12/01/2014		Pymt	Xfer	-31,091.16	0.00
			Chg	01/01/2015	AM	Monthly Assessment		28,370.52	28,370.52
			Pay	01/21/2015		Pymt	2004	-28,370.52	0.00
			Chg	02/01/2015	AM	Monthly Assessment		28,370.52	28,370.52
			Pay	02/13/2015		Dropped off ck	2010	-28,370.52	0.00
			Pay	02/20/2015		Pymt	2018	-28,370.52	-28,370.52
			Rev	02/26/2015		Ck wasn't signed-ret	2018	28,370.52	0.00
			Chg	03/01/2015	AM	Monthly Assessment		28,370.52	28,370.52
			Pay	03/17/2015		March pymt	2121	-28,370.52	0.00
			Pay	03/17/2015		April pymt	2120	-28,370.52	-28,370.52
			Chg	04/01/2015	AM	Monthly Assessment		28,370.52	0.00
			Chg	05/01/2015	AM	Monthly Assessment		28,370.52	28,370.52
			Pay	05/15/2015		Payment	2225	-28,370.52	0.00
			Chg	06/01/2015	AM	Monthly Assessment		28,370.52	28,370.52
			Pay	06/12/2015		Lockbox	2258	-28,370.52	2,000.00
			Pay	06/12/2015		Pymt Correction	2258	-2,000.00	0.00
			Chg	07/01/2015	AM	Monthly Assessment		28,370.52	28,370.52
			Pay	07/16/2015		Pymt	2316	-28,370.52	0.00
			Chg	08/01/2015	AM	Monthly Assessment		28,370.52	28,370.52
			Pay	08/14/2015		Pymt	2369	-28,370.52	0.00
			Chg	09/01/2015	AM	Monthly Assessment		28,370.52	28,370.52
			Pay	09/18/2015		Pymt	2440	-28,370.52	0.00
			Chg	10/01/2015	AM	Monthly Assessment		28,370.52	28,370.52
			Pay	10/19/2015		Pymt	2494	-28,370.52	0.00
			Chg	11/01/2015	AM	Monthly Assessment		28,370.52	28,370.52
			Pay	11/10/2015		Pymt	2530	-28,370.52	0.00
			Chg	12/01/2015	AM	Monthly Assessment		28,370.52	28,370.52
			Pay	12/18/2015		Pymt	2599	-28,370.52	0.00
			Chg	01/01/2016	AM	Monthly Assessment		19,479.39	19,479.39
			Chg	01/01/2016	AM	Cable Protion		8,387.55	27,866.94
			Chg	02/01/2016	AM	Monthly Assessment		19,479.39	47,346.33
			Chg	02/01/2016	AM	Cable Protion		8,387.55	55,733.88
			Chg	03/01/2016	AM	Monthly Assessment		27,866.94	83,600.82
			Chg	04/01/2016	AM	Monthly Assessment		27,866.94	111,467.76
			Chg	05/01/2016	AM	Monthly Assessment		27,866.94	139,334.70
			Chg	06/01/2016	AM	Monthly Assessment		27,866.94	167,201.64
			Chg	07/01/2016	AM	Monthly Assessment		27,866.94	195,068.58
			Cr	07/31/2016	AM	Rmv NonComm Chgs		-191,603.51	3,465.07
			Chg	08/01/2016	AM	Monthly Charge		494.81	3,959.88
			Chg	09/01/2016	AM	Monthly Assessment		494.81	4,454.69
			Chg	10/01/2016	AM	Monthly Assessment		494.81	4,949.50
			Chg	11/01/2016	AM	Monthly Assessment		494.81	5,444.31
			Chg	03/31/2017	mm	Jan 2016 Assessment		27,371.93	32,816.24
			Chg	03/31/2017	mm	Feb 2016 Assessment		27,371.93	60,188.17
			Chg	03/31/2017	mm	Mar 2016 Assessment		27,371.93	87,560.10
			Chg	03/31/2017	mm	Apr 2016 Assessment		27,371.93	114,932.03
			Chg	03/31/2017	mm	May 2016 Assessment		27,371.93	142,303.96
			Chg	03/31/2017	mm	Jun 2016 Assessment		27,371.93	169,675.89
			Chg	03/31/2017	mm	Jul 2016 Assessment		27,371.93	197,047.82
			Chg	03/31/2017	mm	Aug 2016 Assessment		27,371.93	224,419.75
			Chg	03/31/2017	mm	Sep 2016 Assessment		27,371.93	251,791.68

Last Time Account was Current 11/16/15

# **EXHIBIT**

**D-2**

05/17/2019 4:08 PM

Resident Transaction Report Myrtle Beach Resort Homeowners Assoc., Inc. Dates 01/01/2011 to 05/17/2019
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Page 3

37-0137 MBR HOA  
Myrtle Beach SC 29575

FirstService  
Residential

ELECTRONICALLY GENERATED REPORT  
13:09:40 AM - HORRY - COMMON PLEAS - CASE#2018CP2603173

Unit	Space	Owner	Type	Date	CC	Description	Check	Amount	Balance
			Chg	03/31/2017	mm	Oct 2016 Assessment		27,371.93	279,163.41
			Chg	03/31/2017	mm	Nov 2016 Assessment		27,371.93	306,535.34
			Chg	03/31/2017	mm	Dec 2016 Assessment		27,371.93	333,907.27
			Chg	03/31/2017	IF	2016 Late Charges		32,846.32	366,753.59
			Pay	08/29/2017		Pymt via trust acct	4400568	-200,000.00	166,753.59
			Chg	12/31/2017	AM	2017 RT Assmt		356,838.36	523,592.15
			Chg	12/31/2017	AM	RTA-E		8,392.44	531,984.59
			Chg	12/31/2017	AM	Adj 2016 assessmnt		485.69	532,470.28
			Pay	12/31/2017		Amt in Escrow	Bk bal	-400,000.00	132,470.28
			Pay	12/31/2017		Escrow Bal	Bnk Escr	-5,988.30	126,481.98
							End Bal		126,481.98

RENAISSANCE TOWER PAST DUE

Month	Beginning Balance	Assessment Billed	Payment	End of Month Balance Due
2016:				
January	\$0.00	\$27,866.94		\$27,866.94
February	\$27,866.94	\$27,866.94		\$55,733.88
March	\$55,733.88	\$27,866.94		\$83,600.82
April	\$83,600.82	\$27,866.94		\$111,467.76
May	\$111,467.76	\$27,866.94		\$139,334.70
June	\$139,334.70	\$27,866.94		\$167,201.64
July	\$167,201.64	\$27,866.94		\$195,068.58
August	\$195,068.58	\$27,866.94		\$222,935.52
September	\$222,935.52	\$27,866.94		\$250,802.46
October	\$250,802.46	\$27,866.94		\$278,669.40
November	\$278,669.40	\$27,866.94		\$306,536.34
December	\$306,536.34	\$27,866.94		\$334,403.28
2017:				
January	\$334,403.28	\$30,435.90		\$364,839.18
February	\$364,839.18	\$30,435.90		\$395,275.08
March	\$395,275.08	\$30,435.90		\$425,710.98
April	\$425,710.98	\$30,435.90		\$456,146.88
May	\$456,146.88	\$30,435.90		\$486,582.78
June	\$486,582.78	\$30,435.90		\$517,018.68
July	\$517,018.68	\$30,435.90		\$547,454.58
August	\$547,454.58	\$30,435.90		\$577,890.48
September	\$577,890.48	\$30,435.90	\$200,000.00	\$408,326.38
October	\$408,326.38	\$30,435.90		\$438,762.28
November	\$438,762.28	\$30,435.90		\$469,198.18
December	\$469,198.18	\$30,435.90		\$499,634.08
12/2017 payment made under court order				
by RT to Master, deposit to Conway Bank			\$405,988.38	\$93,645.70
Accrued Interest and collection charges				\$29,067.28
January 2018 Assessment				\$27,945.00
Balance 1/31/18 per AR Report				<u>\$150,657.98</u>

Detail per FSR, see pg 2 showing balance in Empress Mgmt Financial System

# **EXHIBIT**

**D-3**

THIS IS FROM EMPRESS MGMT ACCOUNTING SYSTEM

DATE: 2/28/18 TIME: 3:42 PM

Myrtle Beach Resort HOA, Inc.

Page: 2/2

AGED OWNER BALANCES: AS OF Jan. 31, 2018  
ACCOUNT NUMBER SEQUENCE

\* - Previous Owner or Renter

ACCOUNT #	UNIT #	NAME	CURRENT	OVER 30	OVER 60	OVER 90	TOTAL	STATUS
MBRHPR	MBRHPR	MBResort HPR, Inc.	0.00	18557.00	0.00	0.00	18557.00	
MBROFS	MBROFS	MBR Ocean Front Spa HPR, Inc.	0.00	125979.76	0.00	0.00	125979.76	
FIVESEASONS	FIVESEASDN	MBR Five Seasons	0.00	11903.00	0.00	0.00	11903.00	
RENAISSANCE	RENAISSANC	Renaissance Tower HPR, Inc.	0.00	150557.98	0.00	0.00	150557.98	*
TOTAL:			0.00	307097.74	0.00	0.00	307097.74	

ELECTRONICALLY FILED - 2022 Apr 13 9:40 AM - HORRY - COMMON PLEAS - CASE#2018CP2603173

# **EXHIBIT**

## **E**

**Elaine Campbell**

**From:** John Hobbs <jhobbs@hobbscpa.com>  
**Sent:** Friday, May 24, 2019 9:12 AM  
**To:** Barbara Johnson; Elaine Campbell  
**Cc:** Allyson DeHart; Mark Hobbs  
**Subject:** MBRHOA Receivable Analysis 2017 - 2018

**Importance:** High

Good Morning,

I want to tie down this receivable balance this morning.

The current balance we have on the TB @ 12/31/2018 is \$116,357.74.

Per review of the RT AR balance @ 12/31/2017 it is \$ 126,481.98 – then they received a final settlement payment of \$10,124.24 on 5/23/2018. The difference results in the \$116,357.74 mentioned above. They made 12 payments of \$24,176 in 2018 – per review of A/R detail.

I believe the write off (bad debt expense) for the year ended 12/31/2017 should be this \$116,357.74 which would result in \$0 in Assessment A/R @ 12/31/2018 – which correlates with the 12 payments mentioned above.

Please confirm you are in agreement with this, and I will make the adjustment and get the final #s to Allyson in our tax department to get the 2017 return finished.

-john

**John L. Hobbs, CPA**  
The Hobbs Group, P.A.  
1704 Laurel Street  
Columbia, SC 29201  
(main) (803) 799-0555 ext. 37  
(mobile) (803) 665-5070  
Fax: (803) 799-4212  
Email: [jhobbs@hobbscpa.com](mailto:jhobbs@hobbscpa.com)

*Logic is incorrect. The \$116,357.74 is the remaining amount owed for FY 2017.*

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*Ken - President*  
*Nancy - U.P.*  
*Elaine Campbell*

*Jeff - Secretary*  
*Robert - Member Large*

**From:** Barbara Johnson  
**Sent:** Thursday, May 16, 2019 9:45 AM  
**To:** John Hobbs; Elaine Campbell  
**Subject:** FW: Renaissance Tower Litigation & Dues Information - CNB, Jim Perkins & Sam Stathos, Esq. Handling of Funds for the MBRHOA - 1 of 2  
**Attachments:** Exhibit 1 - August 9, 2017 Order.pdf; Exhibit 2 - December 16, 2017 Order.pdf; Exhibit 1A - Check to MBRHOA.pdf; Exhibit 3 - April 20, 2018 Order.pdf; Exhibit 4 - 180514 Ltr from Stathos to Peace enc settlement check.pdf; Exhibit 5 - 180514 Ltr from Stathos to Johnson enc check.pdf; MBRHOA account; Exhibit 3A - Checks in and out of Clerk of Court.pdf  
**Importance:** High

Good morning John,  
 The MBR attorney has asked me to forward this information to you, so we can clear the matter of Renaissance Tower dues for the audit. I am also forwarding his second email regarding this matter.

**From:** Robert E. Lee <rel@rellawfirm.com>  
**Sent:** Wednesday, May 15, 2019 8:52 PM  
**To:** 'Kenneth Moss' <KennethMoss@wwpmlaw.com>; Jlr5456@yahoo.com; mbrjimperkins <mbrjimperkins@aol.com>; rtdz@aol.com; rsrosencrans@yahoo.com  
**CC:** Barbara Johnson <barbara@empresgmt.com>; Robert E. Lee <rel@rellawfirm.com>  
**Subject:** Renaissance Tower Litigation & Dues Information - CNB, Jim Perkins & Sam Stathos, Esq. Handling of Funds for the MBRHOA - 1 of 2  
**Importance:** High

**ATTORNEY CLIENT PRIVILEGED**

All:

This information was provided to me in my capacity as counsel for Myrtle Beach Resort Homeowners Association, Inc. ("MBRHOA") and pursuant to the Board's request by Sam Stathos, Esq., my predecessor as counsel for the MBRHOA. Sam provided information regarding two items which originated when he was counsel for the MBRHOA in the matter identified as *Myrtle Beach Resort Homeowners Association, Inc. vs. Renaissance Tower Horizontal Property Regime, C.A. 2016-CP-26-07895* and they are set forth below.

**1. Funds Collected from Renaissance Tower**

The Renaissance Tower ("RT") deposited the sum of \$625,988.30 with the Clerk Court as a result of this lawsuit. The funds were released as set forth in the table below:

DATE of ORDER	AMOUNT	ORDER ATTACHED
August 9, 2017	\$200,000.00	Yes as Exhibit 1

*\$625,988.30*

December 16, 2017	\$405,988.30	Yes as Exhibit 2
April 20, 2018	\$ 20,000.00	Yes as Exhibit 3

You will note that MBRHOA received \$615,988.30 of the amount deposited with the Clerk of Court as a result of the settlement of the case which is set forth in the April 20, 2018 Order.

According to Sam's records, on August 29, 2017, Sam hand delivered the Clerk of Court's initial disbursement check of \$200,000.00 – made payable to MBRHOA – to Lynn Wheeler of FirstService Residential, the property management company for MBRHOA. This disbursement was per the August 9, 2017 Order attached as Exhibit 1. Sam's office received the check via regular mail on or about August 21, 2017 and thereafter received instructions to deliver the same to the property management company's office, a copy of which is attached as Exhibit 1A.

The second disbursement check of \$405,988.30 was also made payable to MBRHOA. Sam's office received it on or about December 1, 2017 pursuant to the December 16, 2017 Order (Exhibit 2). *The Board directed Jim Perkins as Secretary and Sam to open a bank account for MBRHOA with Conway National Bank ("CNB"). Jim and Sam met with Jesse Williamson of CNB on December 20, 2017, opened the account and deposited the check. Based on my understanding, MBRHOA anticipating the transition from FirstService Residential to Empress Management and the Board wanted to maintain the funds in a local bank until the property management transition was complete (Exhibits 6 (attached as MBRHOA account email) and 7).*

① Interest earnings

The third and final disbursement check of \$20,124.24 was made payable to Sam's firm pursuant to the April 20, 2018 Order (Exhibit 3) and received on May 7, 2018. The actual amount disbursed exceeded the sum referenced in the April 20, 2018 Order. Thereafter, Sam disbursed funds to comply with the settlement and the **final order by sending \$10,000.00 to RT's counsel and the balance to MBRHOA's property management company, Empress Management (Exhibits 4 and 5).** For further reference, see Exhibit 3A which are copies of checks from RT to the Clerk of Court and checks disbursed by the Clerk pursuant to Court Orders. These disbursements brought all amounts due by RT to the MBRHOA current and therefore the MBRHOA is not due any additional monies from RT. ②

**a. Conway National Bank**

② All amounts due through 9/30/17.

As stated above, the CNB account was opened December 20, 2017 for funds disbursed as ordered by the December 16, 2017 Order (Exhibit 2). Thereafter, on January 10, 2018 Sam met Jim Perkins and Sarah Morrow of Empress Management at the CNB location in Surfside Beach and executed a check made payable to MBRHOA. It

As Sam's understanding that the funds withdrawn were to be deposited in another MBRHOA account at BB&T. That was the last time that Sam had any direct knowledge of MBRHOA's account at CNB being negotiated. As a result of the Board and my inquiry, Sam communicated with CNB to determine the status of the account since he was an initial signatory and CNB produced the attached Exhibit 8 reflecting the January 10, 2018 withdrawal which included Sam's signature. Sam was not involved in any other transactions, but according to Jesse Williamson of CNB a subsequent withdrawal reflected on Exhibit 8 was made to MBRHOA to be deposited with a BB&T account. Sam can only assume it is the same MBRHOA account at BB&T associated with the January 10, 2018 withdrawal.

If the Board has any further inquiry of Sam please let me know. Sam has retrieved his firm's physical files so that he can answer any inquiries in a timely manner.

I trust this puts the to rest the question as to whether the MBRHOA is due any funds from RT - they do not, the MBRHOA has been paid by RT as required. Also, this should put the rest the concerns expressed with regard to the CNB checking account and any actions taken by Jim Perkins in his role as Secretary of the Board of Directors together with Sam as attorney for the Association.

Please note there are 10 exhibits and this email only includes 8 of 10. The remaining two, Exhibits 7 and 8 are under separate email.

Sincerely yours,

Robert E. Lee, Esq.  
Attorney for the MBRHOA

*\* Wrong, RT never paid October, November or December 2017 monthly assessments*



Robert E. Lee  
rel@rellawfirm.com

Robert E. Lee, LLC  
Attorney - At - Law  
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Mailing Post Office Box 1096 | Marion, SC 29571  
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# **EXHIBIT**

## **F**

Client: Myrtle Beach, NC  
 Engagement: Audit - Myrtle Beach Resort Homeowners Association, Inc.  
 Period Ending: 12/31/2018  
 Trial Balance: 2000.00 - Annual Trial Balance - 2 Year  
 Worksheet:

Account	Description	1st PP-FINAL 12/31/2017	UNADJ 12/31/2018	JE Ref #	AJE 12/31/2018	JE Ref #	RJE 12/31/2018	FINAL 12/31/2018
<b>Group: (1100-0000) Assets</b>								
<b>Subgroup: (4111) Cash - Reserves</b>								
10700	BBAT Cash Reserves	0.00	126,100.01		0.00		0.00	126,100.01
10990	Advance Reserve MM Account	119,068.24	120,837.97		0.00		0.00	120,837.97
<b>Subtotal (4111)</b>	<b>Cash - Reserves</b>	<b>119,068.24</b>	<b>246,937.98</b>		<b>0.00</b>		<b>0.00</b>	<b>246,937.98</b>
<b>Subgroup: (4111.1) Cash - Operating</b>								
10000	Advance Bank Operating Cash	16,613.00	12,150.20		0.00		0.00	12,150.20
10000	TD Bank-Notable Deposits	6,270.50	4,174.50		0.00		0.00	4,174.50
10950	TD Bank Operating Account	7,534.00	7,822.77		0.00		0.00	7,822.77
10950	CNB Operating Account	405,989.30	0.00		0.00		0.00	0.00
10900	BBAT Cash Operating	0.00	144,537.12		0.00		0.00	144,537.12
11000	BBAT Insurance Escrow	0.00	1,044.87		0.00		0.00	1,044.87
<b>Subtotal (4111.1)</b>	<b>Cash - Operating</b>	<b>431,526.80</b>	<b>169,085.26</b>		<b>0.00</b>		<b>0.00</b>	<b>169,085.26</b>
<b>Subgroup: (4112) Prepaid Expenses</b>								
13200	Prepaid Insurance	10,200.00	12,210.44		0.00		0.00	12,210.44
13400	Other Prepaid Expenses	1,075.00	1,075.00		0.00		0.00	1,075.00
13500	Prepaid Taxes	8,078.00	8,078.00		0.00		0.00	8,078.00
<b>Subtotal (4112)</b>	<b>Prepaid Expenses</b>	<b>19,353.00</b>	<b>22,363.44</b>		<b>0.00</b>		<b>0.00</b>	<b>22,363.44</b>
<b>Subgroup: (4113) Accounts Receivable</b>								
12000	Regular Assessment Receivables	116,000.00	116,357.74		(116,357.74)		0.00	0.00
12000	M/R Other - Reserve	0.00	0.00		0.00		572.60	572.60
12700	Other Receivables	0.00	1,800.00		0.00		0.00	1,800.00
<b>Subtotal (4113)</b>	<b>Accounts Receivable</b>	<b>116,000.00</b>	<b>118,157.74</b>		<b>(116,357.74)</b>		<b>572.60</b>	<b>1,372.60</b>
<b>Subgroup: (4114) Other Current Assets</b>								
12000	A/R Other Due from Owners	3,971.41	0.00		0.00		0.00	0.00
<b>Subtotal (4114)</b>	<b>Other Current Assets</b>	<b>3,971.41</b>	<b>0.00</b>		<b>0.00</b>		<b>0.00</b>	<b>0.00</b>
<b>Subgroup: (4115) Fixed Assets</b>								
13111	Commercial Units	412,138.21	412,138.21		0.00		0.00	412,138.21
13600	Furniture and Fixtures	63,066.76	63,066.76		0.00		0.00	63,066.76
13700	Building Improvements	332,508.58	330,588.58		0.00		0.00	330,588.58
13800	Signage	7,286.23	7,286.23		0.00		0.00	7,286.23
13900	Capital Equipment	656,613.84	656,613.84		0.00		0.00	656,613.84
14000	Land/Land Improvements	296,400.01	296,400.01		0.00		0.00	296,400.01
<b>Subtotal (4115)</b>	<b>Fixed Assets</b>	<b>2,005,018.63</b>	<b>2,005,018.63</b>		<b>0.00</b>		<b>0.00</b>	<b>2,005,018.63</b>
<b>Subgroup: (4116) Accumulated Depreciation</b>								
13100	Accumulated Depreciation	(1,671,172.00)	(1,671,172.00)		(4,730.35)		0.00	(1,675,902.35)
<b>Subtotal (4116)</b>	<b>Accumulated Depreciation</b>	<b>(1,671,172.00)</b>	<b>(1,671,172.00)</b>		<b>(4,730.35)</b>		<b>0.00</b>	<b>(1,675,902.35)</b>
<b>Subgroup: (4117) Due from Operating To Reserves</b>								
14100	Due from Operating To Reserves	361,257.37	361,257.37		0.00		0.00	361,257.37
<b>Subtotal (4117)</b>	<b>Due from Operating To Reserves</b>	<b>361,257.37</b>	<b>361,257.37</b>		<b>0.00</b>		<b>0.00</b>	<b>361,257.37</b>
<b>Total (1100-0000) Assets</b>		<b>1,489,056.82</b>	<b>1,351,071.12</b>		<b>(121,098.09)</b>		<b>572.60</b>	<b>1,231,155.83</b>
<b>NET (INCIDE) LOSS</b>								
		<b>(83,962.05)</b>	<b>251,478.14</b>		<b>(40,124.79)</b>		<b>0.00</b>	<b>211,353.35</b>
<b>Sum of Account Groups</b>		<b>1,489,056.82</b>	<b>1,351,071.12</b>		<b>(121,098.09)</b>		<b>572.60</b>	<b>1,231,155.83</b>

Conclusion: Assets appear materially correct in relation to the financial statements as a whole at 12/31/2018.

(\*) →

(\*) See next page

This was taken from Audit Work papers

Tickmarks

(a) When we received the original trial balance there was a receivable balance for approx. 116K that related to prior year assessments owed by the Renaissance Tower (RT) to the Association. At the year end meeting the RT communicated to us that they did not believe they owed any of these monies as they were paid in full via a court settlement prior to 1/1/2018. We correlated this with the Association's attorney where he confirmed that the RT did not owe any old assessments at 1/1/2018. We in turn posted AJE 4 to remove the receivables and post against RE to account for the bad debt for this in 2017. Management will take full responsibility for this conclusion and we also vouched 12 payments made by RT to the Association in 2018 to further support this situation.

*Not sure of this*

(b)

(c)

(d)

(e)

(f)

(g)

(h)

(i)

(j)

(k)

(l)

(m)

(n)

*RT reference is Jeff Richardson*

# **EXHIBIT**

# **G**

LAW OFFICE OF  
PATRICK & STATHOS, L.L.C.  
412 N. POPLAR DRIVE (29575)  
P.O. DRAWER 15669  
SURFSIDE BEACH, SOUTH CAROLINA 29587  
TELEPHONE (843) 238-5618  
FACSIMILE (843) 238-8246  
[www.patrickandstathos.com](http://www.patrickandstathos.com)

SAM G. STATHOS  
ROBERT B. STRICKLAND, IV  
ENDRIMINCE

RETIRED:  
DANIEL L. PATRICK

Writer's email: [sgs@patrickandstathos.com](mailto:sgs@patrickandstathos.com)

November 16, 2020

**Via Email Only:** [misc16@aol.com](mailto:misc16@aol.com)

Freddy G. Brown, President  
Myrtle Beach Resort Horizontal Property Regime, Inc.

Re: Myrtle Beach Resort Homeowners Association, Inc. v. Renaissance Tower  
Horizontal Property Regime  
*Civil Action No. 2016-CP-26-7895*

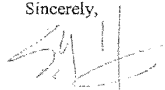
Dear Freddy:

This letter is in response to our recent discussion regarding the above referenced matter involving the Myrtle Beach Resort Homeowners Association, Inc. ("Master Association") of which the Myrtle Beach Resort Horizontal Property Regime, Inc. ("HPR") is a sub-regime with its appointed director serving on the Master Association's Board of Directors.

It is my understanding that assessments in the amount of \$116,000 remain due by the Renaissance Tower Horizontal Property Regime ("RT"), the defendant in the above action, to the Master Association. It is also my understanding that available information represents that this sum constitutes unpaid RT assessments for October, November, and December of 2017. Please note that the Final Consent Settlement Order filed April 26, 2018 did not relieve RT from paying outstanding assessments which accrued during the pending lawsuit or thereafter. Moreover, the Order for Temporary Injunction filed February 21, 2017 and signed by Judge John ordered assessments collected by RT to be paid to the Clerk of Court for Horry County. Thereafter, the Order Amending Scheduling Order Dated September 12, 2017 and Disbursing Funds from Clerk of Court filed November 28, 2017 and signed by Judge Howe expressly stated that the RT was to pay future assessments directly to the Master Association. I bring these two Orders to your attention to further demonstrate that the RT was to continue paying its assessments during the above litigation and thereafter. There was no court order absolving the RT of paying assessments arising from the above litigation; it had an ongoing duty to pay future assessments owed to the Master Association.

If you have any further questions, then please do not hesitate to contact me.

Sincerely,



Sam G. Stathos

SGS/

# **EXHIBIT**

## **H**

RENAISSANCE TOWER PAST DUE

Month	Beginning Balance	Assessment Billed	Payment	Interest & Late Chgs	End of Month Balance	Notes
2016:						
January	\$0.00	\$27,866.94			\$27,866.94	
February	\$27,866.94	\$27,866.94			\$55,733.88	
March	\$55,733.88	\$27,866.94			\$83,600.82	
April	\$83,600.82	\$27,866.94			\$111,467.76	
May	\$111,467.76	\$27,866.94			\$139,334.70	
June	\$139,334.70	\$27,866.94			\$167,201.64	
July	\$167,201.64	\$27,866.94			\$195,068.58	
August	\$195,068.58	\$27,866.94			\$222,935.52	
September	\$222,935.52	\$27,866.94			\$250,802.46	
October	\$250,802.46	\$27,866.94			\$278,669.40	
November	\$278,669.40	\$27,866.94			\$306,536.34	
December	\$306,536.34	\$27,866.94			\$334,403.28	Balance noted in Complaint
2017:						
January	\$334,403.28	\$30,435.90			\$364,839.18	
February	\$364,839.18	\$30,435.90			\$395,275.08	
March	\$395,275.08	\$30,435.90			\$425,710.98	
April	\$425,710.98	\$30,435.90			\$456,146.88	
May	\$456,146.88	\$30,435.90			\$486,582.78	
June	\$486,582.78	\$30,435.90			\$517,018.68	
July	\$517,018.68	\$30,435.90			\$547,454.58	
August	\$547,454.58	\$30,435.90			\$577,890.48	
September	\$577,890.48	\$30,435.90	(\$200,000.00)		\$408,326.38	
October	\$408,326.38	\$30,435.90			\$438,762.28	
November	\$438,762.28	\$30,435.90			\$469,198.18	
December	\$469,198.18	\$30,435.90	(\$405,988.38)	\$29,067.28	\$122,712.98	
2018:						
January	\$122,712.98	\$27,945.00			\$150,657.98	January Assmt amount used by ESB from early budget for 2018
February	\$150,657.98	\$24,176.00	(\$24,176.00)		\$150,657.98	
March	\$150,657.98	\$24,176.00	(\$24,176.00)		\$150,657.98	
April	\$150,657.98	\$24,176.00	(\$72,528.00)		\$102,305.98	
May	\$102,305.98	\$24,176.00			\$126,481.98	
June	\$126,481.98	\$24,176.00	(\$24,176.00)		\$126,481.98	
July	\$126,481.98	\$24,176.00	(\$24,176.00)		\$126,481.98	

RENAISSANCE TOWER PAST DUE

Month	Beginning Balance	Assessment Billed	Payment	Interest & Late Chgs	End of Month Balance	Notes
August	\$126,481.98	\$24,176.00	(\$24,300.24)		\$116,357.74	Includes \$10,124.24 final distribution from Court of Assment funds
September	\$116,357.74	\$24,176.00	(\$24,176.00)		\$116,357.74	
October	\$116,357.74	\$24,176.00			\$140,533.74	
November	\$140,533.74	\$24,176.00	(\$48,352.00)		\$116,357.74	
December	\$116,357.74	\$24,176.00	(\$48,352.00)		\$92,181.74	
2019:						
January	\$92,181.74	\$31,976.00	(\$24,176.00)		\$99,981.74	Payment is short \$7,800
February	\$99,981.74	\$31,976.00			\$131,957.74	
March	\$131,957.74	\$31,976.00			\$163,933.74	
April	\$163,933.74	\$31,976.00	(\$48,352.00)		\$147,557.74	Payment is short \$16,376
May	\$147,557.74	\$31,976.00	(\$24,176.00)		\$155,357.74	Payment is short \$7,800
June	\$155,357.74	\$31,976.00	(\$23,309.50)		\$164,024.24	Payment is short \$8,666.50
July	\$164,024.24	\$31,976.00	(\$31,976.00)		\$164,024.24	
August	\$164,024.24	\$31,976.00	(\$78,776.00)		\$117,224.24	
September	\$117,224.24	\$31,976.00	(\$32,842.50)	(\$116,357.74)	\$0.00	Unauthorized write off of debt
October	\$0.00	\$31,976.00			\$31,976.00	
November	\$31,976.00	\$31,976.00			\$63,952.00	
December	\$63,952.00	\$31,976.00	(\$95,928.00)		\$0.00	

# EXHIBIT

## I

WRIGHT, WORLEY, POPE, EKSTER & MOSS, PLLC

ATTORNEYS AT LAW  
628A SEA MOUNTAIN HWY  
NORTH MYRTLE BEACH, SOUTH CAROLINA 29582  
Telephone (843) 281-9901 - Fax (843) 281-9903

O. RICHARD WRIGHT, JR.  
DENNIS T. WORLEY\*  
HAROLD G. "BUTCH" POPE  
PAUL J. EKSTER\*\*  
KENNETH R. MOSS\*  
MICHAEL T. SMITH\*  
NAPOLEON B. BAREFOOT, JR.\*  
BOYD T. WORLEY  
PRESTON B. HILTON  
RICHARD S. "RICK" PARROTTE  
CHRISTOPHER C. RUSSELL  
BRITTANY C. MOORE\*  
THOMAS V. ALDRIDGE, JR.  
DAVID H. COOLEY\*  
GEORGE N. SPIRAKIS\*  
JENNIFER B. BRYAN\*\*  
MARTHA HENLEY SLEDGE (Retired)

D.F. McGOUGAN, JR.  
(1921 - 1994)

OTHER OFFICES  
TABOR CITY, NC  
WHITEVILLE, NC  
SUPPLY, NC

\*licensed only in SC  
\*\*licensed in NC & SC  
\*licensed in NC, DC & SC  
\*\*licensed in SC & MO

\*Of Counsel

December 11, 2020

John L. Hobbs, CPA  
The Hobbs Group, P.A.  
1704 Laurel Street  
Columbia, SC 29201

VIA EMAIL TO:  
jhobbs@hobbscpa.com

Re: Request for reversal of write off  
Our file no. SC-5384-010

Mr. Hobbs:

I am writing you in my capacity at President of the Myrtle Beach Resort Homeowners Assoc., Inc. ("MBRHOA") regarding the adjustment for \$116,357.74 made in May of 2019 which resulted in the write off of \$116,357.74 as a bad debt expense of the Renaissance Towers' accounts receivable balance with the MBRHOA. The staff at Empress Management has reviewed the records of the account of Renaissance Towers, verified the amount and determined that the sums were never paid. Furthermore we have not yet located any document or documents that would justify the write off of the receivable.

This adjustment, which resulted in this write off, was not approved or directed by the Board of Directors as it should have been. Therefore, since this action should not have been taken without direction from the Board of Directors, I am directing The Hobbs Group, PA to reverse this entry so the accounts receivable balance of Renaissance Towers reflects that there is \$116,357.74 due the MBRHOA by Renaissance Towers.

I intend to bring this matter to the attention of the Board of Directors and ask for a decision of the Board about any adjustments that should be made to the receivable, whether upwards or downwards. I thank you in advance for your cooperation in these matters.

ELECTRONICALLY FILED - 2022 Apr 13 9:40 AM - HORRY - COMMON PLEAS - CASE#2018CP2603173

December 11, 2020

John L. Hobbs, CPA  
The Hobbs Group, P.A.  
Page 2

Sincerely,

  
Kenneth Moss, President  
Myrtle Beach Resort Homeowners Assoc., Inc.

cc. MB Resort Board Members  
Barbara Johnson  
Robert E. Lee, Esquire

ELECTRONICALLY FILED - 2022 Apr 13 9:40 AM - Horry - COMMON PLEAS - CASE#2018CP2603173

# EXHIBIT

## J

**Page 1 and 2: The mediated settlement**

**Page 3 through 5: SC Court of Appeals Opinion Filed 12/31/21**

**Page 6 and 7: SC Court of Appeals Denial of Petition Opinion 5/23/22**

STATE OF SOUTH CAROLINA  
COUNTY OF HORRY

CIRCUIT COURT

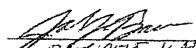
K. A. DIEHL AND ASSOCIATES, INC. V. JAMES PERKINS, ET AL.

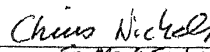
Docket No. 2015-CP-26-05573

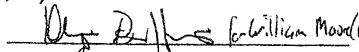
**MEDIATED SETTLEMENT AGREEMENT**


As a result of mediation, the parties have agreed as follows:

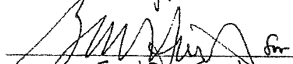
1. Defendants' insurers shall pay to Plaintiff the total sum of \$100,000.00 as soon as practicable, but no later than 20 days.
2. Ocean Front Spa ("OFS") shall pay Plaintiff \$5,000.00 for property management services through June 1, 2017 after which its property management services shall cease. OFS shall pay an additional \$10,000.00 to Plaintiff by June 10, 2017.
3. The existing maintenance personnel will be paid by OFS through Plaintiff through May 5, 2017, after which the existing maintenance personnel will no longer provide services to OFS.
4. Plaintiff shall transfer financial records and other documentation and assets to OFS by June 1, 2017, as required by South Carolina law and generally accepted property management standards
5. The parties will execute a mutual release releasing the other and the other's employees, agents, directors, members, officers, attorneys, insurers and related parties (but specifically excluding Allegiant as a "related party") from all claims and damages
6. The parties acknowledge that a more comprehensive mutual release will be executed incorporating the terms of this Agreement. The parties intend for this Agreement to be enforceable by the Court, and if any material term is omitted, the Court shall determine what is reasonable rather than voiding this Agreement.
7. All parties authorize their respective attorneys to execute a dismissal with prejudice.
8. The parties shall equally divide the costs of the mediation seven ways.

  
James Perkins  
President, K. A. Diehl & Associates, Inc.

