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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of Common Pleas, 13th Circuit

Letitia H. Verdin, Circuit Court Judge

Appellate Case No. 2022-001777

Christopher Young and Biotech Restorations, LLC,..... Appellants/Respondents,

v.

Joanna Marie Paynter, a/k/a Joey Paynter, Samantha P. Nelson, and
Paynter Consulting, LLC,..... Respondents/Appellants.

RECORD ON APPEAL
VOLUME I

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UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Paynter Consulting, LLC,	)	
	)	C/A No.: 8:15-cv-03778-TMC
Plaintiff,	)	
	)	
v.	)	ORDER
	)	
Biotech Restorations, LLC and Christopher	)	
Young,	)	
	)	
Defendants.	)	
_____	)	

Pending before the court is Plaintiff Paynter Consulting, LLC’s (“Paynter”) motion to dismiss *without prejudice*. (ECF No. 28). For the reasons stated below, the motion is granted.

Paynter filed suit against Defendants Christopher Young and Biotech Restorations, LLC (collectively “Defendants”) in the Court of Common Pleas for Pickens County, South Carolina on August 17, 2015, asserting various state law causes of action arising from Defendants’ alleged breach of a partnership agreement. (ECF No. 1-1). Defendants removed the suit to this court based on complete diversity of citizenship on September 21, 2015. (ECF No. 1). On October 13, 2015, Defendants filed a motion to compel arbitration and stay the suit, (ECF No. 10), which this court granted on February 16, 2016. (ECF No. 25). Paynter then filed the instant motion to dismiss *without prejudice* on April 11, 2016. (ECF No. 28). In its motion, Paynter cites high litigation and arbitration costs, and argues that dismissal will “preserve the scant litigation resources available to [Paynter] and will preserve the judicial resources of this [c]ourt.” (*Id.* at 2). Defendants responded on April 28, 2016, arguing that the court should dismiss the suit *with prejudice* to afford them “finality with regard to [Paynter’s] claims.” (ECF No. 29).

Fed. R. Civ. P. 41(a)(2) provides district courts with authority to dismiss an action at a plaintiff's request even after the defendant has answered the complaint or filed a motion for summary judgment. As a general rule, "[a] plaintiff's motion under Rule 41(a)(2) for dismissal without prejudice should not be denied absent substantial prejudice to the defendant." *S.A. Andes v. Versant Corp.*, 788 F.2d 1033, 1036 (4th Cir. 1986) (citation omitted). In determining whether a plaintiff's request for voluntary dismissal will cause "substantial prejudice to the defendant," district courts should consider all relevant factors under the circumstances, including: "(1) the opposing party's effort and expense in preparing for trial; (2) excessive delay or lack of diligence on the part of the movant; (3) insufficient explanation of the need for a dismissal; and (4) the present stage of the litigation, *i.e.*, whether a motion for summary judgment is pending." *Gross v. Spies*, No. 96-2146, 1998 WL 8006, at *5 (4th Cir. Jan. 13, 1998) (citations omitted). "[P]rejudice to the defendant does not result from the prospect of a second lawsuit" or "the possibility that the plaintiff will gain a tactical advantage over the defendant in future litigation." *Davis v. USX Corp.*, 819 F.2d 1270, 1274-75 (4th Cir. 1987) (citations omitted).

When warranted, Rule 41(a)(2) gives district courts the option to dismiss a plaintiff's complaint with prejudice. *Andes*, 788 F.2d at 1037. However, even if a district court determines that voluntary dismissal will result in substantial prejudice to the defendant, an order dismissing the suit with prejudice is not automatic. "A dismissal with prejudice is a harsh sanction which should not be invoked lightly in view of the sound public policy of deciding cases on their merits." *Davis v. Williams*, 588 F.2d 69, 70 (4th Cir. 1978) (citations omitted) (internal quotation marks omitted). Thus, before entering an order dismissing a case with prejudice, a district court must give the plaintiff "notice of its inclination to impose this extreme remedy."

Andes, 788 F.2d at 1037. Further, in lieu of a dismissal with prejudice, a district court may “impose conditions on voluntary dismissal to obviate any prejudice to the defendants which may otherwise result from a dismissal without prejudice.” *Davis*, 819 F.2d at 1273.

Here, the factors discussed above weigh in favor of dismissing Paynter’s claims *without prejudice*. Defendants do not contend that they have expended substantial effort or expense in discovery or other trial preparation matters, and Paynter filed the present motion before the parties incurred substantial expense in the arbitration process. Moreover, Defendants have made no allegations of delay or lack of diligence on Paynter’s part, and in fact, aside from facing the prospect of renewed litigation, Defendants do not allege that voluntary dismissal will prejudice them in any way. Accordingly, the court finds that dismissing Paynter’s complaint with prejudice is not warranted under the circumstances, and it also declines to impose any specific conditions on dismissal. The court advises Paynter, however, that Fed. R. Civ. P. 41(d) makes payment of prior costs an automatic possibility when a previously dismissed action is refiled, *Kyte v. Coll. of S. Md.*, No. Civ. A. DKC 2003-2558, 2005 WL 396306, at *3 (D. Md. Feb. 18, 2005), and Defendants might seek to invoke this Rule should it refile its claims in this court.

Conclusion

For the foregoing reasons, Paynter’s motion to dismiss its complaint is **GRANTED**. All claims alleged against Defendants are **DISMISSED** *without prejudice*.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

May 9, 2016
Anderson, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF: PICKENS

IN THE MATTER OF:

VALERIE ANNE PAYNTER

(Decedent)

JOANNA MARIE PAYNTER

(Personal Representative)



IN THE PROBATE COURT

ORDER CLOSING ESTATE

CASE NUMBER: 2017ES3900607

Upon consideration of the Application for Settlement, it appears to the Court that the allegations in the Application are true. All required notices have been given/waived. The asset(s) has/have been administered according to the laws of South Carolina.

The final closing documents have been considered and/or waived.

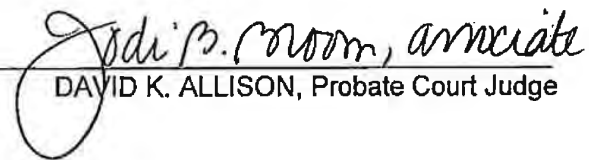
The Personal Representative(s) in the above estate appear(s) to have completed the administration, and the appointment is hereby terminated.

It is appropriate that the sureties on the bond, if any, in this estate be released. If applicable, the security instrument recorded in the Office of the Clerk of Court (or ROD) in Book __, at Page __, shall be and is hereby released, and cancellation of said instrument is authorized.

Therefore, the estate is closed.

IT IS SO ORDERED.

Executed this **25th** day of **March, 2019**.


DAVID K. ALLISON, Probate Court Judge

STATE OF SOUTH CAROLINA
PICKENS COUNTY

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Christopher Young and Biotech Restorations,
LLC

Plaintiffs,

v.

Joanna Marie Paynter, a/k/a Joey Painter,
Samantha P. Nelson, and Paynter Consulting,
LLC,

Defendants.

CIVIL ACTION NO. 2019-CP-39-01224

PROTECTIVE ORDER

Whereas, the parties to this action (“parties”), have stipulated that certain discovery material is and should be treated as confidential, and have requested that the Court enter a protective order; and whereas the Court has designated the undersigned as a Special Referee to resolve discovery matters and the Special Referee has determined that the terms set forth herein are appropriate to protect the respective interests of the parties, the public, and the Court; accordingly, it is this 10th day of August, 2020, ORDERED:

1. **Scope.** All documents produced in the course of discovery, all responses to discovery requests and all deposition testimony and deposition exhibits and any other materials which may be subject to discovery (hereinafter collectively “documents”) shall be subject to this Order concerning confidential information as set forth below. This Order excludes from discovery any documents or information designated by its holder as a trade secret. Counsel for Defendants Paynter and Nelson is currently in possession of approximately 20-30 lab notebooks, having approximately 50-450 pages in each lab notebook, that were created from approximately 1993 until 2016, that describe Dr. Paynter’s bioremediation trade secrets, and counsel for Defendants

Paynter and Nelson shall retain all such materials while this matter is pending unless directed otherwise by this Court.

2. **Form and Timing of Designation.** Confidential documents shall be so designated by placing or affixing the word “CONFIDENTIAL” on the document in a manner which will not interfere with the legibility of the document and which will permit complete removal of the Confidential designation. Documents shall be designated CONFIDENTIAL prior to, or contemporaneously with, the production or disclosure of the documents. Inadvertent or unintentional production of documents without prior designation as confidential shall not be deemed a waiver, in whole or in part, of the right to designate documents as confidential as otherwise allowed by this Order.

3. **Documents Which May be Designated Confidential.** Any party may designate documents as confidential but only after review of the documents by an attorney¹ who has, in good faith, determined that the documents contain information protected from disclosure by statute, that the unrestricted disclosure of such information could be prejudicial to the business or operations of such party, sensitive personal information, or commercial information. The certification shall be made concurrently with the disclosure of the documents, using the form attached hereto at Attachment A which shall be executed subject to the standards of Rule 11 of the South Carolina Rules of Civil Procedure. Information or documents which are available in the public sector may not be designated as confidential.

¹ The attorney who reviews the documents and certifies them to be CONFIDENTIAL must be admitted to the South Carolina Bar.

4. **Depositions.** Portions of depositions shall be deemed confidential only if designated as such when the deposition is taken or within seven business days after receipt of the transcript. Such designation shall be specific as to the portions to be protected.

5. **Protection of Confidential Material.**

a. **General Protections.** Documents designated CONFIDENTIAL under this Order shall not be used or disclosed by the parties or counsel for the parties or any other persons identified below (¶ 5.b.) for any purposes whatsoever other than preparing for and conducting the litigation in which the documents were disclosed (including any appeal of that litigation).

b. **Limited Third Party Disclosures.** The parties and counsel for the parties shall not disclose or permit the disclosure of any documents designated CONFIDENTIAL under the terms of this Order to any other person or entity except as set forth in subparagraphs (1)-(5) below, and then only after the person to whom disclosure is to be made has executed an acknowledgment (in the form set forth at Attachment B hereto), that he or she has read and understands the terms of this Order and is bound by it. Subject to these requirements, the following categories of persons may be allowed to review documents which have been designated CONFIDENTIAL pursuant to this Order:

(1) counsel and employees of counsel for the parties who have responsibility for the preparation and trial of the lawsuit;

(2) parties and employees of a party to this Order but only to the extent counsel shall certify that the specifically named individual party or employee's assistance is necessary to the conduct of the litigation in which the information is disclosed²;

² At or prior to the time such party or employee completes his or her acknowledgment of review of this Order and agreement to be bound by it (Attachment B hereto), counsel shall complete a

(3) court reporters engaged for depositions and those persons, if any, specifically engaged for the limited purpose of making photocopies of documents;

(4) consultants, investigators, or experts (hereinafter referred to collectively as “experts”) employed by the parties or counsel for the parties to assist in the preparation and trial of the lawsuit; and

(5) other persons only upon consent of the producing party or upon order of the court and on such conditions as are agreed to or ordered.

c. **Control of Documents.** Counsel for the parties shall take reasonable efforts to prevent unauthorized disclosure of documents designated as Confidential pursuant to the terms of this order. Counsel shall maintain a record of those persons, including employees of counsel, who have reviewed or been given access to the documents along with the originals of the forms signed by those persons acknowledging their obligations under this Order.

d. **Copies.** All copies, duplicates, extracts, summaries or descriptions (hereinafter referred to collectively as “copies”), of documents designated as Confidential under this Order or any portion of such a document, shall be immediately affixed with the designation “CONFIDENTIAL” if the word does not already appear on the copy. All such copies shall be afforded the full protection of this Order.

6. **Filing of Confidential Materials.** In the event a party seeks to file any material that is subject to protection under this Order with the Court, that party shall take appropriate action to insure that the documents receive proper protection from public disclosure including:

(1) filing a redacted document with the consent of the party who designated the document as

certification in the form shown at Attachment C hereto. Counsel shall retain the certification together with the form signed by the party or employee.

confidential; (2) where appropriate (*e.g.*, in relation to discovery and evidentiary motions), submitting the documents solely for *in camera* review; or (3) where the preceding measures are not adequate, seeking permission to file the document under seal. Absent extraordinary circumstances making prior consultation impractical or inappropriate, the party seeking to submit the document to the Court shall first consult with counsel for the party who designated the document as confidential to determine if some measure less restrictive than filing the document under seal may serve to provide adequate protection. This duty exists irrespective of the duty to consult on the underlying motion. Nothing in this Order shall be construed as a prior directive to the Clerk of Court to allow any document to be filed under seal. The parties understand that documents may be filed under seal only with the permission of the Court after proper motion.

7. **Greater Protection of Specific Documents.** No party may withhold information from discovery on the ground that it requires protection greater than that afforded by this Order unless the party moves for an Order providing such special protection.

8. **Challenges to Designation as Confidential.** Any CONFIDENTIAL designation is subject to challenge. The following procedures shall apply to any such challenge.

a. The burden of proving the necessity of a Confidential designation remains with the party asserting confidentiality.

b. A party who contends that documents designated CONFIDENTIAL are not entitled to confidential treatment shall give written notice to the party who affixed the designation of the specific basis for the challenge. The party who so designated the documents shall have fifteen (15) days from service of the written notice to determine if the dispute can be resolved without judicial intervention and, if not, to move for an Order confirming the Confidential designation.

c. Notwithstanding any challenge to the designation of documents as confidential, all material previously designated CONFIDENTIAL shall continue to be treated as subject to the full protections of this Order until one of the following occurs:

- (1) the party who claims that the documents are confidential withdraws such designation in writing;
- (2) the party who claims that the documents are confidential fails to move timely for an Order designating the documents as confidential as set forth in paragraph 8.b. above; or
- (3) the court rules that the documents should no longer be designated as confidential information.

d. Challenges to the confidentiality of documents may be made at any time and are not waived by the failure to raise the challenge at the time of initial disclosure or designation.

9. Treatment on Conclusion of Litigation.

a. **Order Remains in Effect.** All provisions of this Order restricting the use of documents designated CONFIDENTIAL shall continue to be binding after the conclusion of the litigation unless otherwise agreed or ordered.

b. **Return of CONFIDENTIAL Documents.** Within thirty (30) days after the conclusion of the litigation, including conclusion of any appeal, all documents treated as confidential under this Order, including copies as defined above (§5.d.) shall be returned to the producing party unless: (1) the document has been entered as evidence or filed (unless introduced or filed under seal); (2) the parties stipulate to destruction in lieu of return; or (3) as to documents containing the notations, summations, or other mental impressions of the receiving party, that party elects destruction. Notwithstanding the above requirements to return or destroy

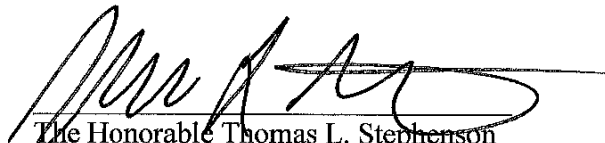
documents, counsel may retain attorney work product including an index which refers or relates to information designated CONFIDENTIAL so long as that work product does not duplicate verbatim substantial portions of the text of confidential documents. This work product continues to be Confidential under the terms of this Order. An attorney may use his or her work product in a subsequent litigation provided that its use does not disclose the confidential documents.

10. **Order Subject to Modification.** This Order shall be subject to modification on motion of any party or any other person who may show an adequate interest in the matter to intervene for purposes of addressing the scope and terms of this Order. The Order shall not, however, be modified until the parties shall have been given notice and an opportunity to be heard on the proposed modification.

11. **No Judicial Determination.** This Order is entered based on the representations and agreements of the parties and for the purpose of facilitating discovery. Nothing herein shall be construed or presented as a judicial determination that any specific document or item of information designated as CONFIDENTIAL by counsel is subject to protection under Rule 26(c) of the South Carolina Rules of Civil Procedure or otherwise until such time as a document-specific ruling shall have been made.

13. **Persons Bound.** This Order shall take effect when entered and shall be binding upon all counsel in this action and their respective law firms and clients.

IT IS SO ORDERED.


The Honorable Thomas L. Stephenson
Special Referee

Greenville, South Carolina

August 12, 2020

STATE OF SOUTH CAROLINA
PICKENS COUNTY

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Christopher Young and Biotech Restorations,
LLC

Plaintiffs,

v.

Joanna Marie Paynter, a/k/a Joey Painter,
Samantha P. Nelson, and Paynter Consulting,
LLC,

Defendants.

CIVIL ACTION NO. 2019-CP-3901224

**ATTACHMENT A
CERTIFICATION BY COUNSEL OF DESIGNATION
OF INFORMATION AS CONFIDENTIAL**

Documents produced herewith **[whose bates numbers are listed below (or) which are listed on the attached index]** have been marked as CONFIDENTIAL subject to the Protective Order entered in this action which Order is dated [protective order date].

By signing below, I am certifying that I have personally reviewed the marked documents and believe, based on that review, that they are properly subject to protection under the terms of Paragraph 3 of the Protective Order.

Date: [date attachment A signed]

[Signature of Counsel [s/name]]
Signature of Counsel

[Printed Name of Counsel [A]]
Printed Name of Counsel

STATE OF SOUTH CAROLINA
PICKENS COUNTY

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Christopher Young and Biotech Restorations,
LLC

Plaintiffs,

v.

CIVIL ACTION NO. 2019-CP-3901224

Joanna Marie Paynter, a/k/a Joey Painter,
Samantha P. Nelson, and Paynter Consulting,
LLC,

Defendants.

**ATTACHMENT B
ACKNOWLEDGMENT OF UNDERSTANDING
AND
AGREEMENT TO BE BOUND**

The undersigned hereby acknowledges that he or she has read the Protective Order dated [protective order date], in the above captioned action, understands the terms thereof, and agrees to be bound by such terms. The undersigned submits to the Court's jurisdiction in matters relating to the Protective Order and understands that the terms of said Order obligate him/her to use discovery materials designated CONFIDENTIAL solely for the purposes of the above-captioned action and not to disclose any such confidential information to any other person, firm, or concern.

The undersigned acknowledges that violation of the Protective Order may result in penalties for contempt of court.

Name: [undersigned name [att B]]

Job Title: [Job Title [att B]]

Employer: [Employer [att B]]

Business Address: [Business Address [att B]]

Date: [date attachment B signed]

[Signature [attachment B]]
Signature

STATE OF SOUTH CAROLINA
PICKENS COUNTY

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Christopher Young and Biotech Restorations,
LLC

Plaintiffs,

v.

Joanna Marie Paynter, a/k/a Joey Painter,
Samantha P. Nelson, and Paynter Consulting,
LLC,

Defendants.

CIVIL ACTION NO. 2019-CP-3901224

**ATTACHMENT C
CERTIFICATION OF COUNSEL OF NEED
FOR ASSISTANCE OF PARTY/EMPLOYEE**

Pursuant to the Protective Order entered in this action, most particularly the provisions of Paragraph 5.b.2., I certify that the assistance of [name of assistant [att C]] is reasonably necessary to the conduct of this litigation and that this assistance requires the disclosure to this individual of information which has been designated as CONFIDENTIAL.

I have explained the terms of the Protective Order to the individual named above and will obtain his or her signature on an "Acknowledgment of Understanding and Agreement to be Bound" prior to releasing any confidential documents to the named individual and, I will release only such confidential documents as are reasonably necessary to the conduct of the litigation.

The individual named above is:

- ☐ A named party;
- ☐ An employee of named party [employee of named party]. This employee's job title is [employee's job title] and work address is [employee's work address].

Date: [date attachment C signed]

[Signature [attachment C]]
Signature

STEPHENSON + MURPHY
ATTORNEYS AT LAW LLC

ELECTRONICALLY FILED - 2020 Aug 17 12:14 PM - PICKENS - COMMON PLEAS - CASE#2019CP3901224
ELECTRONICALLY FILED - 2022 Apr 13 8:13 PM - PICKENS - COMMON PLEAS - CASE#2019CP3901224

August 13, 2020

The Honorable Harold P. Welborn
Clerk of Court
Pickens County
P.O. Box 215
Pickens, SC 29671-0215

Re: *Christopher Young, et al v. Joanna Marie Paynter, a/k/a Joey Painter, et al*
Case No.: 2019-CP-39-01224

Dear Judge Welborn:

Enclosed for filing with the Court is a Protective Order signed by Special Referee, Tom Stephenson dated August 12, 2020, with regard to the above referenced matter.

Please call with any questions and thank you for your assistance.

Respectfully,


Lisa M. Thweatt
Legal Assistant

Enclosure

cc: Via Email:

Wesley D. Few - wes@wesleyfew.com
Steven LeBlanc - steve@leblancllc.com

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
Chris Young and Biotech Restorations, LLC,	)	Case No: 2019-CP-39-01224
	)	
Plaintiffs,	)	
vs.	)	ORDER ADJUDICATING
	)	DEFAULT
Joanna Marie Paynter, a/k/a Joey Paynter, Samantha	)	
P. Nelson, and Paynter Consulting, LLC,	)	
Defendants.	)	

Based on a review of the pleadings and the affidavits filed in this matter, the Court makes the following findings:

1. The Plaintiffs filed this action on September 11, 2019.
2. The Defendant Paynter Consulting, LLC was served on April 22, 2021, as shown by the filing of Acceptance of Service dated April 22, 2021, from Allyson Green with the S.C. Secretary of State's Office, and filed in this action on May 3, 2021.

3. More than 30 days have elapsed since the service of the Summons and Complaint.
4. No Answer has been served upon the attorney for the Plaintiffs as required.
5. The Defendant Paynter Consulting, LLC is in default.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

The Defendant Paynter Consulting, LLC is hereby adjudicated to be in default. The case shall be set for a hearing to determine damages, or other relief to be granted to the Plaintiffs.

AND IT IS SO ORDERED

Presiding Judge of the Court of Common
Pleas for the 13th Judicial Circuit

Pickens, South Carolina
May __, 2021



Pickens Common Pleas

Case Caption: Christopher Young , plaintiff, et al VS Joanna Marie Paynter ,
defendant, et al
Case Number: 2019CP3901224
Type: Order/Entry of Default

So Ordered

s/ Honorable Perry H. Gravely, #2755

Electronically signed on 2021-06-14 11:58:29 page 2 of 2

**STATE OF SOUTH CAROLINA
PICKENS COUNTY**

**IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2019-CP-3901224**

Christopher Young and Biotech Restorations,
LLC

Plaintiffs,

v.

Joanna Marie Paynter, a/k/a Joey Painter,
Samantha P. Nelson, and Paynter Consulting,
LLC,

Defendants.

**ORDER CONSTRUING THE GENERAL
PARTNERSHIP AGREEMENT**

The above-captioned matter involves a dispute over a General Partnership Agreement between Plaintiff Biotech Restorations, LLC (Biotech) and its owner Plaintiff Christopher Young (Young), on the one hand, and Defendant Paynter Consulting, LLC (Paynter Consulting) and its owner Dr. Valerie Paynter (Dr. Paynter), on the other hand. A jury trial commenced on April 20, 2022, and after the close of Plaintiffs' case and directed verdict rulings, the parties agreed to dismiss the Jury and conduct the remainder of the trial as a bench trial.

This Order addresses the admissibility and construction of the General Partnership Agreement shown in Plaintiffs' Exhibit 3, as well as the causes of action that remain pending.

I. Admissibility of Plaintiffs' Exhibits 2 and 3

During the trial conducted on April 20, 2022, the Court overruled Defendants' objections and allowed Young to authenticate and admit into evidence, as Plaintiffs' Exhibits 2 and 3, two versions of a General Partnership Agreement. 4/20/22 Trial Tr., pp. 92-93. Plaintiffs' Exhibit 2 purports to be a General Partnership Agreement between Young and Dr. Paynter and bears notary subscriptions from G. David Utley dated January 10, 2006, and Kay Kirkley Barrett dated January

16, 2006. Plaintiffs' Exhibit 3 purports to be a second General Partnership Agreement between Biotech, Young, Paynter Consulting, and Dr. Paynter and bears notary subscriptions from Rose Dalton dated May 30, 2006. Defendants have renewed their objections to the testimony about and admissibility of the General Partnership Agreements shown in Plaintiffs' Exhibits 2 and 3.

This Court has reconsidered its decision to admit Plaintiff's Exhibit No. 3 (the Agreement) and respectfully denies Defendant's Motion to Reconsider.

II. Interpretation of the Agreement shown in Plaintiffs' Exhibit 3

The Agreement shown in Plaintiffs' Exhibit 3 is a contract between Biotech, Young, Paynter Consulting, and Dr. Paynter that created a Partnership to remediate contaminated soils using a bioremediation technology referred to as the Factor Biotechnology. The parties primarily dispute the ownership of and rights to the Factor Biotechnology as provided in the Agreement. The Court construes the disputed terms of the Agreement as described in the following sections.

A. Does the Partnership described in the Agreement still exist?

The parties disagree on the status of the Partnership described in the Agreement. As a preliminary matter, this Court notes that under South Carolina law, "language [that] is perfectly plain and capable of legal construction alone determines the document's force and effect." *Ecclesiastes Production Ministries v. Outparcel Ass., LLC*, 374 S.C. 483, 498, 649 S.E.2d 494, 501 (Ct. App. 2009). Furthermore, the South Carolina Supreme Court has previously held that, "[i]t is fundamental that in the construction of the language of a [contract], it is proper to read together the different provisions therein dealing with the same subject matter, and where possible, all the language used should be given a reasonable meaning."¹ *Brady v. Brady*, 222 S.C. 242, 246,

¹ The case of *Ecclesiastes Production Ministries v. Outparcel Ass., LLC*, 374 S.C. 483, 499, 649 S.E.2d 494, 502 (Ct. App. 2009) references the *Brady* decision and uses the Court's reasoning concerning the construction of lease agreements to expound upon contract constructions more specifically.

72 S.E.2d 193, 195 (1952). With these baseline concepts in mind, the Court construes the contract in question in the below detailed manner.

The introductory sentences and the first numbered paragraph of the Agreement identify Dr. Paynter as a “party” to the Agreement and a “partner” in the business. Paragraph 4 of the Agreement defines the term of the Partnership, as follows:

4. Term – The Partnership shall commence on and continue until dissolved by mutual agreement of the partners. **The Partnership will terminate upon the death or incapacity of a partner.**

The Court finds neither method of termination defined in the contract to be ambiguous or in need of further interpretation given the plain language meaning of the terms. As such, the Court finds the Partnership as described in the Agreement no longer exists. Since there was no mutual agreement of the partners to dissolve the Partnership prior to Dr. Paynter’s death, her death as a partner is what ultimately terminated the Agreement. The terms of the Agreement provide the remaining partner (in this case, Plaintiffs) with the “right” to continue the business of the Partnership after termination of the Agreement due to death of a partner, provided that the continuing partner must pay 10% of the net profits annually from the continuation of the business to the heirs/estate of the deceased partner.

B. According to the Agreement, who owns the Factor Biotechnology?

The parties disagree on ownership of the Factor Biotechnology according to the Agreement.

The introductory sentence of the Agreement states that Paynter Consulting is “owned and operated solely by” Dr. Paynter. Paragraph 3 of the Agreement states that the “business of the partnership is set forth below and relates to the treatment of contaminated soil, marine sediments and other media as applicable to the **Factor biotechnology**” and “the Partnership will utilize propriety products and services under an exclusive use permit which restricts the use of the **Factor**

Biotechnology to this Partnership for all environmental business applications.” Paragraph 3.b further states that Paynter Consulting “having sole knowledge of the **proprietary Factor formulation**, agrees to provide the Partnership with exclusive use of **Factor formulated products** during the term of the Partnership.”

Construing these clauses together, the Agreement describes the Factor Biotechnology as a proprietary Factor formulation that can produce Factor formulated products to treat contaminated soils. According to the specific language of paragraph 3.b, Paynter Consulting has sole knowledge of the proprietary Factor formulation. According to the introductory sentence of the Agreement, Paynter Consulting is owned and operated solely by Dr. Paynter. Nothing in the remainder of the Agreement requires Paynter Consulting or Dr. Paynter to share, transfer, or otherwise disclose the Factor Biotechnology to anyone, including Plaintiffs. On the other hand, there is nothing contained within this Agreement to restrict Paynter Consulting or Dr. Paynter from sharing knowledge concerning the Factor formulation with others, including her children. Nonetheless, as the sole owner and operator of Paynter Consulting, the only person with knowledge of the proprietary Factor formulation, and the plain language of the Partnership Agreement, Dr. Paynter is the sole owner of the Factor Biotechnology according to the Agreement.

As previously stated, Dr. Paynter was able to share the Factor Biotechnology with Defendants before her death, and upon her death, Defendants Joanna Marie Paynter, A/K/A Joey Paynter and Samantha P. Nelson became the sole owners of the Factor Biotechnology. The Agreement provided for the exclusive **use** of the Factor Biotechnology for purposes of the Partnership **while it was ongoing**. However, nothing plainly in the contract or inferred from the language contained therein leads this Court to believe this Agreement prevented Dr. Paynter from sharing the Factor formulation with others prior to, or at the time of, her passing. In fact, the

language of this contract allowing for the right to continued use of the Factor Biotechnology upon the death of one, unspecified partner demonstrates to this Court there was no intent on behalf of either party for the information concerning the Factor formulation to die with Dr. Paynter. Dr. Paynter did not choose to share this information with the Plaintiffs, but there is nothing within the Agreement requiring or limiting her to do. As such, Defendants Joanna Marie Paynter, A/K/A Joey Paynter and Samantha P. Nelson own the Factor Biotechnology as they own and solely possess the knowledge to create it.

C. According to the Agreement, what rights do Plaintiffs have to the Factor Biotechnology?

The parties disagree on any rights Plaintiffs have to the Factor Biotechnology according to the Agreement.

The introductory sentences and the first numbered paragraph of the Agreement identify Biotech and Young as “parties” to the Agreement and “partners” in the business. As previously quoted, paragraph 3 of the Agreement states that the business of the partnership “relates to the treatment of contaminated soil, marine sediments and other media as applicable to the Factor biotechnology.” Paragraph 4 of the Agreement grants the surviving partner the right to continue the business of the Partnership, as follows:

In the event of the death of a partner, the remaining partner has the right to continue the business of the Partnership by themselves or in conjunction with any other persons they may select.

Construing these clauses together, the Agreement contemplates that a partner may continue the business of the Partnership after the death of a partner. Continuation of the business of the Partnership would be impossible for Plaintiffs without use of the Factor Biotechnology. Therefore, Plaintiffs have the right to use the Factor Technology and enter into contracts for use of the Factor Technology. However, Defendants own the Factor Biotechnology and are not required to share

the Factor Biotechnology formulation with Plaintiffs. If the Defendants should choose to sell the Factor Biotechnology, the contract for sale must include a provision allowing Plaintiffs to use the Factor Biotechnology after the sale. In addition, in compliance with the terms set forth in the Agreement, if the Defendants choose to sell the Factor Biotechnology, they would be required to pay the Plaintiffs 10% gross from the sale.