  
Chris Nickels  
For Mark Santos

  
William Moore (hub)

  
A. Preston  
FOR ALL DEFENDANTS / 75 Party 715

  
Carol Das Santos



ELECTRONICALLY FILED - 2018 Mar 19 3:25 PM - Horry - COMMON PLEAS - CASE#2015CP2605573  
ELECTRONICALLY FILED - 2018 Mar 21 9:33 AM - Horry - COMMON PLEAS - CASE#2015CP2605573

<u>Nancy Moore</u>	<u>Chester Stegmaier w/parent</u>
<u>William Frank</u>	<u>William Moore</u>
<u>John Roberts</u>	<u>[Signature]</u>
<u>Ernest Lee Stegmaier</u>	<u>John Michael w/parent</u>
<u>Mark Seaborn w/parent</u>	

MA17-26

May 1, 2017

2 B

ELECTRONICALLY FILED - 2022 Apr 13 9:40 AM - Horry - COMMON PLEAS - CASE#2018CP2603173

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

K. A. Diehl and Associates, Inc., Respondent,

v.

James Perkins, Colleen Franke a/k/a Colleen Franke  
Perkins, Mark Dos Santos, Nancy Moore, William  
Moore, Steven Dame and Errol Dos Santos, Defendants,

Of whom Mark Dos Santos is the Appellant.

Appellate Case No. 2018-002009

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Appeal From Horry County  
William H. Seals, Jr., Circuit Court Judge

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Unpublished Opinion No. 2021-UP-454  
Submitted December 1, 2020 – Filed December 22, 2021

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**AFFIRMED AS MODIFIED**

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Russell Grainger Hines and Donald Jay Davis, Jr., both  
of Clement Rivers, LLP, of Charleston, for Appellant.

Alicia E. Thompson and Henrietta U. Golding, both of  
Burr & Forman LLP, of Myrtle Beach, for Respondent.

---

**PER CURIAM:** Mark dos Santos (Appellant) appeals the trial court's order granting a motion by K.A. Diehl (Respondent) to enforce a mediated settlement agreement (the Agreement). We affirm as modified.

1. We agree with Appellant's argument that the trial court erred in holding Rule 43(k) of the South Carolina Rules of Civil Procedure did not apply to the Agreement because it was an agreement by the parties rather than an agreement between counsel. See Rule 43(k) ("No agreement between counsel affecting the proceedings in an action shall be binding unless reduced to the form of a consent order or written stipulation signed by counsel and entered in the record, or unless made in open court and noted upon the record, or reduced to writing and signed by the parties and their counsel."); *S.C. Human Affs. Comm'n v. Chen*, 430 S.C. 509, 519, 846 S.E.2d 861, 866 (2020) ("Rule 43(k) is applicable to settlement agreements."); *id.* at 515, 521, 846 S.E.2d at 864, 867 (applying Rule 43(k) to a settlement agreement entered into after the parties engaged in mediation and signed by one of the Commission's attorneys, the aggrieved person, and the respondents and holding the agreement was not enforceable under Rule 43(k) because the respondents' attorney did not sign the agreement).

2. We disagree with Appellant's argument that the execution of the Agreement did not comply with Rule 43(k) because Appellant did not personally sign the agreement. Appellant attended the mediation by telephone. His name is signed on the Agreement followed by the words "with permission." Appellant provided no evidence his attorney signed Appellant's name on the Agreement without Appellant's permission during the mediation. See Rule 43(k) (providing that a settlement agreement shall not "be binding unless reduced to the form of a consent order or written stipulation signed by counsel and entered in the record, or unless made in open court and noted upon the record, or reduced to writing and signed by the parties and their counsel"); *Signature*, *Black's Law Dictionary* (11th ed. 2019) (defining signature as "a person's name or mark written by that person or at the person's direction"); 80 C.J.S. *Signatures* § 13 (2000) ("Generally, a signature may be made for a person by the hand of another, acting in the presence of such person, and at his direction, or request, or with his acquiescence, unless a statute provides otherwise. A signature of this type becomes the signature of the person for whom it is made, and it has the same validity as though written by him. (footnotes omitted); *Matter of Estate of Moore*, 390 P.3d 551, 557 (Kan. Ct. App. 2017) ("The amanuensis rule provides that '[a] signature to an instrument may be attached by . . . the hand of another, at the request of a party . . .'" (alterations in original) (quoting *Kadota Fig Ass'n. of Producers v. Case-Swayne Co.*, 167 P.2d 523, 526 (Cal. Ct. App. 1946)), *aff'd*, 448 P.3d 425 (Kan. 2019); *Lukey v. Smith*, 365 P.2d

487, 488 (Nev. 1961) (recognizing the "approval in virtually every jurisdiction of the United States of the [amanuensis] rule" and that the "rule is so uniformly recognized that we would add nothing to the law by quoting or even citing the various texts and hundreds of cases"); *Sharpe v. Sharpe*, 105 S.C. 459, 465, 90 S.E. 34, 35 (1916) (noting that "when Watson Justus signed the name of Jefferson, in the presence of Jefferson, and by his direction, that was a signing by Jefferson"); *Kadota Fig Ass'n of Producers*, 167 P.2d at 527 (noting a "signature is valid and binding when the authorization to sign the instrument is conveyed directly to the amanuensis by telephone"). In addition, Appellant's attorney had actual authority as an agent to sign on Appellant's behalf. See *Crim v. E.F. Hutton, Inc.*, 298 S.C. 448, 450, 381 S.E.2d 492, 493 (1989) ("The authorized acts of an agent are binding on the principal."). Accordingly, we find the trial court did not err in enforcing the Agreement.

**AFFIRMED AS MODIFIED.<sup>1</sup>**

**HUFF, WILLIAMS, and HILL, JJ., concur.**

---

<sup>1</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.

# The South Carolina Court of Appeals

K. A. Diehl and Associates, Inc., Respondent,

v.

James Perkins, Colleen Franke a/k/a Colleen Franke  
Perkins, Mark Dos Santos, Nancy Moore, William  
Moore, Steven Dame and Errol Dos Santos, Defendants,

Of whom Mark Dos Santos is the Appellant.

Appellate Case No. 2018-002009

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

*H. Bruce Williams*

C.J.

*D. Hanlin*

J.

*Thomas C. Huff*

A.J.

Columbia, South Carolina

cc:

**FILED**  
**Mar 23 2022**

Donald Jay Davis, Jr., Esquire  
Henrietta U. Golding, Esquire  
Alicia E. Thompson, Esquire  
Russell Grainger Hines, Esquire  
The Honorable William H. Seals, Jr.

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# **EXHIBIT**

## **K**

K

THE MYRTLE BEACH RESORT HOA, INC.  
ANNUAL MEMBERS' MEETING  
APRIL 30, 2017  
Myrtle Beach Base Recreation Center

MINUTES DRAFT

**I. Organizational Meeting of the 2017 Master Board of Directors-**

The organizational meeting took place at 8:45 AM. The Board members names and positions are Peter Grusauskus, President, Wayne Urban, Vice President, Phil Cox, Secretary, and Jim Perkins, Treasurer.

The Annual Meeting of the Members of the Myrtle Beach Resort Homeowners Association, Inc. was held Sunday, April 30th, 2017 at 9:00 A.M. in the Myrtle Beach Base Recreation Center, Myrtle Beach, South Carolina.

**Roll Call:** Peter Grusauskas, President  
Wayne Urban, Vice President  
Phil Cox, Secretary  
Jim Perkins, Treasurer

**FirstService Residential:**  
Jack Boselli, Chief Executive Officer  
Mel Renkey, Community Manager  
Richard Krumich, Community Manager  
Darla Donovan, Community Manager  
Becky McCarthy, Assistant Community Manager

**Guests:** Paul Williams, MBRV General Manager  
John Agness, MBRV Guest Services  
Bruce Brown, Re/Max On-Site Representative  
Andy Thompson, Accountant  
Chuck Alpermann, Chief of Security  
Sam Stathos, Attorney

**II. Call to Order-**

Peter Grusauskas called the meeting to order at 9:00 AM.

**III. Opening Statements- President- Welcome & introduce new MB Members-**

Peter Grusauskas welcomed the homeowners and announced the new slate of members and stated the voting was weighted and it takes 51 % to win an election, the Renaissance Tower and the Ocean Front Spa voted in favor of the slate with a 59% vote. Peter Grusauskas stated the vote stands and that there may be some litigation. Sam Stathos Stated it could go either way. The Board Members and management introduced themselves to the homeowners. Mr. Grusauskas asked the Board members to sign a conflict of interest form. Wayne Urban and Phil Cox stated they would like time to review the form before they will sign it. Mel Renkey asked Peter Grusauskas if he has paid his dues to the Master Association. Mr. Grusauskas stated he has paid his fees to the Renaissance Tower with the fees getting put into an account with the courts.

**IV. Approval of 2016 Annual Meeting Minutes-**

**A motion was made by Phil Cox, Seconded by Wayne Urban to approve the 2016 Annual Meeting Minutes as presented. The motion carried unanimously in favor.**

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# EXHIBIT

L

**MYRTLE BEACH RESORT HOMEOWNERS ASSOCIATION, INC.**

**SPECIAL MEETING OF THE BOARD OF DIRECTORS**

**Sunday, May 6, 2018**

**MINUTES**

Pursuant to call, a Special Meeting of the Myrtle Beach Resort Homeowners' Association, Inc. was held on Sunday, May 6, 2018 commencing at 11:30 AM.

1. **Opening Comments**

Persons present by conference call were: Jim Perkins, and George Williams – B Building Board Member. Master Board Members Lori Niedzwiecki, Nancy Moore, Jeff Richardson, and Robert Rosencrans were present in person.

Also present in person was Barbara Johnson, Association Manager from Empress Management, who served as Recording Secretary.

Discussion ensued regarding the selection of officers for 2018-2019. No decision could be reached.

Jeff Richardson made a motion that Myrtle Beach Resort should be a gated community and the Board should move forward with the Securitas Contract. The motion was seconded by Nancy Moore. **(The motion did not pass and was tallied as follows: Nancy Moore – Yes, Jeff Richardson- Yes, Lori Niedzwiecki – No, and Robert Rosencrans – No).**

Upon a motion by Nancy Moore, seconded by Lori Niedzwiecki and unanimously carried it was:

**MOVED: That D&O Insurance coverage will be bound with CWS Insurance Services at a \$25,000 deductible per occurrence at a premium cost of \$15,050 unless a less expensive quote can be found by Thursday, May 10, 2018.**

The Board discussed the policy for the upcoming bike weeks. Upon a motion by Jeff Richardson, seconded by Lori Niedzwiecki and unanimously carried it was:

**MOVED: That the Myrtle Beach Parking Policy is the individual regimes adopted parking policies, which will be provided to the MBR Master Association and the security guards for enforcement.**

Ms. Johnson discussed the outstanding invoice with Vigilant for work performed in the Galley in 2017. The Board requested further documentation from Vigilant with regard to name of the person who requested the repairs.

The Board discussed the liens filed by Renaissance Tower against MBR for units A, D, and E. Jeff Richardson stated that the MBR Master Board was given 30 days in March 2016 to remove the wood walkway from RT property before the fines were initiated and the master board ignored the warning. He stated he would remove the liens if the Master Association would remove the existing walkway and install a walkway with observation area. He further stated an engineer would be needed to design plans and a scope of work so bids could be solicited to determine cost.

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# EXHIBIT

# M

1       **A.** Well, they're deadlocked when I ask them if  
2 we can do something. I get two to two, or I don't  
3 get an answer at all.

4       **Q.** Would it be a fair statement to say they're  
5 essentially deadlocked on about everything with the  
6 exception of maybe one or two things?

7       **A.** That's fair, yes.

8       **Q.** In your opinion, is this a dysfunctional  
9 board?

10       **A.** Absolutely.

11       **Q.** Okay. And I say -- well, okay.

12       **A.** In 23 years of property management, I have  
13 not worked with a board that can't make a decision  
14 to -- they're elected to run the facility, and  
15 they're not doing it.

16       **Q.** Right. And they're breaching their duty of  
17 care and their fiduciary duties --

18       **A.** Responsibilities, yes.

19                   MS. MCGUIRE: Object to the form.

20                   MR. RIVERA: Object to the form.

21 BY MR. BELLAMY, III:

22       **Q.** And you've been doing this for 23 years, and  
23 this is the first time -- do you know of any other  
24 board that has been as dysfunctional as this  
25 current board?

STENOTYPE REPORTING SERVICE, LLC

Madonna Farrell, RPR \*\*\* (843) 685-0075  
4350 Old Kings Highway, Murrells Inlet, SC 29576

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1 told me, that it was quite unusual and unexpected.  
 2 I mean, it kind of -- really kind of opened their  
 3 eyes.

4 I wasn't there, and they kind of got upset  
 5 with me, said, if we had to endure this, you should  
 6 have, too, out of fairness to them.

7 Q The thing I want to ask you about is: Did  
 8 Jeff Richardson ever make any kind of overt threat  
 9 to you that you had to remove FirstService  
 10 Residential from the -- what I would call the  
 11 association building, or that he was essentially  
 12 going to find another management company?

13 A. Yes, he did.

14 Q. He really did?

15 A. He really did.

16 Q. Wow. Thank you for your candor and honesty  
 17 on that. I mean, I'll tell you why I say that.  
 18 You know, I've always -- you know, I like my  
 19 clients and they're good people, but, you know, you  
 20 always take what everybody says with a grain of  
 21 salt. When they told me that, I'm like, no, he  
 22 didn't say that. I was kind of surprised, but wow.

23 The last thing I want to ask you about and I  
 24 want to show you --

25 MR. BELLAMY, III: Let's mark this

STENOTYPE REPORTING SERVICE, LLC

Madonna Farrell, RPR \*\*\* (843) 685-0075  
 4350 Old Kings Highway, Murrells Inlet, SC 29576

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# EXHIBIT

N

N

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Master Board Executive Meeting on November 12, 2018

UNOFFICIAL

On November 12, 2018 a meeting was scheduled in the office of Empress Management who is operating out of the HOA office located by the front gate. The stated purpose of the meeting was to discuss issues with Spectrum customer service representatives regarding service discrepancies regarding QAM and MPEG 4 reception. During the meeting Jeff Richardson was placed on speakerphone by Nancy Moore using her personal phone and a meeting was conducted with staff from Spectrum regarding the MPEG 4 issue and multiple units throughout the resort not being able to receive the MPEG 4 signal on their TV's including those purchased as recently as last Thanksgiving (2017).

Several issues were discussed including homeowners being able to purchase wireless internet in their individual units.

To everyone's surprise a contract addendum with Spectrum was then displayed which had apparently updated the original contract and was dated February 18, 2018 and runs through 2027 and was signed by Jim Perkins as Secretary. The contract was immediately questioned by Jeff Richardson and also me as this was the first time I had heard of a Spectrum contract addendum. Amazingly, Barbara Johnson has apparently been aware of the addendum displayed for some time as she spoke knowingly about another addendum in Sam Stahos' possession. These contract addendums have never been mentioned to any board members before to my knowledge and appears to be yet another potential Ultra Vires act where board members from the last board have acted surreptitiously and without a recorded vote or notice to homeowners of meetings where these votes are to be conducted. If this was the result of some type of telephone or email vote and homeowners were not notified about the meeting or the results, I don't see how the contract is legal or enforceable. Would the OFS be responsible for Jim Perkins actions? We need more information to determine who authorized the signing of the contract and why it was concealed from board members until Spectrum revealed it under pressure during questioning about the QAM and MPEG 4 issue during the November 12, 2018.

The addendum in Sam Stahos' possession is allegedly the same addendum and the reason it allegedly has been sitting in Sam Stahos' office for many months is that there is some debate about who can legally sign it. I questioned whether it was even legal since there are no minutes I am aware of where anyone was authorized to renegotiate the Spectrum contract. I briefly glanced at the contract and the first individual stipulation states that the Master Board HOA is to receive \$100 per unit (\$99,900) as some form of compensation. There were no copies available and I requested that I receive a copy as soon as possible. Also, I think Sam Stahos should be contacted to see what he knows about these addendums.

We then voted on a new Master Board attorney. Jeff Richardson and Nancy Moore both stated Robert E. Lee was the best because he was the cheapest. The other two attorneys we interviewed specialized in HOA's and according to Mr. Lee's web site, his firm's specialty is criminal law. Regardless, 3 members voted for him and I voted no since he was the least qualified out of the 3 presented. This does not mean he is unqualified, simply the least qualified based on the interviews and their respective law firm's listed purposes. In my opinion, we should have interviewed more until we found one we could all agree on.

After the meeting I looked his name up on the internet and in 2006 Mr. Lee was apparently disciplined by the SC Bar for overbilling insurance companies. He was censured and had to repay over \$10,000 in fraudulent billing.

After the vote Jeff Richardson stated he wanted to settle our issues but as usual it was to settle it all his way. He bought up the lien and I pointed-out that his view of the issue may be incorrect. Jeff Richardson then urged us to settle with Nancy Moore for \$56,000 which I stated was a non-starter for me. Jeff and Nancy Moore then bought up the trash issue again claiming they are paying for our trash removal.

The meeting then ended with another meeting scheduled for November 19, 2018 at 10 AM. I informed Barbara Johnson to get an agenda ready because I wasn't going to discuss anything not on the agenda.

Also, it recently came to my attention that it's entirely possible that HPR and Five Season homeowners were not notified of any meetings this year unless they heard about it by word of mouth. This would also explain the presence of mostly OFS and RT homeowners at the raucous meetings where it appeared to be scripted and controlled by homeowners in the audience and not the board members. This would indicate that Empress Management purposely or otherwise neglected to inform HPR and Five Seasons owners of meetings and would also explain why even Darla Donovan, the HPR and Five Seasons management representative, was not informed of these meetings. This is another situation where specific questions will need to be asked to determine who decided to notify certain regimes to the exclusion of others.

# EXHIBIT

0

## Construction Consulting Associates LLC

PO Box 4775 \* North Myrtle Beach \* SC \* 29582  
 Cell: 843-241-1121 Fax: 843-427-4661  
 Email: cca29568@gmail.com

Date: November 22, 2021  
 To: Myrtle Beach Resort HOA  
 Barbara@empressmgmt.com

Quote is Valid for 30 Days  
 Rev 11-22-2021

The prices are listed for furnishing labor, material and equipment to complete the work in a workmanship manner. Additional work or quantities will be at extra cost to the owner. Our prices do not include any permits or licenses other than Construction Consulting Associates' standard business license.

Ⓢ Permits, licenses or fees will be the responsibility of others. Material or fuel increased of 5% or more from the above date will be incurred by the owner. Billing will be due within 15 days of the invoice date or a late penalty of 1 1/2% will be added each month and if payment is not made, all legal and attorney fees will be paid by owner.

Scope of Work/Description	Quantity	Unit	Unit Price	Extension
Mobilization & demolition	1	LS	\$6,000.00	\$6,000.00
Matting	1	LS	\$8,500.00	\$8,500.00
Street cleaning & erosion control	1	LS	\$7,100.00	\$7,100.00
Dewatering to adjacent pond	1	LS	\$13,200.00	\$13,200.00
Pedestrian barcade & traffic control	1	LS	\$7,225.00	\$7,225.00
Spoil removal & disposal, approximate	4000	CY	\$25.50	\$102,000.00
Finish grading, grassing & clean up, irrigation repair, landscaping repair	1	LS	\$7,850.00	\$7,850.00
Repair allowance, 45 LF (LF revised on this quote)	1	LS	\$9,585.00	\$9,585.00
Pond bottom shape from existing grade at the wall or other structures approximately 4 to 1, slope 16 feet out from the wall, see attached detail				
* Cooling power plans will need to be provided to help prevent damage to the structure				
20% deposit required upon signing of this contract				
<b>Total</b>				<b>\$161,460.00</b>

CCA shall not be liable for any failure of or delay in the performance of this agreement that is due to causes beyond its reasonable control, including but not limited to acts of God, war, strikes or labor disputes, embargoes, government orders or any other force majeure event.

**Acceptance of Proposal:** The above prices, specifications and conditions are satisfactory and are hereby accepted.

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You are authorized to do the work as specified. Payment will be outlined above.  
BY: Construction Consulting Associates LLC

Signature: \_\_\_\_\_

Name: Jason White

Title: Manager

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

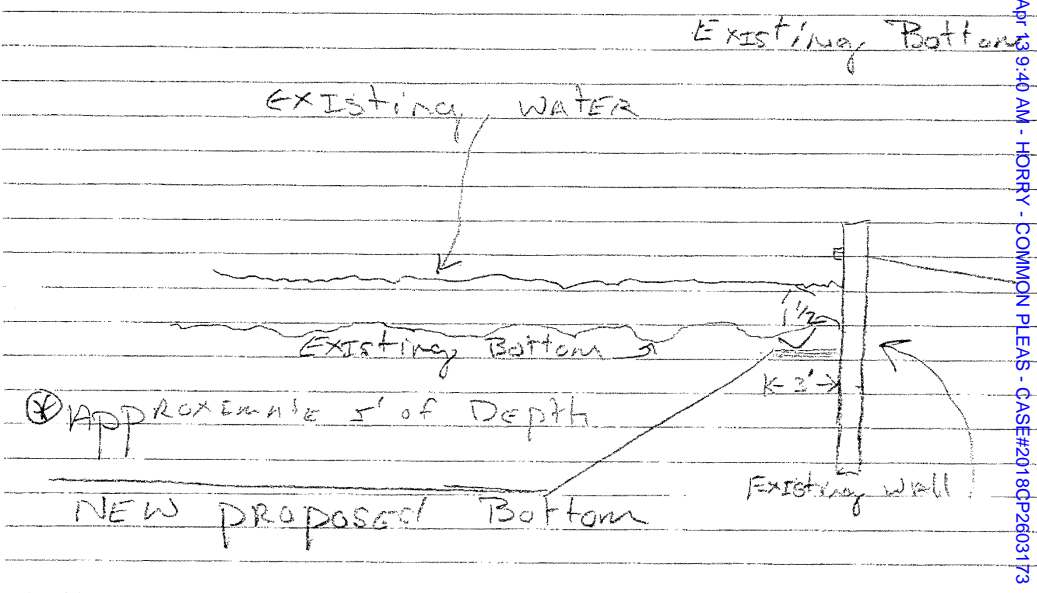
Title: \_\_\_\_\_

Date: \_\_\_\_\_

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REVISED DATE  
11-22-21

SIDE VIEW OF  
→ COOLING POND ←




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# EXHIBIT

P

DATE: February 28, 2022

TO: Howell Bellamy, III, Esq.

FROM: Mike Parades, PCAM 

RE: Proposed Dredging of RT Drainage Lagoon

This memo serves as my report of findings and recommendations to your request to review the governing documents of RTHOA and the MBRHOA with respect to who should pay for dredging the referenced pond.

**Review of RT Master Deed:**

I read in detail the Master Deed for RTHOA and would note the following relevant sections:

1. Article I Definitions
  - a. Section 8 defines the Common Elements
  - b. Section 9 defines the Common Expenses
  - c. Section 15 state the General Common Elements are as defined the SC Horizontal Regime Act.
  - d. Section 25 defines the **Submitted Property:**

“Means and includes that property shown as contained within the RTHPR as described in the Exhibits hereto and includes the land, the buildings, all improvements and structures thereto and all easements, rights and **appurtenances** belonging thereto and subject to all easements, rights of way, and rights of use as described herein, in the Exhibits and/or record.

WRITER’S NOTE: This would include the referenced drainage pond.

2. Article III, Section 6 Common Expenses

Paragraph 1: “Association through its Board of Directors SHALL have the power to fix and to provide for the Common Expenses including such sums as are necessary for the care, repair, replacement, maintenance, Preservation and improvement of the Submitted Property...and to meet the pro-rata share of expenses payable by the Co-Owners for maintaining streets, roads, marsh and roadside areas, entrance ways, facilities and lighting within and for the Myrtle Beach Resort...”

WRITER’S NOTE: There is NO definition of “Resort Facilities”. Article XVII The Myrtle Beach Resort seems to establish a definition, 1<sup>st</sup> paragraph of Extract from RTHOA Master Deed see page 3 of 5, attached.

After review of the RTHOA Master Deed and considering what the stated purpose of the dredging project seems to be, the key questions to consider are:

1. If the drainage pond part of the property submitted to RTHOA? Answer YES
2. Does the drainage pond need to be dredged because it cannot function as a drainage pond? Answer NO
3. RTHOA apparently wants to use the Pond for a HVAC heat sink for its system and to do that would require deepening the pond by dredging. Leads to additional questions:
  - a. What is the current heat sink for the RTHOA HVAC system?
  - b. If the current system no longer functions, should any repair or replacement be the cost of RTHOA or the MBR Master HOA? Answer RTHOA
  - c. Does the MBR Master HOA have any obligation to dredge the drainage POND? Answer; see Master HOA CCR Article 2.4, attached extract page 1 of 2.
  - d. If RTHOA still wants to dredge the Pond so it can be used as a heat sink for the RTHOA HVAC system, does the Master HOA have the authority to grant such a use? Answer Maybe, see Master HOA CCR Article 2.6, attached extract page 1 of 2.
4. I believe the Master HOA could enter into a use agreement with RTHOA that would allow RTHOA to move forward in plans to use the drainage pond for a heat sink for its HVAC system, BUT, such an agreement would have to include provisions such as:
  - a. RTHOA would have to pay all costs associated with the dredging project, AND
  - b. RTHOA would have be responsible for all on-going maintenance of the drainage pond forever more, AND
  - c. RTHO would be responsible for obtaining all necessary permits from local and/or state regulatory authorities or submit written documentation that no permits are required.

There may be some other considerations/conditions to consider; however, there is no way the Master HOA should pay any cost for dredging. Both the appointed 5<sup>th</sup> board member and its legal counsel should know that. As both approved the project, they should both be terminated as this is one more instance of their malfeasance.

Attachments

Article I (cont)

EXTRACTED FROM RT MASTER DEED (5/18/82)

1/5

or mortgage investment trust, the Declarant, any of its affiliates and any lender generally recognized as an institutional type lender, having a lien on the Property of any part or parts thereof.

17. Limited Common Elements means as defined in the Act.

18. Long Term Lease means those certain leases and agreements which are included in the Exhibits to this Master Deed or shall be added by Amendment to the Exhibits to this Master Deed and to which the Association and each and every Co-Owner is and shall be bound.

19. Majority or Majority Vote or Majority of the Co-Owners means as defined in the Act.

20. Master Deed means this Master Deed establishing and recording the Property of the Regime and thereby submitting it to Condominium Ownership.

21. Occupant means any person or persons residing in a Unit.

22. Ownership means as defined in the Act.

23. Person means as defined in the Act.

24. Record means as defined in the Act.

25. Submitted Property or Property means and includes that property shown as contained within The Renaissance Tower Horizontal Property Regime, as described in the Exhibits hereto and includes the land, the buildings, all improvements and structures thereon and all easements, rights and appurtenances belonging thereto and subject to all easements, rights-of-way and rights of use as described herein, in the Exhibits and/or of record.

ARTICLE II

The Renaissance Tower Horizontal Property Regime Council of Co-Owners

1. The administration of the affairs of the Regime and the maintenance, repair, replacement and operation of the Common Elements as herein provided, the enforcement of all rules, regulations, by-laws and those acts required of the Association by the Master Deed and/or by the Act shall be the responsibility of the Association acting through the Board of Directors. Such administration shall be in accordance with and under the powers granted by the provisions of the Act, this Master Deed, the Articles of Incorporation and the By-Laws of the Association.

2. The Association through its Board of Directors (including the initial Board of Directors) shall be and hereby is authorized to enter into such agreements and to bind itself and all Co-Owners as it may deem necessary or desirable for the administration and operation of the Regime. Each Co-Owner who acquires an interest in a Unit shall thereby be deemed to agree to be bound by the terms and conditions of all such agreements. A copy of each such agreement shall be made available at the office of the Association for review by any Co-Owner.

3. There shall be only one Voting Member for each Unit. If a Unit is owned by more than one Person, the Owners thereof shall designate one of their number as the Voting Member. If a person other than an individual owns a Unit, a partner, trustee, officer or employee thereof shall be designated as the Voting Member for such Unit. The designation of the Voting Member shall be made as provided in the By-Laws. The vote of a Voting Member shall not be divisible.

BOOK 517 PAGE 687

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must be completed within fourteen (14) months of the date hereof; provided, however, said time may be extended by virtue of delays caused by acts of God, acts of governmental authorities, strikes, labor conditions or any other condition(s) beyond Delcarant's control.

ARTICLE VII  
By-Laws

The operation of the Regime shall be governed by the By-Laws of the Association which are attached to this Master Deed as an Exhibit and made a part hereof.

No modification of, or amendment to, the By-Laws of the Association shall be valid unless set forth in or annexed to a duly recorded amendment. The By-Laws may be amended in the manner provided for therein but no amendment to said By-Laws shall be adopted which will affect or impair the validity or priority of any mortgage upon the Submitted Property or any portion thereof without written consent of the mortgagee thereof and of all Institutional Mortgagees of record. No amendment shall change the rights and privileges of the Declarant without written approval of the Declarant, its successors or assigns.

ARTICLE VIII  
The Operating Entity

The operating entity of the Regime shall be the Association. The Association shall have all the powers and duties set forth in the Act as well as all the powers and duties granted to and imposed upon it by Master Deed, the Act and the By-Laws of the Association, and, in addition, all other powers and duties necessary to operate the Regime which shall be exercised through its Board of Directors.

Every Co-Owner, whether he has acquired his Apartment by purchase, gift, devise or other conveyance or transfer, by operation of law or otherwise, shall be bound by this Master Deed, the Act, the By-Laws, all other Exhibits hereto and any and all Rules and Regulations of the Association.

ARTICLE IX  
Assessments

The Association, through its Board of Directors, shall have the power to fix and to provide for the Common Expenses of the Regime including such sums as are necessary for the care, repair, replacement, maintenance, preservation and improvement of the Submitted Property, as are necessary to meet expenses and payments under the Long Term Lease and to meet the pro rata share of expenses payable by the Co-Owners for maintaining streets, roads, marsh and roadside areas, entrance ways, facilities and lighting within and for the Myrtle Beach Resort (herein the "Resort") as hereafter described (which shall be included as an item of Common Expense). The Board of Directors shall have the power to fix and determine from time to time the sum or sums necessary and adequate to provide for the Common Expenses of the Regime and such other expenses as are provided for herein, in the Act or deemed necessary and appropriate expenses of the Regime. The procedure for the determination of sums necessary and Assessments upon Co-Owners and the method of collection of the same shall be as set forth in the By-Laws of the Association, as provided herein and in the Exhibits hereto and in the Act.

A Co-Owner shall become liable for the payment of Assessments upon issuance of a statement of Assessments by the Board of Directors of the Association.

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4. Receive written notification from the Association of any default by any of its mortgagees in the performance of his obligations to the Association which is not cured within thirty (30) days.

ARTICLE XVIII  
The Myrtle Beach Resort

The Regime is located within and is a part of a certain 44.62, more or less, acres tract of land owned/ or under option by Declarant lying between U.S. Highway 17 and the Atlantic Ocean, portions of which Declarant presently has included within and has named The Myrtle Beach Resort (herein "Resort"). Developer does, by the recording of this Master Deed, give the Council of Co-Owners, the present and future Co-Owners thereof, all Occupants of the Apartments and their successors and assigns, non-exclusive easements and licenses of use of the pathways, streets and roads (together with roadways and entrance areas), paved areas and recreational facilities and amenities of the Resort (herein "Resort Facilities"). Developer may, in its sole discretion, add additional property up to the entire 44.62 acres tract, build additional streets and roads, pathways, develop certain portions for other multi-family complexes, tennis courts, parking facilities, recreational facilities and develop portions for commercial facilities within the Resort; provided any such development shall be in Developer's sole discretion and no representations are made as to the same whatsoever. As a consequence, Declarant reserves unto itself, its successors and assigns in interest as developer of the Resort, and the present owner of the balance of the real property shown within the Resort in the Exhibit (herein "Present Owner"), the right to include up to the entire tract within the Resort.

← "RESORT FACILITIES"

Developer, its successors and assigns in interest as developer may retain some or all of the recreational facilities included within the Resort Facilities in trust; provided, however, Declarant reserves the right to convey the same to The Myrtle Beach Resort Homeowners Association (as hereinafter defined) upon the terms hereinafter described.

Declarant, its successors and assigns in interest as developer, and/or Present Owner may elect, in its sole discretion, to include portions or all of the additional property shown in the Exhibit within the Resort and construct and develop additional Resort Facilities upon which the Council of Co-Owners, all present and future Co-Owners, all Occupants of the Apartments and their respective successors and assigns, shall be granted non-exclusive easements and licenses of use to use in common with all others whom Declarant shall designate. Said easements and licenses to use shall be established by one or more easements and licenses which shall be recorded in the public records of Horry County, South Carolina, and which shall require the Council of Co-Owners and the Co-Owners thereof to bear their pro rata share of the costs associated with such facilities (including, but not limited to, insurance, taxes, maintenance, upkeep, repair and replacement). Such shall be recorded as an addition to the Long Term Lease and as an amendment to this Master Deed in the public records of Horry County, South Carolina. Such additional real property and/or Resort Facilities shall become a part of the Resort and all costs and expenses in connection therewith or associated therewith as determined and set by Declarant, its successors and assigns in interest as Developer (and/or Present Owner) or its designee shall, as aforesaid, become part of the Resort Expenses to be paid pro rata by the Council of Co-Owners, and the Co-Owners thereof as an item of Common Expenses (together with other having like rights of use) as is herein described.

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Declarant, its successors and assigns in interest as developer of the Resort, and/or Present Owner, may, in its sole discretion, declare certain other areas upon inclusion within the Resort as natural marsh and forest areas and may, within such areas, create plantings, lagoons or such other features as it determines in its sole discretion add to the esthetic qualities of such areas, which areas shall, upon so declaring, be held by Declarant, its successors and assigns (or Present Owner) (which declaration(s) shall be filed in the public records of Horry County, South Carolina) in trust as areas of natural beauty and scenery for use and enjoyment of the Co-Owners and their occupants, such other owners of dwellings Apartments and occupants within the Resort and such third parties as Declarant, its successors and assigns (or Present Owner) may select in its sole discretion (which shall become, upon so declaring, part of the Resort Facilities and the pro rata share of upkeep, maintenance, management and replacement of such areas as so set shall be part of the Resort Expenses to be paid pro rata by the Council of Co-Owners and the Co-Owners thereof as an item of Common Expense as is herein described).

Declarant further reserves unto itself, its successors and assigns, and Present Owner, the right to grant easements for ingress and egress across appropriate areas of the Submitted Property to the Atlantic Ocean and its beach (including that portion of the beach of the Atlantic Ocean which is included with the Submitted Property) and easements and licenses of use to use the beach area of the Submitted Property for uses consistent with its being a natural beach and dune area and provided such does not unduly interfere with the activities and rights of the Co-Owners of the Regime.

The Co-Owners shall each be members of The Myrtle Beach Resort Homeowners Association and as such shall pay pro rata with the Owners of other dwelling Apartments and other interests in real property within the Resort who shall be given similar easements and license of use all costs of maintenance, upkeep and repair arising out of or associated with the Resort Facilities as such exist from time to time; such costs to include, but not be limited to, providing management supervision and control thereof, property taxes, insurance, maintenance and reserve funds and all other costs connected or associated therewith (herein collectively "Resort Expenses"). Such Resort Expenses shall be included as an item of Common Expense and paid over by the Council of Co-Owners to Declarant, its successors or assigns in interest as developer of the Resort (or Present Owner, as the case may be), or its designee, upon such schedule (but not more frequently than once a month) and in advance for use for such purposes, provided the Board or the Council of Co-Owners shall be entitled to an annual accounting of the use of all Resort Expenses by Declarant or its designee. In the event of non-payment of Resort Expenses, Declarant, or if appropriate its designee, shall be subrogated to the rights of the Council of Co-Owners as to the individual Co-Owners to collect the Resort Expenses from the Co-Owners, including being subrogated to all lien rights for non-payment of Common Expenses as described in this Master Deed.

Declarant (its successors or assigns or Present Owner, as the case may be) or its designee shall establish rules and regulations for use of the Resort Facilities and the Board of Directors shall appoint a Resort Facilities committee and, if appropriate, one member to serve on the Board of Directors of the Homeowners (as herein defined) to assist in formulating and enforcing the same, it being the intent that such rules and regulations shall encourage safety, use and enjoyment of the Resort Facilities, provided Declarant makes no warranties whatsoever that said rules and

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and regulations will be inclusive or allow absolute safety of use.

Declarant (its successors or assigns in interest as developer of the Resort or Present Owner, as the case may be) may, in its sole discretion, establish The Myrtle Beach Resort Homeowners Association (herein "Homeowners"), which shall be an association (which may, in Declarant's sole discretion, be incorporated as a corporation or as a corporation not for profit or unincorporated) and all Co-Owners shall, in addition to being Co-Owners, automatically become members thereof. In addition, the Board of Directors shall elect one of its members who shall serve on the Board of Directors of Homeowners. The Board of Directors of Homeowners shall be comprised of one representative from this Regime, one representative from Myrtle Beach Resort Horizontal Property Regime, one representative from Myrtle Beach Oceanfront Spa Horizontal Property Regime and one representative from each other development as Declarant as developer of the Resort shall designate. In the event of such establishment, Declarant shall designate Homeowners as its designee to carry out the duties and responsibilities and have the powers herein granted to Declarant's designee.

In addition, Declarant (its successors or assigns in interest as developer of the Resort or Present Owner as the case may be) may, in its sole discretion, at any time convey to the Regime and its Co-Owners and/or any other horizontal property regimes or other multi-family developments within the Resort or which Declarant has developed in proximity to the Resort having like non-exclusive easements and licenses of use, or to Homeowners, all or any portion of the Resort Facilities or any interests therein, provided such shall be for no consideration other than the actual cost of such improvement or facility. Declarant shall have no liability whatsoever for any taxes, assessments, utility charges or other matters whatsoever arising out of the ownership of any Resort Facilities so conveyed and such conveyance shall be subject to Declarant (its successors or assigns in interest as developer of the Resort or Present Owner, as the case may be) retaining unto itself and the right to grant to such third parties as it may designate easements and licenses for use consistent with the conveyed facilities and licenses for management thereof and all matters and right thereto of record. In such event, such documents shall be considered an amendment to this Master Deed and execution only by the Declarant (or its successors or assigns in interest as developer of the Resort or Present Owner as the case may be), shall be sufficient and no execution, concurrence or consent shall be required of the Council of Co-Owners, any Co-Owner, any Mortgagee or any third party whatsoever.

ARTICLE XIX  
Miscellaneous Provisions

1. The Co-Owners of the respective Apartments shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, floors and ceilings surrounding their respective Apartments nor shall any Co-Owner be deemed to own pipes, wires, conduits or other public utility lines running through said respective Apartments which are utilized for or serve more than one Apartment, which items are hereby made a part of the Common Elements. Each Co-Owner shall, however, be deemed to own the walls and partitions which are contained in said Co-Owner's Apartment and shall also be deemed to own the interior decorated and finished surfaces of the perimeter walls, floors and ceilings, including plaster, paint, wallpaper, etc.; however, all load-bearing walls, and, if applicable,

EXTRACT FROM MBR MASTER COVENANTS, CONDITIONS  
AND RESTRICTIONS

into the Property and any portion thereof in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to the occupant, the Individual Condominium Association, or the Owner(s) of the Dwelling or Commercial Unit.

2.4 Maintenance Easement. There is hereby reserved for the benefit of the Association and its respective agents, employees, successors and assigns, an alienable, transferable and perpetual right and easement to enter upon any unimproved portions of any Property for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds, stumps or other unsightly growth and removing trash, so as to maintain reasonable standards of health, fire safety and appearance within the Development; provided that such easements shall not impose any duty or obligation upon the Association to perform any such actions. Furthermore, there is hereby reserved for the benefit of the Association and its agent, employees, successors and assigns an alienable, transferable and perpetual right and easement, but not the obligation, to enter upon any unimproved portions of the Property which is located within twenty (20') feet from the water's edge of any lagoon, pond or other body of water within the Development for the purpose of mowing such areas and keeping same clear and free from unsightly growth and trash, as well as for the purpose of maintaining such body of water, such maintenance to include, without limitation, dredging and the maintenance of reasonable water quality standards.

2.5 Environmental Easement. There is hereby reserved for the benefit of the Association and its agents, employees, successors and assigns, an alienable, transferable and perpetual right and easement on, over and across all unimproved portions of the Property for the purposes of taking any action necessary to effect compliance with environmental rules, regulations and procedures from time to time promulgated or instituted by the Board of Directors or by any governmental entity, such easements to include without limitation the right to implement erosion control procedures and practices, the right to drain standing water and the right to dispense pesticides.

2.6 Wells. There is hereby reserved for the benefit of the Association and its agents, employees, successors and assigns an alienable, transferable and perpetual right and easement: (1) to pump water from lagoons, ponds and other bodies of water located within the Development for the purpose of

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EXTRACT FROM MBR MASTER CCRS

irrigating any portions of the Development; (ii) to drill, install, locate, maintain and use wells, pumping stations, water towers, siltation basins and tanks and related water and sewer treatment facilities and systems within the Common Areas.

ARTICLE III

MEMBERSHIP AND VOTING

3.1 Membership. Every Owner shall be deemed to have a membership in the Association. Membership shall be appurtenant to and may not be separated from Ownership of any Dwelling or Commercial Unit, and Ownership of such Dwelling or Commercial Unit shall be the sole qualification for such membership. No Owner, whether one or more persons, shall have more than one membership per Dwelling or Commercial Unit.

3.2 Board of Directors. The Board of Directors of each Individual Condominium Association at the Myrtle Beach Resort shall elect a representative to sit on the Board of Directors of this Association. This Board of Directors shall act in accordance with the By-Laws which are attached hereto as Exhibit B. The Association shall be operated by the Board of Directors, and the Members of the Association shall have only such powers as are specified herein or in the By-laws.

ARTICLE IV

POWERS OF THE ASSOCIATION

4.1 The Association, acting through the Board of Directors, shall also have the power to: (a) maintain all streets and roads within the Property, including cleaning and periodic resurfacing; (b) provide for all refuse collection (c) obtain, for the benefit of the Property, by purchase, lease or otherwise, as deemed proper by the Board of Directors, cable or master television service and telephone service; (d) maintain the oceanfront area; (e) grant easements, rights-of-way or strips of land, where necessary, for utilities, and sewer facilities and other services over the Common Areas to service the Property; (f) maintain such policy or policies of liability and fire insurance with respect to property owned by

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# **EXHIBIT**

# **R**

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STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )  
 )  
FREDERICK E. BROWN, CONRAD A.)  
CALVANO, GAYLE N. SCOTT, AND,)  
individually and derivatively on behalf of )  
MYRTLE BEACH RESORT )  
HOMEOWNERS' ASSOCIATION, INC., and )  
on behalf of all other similarly situated Co-) )  
owners, and LORI NIEDZWIECKI and )  
ROBERT S. ROSENCRANS, individually and )  
derivatively on behalf of the MYRTLE )  
BEACH RESORT HOMEOWNERS' )  
ASSOCIATION, INC. for its right and benefit.)

Plaintiffs,)

vs. )

JEFFERY L. RICHARDSON, individually )  
and as a current member of the Board of )  
Directors for MYRTLE BEACH RESORT )  
HOMEOWNERS' ASSOCIATION, INC., and )  
JEFFERY L. RICHARDSON, RENEE )  
CYPHER, CATHERINE GREGOR, LAURIE )  
WUNDERLEY, WILLIAM SPEARS,) )  
individually and as current members of the )  
Board of Directors for RENAISSANCE )  
TOWER HORIZONTAL PROPERTY )  
REGIME, INC., RENAISSANCE TOWER )  
HORIZONTAL PROPERTY REGIME, INC.,) )  
and EMPRESS MANAGEMENT )  
COMPANY, INC., )

Defendants,)

MYRTLE BEACH RESORT )  
HOMEOWNERS' ASSOCIATION, INC., )

Nominal Defendant.)

IN THE COURT OF COMMON PLEAS  
FIFTEENTH JUDICIAL CIRCUIT  
CIVIL ACTION NO. 2020-CP-26-07368

**AFFIDAVIT OF CURRENT  
MASTER HOA BOARD MEMBER  
ROBERT SCOTT ROSENCRANS**

**PERSONALLY APPEARED BEFORE ME**, the undersigned, who being duly sworn,  
deposes and states:

1. My name is Robert Rosencrans, I am over the age of eighteen (18) years and competent to make this Affidavit based on my personal knowledge, experience on this matter alleged in this lawsuit.

2. United States Capitol Police 119 D. St. N.E. Washington, D.C. 20002 08/25/1975 to March 31, 2006 serving as a Manager, Lieutenant, and Watch Commander from 2001 to 2006 held highest-level Top-Secret security clearance and prepared daily top-secret reports which were reviewed each morning by the leadership of the U.S. Congress.

3. I am currently the owner of units 545 A in the A building, Units 6105 and 6220 in the Five Seasons Center.

4. Elected to serve on A Building Board starting April 28, 2018 to current date. Elected to serve on Five Seasons Board commencing April 28, 2018 to current date. Appointed to Master Board on April 28, 2018 to current date by HPR (A Building.)

5. This Affidavit is submitted in support of the allegations contained in Plaintiffs' Amended Complaint and also in opposition of the Defendant Master HOA's Motion to Dismiss.

**BRIEF FACTUAL HISTORY OF MYRTLE BEACH RESORT REGIME**

6. Master HOA was created as an umbrella or "Master Association" as evidenced by the Articles of Incorporation filed with the Office of the South Carolina Secretary of State on April 30, 1987 and as governed by the Master HOA's Declaration of Covenants, Conditions and Restrictions and By-Laws and filed of record on April 25, 1991 in the Office of the Register of Mesne Conveyances (R.M.C.) for Horry County in Deed Book 1465 at Page 329 ("Master HOA's

Declaration and By-Laws attached thereto”). A copy of the Master HOA’s Declaration and By-Laws is attached hereto as Exhibit “A” and incorporated by reference as part of this Complaint.

7. Master HOA is charged with administering certain affairs of the Myrtle Beach Resort, a resort within Horry County, South Carolina presently including: (a) Myrtle Beach Resort Horizontal Property Regime, Inc. (“HPR”); (b) Myrtle Beach Resort Ocean Front Spa Horizontal Property Regime, Inc. (“Ocean Front Spa”); (c) Renaissance Tower Horizontal Property Regime, Inc. (“Renaissance Tower”); (d) Myrtle Beach Resort Five Seasons Centre Council of Co-Owners, Inc. (“Five Seasons Centre”) (Collectively known as “Four Individual Condominium Regimes”).

8. The Four Individual Condominium Regimes agreed to the Master HOA’s creation and to be bound by its Declaration and By-Laws.

9. In addition, thereto, the authority of the Master HOA, stems from, and is in accordance with the Master Deeds of the aforementioned Four Individual Condominium Regimes, which specifically reserve to the developer the right to establish the Master HOA.

10. Moreover, all developer’s reserved rights were assigned to the Master HOA by that Assignment of Rights dated January 27, 1989 and filed of record in the Office of the R.M.C. for Horry County in Deed Book 1284 at Page 239.

11. The Four Individual Condominium Regimes as well as the Defendants and their successors or designee are subject to the provisions of the Master HOA’s Declaration and By-Laws.

**RELEVANT PROVISIONS OF THE DECLARATION  
AND BY-LAWS FOR THE MASTER HOA**

12. Insofar as it is relevant to the assertions in this Affidavit, Article II defines certain terms used in the Master HOA’s By-laws as follows:

- a) "Association" shall mean and refer to The Myrtle Beach Resort Homeowners' Association, Inc., its successors and assigns.
- b) "Member" shall mean and refer to each and every Co-Owner at The Myrtle Beach Resort which includes (a) Myrtle Beach Resort Horizontal Property Regime, Inc.; (b) Myrtle Beach Oceanfront Spa Horizontal Property Regime; (c) Renaissance Tower Horizontal Property Regime; (d) Myrtle Beach Resort Five Seasons Centre Horizontal Property Regime.
- c) "Voting Member" shall mean and refer to that representative from the Board of Directors of each Individual Condominium association who has been elected by that Board as a representative to the Board of Directors of this Association.
- d) "Individual Condominium Associations" shall mean and refer to those Associations at The Myrtle Beach Resort presently including: (a) Myrtle Beach Resort Horizontal Property Regime, Inc.; (b) Myrtle Beach Resort Ocean Front Spa Horizontal Property Regime, Inc.; (c) Renaissance Tower Horizontal Property Regime; (d) Myrtle Beach Resort Five Seasons Centre Council of Co-Owners, Inc.

13. Article IV of the By-Laws discusses voting, selection, term of office, and duties of the Board of Directors for the Master HOA. Article IV provides in pertinent part:

Section 1. The Association shall be managed by a Board of Directors consisting of not less than four (4) Directors. Each Individual Condominium Association of the Myrtle Beach Resort shall have a representative from its Regime as a Director on the board of the Association. Each Board Member of this Association shall also be a board member of the Individual Condominium Association which he or she represents.

Section 1.A. "Voting." Each Director is hereby assigned the number of votes that represents the number of Apartments (whether residential or commercial) that exists in that Director's Individual Condominium Association.

Section 7. Voting: Any action taken at a meeting of the Board of Directors shall be only upon the affirmative vote of 67% of the entire votes of the Association.

Section 8. Consistent with these By-Laws and applicable Declarations, the Board shall:

- (a) Transact all Association business and prescribe the rules and regulations for the use of the assets, facilities and property for which it is so charged and may appoint such officers, clerks, agents, servants or employees as it may deem necessary in its sole discretion and may fix their duties and compensation;

- (b) Annually set a budget for the Association;
  - (c) Fix, impose and remit penalties for violations of these By-Laws and the rules and regulations of the Association;
  - (d) Elect from the Board within thirty (30) days after each annual meeting the President, Vice-President, Secretary and Treasurer;
  - (e) Carry out all other duties and obligations imposed and exercise all rights granted it by these By-Laws, the Declaration, and the Act.
14. During my service on the Master Board the following issues have arisen:
- (a) Since Mr. Ken Moss and Mr. Robert E. Lee have become associated with the Master Association official records have been concealed or withheld from board members, money has been spent without the Master Board knowledge, consent or quorum, and the Covenants, as described in the Powers of the Association, remain unenforced.
  - (b) Contract payment limits appear to have been exceeded by Empress Management and Four of a Kind, and the Master Board members ignore or are obtuse to invoices being paid without a board quorum. The total of those invoices exceeds \$100,000.00.
  - (c) In addition to that, Mr. Ken Moss, a court appointed 5<sup>th</sup> board member, has assumed such authority that, he has appointed himself board dictator, ordering Empress to pay invoices without authorization, ordering Empress to withhold documents from board members in violation of multiple state laws, initiating legal action in conjunction with Mr. Robert E. Lee without board knowledge or approval, and acting with open hostility towards the undersigned when I question his unauthorized actions.
  - (d) Mr. Kenneth Moss, attorney at law, current Master Board President was appointed by Judge Seals by judicial order on December 12, 2018. One of the requirements of the judicial order was that Mr. Moss receive \$250.00 per hour. Mr. Lee was voted in as the legal counsel by a vote of 3/1 with the undersigned voting against him. I had researched Mr. Lee and discovered he had been suspended for 6 months due to his own plea of guilty to insurance fraud. The plea was in response to an investigation by the South Carolina Bar Association. At some point in the meetings, it was disclosed that Mr. Moss and Mr. Lee were making \$600 between the two of them per hour, so it became apparent that Mr. Lee was billing \$350.00 per hour.

(e) Hiring an attorney with a questionable background like Mr. Robert E. Lee for an HOA of our size appears to violate common sense and good judgment.

(f) The week prior to Mr. Ken Moss's appointment by Judge Seals there had been a meeting of the Master Association of the Myrtle Beach Resort on December 5, 2018. During that meeting, which Sarah Morrow the owner of Empress Management attended, several board members expressed concern because Barbara Johnson, the Empress manager assigned to the Master HOA, did not produce regular meetings minutes or monthly financials.

15. The December 5<sup>th</sup>, 2018 meeting was pivotal for many reasons. It was the meeting where Tim Hobbs was introduced and his company was given the contract to complete a forensic audit, it was the meeting where minutes of the meeting were falsified and then presented to the court as a justification for a 5<sup>th</sup> board member, it was a meeting where I introduced a series of motions that were never published. Here we are over two years later and the minutes are still not up to date.

16. The next day, December 6, 2018, board members received the minutes of the meeting that had just been conducted the day before. Upon reviewing the minutes of the meeting, I observed that Barbara Johnson had attributed a motion to me I never made, and that Lori Niedzwiecki had allegedly seconded it, then we had allegedly voted against it which was a total falsehood. I never made the motion and was shocked to see that in the meeting minutes.

17. Another interesting item in the December 5, 2018 meeting minutes, which subsequently were never formally adopted and published was a paragraph where Barbara Johnson claimed the board voted that only Master Board management companies can occupy the Master owned building by the gate and no such motion was ever approved. A motion was made and then voted down and that's not an affirmative vote. I emailed Barbara Johnson and advised her that the motion attributed to me was a mistake and to remove it from the meeting minutes as I did not make

the motion. I received an email back from Barbara Johnson stating she would change it after all the other board members made their changes.

18. The actual official minutes of that December 5, 2018 minute were never published. I believe the reason for that was a motion that was introduced by Lori Niedzwiecki and I as follows:

*"At the October 13, 2018 Board meeting, after hot and lengthy discussion a motion was made, seconded and passed by a Vote of 3 FOR and 1 AGAINST to roll over the 2018 budget for 2019.*

*After further reflection, we believe the action was a serious violation of our fiduciary obligations as a Board in that we already know:*

- a) *The 2018 budget results in deficit operations given NO gate pass fees were collected even though the budget assumes there will be \$290,000.00 income from gate pass fees. To approve a budget that guarantees deficit operations is a gross violation of the Board's affirmative obligations.*
- b) *The 2019 budget must include sufficient assessments to reimburse the funds borrowed from the Maintenance Reserve.*
- c) *The Board has an affirmative obligation to operate the Master Association in accordance with its governing documents. Those documents required the Master to provide Resort wide security and trash services. As Board members of the Master, we either must act in accordance with the governing documents or resign from the Master Board if we are unwilling to abide by those documents.*

19. The votes on the motion split 2-2, Lori Niedzwiecki and I for, and Jeff Richardson, Renaissance Tower and Nancy Moore, Ocean Front Spa against the motion.

20. By this time Barbara Johnson had a track record of not publishing the official minutes of the meetings and not releasing monthly financials. Without the financials it was difficult at best to figure out where the funds were flowing and if they were being spent properly.

At the December 5, 2018 meeting, Howell Bellamy III was present. After Howell Bellamy left the meeting, Jim Perkins, an OFS board member entered the meeting room and could be heard muttering about "Howell Bellamy." Jim Perkins only stayed a moment and after he left the room, I pondered out loud why he was so upset. Sarah Morrow Tristler, the owner of Empress Management, who was in attendance at the meeting, started lecturing me about how we should have given notice that our attorney was going to be present.

21. After Sarah Morrow Tristler's impromptu lecture, I then responded that at an earlier meeting Barbara Johnson had introduced Nick Rivera, an attorney appointed by the insurance company to represent the homeowners due to the litigation. After Barbara had introduced Nick Rivera, I then asked, "Are there any other attorneys present?" A female member of the audience then stood up and introduced herself as Krista McGuire of the Parker-Poe law firm. I used this example to indicate to Sarah Morrow Tristler that there were two standards operating. This incident also served to illustrate something else.

22. This incident was one of many which shows Empress Management has a clear and compelling conflict of interest in that Empress Management also has the management contract for the Ocean Front Spa. Master Board members were advised at a meeting in mid-2020 that Empress also does the accounting for Renaissance Tower. That was the first meeting where board members heard that Empress Management handled the RT accounting, but it also indicates another conflict of interest. That conflict is related to the \$116,000.00 secret write off of the assessments owed by RT but buried by questionable actions of Mr. Lee, Mr. Moss and Empress Management. If Empress Management was in charge of accounting at RT then no explanation can justify their participation in the secret write off.

23. On the following Wednesday, December 12, 2018, during the court hearing where Mr. Ken Moss was appointed, the falsified minutes were allegedly used to convince Judge Seals that Lori Niedzwiecki and I were bad actors and that's why a 5<sup>th</sup> board member needed to be appointed. That wasn't necessary because we had all agreed we would try to work with a 5<sup>th</sup> board member so they didn't need to falsify the minutes and mislead Judge Seals but they did it anyway. Our counsel had asked for a custodian so perhaps their motive in using the falsified minutes worked to convince the Judge it was better to have a lawyer appointed to guide the board, as opposed to the appointment of a custodian.

24. After Mr. Moss was appointed, he showed up for a meeting on December 21, 2018, and within 5 minutes of entering the room stated that security, which is one of the issues being litigated, under the covenants was "optional." Multiple experts have presented statements which state that particular obligation under the Powers of the Association, Article IV, is mandatory.

25. Another interesting feature of the December 21, 2018 meeting was when I attempted to ask a question about the Master Association filing rules with the county as require by the Association Act of 2018, Mr. Lee rudely cut me off stating, and "People shouldn't quote from the law unless they know what they are talking about." Mr. Lee then went onto state the Master was exempt from the law and did not have to file their rules. All four regimes were preparing to file their rules with the county.

26. Since the Master controlled security, this appeared to be an attempt by Mr. Lee to short circuit the issue of the Master being required to follow any rules filed.

27. This was the first meeting after Barbara Johuson "created" the falsified meeting minutes and Mr. Moss was appointed. When I brought the subject up at the meeting, where both Mr. Moss and Mr. Lee were in attendance, neither one responded. Barbara Johnson responded by

stating it was a “copy and paste error” and implied it was simply an innocent mistake. If it was a mistake, then why did Molly Hughes Cherry, the attorney for Jeff Richardson and Nancy Moore, two Master Board Members, take the falsified meeting minutes to court and use them to persuade Judge Seals?

28. After that meeting I looked up and reviewed the law on perjury in the state of South Carolina and this definitely should have at least been investigated by proper authority.

29. Mr. Moss claimed he wasn't there to play favorites or take sides but he had a funny way of showing it. At one meeting in 2019 all board members except Jeff Richardson were present. Jeff then called and stated he was going to be 45 minutes late. There was no reason whatsoever to delay the meeting because there was a quorum present. Mike Parades was in the audience and observed this unnecessary delay. Mr. Moss then stated, and without a quorum vote, that he was going to delay the meeting for 45 minutes until Jeff Richardson showed up. That was unprecedented but shows Mr. Moss' lack of ethics because he got paid \$250 for Jeff's tardiness and Mr. Lee cashed in also. Mr. Moss has no authority to act without a quorum. The only authority of a board president lies in scheduling meetings. Other than that, the board president has no singular authority. Yet, he took his first step in manipulating circumstances when they arose to enrich himself and Mr. Lee.

30. During Mr. Robert E. Lee's relationship with the Master Association, I have asked repeatedly for Mr. Lee's invoices to review. Barbara Johnson never responded to my requests for those documents. This sneaky behavior on Empress' part is shown in many other ways in reference to many other issues. And most of those issues involve Mr. Moss and Mr. Lee acting without board knowledge or approval. In fact, since joining the board in April 2018 Barbara Johnson has ignored repeated requests to provide documents and that continues up to today's date, February 11, 2019.

31. On December 5, 2018 Sarah Morrow attended a meeting where she was informed that Barbara Johnson was not providing the financial statements of the Master Association nor was, she providing the minutes of meetings.

32. The procedure for meeting minutes was defined by a meeting in June of 2018 where there was a unanimous vote that the Master Association meeting minutes be provided within 21 days of all meetings. Barbara Johnson verbally agreed to those conditions and was present at the meeting. To this date even that meeting never had the minutes issued for review.

33. As a result of the December 5, 2018 meeting Sarah Morrow produced the latest monthly financial statement and Barbara Johnson issued the meeting minutes, which as was noted earlier in this statement, were falsified. The monthly financial statement contained a payment of \$14,762 issued to Nexsen-Pruett.

34. In the first Master Board meeting with both Mr. Lee and Mr. Moss present late in December 2018, Barbara Johnson was asked about the Fourteen Thousand Seven Hundred Sixty-Two Dollars and 00/100 (\$14,762.00) payment. Barbara Johnson stated it was a deductible paid in reference to indemnification for Jeff Richardson, et al, in the legal action which had been filed against them. Mr. Moss stated no board vote was necessary to provide indemnification and Mr. Lee agreed. Jeff Richardson stated he had no idea that was done.

35. After the meeting I reviewed the non-profit act of South Carolina and the law states clearly a board vote or process is needed to approve indemnification. This was also a concern because Barbara Johnson exceeded the \$1,000.00 authority of the Empress Contract and to this date no vote was ever taken on the expenditure of that sum.

36. According to the court directive issued on December 12, 2018, Mr. Moss had the following authority:

**“Furthermore, Mr. Moss is to continue to assist the Board as a fifth (5<sup>th</sup>) Board of Director with full power and authority to vote to address other immediate problems involving the MBRHOA.”**

37. No other authority was given to Mr. Moss but to simply vote with the other board members but that isn't what happened. On December 21, 2018, Mr. Moss was elected board President because the board was still deadlocked. It took over a year for other board members to be noted as the other required officers.

38. After Mr. Moss was elected, he became the presiding officer. Board meetings are supposed to be conducted according to Parliamentary procedure, in particular Robert's Rules of Order. The meetings conducted after Mr. Moss' takeover were for the most part total bedlam with Mr. Moss letting homeowners make false and misleading statements about the Five Seasons and HPR board members and Mr. Moss rarely let anyone challenge those statements.

39. These 6-to-8-hour meetings where homeowners, mostly from the Ocean Front Spa and Renaissance Tower, were permitted to rant, were improperly conducted and simply enriched Mr. Moss and Mr. Lee. Mr. Lee often sits through these 6- and 8-hour meetings and never says a word.

40. At one meeting both Mr. Moss and Mr. Lee removed their shoes and propped their feet up on the tables. Mr. Moss was not wearing socks at the time and in my opinion that was absolutely disgusting and unprofessional.

41. On one occasion, at the annual Master Board meeting in April 2019, Colleen Perkins stood up and claimed I had defamed her husband by showing a withdrawal slip for \$239,000.00 at an earlier presentation at the annual HPR meeting. Jim Perkins, her husband, had signed the withdrawal slip while not associated with the Master Board. The Master Board had no knowledge that the withdrawal for that amount had been made. It appeared reckless and showed

a lack of authority and proper accounting procedures.

42. When I asked Mr. Moss for the microphone to respond to Ms. Perkins, Mr. Moss refused to turn it over, allowing the homeowners to possibly give some false credibility to Ms. Perkins statement. The unauthorized withdrawal was discovered after Howell Bellamy III had subpoenaed financial documents from Empress after Empress routinely refused to allow any review of requested documents.

43. Keep in mind that the HPR law (Title 27 Chapter 31), the non-profit Act (Title 33) and the Association Act of 2018 (Section 27-30-110) all provide lawful procedures for document access.

44. This takes us back to Mr. Lee's invoices. In one meeting in 2020, after I requested Mr. Lee's invoices, Mr. Lee invoked attorney-client privilege. In South Carolina, that privilege can only be invoked by the client, not the attorney.

46. At the end of that meeting, Mr. Moss then revealed he had the invoices right in front of him, about a ¼ inch stack of paper, and handed them to Nancy Moore, the OFS Master Board representative. Nancy Moore then handed them to Barbara Johnson, requesting that Barbara copy them and send her a copy. I never got a copy but it's obvious that Mr. Lee let Mr. Moss review them, and he's not even a homeowner, which calls into question whether the law was followed on document access. This refusal to hand over documents is related to excessive expenditures related to the Four of a Kind Contract and the Empress Contract. Only on one occasion, after I had made an issue of it, board members were provided a monthly breakdown of Four of a Kind maintenance employee actual activities but it was difficult to discern how many hours were actually paid as the statement alluded to generalized activities.

48. Based on multiple proposed invoices for proposed work we are asked to review,

including several at the recent February 6, 2021 meeting, Tom Franklin of Four Of A Kind appears to be getting \$50 an hour to go around and find issues which he puts out to bid. Note: Mr. Franklin is alleged to have a personal relationship with Sarah Morrow Tristler.

50. During the time that I have been on the board (Since April 2018) neither the Four of a Kind contract or the Empress contract has been extended by board approval. At one meeting in 2019 we were advised the contracts had a month-to-month rollover if notice was not given. At one meeting in 2019 we went into executive session and voted to get rid of Empress. Some board members now are claiming we only agreed to put the contract out to bid but my recollection is that we voted to end the relationship.

51. A breakdown by a CPA hired to assist us in this matter shows that both Empress and Four of a Kind are making excessive amounts based on the original contract terms. The analysis was prepared by Mike Parades.

52. This is another example of the board failing to focus on the big picture of financial shenanigans while discussing minute and simple-minded issues for hours and delaying decisions on simple issues that should have been resolved in a matter of minutes. All the while Mr. Moss and Mr. Lee are billing the homeowners by the hour while issues go unresolved, or other issues are handled outside the meetings, for which both Mr. Moss and Mr. Lee then bill for further services. According to the Master Board covenants, all expenses paid must be approved by quorum, which is a 67% vote.

53. In early 2020 Howell Bellamy III filed for judicial dissolution as a prelude to having a custodian appointed because the Master was unable to function correctly even with Ken Moss on board. On February 24, 2020 Mr. Moss then had Barbara Johnson use the official Myrtle Beach Resort Homeowners' email list to forward a "Notice of Litigation (sic)" to all homeowners. Oddly,

they couldn't even spell litigation correctly. The statement prepared by Mr. Moss had several purposes but the main objective appeared to be an attempt to simply frighten homeowners with these types of untruthful, subjective statements:

**"These actions could greatly affect the value of every unit at Myrtle Beach Resort, not to mention their marketability. If the Plaintiffs are successful in dissolving the Master Association the property could be thrown into chaos as this decision will affect the property's security, and continued access to the lazy river water facility which is currently leased by the Master Association from its owner, the A Building."**

54. That's simply an untruthful statement and both Mr. Lee and Mr. Moss know it, because they know judicial dissolution is the first step to having a custodian appointed. However, they didn't miss the opportunity to bill the homeowners over their unauthorized statement. At the statement end, they used it to get homeowners to contact Mr. Lee so that the homeowners would be billed for his time. The homeowners were never informed that the Notice of Litigation was not an official statement of the Master Association, simply an opinion piece authored by Kenneth Moss, but not signed. That was totally unethical and I wrote an email to Master Board members pointing this out. It was simply an ad for Mr. Lee's legal services put out at Master Association expense. This free ad for Mr. Lee's services was included at the end of the statement:

**"If you should have questions, please contact Robert E Lee, the Association's attorney at 843-423-1313".**

55. More interesting is that on June 13, 2019, during a Master Board meeting, Mr. Moss stated he was going to go to Judge Seals and have the Master board dismissed and a custodian appointed, which is what the judicial dissolution was attempting to accomplish.

56. During the June 13, 2019 meeting, Mr. Moss then relayed this amazing fact. He stated that he had researched the previous case First Services filed against the OFS and that he had never heard of any insurance settlement without a General Release provision. Mr. Moss stated if

that was true then we couldn't go after First Services for any alleged breaches of any contracts. That means we wasted \$17,000.00 on the audits because no matter what they showed we couldn't do anything.

57. After the Notice of Litigation was issued both Mr. Moss and Mr. Lee tried to push another questionable theme forward, The Right of First Refusal. Mr. Lee and Mr. Moss claimed that the Resort was about to lose the commercial properties due to the judicial dissolution, so the Master needed to vote to amend the deeds to reflect a "Right of First Refusal" for the Master. I immediately pointed out that this could affect the value of the properties and Mr. Moss agreed. The angle of their strategy appeared to be to allow the OFS and the Renaissance Tower to purchase the commercial properties at substantially below market values.

58. At the October 13, 2019 meeting Mr. Moss and several board members heavily pushed the Right of First Refusal Issue. This was a meeting where Nancy Moore was allowed to present a Power Point presentation on how the OFS and Renaissance Tower wanted to rewrite the Master Board covenants. They wanted to insert "the right to choose" in the Powers of the Association which would have given the regimes the right to choose to participate in any undertaking of the Master Board.

59. When I stated this option would end the ability of the Master Association to function, Mr. Moss stated I was making too much of it. Jeff Richardson then went on to state that Nancy Moore, "George" (Who I assumed was George Williams) and Jeff himself had put the proposal together.

60. At that same meeting Mr. Moss stated he wanted to have the owners vote by electronic vote on issues facing the Master. Just several months earlier, when I stated we should consider getting the homeowners involved by electronic voting, Mr. Moss immediately labeled me

as a troublemaker.

61. If Mr. Lee had wanted to go straight to the homeowners over the dissolution process, he should have gone to the board and requested permission through a quorum. Instead, Mr. Lee and Mr. Moss act with autonomy, often without board knowledge or approval. Before Barbara Johnson had distributed the Notice of Litigation, I had asked Barbara Johnson to put out a statement by the HPR (A building) to the collective resort homeowners and she refused, putting it to a board vote, which she had no authority to do. Board resolutions must be introduced by board members. After refusing to distribute the A Building statement to homeowners, Barbara Johnson then distributed Mr. Moss' statement without board knowledge or approval.

62. Note that Mr. Lee represents the board, not the homeowners so it was totally unethical for him to have the homeowners contact him like that but he and Mr. Moss missed few opportunities to milk the homeowners whenever they found the opportunity.

63. A perfect example of that was the Ricoh copier contract. In early 2019 we were informed by Mr. Moss that the Ricoh contract had been settled. At a meeting on September 27, 2020 Mr. Moss stated in front of the homeowners that Mr. Lee was litigating the Ricoh contract, which shows Mr. Moss factually misrepresented the outcome at the previous meeting. The contract could have been settled for \$3,000.00 but there is no way of knowing how much Mr. Lee has milked this for and I suspect this is one of many reasons Empress Management, Mr. Moss and Mr. Lee refuse to allow access to documents.

64. After I questioned why the Notice of Litigation from Mr. Moss was distributed without board review, Mr. Moss asked me why I questioned the ethics behind the statement. When I attempted to answer, Mr. Moss got angry and referred to Howell Bellamy III and Charles Jordan as shyster attorneys. I had to shout over Mr. Moss' angry outburst to be heard

65. This ties in precisely with a recent incident where Lori Niedzwiecki and I sent certified letters in January 2021 to Empress Management requesting to review documents. Mr. Moss, on his own alleged authority, then sent out an email, claiming he had directed Empress not to give us access to any documents.

66. This was but another fascinating turn of events because at the September 27, 2020 meeting Barbara Johnson falsely claimed in front of the homeowners that she had never refused to turn over any documents requested. That was simply an outright lie. I responded that the HPR had been to court multiple times to get documents that Barbara Johnson had refused to release as required by law.

67. Another perfect example of withholding documents from board members pertains to the bank records. After multiple meetings where I insisted on getting copies of the monthly bank records, the entire board including Mr. Moss, voted that Master Board members would receive the bank records on a monthly basis. That was at a meeting in 2019. At a subsequent meeting, when I asked why we were not getting the bank records, Barbara Johnson stated the bank couldn't send out the originals to each member. That was not what we voted on. We voted to get copies of the records. Over a year later, no board member has been provided with copies of the records.

68. At another meeting Mr. Moss made some ridiculous statement, and when I responded Mr. Moss then stated, "I don't believe you would make such a statement in front of the homeowners." I then responded, "If anyone has a right to make a statement here, it's me, because I own a unit here and you don't own a unit." At that point Mr. Moss called a break.

69. After the break, Jim Perkins, who was filling in as the OFS Master board member, looked at me and asked "Do you actually own a unit at the A building?" At first, I thought he was

joking but he was not. I simply brushed it off as ridiculous, which it was.

70. After the meeting, Mr. Moss had Mr. Lee issue a written opinion on October 25, 2019 as to whether I could sit on the Master board or not. Mr. Moss did this without board knowledge or approval of the Master Association and the Master Covenants clearly give the authority to regimes to appoint Master Board representatives. In fact, Mr. Lee noted that in his unauthorized letter, so why was any action necessary? It wasn't. And why wasn't it? Here's a statement directly from the court directive appointing Mr. Moss as written by Judge Seals:

**Each individual condominium association elects a member from its Board to serve on the Board of Directors for the MBRHOA.**

71. Judge Seals factual statement of how board members are appointed didn't stop Mr. Moss and Mr. Lee from turning Jim Perkin's statement into another money-making opportunity. Going back to Judge Seals directive, Mr. Moss only has the following authority:

**Furthermore, Mr. Moss is to continue to assist the Board as a fifth (5<sup>th</sup>) Board of Director with full power and authority to vote to address other immediate problems involving the MBRHOA**

72. The key word in the directive is vote, but the Master left that option behind in September 2019. Since September 2019, neither Mr. Moss' nor Mr. Lee's invoices have been reviewed and approved by a quorum. According to the Master Board covenants, all expenses must be approved by a quorum of 67%. Barbara Johnson is violating the \$1,000.00 limit on the Empress contract by simply paying their invoices without board knowledge or approval. It appears to be fraudulent on the part of all parties involved, since the invoices from Mr. Lee and Mr. Moss have never even been mentioned in terms of having them reviewed or approved since September 2019.