While the partners enjoyed exclusive use of the Factor Biotechnology “during the term of the Partnership,” Paragraph 4 states “the remaining partner has the right to continue the business of the Partnership by themselves or in conjunction with any other person they may select.” If the partners intended for the remaining partner to have the “exclusive” right to continue business with the Factor Biotechnology following the death of the other, language indicating that would be included in the contract. The plain language of the Agreement is consistent throughout, specifically concerning these portions that reference rights of the partners at differing periods of time. Therefore, this Court finds the Defendants could choose to use the Factor Biotechnology, sell it, or a combination of both so long as they abide by the conditions concerning the Plaintiffs’ continued use and compensation.

IT IS SO ORDERED.

Letitia H. Verdin
Thirteenth Circuit Court Judge



Pickens Common Pleas

Case Caption: Christopher Young , plaintiff, et al VS Joanna Marie Paynter ,
defendant, et al
Case Number: 2019CP3901224
Type: Order/Other

So Ordered

s/Letitia H. Verdin, SC Judge 2162

Electronically signed on 2022-11-10 15:22:45 page 7 of 7

STATE OF SOUTH CAROLINA
COUNTY OF Pickens
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2019CP3901224

Christopher Young et al
PLAINTIFF(S)

Joanna Marie Paynter et al
DEFENDANT(S)

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.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRCPP; ☐ Rule 41(a), SCRCPP (Vol. Nonsuit); ☐ Rule 43(k), SCRCPP (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRCPP; ☐ 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:

This matter is before the Court on Plaintiff's Motion for Reconsideration of its previous ruling provided in an Order filed on November 10, 2022. After careful consideration of the arguments presented in Plaintiff's Motion, this Court partially grants Plaintiff's Motion for Reconsideration. As to Point "A," Plaintiff's Motion is respectfully denied. As to Point "B," Plaintiff's Motion for Reconsideration is hereby granted and an Order amending the November 10, 2022 Order has been filed clarifying the ambiguous language described in Plaintiff's Motion. It is so ORDERED.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 11/17/2022 .

Paynter Consulting, Llc

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Pickens Common Pleas

Case Caption: Christopher Young , plaintiff, et al VS Joanna Marie Paynter ,
defendant, et al
Case Number: 2019CP3901224
Type: Order/Electronic Form 4

So Ordered

s/Letitia H. Verdin, SC Judge 2162

Electronically signed on 2022-11-17 08:51:24 page 3 of 3

STATE OF SOUTH CAROLINA
COUNTY OF Pickens
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2019CP3901224

Christopher Young et al
PLAINTIFF(S)

Joanna Marie Paynter et al
DEFENDANT(S)

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.
- ☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCPP; ☐ Rule 41(a), SCRCPP (Vol. Nonsuit); ☐ Rule 43(k), SCRCPP (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCPP; ☐ 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:

This matter is before the Court on Plaintiff's Motion for Reconsideration of Its previous ruling provided in an Order filed on November 10, 2022. After careful consideration of the arguments presented in Plaintiff's Motion, this Court partially grants Plaintiff's Motion for Reconsideration. As to Point "A," Plaintiff's Motion is respectfully denied. As to Point "B," Plaintiff's Motion for Reconsideration is hereby granted and an Order amending the November 10, 2022 Order has been filed clarifying the ambiguous language described in Plaintiff's Motion. It is so ORDERED.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 11/17/2022 .

Paynter Consulting, Llc

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Pickens Common Pleas

Case Caption: Christopher Young , plaintiff, et al VS Joanna Marie Paynter ,
defendant, et al
Case Number: 2019CP3901224
Type: Order/Electronic Form 4

So Ordered

s/Letitia H. Verdin, SC Judge 2162

Electronically signed on 2022-11-17 08:51:24 page 3 of 3

**STATE OF SOUTH CAROLINA
PICKENS COUNTY**

**IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2019-CP-3901224**

Christopher Young and Biotech Restorations,
LLC

Plaintiffs,

v.

Joanna Marie Paynter, a/k/a Joey Painter,
Samantha P. Nelson, and Paynter Consulting,
LLC,

Defendants.

**ORDER CONSTRUING THE GENERAL
PARTNERSHIP AGREEMENT**

The above-captioned matter involves a dispute over a General Partnership Agreement between Plaintiff Biotech Restorations, LLC (Biotech) and its owner Plaintiff Christopher Young (Young), on the one hand, and Defendant Paynter Consulting, LLC (Paynter Consulting) and its owner Dr. Valerie Paynter (Dr. Paynter), on the other hand. A jury trial commenced on April 20, 2022, and after the close of Plaintiffs' case and directed verdict rulings, the parties agreed to dismiss the Jury and conduct the remainder of the trial as a bench trial.

This Order addresses the admissibility and construction of the General Partnership Agreement shown in Plaintiffs' Exhibit 3, as well as the causes of action that remain pending.

I. Admissibility of Plaintiffs' Exhibits 2 and 3

During the trial conducted on April 20, 2022, the Court overruled Defendants' objections and allowed Young to authenticate and admit into evidence, as Plaintiffs' Exhibits 2 and 3, two versions of a General Partnership Agreement. 4/20/22 Trial Tr., pp. 92-93. Plaintiffs' Exhibit 2 purports to be a General Partnership Agreement between Young and Dr. Paynter and bears notary subscriptions from G. David Utley dated January 10, 2006, and Kay Kirkley Barrett dated January

16, 2006. Plaintiffs' Exhibit 3 purports to be a second General Partnership Agreement between Biotech, Young, Paynter Consulting, and Dr. Paynter and bears notary subscriptions from Rose Dalton dated May 30, 2006. Defendants have renewed their objections to the testimony about and admissibility of the General Partnership Agreements shown in Plaintiffs' Exhibits 2 and 3.

This Court has reconsidered its decision to admit Plaintiff's Exhibit No. 3 (the Agreement) and respectfully denies Defendant's Motion to Reconsider.

II. Interpretation of the Agreement shown in Plaintiffs' Exhibit 3

The Agreement shown in Plaintiffs' Exhibit 3 is a contract between Biotech, Young, Paynter Consulting, and Dr. Paynter that created a Partnership to remediate contaminated soils using a bioremediation technology referred to as the Factor Biotechnology. The parties primarily dispute the ownership of and rights to the Factor Biotechnology as provided in the Agreement. The Court construes the disputed terms of the Agreement as described in the following sections.

A. Does the Partnership described in the Agreement still exist?

The parties disagree on the status of the Partnership described in the Agreement. As a preliminary matter, this Court notes that under South Carolina law, "language [that] is perfectly plain and capable of legal construction alone determines the document's force and effect." *Ecclesiastes Production Ministries v. Outparcel Ass., LLC*, 374 S.C. 483, 498, 649 S.E.2d 494, 501 (Ct. App. 2009). Furthermore, the South Carolina Supreme Court has previously held that, "[i]t is fundamental that in the construction of the language of a [contract], it is proper to read together the different provisions therein dealing with the same subject matter, and where possible, all the language used should be given a reasonable meaning."¹ *Brady v. Brady*, 222 S.C. 242, 246,

¹ The case of *Ecclesiastes Production Ministries v. Outparcel Ass., LLC*, 374 S.C. 483, 499, 649 S.E.2d 494, 502 (Ct. App. 2009) references the *Brady* decision and uses the Court's reasoning concerning the construction of lease agreements to expound upon contract constructions more specifically.

72 S.E.2d 193, 195 (1952). With these baseline concepts in mind, the Court construes the contract in question in the below detailed manner.

The introductory sentences and the first numbered paragraph of the Agreement identify Dr. Paynter as a “party” to the Agreement and a “partner” in the business. Paragraph 4 of the Agreement defines the term of the Partnership, as follows:

4. Term – The Partnership shall commence on and continue until dissolved by mutual agreement of the partners. **The Partnership will terminate upon the death or incapacity of a partner.**

The Court finds neither method of termination defined in the contract to be ambiguous or in need of further interpretation given the plain language meaning of the terms. As such, the Court finds the Partnership as described in the Agreement no longer exists. Since there was no mutual agreement of the partners to dissolve the Partnership prior to Dr. Paynter’s death, her death as a partner is what ultimately terminated the Agreement. The terms of the Agreement provide the remaining partner (in this case, Plaintiffs) with the “right” to continue the business of the Partnership after termination of the Agreement due to death of a partner, provided that the continuing partner must pay 10% of the net profits annually from the continuation of the business to the heirs/estate of the deceased partner.

B. According to the Agreement, who owns the Factor Biotechnology?

The parties disagree on ownership of the Factor Biotechnology according to the Agreement.

The introductory sentence of the Agreement states that Paynter Consulting is “owned and operated solely by” Dr. Paynter. Paragraph 3 of the Agreement states that the “business of the partnership is set forth below and relates to the treatment of contaminated soil, marine sediments and other media as applicable to the **Factor biotechnology**” and “the Partnership will utilize propriety products and services under an exclusive use permit which restricts the use of the **Factor**

Biotechnology to this Partnership for all environmental business applications.” Paragraph 3.b further states that Paynter Consulting “having sole knowledge of the **proprietary Factor formulation**, agrees to provide the Partnership with exclusive use of **Factor formulated products** during the term of the Partnership.”

Construing these clauses together, the Agreement describes the Factor Biotechnology as a proprietary Factor formulation that can produce Factor formulated products to treat contaminated soils. According to the specific language of paragraph 3.b, Paynter Consulting has sole knowledge of the proprietary Factor formulation. According to the introductory sentence of the Agreement, Paynter Consulting is owned and operated solely by Dr. Paynter. Nothing in the remainder of the Agreement requires Paynter Consulting or Dr. Paynter to share, transfer, or otherwise disclose the formula of the Factor Biotechnology to anyone, including Plaintiffs. On the other hand, there is nothing contained within this Agreement to restrict Paynter Consulting or Dr. Paynter from sharing knowledge concerning the Factor formulation with others, including her children. Nonetheless, as the sole owner and operator of Paynter Consulting, the only person with knowledge of the proprietary Factor formulation, and the plain language of the Partnership Agreement, Dr. Paynter is the sole owner of the Factor Biotechnology according to the Agreement.

As previously stated, Dr. Paynter was able to share the Factor Biotechnology with Defendants before her death, and upon her death, Defendants Joanna Marie Paynter, A/K/A Joey Paynter and Samantha P. Nelson became the sole owners of the Factor Biotechnology. The Agreement provided for the exclusive **use** of the Factor Biotechnology for purposes of the Partnership **while it was ongoing**. However, nothing plainly in the contract or inferred from the language contained therein leads this Court to believe this Agreement prevented Dr. Paynter from sharing the Factor formulation with others prior to, or at the time of, her passing. In fact, the

language of this contract allowing for the right to continued use of the Factor Biotechnology upon the death of one, unspecified partner demonstrates to this Court there was no intent on behalf of either party for the information concerning the Factor formulation to die with Dr. Paynter. Dr. Paynter did not choose to share this information with the Plaintiffs, but there is nothing within the Agreement requiring or limiting her to do. As such, Defendants Joanna Marie Paynter, A/K/A Joey Paynter and Samantha P. Nelson own the Factor Biotechnology as they own and solely possess the knowledge to create it.

C. According to the Agreement, what rights do Plaintiffs have to the Factor Biotechnology?

The parties disagree on any rights Plaintiffs have to the Factor Biotechnology according to the Agreement.

The introductory sentences and the first numbered paragraph of the Agreement identify Biotech and Young as “parties” to the Agreement and “partners” in the business. As previously quoted, paragraph 3 of the Agreement states that the business of the partnership “relates to the treatment of contaminated soil, marine sediments and other media as applicable to the Factor biotechnology.” Paragraph 4 of the Agreement grants the surviving partner the right to continue the business of the Partnership, as follows:

In the event of the death of a partner, the remaining partner has the right to continue the business of the Partnership by themselves or in conjunction with any other persons they may select.

Construing these clauses together, the Agreement contemplates that a partner may continue the business of the Partnership after the death of a partner. Continuation of the business of the Partnership would be impossible for Plaintiffs without use of the Factor Biotechnology. Therefore, Plaintiffs have the right to use the Factor Technology and enter into contracts for use of the Factor Technology. However, Defendants own the Factor Biotechnology and are not required to share

the Factor Biotechnology formulation with Plaintiffs. If the Defendants should choose to sell the Factor Biotechnology, the contract for sale must include a provision allowing Plaintiffs to use the Factor Biotechnology after the sale. In addition, in compliance with the terms set forth in the Agreement, if the Defendants choose to sell the Factor Biotechnology, they would be required to pay the Plaintiffs 10% gross from the sale.

While the partners enjoyed exclusive use of the Factor Biotechnology “during the term of the Partnership,” Paragraph 4 states “the remaining partner has the right to continue the business of the Partnership by themselves or in conjunction with any other person they may select.” If the partners intended for the remaining partner to have the “exclusive” right to continue business with the Factor Biotechnology following the death of the other, language indicating that would be included in the contract. The plain language of the Agreement is consistent throughout, specifically concerning these portions that reference rights of the partners at differing periods of time. Therefore, this Court finds the Defendants could choose to use the Factor Biotechnology, sell it, or a combination of both so long as they abide by the conditions concerning the Plaintiffs’ continued use and compensation.

IT IS SO ORDERED.

Letitia H. Verdin
Thirteenth Circuit Court Judge



Pickens Common Pleas

Case Caption: Christopher Young , plaintiff, et al VS Joanna Marie Paynter ,
defendant, et al
Case Number: 2019CP3901224
Type: Order/Amend

So Ordered

s/Letitia H. Verdin, SC Judge 2162

Electronically signed on 2022-11-17 08:51:58 page 7 of 7

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Pickens
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2019CP3901224

Christopher Young et al
PLAINTIFF(S)

Joanna Marie Paynter et al
DEFENDANT(S)

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.
- ☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **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:

This matter is before the Court by way of Plaintiff's Motion for Relief. For the reasons previously provided in the Court's November 11, 2022 Order and clarified in the November 17, 2022 Amended Order, Plaintiff's Motion for Relief is respectfully denied. It is so ORDERED.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 12/11/2022 .

Paynter Consulting, Llc

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Pickens Common Pleas

Case Caption: Christopher Young , plaintiff, et al VS Joanna Marie Paynter ,
defendant, et al
Case Number: 2019CP3901224
Type: Order/Electronic Form 4

So Ordered

s/Letitia H. Verdin, SC Judge 2162

Electronically signed on 2022-12-11 10:19:50 page 3 of 3

**STATE OF SOUTH CAROLINA
PICKENS COUNTY**

**IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2019-CP-3901224**

Christopher Young and Biotech Restorations,
LLC

Plaintiffs,

v.

Joanna Marie Paynter, a/k/a Joey Painter,
Samantha P. Nelson, and Paynter Consulting,
LLC,

Defendants.

JUDGMENT

The above-captioned matter involves a dispute over a General Partnership Agreement between Plaintiff Biotech Restorations, LLC (Biotech) and its owner Plaintiff Christopher Young (Young), on the one hand, and Defendant Paynter Consulting, LLC (Paynter Consulting) and its owner Dr. Valerie Paynter (Dr. Paynter), on the other hand.

The Amended Complaint asserts the following causes of action against Defendants: (1) Declaratory Judgment, Breach of Agreement; (2) Mandatory Injunction – Return Lab Notes, Partnership Documents; (3) Interference with Contract; (4) Conversion; (5) Aiding and Abetting Breach of Fiduciary Duty; (6) Breach of Fiduciary Duty; (7) Constructive Trust – in the Alternative; and (8) Declaratory Judgment – Fraudulent Conveyance.

A jury trial commenced on April 20, 2022. After the close of Plaintiffs' case, the Court granted a directed verdict for Defendants as to the causes of action for Declaratory Judgment, Breach of Agreement; Aiding and Abetting Breach of Fiduciary Duty; and Breach of Fiduciary Duty. The parties agreed to dismiss the Jury and conduct the remainder of the trial as a bench trial.

On August 11, 2022, the Court conducted a hearing at which time Defendants rested without presenting any evidence.

On November 10, 2022, the Court issued an Order containing the Court's findings, specifically as to construction of the General Partnership Agreement. On November 15, 2022, the Court issued an Order amending a portion of the Order issued on November 10, 2022.

This Order contains the rulings of this Court as to the remaining causes of action.

The Court hereby grants verdict in favor of the Defendants for these remaining causes of action: Mandatory Injunction – Return Lab Notes, Partnership Documents; Interference with Contract; Conversion; Constructive Trust – in the Alternative; and Declaratory Judgment – Fraudulent Conveyance.

IT IS SO ORDERED.

Letitia H. Verdin, SC Judge 2162



Pickens Common Pleas

Case Caption: Christopher Young , plaintiff, et al VS Joanna Marie Paynter ,
defendant, et al
Case Number: 2019CP3901224
Type: Order/Judgment and Form 4

So Ordered

s/Letitia H. Verdin, SC Judge 2162

Electronically signed on 2022-12-13 12:24:19 page 3 of 3

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF PICKENS 2015 AUG 17 PM 2) 32

Paynter Consulting, LLC

CLERK OF COURT
PICKENS COUNTY
SC Plaintiff(s)

CIVIL ACTION COVERSHEET

2015-CP-39-1006

vs.

Biotech Restorations, LLC, and Christopher
Young

Defendant(s)

(Please Print)

Submitted By: Eric K. Englehardt

Address: P. O. Box 1509, Greenville, SC 29602

SC Bar #: 12892

Telephone #: 864-552-4624

Fax #: 864-552-4620

E-mail: eenglehardt@turnerpadget.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

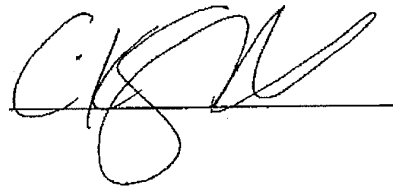
*If Action is Judgment/Settlement do not complete

- ☒ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Circuit Court Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Circuit Court Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR (certificate attached).

NATURE OF ACTION (Check One Box Below)

Contracts	Torts - Professional Malpractice	Torts - Personal Injury	Real Property
☐ Constructions (100)	☐ Dental Malpractice (200)	☐ Assault/Slander/Libel (300)	☐ Claim & Delivery (400)
☐ Debt Collection (110)	☐ Legal Malpractice (210)	☐ Conversion (310)	☐ Condemnation (410)
☐ Employment (120)	☐ Medical Malpractice (220)	☐ Motor Vehicle Accident (320)	☐ Foreclosure (420)
☐ General (130)	☐ Notice/ File Med Mal (230)	☐ Premises Liability (330)	☐ Mechanic's Lien (430)
☒ Breach of Contract (140)	☐ Other (299)	☐ Products Liability (340)	☐ Partition (440)
☐ Other (199)		☐ Personal Injury (350)	☐ Possession (450)
		☐ Other (399)	☐ Building Code Violation (460)
			☐ Other (499)
Inmate Petitions	Judgments/Settlements	Administrative Law/Relief	Appeals
☐ PCR (500)	☒ Death Settlement (700)	☐ Reinstate Driver's License (800)	☐ Arbitration (900)
☐ Sexual Predator (510)	☐ Foreign Judgment (710)	☐ Judicial Review (810)	☐ Magistrate-Civil (910)
☐ Mandamus (520)	☐ Magistrate's Judgment (720)	☐ Relief (820)	☐ Magistrate-Criminal (920)
☐ Habeas Corpus (530)	☐ Minor Settlement (730)	☐ Permanent Injunction (830)	☐ Municipal (930)
☐ Other (599)	☐ Transcript Judgment (740)	☐ Forfeiture (840)	☐ Probate Court (940)
	☐ Lis Pendens (750)	☐ Other (899)	☐ SCDOT (950)
	☐ Other (799)		☐ Worker's Comp (960)
			☐ Zoning Board (970)
			☐ Administrative Law Judge (980)
			☐ Public Service Commission (990)
			☐ Employment Security Comm (991)
			☐ Other (999)
Special/Complex /Other	☐ Pharmaceuticals (630)		
☐ Environmental (600)	☐ Unfair Trade Practices (640)		
☐ Automobile Arb. (610)	☐ Out-of State Depositions (650)		
☐ Medical (620)			
☐ Other (699)			

Submitting Party Signature:



Date: August 13, 2015

2015 AUG 17 PM 2 32

STATE OF SOUTH CAROLINA CLERK OF COURT IN THE COURT OF COMMON PLEAS
PICKENS COUNTY
COUNTY OF PICKENS : SOUTH CAROLINA Civil Action No. _____

Paynter Consulting, LLC,)
)
Plaintiff,)
)
vs.)
)
Biotech Restorations, LLC, and Christopher)
Young,)
)
Defendants.)
_____)

2015-CP-39- 1006

SUMMONS

TO: Biotech Restorations, LLC and Christopher Young

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to said complaint upon the subscriber at P.O. Box 1509, Greenville, South Carolina 29602, within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the complaint within the time aforesaid, the plaintiff will apply to the court for the relief demanded in the complaint.

**TURNER, PADGET, GRAHAM &
LANEY, P.A.**



Eric K. Englehardt (SC Bar #12892)
Patrick Quinn
Post Office Box 1509
Greenville, South Carolina 29602
(864) 552-4624

Attorneys for Plaintiff

Greenville, South Carolina
Dated: August 13, 2015

2015 AUG 17 PM 2 32

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF PICKENS)
CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

Civil Action No. _____

Paynter Consulting, LLC,

2015-CP-39- 1006

Plaintiff,

vs.

**COMPLAINT
(JURY TRIAL DEMANDED)**

Biotech Restorations, LLC, and Christopher
Young,

Defendants.

Paynter Consulting, LLC, (hereinafter "Paynter Consulting" or "Plaintiff"), by and through undersigned counsel, hereby demands judgment against Biotech Restorations, LLC, (hereinafter "Biotech Restorations") and Christopher Young (hereinafter "Young"), and complains against Defendants as follows:

PARTIES

1. Plaintiff is a business entity organized and existing under the laws of the State of South Carolina, having its principal place of business in Pickens County, South Carolina.
2. Defendant Biotech Restorations, LLC, is a business entity organized and existing under the laws of the State of North Carolina, having its principal place of business in Lincoln County, North Carolina.
3. Defendant Christopher Young is, upon information and belief, a citizen and resident of Lincoln County, North Carolina.

JURISDICTION AND VENUE

3. Jurisdiction is proper with this Court because Defendant Biotech Restorations contracted and entered into a partnership with Plaintiff, a domestic limited liability company

with its principle place of business in South Carolina. At all times relevant hereto Biotech Restorations had an ongoing business relationship with Plaintiff. Defendant Chris Young is upon information and belief, the sole member of Biotech Restorations, LLC.

4. Venue is proper with this Court because Biotech Restorations is a foreign limited liability company that transacted business in Pickens County and Young is a nonresident individual. Venue is also proper with this Court because Plaintiff and Biotech Restorations had an ongoing business relationship and Plaintiff's principle place of business is in Pickens County. Additionally, the partnership agreement between the parties provides that Clemson, South Carolina, is one of two principal places of business for the partnership, and the causes of action at issue in this case stem from Defendants' actions during and towards that partnership.

FACTUAL ALLEGATIONS

5. Paynter Consulting, LLC, owns a proprietary biochemical formula used to remediate soil pollution known as "The Factor." Paynter Consulting is owned by Valerie Paynter, a retired Clemson University professor. The formula Paynter developed has broad implications for soil remediation at seriously polluted sites. The Factor can be customized to address the needs of various remediation projects based on soil conditions, contaminant type and contaminant level, among other criteria.

6. On May 30, 2006, Paynter Consulting and Biotech Restorations entered into a partnership agreement (hereinafter "the partnership") to pursue business ventures across the country using The Factor. The partnership agreement was drafted by Christopher Young, the owner and sole member of Biotech Restorations.

7. Paynter Consulting retained exclusive rights to The Factor and acted to develop customized variations of The Factor based on client needs. Paragraph 3.b of the partnership

agreement states that “Paynter Consulting, LLC, having sole knowledge of the proprietary Factor formulation, agrees to provide the partnership with exclusive use of Factor formulated products *during the term of the Partnership....*” (emphasis added).

8. Paragraph 3.c of the partnership agreement states that Biotech Restorations would “provide ongoing business development and management of remediation projects in which Factor Products are in use....”

9. The partnership agreement provided that net profits were to be distributed equally after accounting for expenses. These distributions were to occur on a yearly basis.

10. The partnership has entered into and successfully performed many contracts around the country and upon information and belief has at least one contract actively pending.

11. Despite these successful contracts and payments thereon, Plaintiff has not been reimbursed fully for its expenses. At the same time, upon information and belief, Defendants have been overcompensated for expenses allegedly incurred. Specifically, Biotech Restorations has claimed that payments to Plaintiff for expense reimbursements or profits are expenses of Biotech Restorations, and on that basis has taken additional expense reimbursements for those payments. Similarly, upon information and belief, Young has been compensated, through Biotech Restorations, for expenses not related to partnership business.

12. Upon information and belief many of Defendants’ expenses are related to efforts to secure investors and business for Biotech Restorations, rather than for the partnership, or are for personal and/or family expenses incurred by Christopher Young. Moreover, upon information and belief Defendants have charged the partnership for unreasonable expenses even when related to the business.

13. The partnership agreement provides in Section 6, "Control," that "each partner has equal rights in the management and conduct of the Partnership business." However, Plaintiff has been denied access to partnership accounts and partnership business records and books.

14. The partnership agreement provides in Section 8, "Selling out," that no partner may sell any interest in the partnership to a third party without the approval of the other partner. Despite this prohibition, Christopher Young, individually and through Biotech Restorations has, upon information and belief, sought out investors for the partnership without consulting Plaintiff or obtaining Plaintiff's consent to do so.

15. In 2013, Christopher Young began negotiating a licensing agreement for the use of The Factor in California. Allegedly as a requisite for that negotiation, Young prepared a document entitled "Factor Remediation Biotechnology Statement of Ownership."

16. The Statement of Ownership provides that, "Valerie Paynter and Christopher Young are jointly responsible for the development of and share equal ownership of the Factor biotechnology and the biotechnology's commercial applications including any and all derivate products or applications that have or may be developed from this proprietary biotechnology."

17. The Statement of Ownership does not provide for any consideration to be paid by Christopher Young or Biotech Restorations to Valerie Paynter or Paynter Consulting in exchange for any portion of ownership of The Factor.

18. The Statement of Ownership provides a signature line for Christopher Young and Valerie Paynter. Paynter did not sign that document, but a signature appears on the document where she was to sign. The Statement of Ownership is not notarized despite a requirement in the agreement itself for notarization.

19. The licensing agreement did not materialize, but Christopher Young has continued to hold out to third parties the Statement of Ownership as evidence that Biotech Restorations owns 50 percent of The Factor.

FOR A FIRST CAUSE OF ACTION
(Piercing the Corporate Veil/Alter Ego)

20. Plaintiff re-alleges and incorporates the preceding paragraphs as if fully set forth herein.

21. At all times relevant, Defendant Christopher Young was the sole member of Biotech Restorations, LLC.

22. At all times relevant, Young controlled all of Biotech Restorations' affairs.

23. At all times relevant, Young commingled Biotech Restorations' funds with his own personal funds.

24. At all times relevant, Biotech Restorations failed to implement any sort of functioning business structure and did not follow the corporate formalities required by South Carolina or North Carolina law.

25. Young used Biotech Restorations as a façade for his personal operations.

26. To the extent that Young has failed to observe the necessary corporate formalities, as required by law, and has undercapitalized Biotech Restorations, has siphoned funds for personal use, and has otherwise so intermingled his personal and financial affairs with Biotech Restorations that he has become and is the alter ego of Biotech Restorations, and to the extent that Biotech Restorations has never had nor does it now have any genuine or separate existence but has been used and exists for the purpose of permitting Young to transact his individual business, then Young is personally liable for all damages attributable to Biotech Restorations.

27. That the acts and omissions of Young as well as the relationship with Biotech Restorations described in this Complaint were unlawful.

28. That the alter ego relationship between Young and Biotech Restorations entitles Plaintiff to "pierce the veil" or disregard the legal entity and recover against the individual, Christopher Young.

FOR A SECOND CAUSE OF ACTION
(Dissolution of Partnership)

29. Plaintiff incorporates the preceding allegations as if set forth verbatim herein.

30. By virtue of the partnership agreement and S.C. Code § 33-41-10, *et seq.*, a partnership arose between Plaintiff and Biotech Restorations and is thereby governed by the South Carolina provisions.

31. Plaintiff and Biotech Restorations agreed that all profits generated from the Partnership would be evenly divided between the parties. The parties also agreed that all expenses related to the partnership business would be reimbursed.

32. Biotech Restorations, since the partnership's inception, has made all bank deposits for the Partnership and has received the bank statements on all partnership banking accounts.

33. Upon information and belief, Biotech Restorations has been reimbursed with partnership funds obtained through the partnership's contracts for expenses not incurred in furtherance of the partnership. Upon information and belief, these excess reimbursements have been for expenses related solely to Biotech Restorations' efforts to obtain business and investors for itself. These excess reimbursements have, upon information and belief, included reimbursements for Christopher Young's personal expenses.

34. Plaintiff has not been reimbursed for valid expenses incurred in furtherance of the partnership's contracts and related business development.

35. Biotech Restorations has wrongfully treated expense reimbursements to Plaintiff as additional expenses incurred by Biotech Restorations, rather than the partnership, and sought reimbursement from the partnership for those payments.

36. Further, Biotech Restorations and Christopher Young have represented that Valerie Paynter and Paynter Consulting is a partner in Biotech Restorations, rather than both entities being coequal partners under the Partnership Agreement. Defendants have refused to give Valerie Paynter and Paynter Consulting access to partnership business records, despite Plaintiff's statutory right of access to those records pursuant to S.C. Code § 33-41-520.

37. Defendants have attempted to sell an interest in the partnership to third parties without the consent of Plaintiff in violation of the terms of the partnership agreement.

38. As described above, Defendants' conduct towards Plaintiff, as coequal partners, violates the partnership agreement and prejudicially affects the carrying on of the partnership business. As such Plaintiff is entitled to a judicial decree dissolving the partnership.

39. Until such a time as an accounting is completed, dissolution granted, and the affairs of the partnership wound up, the plaintiff will be irreparably harmed and damaged if a receiver is not appointed to manage the partnership business.

40. Plaintiff has no adequate remedy at law.

41. The above-described actions of Defendants have prejudicially affected the business of the partnership and have made it impossible for Plaintiff to reasonably carry on the partnership with Defendants. As a result of the conduct of Defendants, as hereinabove set forth, the Plaintiff is informed and believes that it is entitled to the following relief:

- a. A complete accounting of all the books and records of the partnership pursuant to S.C. Code § 33-41-550;
- b. Dissolution of the partnership under S.C. Code § 33-41-940;
- c. A winding up of partnership affairs under S.C. Code § 33-41-1020;
- d. Damages for wrongfully causing dissolution as provided for in S.C. Code § 33-41-1040; and
- e. Appointment of a receiver to conduct the partnership affairs.