73. In fact, at the September 2020 annual meeting which was delayed from April 2020 due to the Covid-19 pandemic, we were informed that Mr. Lee had submitted an invoice for over

\$40,000.00 in March 2020 and that it had been backdated to December 2019 and that Barbara Johnson had simply paid it. Once again, nobody on the Master board had knowledge of or approved the transaction and board members knew nothing about the invoice or payment until September 2020 at the delayed annual board meeting.

74. At the pivotal December 5, 2018 meeting, Barbara Johnson introduced Mark T. Hobbs, Managing Shareholder, CPA, The Hobbs Group. Jeff Richardson started claiming there were accusations made and if accusations were made, we had to follow through on the accusations. That's a ridiculous standard and both Hobbs and Mr. Lee both commented on the practice of spending money on a possible unnecessary audit.

75. The Master Association then voted to have a forensic audit conducted. The Hobbs Group was selected. At no time were board members informed that Sarah Morrow, owner of Empress Management, had been a partner with Hobbs.

76. After the forensic audit, nothing of any note was found, and several Hobbs' representatives gave a presentation at the April 2019 annual homeowners' meeting. Before the meeting the Hobbs representatives met with the Master Board members in a front alcove. At that meeting between the Master Board Representatives and Hobbs, it was revealed that there was a \$116,000.00 liability on the ledger which was a payment due from the Renaissance Tower for October, November and December 2017.

77. This also coincided with a financial report received from Empress on October 7, 2018. This statement is an excerpt from the official minutes published:

"Elaine Campbell of Empress Management stated that as of September 30, 2018 there was approximately \$180,000.00 in operating and \$181,000.00 in reserves. She reported receivables owed by Renaissance Tower of \$116,000.00 and OFS \$106,000.00. She stated that year to date reserve expenditures were \$27,000.00"

78. Subsequent to the April 2019 annual meeting, and after the Hobbs group noted the

outstanding \$116,000.00 liability, Mr. Moss, Mr. Lee and Empress management worked behind the scenes to surreptitiously make the liability disappear by Mr. Lee preparing correspondence and sending it to the Hobbs Group without board knowledge or approval. When this was uncovered by board members at some point in 2020 it was decided by the HPR and the Five Seasons Center to file additional litigation before the statute of limitations expired.

79. For the record, there does not appear to be a statute of limitations noted in the Master Board covenants, but the statute of limitation in the law required action to be taken. Mr. Moss then issued several emails claiming that Master Board members from the HPR and Five Seasons were acting irresponsibly by filing the litigation.

80. This appears to contradict the facts that Mr. Lee has filed two legal actions, one after the dissolution order which was filed by Howell Bellamy III, and the recent one filed after the surreptitious attempt to write off the \$116,000.00 was uncovered and both of those actions were filed without Master Board knowledge or consent.

81. This aligns with the Securitas litigation which originated after Securitas fell short on their promises of providing various services and gate features and the board felt they did not have the resources to live up to their contract. At no time was the board advised by Mr. Lee or Moss that we had the option of hiring outside legal counsel in the Securitas matter which would have been a much prudent choice.

82. At the meeting where Mr. Moss and Mr. Lee advised us we could safely end the contract with Securitas, no mention of Mr. Lee litigating any upcoming issues was made. When a homeowner present asked what to do if there was a situation after Securitas left, Mr. Moss responded "Call 911." After the vote to cut the relationship with Securitas, Mr. Lee then advised board members we faced a \$200,000.00 liability. This was indicative of a manipulative strategy

used to push board members along.

83. This leads to a relevant question. Why are Mr. Lee and Mr. Moss failing to provide ethical advice on these matters? It's my belief that if any other law firm came in and observed how they operate without board approval or knowledge they would be in serious trouble.

84. This also applies to both other motions filed by Mr. Lee, one after the Judicial Dissolution process was filed in the Horry County courts by Howell Bellamy III, and the other after Howell Bellamy III filed a legal action in late December 2020 in reference to the failure of the Renaissance Tower to pay \$116,000.00 in assessments due for October, November and December 2017. At no time were board members consulted nor did any quorum of the Master Board approve these legal actions on their parts.

85. In fact, according to a statement by Howell Bellamy III, in late December 2020, he discussed filing the litigation in reference to the unpaid \$116,000.00 and Mr. Lee agreed that Mr. Bellamy III was the correct party to file. This turned out to be another act of deception because Mr. Lee and Mr. Moss intended to file on their own. Their motivation was obvious, because unless they filed, they could have been portrayed as trying to cover up their previous actions of secretly writing the \$116,000.00 off. In fact, they did cover it up until it was documented by an independent expert, Mike Parades that the Renaissance Tower still owed the \$116,000.00 and that through a series of secret behind the scenes actions, Mr. Lee and Mr. Moss conspired in conjunction with Empress Management, to write the entire sum off. Once again, it must be emphasized that the Master board never voted on or approved the write off. It was simply done in secret by Mr. Lee, Mr. Moss and with the concurrence and assistance of unknown parties within Empress Management.

86. The Horizontal Property Regime and the Five Seasons were forced to take legal

action after Mr. Moss and Mr. Lee and Empress Management concealed the write off of the One Hundred Sixteen Thousand Dollars and 00/100 (\$116,000.00) without board knowledge or approval. After it was discovered by the HPR and the Five Seasons that the amount had been surreptitiously written off, Mr. Moss and Mr. Lee then claimed to take action, and once again without board knowledge or approval. Their motivation at that point is questionable though. Why secretly write it off and then turn around and then turn around at the last possible moment before the statute of limitations and initiate the complete opposite action?

87. The motivation appears to be money because not only did they collect significant fees from concealing the write off, which appears at a minimum to be a breach of trust, they decided to then collect more fees to file another legal action, once again without board knowledge or approval. In short, they acted without any sense of ethics or professionalism. They appear to take any opportunity that arises, no matter how small or insignificant, as an opportunity to milk fees from the collective homeowners.

88. A significant related issue is that they unfold these opportunities in secret, acting independently of the board.

89. This also explains why they refuse to allow board members the HPR and the Five Seasons to view Mr. Lee's invoices. However, On February 7, 2021 Mr. Moss decided to release his recent invoices for January 2021 and December 2020.

90. A review of those invoices shows Mr. Moss making independent decisions, authorizing legal actions by Mr. Lee, ordering Barbara Johnson to simply pay invoices and his fees for that month were over \$5,000.00. Here's one of the items from the invoice:

*Preparation for and Board meeting in B building. Retrieval and loading of gate equipment into van for shipment to expert witness in Securitas case. Conference with Attorney Lee.*

91. Where did the gate come from? Why was it in his possession? I have no knowledge of any of Mr. Moss' actions or Mr. Lee's actions in the Securitas legal action and I should. Mr. Moss and Mr. Lee have appointed themselves unofficial custodians, taking any actions they desire and without any board oversight or notice.

92. The pace of meetings continues as Mr. Moss, who is the board president can call as many meetings as he wants and he does, while very little is accomplished at these meetings. The meetings go on for 5 to 6 to 8 hours so that Mr. Moss and Mr. Lee can milk the homeowners at every opportunity. There is no reason whatsoever for Mr. Lee to attend these meetings. On some of the conference calls someone could be heard snoring while dogs barked in the background. Since the other males to the exclusion of Mr. Lee on the conference call were talking, I assumed it was Mr. Lee who was snoring.

93. In short, Mr. Moss, Mr. Lee and Empress Management have engaged in a series of actions which have defrauded the Myrtle Beach Resort Homeowners of lawful process as regards the approval of expenses involving Mr. Lee and Mr. Moss. In addition to that Mr. Moss has misrepresented facts to homeowners in the Notice of Litigation and in reference to the Ricoh contract.

94. Mr. Moss and Mr. Lee failed to get permission of the board to file legal actions, and while filing those legal actions, failed to advise the board they could and should consider outside counsel to litigate any issues. This was also true in the Securitas litigation.

95. Misleading information was issued to the homeowners about the potential impacts of legal actions taken and this was done without board knowledge or approval. Mr. Moss and Mr. Lee have taken multiple actions on their own volition and Empress Management simply rubber stamps their invoice payments without Master Board knowledge or approval.

96. Empress Management has refused to forward information from the Horizontal Property Regime (A Building) claiming it had to be voted upon, but then forwarded unauthorized messages from Mr. Lee and Mr. Moss on one occasion and Nancy Moore and Jeff Richardson on another occasion.

97. These acts of collusion, in whole and in part, serve to keep the Master Board in a constant state of dysfunction, where it lurches from one crisis to another, making small issues seemingly impossible to solve, while selected professionals who were supposed to help the board resolve these issues, simply seek and create opportunities to enrich themselves and their associates.

98. In summary, both Lori Niedzwiecki and I contend that Mr. Moss has greatly exceeded the scope of his powers under the Court Order appointing him as a fifth Master HOA board member as well the governing documents and State Law, by his ordering the commission of the following unauthorized acts on behalf of the Master HOA, including, but are not limited to:

- a. Directing Empress to instruct the Hobbs Group to adjust off assessments in the amount of \$116,357.74 owed by Renaissance Tower to the Master HOA without first obtaining the prior approval of 67% of the full Board;
- b. Directing Empress, Inc. to pay invoices for legal work done on behalf of the Master HOA without first obtaining the prior approval of 67% of the full Board from January 1, 2019 to the present date;
- c. Directing Empress to pay invoices for items of repair, replacement, and/or refurbishment of the General Common Elements and Limited Common Elements which exceed \$1000.00 without first obtaining the prior approval of 67% of the full Board beginning January 1, 2019 through present date;
- d. Directing Empress not to provide Robert Rosencrans and myself with financial records, including but are not limited to: (i) paid invoices for expenses over \$1000.00; (ii) paid invoices for professional fees; and (iii) paid invoices for Four of A Kind. The refusal of Empress to provide the requested financial records to us as current Master Board members is in direct violation of subparagraphs (a) (2) and (b) (1) of Paragraph 7 of the Agreement with the Master HOA as well as State Law;

- e. Directing Attorney Lee to file a lawsuit against Renaissance Tower under Civil Action No.: 2020-CP-26-07351 without first obtaining the prior approval of 67% of the full Board;
- f. Directing Attorney Lee to file a Motion to Dismiss under Civil Action No.: 2020-CP-26-07368 without first obtaining the prior approval of 67% of the full Board;
- g. Directing Attorney Lee to file a Motion to Dismiss under Civil Action No.: 2018-CP-26-03175 without first obtaining the prior approval of 67% of the full Board; and
- h. Preventing Robert Rosencrans and myself from being able to perform our duties as current Master Board members by not allowing us to review financial as well as vote on matters requiring a decision of the full Board.

100. My aforesaid affidavit is based upon my review of the following reports, documentation, and/or information provided to me in this matter, including, but not limited to the following: a. A copy of the Employment Agreement between Empress Management, Inc. and the Master HOA Board and is attached hereto as (**Exhibit "A"**);

- b. A copy of the subpoenaed documents from The Conway National Bank and are attached hereto as **Exhibit B**;
- c. A copy of an Order of Default dated February 17, 2017 signed by resident Judge Steven John in Civil Action No. 2016-CP-26-07895 and is attached hereto as **Exhibit C**;
- d. A copy of an Order Amending Scheduling Order dated September 12, 2017 Default signed by Cynthia Graham Howell, Master-in-Equity in Civil Action No. 2016-CP-26-07895 and is attached hereto as **Exhibit D**;
- e. A copy of an the Final Consent Order dated April 20, 2018, and signed by Cynthia Graham Howell, Master-in-Equity in Civil Action No. 2016-CP-26-07895 and is attached hereto as **Exhibit E**;
- f. A copy of a letter from Ken Moss to the Hobbs Group dated December 11, 2020 and is attached hereto as **Exhibit F**;
- g. A copy of a letter from Arthur Justice to Four of A Kind Maintenance dated June 7, 2018 and is attached hereto as **Exhibit G**;
- h. A copy of a letter from Arthur Justice to Sarah Murrow Trisler, Agent for Empress Management, Inc., dated June 7, 2018 and is attached hereto as **Exhibit H**;

- c. Directing Attorney Lee to file a lawsuit against Renaissance Tower under Civil Action No.: 2020-CP-26-07351 without first obtaining the prior approval of 67% of the full Board;
- f. Directing Attorney Lee to file a Motion to Dismiss under Civil Action No.: 2020-CP-26-07368 without first obtaining the prior approval of 67% of the full Board;
- g. Directing Attorney Lee to file a Motion to Dismiss under Civil Action No.: 2018-CP-26-03175 without first obtaining the prior approval of 67% of the full Board; and
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- f. A copy of a letter from Ken Moss to the Hobbs Group dated December 11, 2020 and is attached hereto as **Exhibit F**;
- g. A copy of a letter from Arthur Justice to Four of A Kind Maintenance dated June 7, 2018 and is attached hereto as **Exhibit G**;

- i. Two photographs of No Trespassing signs posted on the property of MBRHOA and is attached hereto as **Exhibit I**;
- j. A copy of a letter from Board President Ken Moss to attorney Howell V. Bellamy, III dated December 31, 2020 and is attached hereto as **Exhibit J**;
- k. A copy of an email from Board President Ken Moss to Barbara Johnson dated December 29, 2020 and is attached hereto as **Exhibit K**;
- l. A copy of an email from Ken Moss to board members dated December 29, 2020 and is attached hereto as **Exhibit L**;
- m. A copy of an email from Board President Ken Moss to board members dated December 23, 2020 and is attached hereto as **Exhibit M**;
- n. A copy of a letter from attorney Howell V. Bellamy, III, to Sarah Murrow, Registered Agent, dated February 1, 2017 and attached hereto as **Exhibit N**;
- o. A copy of the Termination letter from Robert Rosencrans to Board President Ken Moss and is attached hereto as **Exhibit O**;
- p. A true copy of the Order of December 21, 2018 signed by the Honorable William H. Seals, Jr., appointing attorney Ken Moss as the fifth board member and is attached hereto as **Exhibit P**;
- q. A copy of an email from Peter Grusauskas to Master HOA board members dated April 3, 2018, and is attached hereto as **Exhibit Q**;
- r. A letter to Sarah Morrow of Empress Management, Inc. from attorney Robert E. Lee dated February 16, 2021 and is attached hereto as **Exhibit R**;
- s. A copy of an email from Barbara Johnson to Robert Rosencrans, Board President Ken Moss, and Robert E. Lee dated March 3, 2020, and is attached hereto as **Exhibit S**;
- t. A copy of an email from Robert Rosencrans to Board President Ken Moss and attorney Robert E. Lee dated March 3, 2020, and is attached hereto as **Exhibit T**;
- u. A copy of an email from Barbara Johnson to Robert Rosencrans, Board President Ken Moss, and attorney Robert E. Lee dated March 3, 2020 and is attached hereto as **Exhibit U**;

- v. A copy of an email from Ken Moss to current Board members Robert Rosencrans and Lori Niedzwiecki dated January 11, 2021 and attached hereto as **Exhibit V**;
  - w. A copy of a second email from Robert Rosencrans to Ken Moss and attorney Robert E. Lee dated March 3, 2020 and attached hereto as **Exhibit W**;
  - x. A copy of an executed General Maintenance and Pool Cleaning Service Agreement between Four of a Kind Services, Inc. and Myrtle Beach Master Homeowners' Association dated January 1, 2018, and is attached hereto as **Exhibit X**;
- Review of MBR HOA Annual Budgets for the years 2018, 2019 and 2020;
- A copy of a letter from John Hobbs of The Hobbs Group, with financial information;

99. I affirm that the foregoing is true to the best of my personal knowledge or on information and belief; I understand that the penalty for intentionally providing false information involves prosecution for perjury and the penalties associated with doing the same.

*Signature Page to Follow*

101. I affirm that the foregoing is true to the best of my personal knowledge or on information and belief; I understand that the penalty for intentionally providing false information involves prosecution for perjury and the penalties associated with doing the same.

FURTHER AFFIANT SAYETH NOT.

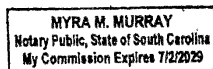
Robert S. Rosencrans  
Robert Scott Rosencrans

SWORN to and subscribed before me this

23rd day of February, 2021.

Myra M. Murray  
Notary Public

My Commission Expires 7/02/2029



# EXHIBIT

**S**

1 STATE OF SOUTH CAROLINA  
COURT OF COMMON PLEAS  
2 COUNTY OF HORRY

3 \_\_\_\_\_

4 Frederick E. Brown, et al.,

5 Plaintiffs,

6 vs. CIVIL ACTION NO.  
2018-CP-26-00488

7 Jeffery L. Richardson, et al.,

8 Defendants.

9 Myrtle Beach Resort Homeowners'  
Association, Inc.,

10 Nominal Defendant.  
11 \_\_\_\_\_

12

13

14 ZOOM  
DEPOSITION OF: JEFFERY L. RICHARDSON

15

16 DATE: Thursday, October 15, 2020

17 TIME: 11:13 a.m. - 4:02 p.m.

18 LOCATION: ZOOM VIDEO CONFERENCING

19 TAKEN BY: Attorney for Plaintiffs

20 COURT REPORTER: Michele E. Starkey  
Certified Shorthand Reporter

21

22

23

24

ELECTRONICALLY FILED - 2022 Apr 13 9:40 AM - HORRY - COMMON PLEAS - CASE#2018CP2603173

1 APPEARANCES OF COUNSEL

2 REPRESENTING THE PLAINTIFFS:

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4 BY: HOWELL V. BELLAMY, III, ESQ.  
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6 Myrtle Beach, SC 29577  
7 Office: (843) 448-2400  
8 E-mail: Hbellamyiii@bellamylaw.com

7 REPRESENTING THE DEFENDANTS:

8 Nexsen Pruet, LLC  
9 BY: ANDREW A. MATHIAS, ESQ.  
10 AND: CLARENCE R. TURNER, IV, ESQ.  
11 PO BOX 10648  
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5

1 STIPULATIONS: It is stipulated by  
2 and between Counsel that this deposition  
3 is being taken in accordance with the  
4 South Carolina Rules of Civil Procedure;  
5 and that the deponent does waive  
6 reading and signing of this deposition.

7 \*\*\*\*\*

8 JEFFERY L. RICHARDSON, being first duly  
9 sworn, testified as follows:

10 EXAMINATION

11 BY MR. BELLAMY:

12 Q. Mr. Richardson, my name is Howell Bellamy  
13 and I'm an attorney with the Bellamy Law Firm. As  
14 you know, I represent the plaintiffs in this  
15 matter. I'm here to take your deposition today,  
16 but before we start, I'm going to go over some  
17 instructions pursuant to our rules of civil  
18 procedure. First instruction is if you don't  
19 understand one of my questions, you are to -- you  
20 have an obligation to seek clarification from me  
21 and not your attorney.

22 Do you understand that instruction?

23 A. Yes.

24 Q. Okay. If you answer my question, I have the

25 right to assume you understood it. Do you

6

1 understand that instruction?

2 A. Yes.

3 Q. Third instruction is unless directed by your  
4 attorney not to answer a question due to asserting  
5 some privilege or seeking a protective order, you  
6 have an obligation to answer my question.

7 A. Okay.

8 Q. Mr. Richardson, any time you need to go to  
9 the bathroom or take a break, all I would ask is if  
10 I've asked you a question, just answer the question  
11 and then we can take a break. It's not a marathon,  
12 sir.

13 A. Okay.

14 Q. And then as you know, a court reporter is  
15 taking down your testimony so obviously the  
16 questions I'm going to ask and your answers are  
17 being recorded. I would ask that you let me finish  
18 my question first before you respond, and because  
19 the court reporter cannot record nonverbal  
20 communications, like, you know, moving your head up  
21 and down like "uh-huh," "uh-uh," you need to say  
22 yes or no, and you'll have an opportunity to  
23 explain.

24 If I ask a question that you need further

25 clarification because you need to look at a

7

1 document, I'll make a document available. Okay?

2 A. Okay.

3 Q. Can you tell me your full name for the  
4 record?

5 A. Jeffery Lee Richardson.

6 Q. Okay. And Mr. Richardson, where do you  
7 currently reside?

8 A. 136 Cheval Trail, Gaffney, South Carolina.

9 Q. And what is your date of birth?

10 A. 5/4/56.

11 Q. Okay. Are you -- let me ask you this: Are  
12 you married?

13 A. Yes.

14 Q. Okay. How long have you been married?

15 A. Let's see, four -- 42, something like that.

16 Approximately 42 years.

17 Q. Okay. Do you have any children?

18 A. Two.

19 Q. What are their names and ages?

20 A. Jeff Richardson, Adam Lee Richardson.

21 They're 32.

22 Q. What high school did you graduate from?

23 A. North Vigo High School.

24 Q. Where is that located?

25 A. Terre Haute, Indiana.

8

1 Q. What year did you graduate?

2 A. '74.

3 Q. Okay. Did you attend college?

4 A. Yes.

5 Q. Which college did you attend?

6 A. I attended a couple of them. Indiana State

7 and then Lincoln Christian University.

8 Q. Were you there when Larry Byrd was playing

9 basketball?

10 A. Yes. Played basketball against him in the

11 rec league, and he didn't play the first year

12 because he had to sit out a year. So he went -- so

13 he ended up in the rec league all the time, and he

14 was good. He was very confident. We knew he was

15 good.

16 Q. I think you may have said this. What year

17 did you graduate from college?

18 A. '79.

19 Q. And was it from Indiana State?

20 A. No, Lincoln Christian University.

21 Q. After you graduated from college, what did

22 you do?

23 A. While I was in college I worked for

24 McDonald's Corporation and then they offered me a

25 job. Well, while I was in school. Offered me a  
9

1 job as being a manager and worked my way up, so I  
2 basically ran a store for a while and then I did  
3 consulting work for them through the county, went  
4 to the franchisees and to the company stores.

5 Q. You said -- is your degree in accounting?

6 A. Business administration.

7 Q. Business administration?

8 A. They didn't have an accounting program  
9 there.

10 Q. So you're not a licensed CPA?

11 A. No.

12 Q. How long did you stay with McDonald's  
13 Corporation?

14 A. Altogether 13, 14 years.

15 Q. Then after you left McDonald's Corporation  
16 where did you go?

17 A. Went to work -- it's kind of a transition  
18 period. I didn't work for a while. Basically --  
19 there's a big story but I started trading stocks  
20 and got a job, I thought, with Edward Jones and got  
21 my securities license through them but they wanted  
22 me to transfer to someplace -- they were supposed  
23 to put me here in Gaffney near Spartanburg. They  
24 didn't. They wanted me to go to Mt. Pleasant or

25 some other place and I said no. And so I basically  
10

1 worked for them theoretically two weeks, so I went  
2 to work for them for two weeks, got an insurance  
3 license, then I went to work for, you know, like a  
4 week later Interstate/Johnson Lane, stayed there  
5 two years, and then Bank of America came calling me  
6 and asking if I'd go to work for them. I worked  
7 for them for 10, 11 years, and then I've been at  
8 First Piedmont 21 years.

9 Q. What was your job title at Bank of America?

10 A. Investment advisor.

11 Q. Okay. And now you're at First Piedmont?

12 A. Yes, sir.

13 Q. What is your job title at First Piedmont?

14 A. Vice president of investments.

15 Q. Is it a -- is it like an investment firm or

16 is it a bank or --

17 A. We're a savings and loan.

18 Q. Savings and loan? Okay.

19 A. And we're a subsidiary of the savings and  
20 loan, and we do the investments, some for the bank,  
21 we do most of the trusts or do the fiduciary work.

22 Q. Okay. These next couple of questions I've  
23 got to ask you, they're standard questions that we  
24 ask every deposition, so don't -- hopefully don't

25 be offended by me asking. First one will be is

11

1 have you ever been arrested before? Have you ever  
2 been arrested for a misdemeanor and/or felony? A  
3 felony is a criminal offense where the sentence is  
4 greater than ten years.

5 A. No.

6 Q. Okay. Have you taken any medications or  
7 prescription drugs that would affect your ability  
8 to understand my questions?

9 A. No.

10 Q. And have you taken any prescription drugs or  
11 medications that would affect your ability to tell  
12 the truth?

13 A. No.

14 Q. Prior to taking your deposition today have  
15 you had -- have you talked to somebody and  
16 discussed your expected testimony with somebody not  
17 your attorney?

18 A. Nancy -- whatever Nancy's -- Nancy and I  
19 think I talked to Jim within the last two weeks,  
20 just...

21 Q. Since it's not a privileged communication,  
22 what did y'all discuss?

23 A. What kind of questions you're asking.

24 Q. Fair enough. What documents -- is it all

25 right to call you Jeff?

12

1 A. (Witness nods head.)

2 Q. Jeff, what documents have you reviewed today  
3 prior to in preparing for your deposition?

4 A. Just the standard Renaissance Tower HPR  
5 documents, by-laws, and also the master. Looked at  
6 it a little bit. I haven't spent a lot of time on  
7 either one of them. But then I saw -- I saw --  
8 basically I looked at three documents, the master  
9 association documents, the tower documents, and  
10 some that Renaissance Tower had with HOA  
11 association a couple years -- (technical  
12 difficulties).

13 Q. The 2016 lawsuit, the master association  
14 (technical difficulties) day-to-day association  
15 assessments that were owed to 2016?

16 A. I think. I don't know about the date but  
17 yes, that is what it was about.

18 Q. Okay. When was the first time you bought a  
19 unit at Myrtle Beach Resort?

20 A. Think it's something really 1995, '98.

21 (Technical difficulties.)

22 MR. RIVERA: It's getting interrupted.

23 There's no way to be able to take down what you

24 all are saying right now.

25 (A discussion was held off the record.)

13

1 BY MR. BELLAMY:

2 Q. And how many condominium units do you own in  
3 Myrtle Beach Resort? How many condominium units do  
4 you own in the Myrtle Beach resort currently?

5 A. I own by myself, I own some through  
6 corporations or LLCs, and partnerships, so.

7 Q. Can you give me a number, like, you know, 20  
8 or more or, you know...

9 A. Where I own personally and with -- I think  
10 11 in Renaissance Tower, and three or four in the B  
11 Building.

12 Q. Okay. Jeff, I've looked at the real estate  
13 records in Horry County and it looks like from what  
14 we can see you may own 33 units in Myrtle Beach  
15 Resort.

16 A. No.

17 Q. But by your count how many?

18 A. What did I just tell you? I mean, I can  
19 just tell you, I own 203, 301, 302, 310, 311, 314,  
20 315, 316. I own partial of 603, 604, and 1406.

21 That's it in the Tower. And in the B Building,  
22 308, 314, I think, and there's another one, maybe  
23 208 or 210, something like that. I think there's  
24 three of them in the B Building.

25 (A discussion was held off the record.)

14

1 BY MR. BELLAMY:

2 Q. Jeff, I'm going to hand you a compilation of  
3 information regarding properties that allegedly you  
4 own. Take a minute to look at it and we'll mark it  
5 after as Plaintiff's Exhibit No. 1. What I'm going  
6 to do is I'm going go -- first thing I'm going to  
7 ask you is look at deed book and page -- it's Deed  
8 Book 4085, page 291, and it's basically a  
9 Renaissance Tower condo 316. Do you still own that  
10 unit?

11 A. Yes.

12 Q. Next one I'll go to is Deed Book 1797 at  
13 page 1348. It is apartment 1712 from Renaissance  
14 Tower. Do you still own that condominium unit?

15 A. Yes.

16 Q. Next one is 1874, Deed Book 1874 at page  
17 823. Do you still own condominium Unit A-125?

18 A. No.

19 Q. Then next one is Deed Book 2025 at page  
20 1475. Do you still own a condominium unit or  
21 apartment unit 508?

22 A. Which building?

23 Q. Renaissance Tower.

24 A. No.

25 Q. Okay.

15

1 MR. MATHIAS: Would it help if we just  
2 sent you a list of what he owns?

3 MR. BELLAMY: Yeah, we can do that.

4 THE WITNESS: Got 11 partnerships in  
5 the Tower.

6 MR. MATHIAS: We'll just send you a  
7 list of everything he owns either personally  
8 or through --

9 MR. BELLAMY: That's fine.

10 Q. Jeff, what is the -- as far as the units you  
11 currently own, is it 15? Around 15?

12 A. In the --

13 Q. Total.

14 A. Fourteen in the resort I have an interest  
15 in.

16 Q. Collectively how much are you paying in  
17 regime fees for Renaissance Tower, including the  
18 association?

19 A. Well over 6,000 a month. I mean, I write a  
20 check for -- probably writing checks depending on  
21 how they're listed, and so I know there's a check  
22 for, like, 4,000 and I know there's a check for  
23 over two but it could be more, but approximately  
24 6,000 a month.

25 Q. On 14 units that you own or have an interest  
16

1 in?

2 A. Right.

3 Q. Okay.

4 A. Could be more.

5 Q. Have you -- when is the first time you  
6 served on the Renaissance board? You currently are  
7 the president --

8 A. Yes.

9 Q. On the renaissance board? When was the  
10 first time you were elected to the Renaissance  
11 board? Renaissance Tower board. Excuse me.

12 A. I bought a unit, condominium 1712 in 1995  
13 basically.

14 Q. Right.

15 A. So that same year at the end of the year  
16 they asked me if I would join the board. There was  
17 some discrepancies in money. Because of, you know,  
18 my background in doing audits for McDonald's and  
19 all that, they asked me to be somebody that -- you  
20 know, I guess -- and so, anyway, they asked me to  
21 join the group, okay, and so I think I joined the  
22 board in December of that year. And then the first  
23 time I was elected would have been like March or  
24 April of that next year, so '96 if your dates are

25 correct.

17

1 Q. Have you served on the board for Renaissance  
2 Tower since you got in 1995 on the board until  
3 today?

4 A. Yes.

5 Q. I know that reading some of the  
6 documentation going back to 1996 you were the  
7 president, I think, when the lawsuit was filed, but  
8 have you served other roles as -- other officer  
9 roles on the board?

10 A. I started out as secretary and I think I was  
11 secretary for a couple of years.

12 Q. Okay. And how long have you been the  
13 president of the Renaissance Tower board?

14 A. I really don't know. Ten, 15 years.  
15 There's been some interruptions. I mean, they vote  
16 on who's going to be the president.

17 Q. Now, have you ever served on the master  
18 board?

19 A. I'm currently on the master board and  
20 there's a year 15 -- probably 15 years ago or so  
21 that I was on there for a short period of time.

22 Q. Okay. My recollection is your second, you  
23 know, term on the master board, I think, began in  
24 March of 2018; is that correct?

25 A. I think so, yes.

18

1 Q. Okay. You replaced -- well, I'm trying to  
2 think of it. It's on the tip of my tongue. Peter  
3 Fishofitz (ph), did you replace him?

4 A. Yes.

5 Q. Did he step down from the board or was he  
6 fired?

7 A. The Renaissance Tower board -- well, first  
8 thing is, is my capacity here as me as an  
9 individual or as a representative of the tower?

10 MR. MATHIAS: I put that on -- that's  
11 fair.

12 I put that on the record for Jim and  
13 Nancy. Jeff is here to testify as Jeff  
14 Richardson, not formally in any other  
15 capacity. His testimony is as to his  
16 personal knowledge.

17 MR. BELLAMY: You don't think he's  
18 testifying as an officer or a member of the  
19 master board?

20 MR. MATHIAS: No, he's testifying as  
21 Jeff Richardson. That's how you noticed the  
22 deposition. You are here as Jeff  
23 Richardson.

24 THE WITNESS: Anyway, to answer your

25 question, I believe he was removed from the  
19

1 board, or asked to, and then I was  
2 appointed.

3 MR. BELLAMY: Let's go off the record a  
4 second.

5 (A discussion was held off the record).

6 BY MR. BELLAMY:

7 Q. Jeff, have you had an opportunity to read  
8 plaintiff's amended complaint?

9 A. I've had the opportunity. I haven't read  
10 the whole thing verbatim.

11 Q. Okay. In plaintiff's amended complaint we  
12 allege there's certain deadlocks that exist between  
13 the four regimes. Do you disagree with the  
14 allegations that there are certain deadlocks?

15 A. I personally, yeah, don't disagree from what  
16 I've heard, yes.

17 Q. And for the record would you describe what  
18 you perceive the deadlocks to be?

19 A. That somebody basically got their candy  
20 taken away.

21 Q. Be more specific.

22 A. When their -- the settled lawsuit basically,  
23 when this -- the eruption of all of this started  
24 was over, I think what you're going to probably ask

25 from the previous witnesses about the master

20

1 documents and how they came about. And we had --  
2 when I first got on the board of Renaissance Tower  
3 there were a lot of -- I hate to use the word  
4 corruption but there was a lot of corruption.  
5 There were people probably taking advantage of  
6 situations like pays, you know, the reimbursements,  
7 you know, people we get -- I think I saw one for  
8 \$1300 to come from North Carolina and you're  
9 supposed to be a non-paid person. You know.

10 And it was just -- and I think the reason I  
11 got asked to be on the board was because I raised  
12 my hand, and supposedly there was like \$80,000  
13 missing, and I sat in a board meeting for six hours  
14 and nobody even ascertained where the \$80,000 was,  
15 and so I raised my hand and said, "Could somebody  
16 tell me where the \$80,000 went," and they all kind  
17 of looked at each other up there, and "Well, we're  
18 going to get to that." And so there was -- you  
19 know, and then I said, "Well, who is the  
20 treasurer?" And they didn't even know who the  
21 treasurer was.

22 You know, they're like is it you, is it you,  
23 and so it was kind of like -- and that seemed  
24 that's the way that the boards ran.

25 They had management companies that  
21

1 basically, I think, the homeowners got taken  
2 advantage of from, and there's certain people that  
3 was in power and when the candy got taken away,  
4 they decided to sue.

5 Q. Okay. Let me ask you this: I read minutes  
6 and I've also read, I think, specifically the  
7 transcription of the October 13, 2019 special  
8 meeting of the board. And is it your contention  
9 that the declaration and the by-laws were not  
10 properly adopted and therefore, you know, be  
11 illegal or void or unenforceable?

12 A. I personally, not speaking for the board,  
13 believe that they have room for improvement. I  
14 think they were done in a hurry. I think that they  
15 didn't follow the original -- HPR's original  
16 guidelines or master deeds and by-laws to form  
17 this. Might have been a template, but they were  
18 done in a hurry because of the bankruptcy. That's  
19 what I've heard, you know. There's certain things  
20 in the Renaissance Tower HPR that the master  
21 association is supposed to do that they're  
22 responsible for and there's a conflict between the  
23 two. And if they would have wrote them  
24 simultaneously or they would have wrote them -- one

25 probably -- lawyer instead of two different

22

1 attorneys, they probably would have paralleled each  
2 other more. And so I think there's a lot of  
3 conflicts between the two.

4 Q. All right. But as far as the --

5 A. Now, whether they're legal or not, I have  
6 no --

7 Q. Let me ask you, have you ever argued to the  
8 master board members that the declaration and  
9 by-laws are not properly adopted because the call  
10 for a vote of the membership as a whole? Did you  
11 ever argue that?

12 A. I don't know if I would say argued that but  
13 I have said that because they didn't follow the  
14 Renaissance Tower HPR guidelines, so the --

15 Q. What's that?

16 A. You know, things like giving over the common  
17 property. To give over the common property of the  
18 Renaissance Tower HPR, you would have to have 75  
19 percent vote. That's the way I read the document.  
20 That vote was never taken.

21 Q. Okay. You saying that a vote needs to be  
22 taken as far as ratifying the membership as far as  
23 the 1,010 members to ratify the declaration and  
24 by-laws to make it lawful and valid? Is that --

25 A. No. I think if you read the HPR's master  
23

1 deeds, it tells you that there will be or there can  
2 be a master association and it tells you what they  
3 will be responsible for. To give them anything  
4 other than that, yes, you would need votes  
5 probably. That's my opinion.

6 Q. All right. Well, is the Renaissance Tower  
7 Horizontal Property Regime subject to the master  
8 association declaration of by-laws in your opinion?

9 A. In my opinion as an owner, we are subject to  
10 them because we adopted the -- you know, when you  
11 close at the attorney's office, you're given the  
12 HPR's documents, and in those documents it tells  
13 you that there will be a master association that  
14 you will pay a percentage of, and for these things,  
15 this is what you can pay that percentage for.

16 Q. Okay.

17 A. So I think it gives a clear definition of  
18 what the master should do and what you as an owner  
19 in Renaissance Tower are obligated to do.

20 Q. And you're referring to Article 18 in the  
21 Renaissance Tower HPR, correct?

22 A. I'd have to see the document.

23 Q. Sure.

24 A. I've got a copy, probably easier for me to

25 find.

24

1 Q. Okay.

2 A. Book Page 917, page 9 something, 908.

3 Q. See, I've got Article 18, Myrtle Beach

4 Resort with the pertinent language.

5 A. I guess unless I'm reading this wrong.

6 Okay. You're probably right. Maybe I don't have

7 that page, but anyway, 908 -- I'm missing 907, but

8 anyway, 908, page 908, so it would be 18.

9 Q. Okay.

10 A. As far as basically the third paragraph

11 down, "The owners shall be members of Myrtle Beach

12 Resort Homeowner's Association and as such shall

13 pay pro rata with the other owners, dwelling,

14 apartments, and other similar easements for the use

15 and cost of maintenance, upkeep, repair, arising

16 out of the association with the resort facilities

17 such as exist from time to time. Such costs shall

18 include," and then it starts talking about

19 maintenance, insurance, supervision, reserve funds,

20 and all of that.

21 Q. Okay.

22 A. And basically the main part of upkeep

23 arising out of the association with resort

24 facilities. So I think somebody has to determine

25 what resort facilities are.

25

1 Q. Before the declarant went bankrupt or -- the  
2 original developer owned all the resort facilities,  
3 correct? The tennis courts, the pools, walking  
4 trails?

5 A. Well, he gave -- he deeded all of those over  
6 to the individual HPRs, and if you also looked at  
7 that document, the boards of all the individual  
8 regimes are responsible for maintenance, upkeep,  
9 make rules and to enforce rules on their property  
10 of the co-owners. So there's got to be a conflict  
11 between the -- it can't be the same property  
12 because in the beginning part of the document, it  
13 talks about what the boards of the individual HPRs  
14 are supposed to do, and then Section 18 as you just  
15 said, it's says okay, now we can have another board  
16 that takes care of that property.

17 Q. Let me ask you this.

18 A. That's just my belief.

19 Q. You think it was the intent of the board  
20 presidents who signed off on the declaration back  
21 in 1991 for the master association to be -- they  
22 intended for it to run the regimes' common areas  
23 for all the property?

24 A. No.

25 Q. Okay. Why do you disagree with that?

26

1 A. The person that asked me to be on the  
2 Renaissance Tower board, his name was Bill Wool,  
3 and he also wrote a letter that did the history of  
4 the resort, and he mentioned it quite a few times  
5 that everybody was supposed to have their autonomy.

6 Q. Well, we'll get to that. But I was --

7 A. And the other part would be, I guess, I just  
8 think that that's where part of the conflicts  
9 comes.

10 Q. You know, I'm looking at -- what I'm  
11 referring to is the --

12 A. And that they -- and they never -- if that  
13 was the case, I think that people -- and it says in  
14 the master document, we can go together to do  
15 certain things and do it pro rata, but that we  
16 don't have to. If we can all come -- if we can all  
17 come across on the, you know, that it's for the  
18 good of the resort, we can give that duty over to  
19 the master to save money to -- for the well-being  
20 of the resort but it's not have to.

21 Q. Jeff, where does it say that in the  
22 declaration?

23 A. Which declaration?

24 Q. The declaration of the master.

25 A. In the master? Oh, gosh.

27

1 Q. The way you kind of describe the right to

2 opt out.

3 A. I didn't say the right to opt out but

4 including further duties and responsibilities which

5 may be designated to the association by the

6 individual -- association and to equitably

7 apportion assessments the same.

8 Q. What portion is it? What section is that?

9 A. It's under Article 4 of the master. But

10 before you even get to that, you got to read what

11 responsibilities of -- that the declarant gave

12 because the declarant didn't write this. The

13 declarant had his attorney write this. It was --

14 it was the other people out of a bankruptcy that

15 wrote this.

16 Q. Well, all right. Let me back up for a

17 second. You as indicated earlier, testified

18 earlier, bought your first unit sometime in 1995.

19 A. Correct.

20 Q. Okay. And you're aware at that time, Jeff,

21 that Dan Patrick was the attorney for the master

22 association as well as the individual condominium

23 regimes?

24 A. After I got on the boards I did. I mean, I

25 didn't -- I didn't know him. I mean, when I bought  
28

1 my unit, I didn't say who is the resort attorney.

2 Q. Well, I understand that, but as far as Dan

3 Patrick -- obviously, you would be aware that Dan

4 Patrick drew up the master deed and by-laws, right?

5 You're aware of that, aren't you?

6 A. I don't know if he drew up everything. Did

7 he draw up the Renaissance Tower?

8 Q. My understanding he did but I definitely

9 know --

10 A. I know he definitely did these but maybe he

11 did. I don't think he did these.

12 Q. Well, as far as going back to the master

13 declaration and by-laws, we can agree that Dan

14 Patrick drew it up, correct?

15 A. Right.

16 Q. And you're aware of the fact that -- you

17 read the documents in this case and looked at -- as

18 far as the -- some of the motions, there's an

19 affidavit attached from Dan Patrick where he

20 indicates that the 4.1 powers are short of

21 obligations, okay, and that it was the intent of

22 the, you know, the four member board presidents had

23 signed off on the declaration back in 1991, that

24 the master would run, basically administer the

25 whole resort, the property developments, and

29

1 essentially that the individual condominium regimes  
2 would be responsible for the footprint of their  
3 buildings, the master would have the responsibility  
4 of looking after the common areas. And if you --  
5 that's what Dan had indicated to me. Obviously I  
6 wasn't there when he drew it up. I guess you  
7 disagree with that, correct?

8 A. Yeah. I just -- that's not the way it's  
9 been done, that's not the way that after they voted  
10 on it it was done, so it'd be hard for me to  
11 believe that that's -- I agree that to run a more  
12 coefficient or efficient resort, kind of like  
13 Kingston Plantation where you just own the  
14 footprint, it would be a lot easier, okay? But  
15 these aren't set up that way because the developer,  
16 from what I understand and what I've read, he was  
17 walking out the door. When he sold all the units  
18 and he was going to build a convention center and a  
19 fifth space, we were going to have five members on  
20 the board -- this is just what I heard.

21 They had a bulldozer sitting out there.  
22 Even had a guy named Clarence that was an attorney  
23 that was original -- I think he's dead now but he  
24 was from Pittsburgh, and he had always talked about

25 how they were going to build a convention center

30

1 and how they were going to have this and he had a  
2 bulldozer sitting up there and because of the  
3 bankruptcy, Ocean Lakes now owns that property, and  
4 that they had to scurry to buy the commercial  
5 property because they had no money and they  
6 couldn't assess the homeowners to buy this, so it  
7 was like okay, what can we do. What can we do?

8 And one of the original board members who  
9 died this last year, Bill Kinsey, basically made an  
10 affidavit -- when we were talking about lawsuits,  
11 is that that's not the way that this was originally  
12 set up. And when the bankruptcy went through,  
13 basically let's hurry up and get this thing done,  
14 Dan Patrick's got to get this thing to go through  
15 so that we can actually legally buy partial  
16 property.

17 Q. Okay. Let me ask you this. Sam Brot (ph)  
18 signed on behalf of Renaissance Tower Horizontal  
19 Property Regime, the declaration. Have you ever  
20 had any communication with Sam Brot?

21 A. No.

22 Q. Okay.

23 A. I have had communication with some of the  
24 other people that signed --

25 Q. Okay.

31

1 A. -- from the B Building.

2 Q. Let me ask you this. After the declaration  
3 was signed, did anybody to your knowledge from  
4 Renaissance Tower object to the provisions of the  
5 master deed in any way?

6 A. From time to time everybody kind of objects  
7 to the master deed the way it's written.

8 Q. Well, what I'm saying is, it's my  
9 understanding that --

10 A. I think it's a very confusing document.  
11 Like I said, it does not run parallel to our  
12 declaration.

13 Q. I understand. This is -- Myrtle Beach  
14 Resort is unusual. You've got four individual  
15 condominium regimes with an umbrella, you know,  
16 association administering it, and so it's no  
17 perfect -- as a lawyer, I can tell you there's no  
18 perfect contract.

19 A. And I will tell you that if you want me to  
20 -- I think Dan Patrick is a very smart person. I  
21 think he was probably -- as I'm getting older, I'm  
22 not as sharp as I was 20 years ago, but I believe  
23 that if Dan Patrick wanted to be more explicit, he  
24 would have been more explicit and wrote the

25 documents. Instead of -- I know you're going to

32

1 ask the word "shall," if you will, you know, he  
2 could have put will in there, instead he put shall.  
3 And anyway, going back to one of the guys that was  
4 on the board of -- the Renaissance Tower board, the  
5 one that wrote the history of the resort as they  
6 put into the records, the autonomy -- and that's  
7 the way I guess I read the Renaissance Tower. The  
8 autonomy of each individual resort and then you  
9 have the master association, because the developer  
10 was leaving. He wasn't going to own any of the  
11 commercial -- I mean, he might own the commercial  
12 property but he's going to lease it out or he's  
13 going to sell it.

14 You know, he sold the TV and the Five  
15 Seasons, that building. He basically wanted to  
16 make his money and leave. And he did this, he did  
17 the Palace, he did a couple other resorts at the  
18 beach, and he left. He didn't want anything to do  
19 with them except for some residual income because  
20 he didn't want to be on the board. The guy at  
21 Kingston, from what I understand, is still there  
22 running the extra grounds where you just have the  
23 footprint. That would have made it a lot easier.  
24 Q. Well, Jeff, you agree there's a deadlock

25 between the four regimes. For example -- let me

33

1 explain why I kind of lay the foundation for my  
2 question. The Five Seasons and the A Building,  
3 their position is that the master, you know, the  
4 4.1 powers are the obligations, and the oceanfront  
5 spa and the Renaissance Tower's position is is  
6 they're optional powers, and you could either opt  
7 in or you could either -- you know, for example,  
8 insurance.  
9 The board has the right, from what I understand  
10 from reading some of the October 13, 2019 special  
11 board meeting, I think there were certain members  
12 or, you know, or board members of the Renaissance  
13 Tower and oceanfront spa that indicated that they  
14 had the right to -- like, for example, they could  
15 insure a building or they could choose not to do  
16 it. It was not an affirmative obligation. Do you  
17 agree with that or disagree?  
18 A. You intro'd a lot so repeat.  
19 Q. Let me just simplify. The Five Seasons and  
20 the A Building take the 4.1 powers or affirmative  
21 obligations, the board has mandatory duty to the  
22 security, the trash, and these powers cannot be  
23 delegated to the individual condo owners, whereas  
24 on the other side of the coin, oceanfront spa and

25 the Renaissance Tower believe that the powers are

34

1 not affirmative obligations.

2 A. The property belongs to the master

3 association, is decided them equally but they are

4 affirmative powers. On the property that belongs

5 to the HPRs, we don't. But I don't believe that

6 the A Building believes that because they're the

7 ones that have taken down the gates and have not

8 relinquished those powers to the master

9 association. So if they really believe that, then

10 they would believe they were obligated to keep the

11 gates up.

12 Q. So you don't believe that the master's

13 obligation with respect to security and trash are

14 resort-wide responsibilities?

15 A. I believe we can come together and if it's

16 going to save money and make it economically

17 feasible, we can come together, but I also believe

18 that that wasn't -- because Renaissance Tower has

19 been paying for the trash ever since before I got

20 there, and I've asked if it was from the beginning

21 and people said yes, it's from the beginning. So

22 if that was the truth, they started out not

23 following that guideline, the same way with the

24 parking lots. You know, you can't just pull out

25 one section and say okay, security belongs to the

35

1 master association and that's it, whereas there's a  
2 list of ten things down there and probably seven of  
3 them the master doesn't want to take responsibility  
4 for, and if you agree that it shall take -- shall  
5 means you must, then why haven't they paved my  
6 parking lot, why didn't they pick up my trash, you  
7 know, why haven't they done all these things. They  
8 owe us a lot of money. They owe Renaissance Tower  
9 a lot of money.

10 Q. Well, obviously there's differences between  
11 the four regimes, and how would you propose to  
12 resolve the differences and deadlocks regarding  
13 interpretation of the governing documents? How  
14 would you -- what solutions would you put on the  
15 table, Jeff?

16 A. Me personally, what I would put on the  
17 table, not speaking for Renaissance Tower, is I  
18 think we need to rewrite them and we need to try to  
19 go together and -- I don't have a problem having  
20 one security firm as long as we have an out. The  
21 reason that most of these problems arose was  
22 because we had a management company that kind of  
23 went, in my opinion, went rogue, okay, and the  
24 master association wouldn't do anything about it.

25 Okay?

36

1 And they put undue burden on Renaissance Tower,  
2 said you will do this, you will use them, and  
3 that's kind of what the court case was all about  
4 that got settled. Is it -- we didn't -- they quit  
5 securing our property but they wanted us to pay for  
6 it.

7 Q. What do you mean, that back in 2000 -- I  
8 guess you're talking about 2015, the master  
9 association quit securing your property?

10 A. They quit running details. They wouldn't  
11 answer phones for security, and, you know, because  
12 we got rid of K.A. Diehl and went to another  
13 property manager, we used to have an office for  
14 security in the Renaissance Tower. As soon as we  
15 got rid of K.A. Diehl, they moved the office over  
16 to the B Building. Okay. So then they quit doing  
17 our -- you know, walking our halls on a timely  
18 manner. They quit -- you know, if you look at the  
19 documents, they're supposed to uphold the rules and  
20 regulations that the board sets out, parking rules,  
21 you know, whatever rules and regulations that we  
22 set up, enforcement of that is ours and they  
23 wouldn't enforce our rules and regulations. They  
24 basically was getting paid by the master

25 association and a three to one vote, you don't have

37

1 it. And so that's the problem with that, is that

2 there's no out if you're not getting proper

3 service.

4 And the other one was cable TV or the

5 wi-fi. You know, three of them only have

6 five-story towers, five-story levels. From the

7 eighth floor up, nobody was getting service at the

8 tower but nobody cared because it was just one

9 vote. So they were going to renew the contract,

10 we're sitting there going, we're not paying for

11 service that we're not receiving.

12 And if you believe the way you want to say, three

13 of them could have voted yes and one voted no and

14 we would have paid for no service from the eighth

15 floor up, or they wanted us to pay for security

16 that we never received.

17 Q. Let me -- Jeff, I'm going to hand you what

18 is Plaintiff's Exhibit 2. It's the Answer and

19 Counterclaim of the Defendant Renaissance Tower

20 Horizontal Property Regime, Inc., and this is the

21 lawsuit y'all were sued by the association, master

22 association, Civil Action No. 2016-CP-26-7895.

23 Take a look at it. Let me know when you've had a

24 chance to review it and I've got some questions.

25 A. I'm looking and you can probably ask  
38

1 questions as I'm looking at it.

2 Q. Sure.

3 A. If there's something specifically you would  
4 like me to look at.

5 Q. One second. Let me refer you, it's not  
6 numbered but it's paragraph 40. You indicate that  
7 in November of 2005 when the plaintiff failed to  
8 provide the Renaissance Tower board a budget for  
9 2016. Correct?

10 A. November 2015.

11 Q. Yeah. Well, the budget for the next year  
12 will be 2016.

13 A. By November 1st.

14 Q. Right.

15 A. Of the documents.

16 Q. And that was kind of the antithesis of the  
17 start of all this, correct?

18 A. No.

19 Q. Okay.

20 A. That was just one of the things that they  
21 didn't do to follow their guidelines, but the big  
22 thing probably was according to all that we're  
23 supposed to have open policies and be able to see  
24 the financials, we had a board member that was on

25 the board at the time, when he went to ask to see,

39

1 they called the police on him, to see the  
2 financials, you know, so there was a lot of things  
3 that came to this. You know, we asked for an audit  
4 of the security. We were never granted that. You  
5 know? We were asked what portion do you pay. It  
6 was like these are closed books, we're in a lawsuit  
7 so we're not showing them to you.

8 Q. One of the things that you indicate is --  
9 and this was on -- first, back up for a second.  
10 Your fourth defense and second counterclaim is for  
11 breach of fiduciary duty. In your own words,  
12 describe how the association breached its fiduciary  
13 duty to Renaissance Tower co-owners.

14 A. That would probably be a question for  
15 somebody that's representing the board.

16 Q. Well, you were the board president at the  
17 time.

18 A. But I'm not representing the board right  
19 now.

20 Q. Well, you were president of the board for  
21 Renaissance Tower. I mean --

22 A. You're asking me a question that should be  
23 done by a representative of the board. That's  
24 what -- the lawsuit was against the Renaissance

25 Tower.

40

1 Q. When you say a representative of the board,  
2 which board are you talking about?

3 A. Renaissance Tower. That's what you're  
4 asking, right? I don't represent the board so  
5 anything I say is just me, not as president of the  
6 Renaissance Tower.

7 Q. Fine.

8 A. Okay.

9 Q. The reason why -- well, let's do this. Let  
10 me get your affidavit. Let me get your affidavit.  
11 Plaintiff's Exhibit No. 3. For the record, it's  
12 the Affidavit of Jeff Richardson in opposition to  
13 Plaintiff's Motion for Temporary Injunction, and  
14 let's see, the fourth page, Jeff, is that your  
15 signature?

16 A. It is.

17 Q. Okay. This affidavit was signed on June 3,  
18 2017?

19 A. Yes.

20 Q. Okay.

21 A. As president of the Renaissance Tower HPR.

22 Q. Okay. Looking at paragraph 9, let me  
23 publish this for the record. It says "The RT board  
24 also began to notice that the plaintiffs' vendors

25 were not enforcing its rules and regulations

41

1 performing repairs and improvements to plaintiffs'  
2 and other members' properties for which the  
3 defendant received no benefit."

4 A. Yeah.

5 Q. Okay. Can you give me more detail about  
6 that allegation?

7 A. There was a lot of -- my personal knowledge  
8 of the way that they were doing books is that there  
9 was a lot of -- like maintenance, okay, and  
10 according to K.A. Diehl at the time, from what I  
11 understand, and like I said, we weren't allowed to  
12 look at the books to audit them, and that was one  
13 of the problems, but they had a maintenance group  
14 of four or five or six people and they -- when they  
15 went to work, say, at the A Building, B Building,  
16 they were supposed to be timed and charged to those  
17 buildings. And nobody -- you know, we couldn't get  
18 a reconciliation of the time cards. We couldn't  
19 get a reconciliation of the work performed, so it  
20 was our belief, you know, but that's why you need  
21 separation. You know, there's separate  
22 corporations and the master didn't need to pay for  
23 A Building or Five Seasons or even the tower. They  
24 shouldn't be paying for upkeep and maintenance.

25 Q. To their common areas?

42

1 A. To their building, common areas.

2 Q. Well, let me ask you this. Just recently,  
3 didn't they have -- didn't Renaissance Tower have  
4 an issue with a busted pipe, underground pipe, in  
5 its parking lot and didn't the master association  
6 pay to fix that?

7 A. Yes. It's a sewer line.

8 Q. Right. Well, how do you reconcile that?  
9 You're saying earlier back in 2015-'16, the master  
10 should not repair -- make repairs to common areas  
11 of individual condominium regimes; however, just  
12 recently they made a repair on the Renaissance  
13 Tower property, specifically parking lot, and  
14 you're fine with that. I mean --

15 A. We're fine with a common pipe. That was a  
16 common pipe for storm drainage that the developer  
17 put in, and if you look at even our HPR, he's  
18 responsible for that.

19 Q. All right. That's a good point. The  
20 Renaissance Tower does not have the right to go on  
21 any other individual condominium regimes, common  
22 areas, correct, for --

23 A. We reciprocate.

24 Q. Not talking about recreational facilities.

25 I'm talking about as far as putting down utilities.

43

1 A. Right. Renaissance Tower has no -- cannot  
2 -- you know, there is right-of-ways that's given by  
3 the declarant for utility situations.

4 Q. But all those agreed are in the master --

5 A. Right.

6 Q. Titled master, okay. So we can agree that  
7 the master association is the one that has all of  
8 the rights to control the utilities throughout the  
9 project, correct?

10 A. They have the right to designate, like, the  
11 lines, the -- I guess the way I look at it is the  
12 developer had a resort and he had to put  
13 infrastructure along with drainage storms and  
14 drainage to the beach and things like that, that he  
15 was -- wells and ponds in the main design.

16 Q. Right.

17 A. Okay. He was going to be always -- give  
18 that to the responsibility of the master because it  
19 serves more than one community.

20 Q. Right.

21 A. Because if we don't fix that storm drain and  
22 all of a sudden we should block it off, Five  
23 Seasons will be flooded back there.

24 Q. Well, Jeff, wouldn't that be fair to say

25 that the master has an affirmative obligation

44

1 dealing with maintenance, repair of utilities

2 throughout the resort?

3 A. The common utilities that serve everybody,

4 yes.

5 Q. Okay. And what I mean by that is they have

6 a, as you indicated in your lawsuit, a fiduciary

7 duty, correct?

8 A. (Witness nods head.)

9 Q. And you understand a fiduciary duty is very

10 high duty; it's more than just due care, so it's --

11 A. I have a fiduciary license.

12 Q. Right. It's a --

13 A. So I know what fiduciary is.

14 Q. It's a special trust relationship.

15 A. Yes. You have to do what's in the best

16 interests of the client.

17 Q. Right. And you're right, if the master has

18 a fiduciary duty clearly regarding the

19 administration of the resorts and its 4.1 powers,

20 the only alternative would be those are affirmative

21 obligations.

22 A. For the -- what you were talking about for

23 the piping, yes. Not for things that -- there's

24 two different things.

25 Q. Let's take the road systems. The master  
45

1 owns the road coming into the resort, right?

2 A. Right.

3 Q. Wouldn't it make sense for the master to  
4 maintain and repair all the streets located within  
5 the resorts?

6 A. I would agree with you. It would be great  
7 but that's not the way this is written.

8 Q. Well, let me ask you this: Do you have a  
9 problem with the documents being revised --

10 A. No.

11 Q. -- to provide for that?

12 A. No.

13 Q. Okay. Let's go back to security. Do you  
14 have a problem -- and I understand you interpret  
15 the documents a little bit different than I do, but  
16 do you have a problem with the documents being  
17 amended, revised to where it's clear, expressly  
18 clear that the master has an affirmative obligation  
19 with respect to security resort-wise?

20 A. No, as long as it's done so that if things  
21 aren't performed, then there's penalties.

22 Q. Let me ask you this. All right.

23 A. As long as you can get out of it. I mean,  
24 you and I go together and buy a car, and I agree

25 that you get 50 percent use and I get 50 percent  
46

1 use, but if I start talking it 75 percent of the  
2 time and you only get 25, you should have the right  
3 to say time out. You know, you need to pay 75  
4 percent. That's what pro rata usage is.

5 Q. All right. Let me ask you this:  
6 Renaissance Tower has a master deed and by-laws,  
7 correct?

8 A. Right.

9 Q. And they were subject to the South Carolina  
10 Horizontal Property Regime Act, correct?

11 A. Right.

12 Q. And the tower has an affirmative obligation  
13 to buy insurance on property it owns and its  
14 regimes, right?

15 A. True.

16 Q. The statute speaks to that. Says they have  
17 to insure --

18 A. Right.

19 Q. -- this property. And then the Renaissance  
20 Tower has an affirmative obligation to maintain the  
21 common areas pursuant to the horizontal property  
22 act. You don't disagree with that, do you?

23 A. No.

24 Q. Now, with respect to your master deed and

25 by-laws, and you are president of Renaissance

47

1 Tower, you read the documents based on their  
2 expressed language, they clearly create affirmative  
3 obligations on the board with respect to the  
4 administration of the common areas of the regime  
5 for the Tower, correct?

6 A. Yes, for the Tower.

7 Q. But as far as the master, you don't read the  
8 master documents to speak to that as far as having  
9 affirmative obligations?

10 A. They could have affirmative obligations to  
11 repair, replace and improve their own property that  
12 they own, and then the other is subjected to --  
13 they put -- going back to your thing about  
14 utilities.  
15 They put the utilities in for the good of the  
16 common. It's kind of like in the condominium HPRs,  
17 you have common pipes that everybody shares and you  
18 have the ones that belong to your condominium. You  
19 own all the way up till it joins the common pipe,  
20 okay? So if it needs repaired, if you have to  
21 repair it with the condominium owner, it goes to  
22 the common pipe even though it's in the wall, then  
23 it's up to the HPR to repair that. So there's a  
24 differentiate. You just can't say okay, the HPR is

25 responsible for everything, all the pipes in the  
48

1 wall. Individual HPRs is responsible for non --  
2 it's their property as long as it's not a shared  
3 utility.

4 Q. Let me refer you to the declaration. I'm  
5 going to mark that Plaintiff's Exhibit 4. Jeff,  
6 let me refer you to the -- this is -- what I'm  
7 referring to is the Declaration of Covenants,  
8 Conditions and Restrictions for the Myrtle Beach  
9 Resort Homeowner Association, Inc., and it was --  
10 it's filed in Deed book 1465 at page 329. And I'm  
11 going to direct your attention to Article One  
12 definitions and then refer to page 3, and  
13 specifically go to 1.1.7. I'm going to publish the  
14 definition of the common areas. "Common areas  
15 means as defined in the individual condominium  
16 association respective master deeds."

17 Did I read that correctly?

18 A. Yes.

19 Q. Now I want to flip over to page 4. I'm  
20 going to refer you to Section 1.1.11. I'm going to  
21 publish the definition of declaration. Excuse me.  
22 Let me go to 1.1.12. I'm going to publish the  
23 definition of development or property. And it  
24 states "Shall mean and refer to the Myrtle Beach

25 Resort which includes the four individual  
49

1 horizontal property regimes referenced above." Did

2 I read that correctly?

3 A. Read that one again.

4 Q. Okay.

5 A. 1.1.11?

6 Q. No. I'm going down to development or

7 property. It's 1.1.12. It says "Shall mean and

8 refer to the Myrtle Beach Resort which includes the

9 four individual horizontal regimes referenced

10 above." Did I read it correctly?

11 A. Yes.

12 Q. So when they're taking about the development

13 or property, they're talking about the four -- the

14 whole resort including the four condominium

15 regimes, correct?

16 A. (Witness nods head.)

17 Q. All right.

18 A. I think. But I'm not an attorney, so.

19 Q. Well, I mean, you're serving on the master

20 board currently as we speak, okay, and you have a

21 fiduciary duty to do what's in the best interests

22 of the resort. You don't disagree with that?

23 A. No.

24 Q. What I want to do now is refer you to, under

25 Article 2, property rights, this section 2.3.

50

1 A. Okay.

2 Q. It's -- heading is Easements for the

3 Association. Let me read this in the record and

4 I'll have a follow-up question. It's says "There

5 is hereby reserved a general right and easement for

6 the benefit of the association's directors,

7 officers, agents, employees, including but not

8 limited to any property manager employed by the

9 association and any employee of such manager, to

10 enter into the property and any portion thereof in

11 the performance of their respective duties." And

12 when they talk about property right there, you

13 would agree they're talking about property, as far

14 as what you read it, it would include the four

15 individual condominium regimes.

16 A. I believe it says easements for the

17 association, easements on there, so restate your

18 question, please.

19 Q. Does the property, when it says -- referring

20 to section 2.3, easements for the association,

21 where it talks about to enter into the property,

22 basically the definition of property, and

23 definitions I would include the four individual

24 condominium regimes, correct?

25 A. As far as easements, yes.

51

1 Q. Okay. Under 4.1, when it says, under  
2 subparagraph A, "maintain all streets and roads  
3 within the property," do you read that to include  
4 all four condominium regimes?

5 A. I can see how you would say that. On the  
6 surface it looks like that, but then in the  
7 individual HPRs that's not what it says and that's  
8 one of the -- where it becomes disassociated. I  
9 believe that if you keep on going for the entire  
10 association, what I read to you before, you know,  
11 that may be delegated to the association by any  
12 individual condominium. So if the individual  
13 condominium association says it's responsibility,  
14 they have the opportunity, the power to do this.  
15 Now, I agree with you as far as economically, it  
16 would be a benefit for us all to be under one roof.  
17 But that's not the way it has been from the  
18 beginning when they even wrote these. Nobody's  
19 ever repaved Renaissance Tower or cleaned our  
20 parking lot.

21 Q. Bear with me. So but when you talk about  
22 powers of the association, subparagraph A, it says  
23 "maintain all streets," but the way you just  
24 expressed language to indicate you're talking about

25 all streets within the Myrtle Beach Resort  
52

1 including the four individual condominium regimes,  
2 correct?

3 A. Right.

4 Q. And then when you get to subparagraph B, it  
5 says "Provide for all refuse collection," you're  
6 talking about for all four condominium regimes,  
7 correct?

8 A. (Witness nods head.)

9 Q. Okay. Then you say "Attain for the benefit  
10 of the property." Based upon the way it's defined  
11 in their subsection 1.1.12, it would be the four  
12 individual condominium regimes, correct?

13 A. I can see how you would say that, yes.

14 Q. Okay.

15 A. Also see how it hasn't been done, so I can  
16 see that it says it hasn't been done for 30 years,  
17 that's probably not what it was meant to be.

18 Q. Well, let me get there.

19 A. My interpretation of that is probably wrong.

20 Q. Well, let me get to that. Under  
21 subparagraph E it says "Grant easement  
22 rights-of-way or strips of land necessary for  
23 utilities and sewer facilities and other services  
24 over the common areas to service the property." So

25 what we're talking about, we're talking about  
53

1 common areas in service -- we're talking about all  
2 four individual condominium regimes, correct?

3 A. Yes.

4 Q. Then you go to subparagraph F, it says  
5 "Maintain such policy or policies of liability and  
6 fire insurance with respect to the property owned  
7 by the association." That's when it talks about  
8 the property that the master association owns.  
9 Then you see subparagraph G where it says "Employ  
10 or contract with a management company to perform  
11 all or any part of the duties and responsibilities  
12 of the association, including further duties and  
13 responsibilities which may be delegated to the  
14 association by the individual condominium  
15 associations equitably apportion assessments of  
16 same."

17 So, what's interesting of subparagraph G is  
18 the individual condominium associations can  
19 delegate more power to the master association,  
20 correct?

21 A. Yeah.

22 Q. Okay. Is there -- now, when you read the  
23 declaration, is there anywhere, any express  
24 language in the declaration where the master

25 association can delegate its express powers back to  
54

1 the individual condominium regimes?

2 A. Well, it doesn't have to accept them.

3 Q. Well, is there anywhere that says --

4 A. No. It says, you know, that basically

5 "including further duties and responsibilities

6 which may be delegated to the association by the

7 individual condominium association has to be

8 apportioned assessments of same."

9 Q. See what's happening, individual condominium

10 associations, that express language, can delegate

11 water, power --

12 A. Or these powers too.

13 Q. Well, and then the other thing I want to --

14 all right. Let's get to subparagraph F. "Install

15 and maintain security devices, detectors, or

16 communication and facilities and contract, employ,

17 a security service, guards, and watchmen for the

18 project." Which the way project is, that would

19 include the Myrtle Beach Resort and four individual

20 condominium regimes, correct?

21 A. No.

22 Q. Tell me why you disagree with that.

23 A. Because from other people, the project was

24 supposed to have been the convention center and

25 that was supposed to be the project that was going  
55

1 to be -- and they rely on the fifth board member.

2 Q. Now --

3 A. And it also says that the developer at some  
4 point in time will relinquish control of that and  
5 send it over to the individual referring to the  
6 master association.

7 Q. Okay.

8 A. And they can't charge another fee and all  
9 that.

10 Q. I understand. The --

11 A. That was the property that got taken away.

12 Q. I understand. That was supposed to be the  
13 fifth association, the fifth board member. Now,  
14 the declaration in this definition section is not  
15 by project, correct?

16 A. Correct.

17 Q. We'll mark this Plaintiff's Exhibit 5. All  
18 right. Let me show you right here and I'll hand it  
19 to you. This is for the record. Plaintiff's  
20 Exhibit 5 is the Empress Management -- it's the  
21 management agreement with Empress between the  
22 master association and Empress. And you've read  
23 that before, I'm sure.

24 A. (Witness nods head.)

25 Q. Jeff, what I'm going to do is I'm going to  
56

1 direct your attention to, under paragraph 1,  
2 definitions, and then go to subparagraph B, I'm  
3 going to publish this and then I'll have a couple  
4 of follow-up questions. Says "The 'Association'  
5 means the association consisting of all the owners  
6 of units and/or lots in the project as organized  
7 under the governing documents of the project for  
8 the purpose of administering the project." So  
9 basically the employment agreement, you're talking  
10 about the resort-wide, the four individual  
11 condominium regimes, correct? They're not talking  
12 about where the fifth association --

13 A. They are. They are -- their agreement is  
14 with the master association.

15 Q. Yeah, and they're referring to the resort as  
16 a project.

17 A. I don't agree with you there because the  
18 only thing that they're getting paid to do is --  
19 they're not getting paid to manage Renaissance  
20 Tower, they're not getting paid to manage the B  
21 Building, so --

22 Q. But it says --

23 A. If they do, then I need to fire my  
24 management company and just have them do it.

25 Q. I'll read it right there. The language says  
57

1 it's organized under the governing documents of the  
2 project, referring to the declaration and by-laws,  
3 and it goes on to say "for the purpose of  
4 administering the project."

5 A. These are three different -- three different  
6 contracts, so, you know, the problem that you have  
7 with this document and -- is that in the  
8 definitions, they should have told you what the  
9 project was. They should have. Now, Dan Patrick  
10 is a smart guy, but this is one of the things that  
11 probably happened in a hurry and he should have put  
12 down there definition of project. He also should  
13 have put down there resort facilities definition,  
14 you know, and --

15 Q. Let me --

16 A. To take somebody else's document, you know,  
17 and say well, that means that in a project, and  
18 this means this, and they can't be the same and --

19 Q. All right. Jeff, let me show you something  
20 right here. Look at the witnesses, you know, that  
21 signed off on this on behalf of the master

22 association. Jim Perkins, correct? See right  
23 there? That's Jim's --

24 A. Okay.

25 Q. He was -- and then Nancy Moore signed that  
58

1 too.

2 A. Okay.

3 Q. Okay. Now, obviously you don't disagree  
4 that before this document was executed Nancy and  
5 Jim probably read it.

6 A. I hope they did.

7 Q. And if they read it and they thought that --  
8 you know, when they talk about the use of the  
9 project referring to master association --  
10 referring to the resort including four individual  
11 condominium regimes, they had a right to change  
12 that language and they didn't.

13 MR. MATHIAS: Object to the form.

14 A. And I agree with you, what you're trying to  
15 say, but -- and the other terms is Nancy and Jim  
16 both also have an agreement with Empress, actually,  
17 to manage their property, okay, and if that was the  
18 truth, they wouldn't need another management  
19 company. They wouldn't need to hire Empress  
20 because it would already be under their purview,  
21 okay, and I would -- I would get to fire my  
22 management company and say okay, the master has to  
23 manage my property too.

24 Q. All right.

25 A. But that's not what's happening. And that's  
59

1 the problem with half of this stuff when you're  
2 sitting there, did they do the streets, did they  
3 not do it, because we've got 30 years of them not  
4 doing them. I think that takes the precedence over  
5 how this has to be interpreted.

6 Q. All right. Let me refer you to 6.2, okay,  
7 and we're going back to the declaration of the  
8 master association. And specifically I want to  
9 direct your attention to page 10, section 6.2,  
10 enforcement.

11 A. Okay.

12 Q. I'm going to read this into the record.  
13 Says "No delay, failure or omission on the part of  
14 the association in exercising any right" -- right  
15 here, starting on page 10.

16 A. I know where you're at.

17 Q. The last, last sentence.

18 A. Last sentence on page 10.

19 Q. Says "No delay, failure or omission on the  
20 part of the association in exercising any right,  
21 power, or remedy herein provided shall be construed  
22 as an acquiescence thereto or shall be deemed a  
23 waiver of the right to enforce such right, power,  
24 or remedy thereafter as to the same violation or

25 breach, or as to a violation or breach occurring  
60

1 prior to or subsequent thereto, and shall not bar  
2 or affect its enforcement. No right of action  
3 shall accrue nor shall any action be brought or  
4 maintained by anyone whatsoever against the  
5 association for or on account of any failure to  
6 bring any action on account of any violation or  
7 breach or threatened violation or breach by any  
8 person of the provisions of this declaration,  
9 by-laws, or any rules and regulations of the  
10 association, however long continued."