FOR A THIRD CAUSE OF ACTION
(Breach of Contract)

- 42. Plaintiff incorporates the preceding allegations as if set forth verbatim herein.
- 43. In causing the damage as alleged herein, Defendants breached the terms of the partnership agreement with Plaintiff.
- 44. For its part, Plaintiff performed all obligations under the aforementioned partnership agreement and all obligations towards third parties that contracted with the partnership, as well as all conditions precedent to recovery on this count.
- 45. As a proximate result of the contractual breach of Defendants, Plaintiff sustained and incurred damage as well as the imposition of additional expenses and hardship in an amount to be determined by a jury.

FOR A FOURTH CAUSE OF ACTION
(Breach of Contract Accompanied by a Fraudulent Act)

- 46. Plaintiff incorporates the preceding allegations as if set forth verbatim herein.
- 47. Defendants' breach of the partnership agreement as described hereinabove was accomplished with dishonesty in fact and unfair dealings as evidenced by the following:
 - a. Defendants were aware of Plaintiff's lack of experience in business.

b. Since the inception of the partnership agreement Defendants unfairly and dishonestly misrepresented their actions to Plaintiff, including misrepresentations about expense reimbursements made to Defendants with partnership money for costs not related to partnership business, even as Plaintiff was not fully reimbursed for its outstanding expenses.

c. Defendants unfairly and dishonestly attempted to acquire rights to The Factor by holding out the "statement of ownership" as a valid agreement between the parties and seeking to induce Plaintiff to agree to the terms of that contract in exchange for little or no consideration.

d. Defendants intentionally misled Plaintiff about Defendants' actions to prevent Plaintiff from taking legal action against Plaintiff.

e. Defendants intentionally misled Plaintiff into believing that Defendants considered Paynter Consulting and Biotech Restorations to be equal partners. However, Young, as sole member of Biotech Restorations, never managed Biotech Restorations in a way that treated the partnership as one. Instead Defendants treated the partnership as a vendor-vendee relationship in contravention of the partnership agreement. Defendants never obtained a tax identification number for the partnership and never issued K-1 tax forms for the partnership. Instead, Defendants simply attempted to subsume Plaintiff into Biotech Restorations for business purposes.

48. Plaintiff has been damaged as a result of Defendants' intentionally dishonest and unfair dealings in breach of the partnership agreement and is entitled to recover actual and punitive damages and costs in an amount to be determined by a jury.

FOR A FIFTH CAUSE OF ACTION
(Breach of Fiduciary Duty)

49. Plaintiff incorporates the preceding allegations as if set forth verbatim herein.

50. Defendants owed Plaintiff a fiduciary duty by virtue of their status as coequal partners to the partnership agreement and pursuant to S.C. Code § 33-41-540.

51. Defendants breached this fiduciary duty by failing to act as a reasonably prudent fiduciary would have acted in its dealings with Plaintiff in regards to the partnership agreement. By wrongfully using partnership monies for the personal benefit of Biotech Restorations and Young, without any approval from Plaintiff, and by not treating the partnership as one but as part of Biotech Restorations, Defendants put their own interests above the interests of the Plaintiff and the partnership and as such has willfully breached the fiduciary duty owed to Plaintiff.

52. The fiduciary duty owed by Defendants towards Plaintiff also required Defendants to deal with Plaintiff fairly and honestly. Upon information and belief, Defendants intentionally misrepresented their actions to Plaintiff in an effort to mislead Plaintiff and prevent Plaintiff from taking legal action. This constitutes an additional breach of the fiduciary duty owed to Plaintiff.

53. Defendants' breach of the fiduciary duty and duty of fair dealing has damaged the partnership and Plaintiff in an amount to be determined at trial.

FOR A SIXTH CAUSE OF ACTION
(Breach of Duty of Loyalty)

54. Plaintiff incorporates the preceding allegations as if set forth verbatim herein.

55. By virtue of the partnership between Plaintiff and Biotech Restorations, both Biotech Restorations and its sole member Christopher Young owed Plaintiff the duty of loyalty in all dealings with, and on behalf of, the partnership.

56. Defendants breached this duty of loyalty by appropriating partnership monies for the personal benefit of Biotech Restorations and Young not related to partnership business and

wrongfully refusing to reimburse Plaintiff for valid expenses incurred by Plaintiff in furtherance of the partnership's business. Further, upon information and belief, Defendants intentionally misrepresented their actions to Plaintiff in an effort to mislead Plaintiff and prevent Plaintiff from taking legal action.

57. As a result of Defendants' ongoing breach of the duty of loyalty Plaintiff suffered actual damages in an amount to be determined by a jury.

FOR A SEVENTH CAUSE OF ACTION
(Fraud)

58. Plaintiff incorporates the preceding allegations as if set forth verbatim herein.

59. Defendants intentionally made affirmative representations to Plaintiff and/or knowingly concealed material facts and information from Plaintiff relating to their use of partnership funds, among other things as described herein. Defendants intentionally concealed from Plaintiff the fact that Biotech Restorations and Young were transferring partnership monies to their personal account(s) for expenses unrelated to the business of the partnership.

60. Defendants further represented to Plaintiff, through words or conduct, that they was faithfully fulfilling their duties as fiduciary under the partnership agreement when in fact they was not doing so.

61. Defendants deceived Plaintiff in this regard. Defendants' actions were fraudulently concealed from Plaintiff for numerous years.

62. These and other representations were false and material to Plaintiff. Defendants knew of their falsity and/or made the statements and representations with reckless disregard of their truth or falsity.

63. Defendants intended that these representations be relied and acted upon and/or that the representations cause Plaintiff to refrain from taking action.

64. Defendants intended that these representations and/or omissions create a false sense of security to induce Plaintiff to continue operating the partnership. Defendants also intended for these representations to conceal from Plaintiff that an action or claim against Defendants existed or otherwise was necessary or proper.

65. By and through the fiduciary relationship then existing between Plaintiff and Defendants, Plaintiff had no reason to suspect it was being defrauded and thus was ignorant of the falsity of the representations.

66. Plaintiff relied upon the supposed truth of the representations, and had the right to so rely.

67. As a direct and proximate result of Defendants' conduct, Plaintiff has been injured and suffered damages. Plaintiff is entitled to judgment against Defendants for actual damages, punitive damages, lost profits, and disgorgement of monies wrongfully paid to Defendants as a result of Defendants' misconduct, all in an amount determined by a jury. Plaintiff is also entitled to pre- and post-judgment interest to the extent permitted, and for such other and further relief as the Court deems just, prudent, and proper.

FOR AN EIGHTH CAUSE OF ACTION
(Restitution/Unjust Enrichment)

68. Plaintiff incorporates the preceding allegations as if set forth verbatim herein.

69. Defendants, by their actions, were unjustly enriched at the expense of Plaintiff.

70. Defendants benefited as a result of these wrongful actions, and Plaintiff was impoverished without justification.

71. By reason of the foregoing, Plaintiff is entitled to restitution from Defendants because of Defendants' unjust enrichment resulting from their wrongful appropriations of funds

transferred to Defendants or transferred for their benefit in contravention of the partnership agreement, as well as interest on all such improperly used or misappropriated funds.

FOR A NINTH CAUSE OF ACTION
(Injunctive Relief)

72. Plaintiff incorporates the preceding allegations as if set forth verbatim herein.

73. As a result of the foregoing actions by Defendants, Plaintiff is entitled to have the Court issue a temporary restraining order and temporary injunction and to grant relief to Plaintiff in the following particulars:

- a. Enjoining Defendants from making any disbursement or withdrawal from any bank account in the name of the partnership or containing partnership monies without Court approval;
- b. Requiring Defendants to report to Plaintiff and a Court-appointed receiver all partnership funds that they have received from the inception of the partnership;
- c. Enjoining Defendants from transferring, assigning, encumbering, mortgaging, or pledging any assets of the partnership;
- d. Enjoining Defendants from interfering in any way with the operation of the partnership's ongoing business;
- e. Requiring Defendants to promptly deposit all sums received into the partnership account(s) and to report any such receipts to Plaintiff and a Court-appointed receiver;
- f. Directing that Defendants repay all monies improperly misappropriated, misapplied, secreted, and wasted from the funds of the partnership;

g. Enjoining Defendants from receiving any payments from any contracts of the Partnership;

h. Enjoining Defendants from receiving any mail addressed to the partnership or Plaintiff; and

i. Enjoining Defendants from destroying any records of the partnership or Plaintiff.

FOR A TENTH CAUSE OF ACTION
(Declaratory Judgment of Invalidity of Statement of Ownership)

74. Plaintiff incorporates the preceding allegations as if set forth verbatim herein.

75. An actual controversy exists between the parties regarding the enforceability of the above described "Statement of Ownership," to the extent it is purported to establish shared ownership of Plaintiff's intellectual property, including The Factor, between Plaintiff and Biotech Restorations.

76. Plaintiff seeks a declaration from this Court stating that:

a. The Statement of Ownership is null and void as a legal document establishing ownership over any of Plaintiff's intellectual property or any other property described within the Statement of Ownership;

b. The parties' respective property and obligations are exclusively controlled by the partnership agreement;

c. Defendants are estopped from enforcing or attempting to enforce the Statement of Ownership; and

d. For such other declarations as may become necessary during the course of this matter.

77. In the alternative or in addition thereto, Plaintiff seeks a declaration from this Court stating that:

a. The Statement of Ownership provides Biotech Restorations with a 50 percent ownership interest in The Factor during the pendency of the partnership for the purpose of allowing Defendants to negotiate and enter into contracts for use of The Factor on behalf of the partnership;

b. Upon the termination of the partnership the Statement of Ownership becomes void for all purposes thereafter; and

c. Upon the termination of the partnership, all ownership rights to The Factor revert solely to Plaintiff.

78. Accordingly, Plaintiff seeks an Order declaring the foregoing.

FOR AN ELEVENTH CAUSE OF ACTION
(Action for Accounting)

79. Plaintiff incorporates the preceding allegations as if set forth verbatim herein.

80. Plaintiff has not received account statements and other financial document related to the partnership despite requests for such information.

81. Accordingly, Plaintiff is entitled to an equitable accounting from Defendants in which Defendants must set forth the total amount of revenue collected as a result of the partnerships contracts with third parties. Plaintiff is also entitled to a full accounting of the expense reimbursements paid to Defendants along with receipts for those reimbursements and an explanation of each expense so reimbursed. Plaintiff is also entitled to a full accounting of all partnership accounts with an explanation of all deposits and withdrawals.

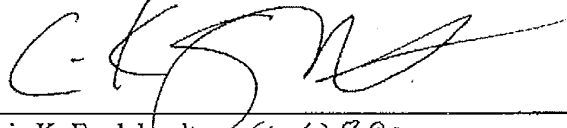
WHEREFORE, Plaintiff respectfully demands judgment in its favor and against Defendants as follows:

- a. For compensatory damages in an amount to be determined at the trial of this matter;
- b. For punitive damages in an amount to be determined at the trial of this matter;
- c. For restitution in the amount of Defendants' unjust enrichment;
- d. For dissolution of the partnership in the manner set forth in Plaintiff's Second Cause of Action;
- e. For declaratory judgment as set forth more particularly in Plaintiff's Tenth Cause of Action;
- f. For Plaintiffs' reasonable costs, expenses and attorney fees;
- g. For prejudgment interest at the maximum legal rate;
- h. For Plaintiff's reasonable legal fees, costs and expenses incurred in connection with the dissolution of the partnership as provided in the partnership agreement; and
- i. For such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues so triable.

TURNER PADGET GRAHAM & LANEY P.A.

By: 

Eric K. Englehardt SC 12892
Patrick D. Quinn
P.O. Box 1509
Greenville, South Carolina 29602
Telephone: (864) 552-4600
Fax: (864) 552-4620

ATTORNEYS FOR PLAINTIFF

August 13, 2015

TURNER PADGET

TURNER PADGET GRAHAM & LANEY P.A.

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CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

CHARLESTON
COLUMBIA
FLORENCE
GREENVILLE
MYRTLE BEACH

Eric K. Englehardt
Attorney at Law
Certified Mediator

Admitted in NC and SC
EEnglehardt@TurnerPadget.com
Writer's Direct Dial: (864) 552-4624

August 13, 2015

The Honorable Harold P. Welborn
Clerk of Court
PO Box 215
214 E. Main Street
Pickens, S.C. 29671

Re: Paynter Consulting, LLC v. Biotech Restorations, LLC and Christopher Young

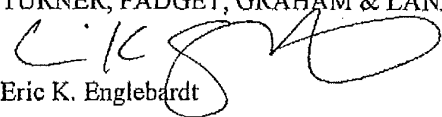
Dear Mr. Welborn:

Please find enclosed the original and copies of the Summons and Complaint. Additionally, I have enclosed a check in the amount of \$150.00 for the filing fee. Please file the original Summons and Complaint and return the file stamped copies to me in the self addressed stamped envelope provided with this letter. Your assistance in this matter is greatly appreciated. If you have any questions, please do not hesitate to contact me.

With kind regards, I remain

Very truly yours,

TURNER, PADGET, GRAHAM & LANEY, P.A.


Eric K. Englehardt

EKE/pls
Enclosure

BUSINESS • LITIGATION • SOLUTIONS

200 East Broad Street • Suite 250 (29601) • PO Box 1509 • Greenville, SC 29602
Phone (864) 552-4600 • Fax (864) 552-4620 • turnerpadget.com

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

Paynter Consulting, LLC	)	Civil Action No. 8:15-cv-03778-GRA
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	<u>ANSWER</u>
	)	
Biotech Restorations, LLC and Christopher	)	
Young	)	
	)	
	)	
Defendants.	)	

Biotech Restorations, LLC (“Biotech”) and Christopher Young (“Young”) (collectively “Defendants”), hereby respond to Plaintiff’s Complaint as follows:

1. Defendants submit this Answer subject to their Motion to Compel Arbitration contemporaneously filed herewith.
2. Any statement or allegation contained in the Complaint not expressly and admitted is denied.

PARTIES

3. Defendants admit the allegations in Paragraphs 1, 2, and 3 of the Complaint.

JURISDICTION AND VENUE

4. Paragraphs 3 and 4 contain legal statements or conclusions to which no response is required.

FACTUAL ALLEGATIONS

5. Defendants admit that Paynter Consulting, LLC (“Paynter”) is owned by Valerie Paynter, a retired Clemson University professor. Defendants admit that the Factor can be customized to address the needs of various remediation projects based on soil conditions,

contaminant type and contaminant level, among other criteria. Defendants deny the remaining allegations in Paragraph 5 of the Complaint.

6. Defendants admit the allegations in Paragraph 6 of the Complaint.

7. In response to Paragraph 7 of the Complaint, Defendants crave reference to the partnership agreement (hereinafter the “Agreement”) cited in the Paragraph. To the extent Plaintiff’s allegations differ from the same, they are denied. Defendants deny the remaining allegations in Paragraph 7 of the Complaint.

8. In response to Paragraph 8 of the Complaint, Defendants crave reference to the Agreement cited in the Paragraph. To the extent Plaintiff’s allegations differ from the same, they are denied.

9. In response to Paragraph 9 of the Complaint, Defendants crave reference to the Agreement cited in the Paragraph. To the extent Plaintiff’s allegations differ from the same, they are denied.

10. Defendants admit the allegations in Paragraph 10.

11. Defendants deny the allegations in Paragraphs 11 and 12 of the Complaint.

12. In response to Paragraph 13 of the Complaint, Defendants crave reference to the Agreement cited in the Paragraph. To the extent Plaintiff’s allegations differ from the same, they are denied. Defendants deny the remaining allegations in Paragraph 13.

13. In response to Paragraph 14 of the Complaint, Defendants crave reference to the Agreement cited in the Paragraph. To the extent Plaintiff’s allegations differ from the same, they are denied. Defendants deny the remaining allegations in Paragraph 14.

14. Defendants admit the allegations in Paragraph 15. By way of further response and clarification to the allegations in Paragraph 15, Defendants allege that at all times

Young was acting in his capacity as a representative of Biotech and on behalf of the partnership, with the consent of Plaintiff, in furtherance of partnership business.

15. In response to Paragraph 16 of the Complaint, Defendants crave reference to the Statement of Ownership cited in the Paragraph. To the extent Plaintiff's allegations differ from the same, they are denied.

16. In response to Paragraph 17 of the Complaint, Defendants crave reference to the Statement of Ownership cited in the Paragraph. To the extent Plaintiff's allegations differ from the same, they are denied.

17. In response to Paragraph 18 of the Complaint, Defendants crave reference to the Statement of Ownership cited in the Paragraph. To the extent Plaintiff's allegations differ from the same, they are denied. Defendants deny the remaining allegations in Paragraph 18.

18. Defendants deny the allegations in Paragraph 19 of the Complaint.

FIRST CAUSE OF ACTION ON BEHALF OF PLAINTIFF
(PIERCING THE CORPORATE VEIL/ALTER EGO)

19. In response to Paragraph 20, Defendants incorporate by reference their responses to the foregoing paragraphs as if fully stated herein.

20. Defendants admit the allegations in Paragraphs 21 and 22 of the Complaint.

21. Defendants deny the allegations in Paragraphs 23, 24, 25, 26, and 27 of the Complaint.

22. Paragraph 28 contains legal statements or conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 28 of the Complaint.

SECOND CAUSE OF ACTION ON BEHALF OF PLAINTIFF
(DISSOLUTION OF PARTNERSHIP)

23. In response to Paragraph 29, Defendants incorporate by reference their responses to the foregoing paragraphs as if fully stated herein.

24. Paragraph 30 contains legal statements or conclusions to which no response is required. To the extent a response is required, Defendants crave reference to the Agreement cited in the Paragraph. To the extent Plaintiff's allegations differ from the same, they are denied.

25. In response to Paragraph 31 of the Complaint, Defendants crave reference to the Agreement. To the extent Plaintiff's allegations differ from the same, they are denied.

26. Defendants admit the allegations in Paragraph 32 of the Complaint upon information and belief.

27. Defendants deny the allegations in Paragraphs 33, 34, 35, 36, 37, 38, and 39 of the Complaint.

28. Paragraph 40 contains legal statements or conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 40 of the Complaint.

29. Paragraph 41 contains legal statements or conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 41 of the Complaint and that Plaintiff is entitled to relief of any kind against Defendants.

THIRD CAUSE OF ACTION ON BEHALF OF PLAINTIFF
(BREACH OF CONTRACT)

30. In response to Paragraph 42, Defendants incorporate by reference their responses to the foregoing paragraphs as if fully stated herein.

31. Defendants deny the allegations in Paragraphs 43 and 44 of the Complaint.

32. Paragraph 45 contains legal statements or conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 45 of the Complaint and that Plaintiff is entitled to relief of any kind against Defendants.

FOURTH CAUSE OF ACTION ON BEHALF OF PLAINTIFF
(BREACH OF CONTRACT ACCOMPANIED BY A FRAUDULENT ACT)

33. In response to Paragraph 46, Defendants incorporate by reference their responses to the foregoing paragraphs as if fully stated herein.

34. Defendants deny the allegations in Paragraph 47, including all subparts (a) through (e), of the Complaint.

35. Paragraph 48 contains legal statements or conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 48 of the Complaint and that Plaintiff is entitled to relief of any kind against Defendants.

FIFTH CAUSE OF ACTION ON BEHALF OF PLAINTIFF
(BREACH OF FIDUCIARY DUTY)

36. In response to Paragraph 49, Defendants incorporate by reference their responses to the foregoing paragraphs as if fully stated herein.

37. Paragraph 50 contains legal statements or conclusions to which no response is required. To the extent a response is required, Defendants crave reference to the

Agreement cited in the Paragraph. To the extent Plaintiff's allegations differ from the same, they are denied. Defendants deny the remaining allegations in Paragraph 50.

38. Defendants deny the allegations in Paragraph 51 of the Complaint.

39. Paragraph 52 contains legal statements or conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 52 of the Complaint.

40. Paragraph 53 contains legal statements or conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 53 of the Complaint and that Plaintiff is entitled to relief of any kind against Defendants.

SIXTH CAUSE OF ACTION ON BEHALF OF PLAINTIFF
(BREACH OF DUTY OF LOYALTY)

41. In response to Paragraph 54, Defendants incorporate by reference their responses to the foregoing paragraphs as if fully stated herein.

42. Paragraph 55 contains legal statements or conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 55 of the Complaint.

43. Defendants deny the allegations in Paragraph 56 of the Complaint.

44. Paragraph 57 contains legal statements or conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 57 of the Complaint and that Plaintiff is entitled to relief of any kind against Defendants.

SEVENTH CAUSE OF ACTION ON BEHALF OF PLAINTIFF
(FRAUD)

45. In response to Paragraph 58, Defendants incorporate by reference their responses to the foregoing paragraphs as if fully stated herein.

46. Defendants deny the allegations in Paragraphs 59, 60, 61, 62, 63, 64, 65, and 66 of the Complaint.

47. Paragraph 67 contains legal statements or conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 67 of the Complaint and that Plaintiff is entitled to relief of any kind against Defendants.

EIGHTH CAUSE OF ACTION ON BEHALF OF PLAINTIFF
(RESTITUTION/UNJUST ENRICHMENT)

48. In response to Paragraph 68, Defendants incorporate by reference their responses to the foregoing paragraphs as if fully stated herein.

49. Defendants deny the allegations in Paragraphs 69 and 70 of the Complaint.

50. Paragraph 71 contains legal statements or conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 71 of the Complaint and that Plaintiff is entitled to relief of any kind against Defendants.

NINTH CAUSE OF ACTION ON BEHALF OF PLAINTIFF
(INJUNCTIVE RELIEF)

51. In response to Paragraph 72, Defendants incorporate by reference their responses to the foregoing paragraphs as if fully stated herein.

52. Paragraph 73 contains legal statements or conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 73 and that Plaintiff is entitled to relief of any kind against Defendants, including, but not limited to, the injunctive relief set forth in subparts (a) through (i) of the Complaint.

TENTH CAUSE OF ACTION ON BEHALF OF PLAINTIFF
(DECLARATORY JUDGMENT OF INVALIDITY OF STATEMENT OF OWNERSHIP)

53. In response to Paragraph 74, Defendants incorporate by reference their responses to the foregoing paragraphs as if fully stated herein.

54. Paragraph 75 contains legal statements or conclusions to which no response is required. To the extent a response is required, Defendants crave reference to the Statement of Ownership referenced in the Paragraph. To the extent Plaintiff's allegations differ from the same, they are denied. The remaining allegations of Paragraph 75 are denied.

55. Defendants deny that Plaintiff is entitled to the declaration set forth in subparts (a) through (d) of Paragraph 76 of the Complaint.

56. Defendants deny that Plaintiff is entitled to the declaration set forth in subparts (a) through (c) of Paragraph 77 of the Complaint.

57. Defendants deny that Plaintiff is entitled to the Order requested in Paragraph 78 of the Complaint.

ELEVENTH CAUSE OF ACTION ON BEHALF OF PLAINTIFF
(ACTION FOR ACCOUNTING)

58. In response to Paragraph 79, Defendants incorporate by reference their responses to the foregoing paragraphs as if fully stated herein.

59. Defendants deny the allegations in Paragraph 80 of the Complaint.

60. Paragraph 81 contains legal statements or conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 81 and that Plaintiff is entitled to relief of any kind against Defendants.

PRAYER FOR RELIEF

61. Defendants admit that Plaintiff purports to seek the damages and other relief identified in subparagraphs (a) through (i) of this unnumbered paragraph, but deny that there is any legal or factual basis for any of the damages or relief sought.

FIRST ADDITIONAL DEFENSE

62. Defendants and the Plaintiff have agreed to arbitrate disputes related to the transactions between them by binding arbitration pursuant to the Federal Arbitration Act. Plaintiff's claims cannot be asserted in this action but must be determined in accordance with and subject to the terms of the arbitration clause under the Agreement, and any contrary finding, ruling, or determination that this Court might make is preempted by the Federal Arbitration Act.

SECOND ADDITIONAL DEFENSE

63. Defendants state that they have complied with all applicable terms of the Agreement, and applicable statutes and regulations, thereby barring Plaintiff's claims.

THIRD ADDITIONAL DEFENSE

64. Plaintiff's claims are barred because Plaintiff's damages, if any, were caused by an intervening or superseding cause, and thus Defendants were not the proximate or competent producing cause of Plaintiff's alleged damages.

FOURTH ADDITIONAL DEFENSE

65. Defendants would show that Plaintiff's claims are barred because any alleged acts or omissions of Defendants giving rise to the alleged claims were the result of an

innocent mistake or bona fide error notwithstanding reasonable procedures implemented by Defendants to avoid any such acts or omissions. Defendants acted at all times in a reasonable manner in connection with the events at issue in this case.

FIFTH ADDITIONAL DEFENSE

66. Plaintiff's alleged damages, if any, are barred in whole or in part by Plaintiff's failure to mitigate such damages.

SIXTH ADDITIONAL DEFENSE

67. Plaintiff's claims are barred, in whole or in part, by unclean hands, estoppel, waiver, ratification, laches, and other equitable doctrines.

SEVENTH ADDITIONAL DEFENSE

68. Plaintiff is barred from obtaining any of the relief demanded in the Complaint because its alleged losses and damages, if any, were proximately caused by the actions or omissions of others.

EIGHTH ADDITIONAL DEFENSE

69. Plaintiff's claims are barred because Plaintiff has suffered no damages as a result of Defendants' alleged acts or omissions.

NINTH ADDITIONAL DEFENSE

70. Defendants would show that they have substantially performed any obligations under the Agreement, and, therefore, Plaintiff's claims based on breach of contract are barred.

TENTH ADDITIONAL DEFENSE

71. Any imposition or award of punitive damages in this case against Defendants is barred to the extent that the amount of such an award violates the Constitution of the United States or the Constitution of the State of South Carolina.

ELEVENTH ADDITIONAL DEFENSE

72. To the extent Plaintiff's claims are based upon alleged sole ownership and/or property interest in the Factor biotechnology and/or Factor formulated products, Plaintiff's claims are barred by the terms of the Agreement and S.C. Code § 33-41-720.

73. Pursuant to the terms of the Agreement and S.C. Code § 33-41-720, the Factor biotechnology and/or Factor formulated products are partnership property to which Biotech has an equal right to possess for partnership purposes.

TWELFTH ADDITIONAL DEFENSE

74. Defendants reserve the right to raise such further and additional defenses as may be available upon the facts to be developed in discovery.

WHEREFORE, having fully answered Plaintiff's Complaint, Biotech and Young pray for the following relief:

A. An Order staying this action and directing that the Parties proceed to binding arbitration, pursuant to Biotech and Young's Motion to Compel Arbitration, and such other relief as is equitable and just;

B. Should the Court deny the motion to compel arbitration, Biotech and Young respectfully request that the Court dismiss Plaintiff's Complaint with costs.

NELSON MULLINS RILEY & SCARBOROUGH, LLP



By: _____

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Attorneys for Biotech Restorations, LLC and Christopher Young

October 13, 2015
Greenville, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
Christopher Young and Biotech Restorations, LLC,	)	Case No: 2019-CP-39-_____
	)	
Plaintiffs,	)	
	)	SUMMONS
vs.	)	
	)	
Joanna Marie Paynter, a/k/a Joey Painter, Samantha	)	
P. Nelson, and Paynter Consulting, LLC,	)	
	)	
Defendants.	)	

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is attached herewith served upon you, and to serve a copy of your Answer to said Complaint on the subscribers at their office at Post Office Box 9398, Greenville, South Carolina, 29604, within thirty (30) day after such service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in this Complaint.

WESLEY D. FEW, LLC

s/Wesley D. Few/
Wesley D. Few, S.C. Bar No. 15565
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Greenville, South Carolina 29604
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ATTORNEYS FOR PLAINTIFFS CHRISTOPHER YOUNG
AND BIOTECH RESTORATIONS, LLC

Greenville, South Carolina
September 10, 2019

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
Christopher Young and Biotech Restorations, LLC,	)	Case No: 2019-CP-39-_____
Plaintiffs,	)	VERIFIED COMPLAINT
vs.	)	
Joanna Marie Paynter, a/k/a Joey Painter, Samantha	)	
P. Nelson, and Paynter Consulting, LLC,	)	
Defendants.	)	

The Plaintiffs above-named, complaining of these Defendants, would respectfully show:

1. This action arises out of a longstanding business relationship between Plaintiffs Chris Young (“Young”) and Biotech Restorations, LLC (“Biotech”) (hereafter collectively “Plaintiffs”), and Valerie Paynter (“Valerie”), who is now deceased, and her company, Defendant Paynter Consulting, LLC (“Consulting”). Valerie and Young worked together as partners in the field of environmental remediation of polluted property. Since her death, Valerie’s daughters have, *inter alia*, refused to turn over confidential and proprietary information of the partnership, including but not limited to project field notes and related documents used by Valerie and Paynter Consulting as part of the partnership. Further, on information and belief, Defendants have attempted to sell these confidential and proprietary materials and information to third-parties in violation of the agreement between Plaintiff Young and Valerie. These actions by the Defendants have caused substantial damages, including but not limited to lost business, lost business opportunities, loss of reputation and good standing, and loss of revenues to the Plaintiffs.

THE PARTIES

2. The Plaintiff, Christopher Young (“Young”) is a citizen and resident of Denver, North Carolina.
3. The Plaintiff, Biotech Restorations, LLC (“Biotech”), is a North Carolina limited liability company having its offices in Lincoln County, North Carolina.
4. The Defendant, Paynter Consulting, LLC (“Consulting”), is a South Carolina limited liability company having its offices in Pickens County, South Carolina.
5. The Defendant, Joanna Marie Paynter, a/k/a Joey Paynter (“Joey”), is, on information and belief, a citizen and resident of Pickens County, South Carolina, and / or Laguna Niguel, California.
6. The Defendant, Samantha P. Nelson (“Sam”), is, on information and belief, a citizen and resident of Greenville County, South Carolina.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this action and venue is proper in this County because the partnership agreements were executed in the County, and because Defendants reside in and / or operate in this County, and because the property in question was last known to be in this County.

FACTUAL ALLEGATIONS AND CLAIMS

FIRST CAUSE OF ACTION (Declaratory Judgment, Breach of Agreement)

8. The Plaintiffs re-allege each and every allegation of the preceding Paragraphs as if set forth herein verbatim.
9. Plaintiff Young and Valerie had known each other and worked together for

approximately twenty years.

10. On or about November 19, 2004, Plaintiff Young and Valerie executed an agreement related to their collective work in the environmental business and agreed to split all profits.

11. On or about January 10 and / or January 16, 2006, Plaintiff Biotech and Consulting executed a General Partnership Agreement. This document was drafted by an attorney for Consulting.

12. On or about May 30, 2006, Plaintiff Biotech and Consulting re-executed the General Partnership Agreement. This execution was witnessed by Rose Dalton.