11 So essentially what that language says is,  
12 to the extent you're saying that they didn't  
13 enforce it, they acquiesced, this language  
14 specifically provides they can't waive any  
15 affirmative obligations they have due to  
16 acquiescence, waiver or stop.

17 MR. MATHIAS: Object to the form.

18 BY MR. BELLAMY:

19 Q. Do you agree based upon the expressed  
20 language as I read it?

21 A. I have no opinion about that.

22 Q. But you understand what the language --

23 A. I have to probably study it just a little

24 bit more, you know, than you reading it and me

25 giving you --

61

1 Q. Well --

2 A. So that's more for an attorney. I'd  
3 probably give it to my attorney to read and say  
4 okay, now, what does this really mean.

5 Q. But Jeff, you're on the master board, okay,  
6 and honestly, you have to interpret the master  
7 documents.

8 A. And that's what I have an attorney for, to  
9 say okay, what does this really mean in layman's  
10 terms. You know, if we start talking about  
11 finance, you're probably won't have to do  
12 definitions, okay, but now that we're talking  
13 lawyers' language, probably got to do a few  
14 definitions. I mean, what are you saying that this  
15 means? The interpretation --

16 Q. My interpretation is, based on the way it's  
17 read, is that this document, the master do not  
18 waive its affirmative obligations or powers under  
19 4.1 or any other areas set out in the documents.  
20 Just because you have been saying -- you're saying  
21 because they didn't enforce trash with respect to  
22 oceanfront spa, therefore they waived the rights  
23 now, you know, to enforce trash project-wise.

24 MR. MATHIAS: I think you're putting

25 words in his mouth.

62

1 A. Yeah, I think you're putting words in my  
2 mouth. I'm not saying that's the only reason. I'm  
3 saying that is a reason, and you're probably right  
4 that they're giving up that, but there's a lot of  
5 reasons why I think 4.1 is not acceptable. Because  
6 if you go back to the HPR documents that were  
7 written by the developer, you know, and how the  
8 property was supposed to work, that part that we  
9 read, it only gives the master association powers  
10 on their facilities. Okay? And that's what we're  
11 supposed to pay for, so that was part of the  
12 settlement that we all agreed to and we --  
13 everybody took back their own powers and that was a  
14 settlement with master board and the Renaissance  
15 Tower, that if you don't pay the taxes on it, you  
16 have no powers over it.

17 Q. All right. Now, you're talking about the  
18 lawsuit where the Renaissance Tower withheld the  
19 association assessments.

20 A. Right.

21 Q. We'll get to that in a second.

22 A. Okay, that's fine, but --

23 Q. Let me --

24 A. I think there's an outstretch of powers in

25 this document that were never granted by our

63

1 document.

2 Q. Well, you're talking about -- you're saying  
3 that your document, you're referring to the master  
4 deeds and by-laws for Renaissance Tower?

5 A. Right.

6 Q. And you're saying that your documents,  
7 specifically Article 18, did not grant the broad  
8 scope of powers that we're arguing under 4.1?

9 A. Right.

10 Q. Okay. Now, let me ask, so we're clear on  
11 this, is it your position that the 4.1 powers are  
12 optional -- or let me ask you, which ones are  
13 affirmative obligations and which ones are  
14 optional, if any, in your opinion?

15 A. My opinion is they're basically optional.

16 Q. Really? All right. Let me refer you to 6.4  
17 interpretation. It's on page 11 right here. It  
18 says "In all cases, the provisions set forth and  
19 provided for in this declaration shall be construed  
20 together and given that interpretation or  
21 construction which, in the opinion of the board of  
22 directors, will best effect the intent of the  
23 general plan of development."

24 Now, if you're going to -- the general plan

25 of development would include the four individual  
64

1 condominium regimes, correct?

2 A. (Witness nods head.)

3 Q. And to best effect the general planned  
4 development, master would have broad powers with  
5 respect to administering the common areas of the  
6 four individual condominium regimes, correct?

7 A. I can probably explain how I feel about this  
8 if you want me to.

9 Q. You have a right to explain, but we don't  
10 want to be here all --

11 A. No. It's -- are you a member of a country  
12 club?

13 Q. Yes.

14 A. You're a member, you volunteer to be a  
15 member. Did they -- but you're a member, right?

16 Q. Right.

17 A. You pay a fee to be a member.

18 Q. Right.

19 A. And if they assess you, you have to pay  
20 that, right?

21 Q. Right.

22 A. Do they own you? They own your house? Just  
23 because you're a member, do they own you?

24 Q. No.

25 A. Okay. If it says in there you shall play

65

1 golf at 11:00, do you have to play golf at 11:00?

2 Q. No.

3 A. But you can play golf at 11:00 and your tee  
4 time is there at 11:00, okay? And that's the way I  
5 guess I look -- we are four individual condominium  
6 associations. There's supposed to be a fifth one,  
7 okay. We joined together so that we would have a  
8 place to sit at the table to make common rules for  
9 the good of everybody and also to take over the  
10 developer's responsibilities of the common piping,  
11 the common utilities, to grant service to the  
12 roadway, to get to the individual HPRs, okay.  
13 That's the way the developer wanted it, because he  
14 didn't want to be responsible for everything.

15 Now, it got screwed up dramatically when  
16 the developer went belly up and he couldn't finish  
17 his project, okay, and he goes belly up and then  
18 Mellon Bank -- the trustee at Mellon Bank ended up  
19 owning it, and all of a sudden all the commercial  
20 property, it was getting sold to take over all the  
21 money.

22 Okay? That's when all this stuff got screwed up.

23 All of a sudden Dan Patrick comes in and writes a  
24 new document and says we need to take over the

25 master association. Okay? And that's where it all  
66

1 got screwed up and all of a sudden he writes  
2 something quickly. He didn't have a lot of time.  
3 They had to do something quickly, okay?  
4 They didn't even have the money. They had  
5 to sell off property and they didn't even know if  
6 that was legal to sell off the property and they  
7 had to -- and loan money or they weren't going --  
8 they went to the banks -- supposedly. This is all  
9 hearsay. That they went to the bank just to try to  
10 salvage the property and Dan Patrick at that point  
11 in time, this was from -- verbatim from Bill  
12 Kinsey, is -- and they were told if they didn't go  
13 to the bank, then they couldn't be a private resort  
14 because if some lady bought a bar or bought a  
15 convenience store, then we would have to give them  
16 access to all of these areas.

17 Q. Right.

18 A. Okay? So that's why they did it in a hurry.

19 Now, do they all mesh? No.

20 Q. There's no perfect document.

21 A. And there's no perfect document. But I do  
22 believe that if Dan Patrick meant for it to say  
23 that, he's smart enough to put it in the  
24 definitions.

25 Q. All right. Let me refer you back to Article  
67

1 3, membership and voting. Jeff, I specifically  
2 want to refer you to Section 3.2 entitled Board of  
3 Directors. Let me know when you get there.

4 A. 3.2?

5 Q. Yeah.

6 A. Okay. Where you at now?

7 Q. Page seven. I'm in the --

8 A. Back in the back. Are you having lunch  
9 brought in? I have a feeling we might be here for  
10 a little while.

11 Q. All right. You see where it's under Article  
12 3, the heading Membership Voting, and then I  
13 specifically want to refer you to Section 3.2.

14 It's got the title Board of Directors. Okay?

15 A. Okay.

16 Q. The second sentence, I'm going to publish it  
17 for the record, and I have some follow-up  
18 questions. It says "This board of directors shall  
19 act in accordance with the by-laws which are  
20 attached hereto as Exhibit B." The use of the word  
21 shall there, wouldn't you agree it's mandatory?

22 Isn't that the job of the board of directors, to  
23 comply with by-laws?

24 A. In that case, it is. The ambiguity of the

25 word "shall" in different times, like what you were  
68

1 saying before, if you look at the dictionary it has  
2 about three or four different meanings. And I  
3 think the Supreme Court said you don't use the word  
4 shall anymore because the ambiguity of it. I did  
5 see that in -- when I did a search on Google.

6 Q. Well, at least --

7 A. That's why I said Dan Patrick should have  
8 said okay, this case shall means -- this is what  
9 shall means.

10 Q. But as far as we're in agreement that shall  
11 is used and means it's mandatory right there with  
12 respect to --

13 A. It's telling them that they should, that  
14 they should do this, okay? It's just like they  
15 should make the budget, they should --

16 Q. You're not saying they may, you know.

17 A. They should. It's in the best interests of  
18 everybody to fulfill your fiduciary obligations, to  
19 obey the laws, to live within the laws, and that's  
20 what this is saying, that you shall do this to  
21 basically be in accordance with.

22 Q. I just want to make sure we're in agreement  
23 with this. I thought we were in agreement. The  
24 way I read it, it's mandatory. They shall comply

25 with -- back to in accordance with the by-laws.

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1 A. Yeah, you have to be accordance with the  
2 by-laws.

3 Q. Right. And the reason why it's mandatory is  
4 because, as you indicated in the lawsuit, one of  
5 your counterclaims that Renaissance Tower served  
6 against it, master association breached its  
7 fiduciary duty. And the thing I want to ask you is  
8 if you got a fiduciary duty, how can you argue that  
9 the 4.1 powers are optional?

10 A. Because somebody else is doing the same  
11 thing.

12 Q. Well --

13 A. Because if you look at the individual  
14 documents of, like, Renaissance Tower, the very  
15 beginning of the Renaissance Tower, even this one,  
16 Article 7, there shall be no -- that's not it.

17 Hold on a second.

18 Q. You understand because of --

19 A. Wait a minute. Just -- okay. Article 2,  
20 Renaissance Tower Property, "Administration of  
21 affairs of the regime, the maintenance, repair,  
22 replacement, operations of the common elements and  
23 herein provided the enforcement of all rules,  
24 regulations, by-laws, such as required of the

25 association by the master deed on behalf of -- and

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1 acts shall be the responsibility of the association  
2 acting through the board of directors." So, who  
3 has the responsibility to maintain, repair,  
4 replace, do the operations, make rules, regulations  
5 to enforce those?

6 Q. All right. Let's do this.

7 A. So what you're saying is that your document  
8 is contrary to this one because you just gave away  
9 what we're supposed to be doing at Renaissance  
10 Tower and gave it to the master association to do?  
11 I'm saying if you did that, then I got to go back  
12 here and change my by-laws, and that was never  
13 done.

14 Q. Well, look, let's do this. I'm taking your  
15 deposition. I have the right to ask questions.

16 A. Okay.

17 Q. Let's go to Section A of the by-laws.

18 A. At around the time?

19 Q. Yeah. It says "Consistent with these  
20 by-laws," right here. Section A.

21 A. Want me to read it?

22 Q. Yeah.

23 A. "Transact all association" --

24 Q. Start with the first sentence.

25 A. "Consistent with these by-laws and

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1 applicable declarations, the board shall transact  
2 all association business and prescribe the rules  
3 and regulations for the use of the assets,  
4 facilities and property for which it is so charged  
5 and may appoint such office, persons, agents,  
6 servants or employees as may be necessary in its  
7 sole discretion and may fix their duties and  
8 compensation."

9 Q. Okay. Stop right there. It uses -- it says  
10 "facilities and property," okay? When you look at  
11 the definition of facilities, it talks about  
12 facility resort-wise, correct? In the definition  
13 section of the declaration. Well, we can read it.  
14 It's facilities.

15 A. Right. I think everybody has different  
16 facilities.

17 Q. Right, but the master deed is referring to  
18 all the recreational facilities of the four  
19 individual condominium regimes.

20 A. I don't agree.

21 Q. All right. Look at the definition of  
22 facilities. All right. Look at the Section  
23 1.1.17. I'll publish it for the record or you can  
24 publish it. Go ahead.

25 A. "Common areas means as defined as" --

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1 Q. No, no. Recreational amenities, 1.1.17,  
2 right here.

3 A. I'm on a different page. You figure out the  
4 definitions. You can read it.

5 Q. Here, let me give you -- let's see. Look at  
6 Section 1.1.17, Jeff. I'll publish it for the  
7 record. Says "Recreational amenities shall include  
8 such recreational facilities located within the  
9 Myrtle Beach Resort, including, without limitation,  
10 tennis courts, sporting or exercise areas, meeting  
11 areas, swimming pools, tennis courts, locker room  
12 facilities, clubhouses, food and beverage  
13 facilities, lagoons, beach access, paths, jogging,  
14 trails, and bike paths."

15 So clearly that's talking about all the  
16 recreational facilities within the Myrtle Beach  
17 Resort, the four individual condominiums. You  
18 don't disagree with that, do you?

19 A. No. It's what recreational amenities means.

20 Q. But it's talking about everything within the  
21 resort. It's not just saying, you know, within  
22 property owned by the master. Correct?

23 A. And you're telling me or asking me that that  
24 means master is in charge of all that. I'm just

25 saying it's in direct violation of the individual

73

1 HOAs.

2 Q. I'm just asking if you agree with me on the  
3 definition of recreational --

4 A. That's what that definition of recreational  
5 means.

6 Q. All right.

7 A. This is where we have conflicts. These are  
8 areas where we have conflicts.

9 Q. All right. Let's go back to Section 8 of  
10 the by-laws. On Section 8 of the by-laws, when it  
11 says "transact all association business," describe  
12 the rules and regulations for the use of the assets  
13 facilities, where the use of the word asset  
14 facilities, you would agree the way it's used in  
15 the sentence it's referring to the facilities  
16 project- wise, correct?

17 A. No.

18 Q. Okay. Then it goes on and says property.  
19 Remember the definition of property? Include the  
20 four individual condominium regimes. That's the  
21 way it's defined in the master association.

22 A. Okay.

23 Q. So I'm just saying the way this was written,  
24 okay. I'm not saying you necessarily agree with it

25 but the way the language is written, it's referring  
74

1 to transacting all association business project-  
2 wide. Dealing with facilities project-wide,  
3 dealing with the property, which include dealing  
4 with utilities and easements project-wide, correct?

5 A. No.

6 Q. Okay. Well, I'm just saying that's what the  
7 language says.

8 A. That might be what the -- that's not what I  
9 read, but --

10 Q. Well, can we agree --

11 A. I don't agree that's the meaning of it.

12 Q. Well, you would -- what I'm saying is I  
13 understand you differ based upon the way your  
14 master deed falls, but I'm saying as far as the way  
15 the language is written in the by-laws for the  
16 declaration, that's what it's saying. Do you  
17 disagree with that?

18 A. I agree that the master has control of their  
19 recreational facilities, and at the time when they  
20 were going to have a -- they were going to own --  
21 like they have control over the lazy river. That  
22 is a recreational facility. They make all the  
23 rules and regulations for the lazy river. And any  
24 recreational facility -- and if they own tennis

25 courts, they can do that. It's what used to be

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1 there before the lazy river was tennis courts.

2 Okay? So anything that they own, they have  
3 jurisdiction over.

4 Q. Well, what if it was the original intent of  
5 the four individual condominium regime boards, the  
6 five different boards, back in 1991, that the  
7 master would manage and oversee property that it  
8 owned, the property that it didn't own?

9 A. If they would have done that, then they  
10 would have done that afterwards. They didn't do  
11 that. They would have given all of the common  
12 elements of all the HPRs to the master. They  
13 didn't.

14 Q. But I understand that.

15 A. If that's the way they thought that that was  
16 interpreted, they would have done that, but for 30  
17 years they haven't done that.

18 Q. Now, let me refer you to subparagraph E.  
19 Says "Carry out all other duties and obligations  
20 proposed and exercise all rights granted by these  
21 by-laws, the declaration, and the act." Clearly  
22 that is -- that wording obviously creates an  
23 affirmative obligation.

24 A. I agree with you by your by-laws but I think

25 that they're written out of context to what they

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1 should have been. That's why I agree with you that  
2 they should be rewritten and all of these  
3 fallacies, mistakes, or things that we can sit here  
4 and discuss should be brought into the room, we  
5 should discuss and look for ways that they can be  
6 the common elements. I agreed with you that, you  
7 know, it would be better to be under one. But  
8 that's not the way that it's been done or they were  
9 written.

10 Q. All right. Jeff, let me ask you this: I  
11 mean, are you opposed to revising the declaration  
12 and by-laws so that they -- all four regimes can be  
13 administered by one, you know, central authority,  
14 you know, where it's more efficient for, you know  
15 --

16 A. I have -- I'm not opposed to that as long as  
17 all the members agree to it and vote on it.

18 Q. Okay. So you would want an amendment  
19 submitted to the membership as a whole where the  
20 1,010 members, everybody would vote on it?

21 A. I would want -- everybody has to change  
22 their original document to read that way.

23 Q. Okay.

24 A. And to give those powers to the master, then

25 the master has to amend his document to receive

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1 those powers, but it's almost written that way.

2 Q. Let me ask you this: Would you support  
3 that? I mean, it can be done.

4 A. I would support that as long as, like I  
5 said, there's a trap door at the end that if you're  
6 not being serviced, that there's something that's  
7 going to be done. So like -- and like in Nancy's  
8 case or in my case, if my trash is overflowing  
9 every day and I got the health inspector out there  
10 telling me I can't have this and the master board  
11 says -- you got three people in there going well,  
12 it's not affecting me because it's not my regime,  
13 and they won't go to the contractor and do  
14 something about it, there's got to be a way that  
15 you have enforcement, you know; that you can say  
16 okay, I'm going to override it.

17 And same way with security. If you're not  
18 providing security for me as the master  
19 association, say like I need a guy in the circle or  
20 you're not going to enforce my 35-mile-an-hour  
21 speed limit, but if you say well, we're going to  
22 have 40-mile-an-hour speed limit resort wide and we  
23 say no, we want 15-mile-an-hour speed limit in  
24 Renaissance Tower and you don't want to do that,

25 and I have to hire another security guard, then you  
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1 should have to pay for that if you're going to be  
2 in charge of that, and that was part of lawsuit was  
3 that we just wanted them to pay our security that  
4 we had to get extra to enforce our rules.

5 Q. Let me ask you this: Was your security a la  
6 carte? Was it more than what everybody else was  
7 getting, or are you basically saying that the  
8 watchman services was not providing --

9 A. They weren't providing, and because --

10 Q. What they should have been providing under  
11 the --

12 A. They should have been providing, yes.

13 Q. Okay.

14 A. And it's the same way with all of these.  
15 The telephone, wi-fi, the trash. The reason the B  
16 Building left, in my opinion, and I know the B  
17 Building, was because there was trash. I saw it.  
18 There was trash sticking out there, and they  
19 wouldn't have them come pick it up four days a week  
20 instead of three.

21 Q. Let me ask you this: What if you had a  
22 subrogation right to go after the vendor or the  
23 management company if they were not performing in  
24 accordance with their contract, with the master?

25 A. As long as you have a way that you can

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1 enforce it and it not -- and you can separate  
2 yourself. Be like you having a landscape contract  
3 -- and we had these. We actually talked about  
4 sharing, you know, to get a better price, three of  
5 us going together to get a better price, I have no  
6 problem with that. And let him say okay, if I do  
7 it individually, here's one price, but if I get two  
8 of you, I'll give you a three percent discount. If  
9 I get all three of you, I'm going to give you a  
10 five percent discount, but they're individual  
11 contracts. Okay? And so that if, you know, A  
12 Building and the master might be happy with that  
13 contract, and if Renaissance Tower is not, I can  
14 walk up to the guy and say hey, we're not getting  
15 the service that we contracted for. And then he  
16 has the right to walk out or we have the right to  
17 fire him and then he can go back and say okay,  
18 because Renaissance Tower walked away, you're going  
19 to pay three percent more.

20 Q. All right. Let me ask you this: Since you  
21 started talking about that, brought -- we'll mark  
22 this as Plaintiff's No. 6.

23 Jeff, this is, the first page is the agenda  
24 for the October 13, 2019 meeting, and if you -- let

25 me read the line item. It says "Amendment" -- Line  
80

1 Item H, "Amendment to Declaration and By-laws,  
2 suggested revisions to the 1991 document by Jeff  
3 Richardson." Did I read that correctly?

4 A. Where are you at?

5 Q. Right there, look at H, Amendment to the  
6 Declaration and By-laws. It's got suggested  
7 revisions to the 1991 documents and it's got dash  
8 Jeff Richardson.

9 A. Okay.

10 Q. And that is you, correct?

11 A. Probably, yes.

12 Q. Now, and if you flip over the agenda page,  
13 this is the declaration of covenants, by-laws and  
14 restrictions for the Myrtle Beach Resort Homeowner  
15 Association, Inc., correct?

16 A. Right.

17 Q. Okay. Now, it indicates that, and what they  
18 did is you look to -- the pages aren't numbered but  
19 go to Article 1, definitions, and you go to the  
20 bottom of the page and it indicates "remove all" --  
21 where it says "remove all," it's got blueprint, and  
22 it says "insert spread track." See the bottom of  
23 the page?

24 A. Yes.

25 Q. Let me show you. Might not be color coded.

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1 Did I state that correctly?

2 A. Yes.

3 Q. Okay. Flip over to Section -- Article 4 --

4 A. So I suppose you want it amended.

5 Q. Well --

6 A. I don't really remember this, you know.

7 Q. This was -- this is on the 13th, I think,

8 it's October 30, 2019. It was an eight-hour

9 meeting.

10 A. Okay.

11 Q. But this is Article 4 and we go back to

12 powers of the association. And then it's got 4.1,

13 and this is -- I'm going to read it and publish it

14 in the record. Says "The Association, acting

15 through the board of directors," and this is

16 language that's being added, "may choose to join

17 with all regimes for the following services for

18 financial savings or the reasons -- the following

19 services." Okay. Then where it's got shall also

20 have the power, that's in blue, that's taken out,

21 correct? Based upon -- then it says "maintain all

22 streets and roads" and it goes on, you know, and

23 cites subparagraph A, B, just like it's written in

24 the original declaration. Correct?

25 A. Right.

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1 Q. Okay. So the way I read where you made the  
2 change by adding the express language that's in  
3 red, it's like you have the right to join in but  
4 you can opt out, correct?

5 A. That's the way -- I believe the way that the  
6 documents are written out, I believe you had the  
7 right to join in but you could opt out.

8 Q. Now, are you saying -- let me ask you this:  
9 When you say the way the document's written right  
10 now or are you saying the way the master deed is  
11 currently?

12 A. I think it's the way it's currently written  
13 but the way I interpret it, I guess.

14 Q. Okay. So I want to make sure I'm --

15 A. But I think we need to clarify the language,  
16 and this was probably -- and I don't really  
17 remember this, but this was probably -- I don't  
18 remember being at this meeting either, so...

19 Q. Well, I was there and you were there.

20 A. I was? Okay. We've had so many meetings  
21 that, you know, but anyway.

22 Q. Well, based upon this language, if you've  
23 got the four individual condominium regimes have  
24 the right to -- let's say you got a contract with a

25 vendor like security, and all the individual

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1 regimes bring their pro rata share for the security  
2 vendor, correct? The way this language is written,  
3 if you get dissatisfied with the security vendor,  
4 you have the right to walk away and then you leave  
5 the other three individual condominium regimes  
6 holding the bag; is that right?

7 A. That's why we sued, because we tried to say  
8 we don't want your security. We sent minutes --  
9 not minutes but we sent letters from our attorney,  
10 the Renaissance Tower board sent letters from its  
11 attorney saying drop us out of the security  
12 contract, and basically K.A. Diehl and the master  
13 association said you can't be dropped out. You got  
14 to pay your 32.7 percent.

15 Q. Well, let me --

16 A. And then not doing it and had to have a  
17 lawsuit and then spent a couple hundred thousand  
18 dollars on a lawsuit.

19 Q. All right. But you know that under South  
20 Carolina law, there is no self-help remedy. You  
21 can't stop paying assessments. You understand  
22 that, don't you? There's no law in South Carolina  
23 that says that the board is acting in a gross and  
24 negligent manner that the membership can stop

25 paying assessments.

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1 A. I don't know if there's a law that says

2 that.

3 Q. There's not. Because it --

4 A. But I do know that when we talked to the

5 attorney and it was his idea that that's the way to

6 get people -- we tried to negotiate with them and

7 say we're not getting this service, take it out of

8 this, and y'all three can have security and do the

9 front gate and we'll pay our portion at the front

10 gate, and then you three decide how much you going

11 to pay on that, and they said no, we're not going

12 to do that. And we tried to look at books and

13 tried to come up with a fair and equitable and they

14 said no. We believe that they have a fiduciary duty

15 to treat us fairly and to obey our guidelines as to

16 why this thing was written, as to what we have to

17 pay for.

18 Q. All right. Let me ask you this.

19 A. But is it legal? I don't know that. That's

20 what the lawyers -- and our lawyers said it was,

21 so.

22 Q. But you all had to pay the money back,

23 right? The money, the 2016 assessment that was

24 withheld by Renaissance Tower, that money was paid

25 to the association, correct?

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1 A. All but I think we got \$10,000 of it.

2 Q. Right, but you had to pay it --

3 A. The settlement was -- no, we put it in  
4 escrow. We didn't never keep it. We put it in  
5 escrow and then we ended up giving it to the Court  
6 and the Court ended up giving it to the master  
7 because they claimed hardship, then the money, and  
8 then at the end I think the settlement, if I read  
9 it correctly, was 20,000 here and then we got  
10 10,000 was given back to us just to settle it and  
11 make it go away.

12 Q. But over \$6,000 that Renaissance Tower  
13 withheld from the master was paid back to the  
14 master, correct?

15 A. Think it was two-thirds.

16 Q. It was 6,000. We'll go over that. I've got  
17 600,000 --

18 A. Oh, 600. I know it's not 6,000.

19 Q. No. I misstated. 600,000, okay.

20 A. It was two years' of assessments, you'd  
21 probably be right, two years' worth of assessments,  
22 but we didn't keep it. We gave it -- we put it in  
23 an escrow account with the attorney and then we  
24 gave it to court.

25 Q. All right. Let me ask you this: With

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1 respect to the master deed and by-laws for  
2 Renaissance Tower, do the individual members, the  
3 co-owners of the association, do they have the  
4 right to stop paying assessments based upon their  
5 dissatisfaction with the way the board's managed  
6 the Renaissance Tower regime in your opinion?

7 A. They don't have that right but they can sue  
8 us for our fiduciary duty, you know.

9 Q. They can bring an action, so what you're  
10 saying is they have to pay under protest --

11 A. They can pay under protest and that's  
12 basically what we did, was pay it under protest,  
13 but we tried to go to the master and get this  
14 rectified. And if you go back and look at all the  
15 minutes and all that, we made numerous times even  
16 look at the books and they called the police on us,  
17 to go up and see the books, that are clearly  
18 written in the master deed that they're visible to  
19 anybody. Any member is supposed to be able to look  
20 at them. They called the police on us twice, you  
21 know? So, you know, everybody was probably acting  
22 outside of the book law.

23 Q. Well, I think what I hear you saying is  
24 you're agreeing with the -- if the master

25 association was doing something that -- they

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1 weren't flying with their fiduciary duties, then  
2 the tower's remedy would be to bring a declaratory  
3 judgment action or breach of contract action or  
4 failure of protest, correct?

5 A. That would be one way of settling it.

6 There's other ways.

7 Q. Let me read this language. This is the last  
8 sentence of 4.1, Jeff, and it's in red so this was  
9 added by you: "The board of directors must supply  
10 and meet the needs of all regimes pertaining to,"  
11 says "A through I." You're talking about  
12 subparagraphs A through I in 4.1, correct? And  
13 then it says "Otherwise, regimes may elect not to  
14 be a party to any items A through I that has not  
15 satisfied the requirements and needs for their  
16 homeowners." Did I read that correctly?

17 A. You probably did but this is probably a  
18 question that would be done by the board, because  
19 just because it's got my name on there, they're  
20 saying I did this in a position of a master -- I  
21 mean for Renaissance Tower, and I really didn't  
22 study these to know what was included and what was  
23 precluded from all this stuff, you know, and didn't  
24 really think was going to come up and I'd have to

25 answer questions like this. So to sit there and  
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1 give you affirmative answers, which I know you

2 want, would -- you know, I can't talk for

3 Renaissance Tower. They --

4 Q. I'm not -- I understand.

5 A. And this was brought up probably from our

6 attorney of Renaissance Tower that this might be a

7 settlement of some type.

8 Q. Let me ask you this: I'm going to read this

9 for the record. It says "The board of directors

10 must supply and meet the needs of all regimes

11 pertaining to A through I. Otherwise, the regimes

12 may elect not to be a party to any items A through

13 I that has not satisfied the requirements and needs

14 of the homeowners."

15 Now, would you want this language in the

16 master deed and by-laws for Renaissance Tower?

17 A. I think there could be better language.

18 Q. But this language --

19 A. That doesn't -- that doesn't offend me, no.

20 Me personally, it doesn't offend me because I'm

21 speaking for Renaissance Tower. That doesn't

22 offend me.

23 Q. But what I'm saying is, if the co-owners of

24 Renaissance Tower, if they were dissatisfied with

25 the way that -- you know, the way that the

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1 recreational facilities on your property were being  
2 run, and they said well, they're going to basically  
3 opt out and not pay assessments, would that --  
4 would that sit well with you? Would you allow that  
5 to happen or would you bring legal action to  
6 enforce them to comply with the governing  
7 documents?

8 A. Legal action.

9 Q. So what I'm saying --

10 A. -- they would bring this action.

11 Q. Well --

12 A. But we would first probably go ask the  
13 person why they're not paying and come -- try to  
14 come to a resolution before -- you know, if you're  
15 not paying your dues because your door got tore  
16 down or something, or it says you're not using the  
17 swimming pool, we'd probably tell you, show you the  
18 documents and let you come to a board meeting and  
19 say here's the reason I'm not paying and try to  
20 peacefully -- like we had, you know -- anyway, we  
21 had cases where we've had to listen to owners and  
22 that had disagreements, you know, and you try to  
23 compromise, meet in the middle, as you would say.  
24 Like take late fees off even or -- because there's

25 a misunderstanding or, you know?

90

1 Q. Right. Let me refer you to 6.2.

2 A. Which document are we talking?

3 Q. We're going about, for the record, the  
4 declaration and by-laws. I think it's Plaintiff's  
5 Exhibit 4. All right. Go to page 10.

6 A. Okay.

7 Q. It says "Each co-owner and occupant shall  
8 comply strictly with the by-laws and the published  
9 rules and regulations of the association adopted  
10 pursuant to the declaration, as either of the same  
11 may be lawfully amended from time to time, and with  
12 the covenants, conditions and restrictions set  
13 forth in this declaration, as same may be lawfully  
14 amended from time to time. Failure to comply with  
15 any of the same shall be grounds for imposing  
16 fines, suspending rights of use in and to the  
17 recreational amenities, or for instituting an  
18 action to recover sums due or injunctive relief,  
19 such actions to be maintainable by the board of  
20 directors on behalf of the association, or in a  
21 proper case, by an aggrieved owner," okay?

22 So that language basically says that all  
23 the 1,010 members of the master association have to  
24 strictly comply with the articles of incorporation,

25 declaration, by-laws, and rules and regs that y'all

91

1 publish. Correct?

2 A. (Witness nods head.)

3 Q. Okay. Now, if you flip over, if your  
4 interpretation at 4.1 is they're optional powers,  
5 how can you -- how can you say that the homeowners  
6 have to strictly comply with, you know, the  
7 provisions of the declaration and by-laws and rules  
8 and regs; however, the board members are exempt  
9 from that because they can opt out? There's a  
10 mutuality of obligation. You would agree with  
11 that?

12 A. I think you have an obligation -- the first  
13 obligation is the HPR's by-laws, and when you get  
14 outside of the purview of the HPR's by-laws, then  
15 it's optional. Okay? And one more time, if we go  
16 back to that, here's what the master association  
17 was supposed to do. And it tells you in our we --  
18 we've read this many a times, you know, that  
19 article, "Co-owners shall be members and shall pay  
20 pro rata interest of real property within the  
21 resorts who shall be given similar easements and  
22 license and do all costs, maintenance, upkeep, and  
23 repair." It never says "in these facilities." It  
24 just says you're going to be a member. Okay?

25 That's your only requirement, to be a member and to  
92

1 pay, you know, according to this.

2 Q. But they're the common --

3 A. All this was done after this one.

4 Q. I understand that.

5 A. Okay?

6 Q. But you understand the declarant owned all  
7 the facilities and all the units before going  
8 bankrupt, right?

9 A. No. He gave over the property to the  
10 owners. The HPR is owned by --

11 Q. Before. Well, he owned it all before he  
12 went bankrupt, correct?

13 A. Right.

14 Q. All I'm saying is is that if you're going to  
15 run -- let me ask you this: How many condominium  
16 association property owners associations you aware  
17 of to where their obligations as far as managing  
18 and administering regime property are optional?  
19 Name one. Name another one. I mean --

20 A. You know, this is screwed up. I mean, I'm  
21 telling you that right off the bat. It's screwed  
22 up from the get-go, and that's why I keep telling  
23 you that these are not parallel to each other. And  
24 when Dan Patrick wrote them, he should have used

25 this one to write this one and he didn't, and

93

1 that's why we have disagreements on them.

2 Q. Well, Jeff, you know --

3 A. This is what the owners of Renaissance Tower

4 in my belief are bound by, okay? This is what --

5 when I go to a closing, this is what they hand me.

6 This one right here. They don't hand me this one.

7 So the only thing I know when I go to a closing

8 that I'm bound by about a master association is

9 what I just read to you, that I got to pay a

10 portion of what they own, their property and what

11 they own, what streets, the maintenance of that

12 street.

13 That's all the developer wanted to own at the end

14 of all this was the street maintenance.

15 Q. Let me ask you this: Are you saying now

16 that the master deed and by-laws of Renaissance

17 Tower is not subject to the master declaration and

18 by-laws? Are you saying that?

19 A. Am I saying what?

20 Q. Are you saying that your documents, your

21 master deed and by-laws, are not subject to the

22 master deed, the declaration and the by-laws for

23 the master?

24 A. I'm not going to say that they're all thrown

25 out. I'm saying that as long as they are in

94

1 parallel with what our document says, yes.

2 Anything that is not parallel with our document is

3 not subject to, yes.

4 I don't think that -- I don't think that

5 four people have the right to overexert their power

6 and give away the property. Okay? I don't think

7 that they can give away the parking lot when it's

8 owned by me. I own a percentage. If you look, I

9 own a percentage of that parking lot. Okay?

10 That's common property. I'm a percentage owner.

11 Nobody asks -- it's not showing up on my deeds that

12 they gave that away.

13 Q. Well --

14 A. You know? I own it. I'm an owner. That's

15 that we're talking about, me as an owner. I own

16 that part of the parking lot, point whatever it is,

17 okay, and I get 1.5 parking lots for every condo I

18 own. I'm entitled to that. Okay? And we

19 reciprocate. That's what we have a reciprocation

20 law in there. But nobody asks anybody that bought

21 before me to give up that right. And to do that,

22 according to what I read, to exchange common

23 property, you'd have to have a 75 percent vote.

24 Now, did somebody overreach this because of time

25 and limitation? They probably did. So there is  
95

1 some flaws in this document. I'm not saying it's  
2 all flawed but there are flaws in it and it needs  
3 to be rewritten.

4 Q. Are you prepared to rewrite it or the master  
5 association from a control standpoint has the  
6 responsibility of administering the common areas of  
7 the four individual regime project-wise?

8 A. If that's what the individual homeowners, if  
9 we vote on it and that's what they want to do,  
10 that's what we'll do. The majority speaks. The  
11 Renaissance Tower would have a vote to say here's  
12 what we're proposing or here's what -- what do you  
13 want to do.

14 Q. Okay. I think, the next exhibit, is it  
15 Plaintiff's Exhibit ??

16 THE COURT REPORTER: 7, correct.

17 Q. Jeff, I'm going to hand you a Renaissance  
18 Tower past due schedule that was prepared by Jack  
19 Piselli who you're familiar with who used to --  
20 he's employed with First Service Federal formerly  
21 known as K.A. Diehl.

22 A. Right.

23 Q. You would agree that as far as in 2016 the  
24 portion of Renaissance Tower's assessment, the 32

25 percent assessment, regular assessment, that all  
96

1 the individual condominiums were paying to the  
2 master association, your portion of it was -- or  
3 pro-rata share was, not your but I'm saying you  
4 individually as the president of the board, was  
5 \$334,403.28.

6 A. I don't see a problem with it. I mean, I  
7 can't verify that because I'm not the accountant  
8 but yes, I mean, that sounds right.