13. Throughout the course of their working relationship, Plaintiffs Young and Biotech always split the net profits of their environmental work with Valerie and Consulting on a 50 / 50 basis.

14. Young and Valerie referred to the technology they utilized to do their environmental restoration work as the Factor technology.

15. Young and Valerie publicly represented themselves as partners and partners in the ownership of this Factor technology.

16. In 2015, Consulting filed a lawsuit against Young and Biotech, alleging "Biotech Restorations contracted and entered into a partnership with [Consulting]."

17. On or around May 30, 2006, Consulting and Biotech entered into a partnership agreement for purposes of conducting business related to "the treatment of contaminated soil, marine sediments and other media."

18. On information and belief, Defendants Joey and Sam Paynter are in control of the confidential and proprietary documents and information related to the Factor technology that were used to perform the prior jobs by the partnership.

19. On information and belief, Defendant Joey Paynter has attempted to sell these documents and information, without notice or consultation to the Plaintiff.

20. As set forth in the partnership documents executed by the Plaintiff Biotech and Consulting, these documents and information belong to the partnership.

21. The partnership agreement has specific provisions for payments to heirs of a deceased partner.

22. Instead of abiding by these continuation of business provisions agreed upon by her mother, Valerie, Joey Paynter has, on information and belief, attempted to illegally sell this confidential and proprietary information belonging to the partnership.

23. On information and belief, Joey Paynter has taken possession of the partnership papers previously in possession of her mother, and had arranged to store this information in a safe deposit box in Pickens County.

24. Defendants are aware of the partnership relationship between Plaintiffs and their mother and Consulting, and were also aware of the 2015 litigation initiated by Consulting to enforce the May 30, 2006 partnership agreement.

25. Despite being aware of these facts, Defendants have refused to abide by the terms of the partnership agreement.

26. Prior to filing this action, Plaintiff Young has attempted to resolve this dispute without litigation.

27. Defendants have thus far effectively refused to communicate with the Plaintiffs regarding the matters put at issue in this lawsuit.

28. Based upon the above, Plaintiff respectfully requests an order from this Court, under S.C. Code Section 15-53-10 *et seq.* declaring the Plaintiffs' rights in the partnership Agreement, including but not limited to declaring Defendants in breach of

the Agreement, for interfering with the Agreement, awarding injunctive relief as set forth herein and setting the damages due to Plaintiff under applicable law.

SECOND CAUSE OF ACTION
(Mandatory Injunction – Return Lab Notes, Partnership Documents)

29. The Plaintiffs re-allege each and every allegation of the preceding Paragraphs as if set forth herein verbatim.

30. Plaintiffs and Defendant Consulting are bound by a valid and binding partnership contract between them.

31. Defendants through their actions set forth herein, have unjustifiably breached and interfered with said contract with Plaintiff Biotech, and have caused irreparable harm to the Plaintiffs.

32. As a direct and proximate result of this unjustifiable breach by the Defendants, Plaintiff Biotech is entitled to an order compelling the Defendants to turn over the Partnership documents, including all documents in the possession of the Defendants related to the Factor based technology.

THIRD CAUSE OF ACTION
(Interference with Contract – Joey and Sam)

33. The Plaintiffs re-allege each and every allegation of the preceding Paragraphs as if set forth herein verbatim.

34. Defendants knew of the 2006 partnership agreement and its provisions, yet have refused in bad-faith to cooperate with Plaintiffs to continue the business or to provide partnership documents previously in the possession of Valerie.

35. Defendants actions were intentional and made with the attempt to sell for themselves property of the partnership, in breach of the partnership agreement and ints

express continuation provisions.

36. Defendants actions are without justification, and have caused Plaintiffs irreparable harm and damages.

37. As a direct and proximate result of this unjustifiable interference by Defendants and resultant breaches of the partnership agreement, Plaintiffs are entitled to judgment awarding them damages in an amount that would put them in the position they would have been in but for the Defendants' actions, including punitive damages.

FOURTH CAUSE OF ACTION (Conversion)

38. The Plaintiffs re-allege each and every allegation of the preceding Paragraphs as if set forth herein verbatim.

39. Defendant's actions as described herein show their malicious intent to withhold property from the Plaintiffs, including but not limited to the partnership property related to the Factor technology.

40. Defendants have attempted to convert this property for their own use, including by attempting to improperly and illegally sell it to third-parties without the knowledge or permission of the Plaintiffs to the Plaintiffs' detriment.

41. As a direct and proximate result of these actions and inactions by the Defendants, Plaintiffs' property is no longer available to the Plaintiffs for their use and profit, and it must be returned to the Plaintiffs.

FIFTH CAUSE OF ACTION (Aiding and Abetting Breach of Fiduciary Duty)

43. The Plaintiffs re-allege each and every allegation of the preceding Paragraphs as if set forth herein verbatim.

44. Plaintiffs reposed special trust and confidence in Valerie, including but not

limited to in the partnership and as the only other partner in said partnership.

45. As a partner, Valerie owed the Plaintiffs the highest duty to maintain confidences and a duty of loyalty to the partnership.

46. Defendants, as representatives of their deceased mother, Valerie, and having taken possession of the partnership documents in her possession, have been dis-loyal and have caused breaches of the partnership agreement.

47. Defendants undertook to take possession of the partnership documents and information.

48. As a direct and proximate result of these actions and inactions by the Defendants, Plaintiffs have been damaged and are entitled to an award of actual damages caused by the Defendants, and punitive damages.

SIXTH CAUSE OF ACTION

(Breach of Fiduciary Duty – All Defendants)

49. The Plaintiffs re-allege each and every allegation of the preceding Paragraphs as if set forth herein verbatim.

50. As a partner, Valerie and Consulting owed Plaintiffs the highest duties to maintain confidences, including a duty of loyalty to the partnership.

51. Valerie and Defendant Consulting expressly provided for an ongoing profit interest for her heirs and assigns in the event of a death of one of the partners.

52. Defendants, as representatives of their deceased mother, Valerie, and having taken possession of the partnership documents in her possession, have been dis-loyal and have caused breaches of the partnership agreement by their actions and their actions as representatives of Consulting.

53. Defendants undertook to take possession of the partnership documents and

information, and have refused to provide that information to Plaintiffs.

54. As a direct and proximate result of these actions and inactions by the Defendants, Plaintiffs have been damaged and are entitled to an award of actual damages caused by Defendants, and punitive damages.

SEVENTH CAUSE OF ACTION

(Constructive Trust - in the Alternative)

55. The Plaintiffs re-allege each and every allegation of the preceding Paragraphs as if set forth herein verbatim.

56. As set forth herein, it would be inequitable for the Defendants to continue to maintain possession of the partnership documents, or proceeds of the Plaintiffs' partnership information, including but not limited to the partnership documents, sales proceeds, stock certificates or the like.

57. Based on the Defendants' bad-faith actions as described herein, Plaintiffs are entitled to an order awarding and providing for a constructive trust over all partnership documents, information or proceeds in possession or under the control of the Defendants.

WHEREFORE, having fully set forth its claims against the Defendants, Plaintiffs pray that the Court award it judgment as follows:

- (a) For an order requiring Defendants to immediately turn over all partnership property to the Plaintiffs;
- (b) For an award of damages caused by Defendants breaches, and interference with the contract;
- (c) An award of punitive damages
- (d) An order in equity requiring all property to be returned to the partnership and to comply with the partnership's continuation provisions for profit splitting;

- (e) A constructive trust over all partnership property, and return of same to the Plaintiffs;
- (f) Certification from the Defendants that all property of the partnership has been provided and made available to the Plaintiffs for their review to determine if it is partnership property; and
- (g) For such other and further relief as the Court may deem just and proper under the facts and circumstances as presented to the Court.

Respectfully Submitted,

WESLEY D. FEW, LLC

s/Wesley D. Few/
Wesley D. Few, S.C. Bar No. 15565
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Greenville, South Carolina 29604
(864) 527-5906 | www.wesleyfew.com

ATTORNEYS FOR PLAINTIFFS CHRISTOPHER YOUNG
AND BIOTECH RESTORATIONS, LLC

Greenville, South Carolina
September 10, 2019

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	13 TH JUDICIAL CIRCUIT
	)	
Chris Young and Biotech Restorations, LLC,	)	Case No: 2019-CP-39-_____
	)	
Plaintiff,	)	
	)	
v.	)	VERIFICATION
	)	
Joey Painter, Sam P. Nelson, and Paynter	)	
Consulting, LLC,	)	
	)	
Defendants.	)	
_____	)	

I, Chris Young, being duly sworn, say that I am one of the Plaintiffs herein, and have read the foregoing Verified Complaint and know the contents thereof, and hereby verify that the allegations in the same are true of my own knowledge, except as matters therein stated to be alleged on information and belief; and to those matters I believe them to be true.

SWORN to and Subscribed before me	)	
this <u>10th</u> day of <u>September</u> , 2019.	)	
<u>Joey Painter</u>	)	<u>Signature of Plaintiff</u>
Notary Public for South Carolina	)	
My Commission expires: <u>8-23-2020</u>	)	

Lincoln, North Carolina

**STATE OF SOUTH CAROLINA
PICKENS COUNTY**

**IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2019-CP-3901224**

Christopher Young and Biotech Restorations,
LLC

Plaintiffs,

v.

Joanna Marie Paynter, a/k/a Joey Painter,
Samantha P. Nelson, and Paynter Consulting,
LLC,

Defendants.

**DEFENDANTS PAYNTER AND
NELSON'S ANSWER TO THE
COMPLAINT**

Defendants Joanna Marie Paynter and Samantha P. Nelson submit the following Answer to the Complaint filed by Plaintiffs Christopher Young and Biotech Restorations, LLC. Defendants Paynter and Nelson deny each and every allegation of the Complaint unless expressly admitted and provide the following responses to the numbered paragraphs of the Complaint.

1. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 1 of the Complaint as allege that this action arises out of a business relationship between Plaintiff Young, Plaintiff Biotech Restorations, LLC, Dr. Valerie Paynter (now deceased), and Defendant Paynter Consulting, LLC (which no longer exists). Defendants Paynter and Nelson further admit that since Dr. Paynter's death, Defendants Paynter and Nelson have refused to turn over confidential and proprietary information transferred to Defendants Paynter and Nelson through the probate of Dr. Paynter's Estate, including but not limited to Dr. Paynter's project field notes and related documents. Defendants Paynter and Nelson deny the remaining allegations in paragraph 1 of the Complaint.

2. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraphs 2 and 3 of the Complaint.

3. Defendants Paynter and Nelson deny the allegations in paragraphs 4-7 of the Complaint.

4. In responding to the allegations in paragraph 8 of the Complaint, Defendants Paynter and Nelson repeat the responses to the allegations in the preceding paragraphs as if repeated here *verbatim*.

5. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraphs 9-17 of the Complaint.

6. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 18 of the Complaint as allege that Defendants Paynter and Nelson are in control of confidential and proprietary information transferred to Defendants Paynter and Nelson through the probate of Dr. Paynter's Estate. Defendants Paynter and Nelson deny the remaining allegations in paragraph 18 of the Complaint.

7. Defendants Paynter and Nelson deny the allegations in paragraphs 19-20 of the Complaint.

8. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraph 21 of the Complaint.

9. Defendants Paynter and Nelson deny the allegations in paragraphs 22-23 of the Complaint.

10. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 24 of the Complaint as allege that Defendants Paynter and Nelson are aware of

litigation initiated by Defendant Paynter Consulting, LLC in 2015. Defendants Paynter and Nelson deny the remaining allegations in paragraph 24 of the Complaint.

11. Defendants Paynter and Nelson deny the allegations in paragraphs 25-28 of the Complaint.

12. In responding to the allegations in paragraph 29 of the Complaint, Defendants Paynter and Nelson repeat the responses to the allegations in the preceding paragraphs as if repeated here *verbatim*.

13. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraph 30 of the Complaint.

14. Defendants Paynter and Nelson deny the allegations in paragraphs 31 and 32 of the Complaint.

15. In responding to the allegations in paragraph 33 of the Complaint, Defendants Paynter and Nelson repeat the responses to the allegations in the preceding paragraphs as if repeated here *verbatim*.

16. Defendants Paynter and Nelson deny the allegations in paragraphs 34-37 of the Complaint.

17. In responding to the allegations in paragraph 38 of the Complaint, Defendants Paynter and Nelson repeat the responses to the allegations in the preceding paragraphs as if repeated here *verbatim*.

18. Defendants Paynter and Nelson deny the allegations in paragraphs 39-41 of the Complaint.

19. In responding to the allegations in paragraph 43 of the Complaint, Defendants Paynter and Nelson repeat the responses to the allegations in the preceding paragraphs as if repeated here *verbatim*.

20. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraphs 44 and 45 of the Complaint.

21. Defendants Paynter and Nelson deny the allegations in paragraphs 46-48 of the Complaint.

22. In responding to the allegations in paragraph 49 of the Complaint, Defendants Paynter and Nelson repeat the responses to the allegations in the preceding paragraphs as if repeated here *verbatim*.

23. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraphs 50 and 51 of the Complaint.

24. Defendants Paynter and Nelson deny the allegations in paragraphs 52-54 of the Complaint.

25. In responding to the allegations in paragraph 55 of the Complaint, Defendants Paynter and Nelson repeat the responses to the allegations in the preceding paragraphs as if repeated here *verbatim*.

26. Defendants Paynter and Nelson deny the allegations in paragraphs 56-57 of the Complaint.

AFFIRMATIVE DEFENSES

First Affirmative Defense – Lack of Jurisdiction over Defendant Paynter

27. Pursuant to Rule 12(b)(2) of the S.C. Rules of Civil Procedure, Defendant Paynter denies that this Court has personal jurisdiction over Defendant Paynter.

Second Affirmative Defense – Insufficiency of Process for Defendants Paynter and Nelson

28. Pursuant to Rule 12(b)(4) of the S.C. Rules of Civil Procedure, Defendants Paynter and Nelson deny that Plaintiff has served Defendants Paynter and Nelson with any documents to constitute service of process.

Third Affirmative Defense – Insufficiency of Service of Process for Defendants Paynter and Nelson

29. Pursuant to Rule 12(b)(5) of the S.C. Rules of Civil Procedure, Defendants Paynter and Nelson deny that Plaintiff has perfected service of the Summons and Complaint on Defendants Paynter and Nelson.

Fourth Affirmative Defense – Failure to State Facts Sufficient to Constitute a Cause of Action Against Defendants Paynter and Nelson

30. Pursuant to Rule 12(b)(6) of the S.C. Rules of Civil Procedure, the Complaint fails to state a claim against Defendants Paynter and Nelson.

31. The Complaint fails to allege any agreement between either Plaintiff and either of Defendant Paynter or Nelson.

32. The Complaint fails to allege that Defendants Paynter or Nelson had any duty to cooperate with Plaintiffs to continue a business.

33. The Complaint fails to allege that Defendants Paynter or Nelson had any duty to provide any documents to either Plaintiff.

Fifth Affirmative Defense – Res Judicata and Collateral Estoppel

34. Plaintiffs previously submitted claims against the Estate of Dr. Paynter in the Pickens County Probate Court.

35. Plaintiffs sought to recover laboratory and product formulation records, product component supplier information, and other technical notes of Dr. Paynter.

36. The Pickens County Probate Court denied all of Plaintiffs' claims to recover anything from Dr. Paynter's Estate.

37. Plaintiffs' failed to appeal the decision of the Pickens County Probate Court or take any further action to recover anything from Dr. Paynter's Estate.

38. All claims in the present matter that Plaintiffs raised or could have raised during the probate of Dr. Paynter's Estate are barred by *res judicata* and/or collateral estoppel.

Sixth Affirmative Defense – Statute of Limitations

39. Plaintiffs' claims, in whole or in part, are barred by the applicable statute of limitations.

Seventh Affirmative Defense – Misrepresentation

40. Plaintiffs allege an ownership interest in trade secrets developed by Dr. Paynter that provide environmental remediation of contaminants such as DDE, DDT, Chlordane, Heptachlor, and Toxaphene.

41. Plaintiffs allege that a partnership agreement with Dr. Paynter and Defendant Paynter Consulting, LLC requires the continuation of the partnership even after the death of Dr. Paynter.

42. The partnership agreement with Dr. Paynter and Defendant Paynter Consulting, LLC states that Defendant Paynter Consulting, LLC is wholly owned by Dr. Paynter and has sole knowledge of Dr. Paynter's trade secrets.

43. The partnership agreement with Dr. Paynter and Defendant Paynter Consulting, LLC states that the partnership will terminate upon the death of a partner.

44. Therefore, Plaintiffs' allegations of an ownership interest in Dr. Paynter's trade secrets and that Defendant Paynter Consulting, LLC is required to continue in the partnership with Plaintiffs are false.

Eighth Affirmative Defense – Plene Administravit

45. Dr. Paynter was at all times the sole owner of Defendant Paynter Consulting, LLC.
46. Dr. Paynter passed away on September 4, 2017.
47. Probate for Dr. Paynter's Estate was filed in the Pickens County Probate Court.
48. The Pickens County Probate Court has distributed all known assets of Dr. Paynter's Estate according to the terms of Dr. Paynter's will.
49. The Pickens County Probate Court concluded the probate of Dr. Paynter's Estate on March 25, 2019.

Request for Relief

Wherefore, having fully answered all of Plaintiffs' allegations and asserted appropriate affirmative defenses, Defendants Paynter and Nelson respectfully request the entry of judgment against Plaintiffs, providing the following relief:

- (A) dismissing the Complaint with prejudice and denying each request for relief made by Plaintiffs;
- (B) declaring that Defendants Paynter and Nelson owe no duties to Plaintiffs;
- (C) declaring that Plaintiffs' claims are barred by *res judicata* and collateral estoppel;
- (D) awarding Defendant Paynter and Nelson costs and attorneys' fees; and
- (E) such other and further relief as this Court deems just and proper.

JURY DEMAND: Defendants Paynter and Nelson demand a trial by jury on all issues triable to a jury.

Respectfully submitted,

s/Steven R. LeBlanc

Steven R. LeBlanc (SC Bar 14221)

Steve LeBlanc, LLC

P.O. Box 9198

Greenville, S.C. 29604

Tel: (864) 902-4411

Steve@LeBlancLLC.com

Attorneys for Defendants Paynter and Nelson

ELECTRONICALLY FILED - 2020 Jan 28 4:57 PM - PICKENS - COMMON PLEAS - CASE#2019CP3901224

CERTIFICATE OF SERVICE

I certify that on January 28, 2020, I electronically filed DEFENDANTS PAYNTER AND NELSON'S ANSWER TO THE COMPLAINT and served a copy on all counsel of record by means of the Court's Notice of Electronic Filing and email.

Respectfully submitted,

s/Steven R. LeBlanc
Steven R. LeBlanc (SC Bar 14221)
Steve LeBlanc, LLC
P.O. Box 9198
Greenville, S.C. 29604
Tel: (864) 902-4411
Steve@LeBlancLLC.com

Attorneys for Defendants Paynter and Nelson

WESLEY D. FEW, LLC

Attorney at Law

P.O. Box 9398, Greenville, South Carolina 29604

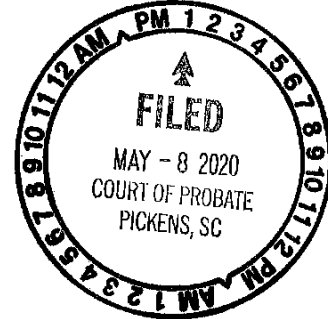
www.wesleyfew.com | wes@wesleyfew.com

O: 864-527-5906 | M: 864-404-7792

May 8, 2020

Via U.S. Mail, Hand Delivery and/ or Email

Probate Court
ATTN: Jodi Broom
Pickens County Administration Facility
222 McDaniel Avenue, B-16
Pickens, SC 29671



RE: Christopher Young and Biotech Restorations, LLC (Petitioners)
Joanna Marie Paynter, Respondent, PR for Valerie A. Paynter
C/A Nos.: 2017-ES-39-00607 and 2017-ES-39-00607-2
Our File No.: 00277-001

Dear Jodi / Probate Clerk's Office:

Enclosed, please find Petitioners Chris Young and Biotech Restorations, LLC's Amended Verified Petition for Subsequent Administration, Removal of Personal Representative, and to Appoint Special Administrator, Form 334ES, Amended Summons and Certificate of Service for same, along with a copy of the same. You should still have our \$150.00 check no. 2467 for the filing fee from April 24 submission. We have enclosed another self-addressed, postage paid envelope to return us a file-stamped copy of the filed documents.

Should you have any questions or concerns please feel free to call me at 864-527-5906.

Sincerely,

Wesley D. Few

WDF/hdq

Enclosures

CC: Chris Young (*via email only*)
Steven R. LeBlanc, Esq. (*via email only*)
See also attached Certificate of Service

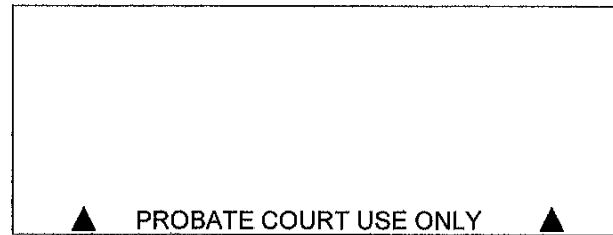
STATE OF SOUTH CAROLINA

COUNTY OF: PICKENS

IN THE MATTER OF:

VALERIE ANNE PAYNTER, and Joanna Marie
Paynter, Personal Representative

☒ Decedent ☐ Alleged Incapacitated Individual



Christopher W. Young, and Biotech Restorations,
LLC,

Petitioner(s),

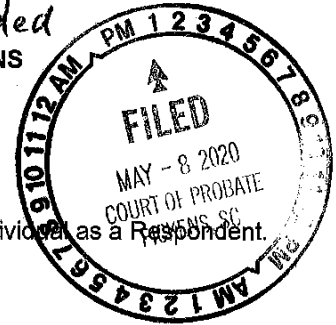
vs.

Joanna Marie Paynter, as Personal
Representative of Decedent's estate

Respondent(s).*

IN THE PROBATE COURT
CASE NUMBER 2017-ES-39-00607

Amended
SUMMONS



*For Guardianship/Conservatorship matters, you must include the alleged incapacitated individual as a Respondent.

TO THE RESPONDENT(S) LISTED ABOVE:

YOU ARE HEREBY SUMMONED and required to Answer the Petition in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer upon the Petitioner(s) listed above at the following address(es):

Please Type or Print.

Wesley D. Few, Esquire, as Counsel to Petitioners Christopher Young and
Biotech Restorations, LLC

(Name of Petitioner/Attorney for Petitioner)

P.O. Box 9398

(Street Address or Mailing Address)

Greenville, South Carolina 29604

(City, State, and Zip Code)

Your Answer must be served on the Petitioner at the above address within **thirty (30) days** after the service of this Summons and Petition upon you, exclusive of the day of such service; and if you fail to answer the Petition within that time, judgment by default will be rendered against you for the relief demanded in the Petition.

Signature of Petitioner(s)/Attorney for Petitioner(s)

Date: May 8, 2020

Greenville, SC

S.C. Bar No. 15565

864-527-5906

wes@wesleyfew.com

STATE OF SOUTH CAROLINA)

IN THE PROBATE COURT

COUNTY OF: PICKENS)

APPLICATION/PETITION FOR
SUBSEQUENT ADMINISTRATION

IN THE MATTER OF:
VALERIE ANNE PAYNTER)

CASE NUMBER: 2017-ES-39-00607

(Decedent))

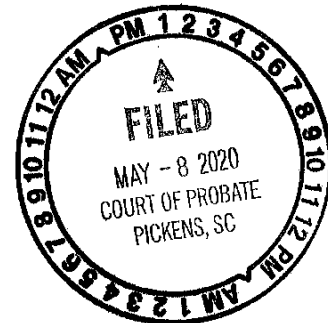
***ONLY COMPLETE THIS SECTION IF FILING
PETITION FOR SUBSEQUENT ADMINISTRATION**

*Christopher Young and Biotech Restorations, LLC
Petitioner(s)

vs.

*Joanna Marie Paynter as previous PR to Decedent's
estate

Respondent(s)



☐ INFORMAL

☒ *FORMAL

The undersigned states as follows:

1. Subsequent administration of the above Estate is needed because:

☒ The following additional property in the above estate has been discovered. A description of the property and its approximate value at the date of Decedent's death is: **PAYNTER CONSULTING, LLC, valued by Decedent and Personal Representative well in excess of \$1,000,000.00, *inter alia*, other undisclosed personal property, including but not limited to accounts, vehicles, boats and / or boat motors. See attached PETITION FOR SUBSEQUENT ADMINISTRATION, REMOVAL OF PERSONAL REPRESENTATIVE, AND TO APPOINT SPECIAL ADMINISTRATOR.**

☐ Other reason: _____

2. ☐ I served as Personal Representative under the previous administration and fiduciary bond requirement:

- ☐ was waived by Decedent's Will
☐ was waived pursuant to the filing of Waivers of Bond
☐ was waived by the Court
☐ was required and an appropriate bond is attached

☒ I did not serve as Personal Representative under the previous administration; my priority for this appointment is:

- ☐ named as Primary Personal Representative in Will
☐ named as Alternate Personal Representative in Will
☐ nominee of above Primary Personal Representative in Will
☐ nominee of above Alternate Personal Representative in Will
☐ surviving spouse of Decedent who is devisee of Decedent or nominee of said spouse
☐ other devisee of Decedent (describe): _____ or nominee of said devisee
☐ surviving spouse of Decedent or nominee of said spouse
☐ other heir of Decedent (describe): _____ or nominee of said heir
☐ creditor (Forty-five (45) days after death must have passed) or nominee of creditor; written statement of claim, FORM 371ES, is attached -- see previously filed form 371ES
☒ other (describe): **Business partner in May 30, 2006 General Partnership Agreement with Decedent's company, P, providing for continuation of business and 10% distribution to heirs. Personal Representative attempting to sell Partnership assets, not disclosed in informal probate of estate.**

(16) Certification in Lieu of Affidavit. If a statute, court rule or other provision of law requires an affidavit to be filed in an action, the requirement of an affidavit may be satisfied by a signed certification of the maker stating, "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment by contempt."

***NOTE: IF THIS IS A FORMAL PROCEEDING, IN ADDITION TO A PETITION, YOU MUST ALSO FILE A SUMMONS (FORM SCCA 401PC), AND PAY THE STATUTORY FILING FEE OF \$150.00. A HEARING IN THE PROBATE COURT ON THE PETITION MAY BE REQUIRED.**

VERIFICATION

The undersigned, being sworn, states that the facts set forth in the foregoing statements are true to the best of the undersigned's knowledge, information and belief, and hereby submits to the Court's jurisdiction in this matter.

SWORN to before me this 24th day
April, 2020

Notary Public for South Carolina
My Commission Expires: _____

Signature: Wesley D. Few
Print Name: Wesley D. Few, Esquire
Address: p.o. Box 9398
Greenville, South Carolina 29604
Telephone (Work): 864-527-5906
(Home): _____
(Cell): _____
Email: wes@wesleyfew.com
Relationship to Decedent/Estate: Attorney for Petitioners

ORDER FOR HEARING

IT IS HEREBY ORDERED that a hearing on this matter be set for:

DATE: _____
TIME: _____
PLACE: _____

Pursuant to SCPC 62-1-401, Petitioner is ordered to give notice of this hearing to all interested persons at least twenty (20) days prior to the hearing.

Executed this _____ day of _____, 20____.

David K. Allison, Probate Court Judge

ORDER FOR SUBSEQUENT ADMINISTRATION

IT IS HEREBY ORDERED that be appointed Personal Representative to administer property not previously administered as indicated in the above application/petition.

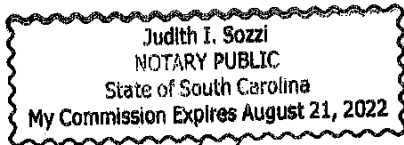
- ☐ Bond previously waived
☐ Previous bond waivers on file
☐ Other: _____

Executed this 24th day of April, 2020.

David K. Allison, Probate Court Judge

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Personal Representative of this estate and to submit to the Court's jurisdiction in this matter.



5/4/20

Judith I. Sozzi

Signature: *[Signature]* DIRECTOR
Print Name: FORENSIC RESEARCH GROUP INC.
Address: 110 RENAISSANCE CIRCLE
MAULDIN, SC 29662
Telephone (Work): 864-228-2222
(Home):
(Cell): 864-918-4672
Email: MEO@FRGI.NET

Attorney: _____
Address: _____

Telephone: _____
Email: _____

(16) Certification in Lieu of Affidavit. If a statute, court rule or other provision of law requires an affidavit to be filed in an action, the requirement of an affidavit may be satisfied by a signed certification of the maker stating, "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment by contempt."

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

IN RE: Valerie Anne Paynter, and Joanna Marie
Paynter, Personal Representative,

Christopher W. Young, and Biotech
Restorations, LLC,

Petitioners,

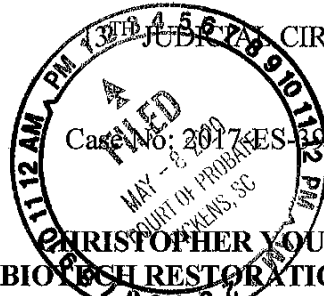
v.

Joanna Marie Paynter, Personal Representative
of Decedent's estate,

Respondent.,

IN THE PROBATE COURT

JUDICIAL CIRCUIT



Case No: 2017-ES-00607

**CHRISTOPHER YOUNG AND
BIOTECH RESTORATIONS, LLC'S
AMENDED ~~REVISED~~ PETITION FOR
SUBSEQUENT ADMINISTRATION,
REMOVAL OF PERSONAL
REPRESENTATIVE, & TO APPOINT
SPECIAL ADMINISTRATOR**

**TO: RESPONDENT: JOANNA M. PAYNTER, AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF VALERIE ANNE PAYNTER, 24440 KATHLEEN DRIVE,
LAGUNA NIGUEL, CALIFORNIA 92677, AND / OR 26571 DAPPLE GREY DRIVE,
LAGUNA HILLS, CALIFORNIA 92653; AND
STEVEN R. LEBLANC, ESQUIRE, P.O. BOX. 9198, GREENVILLE, SOUTH
CAROLINA 29604, ATTORNEYS FOR JOANNA MARIE PAYNTER;**

**CREDITORS: (i) ELIZABETH HANSEN, PHILLIPS & COHEN ASSOCIATES,
LTD. ON BEHALF OF CITIBANK, N.A., 1004 JUSTISON STREET,
WILMINGTON DELAWARE 19801; PCAclaimfiling@phillips-cohen.com, CLAIM
AMOUNT: \$16,915.72, DISALLOWED;**

**(ii) IMILIE BUDIASA, AMERICAN EXPRESS, PO BOX 1338, REYNOLDSBURG,
OHIO 43068, (855) 807-3212, CLAIM AMOUNT: \$8,320.20, COMPROMISED AND
PAID AT 10%, AT \$832.02, and**

**(iii) SHERRY L MYRTLE, WELLS FARGO BANK, N.A., OPERATION
PROCESSOR, MAC #2505-02W, P.O. BOX 10438, DES MOINES, IA 50306-0438,
CLAIM AMOUNT: \$14,812.24, WITHDRAWN.**

YOU WILL PLEASE TAKE NOTICE that Petitioners Christopher Young
("Young") and Biotech Restorations, LLC ("Biotech") (hereafter collectively
"Petitioners"), by and through their undersigned attorneys, will move before this
Honorable Court, as soon as the matter may be heard, pursuant S.C. Rules of

Probate Court, Rule 2, SCRPC, S.C. Code Ann. § 62-3-1005,¹ and under the principles set forth in S.C. Rules of Civil Procedure Rule 60(b)(1) and (3), SCRCP, to grant relief from the March 25, 2019 Order Closing Estate, specifically for Subsequent Administration of the Estate, Removal of the Personal Representative, and Appointment of a Special Administrator.

Grounds for this Petitions include fraud, misrepresentation and inadequate disclosure of the most valuable asset of the Decedent having “substantial worldwide value,” as set forth herein, by the Personal Representative and / or her agents, specifically with respect to Decedent’s company, Paynter Consulting, LLC, and more recently assets identified in the 2019-Lawsuit² as “Dr. Paynter’s trade secrets,” as described in greater detail herein.

The following facts and information in support of these Petitions are attempted to be set forth in a timeline, with information taken from publicly filed documents, as Verified by Petitioner Christopher W. Young, and / or matters for which the undersigned as an Officer of the Court has personal knowledge or believes to be true, and / or as will be proven in discovery in any necessary pending action,² and / or in any hearing before this Court:

1. On or about **November 19, 2004**, Decedent Valerie Anne Paynter and Petitioner Chris Young each signed a Joint Venture Agreement, and began doing business together as

¹ Section 1005 provides: “Unless previously barred by adjudication and except as provided in any accounting, the rights of successors and of creditors whose claims have not otherwise been barred against the personal representative for breach of fiduciary duty are barred unless a proceeding to assert the same is commenced within six months after the filing of the application for settlement of the estate, required by Section 62-3-1001. The rights thus barred do not include rights to recover from a personal representative for fraud, misrepresentation, or inadequate disclosure related to the settlement of the decedent's estate.”

² The undersigned is counsel to the Plaintiffs in that certain civil action filed on September 11, 2019 in Pickens County, known as Chris Young and Biotech Restorations, LLC, v. Joey Painter, Samantha Paynter, and Paynter Consulting, LLC, 2019-CP-39-01224 (hereafter the “2019-Lawsuit”)

partners, splitting profits on a 50/50 basis.

2. On or about **November 23, 2005**, Chris Young formed Biotech Restorations, LLC, including by filing at the Office of the North Carolina Secretary of State.
3. On or about **January 10, 2006**, Decedent Valerie Anne Paynter and Chris Young signed that certain General Partnership Agreement (2 pages, typed).
4. This first said General Partnership Agreement stated in Para. 4, as follows:

4. Term - The partnership shall commence on and continue until dissolved by mutual agreement of the partners. The partnership will terminate upon the death or incapacity of a partner. Any outstanding revenues or revenues anticipated from projects under contract at the time of a death or incapacity will be paid to the partner's designated beneficiary. In the event of a death of a partner, the remaining partner has the right to continue the business of the partnership by themselves or in conjunction with any other persons they may select.
5. On or about **May 23, 2006**, Decedent sent that certain email to Petitioner Chris Young, as included in Docket No. 14-1 in the 2015-Lawsuit (Case No. 8:15-cv-03778-TMC), filed Nov. 9, 2015, and as described in more detail below.
6. On or about **May 30, 2006**, Decedent Valerie Anne Paynter for herself and / or for her newly formed limited liability company known as Paynter Consulting, LLC, and Chris Young for himself and / or for his limited liability company known as Biotech Restorations, LLC, signed a second General Partnership Agreement.
7. This second said General Partnership Agreement included modifications made by Decedent and sent to Petitioner Chris Young on **May 23, 2006**, via email (*See* Docket No. 14-1 in 2015-Lawsuit referenced below), including an additional sentence in Para. 4, as follows with red text and underlining added for emphasis:

4. Term - The Partnership shall commence on and continue until dissolved by mutual agreement of the partners. The Partnership will terminate upon the death or incapacity of a partner. Any outstanding revenues or revenues anticipated from projects under contract at the time of a death or incapacity will be paid to the partner's designated beneficiary. In

the event of a death of a partner, the remaining partner has the right to continue the business of the Partnership by themselves or in conjunction with any other persons they may select. The continuing partner will pay 10% of net profits annually to the heirs / estate of the deceased partner on any contract involving the use of. the Factor, and 10% gross from the sale of the Factor Technology.

8. During the business of the Partnership between Paynter Consulting, LLC and Biotech Restorations, LLC, over two dozen client funded bench scale studies were performed, and subsequent commercial sales of the Factor Technology were made resulting in Partnership payments to Paynter Consulting, LLC, and its sole owner, Valerie A. Paynter of over Nine Hundred Thousand Dollars (\$900,000).
9. On information and belief, Valerie Paynter's health was not good, beginning at least as early as **January of 2015**.
10. On information in belief, due to these concerns about their mother's health, and in view of the May 30, 2006 General Partnership Agreement provisions, as set forth above providing for "the remaining partner [having] the right to continue the business of the Partnership," in exchange for a 10% payment provision to the "heirs / estate of the deceased partner," one or more of the daughters convinced their mother to pursue a dissolution of the May 30, 2006 General Partnership Agreement, which resulted in that failed effort referenced herein as the 2015-Lawsuit.
11. On information and belief, beginning at least as far back as **January 2015**, the Decedent's daughters, including the former Personal Representative Joanna M. Paynter, wanted ½ of 100 % of Paynter Consulting, LLC, instead of ½ of 10%, as specifically bargained for by their mother, the Decedent, on or about May 23, 2006, under the advice of counsel. See e.g., Docket No. 14-1 in 2015-Lawsuit (removed to have case No. 8:15-cv-03778-TMC), filed November 11, 2015, including that certain **May 23, 2006** email from Valerie Paynter

to Chris Young, as follows:

Hi Chris,

Enjoyed our talk this morning as always, and felt it was productive. Thanks for the tip on how to make changes in color! On this computer its an 'A' to change the color of the words and a palette brush for the background. I learn something new every day. I'm attaching the revised Agreement with the changes recommended by Mem (his name is Memminger WI gins) which mainly were to focus more on the companies rather than on us as individuals to protect us, and the additions that you and I talked about this morning. Good luck with the business plan.

Regards, Val

12. On or about **May 4, 2015**, the parties participated in a settlement conference / mediation.
13. The Personal Representative of the Decedent's estate, Joanna Marie Paynter, attended the mediation and participated in it on behalf of the Plaintiff to the 2015-Lawsuit, Paynter Consulting, LLC, owned and controlled by her mother, Decedent Valerie A. Paynter.
14. In spite of the provisions to the May 30, 2006 General Partnership Agreement added in by Decedent, Valerie A. Paynter, on advice of her legal counsel, Decedent and her daughter, Personal Representative, Joanna Marie Paynter, on behalf of Paynter Consulting, LLC were requesting that Paynter Consulting, LLC be paid millions of dollars for what was then referred to as the Factor Technology in the 2015-Lawsuit, at ¶ 5 (*see below*).
15. On or about **August 17, 2015**, Decedent Valerie Anne Paynter through her counsel and through her LLC known as Paynter Consulting LLC, filed that certain lawsuit known as *Paynter Consulting, LLC v. Biotech Restorations, LLC and Christopher Young*, 2015-CP-39-01006 (hereafter the "2015-Lawsuit").
16. In Paynter Consulting, LLC's 2015-Lawsuit, the May 30, 2006 General Partnership Agreement is referenced throughout the Complaint, including at ¶¶'s 4, 6-19, 11-14, 30-39, 41, 43-44, 47-48, 50-51, 53, 55-56, 59-60, 64, 71, 73, 77, 80-81, and the prayer for relief on pages 15-16 of said Complaint.

17. At Paragraph 5 of its 2015-Lawsuit, Paynter Consulting, LLC, alleged:
5. Paynter Consulting, LLC, owns a proprietary biochemical formula used to remediate soil pollution known as "The Factor." Paynter Consulting is owned by Valerie Paynter, a retired Clemson University professor. The formula Paynter developed has broad implications for soil remediation at seriously polluted sites. The Factor can be customized to address the needs of various remediation projects based on soil conditions, contaminant type and contaminant level, among other criteria.
18. On or about **September 14, 2015**, within one month after Paynter Consulting, LLC, filed its 2015-Lawsuit on **August 17, 2015**, and after the failed **May 4, 2015** mediation, on information and belief, Decedent and / or Joanna Paynter or her sister or some other person(s) acting under the direction of one or all of Decedent and / or Joanna M. Paynter and / or Samantha P. Nelson, withdrew all funds in the Checking Account ending in '7740 at Wells Fargo Bank, N.A., in the name of Paynter Consulting, LLC (Wells Fargo Bank, N.A. subpoena response provided February 28, 2020).
19. On or about **September 21, 2015**, Paynter Consulting, LLC's 2015-Lawsuit was removed to federal court, and assigned Case No. 8:15-cv-03778-GRA, later known as 8:15-cv-03778-TMC.
20. During the pendency of the 2015-Lawsuit, Paynter Consulting, LLC and Petitioners here engaged John E. Gibson, Jr., CPA/ABV, CVA with Elliott Davis Decosimo, LLC to review certain documents submitted by the parties to prepare a written report of their findings and conclusions relating to the accounting of the partnership.
21. On or about **February 16, 2016**, the federal court ordered that Paynter Consulting, LLC's 2015-Lawsuit be sent to arbitration.
22. On or about **April 11, 2016**, Paynter Consulting filed its Motion to Dismiss, stating, *inter alia*, as follows:
- Plaintiff still believes its allegations are supported by the evidence and applicable law in

this dispute. However, due to the costs of this litigation to date as well as prospective attorney's fees and the costs in retaining an arbitrator or arbitrators to resolve this dispute, respectfully moves this Court for dismissal pursuant Fed. R. Civ. P. 41(a)(2).

23. On or about **May 9, 2016**, the 2015-Lawsuit was dismissed without prejudice.
24. Prior to Decedent's passing, despite the provisions placed into the General Partnership Agreement by Paynter Consulting, LLC and its attorneys, Valerie and Joanna Paynter on behalf of Paynter Consulting, LLC, solicited selling the "Factor," or the "trade secret" to third-parties. On information and belief, their asking price was in the millions of dollars, therefore, showing that Joanna Paynter knew that Paynter Consulting, LLC, was her mother's most valuable asset.
25. On information and belief, Joanna Paynter wanted a large amount of money from the sale of The Factor that she intended to use to build a spiritual retreat in California.
26. On **September 4, 2017**, Valerie Anne Paynter passed away (*See e.g.*, Death Certificate in this Court's file, dated September 7, 2017, and listing Joanna Paynter as the "Informant").
27. At the time of her passing, The Personal Representative and her sister knew or should have known that Decedent held ownership interests in at least the following assets / property:
 - a. her **residence** address at 200 Valley View Drive, Clemson, South Carolina 29631;
 - b. **Paynter Consulting, LLC**, and its related property, including but not limited to as shown in the Pickens County Tax Records at Tax Receipt No. 057988-17-4, paid on or about **February 14, 2018**;
 - c. Decedent's bank accounts at Wells Fargo Bank, N.A., including but not limited to that certain Complete Advantage Checking Account ending in '6177, showing a balance of \$8,760.19, on statement ending January 31, 2020 (page 415 of 417, Wells

Fargo Bank, N.A. subpoena response, received in unredacted form by the undersigned's office in March 2020), said '6177 account also showing a deposit to same on or about June 17, 2019, in an amount of \$28,759.63, and withdrawals from the same totaling \$15,000.00 on June 21, 2019 (page 363 of 417);

- d. on information and belief, a 2000 Toyota;
 - e. on information and belief, a 2010 Toyota;
 - f. on information and belief, household belongings such as furniture, clothes, jewelry and the like, on information and belief, having value as will be shown in Decedent's insurance records;
 - g. on information and belief, a boat and / or a boat motor; and
 - h. on information and belief, other accounts and / or assets as will be revealed in discovery.
28. On or about **September 26, 2017**, Joanna M. Paynter signed and filed her Personal Representative Oath in this Court.
29. On or about **September 26, 2017**, Joanna M. Paynter signed and filed her Application for Informal Probate of Will and Appointment as Personal Representative Oath in this Court.
30. On or about **September 26, 2017**, this Court granted Joanna Marie Paynter's Application for Informal Probate of Will and Appointment as Personal Representative, and appointed Joanna M. Paynter as Personal Representative for the Decedent, making her an Officer of the Probate Court.
31. As part of her Qualification and Statement of Acceptance, Joanna Marie Paynter signed page 6 of Probate Form #ES300, which states as follows: "I accept this appointment and agree to perform the duties and discharge the trust of the office of Personal Representative

of this estate. I further submit personally to the jurisdiction of the Court in any proceeding relating to the Estate.”

32. On or about **October 16, 2017**, as Personal Representative of this estate, Joanna M. Paynter filed the Inventory and Appraisement for her mother’s estate, identifying only two assets of said estate, as follows: (i) residence address at 200 Valley View Drive, Clemson, SC 29631 (valued at \$295,000.00), and (ii) a Life Insurance Policy, allegedly having a cash value of \$4,590.70, as shown in the screenshot below:

RECAPITULATION		Non-Probate (OPTIONAL)	Probate
Schedule A - Real Estate			\$ 295,000.00
Schedule B - Stocks and Bonds			\$ 0
Schedule C - Notes Due Decedent and Cash			\$ 0
Schedule D - Insurance on Decedent's Life - Part 1 - Payable to Estate			\$ 4,590.70
Part 2 - Payable to Beneficiary			
Schedule E - Jointly Owned Property			\$ 0
Schedule F - Other Miscellaneous Assets Payable to Estate			\$ 0
Schedule G - Transfers During Decedent's Life			\$ 0
Schedule H - Powers of Appointment			\$ 0
Schedule I - Annuities and Retirement Accounts			\$ 0
GROSS VALUE OF PROBATE ESTATE			\$ 4,590.70

The undersigned, being sworn, states: That the following schedules contain a complete and accurate inventory and appraisement of all probate real and personal property of this estate so far as the undersigned is advised; that he/she has estimated and/or appraised all listed property at its fair market value, according to the best of his/her knowledge and ability.

WITFORN to before me this 12th day of April 2018 at Clemson, South Carolina

Personal Representative
Signature: Joanna M. Paynter
Before Me: Patricia K. Starnes, Notary Public

33. This Inventory and Appraisement, filed under oath by the Appointed Personal Representative Joanna M. Paynter, fails to disclose any assets in Schedules B, C, D, E, F, G, H and I, each showing a “zero,” in the dollar value amount and “None,” in the description column.
34. By way of example, the instructions portion of the Inventory and Appraisement at Schedule F, states as follows:

SCHEDULE F - OTHER MISCELLANEOUS ASSETS PAYABLE TO ESTATE. List below any tangible personal property, including household goods & furnishings, vehicles, boats/motors/trailers, mobile homes that are not de-titled (Include year/make/model/VIN, if applicable), airplanes, equipment, interest in a partnership or unincorporated business, articles or collections having either artistic or intrinsic value, including coins, guns, artwork, jewelry, etc., and any other miscellaneous probate items not listed elsewhere, including any digital assets. If none so state. (For jointly owned tangible personal property with right of survivorship, you may list in Schedule E.)
(underline emphasis added).

35. Despite her express knowledge of Paynter Consulting, LLC, its 2015-Lawsuit, and attempts to sell the Factor Technology, as Personal Representative, Joanna M. Paynter did not disclose the existence of Paynter Consulting, LLC, or its ownership of the Factor Technology / technology to this Court, or to its claimants and creditors.
36. In the probate administration process, other 3rd party creditor claims were filed against the estate by the following:
- a. American Express, filed March 5, 2018 (claiming \$8,320.20, settled for \$0.10 on the dollar at \$832.02 on August 13, 2018);
 - b. Wells Fargo Bank, N.A. filed February 21, 2018 (claiming \$14,812.24 on a Personal Installment Loan, and shown as “allowed” on April 25, 2018, but later shown as withdrawn on October 22, 2018); and
 - c. CitiBank, N.A., via Phillips & Cohen for \$16,915.72, filed March 5, 2018 (claiming \$16,915.72, and Disallowed by the Personal Representative).
37. On or about **February 26, 2019**, Deed of Distribution to Decedent’s daughters, Joanna Marie Paynter and Samantha D. Nelson.
38. On or about **March 25, 2019**, the estate was closed.
39. On **September 11, 2019**, the undersigned filed that certain lawsuit now known as Chris Young and Biotech Restorations, LLC, v. Joey Painter, Samantha Paynter, and Paynter Consulting, LLC, 2019-CP-39-01224 (hereafter the “2019 Lawsuit”).
40. On **October 3, 2019**, Defendant Samantha P. Nelson was served with the Summons and Complaint to the 2019-Lawsuit.
41. On or about **October 10, 2019**, the undersigned was contacted by counsel to Paynter Consulting, LLC in the 2015-Lawsuit, on behalf of the Defendants in the 2019-Lawsuit.

42. As set forth in the filings in the 2019-Lawsuit, the undersigned was advised via counsel that Defendants Joanna Marie Paynter and Samantha P. Nelson did not have any materials or information related to the “trade secret,” the Factor Technology that was the subject of the 2015-Lawsuit. See e.g., Plaintiffs’ Motion for Default Judgment, filed Feb. 5, 2020 in 2019-Lawsuit, at ¶¶’s 21-22 (undersigned quoting from emails with Mr. Englehardt on Nov. 7 and 8, 2019, regarding a “consent injunction,” on Nov. 7, 2019, and stating, *inter alia*, on Nov. 8, 2019, “Obviously, if they agree to your terms on an injunction this point is moot”).
43. The only reason we were even discussing a “consent injunction,” is because the undersigned was told by an Officer of the Court that the daughters had nothing to provide related to the 2019-Lawsuit allegations, a fact which was later contradicted by Mr. LeBlanc’s email dated January 6, 2020, and also by the Defendant Joanna Paynter’s Response to Interrogatory No. 18, served on **April 3, 2020** (withholding from production in the 2019-Lawsuit, “**Dr. Paynter’s trade secrets,**” as set forth in greater detail below) (bold emphasis added).
44. On **November 13, 2019**, the undersigned filed the green card showing service to Samantha P. Nelson on October 3, 2019.
45. On **January 6, 2020**, the undersigned received an email from Steven R. LeBlanc, Esquire, of the Greenville County Bar, which read as follows:

Wes,

It looks like I’ll be representing Joey Paynter and Samantha Nelson in this matter. I don’t believe the corporate entity still exists, but if it does, I’ll represent it as well. I understand various efforts have been made to serve my clients, but my clients did not sign for any of the mailed pleadings. I can accept service for my clients.

I've done some bioremediation work for other clients before. If the technology works as advertised, it has substantial value worldwide. We should probably discuss the merits of the asserted claims and your clients' interest in purchasing the technology before proceeding further. Otherwise, I'll proceed with a motion to dismiss and find another buyer.

I'll be in the office later today.

Steve

Id. (italics added to all, underlining added for emphasis).

46. Counsel to the Defendants in the 2019-Lawsuit, an Officer of the Court, has represented to the undersigned that “he is in possession of the trade secret,” undoubtedly referring to “Dr. Paynter’s trade secret,” which has been withheld from production in the 2019-Lawsuit, and was also not disclosed on the filings by the former Personal Representative, Joanna M. Paynter, in this Court.

47. On information and belief, this “trade secret” of Dr. Paynter that now has “substantial value worldwide,” should have been disclosed on Schedule F of the Inventory and Appraisal filed by Joanna M. Paynter on **October 16, 2017**, the relevant portions of which are set forth below from page 3 of the 4 page filing:

SCHEDULE F – OTHER MISCELLANEOUS ASSETS PAYABLE TO ESTATE. List below any tangible personal property, including household goods & furnishings, vehicles, boats/motors/trailers, mobile homes that are not de-listed (include year/make/model/VIN, if applicable), airplanes, equipment, interest in a partnership or unincorporated business, articles or collections having either artistic or intrinsic value, including coins, guns, artwork, jewelry, etc., and any other miscellaneous probate items not listed elsewhere, including any digital assets. If none, so state. (For jointly owned tangible personal property with right of survivorship, you may list in Schedule E.)

Item No.	Description	Value
1.	NONE	
2.		
3.		
4.		
5.		

TOTAL SCHEDULE F
(also enter under recapitulation, page 1)

\$ 0

48. Petitioners would incorporate by reference those allegations in that certain Plaintiffs’ Motion For Default Judgment Against Samantha P. Nelson, filed on **February 5**,

2020, in Case No.: 2019-CP-39-01224, including specifically those allegations regarding the misrepresentations made to the undersigned by the Defendants Joanna M. Paynter and Samantha P. Nelson through their counsel, Mr. Eric K. Englehardt, Esquire (*See e.g.*, Motion at ¶¶'s 1-33 on pp. 2-8).

49. On or about **January 21, 2020**, Joanna Paynter filed Articles of Termination for Paynter Consulting, LLC, at the Office of the South Carolina Secretary of State (identifying herself as its FIDUCIARY, and answering “YES” to Question No. 4, which reads as follows: ”4. Has the company wound up its business and terminated its legal existence? _Y_e_s_”).
50. Under S.C. Probate Court Rule 2, SCRPC, “Each probate judge has the continuing duty to monitor every matter pending in the probate court and to enforce prompt compliance with all requirements imposed by law upon administrators, executors, guardians and attorneys in the performance of their duties before the probate court.”

Id.

51. On April 3, 2020, as counsel for the Defendant Joanna M. Paynter, Mr. LeBlanc responded to the Plaintiffs’ 1st Interrogatories, including withholding “Dr. Paynter’s trade secrets,” in response to Interrogatory No. 18, as follows:

INTERROGATORY NO. 18

Identify any document or communication related to the Plaintiff or the matters put at issue in the Complaint in this action which You are not producing based upon any claim of any applicable privilege.

ANSWER TO INTERROGATORY NO. 18

Defendant Paynter is withholding from production the following documents as being protected from discovery under the attorney-client privilege, S.C. R. Civ. P. 26(b)(1), as materials prepared in anticipation of litigation, S.C. R. Civ. P. 26(b)(3), or as proprietary trade secrets, S.C. Code Section 39-8-30:

communications between Defendant Paynter's counsel and Wells Fargo regarding Defendant Paynter's representation in this lawsuit and Plaintiffs' motion to show cause filed against Wells Fargo;

Dr. Paynter's trade secrets; and

communications between Defendant Paynter's counsel and Golder Associates, Inc.

Respectfully submitted,

April 3, 2020

s/Steven R. LeBlanc
Steven R. LeBlanc (SC Bar 14221)

52. It is as yet unexplained how the Factor, previously owned by Paynter Consulting, LLC, according to the 2015-Lawsuit, and known to and believed by the Personal Representative to have enormous value became the property of the Personal Representative and her younger sister. See Jan. 6, 2020, email from Mr. LeBlanc (above). Somehow, this asset of the LLC, according to the discovery responses of the sisters in the 219-Lawsuit, has transferred from Paynter Consulting, LLC, to Dr. Paynter, and now to the sisters with no documentation, and without the benefit of any creditors, and to the detriment of the "business of the Partnership." *See e.g., Lebovitz v. Mudd*, 293 S.C. 49, 52, 358 S.E.2d 698, 700 (1987) (noting S.C. Code Ann. § 15-23-10, also known as the Statute of Elizabeth, or the Fraudulent Conveyances Act, is "not limit[ed] its application to [only] judgment creditors. Rather, its protection extends to other types of parties defrauded in connection with the conveyance of property.").

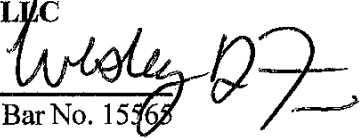
53. Further authority in support of these Petitions and in support of this Court's authority to Order Subsequent Administration and Re-Opening of the Estate to address the undisclosed "trade secrets" of Decedent Dr. Paynter, including Paynter Consulting, LLC, includes the following: *Wood v. Anderson*, 2017 MT 180 (Supreme Court of Montana, 2017) (addressing constructive fraud in probate context where perpetrator owed a legal duty, and acted to mislead the court); *Estate of Sprowl*, 2001 ME 10 (Supreme Judicial Court, 2010) (remanding because "neither the parties nor the court considered the applicability of [S.C. Code. Ann. § 62-3-1005]."); *Spoffard v. Conant*, 1998 Me. Super. LEXIS 252 (1998) (holding, "the bar does not apply to claims against the personal representative for fraud, misrepresentation, or inadequate disclosure related to the settlement of the decedent's estate."); *In re Estate of Lembach*, 622 P.2d 606, 607 (Colo., Ct. App, Div. 1, 1981) (holding, "A probate court may revoke its orders and reopen proceedings with respect to the settlement of estates which have been irregularly made or procured by fraud or mistake."); and *In re Estates of Cahoon*, 102 Idaho 542, 550-51 (1981) (noting, "In any event, the last sentence of [S.C. Code Ann. § 62-3-1005] excludes the operation of the limitation period when fraud, misrepresentation and inadequate disclosure, as alleged here, are involved.").

54. For the reasons set forth herein, Petitioners respectfully request this Court to issue an order for Subsequent Administration, Removal of Personal Representative, and Appointment of a Special Administrator, and an order requiring counsel to the Defendants in the 2019-Lawsuit to return the "trade secret" to the newly appointed Special Administrator of the Decedent's estate.

55. This Petition is based on the common law and statutory law of the State of South Carolina, the South Carolina Probate Court Rules. Petitioners reserve the right to submit a memorandum of law or other submissions in support of this Petition.

Respectfully submitted,

WESLEY D. FEW, LLC

s/Wesley D. Few/ 
Wesley D. Few, S.C. Bar No. 15363
Post Office Box 9398
Greenville, South Carolina 29604
(864) 527-5906 | wes@wesleyfew.com

ATTORNEYS FOR PETITIONERS CHRISTOPHER
YOUNG AND BIOTECH RESTORATIONS, LLC

Greenville, South Carolina
May 4, 2020

Index of Relevant Cases Numbers / - Dates:

- **May 30, 2004**, Joint Venture signed
- **January 10, 2006** first version of General Partnership Agreement signed
- **May 23-30, 2006**, revised General Partnership Agreement
- (1) **2015-CP-39-01006**, Paynter Consulting, LLC as Plaintiff, filed August 17, 2015
- (2) **8:15-cv-03778-GRA-TMC**, removal of case no. (1), removed Sept. 21, 2015
 - Seeking Dissolution of **May 30, 2006** General Partnership Agreement
- (3) **2017-ES-39-00607**, In re Valerie Paynter, Joanna M. Paynter PR Oath, filed Sept. 26, 2017
 - Certificate of Death date of death / passing: **Sept. 4, 2017**
- (4) **2019-CP-39-01224**, C. Young, Biotech Restorations, LLC Plaintiffs, filed **Sept. 11, 2019**
- (5) **2017-ES-39-00607-2**, counsel understands new petition Case No., filed **April 24, 2020**
 - As Amended herein, **May 4, 2020**

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

IN RE: Valerie Anne Paynter, and Joanna
Marie Paynter, Personal Representative,

Christopher W. Young, and Biotech
Restorations, LLC,

Petitioners,

IN THE PROBATE COURT

13TH JUDICIAL CIRCUIT

Case No: 2017-ES-39-00607

**VERIFICATION OF PETITION
FOR SUBSEQUENT
ADMINISTRATION**

I, Christopher W. Young, being duly sworn, say that I am one of the Petitioners herein, along with my company, Biotech Restorations, LLC, and have read the foregoing Verified Petition for Subsequent Administration, and know the contents thereof, and hereby verify that the allegations in the same are true of my own knowledge, except as matters therein stated to be alleged on information and belief; and to those matters I believe them to be true.

SWORN to and Subscribed before me

this _____ day of _____, 2020.

Notary Public for North Carolina

My Commission expires: _____

_____, North Carolina

Ccy 4/24/2020
Signature of Petitioner

Christopher W. Young 4/24/20

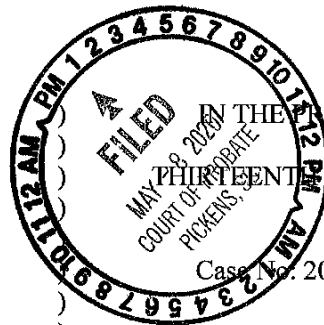
Ccy 5/4/2020

Christopher W. Young 5/4/20

(16) Certification in Lieu of Affidavit. If a statute, court rule or other provision of law requires an affidavit to be filed in an action, the requirement of an affidavit may be satisfied by a signed certification of the maker stating, "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment by contempt."

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS



IN RE: Valerie Anne Paynter, and Joanna
Marie Paynter, Personal Representative,

Christopher W. Young, and Biotech
Restorations, LLC,

Petitioners.

CERTIFICATE OF SERVICE

I, Drennan Quattlebaum, on behalf of the law office of Wesley D. Few, LLC, attorneys for the
Petitioners in this action, do hereby certify that I have served the below parties by U.S. Mail, Hand Delivery
and/or email as set forth below on this date in this action with a copy of the document(s) listed below.

***1) Amended Verified Petition for Subsequent Administration, Removal of Personal
Representative, and to Appoint Special Administrator, along with Summons for the same.***

Probate Court
Pickens County
Administration Facility
222 McDaniel Avenue, B-16
Pickens, SC 29671

Steven R. LeBlanc
P.O. Box 9198
Greenville, SC 29604

Imilie Budiasa
American Express
PO Box 1338
Reynoldsburg, OH 43068

Sherry L. Myrtle
Wells Fargo Bank, N.A.
PO Box 10438
Des Moines, IA 50306-0438

Elizabeth Hansen
Phillips & Cohen Associates, Ltd.
1004 Justison St
Wilmington, DE 19801

Ms. Joanna M. Paynter
26571 Dapple Grey Drive
Laguna Hills, CA 92653

Ms. Joanna M. Paynter
24440 Kathleen Dr.
Laguna Niguel, CA 92677

H. Drennan Quattlebaum

May 8, 2020

Greenville, South Carolina

**STATE OF SOUTH CAROLINA
PICKENS COUNTY**

**IN THE PICKENS COUNTY PROBATE
COURT
CASE NO. 2017-ES-00607**

In the Matter of: Valerie Anne Paynter
Decedent

Christopher Young and Biotech Restorations,
LLC,
Petitioners

v.