9 Q. That was the figure that was cited in the  
10 complaint --

11 A. Okay.

12 Q. -- when we brought the lawsuit. Okay. Now,  
13 let's go to -- we go to 2017, Jeff, I'll represent  
14 to you that if you -- in 2017 it shows that each  
15 month, the monthly association assessment that the  
16 Renaissance Tower owed to the master was  
17 \$30,435.09. Do you have any reason to disagree  
18 with that?

19 A. I have no reason to disagree.

20 Q. If you multiply that times 12, at the end of  
21 the year, Renaissance Tower's portion of the  
22 association assessments owed to the master would be  
23 in the amount of \$365,230.08. Okay? Do you have  
24 any reason to disagree with that?

25 A. I don't know if any of this money had fees  
97

1 in there, late fees.

2 Q. Well, I'm just saying that as far as what --

3 A. I don't know. You know, you could have ten  
4 percent late fees in there. If you don't pay by  
5 the 10th of the month, you're supposed to be  
6 charged a ten percent late fee, so...

7 Q. Let me tell you where I'm going with this.

8 What I'm saying is is the budget that was prepared  
9 for the master association in 2017, the regular  
10 assessments, the 32 percent that Renaissance Tower  
11 as far as their association assessments go to the  
12 master, it was \$30,435.90 they had to pay each  
13 month, correct? And if you add them up, 12 times  
14 that number, you get \$365,230.08. I mean, I can  
15 give you my phone and you can, you know --

16 A. Right.

17 Q. So what my question is, is that you're the  
18 president of the board in 2017 of Renaissance  
19 Tower, correct?

20 A. (Witness nods head.)

21 Q. And did Renaissance Tower -- I think the  
22 management company was William Douglas?

23 A. I think so.

24 Q. Okay. Starting in January going all the way

25 to December, did the co-owners of Renaissance Tower

98

1 pay the monthly assessment or did they pay the  
2 monies to the managing agent and through an escrow  
3 account? Let me ask you this: Does William  
4 Jackson have an escrow account or any account that  
5 earns interest for Renaissance Tower?

6 A. They put it in -- they're supposed to put it  
7 in an escrow account and then they end up giving it  
8 to the courts, but some people pay -- some people  
9 pay directly because they're -- Sam Stathos said  
10 there's an obligation and they basically went out  
11 and sent letters and they threatened to put liens  
12 against peoples' apartments, and so a lot of people  
13 ended up paying individually their portion of the  
14 master association dues. It was a real screwed up  
15 accounting, you know, but what we did is we put  
16 our -- if you say \$34,000, okay, minus what they  
17 were supposedly paying into an escrow trust account  
18 and then we end up giving it to the court and then  
19 we had a settlement and everybody agreed on the  
20 settlement, that this was the amount of money. And  
21 we ended up giving -- Taylor Peace ended up getting  
22 a \$10,000 check back out of that amount of money  
23 and then it was all settled.

24 Q. Right.

25 A. And the board agreed to that.

99

1 Q. Well --

2 A. I mean, you got the settlement.

3 Q. All right. Now, we'll talk about that. One  
4 second. Let's take a five-minute break and then --  
5 okay.

6 (A lunch break was taken from 1:24 p.m. to  
7 2:27 p.m.)

8 BY MR. BELLAMY:

9 Q. Jeff, I've got -- would you look at  
10 Plaintiff's Exhibit No. 7. It is entitled  
11 Renaissance Tower Past Due, and for the record it  
12 shows the association assessments owed by  
13 Renaissance Tower for the years of 2016 and 2017,  
14 correct?

15 A. Yes.

16 Q. Okay. And if you look at the -- under the  
17 payment column, it shows that Renaissance Tower  
18 paid \$605,988.38, correct?

19 A. Correct.

20 Q. Okay. And it shows there's a deficit or  
21 monies that are still owed by Renaissance Tower in  
22 the amount of \$93,645.70, correct?

23 A. That's what it says.

24 Q. Okay. Which would indicate that Renaissance

25 Tower based upon this schedule did not make three  
100

1 monthly payments in 2017 -- correct? -- from  
2 October, November, December based upon this  
3 schedule.

4 A. I haven't studied it so I couldn't -- and  
5 I'm not going to answer for the board. I mean, as  
6 far as I know, they paid everything.

7 Q. Okay. So it's your testimony that the board  
8 paid the monthly payments for September, October,  
9 November, December?

10 A. My recollection of all this accounting by  
11 the time individuals paid versus the tower putting  
12 money in, the tower putting money every month into  
13 an escrow account and end up giving it to the  
14 Court, that they paid all of this. And in the  
15 settlement, it basically says -- you know, tells  
16 you where the money is going to go and it was  
17 settled. All back, you know, and the master board  
18 agreed to it.

19 Q. Okay. All right. We'll talk about that.  
20 What I want to -- based upon -- let me do this.  
21 I'm going to take -- you would agree that dealing  
22 with the 2016, when you take \$27,866.94 and times  
23 it by 12, you get \$334,403.28 based upon the  
24 schedule.

25 A. Based on that schedule, yes.  
101

1 Q. Okay. Then if you go to the 2017 schedule,  
2 -- what I did -- all right. If you take the -- you  
3 agree on the 2000 schedule, the monthly association  
4 assessments owed by Renaissance Tower to the master  
5 HOA in the amount of \$30,435.90, correct?

6 A. I'm not trying to be a contrarian on here  
7 but, you know, but as far as I know it is, but I'm  
8 not speaking for Renaissance Tower in this.

9 Q. What I'm saying --

10 A. I mean, if you're saying that this was the  
11 bill, if that's what it was, I don't have a  
12 recollection of \$30,435.90 was what the payment  
13 was. I can't remember what the payment was for an  
14 HOA fee.

15 Q. Well, what I'm showing you is basically this  
16 schedule prepared by Jack Piselli, and he was the  
17 -- I guess the manager of Renaissance --

18 A. K.A. Diehl.

19 Q. K.A. Diehl from -- this was a document  
20 prepared by him that indicates this is what was  
21 billed to Renaissance Tower monthly regarding their  
22 monthly assessment back in 2017.

23 A. But there -- you know, but if you're talking  
24 about Jack Piselli, you know, there was also 300

25 and some thousand dollars that the master board, I  
102

1 guess, forgave his company because he couldn't  
2 figure out money either, so.

3 Q. Let me -- so what I want to do is if you  
4 times that number by 12, if you take \$30,435.90  
5 times 12, it equals, based upon \$365,230.08. Do  
6 you have any reason to disagree with that?

7 A. No.

8 Q. Then if you add this number to the  
9 \$365,238.08, if you add that to the \$334,403.28, it  
10 equals \$699,634.08. Do you have any reason to  
11 disagree with that?

12 A. I have no reason to disagree with it.

13 Q. Okay. Then --

14 A. I'm not agreeing with it either but I don't  
15 have any reason to disagree.

16 Q. Well, Jeff, let me just ask you this: If  
17 you add \$334,403.28 to \$365,230.08, I represent to  
18 you you'll get \$699,634.08, just the math  
19 compilation. You don't disagree with that?

20 A. I don't disagree with anything you're  
21 saying. It's just that I agree that the Court  
22 settled this whole matter.

23 Q. Okay.

24 A. Or the people settled this whole matter and

25 it's supposed to be resolved so no further action  
103

1 from this can be taken.

2 Q. All right. Now, I'll show you, if you take  
3 the \$699,634.08 and subtract it from \$605,988.70,  
4 what do you get? You get 93,645.70. Okay? And if  
5 you look at the columns in the far right, end of  
6 the month balance due, that's what it showed after  
7 Renaissance Tower paid \$405,980.38 along with  
8 \$200,000 previously, it showed they still owed  
9 \$93,645.70, correct?

10 A. And I don't mean to be ugly about this, but  
11 we couldn't look at the books. So to sit here and  
12 say his accounting is right? And we've had a CPA  
13 look at these books and they don't say we owe  
14 anything. Okay? This has been settled. I guess I  
15 don't understand the rationale behind this, because  
16 I know that your clients have sat here and tried to  
17 say we still owe money when we paid all the money,  
18 the two attorneys, one for their side or the master  
19 side and the one for ours agreed, our Taylor Peace  
20 and Sam Stathos, they paid the amount of money,  
21 they did the settlement. Supposedly it's solved.

22 Q. Well, let me just go through the documents  
23 is all I'm trying to do. Okay?

24 A. Okay.

25 Q. The next document --

104

1 A. But are we trying to retry this case? I

2 thought it was settled.

3 Q. I'm just -- I'm not trying to -- well, let's

4 do this. I'm -- I'd like to take your deposition,

5 okay, and all I'm trying to do is go through the

6 documents, and I'm doing what -- you seem to

7 indicate that the documents basically show that

8 Renaissance Tower does not owe the money, so what

9 I'm going to do now is go through the documents,

10 several documents.

11 First thing, I want to refer you to

12 Plaintiff's Exhibit No. 8. This is an order for

13 temporary injunction. Okay? And remember earlier

14 I showed you your affidavit and you submitted your

15 affidavit in opposition to this motion for the

16 temporary injunction. Right?

17 A. Mm-hmm.

18 Q. Is that a yes?

19 A. Yes.

20 Q. All right. The circuit court, specifically

21 Judge John, granted plaintiff's motion for

22 temporary injunction, correct?

23 A. Yes.

24 Q. Okay. And if you go to the conclusion

25 section, it indicates, and I'll read this in the  
105

1 record, it says "Now, therefore a temporary  
2 injunction is granted in favor of the plaintiff,"  
3 and then it goes on to say "and it is so ordered  
4 that the defendant shall immediately pay the fines  
5 due as collected from its owners for the  
6 assessments alleged to be due plaintiff for the  
7 years 2016 unto the Clerk of Court for Horry  
8 County. Said funds shall be placed in an interest  
9 bearing account pending the outcome of this  
10 litigation.

11 Furthermore, any future assessments collected by  
12 the defendant alleged to have belonged to the  
13 plaintiff shall be paid unto the Clerk of Court for  
14 Horry County. Such funds shall be held in same  
15 interest bearing account pending the resolution of  
16 this litigation. These funds shall not be  
17 disbursed until further order of this Court." Did

18 I read that correctly?

19 A. Yes.

20 Q. So essentially the order establishes that  
21 Renaissance Tower has an ongoing duty to pay future  
22 association assessments owed to the master in an  
23 interest bearing account managed by the clerk's  
24 office, correct?

25 A. During that time, yes. 106

1 Q. And we're talking about the time this was  
2 issued --

3 A. Right.

4 Q. -- was February 17, 2017.

5 A. But that has it's --

6 Q. Well, we're going through the documents.

7 A. Okay.

8 Q. Now, the next document that I've already  
9 marked is called Plaintiff's Exhibit 9, and this is  
10 titled Consent Order Regarding Disbursement of  
11 Assessments to Myrtle Beach Resort Homeowners  
12 Association. Okay. And let me publish the second  
13 paragraph.

14 A. On the first page?

15 Q. Yes.

16 A. All right.

17 Q. What Plaintiff's Exhibit 9 indicates is that  
18 Renaissance Tower deposited \$312,938.31 with the  
19 Horry County Clerk of Court March 17th, correct?

20 A. That's what it says.

21 Q. Okay. Then it goes on to say "The  
22 defendant -- Renaissance Tower, defendant, also  
23 deposited \$128,321.34 to Horry County Clerk of  
24 Court July 10, 2017." Correct?

25 A. Correct.

107

1 Q. Okay. And then it goes on to say that the  
2 parties reached an agreement to release a portion  
3 of the funds to the master association, correct?  
4 And that the amount of the funds that are being  
5 released were \$200,000.

6 A. Right.

7 Q. Okay. Let's go through Plaintiff's Exhibit  
8 10, Order Amending Scheduling Order dated September  
9 12, 2017 and Disbursing Funds from Clerk of Court.  
10 And if you go to the bottom, the last sentence on  
11 the first page, let me publish this for the record.  
12 It says "For reasons set forth below, the Court  
13 grants the defendant's motion to amend the amended  
14 scheduling order filed on September 12, 2017, and  
15 further orders that the defendant shall pay past  
16 due assessments except for 20,000 held by the clerk  
17 of court, and future assessments owed directly to  
18 the plaintiff, with additional funds to be released  
19 to the plaintiff from the Clerk of Court of Horry  
20 County in the amount of \$220,719.65." Did I read  
21 that correctly?

22 A. You did.

23 Q. Okay. Look, flip to the last page, Jeff,  
24 and it says "Accordingly" -- and the judge, this

25 is -- as you remember, I think Judge Culbertson  
108

1 referred this case to the master in equity, Judge  
2 Howe, Cindy Graham Howe, and she's the judge now.  
3 And it says "The Court enters the Second Amended  
4 Scheduling Order and orders the release of the  
5 funds as follows." And it goes on to say that --  
6 if you go to subparagraph 4, it provides "Ten days  
7 from the date of this order the Clerk of Court of  
8 Horry County shall disburse all but 20,000 of the  
9 funds on deposit with the Court to the plaintiff,  
10 this being a total of \$220,719.65 being remitted to  
11 the plaintiff. The plaintiff has agreed to accept  
12 the same."

13 On subparagraph five, "It's further ordered  
14 that the Clerk of Court of Horry County shall  
15 retain possession of the remaining 20,000 that it  
16 has on deposit related to this matter pending  
17 further order of the Court." And subparagraph six,  
18 it provides "Defendant shall pay \$185,268.65 which  
19 it has not been deposited with the clerk of court's  
20 office, in past due assessments directly to the  
21 plaintiff within ten days of this order."

22 Did y'all pay the \$185,268.65 within ten  
23 days to the master association?

24 A. I have to believe we did. I don't know for

25 certain. I couldn't testify to that.

109

1 Q. Okay.

2 A. You'd have to probably talk to the treasurer

3 and to --

4 Q. Then subparagraph five provides "The

5 defendant shall pay all future assessments to the

6 plaintiff directly in accordance with the

7 Declaration of Covenants and Restrictions for

8 Myrtle Beach Resort filed in deed book filed on

9 April 25, 1991 in Deed Book 1465, page 329 in Horry

10 County Register of Deeds office." Did I read that?

11 A. Yes.

12 Q. Okay. And it's signed by the judge, okay?

13 A. Okay.

14 Q. Now, the next document I want to refer you

15 to is Plaintiff's Exhibit No. 11. It's titled

16 Motion and Order for Disbursing Funds from Clerk of

17 Court. And I'm going to read the pertinent part in

18 the record: "As a result of the hearing, the Court

19 issued the Order which directed the clerk of court

20 to disburse \$220,719.65 of funds it had on deposit

21 within ten days of the date thereof. The order

22 also directed defendant to pay \$185,268.65 directly

23 to plaintiff within ten days of the date of the

24 entry of the order. This is the amount of the 2017

25 assessments which defendant had not paid into the  
110

1 Court per the order of the temporary injunction  
2 issued in this matter on February 21, 2017."

3 So based upon this language, it indicates  
4 that Renaissance Tower essentially was in violation  
5 of the judge's order for temporary injunction.

6 A. Like I said, I'm not here for Renaissance  
7 Tower. I have no clue.

8 Q. Okay. Then it goes on to say, "However, the  
9 defendant's counsel recently informed the Court and  
10 plaintiff's counsel that defendant through its  
11 property manager issued a \$185,268.65 check to be  
12 deposited with Horry County Clerk of Court in  
13 opposition to the Court's order. Defendant's  
14 counsel has represented to the Court that the  
15 master -- the manner in which the check was issued  
16 and delivered appears to have been a good faith  
17 error and without intent to delay, hinder, or be in  
18 contradiction of the order." Does that help  
19 refresh your memory?

20 A. Not really. I mean, you know, there's quite  
21 a few things going on. There's two lawsuits going  
22 on at the same time. You know, from what I  
23 remember about all these suits basically is that we  
24 came to a bargain, you know, that we basically gave

25 them the money except for 10- or \$20,000 and  
111

1 everything was settled except for the liens against  
2 the master's property.

3 Q. Okay. Let me get to the point. So now --

4 A. And I would think that all the CPAs and all  
5 that would have looked at all the money being  
6 transferred and make sure that it was done, not  
7 three years later.

8 Q. Okay. So what the judge does is she  
9 combines the 200,000 with the \$405,988.03 and  
10 orders it to be disbursed to the master  
11 association, correct?

12 A. Yes.

13 Q. Okay. Jeff, what I'm now holding is  
14 Plaintiff's Exhibit 12. It's titled Final Consent  
15 Order -- Final Consent Settlement Order, okay.  
16 Have you seen this document before prior to today?

17 A. Yep.

18 Q. Okay.

19 A. Yes.

20 Q. And this document provides that Horry County  
21 clerk of court will release to the plaintiff funds  
22 held in escrow, that the defendant had deposited  
23 totalling 20,000 plus any interest that has  
24 accrued, and the check was issued to Patrick and

25 Stathos, correct?

112

1 A. That's what it says.

2 Q. Yeah.

3 A. I think that's what it says.

4 Q. And then also indicates "Within ten days of  
5 receipt of the funds by plaintiff as set forth in  
6 paragraph one, the plaintiff shall pay to defendant  
7 10,000 by issuing a check to Harrell, Martin, and  
8 Peace, PA" --

9 A. Right.

10 Q. -- your attorney, the law firm that  
11 represented Renaissance Tower.

12 A. Yes.

13 Q. Do you know why the 10,000 was paid to them?

14 A. Mm-hmm. Settlement.

15 Q. But what was it for specifically? It  
16 doesn't really --

17 A. Because of the breach of fiduciary  
18 responsibility for the contract of security.

19 Q. Okay.

20 A. We wanted more but also wanted to get out of  
21 the lawsuit and settle so we took less.

22 Q. Does paragraph two indicate that the 10,000  
23 was paid for the master association's alleged  
24 breach of their fiduciary duty owed to Renaissance

25 Tower? Doesn't indicate that, does it?

113

1 A. No. It's just part of the settlement.

2 Q. At least what I'm saying is the final  
3 settlement agreement does not expressly provide  
4 what the \$10,000 was paid --

5 A. No. It says "Where the defendant asserted  
6 counterclaims against the plaintiff for accounting,  
7 breach of contract, unjust enrichment, breach of  
8 fiduciary duty, and declaratory judgment action  
9 seeking an order and assess"... so that settlement  
10 was because of this. That's the way I read it  
11 because they're all the same document.

12 Q. Well, let me ask, where were you reading  
13 from?

14 A. First page where defendant asserted against  
15 the plaintiff for accounting, breach of contract,  
16 unjust enrichment, breach of fiduciary duty,  
17 declaratory judgment action seeking an order that  
18 plaintiff does not have the authority to provide  
19 and assess defendant for services such as security  
20 where the defendant believes it did not receive the  
21 a benefit from, and to collect assessments from  
22 defendant's members and the master deed for  
23 Renaissance Tower Horizontal Property Regime.

24 Q. Well, all the Court shows is where the

25 whereas clause is restating what was alleged in the  
114

1 pleadings, correct?

2 A. Right. But that's what the settlement is  
3 for.

4 Q. But it's --

5 A. The problem with all this accounting is we  
6 don't know -- a lot of these people paid  
7 individually to the master association. Unless you  
8 went back to everybody that paid and started doing  
9 a lot of accounting, we don't know what numbers are  
10 correct or incorrect.

11 Q. Well, let me say, the judge did not make  
12 findings of fact regarding the liability of the  
13 master association with respect to breach of  
14 fiduciary duty. It didn't make factual findings in  
15 the order, did it?

16 A. No. The master board and their attorneys  
17 and myself representing Renaissance Tower, I think  
18 Denny Stathos was there representing Renaissance  
19 Tower, come up with an agreement. And this was  
20 basically the agreement. The judge wasn't in the  
21 room. The lawyers submitted it to the Court and it  
22 got declared. And the master board voted on it and  
23 Renaissance Tower voted that we would settle this  
24 and that would be the money that was paid. My

25 board at the time was not happy with it. They

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1 really wanted more money, but to put some of these  
2 lawsuits behind them, they agreed to that.

3 Q. Now, just, you know, I went through  
4 Plaintiff's Exhibit 9, 10, 11, and 12 which roughly  
5 represents the consent orders, okay, regarding the  
6 lawsuit, and if you go through each of the consent  
7 orders, it clearly indicates that as far as what  
8 was paid per the consent orders was \$605,998.38 by  
9 Renaissance Tower. And then the other 20,000 was  
10 paid to the Stathos Law Firm, correct? That's the  
11 actual amount that it shows that was paid.

12 A. I agree with what you're saying but I also  
13 read final settlement. "Now, therefore, in  
14 consideration of the obligation set forth herein,  
15 the parties mutually agree and bind themselves,  
16 their successors, and assigns to the settlement  
17 order herein set forth pursuant to the South  
18 Carolina RCP Rule 43(k)."

19 Q. All right. Now --

20 A. So that's the settlement.

21 Q. Okay. Well --

22 A. It says -- I mean, you know, we can sit here  
23 and go get some CPAs and there's one next door  
24 named Debbie Kesto.

25 Q. Okay. Jeff, one of the things -- you know,  
116

1 let me kind of point out again is it indicated that  
2 we went through Judge John's order granting  
3 plaintiff's motion for temporary injunction, that  
4 he required Renaissance Tower to pay their future  
5 ongoing assessments in an escrow account. So there  
6 was an order. The judge's order is that y'all were  
7 litigated over 334,000 but you had an ongoing  
8 responsibility to pay your ongoing assessments  
9 going into 2017 in escrow pursuant to the terms of  
10 the order. You don't disagree with that, do you?

11 A. I'm not here for Renaissance Tower and I'd  
12 have to look at all the books and all the pay stubs  
13 and actually do an audit on all of this for me to  
14 give you a correct answer.

15 Q. But all I'm saying is per the judge's order,  
16 you had an ongoing responsibility to pay a  
17 settlement --

18 A. According to that, yes.

19 Q. Okay. And per Judge Howe's order, she  
20 indicates in paragraph seven "Defendant shall pay  
21 all future assessments to plaintiff directly in  
22 accordance with the declaration of covenants and  
23 restrictions of Myrtle Beach Resort," so that's the  
24 declaration and by-laws.

25 A. And I agree, but the problem is that the  
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1 settlement here, which is the settlement, which was  
2 read, basically says that this is things can be  
3 settled. If we get the \$10,000, somebody else gets  
4 the 20, this thing is settled.

5 Q. Let me ask you this: Is it your position  
6 that if the monthly association payments in the  
7 amount of \$30,435.90 were not paid for the month of  
8 October, November, December, which add up to  
9 \$93,645.70, that that's okay because that was part  
10 of the settlement?

11 A. I mean, the settlement is the settlement  
12 that everybody agreed on.

13 Q. Right.

14 A. Okay? And I don't know what the date is of  
15 the settlement --

16 Q. Let me ask you this --

17 A. What date's the settlement? April 20, 2018.  
18 So that's why you have settlements. In my opinion  
19 -- I'm just a lay person here, you're the attorney,  
20 but in my opinion, that's why you have a settlement  
21 because we have a disagreement, and the settlement  
22 here basically says within ten days deposit 20,000,  
23 and then within ten days the plaintiff will pay  
24 \$10,000 to our attorney, which basically took some

25 fees allocated to us, and this thing settled and  
118

1 everybody agreed to it.

2 Q. Now can I say something --

3 A. You can say --

4 Q. All right. Jeff, where does it say -- where  
5 does it say in the orders that Renaissance Tower is  
6 relieved of its responsibility to pay the ongoing  
7 assessments for 2017 for the months of October,  
8 November, and December?

9 A. It doesn't. Except for the settlement  
10 basically says for the time that -- you know, this  
11 thing has settled, you know, and we all agreed,  
12 both sides is bound to this settlement agreed. And  
13 I'm not the attorney here. These are, you are, you  
14 know, and the two attorneys are not here that wrote  
15 this and agreed on it, so I would think that you'd  
16 have to probably bring them in and the accountant  
17 to kind of figure out where all the money went, not  
18 some person that owns 11 condos at Myrtle Beach  
19 Resort.

20 Q. Let me -- Jeff, let me ask you this. Did  
21 Sam Stathos ever tell you that you didn't owe the  
22 \$93,645.70 which I think eventually came to  
23 represent 116,000? Did he ever tell you that you  
24 didn't owe it?

25 A. He agreed, him and Taylor Peace said this is  
119

1 how the money is being done and that was the  
2 settlement, and that's what the master association  
3 agreed to and voted on and that's what Renaissance  
4 Tower agreed to and voted on.

5 Q. Let me ask you this. If we -- William  
6 Douglas was the management company for Renaissance  
7 Tower back in 2017.

8 A. Right.

9 Q. And they would have records of all the  
10 assessments of -- the association assessments paid  
11 by the co-owners of Renaissance Tower that paid  
12 into the interest bearing account, correct?

13 A. Yes.

14 Q. So it would show what they paid into. They  
15 would have a record of that. So what you're saying  
16 is is that the only other way that the \$93,645.70  
17 could be paid off is if the co-owners of the  
18 Renaissance Tower directly paid the master  
19 association?

20 A. I'm -- I say that could be. I don't know  
21 that for sure. I don't know where --

22 Q. Let me ask you this, Jeff. Would the master  
23 association also have a record of --

24 A. I would have thought that an accountant that

25 did the 2017 taxes and said they was a CPA would  
120

1 have figured this out, and I would have figured  
2 that two attorneys probably would have got their  
3 numbers straight because they wrote the settlement.  
4 Now, you know, you're basically implying that  
5 they're incompetent.

6 Q. No, I'm -- I'm just saying -- I did not  
7 say --

8 A. Or that they can't add, you know, and that  
9 you're a better adder than they are. Somewhere in  
10 here I think there's some missing information,  
11 okay, and obviously you think there's some missing  
12 information.

13 Q. Give me one second. Jeff, if the individual  
14 board members for Renaissance Tower directly paid  
15 their assessments to the master association, the  
16 records of the master association obviously would  
17 show that. If they got the checks and they put  
18 them in an interest bearing account, there would be  
19 a document, there would be some record of that.

20 A. And I don't want to bring up spoiled milk  
21 but one of the reasons that we left K.A. Diehl was  
22 because of their accounting.

23 Q. Okay. Now, let me ask you this. And I'm  
24 trying to move this quickly --

25 A. Right, so, I mean, you know, I'm not  
121

1 certified.

2 Q. Now, did -- let me show you Plaintiff's  
3 Exhibit 13. If you got it, pull it up real quick.

4 A. Okay.

5 Q. Plaintiff's Exhibit 13, it's titled Myrtle  
6 Beach Resort HOA, Inc. It has each owner balance  
7 as of January 1st, 2018, and it indicates, if you  
8 go to the far right column, that Renaissance Tower  
9 was in arrears \$150,607.98. Is that correct?

10 A. Correct.

11 Q. That's what --

12 A. Excuse me. I need a cough drop. I don't  
13 seem to have one.

14 Q. Okay. This schedule was prepared by  
15 Empress, correct? They took over after Renaissance  
16 Tower, I guess, either quit or terminated, right?

17 A. No. They took over K.A. Dichl's when they  
18 were terminated.

19 Q. Right, right. I meant to say -- yeah,  
20 you're right, K.A. Dichl's. But their employment --  
21 their employment agreement, Empress, shows they  
22 started in January 1st, 2018, or maybe started in  
23 December of 2017.

24 A. 2017. Yes, they started in -- and they

25 start in January 2017?

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1 MR. MATHIAS: '18.

2 Q. '18.

3 A. They were there when we did the settlement.

4 When was the settlement? The settlement was '18?

5 Q. The way the orders were signed --

6 A. They say it was April '18, so 2018, January,

7 they come on board.

8 Q. Well, they --

9 A. So they said that they had it and that's why

10 we basically had a question that they kept saying

11 we owed it, and the A Building and Five Seasons

12 kept saying that we owed the money and finally they

13 went back to Stathos and he said here's the decree

14 from the Court. It has been cleared.

15 Q. Okay.

16 A. Okay? And so there should be a letter from

17 Sam Stathos written to the master association and

18 to them saying that this was the settlement and all

19 the prior debt was paid or settled. I won't say

20 paid, I'll say settled.

21 Q. Okay. So what I want to show is Plaintiff's

22 Exhibit 13 is a schedule showing as of -- it was

23 prepared by Empress showing that as of January

24 31st, 2018, Renaissance Tower was in arrears

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file:///L:/...20RECENT%20AFFIDAVITS%20as%20of%204-6-22/Exhibit%20S%20Richardson%20Depo%20September%2018,%202020.tx[4/11/2022 8:23:36 AM]

25 150,000.

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1 A. Sure.

2 Q. Okay.

3 A. And they settled that by going back to  
4 Stathos.

5 Q. Just let me -- then you've got Plaintiff's  
6 Exhibit 14, was also prepared by Empress. It is an  
7 each owner balances of regarding -- dealing with  
8 regular assessments that are owed, and it's dated  
9 August 31st, 2019, and it indicates that on that  
10 date, Renaissance Tower was in arrears \$117,224.24  
11 and, you know, owed assessments to the master.  
12 Correct?

13 A. That's what it says.

14 Q. Okay. Now, Jeff, let me show you  
15 Plaintiff's Exhibit 15. This is a letter from John  
16 Hobbs, and if you go to subparagraph two, and it's  
17 addressed to Robert Rosencrans and it says "Yes,  
18 there was an adjustment to write off the old  
19 receivables for Renaissance Tower based on legal  
20 documents provided to us by Barbara. The reason  
21 that this write-off was not disclosed in the  
22 footnotes was that it was ultimately actually  
23 written off at 12/31/2017 balance sheet date."  
24 Okay.

25 What I want to ask you is, did the board  
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1 ever vote, the master board ever vote to adjust and  
2 write off the \$116,000? Did y'all ever vote to  
3 write it off?

4 A. The master board voted during the settlement  
5 to take the settlement which would mean that you  
6 have to write everything off.

7 Q. Well, what I'm saying is, is that --

8 A. The master board did the vote. Bill Cox was  
9 there, I was there, either Nancy or Jim was there.  
10 I don't remember who from the A Building. I think  
11 the older guy, think some of the A board members.

12 Q. Conrad?

13 A. Conrad. I think Conrad was there and they  
14 all voted, it was a three to one vote to accept the  
15 settlement.

16 Q. Okay.

17 A. As far as my recollection. It might be  
18 four-zero but I think it was three to one.

19 Q. Okay. But I understand --

20 A. When they accepted the settlement, they  
21 accepted the write-off, if there is one. I don't  
22 know if there is one.

23 Q. Okay. But as far as the current board, and  
24 you're a board member along with Nancy and along

25 with Robert Rosencrans and Lori Niedzwiecki -- I  
125

1 can't ever pronounce her name -- but y'all have not  
2 voted --

3 A. No.

4 Q. -- to adjust or write this off. Okay?

5 A. Agree that because of as what he says in  
6 this accounting, that it was supposed to be written  
7 off on 12/31/17.

8 Q. Let me ask you this. What --

9 A. Or adjusted, the balance sheet adjustment.

10 Q. Did anybody -- who directed Barbara to write  
11 this off?

12 A. The CPA that does the audit.

13 Q. No. Here's what -- the way this reads is is  
14 that he's saying that -- he said yes, there was an  
15 adjustment to write off the old receivables -- this  
16 is John Hobbs -- from Renaissance Tower based on  
17 legal documents provided to us by Barbara, so what  
18 he's saying is Barbara gave him legal documents  
19 which they --

20 A. Very many -- if you go back and listen to  
21 the tapes of many of the master boards, Rosencrans  
22 and -- especially Rosencrans would bring up, oh,  
23 you still owe us 120,000; you still owe us 120,000.  
24 And we said, no, we settled this; you all need to

25 go back to the attorneys and get a copy of the  
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1 settlement. They didn't have a copy of the  
2 settlement, and so then he brought it up to the  
3 CPAs, and so Barbara went to the attorneys, asked  
4 for the settlement, and did the adjustment.

5 Q. All right. Let me ask you this.

6 A. That's as far as I know.

7 Q. Okay. Did --

8 A. I had no portion of that.

9 Q. All right. Fine. Jeff, what I'm asking is,  
10 is that you as a board member along with Nancy and  
11 along with Robert Rosencrans, Lori Niedzwiecki  
12 never voted and authorized Barbara to contact John  
13 Hobbs and provide the legal documentation and  
14 recommend John or Jill -- John Hobbs that they  
15 should adjust and write off 160,000. The board  
16 didn't do that, correct?

17 A. They didn't in so many words in that they  
18 wanted to settle this, and we wanted to know if we  
19 still owed it, and according to the documents of  
20 the settlement, that was not, and so they had to  
21 write it off. He had to do an accounting  
22 adjustment because the settlement was dated as of  
23 12/31.

24 Q. But Jeff, what I'm asking is the board never

25 took a full vote, formal vote, and directed Barbara  
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1 to contact John Hobbs and provided legal  
2 documentation and tell John Hobbs to write it off.  
3 They did not do that.

4 A. I don't know what's in the minutes. Are  
5 there minutes? I mean, do you have copies of the  
6 minutes? I'm not trying to be smart but you got  
7 copies of everything else so I figured you got  
8 copies of --

9 Q. Yeah, we do have copies of --

10 A. So is there something in there that tells  
11 her? Because I think the prior report -- and I do  
12 remember that this was -- I got tired of listening  
13 to it from Rosencrans, to be honest with you, and I  
14 told -- and I told them they need to come to -- you  
15 know, that we don't owe the money, as far as I  
16 know, and they need to go back to the attorneys and  
17 see what was settled.

18 Q. Let me ask you this. Did --

19 A. So part of her job, I think, was to go back  
20 and try to find out if we actually owed this money.

21 Q. Well, let me just say this. The reason why  
22 I'm asking is I took her deposition, I took  
23 Barbara's deposition on October 28, 2018, and I  
24 asked her about the \$116,000 and she indicated that

25 it was a position of Empress it was still owed.

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1 She said she was waiting to hear from Sam Stathos.

2 And --

3 A. And that was their position in the meetings,  
4 that it was still owed because it had come across  
5 on a ledger from K.A. Diehl.

6 Q. Right. Now, did Sam Stathos write a letter  
7 to the --

8 A. Yes.

9 Q. -- to Empress telling Empress that --

10 A. As far as I know.

11 Q. Was the board provided a copy of the letter,  
12 the master board?

13 A. I haven't seen it but, you know, that was  
14 Barbara's responsibility as a managing agent and I  
15 know Ken Moss had asked for it.

16 Q. Let me ask this: Did Ken Moss or Robert E.  
17 Lee direct Barbara to contact John Hobbs and tell  
18 him to write off or adjust it off?

19 A. I don't know.

20 Q. Should that have happened?

21 A. I don't think anybody would do anything out  
22 of legal bounds. I think it was a settlement and  
23 Sam Stathos said this was the settlement,  
24 everything was paid. Our attorney basically gave

25 me a copy of it, said -- I didn't ask him. I said,  
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1 Do we owe anything? And he said no. And that's  
2 Taylor Peace. I asked him just two weeks ago when  
3 this thing was brought up again, I said, Remember  
4 the settlement? And he just laughed at me, said,  
5 "Y'all still going over this? It's settled."

6 Q. Well, you know, why -- let me ask you this:  
7 Why didn't Sam Stathos and Taylor Peace put in the  
8 order that Judge Howe signed that as part of the  
9 settlement agreement, that Renaissance Tower was  
10 relieved of its responsibility to pay assessments  
11 owed for October, November, December of 2017?

12 A. You want to know my answer? Same reason  
13 they didn't put will instead of shall. Same law  
14 firm.

15 Q. Okay.

16 A. It's a little hard to go back and figure out  
17 intent but the intent I got was everything was  
18 settled. That's -- when I was in the room, when we  
19 walked out, everything was settled. We started  
20 paying January straight to the master association  
21 again when Empress took over because -- you know,  
22 and everything was supposed to be settled, and it  
23 became a line item of contention especially with  
24 Rosencrans that we still owed that, you know, and

25 he brought it up at many meetings and he brought it  
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1 up in front of a homeowner meeting that April, and  
2 it was like okay, we need to straighten this mess  
3 out. We need to put this thing to bed.

4 Q. Jeff, is there anything -- and I'm -- you  
5 know, with respect to -- give me a second. When  
6 you look at, you know, these are Plaintiff's  
7 Exhibit 9, 10, 11, and 12 that we discussed now, is  
8 there any language that you can point to  
9 specifically that says that the \$93,645.70 is not  
10 owed by Renaissance Tower? That it expressly  
11 states that?