Joanna Marie Paynter,
Personal Representative to Decedent's
Estate



**RESPONSE TO AMENDED PETITION FOR SUBSEQUENT ADMINISTRATION OF
DR. PAYNTER'S ESTATE**

Joanna Marie Paynter provides the following Response to Petitioners' Amended Verified Petition for Subsequent Administration of Dr. Paynter's estate. Petitioners previously filed a claim during probate of Dr. Paynter's estate in a failed attempt to force Dr. Paynter's daughters and sole heirs to relinquish Dr. Paynter's trade secrets to Petitioners. Ex. A, Petitioners' Claim. After Petitioners took no further action following denial of their claim, this Court closed probate of Dr. Paynter's Estate on March 25, 2019. Now, over a year after probate of Dr. Paynter's estate closed, Petitioners return to this Court alleging fraud as a basis for re-opening Dr. Paynter's estate. Petitioners' Amended Verified Petition is a transparent attempt to revive their previously denied claim by cloaking it with baseless allegations of fraud.

Procedurally, multiple statutes bar Petitioners from relitigating their previously denied claim to have Dr. Paynter's heirs relinquish ownership of Dr. Paynter's trade secrets. Substantively, Petitioners have failed to identify any asset omitted from probate of Dr. Paynter's

estate, and Petitioners lack a good faith basis for many allegations included in the Amended Verified Petition. Therefore, Joanna Paynter respectfully requests denial of the Amended Verified Petition and appropriate sanctions as provided by Rule 11 of the S.C. Rules of Civil Procedure.

I. Petitioners' Previously Barred Claim May Not Be Asserted in a Petition for Subsequent Administration

Although allegations of fraud may avoid various statutory limitations provided in the S.C. Probate Code, no claim previously barred may be asserted in a petition for subsequent administration. S.C. Probate Code § 62-3-1008. It is undisputed that Petitioners filed a claim during probate of Dr. Paynter's estate in a failed attempt to force Dr. Paynter's daughters and sole heirs to relinquish Dr. Paynter's trade secrets to Petitioners. Ex. A, Petitioners' Claim. After Petitioners took no further action following denial of their claim, this Court closed probate of Dr. Paynter's estate on March 25, 2019. Petitioners failed to commence a proceeding within thirty days of the disallowance of their claim, barring Petitioners from relitigating the denied claim. S.C. Probate Code § 62-3-804. Although Petitioners now include allegations of fraud, "no claim previously barred may be asserted in the subsequent administration." S.C. Probate Code § 62-3-1008. Therefore, Petitioners' attempt to relitigate their previously denied and barred claim is procedurally barred as a matter of law.

II. Petitioners Lack Any Factual or Legal Basis for Alleging a Fraudulent Omission of Any Asset from Dr. Paynter's Estate

As best understood, Petitioners seek to re-open probate of Dr. Paynter's estate based on allegations that the Personal Representative fraudulently withheld assets from probate to defraud creditors. Although Dr. Paynter's trade secrets appear to be the most valuable asset that was allegedly fraudulently omitted from probate, Petitioners also allege that the Personal

Representative intentionally omitted bank accounts, two cars, a boat, a motor, and miscellaneous personal property from Dr. Paynter's estate to defraud creditors.

As an initial matter, the Inventory and Appraisement filed during probate of Dr. Paynter's estate identifies real estate and a life insurance policy having a gross value of \$275,590.70 and a home equity loan of \$189,738.83. The resulting net value of Dr. Paynter's estate of \$85,851.87 was more than sufficient to fully satisfy claims asserted by three unsecured creditors against Dr. Paynter's estate. Therefore, the undisputed facts directly refute Petitioners' allegation that the Personal Representative fraudulently withheld assets from probate to defraud creditors.

The remainder of this Response demonstrates that none of the items identified by Petitioners as being fraudulently omitted from Dr. Paynter's estate were probate assets.

A. Dr. Paynter's Trade Secrets Were Not a Probate Asset

Petitioners allege that Dr. Paynter's trade secrets were a probate asset, and the Personal Representative fraudulently omitted Dr. Paynter's trade secrets from probate to defeat Petitioners' claim filed during probate. *See, e.g.*, Petition, p. 2. Petitioners' allegations are factually and legally unsupported.

The Personal Representative properly excluded Dr. Paynter's trade secrets as a probate asset because Dr. Paynter had transferred her trade secrets to her daughters and sole heirs several years before her death. Attached as Exhibit B to this Response is a Declaration by the Personal Representative that describes the substance of Dr. Paynter's trade secrets and Dr. Paynter's transfer of those trade secrets to her daughters several years before her death. Ex. B, Paynter 5/19/20 Decl. Specifically, Dr. Paynter's trade secrets document confidential and proprietary bioremediation technology that has been proven effective at cleaning contaminated soil. *Id.* at ¶¶ 3, 9, 14. Dr. Paynter's trade secrets include both tangible materials (*e.g.*, laboratory notebooks, research notes, sampling and analysis procedures, etc.) and intangible information that she

communicated directly to her daughters Joanna Paynter and Samantha Nelson. *Id.* at ¶¶ 6-8, 11, 13-15. Multiple entities – including Petitioners during pending litigation – have offered to purchase Dr. Paynter’s trade secrets for more than \$1,000,000, and as much as \$56,000,000. *Id.* at ¶¶ 10, 12, 16. Beginning in August 2009 and continuing through April 2016, Dr. Paynter disclosed and transferred ownership of her trade secrets to her daughters and sole heirs, Joanna Paynter and Samantha Nelson. *Id.* at ¶¶ 5-9, 13. Therefore, Joanna Paynter and Samantha Nelson owned Dr. Paynter’s trade secrets at the time of her death, and Dr. Paynter’s trade secrets were not an asset of Dr. Paynter’s estate.

Even if Dr. Paynter’s trade secrets were a probate asset, Petitioners lack any factual or legal basis to claim any ownership of Dr. Paynter’s trade secrets. Attached as Exhibit C is a General Partnership Agreement between Petitioners and Dr. Paynter that appears to be described in paragraph 6 of the present Petition.¹ As shown in Exhibit C, Dr. Paynter had sole knowledge of her trade secrets and never transferred any ownership of her trade secrets to Petitioners. Instead, as specifically stated in paragraph 3.b of the Agreement, Dr. Paynter merely agreed to provide “the Partnership with exclusive use of Factor formulated products during the term of the Partnership.” Paragraph 4 of the Agreement further provides, “The Partnership will terminate upon the death or incapacity of a partner.” Therefore, the Partnership and the Partnership’s right to exclusive use of Factor formulated products terminated when Dr. Paynter died on September 4, 2017, and Petitioners have no factual or legal basis to claim any ownership of Dr. Paynter’s trade secrets. As a result, even if Dr. Paynter’s trade secrets were a probate asset, they would have passed to Joanna Paynter and Samantha Nelson as the sole heirs of Dr. Paynter’s estate.

¹ In pending litigation, Petitioners have denied a request to admit that the General Partnership Agreement included as Exhibit C is a true and accurate copy of the May 30, 2006, General Partnership Agreement.

B. Paynter Consulting, LLC Had No Assets and Ceased to Exist When Dr. Paynter Died

Petitioners allege that the Personal Representative fraudulently omitted Paynter Consulting, LLC and its related property as a probate asset. According to Petitioners, Joanna Paynter and/or Samantha Nelson withdrew or directed the withdrawal of all funds from Wells Fargo checking account ‘7740 owned by Paynter Consulting, LLC almost two years before their mother’s death. Petition, ¶ 18. Petitioners also allege, based solely on 2017 property taxes paid on behalf of Paynter Consulting, LLC in 2018, that Paynter Consulting, LLC owned property that should have been included in Dr. Paynter’s estate. *Id.* at ¶ 27.b.

Petitioners’ *verified* allegation that Joanna Paynter or Samantha Nelson had anything to do with Dr. Paynter’s decision to close out a bank account almost two years before her death is frivolous. Specifically, the Personal Representative was not even aware that her mother or Paynter Consulting, LLC had Wells Fargo checking account ‘7740 as described in paragraph 18 of the Amended Petition until a few weeks ago when she received a copy of the records provided by Wells Fargo in response to a subpoena issued by Petitioners. Ex. D, Paynter 5/26/20 Decl., ¶ 2. Those bank records unequivocally document that Dr. Paynter was the sole owner of the Wells Fargo checking account ‘7740 and closed the account by withdrawing the entire balance of \$479.64 on September 14, 2015. *Id.* Petitioners have no good faith basis for making the inflammatory allegation that Joanna Paynter or Samantha Nelson had anything to do with this transaction.

Regarding allegations of other, unspecified property owned by Paynter Consulting, LLC at the time of Dr. Paynter’s death, Dr. Paynter had been diagnosed with colon cancer in April 2013 and learned that it had metastasized in April 2017. *Id.* at ¶ 3. In June and July of 2017, Dr. Paynter cleaned out a laboratory that she had been using for her business Paynter Consulting,

LLC, and gave away or discarded any equipment remaining in the laboratory. *Id.* at ¶ 4. The property taxes for Paynter Consulting, LLC described in paragraph 27.b. of the Amended Petition reflect Dr. Paynter's estimate of the value of property owned by Paynter Consulting, LLC in 2017 before Dr. Paynter gave away or discarded any equipment remaining in the laboratory. *Id.* at ¶ 5. Paynter Consulting, LLC had no assets and ceased to exist when Dr. Paynter died on September 4, 2017, and Joanna Paynter filed the Articles of Termination to document that Paynter Consulting, LLC had wound up its business and no longer existed as suggested by the S.C. Secretary of State. *Id.* at ¶¶ 6, 7.

C. Dr. Paynter Never Owned Wells Fargo Checking Account '6177

Petitioners allege that the Personal Representative should have known that Dr. Paynter owned Wells Fargo checking account '6177. Petition, ¶ 27.c. Petitioners describe a deposit into the account almost two years after Dr. Paynter's death to insinuate some malfeasance. *Id.*

Dr. Paynter has never owned Wells Fargo checking account '6177, and the documents provided by Wells Fargo in response to Petitioners' subpoena in pending litigation preclude Petitioners from having a good faith basis to allege otherwise. Joanna Paynter opened the Wells Fargo checking account ending in '6177 described in paragraph 27.c of the Amended Petition on December 27, 2011, and she has always been the sole owner of this checking account. Ex. D, Paynter 5/26/20 Decl., ¶ 8. In October 2017, shortly after her mother's death, Joanna Paynter linked her Wells Fargo personal checking account '6177 to her mother's equity line account '1842 (having a balance owed of approximately \$190,000) and her mother's installment loan account '4582 (having a balance owed of approximately \$14,000) to avoid monthly fees assessed by Wells Fargo against her mother's accounts. *Id.* at ¶ 9. The deposit of \$28,759.63 into her Wells Fargo personal checking account '6177 on June 17, 2019, as described in paragraph 27.c

of the Amended Petition, reflects her share of the proceeds from the sale of her mother's house. *Id.* at ¶ 10.

D. Dr. Paynter Did Not Own Any of the Other Assets Alleged in the Petition When She Died

Petitioners blindly allege that Dr. Paynter owned a 2000 Toyota, a 2010 Toyota, a boat and/or motor, and unspecified household goods and jewelry at the time of her death that should have been included as probate assets. Petition, ¶ 27.d-g. Petitioners are wrong on each allegation.

In 2003, Dr. Paynter gave the 2000 Toyota described in paragraph 27.d of the Amended Petition to her daughter Samantha Nelson as a high school graduation gift. Ex. D, Paynter 5/26/20 Decl., ¶ 11. After her father's death in 2009, Samantha Nelson had the title to the 2000 Toyota reissued in her and her mother's name. *Id.* On August 25, 2017, Dr. Paynter transferred title to the 2010 Toyota described in paragraph 27.e of the Amended Petition to Samantha Nelson. *Id.* at ¶ 12. Dr. Paynter distributed whatever jewelry, household goods, or other personal property she owned that had any value prior to her death. *Id.* at ¶ 13. Joanna Paynter and Samantha Paynter conducted yard sales, either donated or discarded any remaining personal property, and proceeds from the yard sales were used to pay expenses associated with Dr. Paynter's house. *Id.* Dr. Paynter gave the sailboat and motor described in paragraph 27.g of the Amended Petition to Tom Rudisill in August 2017, and Tom Rudisill took the sailboat and motor to the dump before Dr. Paynter's death. *Id.* at ¶ 14. Therefore, none of the property described in paragraph 27 of the Petition was owned by Dr. Paynter at the time of her death, and Petitioners have no good faith basis for alleging that the Personal Representative fraudulently omitted this property from probate.

III. Conclusion

Petitioners' request to re-open Dr. Paynter's estate so Petitioners can again argue that they own Dr. Paynter's trade secrets is procedurally barred and factually unsupported. Therefore, the Court should deny Petitioners' Amended Verified Petition and issue appropriate sanctions as provided by Rule 11 of the S.C. Rules of Civil Procedure..

Respectfully submitted,

s/Steven R. LeBlanc

Steven R. LeBlanc (SC Bar 14221)

Steve LeBlanc, LLC

P.O. Box 9198

Greenville, S.C. 29604

Tel: (864) 902-4411

Steve@LeBlancLLC.com

***Attorney for Joanna Paynter and Samantha
Nelson***

CERTIFICATE OF SERVICE

I certify that on May 26, 2020, I served a RESPONSE TO AMENDED PETITION FOR SUBSEQUENT ADMINISTRATION OF DR. PAYNTER'S ESTATE on all counsel of record by personal delivery and email.

Respectfully submitted,

s/Steven R. LeBlanc

Steven R. LeBlanc (SC Bar 14221)

Steve LeBlanc, LLC

P.O. Box 9198

Greenville, S.C. 29604

Tel: (864) 902-4411

Steve@LeBlancLLC.com

*Attorney for Joanna Paynter and Samantha
Nelson*

**STATE OF SOUTH CAROLINA
PICKENS COUNTY**

**IN THE PICKENS COUNTY PROBATE
COURT
CASE NO. 2017-ES-00607**

In the Matter of: Valerie Anne Paynter
Decedent

Christopher Young and Biotech Restorations,
LLC,

Petitioners

v.

Joanna Marie Paynter,
Personal Representative to Decedent's
Estate

DECLARATION OF JOANNA MARIE PAYNTER

I, Joanna Marie Paynter, make the following declaration in response to the Amended Verified Petition for Subsequent Administration, Removal of Personal Representative, and to Appoint Special Administrator based on my personal knowledge of the facts described herein:

1. I was the Personal Representative for the Estate of Dr. Valerie Paynter, my mother.
2. Until a few weeks ago, I was not aware that my mother had a Wells Fargo checking account '7740 as described in paragraph 18 of the Amended Petition. The records provided by Wells Fargo in response to a subpoena issued by Petitioners indicate to me that my mother was the sole owner of that account and closed the account by withdrawing the entire balance of \$479.64 on September 14, 2015.
3. My mother was diagnosed with colon cancer in April 2013 and learned that it had metastasized in April 2017. In May 2017, I stopped working and moved from California to live with my mother at 200 Valley View Drive, Clemson, S.C., to assist in her care.
4. In June and July of 2017, my mother cleaned out a laboratory that she had been using for her business Paynter Consulting, LLC, and gave away or discarded any equipment remaining in the laboratory.
5. On February 14, 2018, as the Personal Representative of my mother's estate, I paid the property taxes for Paynter Consulting, LLC described in paragraph 27.b. of the Amended Petition. I understand that these property taxes reflect my mother's estimate of the value of property owned by Paynter Consulting, LLC in 2017 before my mother gave away or discarded any equipment remaining in the laboratory, as described above.

6. It is my understanding that Paynter Consulting, LLC had no assets and ceased to exist when my mother died on September 4, 2017.
7. In January 2020, I learned that Petitioners were arguing that Paynter Consulting, LLC still existed based on records maintained by the S.C. Secretary of State. My sister Samantha Nelson called the S.C. Secretary of State to find out what, if anything, should be done to reflect that Paynter Consulting, LLC had wound up its business and ceased to exist when my mother died. My sister was told to file the Articles of Termination which I then filed.
8. I opened the Wells Fargo checking account ending in '6177 described in paragraph 27.c of the Amended Petition on December 27, 2011, and I have always been the sole owner of this checking account.
9. In October 2017, shortly after my mother's death, I linked my Wells Fargo personal checking account '6177 to my mother's equity line account '1842 (having a balance owed of approximately \$190,000) and my mother's installment loan account '4582 (having a balance owed of approximately \$14,000) to avoid monthly fees assessed by Wells Fargo against my mother's accounts.
10. The deposit described in paragraph 27.c of the Amended Petition of \$28,759.63 into my Wells Fargo personal checking account '6177 on June 17, 2019, reflects my share of the proceeds from the sale of my mother's house.
11. In 2003, my mother gave the 2000 Toyota described in paragraph 27.d of the Amended Petition to my sister Samantha Nelson as a high school graduation gift. After my father's death in 2009, my sister had the title to the 2000 Toyota reissued in her and my mother's name, as shown in Exhibit 1 to this declaration.
12. On August 25, 2017, my mother transferred title to the 2010 Toyota described in paragraph 27.e of the Amended Petition to my sister Samantha Nelson, as shown in tax receipt included as Exhibit 2 to this declaration.
13. My mother distributed whatever jewelry, household goods, or other personal property she owned that had any value prior to her death. My sister and I conducted yard sales and either donated or discarded any remaining personal property. Proceeds from the yard sales were used to pay expenses associated with my mother's house.
14. My mother gave the sailboat and motor described in paragraph 27.g of the Amended Petition to Tom Rudisill in August 2017, and I understand that Tom Rudisill took the sailboat and motor to the dump before my mother's death.
15. I believe that the Inventory and Appraisement that I filed on October 16, 2017, accurately lists my mother's residence and a life insurance policy as the only assets of my mother's estate.

16. I believe that I accurately investigated, paid, denied, or settled all claims asserted against my mother's estate.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 26, 2020.


Joanna Marie Paynter

STATE OF SOUTH CAROLINA
CERTIFICATE OF TITLE
OF A VEHICLE

VEHICLE ID NUMBER
JT3HN87R1Y0263847

YEAR MAKE
2000 TOYT

MODEL
4RUNNE

NEW/USED
USED

BODY STYLE DATE ISSUED
SU 02-01-2010

ODOMETER
174,355

WEIGHT
3975

TITLE NUMBER
770370214611136

VEHICLE BRAND(S)
ACTUAL MILEAGE

FULL NAME OF OWNER(S)
**PAYNTER, VALERIE G OR
PAYNTER, SAMANTHA DAWN
200 VALLEY VIEW DR
CLEMSON SC 296312326**

CUSTOMER NUMBER: **025000836**

THE SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES HEREBY CERTIFIES THAT THE PERSON HEREIN IS REGISTERED BY THIS DEPARTMENT AS THE LAWFUL OWNER OF THE VEHICLE DESCRIBED SUBJECT TO THE LIENS, IF ANY, HEREIN SET FORTH.

**MARCIA S. ADAMS
EXECUTIVE DIRECTOR**

**MARK SANFORD
GOVERNOR**

KEEP IN A SAFE PLACE. ANY ALTERATION OR ERASURE VOIDS THIS TITLE.

Exhibit 1 to Paynter 5/26/20 Declaration

0407924

Greenville County Paid Receipt

Bat: 184457 Date Paid: 08/25/2017

Cashier:

Tran#: 66759

Acct #: 201700444201601001

Cashier 0031

Value: 280 Dist: 897

Vin: 4T1BF3EK8AU078194 Tag:

Year: 2010 Make: TOYT Body: 4S

2010 TOYT 4S

Tax Amount Paid: 96.34

Tax Amt Paid: 96.34

DMV Fee Paid: .00

DMV Fee Paid: .00

Total Paid: 96.34

Total Paid 96.34

201700444201601001

You must present this receipt to DMV to get your sticker

NELSON SAMANTHA DAWN

38 STAFFORDSHIRE WAY

SIMPSONVILLE SC 296814617

*** Duplicate Receipt ***Print Dte- 5/05/2020 JCT

Greenville County Paid Receipt

Bat: 184457 Date Paid: 08/25/2017

Cashier:

Tran#: 66759

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38 STAFFORDSHIRE WAY

SIMPSONVILLE SC 296814617

*** Duplicate Receipt ***Print Dte- 5/05/2020 JCT

*** Highway Copy ***

Exhibit 2 to Paynter 5/26/20 Declaration

STATE OF SOUTH CAROLINA)

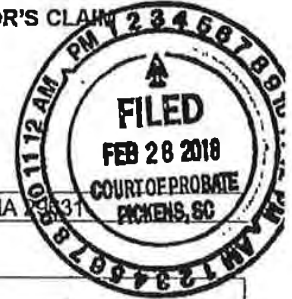
IN THE PROBATE COURT

COUNTY OF PICKENS)

STATEMENT OF CREDITOR'S CLAIM)

IN THE MATTER OF:
VALERIE ANNE PAYNTER
(Decedent))

CASE NUMBER: 2017ES3900607)



Decedent's Date of Death (if known): SEPTEMBER 4, 2017

Decedent's Last Mailing Address: 200 VALLEYVIEW DRIVE, CLEMSON, SOUTH CAROLINA 29631

Creditor:	CHRISTOPHER YOUNG
Address:	137 CROSS CENTER ROAD, # 143, DENVER, NORTH CAROLINA 28037
Telephone:	704 489 6538
Email:	chrisyoung@biotechrestorations.com
Original Creditor:	CHRISTOPHER YOUNG
Address (if different from above)	3913 LAKE SPRING COVE CT., DENVER, NORTH CAROLINA 28037
Claim Amount Due:	\$1,000,000
Account Number:	
Other Reference Number:	PROPERTY OF THE PARTNERSHIP IN POSSESSION OF THE DECEDENTS HEIRS
Basis of claim (Ex: Contract, Services Rendered for decedent, etc):	AS STIPULATED IN THE SURVIVING PARTNERSHIP AGREEMENT (EXHIBIT 1) BETWEEN THE DECEDENT AND YOUNG, THE SURVIVING PARTNER WAS ENTITLED TO CONTINUE THE BUSINESS. THE DECEDENTS LABORATORY AND PRODUCT FORMULATION RECORDS, PRODUCT COMPONENT SUPPLIER INFORMATION AND OTHER TECHICAL NOTES DIRECTLY RELATING TO THE BUSINESS AND THAT ARE PROPERTY OF THE PARTNERSHIP ARE HELD BY THE DECEDENT'S DAUGHTERS WHO HAVE REFUSED REPEATED REQUESTS FOR THE RETURN OF THE PROPERTY OF THE PARTNERSHIP AND HAVE ATTEMPTED TO SELL THE THE CONFIDENTIAL AND PROPRIETARY PROPERTY ABSENT THE LEGAL RIGHT TO DO SO.
Date claim will become due (if not already due)	CLAIM BECAME DUE UPON THE PARTNER'S DEATH, SEPTEMBER 4, 2017
Nature of uncertainty as to the claim, if any (i.e. contingent claim, amount of claim, due date):	NO UNCERTAINTY AS THE SURVIVING PARTNERSHIP AGREEMENT AND INTELLECTUAL PROPERTY AGREEMENT STIPULATE THE SURVIVING PARTNER'S RIGHTS TO CONTINUE THE BUSINESS AND SOLE OWNERSHIP OF THE INTELLECTUAL PROPERTY DEVELOPED DURING THE TERM OF THE PARTNERSHIP BETWEEN THE DECEDENT AND YOUNG.
Description of security as to the claim, if any (Ex: Collateral for the debt)	COPIES OF THE SIGNED PARTNERSHIP AGREEMENT AND INTELLECTUAL PROPERTY AGREEMENT ATTACHED

Signature: _____

Printed Name: CHRISTOPHER W. YOUNG
Title: DECEDENT'S BUSINESS PARTNER
Date: FEBRUARY 27, 2018

INSTRUCTIONS: Claims **MUST** be filed with the Probate Court of the county in which the Decedent's Estate is under administration and may be delivered or mailed to the fiduciary appointed to administer the Estate (see SCPC 62-3-803, 62-3-804, and 62-3-806).

No claim against a Decedent's estate may be presented or legal action commenced against a Decedent's Estate prior to the appointment of a Personal Representative to administer the Decedent's Estate (except see SCPC 62-3-804(1)(b)).

Satisfaction or withdrawal of claim (FORM 325) **MUST** be filed once claim is resolved.

**STATE OF SOUTH CAROLINA
PICKENS COUNTY**

**IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2019-CP-3901224**

Christopher Young and Biotech Restorations,
LLC

Plaintiffs,

v.

Joanna Marie Paynter, a/k/a Joey Painter,
Samantha P. Nelson, and Paynter Consulting,
LLC,

Defendants.

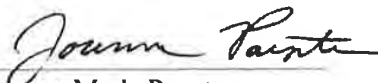
DECLARATION OF JOANNA MARIE PAYNTER

I, Joanna Marie Paynter, make the following declaration based on my personal knowledge of the facts described herein:

1. I am a named Defendant in the above-captioned matter.
2. My mother is Dr. Valerie Paynter. My mother received a degree in Chemistry from London University, a PhD in Plant Physiology with an emphasis in Biochemistry from Clemson University, and taught at Clemson University for 25 years. As far back as I can recall, my mother has been doing research, experiments, and studies within her field.
3. Around 2004, I learned that my mother had developed a bioremediation technology that was effective at cleaning contaminated soil.
4. My father is Dr. Malcolm Paynter, and my father died August 20, 2009.
5. Within a week of my father's death, my mother met with my sister and me to share with us the bioremediation technology that she had developed.
6. During this meeting in August 2009, my mother explained that many pesticides and other contaminants include chlorinated hydrocarbons having a Carbon-Chloride bond that allows the chemicals to last a long time and not breakdown, and the bioremediation technology that she developed breaks down the Carbon-Chloride bonds present in many sources of contamination.

7. During this meeting in August 2009, my mother also explained that the particular formulation for the bioremediation technology varies for each contaminated site, depending on the physical characteristics of the soil and contaminants at the site, and my mother generally referred to the formulations as "the Factor."
8. During this meeting in August 2009, my mother said that she wanted to give my sister and me her bioremediation technology before she died, and she told my sister and me the ingredients in the Factor.
9. My mother was very protective of the ingredients included in the Factor, and I am not aware of anyone who has ever known the ingredients included in the Factor, except for my mother, my father, my sister, and me.
10. Attached as Exhibit A to this Declaration is an October 18, 2013, email from Chris Young to my mother in which Chris Young claimed that an entity was offering more than \$56,000,000 to purchase my mother's bioremediation technology.
11. I lived with my mother from August 2015 until May 2016, and during this time, my mother and I discussed in great lengths the Factor and how to use it.
12. In 2015 and 2016, I participated in discussions between my mother and various entities that offered more than \$10,000,000 to purchase my mother's bioremediation technology.
13. Between February and April 2016, my mother packed into boxes all of her laboratory notebooks, research notes, sampling and analysis procedures, and other documentation of her bioremediation technology and gave the boxes to my sister and me to have and own.
14. It is my understanding that the materials that my mother gave to my sister and me include documentation that demonstrates that her bioremediation technology is effective at removing Toxaphene, DDT, DDD, DDE, Dieldrin, PCBs, and several other contaminants from soil.
15. My sister and I have maintained continuous and exclusive control over the laboratory notebooks, research notes, sampling and analysis procedures, and other documentation of my mother's bioremediation technology, and we have never shared any of this information with anyone, except for our current attorney Steven LeBlanc.
16. I understand that Chris Young's attorney in the present litigation has indicated that Chris Young remains willing to pay \$1,000,000 to purchase my mother's bioremediation technology.

I declare under penalty of perjury that the foregoing is true and correct. Executed on
May 19, 2020.


Joanna Marie Paynter

GENERAL PARTNERSHIP AGREEMENT

THIS PARTNERSHIP AGREEMENT is entered into on January 1, 2006 between the following parties:

Biotech Restorations, LLC owned and operated solely by
Christopher W. Young
3913 Lake Spring Cove
Denver, North Carolina 28037

&

Paynter Consulting, LLC owned and operated solely by
Valerie A. Paynter
200 Valley View Drive
Clemson, South Carolina 29631

The above-named parties agree that upon the commencement date of this Partnership they shall be deemed to have become partners in business. The purposes, terms and conditions of this Partnership are as follows:

1. Name - Each partner will operate and own 100% of an independent business for the purpose of supporting the Partnership.
 - 1.a Christopher W. Young has incorporated Biotech Restorations, LLC to support the Partnership.
 - 2.a Valerie A. Paynter has incorporated Paynter Consulting, LLC to support the Partnership.
2. Principal place of business - The principal places of business of the Partnership shall be Denver, NC and Clemson, SC.
3. Purpose - The business of the partnership is set forth below and relates to the treatment of contaminated soil, marine sediments and other media as applicable to the Factor biotechnology. To the extent necessary for the remediation of soil and marine sediments, the Partnership will utilize proprietary products and services under an exclusive use permit which restricts the use of the Factor Biotechnology to this Partnership for all environmental business applications.
 - 3.a Christopher W. Young (representing Biotech Restorations, LLC) and Valerie A. Paynter (representing Paynter Consulting, LLC) jointly agree to work exclusively in support of the Partnership in matters relating to the development of and commercial use of Factor based products in the environmental remediation marketplace.
 - 3.b Paynter Consulting, LLC, having sole knowledge of the proprietary Factor formulation, agrees to provide the Partnership with exclusive use of Factor formulated products during the term of the Partnership, ongoing technical and scientific assistance in support of the Partnership and the first option to incorporate new technologies into the Partnership.
 - 3.c Biotech Restorations, LLC, having developed existing markets and business opportunities, agrees to provide ongoing business development and management of remediation projects in which Factor Products are in use and exclusive ongoing support of the Partnership.
4. Term - The Partnership shall commence on and continue until dissolved by mutual agreement of the partners. The Partnership will terminate upon the death or incapacity of a partner. Any outstanding revenues or revenues anticipated from projects under contract at the time of a death or incapacity will be paid to the partner's designated beneficiary. In the event of a death of a partner, the remaining partner has the right to continue the business of the Partnership by themselves or in conjunction with any other persons they may select. The continuing partner will pay 10% of net profits annually to the heirs / estate of the deceased partner on any contract involving the use of the Factor, and 10% gross from the sale of the Factor Technology.
4. Distribution of profits - The partners agree that net profits (after disbursement of expenses) arising from the Partnership will be distributed equally (50/50). A division of profits shall be made at such time as may be agreed upon by the partners and at the close of each fiscal year.
6. Control - The partners shall have exclusive control over the Factor Based Environmental Remediation Business and each partner shall have equal rights in the management and conduct of the Partnership business. Any difference arising as to the ordinary matters connected with the Partnership business shall be decided by a third party arbitrator chosen and agreed upon by the partners. Any act beyond the scope of this Partnership agreement or any contract that may subject this Partnership to liability shall be subject to the prior written consent of the partners.

7. Disputes - Disputes that would jeopardize new business, contracts, or existing clients and cannot be resolved by the partners within thirty days will be submitted to a mutually agreed upon arbitrator whose decision will be final. Any disagreements or differences that affect the management of the Partnership business and would jeopardize new business, contracts, or existing clients and cannot be resolved by the partners within thirty days will be submitted to an arbitration process designed to repair the partnership relationship and solve said differences or disputes.

8. Selling out - If a partner decides to sell their interests in the Partnership business to the remaining partner the interests will be valued at two and one half the current business equity (as determined by customary accounting principles). Payment for the interests sold shall be made over a time period acceptable to both partners. No partner may sell his or her interests in the Partnership business to a third party unless mutually agreed to by the other partner. Thirty days written notice of proposed sell out to the partner by the selling partner is required.

8.a Should the partners opt to sell all or any portion of the business, profits from the sale will be distributed on the same 50/50 basis.

9. Signatures of the Partners


Valerie A. Paynter for Paynter Consulting, LLC


Christopher W. Young for Biotech Restorations, LLC


Notary

5/30/2006
Date Notarized

My Commission Expires January 15, 2014


Notary

5/30/2006
Date Notarized

My Commission Expires January 15, 2014

**STATE OF SOUTH CAROLINA
PICKENS COUNTY**

**IN THE PICKENS COUNTY PROBATE
COURT**

CASE NO. 2017-ES-00607

In the Matter of: Valerie Anne Paynter
Decedent

Christopher Young and Biotech Restorations,
LLC,
Petitioners

v.

Joanna Marie Paynter,
Personal Representative to Decedent's
Estate

DECLARATION OF JOANNA MARIE PAYNTER

I, Joanna Marie Paynter, make the following declaration in response to the Amended Verified Petition for Subsequent Administration, Removal of Personal Representative, and to Appoint Special Administrator based on my personal knowledge of the facts described herein:

1. I was the Personal Representative for the Estate of Dr. Valerie Paynter, my mother.
2. Until a few weeks ago, I was not aware that my mother had a Wells Fargo checking account '7740 as described in paragraph 18 of the Amended Petition. The records provided by Wells Fargo in response to a subpoena issued by Petitioners indicate to me that my mother was the sole owner of that account and closed the account by withdrawing the entire balance of \$479.64 on September 14, 2015.
3. My mother was diagnosed with colon cancer in April 2013 and learned that it had metastasized in April 2017. In May 2017, I stopped working and moved from California to live with my mother at 200 Valley View Drive, Clemson, S.C., to assist in her care.
4. In June and July of 2017, my mother cleaned out a laboratory that she had been using for her business Paynter Consulting, LLC, and gave away or discarded any equipment remaining in the laboratory.
5. On February 14, 2018, as the Personal Representative of my mother's estate, I paid the property taxes for Paynter Consulting, LLC described in paragraph 27.b. of the Amended Petition. I understand that these property taxes reflect my mother's estimate of the value of property owned by Paynter Consulting, LLC in 2017 before my mother gave away or discarded any equipment remaining in the laboratory, as described above.

6. It is my understanding that Paynter Consulting, LLC had no assets and ceased to exist when my mother died on September 4, 2017.
7. In January 2020, I learned that Petitioners were arguing that Paynter Consulting, LLC still existed based on records maintained by the S.C. Secretary of State. My sister Samantha Nelson called the S.C. Secretary of State to find out what, if anything, should be done to reflect that Paynter Consulting, LLC had wound up its business and ceased to exist when my mother died. My sister was told to file the Articles of Termination which I then filed.
8. I opened the Wells Fargo checking account ending in '6177 described in paragraph 27.c of the Amended Petition on December 27, 2011, and I have always been the sole owner of this checking account.
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10. The deposit described in paragraph 27.c of the Amended Petition of \$28,759.63 into my Wells Fargo personal checking account '6177 on June 17, 2019, reflects my share of the proceeds from the sale of my mother's house.
11. In 2003, my mother gave the 2000 Toyota described in paragraph 27.d of the Amended Petition to my sister Samantha Nelson as a high school graduation gift. After my father's death in 2009, my sister had the title to the 2000 Toyota reissued in her and my mother's name, as shown in Exhibit 1 to this declaration.
12. On August 25, 2017, my mother transferred title to the 2010 Toyota described in paragraph 27.e of the Amended Petition to my sister Samantha Nelson, as shown in tax receipt included as Exhibit 2 to this declaration.
13. My mother distributed whatever jewelry, household goods, or other personal property she owned that had any value prior to her death. My sister and I conducted yard sales and either donated or discarded any remaining personal property. Proceeds from the yard sales were used to pay expenses associated with my mother's house.
14. My mother gave the sailboat and motor described in paragraph 27.g of the Amended Petition to Tom Rudisill in August 2017, and I understand that Tom Rudisill took the sailboat and motor to the dump before my mother's death.
15. I believe that the Inventory and Appraisalment that I filed on October 16, 2017, accurately lists my mother's residence and a life insurance policy as the only assets of my mother's estate.

16. I believe that I accurately investigated, paid, denied, or settled all claims asserted against my mother's estate.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 26, 2020.


Joanna Marie Paynter

STATE OF SOUTH CAROLINA
CERTIFICATE OF TITLE
OF A VEHICLE

VEHICLE ID NUMBER
JT3HN87R1Y0263847

YEAR MAKE
2000 TOYT

MODEL
4RUNNE

NEW/USED
USED

BODY STYLE DATE ISSUED
SU 02-01-2010

ODOMETER
174,355

WEIGHT
3975

TITLE NUMBER
770370214611136

VEHICLE BRAND(S)
ACTUAL MILEAGE

FULL NAME OF OWNER(S)
**PAYNTER, VALERIE G OR
PAYNTER, SAMANTHA DAWN
200 VALLEY VIEW DR
CLEMSON SC 296312326**

CUSTOMER NUMBER: **025000836**

THE SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES HEREBY CERTIFIES THAT THE PERSON HEREIN IS REGISTERED BY THIS DEPARTMENT AS THE LAWFUL OWNER OF THE VEHICLE DESCRIBED SUBJECT TO THE LIENS, IF ANY, HEREIN SET FORTH.

**MARCIA S. ADAMS
EXECUTIVE DIRECTOR**

**MARK SANFORD
GOVERNOR**

KEEP IN A SAFE PLACE. ANY ALTERATION OR ERASURE VOIDS THIS TITLE.

Exhibit 1 to Paynter 5/26/20 Declaration

0407924

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Tran#: 66759

Acct #: 201700444201601001

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NELSON SAMANTHA DAWN

38 STAFFORDSHIRE WAY

SIMPSONVILLE SC 296814617

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38 STAFFORDSHIRE WAY

SIMPSONVILLE SC 296814617

*** Duplicate Receipt ***Print Dte- 5/05/2020 JCT

*** Highway Copy ***

Exhibit 2 to Paynter 5/26/20 Declaration

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	13 th JUDICIAL CIRCUIT
	)	
Chris Young and Biotech Restorations, LLC,	)	Case No: 2019-CP-39-01224
	)	
Plaintiffs,	)	
	)	ACCEPTANCE OF
vs.	)	SERVICE
	)	
Joanna M. Paynter, a/k/a Joey Paynter, Samantha P.	)	
Nelson, and Paynter Consulting, LLC,	)	
	)	
Defendants.	)	

Pursuant to Rule 4(j) of the S.C. Rules of Civil Procedure, the undersigned, Steven R. LeBlanc, Esquire, of Steve LeBlanc, LLC, P.O. Box 9198, Greenville, South Carolina 29604, Greenville County Bar, having a physical address of 416 E. North St., 2nd Floor, Greenville, SC 29601, certify that I am authorized by **Defendants Joanna M. Paynter, a/k/a Joey Paynter, Samantha P. Nelson** to receive and accept service and did receive a copy of the following on the date as shown below:

- Plaintiffs' Summons and Verified Complaint, filed September 11, 2019.

Steve LeBlanc, LLC

s/Steven R. LeBlanc
 Steven R. LeBlanc, S.C. Bar No. 14221
 PO Box 9198
 Greenville, SC 29604
 (864) 902-4411
steve@leblancllc.com

ATTORNEYS FOR DEFENDANTS JOANNA M.
 PAYNTER, A/K/A JOEY PAYNTER, SAMANTHA P.
 NELSON

Greenville, South Carolina

January 19, 2021

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	13 TH JUDICIAL CIRCUIT
	)	
Christopher Young and Biotech Restorations, LLC,	)	Case No: 2019-CP-39-01224
	)	
Plaintiffs,	)	
	)	AMENDED COMPLAINT
vs.	)	
	)	
Joanna Marie Paynter, a/k/a Joey Painter, Samantha	)	
P. Nelson, and Paynter Consulting, LLC,	)	
	)	
Defendants.	)	
	)	

Plaintiffs above-named, complaining of Defendants, would respectfully show:

1. This action arises out of a longstanding business relationship between Plaintiffs Chris Young (“Young”) and Biotech Restorations, LLC (“Biotech”) (hereafter collectively “Plaintiffs”), and Valerie Paynter (“Valerie”), who is now deceased, and her company, Defendant Paynter Consulting, LLC (“Consulting”). Valerie and Young worked together as partners in the field of environmental remediation of polluted property. Since her death, Valerie’s daughters have, *inter alia*, refused to turn over confidential and proprietary information of the partnership, including but not limited to project field notes and related documents used by Valerie and Paynter Consulting as part of the partnership. Further, on information and belief, Defendants have attempted to sell these confidential and proprietary materials and information to third-parties in violation of the agreement between Plaintiff Young and Valerie. These actions by the Defendants have caused substantial damages, including but not limited to lost business, lost business opportunities, loss of reputation and good standing, and loss of revenues to the Plaintiffs.

THE PARTIES

2. The Plaintiff, Christopher Young (“Young”) is a citizen and resident of Denver, North Carolina.
3. The Plaintiff, Biotech Restorations, LLC (“Biotech”), is a North Carolina limited liability company having its offices in Lincoln County, North Carolina.
4. The Defendant, Paynter Consulting, LLC (“Consulting”), is a South Carolina limited liability company having its offices in Pickens County, South Carolina.
5. The Defendant, Joanna Marie Paynter, a/k/a Joey Paynter (“Paynter”), is, on information and belief, a citizen and resident of Pickens County, South Carolina, and / or Laguna Niguel, California.
6. The Defendant, Samantha P. Nelson (“Nelson”), is, on information and belief, a citizen and resident of Greenville County, South Carolina.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this action and venue is proper in this County because the partnership agreements were executed in the County, and because Defendants reside in and / or operate in this County, and because the property in question was last known to be in this County.

ADDITIONAL ALLEGATIONS FROM MAY 2020 MOTION & DISCOVERY

8. On May 20, 2020, Defendant Joanna Paynter filed her 1st Declaration this Court.
9. In 2004, Defendant Joanna Paynter asserts she “learned that [her] mother had developed a bioremediation technology that was effective at cleaning contaminated soil” (Decl. at ¶ 3).

10. On or about Nov. 19, 2004, Valerie A. Paynter and Christopher Young execute a hand-written joint venture agreement, agreeing to split profits on a 50 / 50 basis.

11. On or about Jan. 10, 2006, Valerie A. Paynter and Christopher Young execute a two-page General Partnership Agreement in their individual capacities.

12. On or about May 30, 2006, Valerie A. Paynter and Christopher Young, each acting on behalf of their recently formed limited liability companies, Paynter Consulting, LLC, and Biotech Restorations, LLC, execute a revised two-page General Partnership Agreement naming the LLC's as the partners, and also making revisions, *inter alia*, to Paragraph 4, as shown in red below:

4. Term - The Partnership shall commence on and continue until dissolved by mutual agreement of the partners. The Partnership will terminate upon the death or incapacity of a partner. Any outstanding revenues or revenues anticipated from projects under contract at the time of a death or incapacity will be paid to the partner's designated beneficiary. In the event of a death of a partner, the remaining partner has the right to continue the business of the Partnership by themselves or in conjunction with any other persons they may select. The continuing partner will pay 10% of net profits annually to the heirs / estate of the deceased partner on any contract involving the use of the Factor, and 10% gross from the sale of the Factor Technology.

13. This same document referenced above was filed by Chris Young and Biotech in the prior lawsuit brought by Paynter Consulting, LLC in this County as Case No. 2015-CP-39-01006, which was then removed to federal court as Case No. 8:15-cv-03778-TMC (hereafter the "2015 Lawsuit"), was filed as ECFN-014-1 in the 2015-Lawsuit, filed Nov. 9, 2015.

14. In 2009, Defendant Joanna Paynter asserts that after her father passed away in 2009, that during a "meeting in August 2009, my mother said that she wanted to give my sister and me her bioremediation technology before she died, and she told my sister and me the ingredients in the Factor." (Decl. at ¶¶'s 4-8).

15. On or about October of 2014, Valerie Paynter and / or Joanna Paynter contacted

Attorney Memminger Wiggins, apparently for purposes of estate planning. Included in the file documents provided by Mr. Wiggins, which did not include privileged communications, was a copy of a Feb. 2, 2006 Operating Agreement for Paynter Consllting LLC, as well as copies of Valerie Paynter's last will and testament, and documents showing the existence of Biotech printed from the N.C. Secretary of State on or about Nov. 10, or Dec. 8, 2014.

16. According to the privilege log provided in this case, Defendants Joanna Paynter and Samantha P. Nelson were included on alleged privileged communications with Attorney Englebardt and Valerie Paynter at least as early as Dec. 29, 2014.

17. On or before January 15, 2015, Valerie A. Paynter, on information and belief, with the assistance and encouragement of her daughters, retained Eric Englebardt, Esquire, of the Greenville, South Carolina bar, and of the Turner Padgett law firm, to represent their interests.

18. On or about January 15, 2015, Mr. Englebardt sent a letter to Young and / or Biotech advising of his representation of Paynter Consulting, LLC.

19. On or about August 17, 2015, Paynter Consulting, LLC, via their counsel, Mr. Englebardt, filed the 2015-Lawsuit, alleging in ¶ 5, as follows:

5. Paynter Consulting, LLC, owns a proprietary biochemical formula used to remediate soil pollution known as "The Factor." Paynter Consulting is owned by Valerie Paynter, a retired Clemson University professor. The formula Paynter developed has broad implications for soil remediation at seriously polluted sites. The Factor can be customized to address the needs of various remediation projects based on soil conditions, contaminant type and contaminant level, among other criteria.

20. On or about February 16, 2016, S.C. District Court Judge Timothy M. Cain, granted Defendants Young and Biotech's Motion to Compel Arbitration (ECFN-025).

21. On or about February to April of 2016, Joanna Paynter claims in her filed Declaration at ¶ 13 that her mother Valerie A. Paynter, gave her and her sister the Factor, stating as

follows:

“Between February and April 2016, my mother packed into boxes all of her laboratory notebooks, research notes, sampling and analysis procedures, and other documentation of her bioremediation technology and gave the boxes to my sister and me to have and own.”

22. On or about May 11, 2020, counsel to Joanna Paynter provided a draft

Declaration to counsel to the Plaintiffs in this action, which stated in ¶ 13 as follows:

“**Around May 2016**, my mother packed into boxes all of her laboratory notebooks, research notes, sampling and analysis procedures, and other documentation of her bioremediation technology and gave the boxes to my sister and me to have and own.”

23. On May 19, 2020, Plaintiffs in this action filed the above-identified Draft

Declaration in this action as Exhibit 1 to their Motion to Compel.

24. On or about May 11, 2016, President Obama signed the Defend Trade Secrets

Act (DTSA), 18 U.S.C. § 1836 *et seq.*, *inter alia*, creating a federal cause of action for misappropriation of a trade secret.

25. Neither the filed Declaration of Joanna M. Paynter nor the Draft Declaration of

Joanna M. Paynter references any documents that corroborate her account of a “gift,” of the Factor in 2016.

26. This transfer of ownership of the Factor was never disclosed to the Plaintiffs

until May 11, 2020, when counsel to the Plaintiffs received the email from counsel to Joanna Paynter enclosing the Draft Declaration for the first time.

27. On or about May 9, 2016, the S.C. District Court dismissed the 2015-Lawsuit

upon motion of Paynter Consulting, LLC (ECFN-032).

28. Beginning at least as early as the summer of 2016, Defendants Joanna Paynter

and Samantha P. Nelson began taking over the operations of Paynter Consulting LLC, for example, as shown in their own documents produced in this case to the Plaintiffs for the first time

on or about August 19, 2020, as PAYN-01315 to 11796.

29. Examples of these above-described actions of these Defendants include PAYN-11726 to 11730, an email sent to Jason Dibble at EnvirogenX on or about Nov. 15, 2016, and states in relevant part:

The reason my sister and I are on phone calls or show up with her to meetings is because my mom isn't always able to hear or understand what was communicated. We have experienced this in business and also in her doctor's appointments time and time again. At times we've found that she hears what she wants to hear or says yes without even knowing what she's saying yes to. An example would be at one of her doctor's appointments that neither my sister or I were able to attend, she came back and told us "good" news and yet when I talked to the doctor a week later she had missed the part that she needed to have treatment and what was happening in her body. I couldn't believe how different the two experiences were... I actually have countless examples of what was said and what she heard or what she remembers to communicate. The story of the experience is usually vastly different from what was actually said. I get extremely nervous when she has phone calls or meetings without us because I worry that her translation of events doesn't accurately represent what happened. In addition, she has a very hard time with anything electronic especially email. She doesn't check her email, I do. Many days she calls me unable to even know how to find her inbox. It has taken me at times over two hours to walk her through how to scan over an attachment. I am not exaggerating. This is why I have been involved. And while I can't convince you or any of the attorneys of the role my sister and I have played, it is the truth. I can only rest on the fact that I live by truth and I believe in its power.

30. Another example of these above-described actions of these Defendants includes PAYN-11951 to 11953, an email sent to Ron at One Wall Partners from Josh Nordan on June 21, 2016 at 6:49 A.M., and copied to Joanna Paynter regarding the subject line, "Paynter Consulting, LLC and Christopher Young," stating in relevant part:

In regards to the Confidential Information you wish to provide Paynter Consulting, Inc., I think. Through open discussion, we were able to identify your specific concern about disclosing certain business activities of Christopher Young (and related entities) and how he (or they) might threaten the viability of the "Factor".

31. In response to the above-identified email, Joanna Paynter replies only to Nordan at 6:59 AM, and states, "YOU are awesome!!!! Thank you Josh for putting that together in such a short time-- you rock!!! The Letter looks great to me, now we just wait to hear from Ron."

32. On or about July 17, 2016, on information and belief, and as shown by PAYN-06867 to 06876, Defendant Joanna Paynter was involved in negotiating a "Confidentiality, Non-

Disclosure, Non-Competition and Non-Solicitation Agreement,” with a Patricia Bukur of Aspen, Colorado, on behalf of Paynter Consulting, LLC.

33. The above-described Confidentiality, Non-Disclosure, Non-Competition and Non-Solicitation Agreement made specific reference in Para. 1(a) of the same to the “Trade Secret / Factor,” and was not signed by Joanna Paynter, but was instead purportedly signed by Valerie Paynter, who Defendant Joanna Paynter is representing to others to not be capable of reading emails or even opening her email in box only a few months later.

34. Numerous other examples of Defendants Joanna Paynter and Samantha P. Nelson interfering with the operations of Paynter Consulting, LLC, the Factor, and the May 2006 General Partnership Agreement from which they brought suit against these Plaintiffs in the 105-Lawsuit are shown in the Defendants document production in this case, which were never disclosed to Chris Young.

35. As the only known heirs to the estate of Valerie Paynter, Paynter and Nelson knew of their rights and obligations under the May 30, 2006 General Partnership Agreement with Biotech, including the 10% share of net profits that their mother negotiated for in May 2006, upon the advice of her counsel.

36. On September 4, 2017, Valerie A. Paynter passes away. On September 26, 2017, Joanna M. Paynter signs and files her Personal Representative Oath in the Pickens County Probate Court (Probate Court file, at page 13 of 65, In re: Valerie A. Paynter, 2017-ES-39-00607);

37. On September 26, 2017, Joanna M. Paynter signs and files her Application for Informal Probate of Will and Appointment as Personal Representative Oath in this Court (Probate Court file, at pages 6-11 of 65, In re: Valerie A. Paynter, 2017-ES-39-00607);

38. On September 26, 2017, the Probate Court granted Joanna Marie Paynter's Application for Informal Probate of Will and Appointment as Personal Representative, and appointed Joanna M. Paynter as Personal Representative for the Decedent, making her an Officer of the Probate Court (Probate Court file, at pages 10-11 of 65, In re: Valerie A. Paynter, 2017-ES-39-00607)

39. On October 16, 2017, as Personal Representative of the estate of her mother, Valerie A. Paynter, Joanna M. Paynter filed the Inventory and Appraisement for her mother's estate, identifying only two assets of said estate, as follows: (i) residence address at 200 Valley View Drive, Clemson, SC 29631 (valued at \$295,000.00), and (ii) a Life Insurance Policy, allegedly having a cash value of \$4,590.70, as shown in the screenshot below:

RECAPITULATION		Non-Probate (OPTIONAL)	Probate
Schedule A - Real Estate			\$ 295,000.00
Schedule B - Stocks and Bonds			\$ 0
Schedule C - Notes Due Decedent and Cash			\$ 0
Schedule D - Insurance on Decedent's Life - Part 1 - Payable to Estate			\$ 4,590.70
Part 2 - Payable to Beneficiary			\$
Schedule E - Jointly Owned Property			\$
Schedule F - Other Miscellaneous Assets Payable to Estate			\$ 0
Schedule G - Transfers During Decedent's Life			\$ 0
Schedule H - Powers of Appointment			\$ 0
Schedule I - Annuities and Retirement Accounts			\$ 0
GROSS VALUE OF PROBATE ESTATE			\$ 299,590.70

The undersigned, being sworn, states: That the following schedules contain a complete and accurate inventory and appraisement of all probate real and personal property of this estate so far as the undersigned is informed; that he/she has estimated and/or appraised all listed property at its fair market value, according to the best of his/her knowledge and ability.

SWORN to before me this 12th day of Feb 2017

Personal Representative
Signature: Joanna Marie Paynter
Printed Name: JOANNA MARIE PAYNTER

40. The above document is in the Probate Court file, at pages 18-21 of 65, In re: Valerie A. Paynter, 2017-ES-39-00607.

41. This Inventory and Appraisement filed under oath by the Appointed Personal Representative, Defendant Joanna M. Paynter, fails to disclose any assets in Schedules B, C, E, F, G, H and I, each showing a "zero," in the dollar value amount and "None," and / or "N/A," in the description column.

42. In 2018, as Personal Representative of the estate of Valerie A. Paynter, Joanna M. Paynter denied / disallowed all creditor claims or other claims, excepting American Express, which accepted payment amounting to 10% of their claimed amount due.

43. In February of 2019, a Deed of Distribution of Valerie A. Paynter's residence is issued to her daughters, Defendants Joanna M. Paynter and Samantha P. Nelson, in the Pickens County RMC Office at Book 2035, Pages 332-336, recorded Feb. 26, 2019.

44. On March 25, 2019, the Probate Court, relying on the Application, Oath and performance of the Personal Representative duties of Defendant Joanna Paynter issues an order settling estate of Valerie A. Paynter, Probate Court file, at page 65 of 65, In re: Valerie A. Paynter, 2017-ES-39-00607.

45. On June 17, 2019, Defendants Joanna M. Paynter and Samantha P. Nelson convey the residence property of their mother to Mr. McLamore and Ms. Vanegas- Gamboa. Pickens County RMC Office, at Book 2068, Pages 335-339, recorded June 19, 2019.

46. Also on June 17, 2019, a deposit is made to the account of Valerie A. Paynter at Wells Fargo Bank, N.A., also known as the '6177 account in an amount of \$28,164.04, as shown below:

Transaction history

Date	Check Number	Description	Deposits/ Additions	Withdrawals/ Subtractions	Ending daily balance
6/17		Edeposit IN Branch/Store 06/17/19 04:06:27 Pm 955 Tiger Blvd Clemson SC 6177	28,164.04		28,759.63
6/21	1030	Deposited OR Cashed Check		5,000.00	
6/21	1032	Check		15,000.00	8,759.63
6/24		Interest Payment	0.04		8,759.67
Ending balance on 6/24					8,759.67
Totals			\$28,164.08	\$20,000.00	

The Ending Daily Balance does not reflect any pending withdrawals or holds on deposited funds that may have been outstanding on your account when your transactions posted. If you had insufficient available funds when a transaction posted, fees may have been assessed.

47. On June 21, 2019, as shown in the Wells Fargo subpoena response (unredacted version, dated March 3, 2020), Defendants caused withdrawals in amounts of \$5,000.00 and \$10,000.00.

48. On September 11, 2019, Plaintiffs filed this lawsuit.

49. On Jan. 6, 2020, Mr. LeBlanc advises counsel to Plaintiffs he may be representing the daughters of Valerie Paynter (Defendants Paynter and Nelson), and the entity, Paynter Consulting, LLC, if it still exists.

50. On Jan. 8, 2020, according to staff at the Pickens County Probate Court, a Mr. LeBlanc paid \$16.25 in cash for copies of certain documents from the Probate Court file, known as In re: Valerie A. Paynter, 2017-ES-39-00607.

51. On Jan. 21, 2020, Joanna Paynter files Articles of Termination for Paynter Consulting, LLC, at the Office of the South Carolina Secretary of State (identifying herself as its FIDUCIARY, and answering “YES” to Question No. 4, which reads as follows: “4. Has the company wound up its business and terminated its legal existence? _Y_e_s_”);

52. On April 24, 2020, Plaintiffs in this action file their first Petition for Subsequent Administration, Removal of Personal Representative, and Appointment of Special Administrator in the Pickens County Probate Court.

53. On May 8, 2020, Plaintiffs in this action file their Amended Petition for Subsequent Administration, Removal of Personal Representative, and Appointment of Special

Administrator in the Pickens County Probate Court, believed to be assigned as Case No. 2017-ES-39-00607-2, which is hereby incorporated by reference

54. As of May 19, 2020, Defendant Paynter Consulting, LLC is in default, per order of this Court.

55. As of the time of the alleged no-consideration transfer / gift of the Factor from Paynter Consulting, LLC to Defendants Paynter and Nelson, these Defendants knew or suspected that the Factor had tremendous value, potentially in the millions of dollars.

56. As noted in her 1st Declaration, Defendant Paynter at ¶ 12, states, “In 2015 and 2016, I participated in discussions between my mother and various entities that offered more than \$10,000,000 to purchase my mother's bioremediation technology.”

57. Joey Paynter was involved with her mother and / or on her behalf, at least as early as 2014 in efforts to avoid the provisions and requirements of the May 30, 2006 General Partnership Agreement with Biotech that they used as the basis of the 2015-Lawsuit against Young and Biotech.

58. On information and belief, Samantha Paynter was involved with her sister and mother and / or on her mother's behalf, at least as early as 2014 in efforts to avoid the provisions and requirements of the May 30, 2006 General Partnership Agreement with Biotech that they used as the basis of the 2015-Lawsuit against Young and Biotech.

FURTHER FACTUAL ALLEGATIONS AND CLAIMS

1ST CAUSE OF ACTION (Declaratory Judgment, Breach of Agreement)

59. The Plaintiffs re-allege each and every allegation of the preceding Paragraphs as if set forth herein verbatim.

60. Plaintiff Young and Valerie had known each other and worked together for approximately twenty years.

61. On or about November 19, 2004, Plaintiff Young and Valerie executed an agreement related to their collective work in the environmental business and agreed to split all profits.

62. On or about January 10 and / or January 16, 2006, Plaintiff Young and Valerie Paynter executed a General Partnership Agreement.

63. On information and belief, this document was drafted by an attorney for Valerie Paynter.

64. On or about May 30, 2006, Plaintiff Biotech and Consulting executed a General Partnership Agreement. This execution was witnessed by Rose Dalton.

65. On information and belief, this document was also drafted by an attorney for Valerie Paynter and / or Paynter Consulting, LLC.

66. Throughout the course of their working relationship, Plaintiffs Young and Biotech always split the net profits of their environmental work with Valerie and Consulting on a 50 / 50 basis.

67. Young and Valerie referred to the technology they utilized to do their environmental restoration work as the Factor technology.

68. Young and Valerie publicly represented themselves as partners and partners in the ownership of this Factor technology.

69. In 2015, Consulting filed a lawsuit against Young and Biotech, alleging “Biotech Restorations contracted and entered into a partnership with [Consulting].”

70. On or around May 30, 2006, Consulting and Biotech entered into a partnership

agreement for purposes of conducting business related to “the treatment of contaminated soil, marine sediments and other media.”

71. On information and belief, Defendants Joey and Sam Paynter are in control of the confidential and proprietary documents and information related to the Factor technology that were used to perform the prior jobs by the partnership.

72. On information and belief, Defendant Joey Paynter has attempted to sell these documents and information, without notice or consultation to the Plaintiff.

73. As set forth in the partnership documents executed by the Plaintiff Biotech and Consulting, these documents and information belong to the partnership.

74. The partnership agreement has specific provisions for payments to heirs of a deceased partner.

75. Instead of abiding by these continuation of business provisions agreed upon by her mother, Valerie, Joey Paynter has, on information and belief, attempted to illegally sell this confidential and proprietary information belonging to the partnership.

76. On information and belief, Joey Paynter has taken possession of the partnership papers previously in possession of her mother, and had arranged to store this information in a safe deposit box in Pickens County, and has profited from the Factor and has kept such information secret from the Plaintiffs.

77. Defendants are aware of the partnership relationship between Plaintiffs and their mother and Consulting, and were also aware of the 2015 litigation initiated by Consulting to enforce the May 30, 2006 partnership agreement.

78. Despite being aware of these facts, Defendants have refused to abide by the terms of the partnership agreement.

79. Prior to filing this action, Plaintiff Young has attempted to resolve this dispute without litigation.

80. Prior to the filing of this action, Defendants refused to communicate with the Plaintiffs regarding the matters put at issue in this lawsuit.

81. Based upon the above, Plaintiff respectfully requests an order from this Court, under S.C. Code Section 15-53-10 *et seq.* declaring the Plaintiffs' rights in the partnership Agreement, including but not limited to declaring Defendants in breach of the Agreement, for interfering with the Agreement, awarding injunctive relief as set forth herein and setting the damages due to Plaintiff under applicable law.

2ND CAUSE OF ACTION
(Mandatory Injunction – Return Lab Notes, Partnership Documents)

82. The Plaintiffs re-allege each and every allegation of the preceding Paragraphs as if set forth herein verbatim.

83. Plaintiffs and Defendant Consulting are bound by a valid and binding partnership contract between them.

84. Defendants through their actions set forth herein, have unjustifiably breached and interfered with said contract with Plaintiff Biotech, and have caused irreparable harm to the Plaintiffs.