12 A. Yes. It's settled.

13 Q. Here's the reason why I ask that is both the  
14 judge's order, I mean Judge John's order, indicated  
15 that Renaissance Tower had an ongoing  
16 responsibility to pay future assessments, that they  
17 were not relieved by said -- by board reached an  
18 agreement on 334,000, that somehow that legal  
19 responsibility of not paying ongoing assessments,  
20 and there was language in Judge Howe's order that  
21 indicated y'all had a responsibility to comply with  
22 the master deed regarding ongoing assessments. I'm  
23 just trying to say that it seems that they're  
24 pretty -- the two judges' orders were pretty clear

25 on that issue. And if you can -- all I'm asking is  
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1 if you can point to any language that says that

2 y'all don't owe --

3 A. I don't think it says that but I think it  
4 says end of the day that we settled this and here's  
5 where this money is going, this is where this money  
6 is going, and this thing is settled from now on.

7 Q. It doesn't expressly say that is what you --

8 A. Now, where is the settlement? Which one is  
9 the settlement order? 9, 10? Released by the  
10 plaintiff. Plaintiff, upon the entry of the order  
11 and the fulfillment of its obligation set forth in  
12 it's due --

13 (Court reporter clarification.)

14 A. "Who have or may claim an interest therein,  
15 hereby releases and therefore discharges defendant,  
16 its individual members, successors, predecessors,  
17 insurers, assigns, directors, officers, agents,  
18 attorneys, employees, and all persons,  
19 organizations, or entities who might be claimed to  
20 be jointly or severally liable with them, of and  
21 from any and all obligations, liabilities" --  
22 liabilities, you see that, right? -- "obligations,  
23 damages, claims, causes of action, losses, damages,  
24 costs, expenses, and attorney's fees for every kind

25 and nature, in law or in equity, based upon,  
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1 arising from or related to the above-captioned  
2 action through or as to any other matter whatsoever  
3 that existed as of the entry of this settlement  
4 order." That's where it released everybody.

5 Q. All right. Let me ask you this. Did the  
6 owners for Renaissance Tower pay the association  
7 assessment -- of the assessment the \$35,435.90 to  
8 William Douglas for those three months to your  
9 knowledge?

10 A. I don't know if -- I know we settled it but  
11 the attorney -- I think they put it in the  
12 attorney's escrow account and then it went from the  
13 attorney's escrow account to the board.

14 Q. Well, what I'm saying is the most that y'all  
15 escrowed with the clerk of court was \$605,988.38,  
16 and then you -- including you add 20,000 to that.  
17 So what I'm saying is is that if per the Article 5  
18 of the master deed, Renaissance Tower had a  
19 responsibility to pay association monthly  
20 assessments for October, November, December, and my  
21 question is if they had paid it for those months,  
22 there should be money escrowed or there should be  
23 money in Renaissance Tower's interest -- I think  
24 interest bearing operating account in the amount of

25 \$93,647.70.

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1 A. I know we put the money in there. Okay?

2 Q. Okay.

3 A. I didn't physically put the money in there.

4 I know it was put in there, but I do know that, you  
5 know, that it's put to bed.

6 Q. Well, okay. So there's actually, the

7 \$93,647.70 --

8 A. You ask those two attorneys. I believe they  
9 asked their accountant, whoever, how they come up  
10 with these numbers. They're the ones that came up  
11 with these numbers. We didn't.

12 Q. But what I'm asking you, Jeff, is the money  
13 was collected --

14 A. The money was collected.

15 Q. -- and it was placed in an interest bearing  
16 account for the --

17 A. For the --

18 Q. Yeah, for Renaissance Tower interest bearing  
19 account that was managed by William, right?

20 A. As accounts payable, yes.

21 Q. Okay. So y'all held the money, it wasn't --

22 A. We gave it to the attorney and then gave it  
23 to the court.

24 Q. Okay. All right.

25 A. And we had a settlement.

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1 Q. All right. I'm going to move on, Jeff. I'm  
2 going to hand you what's been previously marked as  
3 Plaintiff's Exhibit 16. This is a letter from  
4 Empress. It's addressed to the Myrtle Beach Resort  
5 HOA, Inc., and the board of directors which  
6 identified are Jeff Richardson, yourself, Nancy  
7 Moore, Lori Niedzwiecki, and Robert Rosencrans.  
8 And it's dated October 23, 2018, which is  
9 technically Exhibit 16.

10 A. Anything in particular you want me to look  
11 at?

12 Q. Well, prior to today, have you -- I guess  
13 back in October 23, 2018 did you have an  
14 opportunity or occasion to review Plaintiff's  
15 Exhibit 16?

16 A. I'm sure I probably read it, yes. It does  
17 look familiar.

18 Q. And it's written by your management company,  
19 specifically Sarah Morrow who is the president of  
20 Empress Management, and it indicates there's a  
21 shortfall in the operating account and there's also  
22 a shortfall in the resort account. Correct?

23 A. True.

24 Q. And the shortfall in the operating account

25 is 290,000 and the shortfall in the reserve account  
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1 is indicates is 377,000. Correct?

2 A. True.

3 Q. Okay. Now, she indicates, and I think the  
4 first paragraph, that what the board did in this  
5 particular case is that I think you voted with Lori  
6 and Nancy to adopt the 2018 budget, correct?

7 A. I'm sure we did vote on a budget.

8 Q. Okay. So it was three versus -- it was  
9 three versus, the sitting vote was Robert  
10 Rosencrans. And what Sarah Morrow, when she writes  
11 the letter, she's indicating that the 2018 budget  
12 that the board adopted is defective because it's  
13 got a line item reflecting \$290,000 for gate  
14 detail, correct? And y'all were not going to  
15 collect the gate income, correct?

16 A. I think the previous board, from when Peter  
17 and Jim and them were on, decided that they didn't  
18 -- I think they had hired Securitas and they didn't  
19 need as much as they were willing to patrol all the  
20 areas anymore.

21 Q. Okay. And let me ask you this. Regarding  
22 line seven, the 377,000 that was due to reserves,  
23 have you all replaced that money as we speak today?

24 A. (Witness shakes head.)

25 Q. Would it surprise you that money is still  
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1 owed to the reserves?

2 A. No.

3 Q. And she indicates right here, in the last  
4 sentence of line item seven, she says "This needs  
5 to be paid back and the board of directors should  
6 have a plan for doing so." Do you all have a plan  
7 to paying the reserves back in the amount of  
8 377,000?

9 A. They have a plan that they're trying to do.  
10 I think it's -- I could be wrong -- 50- or a  
11 hundred thousand dollars, just like with the money  
12 they got from the cable. I think that hundred  
13 thousand was supposed to go back to the reserves  
14 because of the exceptions in there.

15 Q. And do you know how the reserves came to  
16 have a liability of 377,000? You know what  
17 happened?

18 A. I wasn't on the board at that time.

19 Q. No, but --

20 A. I'm not talking for the board.

21 Q. You're aware of the fact that when you  
22 withheld the 334,000, that it was --

23 A. I didn't withhold it.

24 Q. Well, as the president --

25 A. The board. The board.

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1 Q. The board for Renaissance Tower --

2 A. At the advice of their attorney.

3 Q. Okay. -- withheld the money and then put a  
4 financial hardship on the master association.

5 A. I think that's probably the intent to get  
6 them to come talk to us. I think that was probably  
7 the intent. I can't talk for them. I mean, you  
8 know, if you go try and talk to somebody and they  
9 won't talk to you, so you kind of quit paying and  
10 then somebody will answer your questions.

11 Q. Well, right.

12 A. We were just trying to bring somebody to the  
13 table.

14 Q. I understand. And --

15 A. And instead of them coming to the table,  
16 they sued us.

17 Q. Well, getting back to Plaintiff's Exhibit 7,  
18 your managing agent is basically saying, you know,  
19 danger, Will Robinson; danger, Will Robinson,  
20 because the deficit in the reserves in the  
21 operating account, correct?

22 A. You know, since I got on the board, you want  
23 to -- you want my -- I'm a financial advisor, RIA  
24 registered and fiduciary license. Their books of

25 the master board are screwed up. There's nothing  
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1 right about any of them. There's a 300 and some  
2 thousand dollar that is allegedly owed by K.A.  
3 Diehl that nobody wants to go after them on, okay?  
4 There's a bunch of money out there that is a  
5 disgrace. They have -- the Renaissance Tower has  
6 liens against the master association of over  
7 \$200,000 that they won't pay, but it is a lien but  
8 they don't want them to go on the CPA report  
9 either, so it's like there's a lot of moving parts  
10 in here, you know.

11 Q. Well, getting back to Plaintiff's Exhibit  
12 16, Sarah Morrow cites page 4, subparagraph A,  
13 subparagraph 8, subparagraph A8, and this is what  
14 paragraph 8 provides, so paragraph 8: "Inform the  
15 board of directors of any monetary shortfalls" --  
16 I'm reading from the employment agreement with the  
17 master board -- "and request that the board provide  
18 funds or make a special assessment to remedy the  
19 anticipated insufficiency on the part of the  
20 association to provide such or make special  
21 assessments when requested by the managing may at  
22 the option of the managing agent be construed as a  
23 material breach of the agreement and the managing  
24 agent may provide a 30-day notice. Managing agent

25 shall not undertake the extensions of the  
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1 homeowners association from the managing agent's  
2 own funds but shall only be required to pay  
3 expenses of the association to the extent the funds  
4 have been received by the association." Basically  
5 what she was doing, she was covering their --

6 A. Fla --

7 Q. Yeah. And in December -- on December 5th of  
8 2018, there's a special --

9 A. There was a special assessment. We just got  
10 the special assessment.

11 Q. Right. 2020, but -- all right. But in  
12 2000 -- September --

13 A. And we upped -- we upped the fees during the  
14 year too. I think it was last year when we upped  
15 the fees in April and then retroactive or, you  
16 know, we went from paying 23,000 up to \$30,000 a  
17 month to make up for the shortfall.

18 Q. So --

19 A. There's been a couple of special assessments  
20 to try and make up for the shortfall, if I  
21 recollect correctly.

22 Q. Okay. Looking at October 7, 2000 -- all  
23 right. This will be Plaintiff's Exhibit 17. Jeff,  
24 what I'm showing you is we sent a subpoena to the

25 Hobbs Group. This is what they provided us, and  
140

1 this is a regular board of directors meeting  
2 October 7, 2018, and I want to flip through.  
3 Interestingly, that Barbara Johnson did not sign  
4 this, and you know, the board member didn't sign  
5 it. They just -- it's what they forwarded, but  
6 have you ever -- let me show you this. Have you  
7 ever seen this before?

8 A. I mean, I remember it. We were having board  
9 meetings every other week.

10 Q. Can you explain why these minutes were not  
11 signed by the board before they were forwarded to  
12 the Hobbs Group that did the audit?

13 A. I have no clue why they weren't but probably  
14 most people were afraid to sign half the stuff  
15 because for fear of legal.

16 Q. Let me ask you this: Did the master board  
17 ever vote to adopt these minutes to your knowledge,  
18 in a formal vote to adopt these minutes?

19 A. I think there probably was but there was so  
20 much contention between them all the time, you  
21 know, of who said what and why are you putting so  
22 much on there. I mean, we got read from a couple  
23 board members all the time what were supposed to be  
24 in minutes, what weren't supposed to be in minutes.

25 Then you'd have the other one say no, you need to  
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1 put everything in there, so there was a lot of  
2 contention, as you can tell in those minutes right  
3 then, that you had two people voting yes, two  
4 people voting no, and so we got no officers. We  
5 couldn't get a budget, you know, and as -- you  
6 know, the law in South Carolina says you will have  
7 a budget, you will have officers, and you know, to  
8 keep your corporate seal, basically, you need to  
9 have these things if you're a corporation.

10 Q. You would agree back in, I would say,  
11 October or -- I mean, back in, you know, 2018 the  
12 board was deadlocked.

13 A. Right.

14 Q. And that's the reason why Ken Moss was  
15 appointed by the court later on.

16 A. Right.

17 Q. Okay. Let me ask you about this. This is  
18 the last page. It's got circled in red, it says  
19 "377,000 to the reserves. The board discussed the  
20 need to modify the approved 2019 budget and Jeff  
21 Richardson stated that a bare minimum budget is  
22 necessary and security can be removed for 2019. No  
23 action was taken in this regard." What did you  
24 mean security to be removed in 2019? Just

25 eliminated?

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1 A. No.

2 Q. Is that what you're saying?

3 A. No.

4 Q. Let me ask this: Does this --

5 A. We had parts in the budget that are over

6 \$500,000 for security. You can't remove security

7 at the gate but you could remove as much as they

8 want to remove. You don't have to have security.

9 It's not in the documents anywhere that I read that

10 you have to have security.

11 Q. Don't 4.18 provide for security?

12 A. Yeah, if they want to. It doesn't say you

13 will have security.

14 Q. Okay. But I understand -- I understand

15 you're --

16 A. We're gonna have to have a guard gate. We

17 don't have to have a swing gate. You can provide

18 security somebody just walking around. There's --

19 you know, there's a broad definition of what is

20 security. Are you a gated community? Are you not

21 a gated community? Are you just providing people

22 to ride around in golf carts? You know, and that's

23 been kind of the discussion. So you could

24 eliminate all the security if they want, and I

25 think that's what the previous board basically was  
143

1 saying, is, you know...

2 Q. So your position is that you can eliminate  
3 security from the master -- I mean, as far as one  
4 of the master association's responsibility, and  
5 they would not be breaching their fiduciary duty if  
6 they did that; is that a fair statement?

7 A. That's a fair statement, because the  
8 developer didn't have security and he had control  
9 of that property. There was no guard gate out  
10 there.

11 I think there's a guard gate but they didn't have  
12 security. They'd let anybody in, especially when  
13 they were selling units.

14 Q. Well, you understand that when the developer  
15 had it, the declaration and by-laws were not in  
16 existence?

17 A. Well, ours are.

18 Q. Yours were, but what I'm saying is is that  
19 for the master they weren't in existence. They  
20 didn't --

21 A. Right. And he was the, quote, master, so,  
22 but there was no security so you don't have to have  
23 security.

24 Q. Don't you think, you know, to -- as far as

25 the plan of development for the Myrtle Beach Resort  
144

1 would benefit from that?

2 A. I mean, I agree with you but everybody --  
3 and I've said this so many times, that -- and you  
4 can read the meetings, that we need to come  
5 together as to who we are, who we want to be, and  
6 either we need to agree on it and try to build that  
7 one way.

8 I mean, you know, I'm in business, and, you know,  
9 we try to think of 10 minutes, 10 months, 10 years  
10 from now how every decision is going to affect you.  
11 We have no plan of where we want to be 10 years  
12 from now, 10 months from now. And until we figure  
13 that out -- I tell Renaissance Tower the same  
14 thing. Who are we, what do we want to be? And  
15 that's what the master board actually needs to do  
16 is decide do we want to be a gated community, do we  
17 want to be one resort, what do we want to offer to  
18 the customers, how do we want to function.

19 Q. I'm listening.

20 A. And that would be how do we want to rewrite  
21 documents so that we ascertain this, you know, for  
22 the good of the homeowners, you know. As many  
23 people as we have coming in that are older, you  
24 would think at some point in time, and this is why

25 Renaissance Tower, it might be a retirement  
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1 community one day and we might not be ready but I  
2 think the first purpose of this was to have a  
3 convention center, that this was going to be resort  
4 for vacation. You came there during the tax laws  
5 of that era in '84, '85, you could go stay two  
6 weeks, deduct the rest of it, you know, and  
7 basically stay two weeks and count the rest off as  
8 a loss and that's how they sold these things.  
9 Okay?

10 It has changed in 30 years. The people are  
11 30 years older, you know? And their wants and  
12 needs are 30, so the main question we got to answer  
13 during all this is what do we want to be and what  
14 do the owners want the resort to be? And that's  
15 what we need to ascertain and write the documents.

16 Q. I'm listening.

17 A. Do you agree?

18 Q. I think that it would be very beneficial if  
19 everybody'd get together and they reached an  
20 agreement, you know, of how to live together and do  
21 what's in the best interests of all the members out  
22 there.

23 A. And I agree.

24 Q. Let me show you this one.

25 MR. BELLAMY: Madam Court Reporter,  
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1 what is my next exhibit?

2 THE COURT REPORTER: I think it's 18.

3 Q. All right. Let me show you what's been  
4 marked as Plaintiff's Exhibit No. 18, and it is the  
5 first page of the special meeting of the board of  
6 directors, Saturday, October -- 2018. What I want  
7 to do is -- (Audio difficulties. Reporter  
8 clarification.)

9 What I'm going to refer you to is under  
10 paragraph 2, old business, it says "Discussion  
11 issue regarding the selection of officers for  
12 2018," and under that it says "Jeff Richardson  
13 stated that assessments for 2017, that \$405,990 was  
14 sent from Renaissance Tower to the Myrtle Beach  
15 Resort master. He stated that Renaissance Tower is  
16 paid current in their HOA dues. Mr. Richardson  
17 reported that the master association has to make a  
18 decision regarding the new walkway and area  
19 adjacent to Renaissance Tower and then liens that  
20 Renaissance Tower currently has will be satisfied."  
21 Essentially basically what you're saying is the  
22 \$405,990 represents what y'all had to pay as far as  
23 the settlement. Is that a fair statement?  
24 A. Yes.

25 Q. Okay.

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1 A. It goes back to meetings. You're not  
2 supposed to put anything in minutes except for  
3 motions.

4 Q. You can thank Empress Management for that.  
5 Jeff, what I'm holding is Plaintiff's Exhibit 19.  
6 It's Myrtle Beach Resort Special Board of Directors  
7 Meeting, December 5th, 2018. We got a copy of  
8 these minutes pursuant to a subpoena to the Hobbs  
9 Group. This is in that red --

10 A. This is from the Hobbs Group?

11 Q. Yeah. This is what we got from the Hobbs  
12 Group when we served a subpoena. It says the 19 --  
13 I'll read it here. It says "The 2019 operating  
14 budget. Board discussed the letter from Sarah  
15 Morrow" -- we previously talked about -- "of  
16 Empress Management. Ms. Moore advised the board  
17 that she is very concerned because the association  
18 has not collected the appropriate funds for the  
19 operation of the association in 2018. They adopted  
20 the same budget for 2019 which is also deficient  
21 for operation. Upon motion by Lori Niedzwiecki,  
22 and seconded by Robert Rosencrans, it was moved to  
23 fully fund the 2019 operating budget with a  
24 replacement of all the reserve funds and further to

25 fund for a full property security and trash  
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1 collection for all subregimes. A call for the  
2 vote, Robert Rosencrans, yes; Jeff Richardson, no;  
3 Lisa Moore, no; and Lori Niedzwiecki, yes."  
4 Why did you -- my question, Jeff, is why  
5 did you vote against that? Don't you have a  
6 fiduciary duty to follow the advice of a management  
7 company regarding funding shortfalls and operating  
8 budget and also reserves?

9 MR. MATHIAS: Object to the form.

10 Q. Go ahead.

11 A. I do have a fiduciary duty for them but I  
12 don't have a fiduciary duty in the respect of to  
13 fund security for the whole property, or for the  
14 things that you say shall. I have a fiduciary duty  
15 to provide the services that are provided in our  
16 HPR documents to the master association.

17 Q. So what you're basically saying is is your  
18 only fiduciary duty --

19 A. My only fiduciary duty for Renaissance Tower  
20 is to provide the powers given to the master  
21 through their document.

22 Q. Let me ask you this: You're on the master  
23 board at this time, correct?

24 A. Right, as a representative of Renaissance

25 Tower.

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1 Q. Well, but aren't you, Jeff, representing the  
2 1,010 members of the master association?

3 A. No. I vote for the Renaissance Tower  
4 portion.

5 Q. Okay. So I'll just make sure we're clear on  
6 this. It's your position you don't have a  
7 fiduciary duty or duty of good faith to look after  
8 the other members of the master association that  
9 are co-owners of Five Seasons center, the Building  
10 A and the oceanfront spa. Do I understand? Is  
11 that what you're testifying to?

12 A. I think there's a fiduciary duty to do  
13 what's overall good for the resort and the master  
14 board, because this is supposed to come together,  
15 but as far as I represent -- I represent  
16 Renaissance Tower, just like a representative, you  
17 know, represents South Carolina. Yeah, there's a  
18 fiduciary duty for the whole United States, but you  
19 need to speak for South Carolina. I need to speak  
20 for Renaissance Tower, okay?

21 Q. Okay. I hear what you're saying. You're  
22 saying that because you're the president of the  
23 board --

24 A. No. Because I'm the master board

25 representative for Renaissance Tower, I vote how  
150

1 the board of Renaissance Tower tells me to vote.

2 Q. Okay. And you're saying basically

3 Renaissance Tower, as far as you're co-owners of

4 Renaissance Tower, it trumps any responsibility

5 that you have to master association members.

6 Correct? That's what you're saying.

7 A. Not any responsibility, but it's -- usually

8 whatever is in the best interest of Renaissance

9 Tower would be in the best interests of --

10 Q. Not necessarily. I mean --

11 A. Not necessarily but most of the time.

12 Q. But to the extent there's a conflict, you're

13 always on the side of, you know, the side of

14 Renaissance Tower or over -- membership of -- as

15 opposed to --

16 A. I represent people from Renaissance Tower.

17 Q. Okay.

18 A. So I am their speaking voice and I am their

19 vote.

20 Q. And to the extent that there's a conflict of

21 interest or there's a duty of loyalty, the members

22 of the -- your members of Renaissance Tower --

23 A. This works better if everything -- if it's a

24 win-win situation.

25 Q. Right, but when it's not a win-win  
151

1 situation, basically --

2 A. And if it's not a win-win situation, I  
3 represent Renaissance Tower.

4 Q. Okay.

5 A. If it has to be. I'd rather it be a win-  
6 win.

7 Q. Let me ask you this: You know, basically  
8 what you just testified is, I mean, that's clearly  
9 you got a conflict of interest. You can't -- I  
10 mean, serving on two boards, serving on the --

11 A. That's the way the documents were drawn up,  
12 and that's why I say what I was saying, is that the  
13 master board isn't really a power for all, okay?  
14 It's a place where four regimes can come together  
15 and try to settle their differences and come out as  
16 five voices with Renaissance Tower -- I mean as  
17 Myrtle Beach Resort. And that's why if all four of  
18 us represented the four regimes and three of you  
19 want to buy a scaffold, and Renaissance Tower said  
20 hey, we don't need a scaffold because we're 22  
21 stories but y'all are three and five stories, y'all  
22 three can get together and do that and share it  
23 equitable. But you can't go out and buy it and say  
24 okay, well, you're not going to ever get to use it

25 and we're going to purchase it with your 32 percent  
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1 of the money too and you get no use of it. Does  
2 that make sense? Because as long as it's in the  
3 best interest of everybody, so I wouldn't vote in  
4 that situation to go buy you all and take  
5 Renaissance Tower money to buy a scaffolding for  
6 the other three buildings. It would be a win for  
7 you; it'd be a loss for me.

8 Q. But let me ask you this: How do you  
9 reconcile that when you serve on the master board  
10 but you don't have a duty or good faith to look  
11 after the 1,010 member of the master? I mean,  
12 clearly --

13 A. I do because it's going to be a win-win  
14 situation, there's not too many situations that --  
15 like you can say security or you can say trash. If  
16 it's good for everybody, it's good for everybody.

17 Q. But y'all were deadlocked for almost eight  
18 months.

19 A. Yeah, I know. Still.

20 Q. Yeah.

21 A. And even after we add the fifth board  
22 member, we can't seem to get the people to agree to  
23 let three people go together, you know. And your  
24 defendant said they're willing to put gates up and

25 abide by a three-to-two vote. That's my problem  
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1 with even coming back with conditions of writing a  
2 new. What is going to be their powers? You know,  
3 and unless you give them the powers that they own  
4 the property underneath them, they really have not  
5 a lot of powers.

6 Q. Well, would you support allowing the master  
7 association to manage the -- clearing it up where  
8 there's no ambiguity to manage all the common areas  
9 of the individual condominium regimes except for  
10 the building footprint? Would you be in favor of  
11 that?

12 A. I would except for the B Building is going  
13 to get screwed out of that one because their  
14 swimming pool's on the inside.

15 Q. Well, you can -- even though the  
16 recreational amenities you said there, you could  
17 include that. You can work around, as long as --  
18 you understand that all you're saying is that the  
19 master's in charge of all recreational amenities  
20 around but it's not responsible for actual  
21 prepared --

22 A. Me personally? I think that's the most  
23 efficient way to run the resort. Okay? If we're  
24 talking about dollars and cents, one management

25 company, get four building managers and you have  
154

1 one manager that basically is over them, you have  
2 one security team, you have -- you know, and that's  
3 the way it is. That's going to be the most  
4 effective, efficient way to run it. Okay? That's  
5 not the way it's been run.

6 Q. Right. But you understand, you can modify  
7 the documents going forward --

8 A. But you can modify them but to do that right  
9 now, in my opinion -- I'm not the attorneys here --  
10 you would have to go back to the others and say do  
11 you want to change them. This is what you want to  
12 do. You want to give up your amenities so that the  
13 master has complete control of them. And if  
14 they're not doing a good job and we have to take  
15 over for them, then there has to be repercussions  
16 on their part.

17 Q. I think it's something we could -- there's a  
18 mechanism that we could up come up with to deal  
19 with that.

20 A. And I'm sure you can because most of the  
21 other resorts are like that. Like we said,  
22 Kingston Plantation. Basically you got the  
23 footprint, okay?

24 I don't have a problem with that because it is a

25 resort. But everybody has to listen to everybody  
155

1 and not just say no, we don't want to talk to you

2 because you only got one vote and we got three.

3 Q. Let me ask you this: How would you resolve  
4 the issue with the fifth board member?

5 A. I think I was the one that came up with the  
6 fifth board member being voted at large, you know.

7 Can't be another board member, but maybe I wasn't

8 -- maybe it was in discussion but I was one of the

9 ones that contributed to that, that we'll just have

10 a fifth board member at large. But still the

11 problem is you might have a fifth board member, but

12 if they have no power, you know, then you haven't

13 resolved anything. Like I said, right now we've

14 got a fifth board member and we said we'll put

15 gates up but the A Building took them down and is

16 being obstinate and saying we're not putting them

17 back up.

18 Q. Let me say this --

19 A. You know, the only way we can correct it

20 because it's their property is basically go to

21 court. That will take another year, two years.

22 Q. Well, what if you amended the documents to

23 make it expressly clear what -- as far as the

24 manager's responsibilities were to where everybody

25 was comfortable with that and there wasn't any  
156

1 ambiguity? I know it's hard not having a document  
2 with ambiguities, but to the extent that that could  
3 be -- you know, that all, you know, four individual  
4 regimes could be satisfied by the way the document  
5 is written, that they know what -- they knew what  
6 master's responsibility is opposed to what the  
7 individual regime's responsibility are. I think  
8 it's --

9 A. I mean, I think it's a workable solution. I  
10 think it's going to take a lot of time and lot of  
11 money and I think you need more than five or five  
12 members if you're going to do that because  
13 basically you've done away with all the boards.  
14 If, you know, you just have a footprint, all I got  
15 to do is the building, you know? I mean, you have  
16 -- you take away a lot of their power.

17 Q. Well, like you said, I think it's better --  
18 you indicated it's better to have a master run it  
19 because it can be run more efficiently, more  
20 economically to everybody's benefit. Only thing I  
21 hear you say --

22 A. When it works right, it's going to be more  
23 efficient. When it works wrong, it's a train  
24 wreck.

25 Q. Well, it's a train wreck right now.

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1 A. It's a train wreck right now. I mean, I  
2 think the other option that I think y'all amended  
3 your complaint that said that basically it wouldn't  
4 break up -- is that a -- you know, and I heard your  
5 side say, you know, if we don't get it our way,  
6 that's what we want to do. Okay? And that's fine,  
7 but to be honest with you, I think that hurts them  
8 more than it hurts us.

9 Q. Well, I think y'all got an opinion from  
10 Shawn Wills (ph) indicating about terminating the  
11 covenants for the master association.

12 A. I think that when we were -- and you're not  
13 supposed to bring these up, but when they were  
14 mediating this thing, you know, that was brought up  
15 that that might be one of the solutions and that  
16 they need to at least go and see how this thing  
17 would be broke up. That was all that was really  
18 said about it. It really wasn't taken seriously  
19 that I remember, and then all of a sudden we're  
20 getting an amendment to the complaint that that's  
21 what -- if we can't -- if we don't agree with this  
22 complaint, then that's one of the solutions of  
23 this.

24 Q. Well, I mean, have you read the judicial

25 dissolution section of the nonprofit corporation  
158

1 act?

2 A. I think I have. I mean, I can't -- these  
3 things just --

4 Q. Let me -- all right. Let me ask you this.

5 A. You can educate me on this.

6 Q. I mean, since Ken Moss is -- I think Ken's  
7 going to be on as a fifth board member for almost  
8 two years.

9 A. Right.

10 Q. And initially I know that the oceanfront --  
11 that the Building A and the Five Seasons center  
12 submitted motions and resolutions to make a  
13 difference to the declaration and by-laws for the  
14 master association. And I think you, as we  
15 mentioned earlier, you had an amendment we talked  
16 about earlier, and it's since that time, no  
17 amendment has been presented to the membership to  
18 vote on and you've got five people, so there's not  
19 technically a deadlock. I mean, there's a  
20 philosophical deadlock regarding affirmative  
21 obligations and your position is the master is not  
22 really -- it's optional duties, you know --  
23 A. Well, on their property there, everybody is  
24 king on their property. And what we want to do is

25 voluntarily get everybody to work together for the  
159

1 good of the resort.

2 Q. All right. Let me ask you --

3 A. And that goes back to people all the time  
4 ask me, say why are you on the board? You're on  
5 the board so that you can -- you know, you got all  
6 these condos. Well, you know, I rent out my  
7 condos, okay? They're a profit center for me.  
8 Okay? They are a profit center for me. So I'm  
9 going to make them probably nicer than most people  
10 make theirs. I don't stay in them that often. I  
11 might stay in them ten days out of the year, okay.  
12 Out of all of them, I might stay ten days out of  
13 the year. I got a house in Georgetown I stay in  
14 when I'm there. So it's a profit center, so I'm  
15 going to do everything I can to make the resort  
16 better, okay, not to make it worse, because the  
17 better it is, the more money I make.

18 Q. Well, let me ask you this: If you reduce  
19 security, if you eliminate gate passes, you make  
20 more money.

21 A. No. I'm probably not going to make more  
22 money.

23 Q. Well, no, if you reduce --

24 A. Because people buy there because we're a

25 gated community and I want to be a gated community.  
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1 Q. But Jeff, I mean, you're a financial  
2 advisor. You know that if you lower expenses, that  
3 it increases your profit margin.

4 A. Yeah, if your income is the same, but I'm  
5 thinking that if I -- if I cut services, my income  
6 isn't going to be the same. People come there  
7 because they like being behind a gated community.  
8 I'm one of the ones pushing it that we're a gated  
9 community on there.

10 Q. Let me ask you this.

11 A. And that we have amenities and that's why we  
12 all voted to put a lazy river in is to upgrade the  
13 amenities so that we were competitive.

14 Q. Let me ask you this: I'm glad you said  
15 that. All right? What I'm trying to do is  
16 December 5th, Sarah Morrow basically, you know,  
17 prior to that date writes a letter and chastises  
18 the board for failing to special assess to deal  
19 with the deficiencies and shortfalls of the  
20 operating budget and in the reserve account. And  
21 y'all deadlock on that issue. I mean, Lori  
22 Niedzwiecki and Robert Rosencrans voted in favor of  
23 it and you vote against it. Now, what I'm trying  
24 to understand is if you think having quality

25 security is going to enhance the value of the  
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1 resort, then why didn't you vote in favor of  
2 special assessing to eliminate the deficit in the  
3 operating account and to eliminate the reserve?  
4 A. Because their idea of what we need for  
5 security and my idea is two different things. They  
6 want to go back to the old 540, \$600,000. My idea  
7 is that we use a lot more AI technology, have  
8 somebody at the gate, have cameras, and maybe spend  
9 2, 250, 300,000 instead of 600,000.

10 Q. Well, watchman services, you spend about  
11 what, I think about 500?

12 A. This year they kept nobody up here so this  
13 is not a good year to do it. You know, right this  
14 year I think we're at a hundred and some thousand,  
15 okay, but I agree that, you know, when they redid  
16 the budget supposedly and they had 250, that's not  
17 what we should spend for security. They should  
18 have rovia's, you know, that watches the parking  
19 lots, that does the gates, you know. Because when  
20 we had Securitas, they came in and said if you want  
21 to be a gated community like you're advertising,  
22 you know, people that give us money from the  
23 resort, they were advertising gated community, you  
24 know, then you need to be gated. And we've been

25 everything but a gated community because you have  
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1 too much liability by every time the gate's moving.  
2 Somebody gets hurt and you've advertised a gated  
3 community, you have no answer to that. You know?  
4 People have a sense of safety when you have  
5 children coming in there, that they can go play  
6 basketball without thinking that they're going to  
7 be taken, you know, and so I think security is  
8 great. It's just how much security and what their  
9 job is going to do. Okay?

10 Q. Okay. And let me ask you, I want to clarify  
11 this. Earlier we were talking about the  
12 residential units in Renaissance Tower and I think  
13 you own units in oceanfront spa. Correct?

14 A. Right.

15 Q. We had some people in our office, real  
16 estate in our -- that work in the courthouse and  
17 they went back and looked at documentation for land  
18 records. They indicated that you had 43 units,  
19 condominium units, in the Myrtle Beach Resort. And  
20 they could be wrong, but what you're telling me,  
21 that's incorrect.

22 A. That's incorrect.

23 Q. Okay. And a more accurate number would be  
24 somewhere around 15 or less. Is that a fair

25 statement?

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1 A. Yes.

2 Q. All right.

3 A. But I'm not going to do anything. I have  
4 approximately -- I don't know. I have  
5 approximately, I think it's 18, 19 units at the  
6 beach. I want them all to do well. They're profit  
7 centers. I don't stay in them except for I  
8 probably stay one night here, one night there. You  
9 know, I don't go on vacation down there. You know,  
10 they're profit centers. You know, I have rental  
11 property here. They're profit centers. I'm a  
12 business person. You know?

13 Q. All right.

14 A. I run a profit center in my house. My wife  
15 runs a horse farm, you know. It's more of a profit  
16 loss center, but more of a loss center, but you  
17 know? I mean --

18 Q. And going back to 2015 and '16, and I read  
19 your affidavit and I read the counterclaims that  
20 y'all asserted against the master association, and  
21 what I hear is that the master association was  
22 wasting money that -- money that you felt like --  
23 that the board felt like, in Renaissance Tower,  
24 they weren't getting the fair shake of the value of

25 the association proceeds they were paying in in the  
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1 pot, and that also --

2 A. And when we asked questions, they wouldn't  
3 show us --

4 Q. Right.

5 A. -- which was clearly in the documents that  
6 they were negligent to do. And like I said, we  
7 have two police reports that they basically was  
8 going to have us arrested for staying there when  
9 all we did was follow the document. We made sure  
10 we had two people there. Nancy did the same thing.  
11 She was one of -- the person who went down there  
12 too, and they basically kicked them out and told  
13 them that they were having going to have them  
14 arrested if they stayed there and kept asking for  
15 the open books that are required by the documents.

16 Q. Right. Let me say this, is that -- I think  
17 what you're saying is that First Services  
18 Residential's mismanagement of the resort basically  
19 got --

20 A. We got rid of them because we thought there  
21 was some unscrupulous things happening. We got rid  
22 of First Services and went to -- or K.A. Diehl at  
23 the time and we went to Allied Management. And you  
24 know, we saved some money, and -- no. I'm sorry.

25 You know --

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1 Q. Let me say, is this a fair statement, Jeff.

2 The allegations are that First Services

3 Residential, based upon the allegations in the

4 lawsuit, and I think the other lawsuits is is

5 because of allegedly their mismanagement of the

6 resort affected your profitability of your units.

7 Is that a fair statement?

8 A. No. No. I mean, I don't think it really

9 affected the profitability of my units. I think --

10 I think again it gave unfair advantage to the other

11 regimes over the Renaissance Tower, and because

12 they pulled security from us and we were still

13 paying for it, but the master association at the

14 time let the Allegiant food and beverage go rogue,

15 you know, not obey the law, take over our property

16 without our permission, and there's a lot of

17 things. And then the master association

18 commandeered our parking lot and told us it was

19 theirs. And that's kind of what started all this

20 mess.

21 Q. Let me ask you something. Is there any way

22 -- and obviously there's a lot of bad blood, but in

23 your opinion is there any way to resolve it?

24 A. Yes, and I'm willing to resolve it, but, you