85. As a direct and proximate result of this unjustifiable breach by the Defendants, Plaintiff Biotech is entitled to an order compelling the Defendants to turn over the Partnership documents, including all documents in the possession of the Defendants related to the Factor based technology.

3RD CAUSE OF ACTION
(Interference with Contract – Paynter and Nelson)

86. The Plaintiffs re-allege each and every allegation of the preceding Paragraphs as if set forth herein verbatim.

87. Defendants knew of the 2006 partnership agreement and its provisions, yet have refused in bad-faith to cooperate with Plaintiffs to continue the business or to provide partnership documents previously in the possession of Valerie.

88. Defendants actions were intentional and made with the attempt to sell for themselves property of the partnership, in breach of the partnership agreement and into express continuation provisions.

89. Defendants actions are without justification, and have caused Plaintiffs irreparable harm and damages.

90. As a direct and proximate result of this unjustifiable interference by Defendants and resultant breaches of the partnership agreement, Plaintiffs are entitled to judgment awarding them damages in an amount that would put them in the position they would have been in but for the Defendants' actions, including punitive damages.

4TH CAUSE OF ACTION (Conversion)

91. The Plaintiffs re-allege each and every allegation of the preceding Paragraphs as if set forth herein verbatim.

92. Defendant's actions as described herein show their malicious intent to withhold property from the Plaintiffs, including but not limited to the partnership property related to the Factor technology.

93. Defendants have attempted to convert this property for their own use, including by attempting to improperly and illegally sell it to third-parties without the

knowledge or permission of the Plaintiffs to the Plaintiffs' detriment.

94. As a direct and proximate result of these actions and inactions by the Defendants, Plaintiffs' property is no longer available to the Plaintiffs for their use and profit, and it must be returned to the Plaintiffs.

5TH CAUSE OF ACTION
(Aiding and Abetting Breach of Fiduciary Duty)

95. The Plaintiffs re-allege each and every allegation of the preceding Paragraphs as if set forth herein verbatim.

96. Plaintiffs reposed special trust and confidence in Valerie, including but not limited to in the partnership and as the only other partner in said partnership.

97. As a partner, Valerie owed the Plaintiffs the highest duty to maintain confidences and a duty of loyalty to the partnership.

98. Defendants, as representatives of their deceased mother, Valerie, and having taken possession of the partnership documents in her possession, have been dis-loyal and have caused breaches of the partnership agreement.

99. Defendants undertook to take possession of the partnership documents and information.

100. As a direct and proximate result of these actions and inactions by the Defendants, Plaintiffs have been damaged and are entitled to an award of actual damages caused by the Defendants, and punitive damages.

6TH CAUSE OF ACTION
(Breach of Fiduciary Duty – All Defendants)

101. The Plaintiffs re-allege each and every allegation of the preceding Paragraphs as if set forth herein verbatim.

102. As a partner, Valerie and Consulting owed Plaintiffs the highest duties to maintain confidences, including a duty of loyalty to the partnership.

103. Valerie and Defendant Consulting expressly provided for an ongoing profit interest for her heirs and assigns in the event of a death of one of the partners.

104. Defendants, as representatives of their deceased mother, Valerie, and having taken possession of the partnership documents in her possession, have been dis-loyal and have caused breaches of the partnership agreement by their actions and their actions as representatives of Consulting.

105. Defendants undertook to take possession of the partnership documents and information, and have refused to provide that information to Plaintiffs.

106. As a direct and proximate result of these actions and inactions by the Defendants, Plaintiffs have been damaged and are entitled to an award of actual damages caused by Defendants, and punitive damages.

7TH CAUSE OF ACTION

(Constructive Trust - in the Alternative)

107. The Plaintiffs re-allege each and every allegation of the preceding Paragraphs as if set forth herein verbatim.

108. As set forth herein, it would be inequitable for the Defendants to continue to maintain possession of the partnership documents, or proceeds of the Plaintiffs' partnership information, including but not limited to the partnership documents, sales proceeds, stock certificates or the like.

109. Based on the Defendants' bad-faith actions as described herein, Plaintiffs are entitled to an order awarding and providing for a constructive trust over all partnership

documents, information or proceeds in possession or under the control of the Defendants.

8TH CAUSE OF ACTION

(Declaratory Judgment - Fraudulent Conveyance)

110. The Plaintiffs re-allege each and every allegation of the preceding Paragraphs as if set forth herein verbatim.

111. Under S.C. Code Ann. § 27-23-10 *et seq.*, a party may have a conveyance set aside if the intent or purpose was to delay, hinder, or defraud creditors.

112. Defendants here, as shown above, have now sworn under oath in the Declaration of Joanna Paynter to facts showing they secretly allegedly transferred the Factor to Defendants Paynter and Nelson in early 2016 while their own 2015-Lawsuit was still pending in federal court.

113. This alleged transfer was made for the purposes of defrauding creditors, including Plaintiffs here, as well as creditors to the estate of Valerie Paynter, including but not limited to Wells Fargo, American Express, and CitiBank.

114. The alleged transfer in 2016 to the daughters of the Factor from Paynter Consulting, LLC was without consideration.

115. The alleged transfer in 2016 to the daughters of the Factor from Paynter Consulting, LLC was kept secret from the Plaintiffs until May of 2020.

116. The alleged transfer in 2016 to the daughters of the Factor from Paynter Consulting, LLC was a transfer to persons having a close relationship with the transferor.

117. The alleged transfer in 2016 to the daughters of the Factor from Paynter Consulting, LLC was made during the pendency of the 2015-Lawsuit, filed by Paynter Consulting, LLC.

118. The alleged transfer in 2016 to the daughters of the Factor from Paynter Consulting, LLC, included a reservation of a benefit to the transferor as the Defendants here continued to purportedly conduct business with third-parties in the name of Paynter Consulting, LLC, and / or otherwise on behalf of their mother.

119. The alleged transfer in 2016 to the daughters of the multi-million dollar Factor from Paynter Consulting, LLC, was not conducted in the normal course of business, and, on information and belief, was not included as part of the decedent's will, which was probated as the 2009 version.

120. The alleged transfer in 2016 to the daughters of the Factor from Paynter Consulting, LLC, included a retention by the debtor / transferor of the property.

121. The alleged transfer in 2016 to the daughters of the Factor from Paynter Consulting, LLC was effectively a transfer of the entire estate of Valerie Paynter and her company, Paynter Consulting, LLC.

122. As shown by the under oath filed Inventory and Appraisement of Valerie Paynter by her daughter Joanna Paynter, the deceased Valerie Paynter's estate was unable to pay her debts to creditors, having paid American Express at a rate of 10%, and apparently not paying Wells Fargo or Citibank at all, while still keeping the residence address and obtaining at least \$28,164.04 in equity from the same for Paynter and Nelson to share.

123. The alleged transfer of the Factor to Paynter and Nelson is fraudulent and must be declared as such and set aside by order of this Court.

124. On information and belief, nearly all assets that constituted the Factor are protected by Order of this Court dated August 17, 2020, which provides in relevant part as follows: "This Order excludes from discovery any documents or information designated by its

holder as a trade secret. Counsel for Defendants Paynter and Nelson is currently in possession of approximately 20-30 lab notebooks, having approximately 50-450 pages in each lab notebook, that were created from approximately 1993 until 2016, that describe Dr. Paynter's bioremediation trade secrets, and counsel for Defendants Paynter and Nelson shall retain all such materials while this matter is pending unless directed otherwise by this Court.”

124 As set forth herein, Defendants have fraudulently transferred assets from Paynter Consulting and concealed the same, and all such assets must be transferred back to the estate of Valerie Paynter and be properly probated, and / or held in trust to ensure the rights of these Plaintiffs in the very 2006 General Partnership Agreement for which Paynter Consulting, LLC and these Defendants instituted the 2015-Litigation.

WHEREFORE, having fully set forth its claims against the Defendants, Plaintiffs pray that the Court award it judgment as follows:

- (a) For an order requiring Defendants to immediately turn over all partnership property to the Court for the benefit of the Plaintiffs and the General Partnership Agreement;
- (b) For an award of damages caused by Defendants breaches, and interference with the contract;
- (c) An award of punitive damages
- (d) An order in equity requiring all property to be returned to the partnership and to comply with the partnership's continuation provisions for profit splitting;
- (e) A constructive trust over all partnership property, and return of same to the Plaintiffs;
- (f) Certification from the Defendants that all property of the partnership has been provided and made available to the Plaintiffs for their review to determine if it is partnership

property;

(g) An order transferring the Factor back to Paynter Consulting and requiring proper probate of the estate of Valerie Paynter;

(h) An order to disgorge all profits of the Defendants from the Factor for a proper Accounting to occur in accordance with the 10% to heirs provisions of the General Partnership Agreement; and

(i) For such other and further relief as the Court may deem just and proper under the facts and circumstances as presented to the Court.

Respectfully Submitted,

WESLEY D. FEW, LLC

s/Wesley D. Few/
Wesley D. Few, S.C. Bar No. 15565
Post Office Box 9398
Greenville, South Carolina 29604
(864) 527-5906 | wes@wesleyfew.com

ATTORNEYS FOR PLAINTIFFS CHRISTOPHER
YOUNG AND BIOTECH RESTORATIONS, LLC

Greenville, South Carolina
February 22, 2021

**STATE OF SOUTH CAROLINA
PICKENS COUNTY**

**IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2019-CP-3901224**

Christopher Young and Biotech Restorations,
LLC

Plaintiffs,

v.

Joanna Marie Paynter, a/k/a Joey Painter,
Samantha P. Nelson, and Paynter Consulting,
LLC,

Defendants.

**DEFENDANTS PAYNTER AND
NELSON'S ANSWER TO THE
AMENDED COMPLAINT**

Defendants Joanna Marie Paynter and Samantha P. Nelson submit the following Answer to the Amended Complaint filed by Plaintiffs Christopher Young and Biotech Restorations, LLC. Defendants Paynter and Nelson deny each and every allegation of the Amended Complaint unless expressly admitted and provide the following responses to the numbered paragraphs of the Amended Complaint.

1. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 1 of the Amended Complaint as allege that this action arises out of a business relationship between Plaintiff Young, Plaintiff Biotech Restorations, LLC, Dr. Valerie Paynter (now deceased), and Defendant Paynter Consulting, LLC (which no longer exists). Defendants Paynter and Nelson further admit that since well before Dr. Paynter's death, Defendants Paynter and Nelson have refused to turn over confidential and proprietary information transferred to Defendants Paynter and Nelson, including but not limited to Dr. Paynter's project field notes and related documents. Defendants Paynter and Nelson deny the remaining allegations in paragraph 1 of the Amended Complaint.

2. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraphs 2 and 3 of the Amended Complaint.

3. Defendants Paynter and Nelson deny the allegations in paragraphs 4-7 of the Amended Complaint.

4. Defendants Paynter and Nelson admit the allegations in paragraph 8 of the Amended Complaint.

5. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 9 of the Amended Complaint as allege that around 2004 Defendant Paynter learned that her mother had developed a bioremediation technology that was effective at cleaning contaminated soil. Defendants Paynter and Nelson deny the remaining allegations in paragraph 9 of the Amended Complaint.

6. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraphs 10-13 of the Amended Complaint.

7. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 14 of the Amended Complaint as allege that Defendant Paynter's father passed away in 2009, that during a meeting in August 2009, Defendant Paynter's mother said that she wanted to give Defendants Paynter and Nelson her bioremediation technology before she died, and that Dr. Paynter told Defendants Paynter and Nelson the ingredients in her bioremediation technology. Defendants Paynter and Nelson deny the remaining allegations in paragraph 14 of the Amended Complaint.

8. Defendants Paynter and Nelson deny that Defendant Paynter contacted attorney Memminger Wiggins for purposes of estate planning on or about October of 2014. Defendants

Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in paragraph 15 of the Amended Complaint.

9. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 16 of the Amended Complaint as allege that Defendants Paynter and Nelson were included on privileged communications with Attorney Englehardt and Valerie Paynter as early as December 29, 2014. Defendants Paynter and Nelson deny the remaining allegations in paragraph 16 of the Amended Complaint.

10. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 17 of the Amended Complaint as allege that Defendants Paynter and Nelson assisted and encouraged their mother with whatever their mother requested. Defendants Paynter and Nelson deny the remaining allegations in paragraph 17 of the Amended Complaint.

11. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraphs 18-20 of the Amended Complaint.

12. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 21 of the Amended Complaint as allege that Defendants Paynter stated in paragraph 13 of her May 19, 2020, Declaration, "Between February and April 2016, my mother packed into boxes all of her laboratory notebooks, research notes, sampling and analysis procedures, and other documentation of her bioremediation technology and gave the boxes to my sister and me to have and own." Defendants Paynter and Nelson deny the remaining allegations in paragraph 21 of the Amended Complaint.

13. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 22 of the Amended Complaint as allege that on May 11, 2020, counsel to Defendants Paynter and Nelson provided a draft declaration to Plaintiffs' counsel, which stated in paragraph

13, “Around May 2016, my mother packed into boxes all of her laboratory notebooks, research notes, sampling and analysis procedures, and other documentation of her bioremediation technology and gave the boxes to my sister and me to have and own.” Defendants Paynter and Nelson deny the remaining allegations in paragraph 22 of the Amended Complaint.

14. Defendants Paynter and Nelson deny the allegations in paragraph 23 of the Amended Complaint.

15. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraph 24 of the Amended Complaint.

16. Defendants Paynter and Nelson deny the allegations in paragraphs 25 and 26 of the Amended Complaint.

17. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraph 27 of the Amended Complaint.

18. Defendants Paynter and Nelson deny the allegations in paragraphs 28-32 of the Amended Complaint.

19. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 33 of the Amended Complaint as allege that the Confidentiality, Non-Disclosure, Non-Competition and Non-Solicitation Agreement described in paragraph 32 of the Amended Complaint referred to a “Trade Secret”/“Factor” in paragraph 1(a) and was not signed by Defendant Paynter. Defendants Paynter and Nelson deny the remaining allegations in paragraph 33 of the Amended Complaint.

20. Defendants Paynter and Nelson deny the allegations in paragraphs 34 and 35 of the Amended Complaint.

21. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 36 of the Amended Complaint as allege that Dr. Paynter passed away on September 4, 2017 and that Defendant Paynter signed and filed a Personal Representative Oath in the Pickens County Probate Court on September 26, 2017. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in paragraph 36 of the Amended Complaint.

22. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 37 of the Amended Complaint as allege that on September 26, 2017, Defendant Paynter signed and filed in the Pickens County Probate Court an application to informally probate Dr. Paynter's will and to have Defendant Paynter appointed as the personal representative of Dr. Paynter's estate. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in paragraph 37 of the Amended Complaint.

23. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 38 of the Amended Complaint as allege that on September 26, 2017, the Pickens County Probate Court granted Defendant Paynter's application to informally probate Dr. Paynter's will and to appoint Defendant Paynter as the personal representative of Dr. Paynter's estate. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in paragraph 38 of the Amended Complaint.

24. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 39 of the Amended Complaint as allege that on October 16, 2017, Defendant Paynter filed an Inventory and Appraisement as the personal representative of Dr. Paynter's estate

identifying the assets of Dr. Paynter's estate. Defendants Paynter and Nelson deny the remaining allegations in paragraph 39 of the Amended Complaint.

25. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraph 40 of the Amended Complaint.

26. Defendants Paynter and Nelson deny the allegations in paragraphs 41 and 42 of the Amended Complaint.

27. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraph 43 of the Amended Complaint.

28. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 44 of the Amended Complaint as allege that on March 25, 2019, the Pickens County Probate Court issued an Order closing Dr. Paynter's estate. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in paragraph 44 of the Amended Complaint.

29. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraph 45 of the Amended Complaint.

30. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 46 of the Amended Complaint as allege that on June 17, 2019, a deposit of \$28,164.63 was made to a Wells Fargo Bank, N.A. account having an account number ending in 6177. Defendants Paynter and Nelson deny the remaining allegations in paragraph 46 of the Amended Complaint.

31. Defendants Paynter and Nelson deny the allegations in paragraph 47 of the Amended Complaint.

32. Defendants Paynter and Nelson admit the allegations in paragraphs 48 and 49 of the Amended Complaint.

33. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraph 50 of the Amended Complaint.

34. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 51 of the Amended Complaint as allege that on January 21, 2020, Defendant Paynter filed the Articles of Termination to document that Paynter Consulting, LLC had dissolved, wound up its business, and terminated its legal existence as of September 4, 2017. Defendants Paynter and Nelson deny the remaining allegations in paragraph 51 of the Amended Complaint.

35. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 52 of the Amended Complaint as allege that Plaintiffs filed a petition in the Pickens County Probate Court over a year after the Pickens County Probate Court closed the probate of Dr. Paynter's estate. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in paragraph 52 of the Amended Complaint.

36. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 53 of the Amended Complaint as allege that Plaintiffs filed an amended petition in the Pickens County Probate Court over a year after the Pickens County Probate Court closed the probate of Dr. Paynter's estate. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in paragraph 53 of the Amended Complaint.

37. Defendants Paynter and Nelson deny the allegations in paragraph 54 of the Amended Complaint.

38. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 55 of the Amended Complaint as allege that at the time Dr. Paynter transferred ownership of her bioremediation technology to Defendants Paynter and Nelson, Defendants Paynter and Nelson understood that multiple entities had indicated that Dr. Paynter's bioremediation technology had tremendous value, potentially in the millions of dollars. Defendants Paynter and Nelson deny the remaining allegations in paragraph 55 of the Amended Complaint.

39. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 56 of the Amended Complaint as allege that Defendants Paynter stated in paragraph 12 of her May 19, 2020, Declaration, "In 2015 and 2016, I participated in discussions between my mother and various entities that offered more than \$10,000,000 to purchase my mother's bioremediation technology." Defendants Paynter and Nelson deny the remaining allegations in paragraph 56 of the Amended Complaint.

40. Defendants Paynter and Nelson deny the allegations in paragraphs 57 and 58 of the Amended Complaint.

41. In responding to the allegations in paragraph 59 of the Amended Complaint, Defendants Paynter and Nelson repeat the responses to the allegations in the preceding paragraphs as if repeated here *verbatim*.

42. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraphs 60-70 of the Amended Complaint.

43. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 71 of the Amended Complaint as allege that Defendants Paynter and Nelson are in control of confidential and proprietary documents and information related to Dr. Paynter's

bioremediation technology. Defendants Paynter and Nelson deny the remaining allegations in paragraph 71 of the Amended Complaint.

44. Defendants Paynter and Nelson deny the allegations in paragraphs 72 and 73 of the Amended Complaint.

45. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraph 74 of the Amended Complaint.

46. Defendants Paynter and Nelson deny the allegations in paragraphs 75 and 76 of the Amended Complaint.

47. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 77 of the Amended Complaint as allege that Defendants Paynter and Nelson are aware of litigation initiated by Defendant Paynter Consulting, LLC in 2015. Defendants Paynter and Nelson deny the remaining allegations in paragraph 77 of the Amended Complaint.

48. Defendants Paynter and Nelson deny the allegations in paragraphs 78-81 of the Amended Complaint.

49. In responding to the allegations in paragraph 82 of the Amended Complaint, Defendants Paynter and Nelson repeat the responses to the allegations in the preceding paragraphs as if repeated here *verbatim*.

50. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraph 83 of the Amended Complaint.

51. Defendants Paynter and Nelson deny the allegations in paragraphs 84 and 85 of the Amended Complaint.

52. In responding to the allegations in paragraph 86 of the Amended Complaint, Defendants Paynter and Nelson repeat the responses to the allegations in the preceding paragraphs as if repeated here *verbatim*.

53. Defendants Paynter and Nelson deny the allegations in paragraphs 87-90 of the Amended Complaint.

54. In responding to the allegations in paragraph 91 of the Amended Complaint, Defendants Paynter and Nelson repeat the responses to the allegations in the preceding paragraphs as if repeated here *verbatim*.

55. Defendants Paynter and Nelson deny the allegations in paragraphs 92-94 of the Amended Complaint.

56. In responding to the allegations in paragraph 95 of the Amended Complaint, Defendants Paynter and Nelson repeat the responses to the allegations in the preceding paragraphs as if repeated here *verbatim*.

57. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraphs 96 and 97 of the Amended Complaint.

58. Defendants Paynter and Nelson deny the allegations in paragraphs 98-100 of the Amended Complaint.

59. In responding to the allegations in paragraph 101 of the Amended Complaint, Defendants Paynter and Nelson repeat the responses to the allegations in the preceding paragraphs as if repeated here *verbatim*.

60. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraphs 102 and 103 of the Amended Complaint.

61. Defendants Paynter and Nelson deny the allegations in paragraphs 104-106 of the Amended Complaint.

62. In responding to the allegations in paragraph 107 of the Amended Complaint, Defendants Paynter and Nelson repeat the responses to the allegations in the preceding paragraphs as if repeated here *verbatim*.

63. Defendants Paynter and Nelson deny the allegations in paragraphs 108 and 109 of the Amended Complaint.

64. In responding to the allegations in paragraph 110 of the Amended Complaint, Defendants Paynter and Nelson repeat the responses to the allegations in the preceding paragraphs as if repeated here *verbatim*.

65. Defendants Paynter and Nelson admit the allegations in paragraph 111 of the Amended Complaint.

66. Defendants Paynter and Nelson deny the allegations in paragraphs 112-124 of the Amended Complaint.

AFFIRMATIVE DEFENSES

First Affirmative Defense – Failure to State Facts Sufficient to Constitute a Cause of Action Against Defendants Paynter and Nelson

67. Pursuant to Rule 12(b)(6) of the S.C. Rules of Civil Procedure, the Amended Complaint fails to state a claim against Defendants Paynter and Nelson.

68. The Amended Complaint fails to allege any facts to plausibly suggest any agreement between either Plaintiff and either of Defendant Paynter or Nelson.

69. The Amended Complaint fails to allege any facts to plausibly suggest that Defendants Paynter or Nelson had any duty to cooperate with Plaintiffs to continue a business.

70. The Amended Complaint fails to allege any facts to plausibly suggest that Defendants Paynter or Nelson had any duty to provide any documents to either Plaintiff.

71. The Amended Complaint fails to allege any facts to plausibly suggest the existence of a creditor as defined by S.C. Code Section 27-23-10.

Second Affirmative Defense – Res Judicata and Collateral Estoppel

72. Plaintiffs previously submitted claims against the Estate of Dr. Paynter in the Pickens County Probate Court.

73. Plaintiffs sought to recover laboratory and product formulation records, product component supplier information, and other technical notes of Dr. Paynter.

74. The Pickens County Probate Court denied all of Plaintiffs' claims to recover anything from Dr. Paynter's Estate.

75. Plaintiffs failed to appeal the decision of the Pickens County Probate Court or take any further action to recover anything from Dr. Paynter's Estate.

76. All claims in the present matter that Plaintiffs raised or could have raised during the probate of Dr. Paynter's Estate are barred by *res judicata* and/or collateral estoppel.

Third Affirmative Defense – Statute of Limitations

77. Plaintiffs' claims, in whole or in part, are barred by the applicable statute of limitations.

Fourth Affirmative Defense – Misrepresentation

78. Plaintiffs allege an ownership interest in trade secrets developed by Dr. Paynter that provide environmental remediation of contaminants such as DDE, DDT, Chlordane, Heptachlor, and Toxaphene.

79. Plaintiffs allege that a partnership agreement with Dr. Paynter and Defendant Paynter Consulting, LLC requires the continuation of the partnership even after the death of Dr. Paynter.

80. The partnership agreement with Dr. Paynter and Defendant Paynter Consulting, LLC states that Defendant Paynter Consulting, LLC is wholly owned by Dr. Paynter and has sole knowledge of Dr. Paynter's trade secrets.

81. The partnership agreement with Dr. Paynter and Defendant Paynter Consulting, LLC states that the partnership will terminate upon the death of a partner.

82. Therefore, Plaintiffs' allegations of an ownership interest in Dr. Paynter's trade secrets and that Defendant Paynter Consulting, LLC is required to continue in the partnership with Plaintiffs are false.

Fifth Affirmative Defense – Plene Administravit

83. Dr. Paynter was at all times the sole owner of Defendant Paynter Consulting, LLC.

84. Dr. Paynter passed away on September 4, 2017.

85. Probate for Dr. Paynter's Estate was filed in the Pickens County Probate Court.

86. The Pickens County Probate Court has distributed all known assets of Dr. Paynter's Estate according to the terms of Dr. Paynter's will.

87. The Pickens County Probate Court concluded the probate of Dr. Paynter's Estate on March 25, 2019.

Request for Relief

Wherefore, having fully answered all of Plaintiffs' allegations and asserted appropriate affirmative defenses, Defendants Paynter and Nelson respectfully request the entry of judgment against Plaintiffs, providing the following relief:

(A) dismissing the Amended Complaint with prejudice and denying each request for relief made by Plaintiffs;

(B) declaring that Defendants Paynter and Nelson owe no duties to Plaintiffs;

(C) declaring that Plaintiffs' claims are barred by *res judicata* and collateral estoppel;

(D) awarding Defendant Paynter and Nelson costs and attorneys' fees; and

(E) such other and further relief as this Court deems just and proper.

JURY DEMAND: Defendants Paynter and Nelson demand a trial by jury on all issues triable to a jury.

Respectfully submitted,

s/Steven R. LeBlanc
Steven R. LeBlanc (SC Bar 14221)
Steve LeBlanc, LLC
P.O. Box 9198
Greenville, S.C. 29604
Tel: (864) 902-4411
Steve@LeBlancLLC.com

Attorneys for Defendants Paynter and Nelson

CERTIFICATE OF SERVICE

I certify that on March 8, 2021, I electronically filed DEFENDANTS PAYNTER AND NELSON'S ANSWER TO THE AMENDED COMPLAINT and served a copy on all counsel of record by means of the Court's Notice of Electronic Filing and email.

Respectfully submitted,

s/Steven R. LeBlanc
Steven R. LeBlanc (SC Bar 14221)
Steve LeBlanc, LLC
P.O. Box 9198
Greenville, S.C. 29604
Tel: (864) 902-4411
Steve@LeBlancLLC.com

Attorneys for Defendants Paynter and Nelson

STATE OF SOUTH CAROLINA
PICKENS COUNTY

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2019-CP-3901224

Christopher Young and Biotech Restorations,
LLC

Plaintiffs,

v.

Joanna Marie Paynter, a/k/a Joey Painter,
Samantha P. Nelson, and Paynter Consulting,
LLC,

Defendants.

**DEFENDANTS PAYNTER AND
NELSON'S AMENDED ANSWER TO
THE AMENDED COMPLAINT AND
COUNTERCLAIM**

Defendants Joanna Marie Paynter and Samantha P. Nelson submit the following Amended Answer to the Amended Complaint filed by Plaintiffs Christopher Young and Biotech Restorations, LLC, along with Counterclaims.

Defendants Paynter and Nelson deny each and every allegation of the Amended Complaint unless expressly admitted and provide the following responses to the numbered paragraphs of the Amended Complaint.

1. Defendants Paynter and Nelson admit only so much of the allegations in paragraph 1 of the Amended Complaint as allege that this action arises out of a business relationship between Plaintiff Young, Plaintiff Biotech Restorations, LLC, Dr. Valerie Paynter (now deceased), and Defendant Paynter Consulting, LLC (which no longer exists). Defendants Paynter and Nelson further admit that since well before Dr. Paynter's death, Defendants Paynter and Nelson have refused to turn over confidential and proprietary information transferred to Defendants Paynter and Nelson, including but not limited to Dr. Paynter's project field notes and

related documents. Defendants Paynter and Nelson deny the remaining allegations in paragraph 1 of the Amended Complaint.

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60. Defendants Paynter and Nelson lack sufficient knowledge or information to form a belief about the truth of the allegations in paragraphs 102 and 103 of the Amended Complaint.

61. Defendants Paynter and Nelson deny the allegations in paragraphs 104-106 of the Amended Complaint.

62. In responding to the allegations in paragraph 107 of the Amended Complaint, Defendants Paynter and Nelson repeat the responses to the allegations in the preceding paragraphs as if repeated here *verbatim*.

63. Defendants Paynter and Nelson deny the allegations in paragraphs 108 and 109 of the Amended Complaint.

64. In responding to the allegations in paragraph 110 of the Amended Complaint, Defendants Paynter and Nelson repeat the responses to the allegations in the preceding paragraphs as if repeated here *verbatim*.

65. Defendants Paynter and Nelson admit the allegations in paragraph 111 of the Amended Complaint.

66. Defendants Paynter and Nelson deny the allegations in paragraphs 112-124 of the Amended Complaint.

AFFIRMATIVE DEFENSES

First Affirmative Defense – Failure to State Facts Sufficient to Constitute a Cause of Action Against Defendants Paynter and Nelson

67. Pursuant to Rule 12(b)(6) of the S.C. Rules of Civil Procedure, the Amended Complaint fails to state a claim against Defendants Paynter and Nelson.

68. The Amended Complaint fails to allege any facts to plausibly suggest any agreement between either Plaintiff and either of Defendant Paynter or Nelson.

69. The Amended Complaint fails to allege any facts to plausibly suggest that Defendants Paynter or Nelson had any duty to cooperate with Plaintiffs to continue a business.

70. The Amended Complaint fails to allege any facts to plausibly suggest that Defendants Paynter or Nelson had any duty to provide any documents to either Plaintiff.

71. The Amended Complaint fails to allege any facts to plausibly suggest the existence of a creditor as defined by S.C. Code Section 27-23-10.

Second Affirmative Defense – Res Judicata and Collateral Estoppel

72. Plaintiffs previously submitted claims against the Estate of Dr. Paynter in the Pickens County Probate Court.

73. Plaintiffs sought to recover laboratory and product formulation records, product component supplier information, and other technical notes of Dr. Paynter.

74. The Pickens County Probate Court denied all of Plaintiffs' claims to recover anything from Dr. Paynter's Estate.

75. Plaintiffs failed to appeal the decision of the Pickens County Probate Court or take any further action to recover anything from Dr. Paynter's Estate.

76. All claims in the present matter that Plaintiffs raised or could have raised during the probate of Dr. Paynter's Estate are barred by *res judicata* and/or collateral estoppel.

Third Affirmative Defense – Statute of Limitations

77. Plaintiffs' claims, in whole or in part, are barred by the applicable statute of limitations.

Fourth Affirmative Defense – Misrepresentation

78. Plaintiffs allege an ownership interest in trade secrets developed by Dr. Paynter that provide environmental remediation of contaminants such as DDE, DDT, Chlordane, Heptachlor, and Toxaphene.

79. Plaintiffs allege that a partnership agreement with Dr. Paynter and Defendant Paynter Consulting, LLC requires the continuation of the partnership even after the death of Dr. Paynter.

80. The partnership agreement with Dr. Paynter and Defendant Paynter Consulting, LLC states that Defendant Paynter Consulting, LLC is wholly owned by Dr. Paynter and has sole knowledge of Dr. Paynter's trade secrets.

81. The partnership agreement with Dr. Paynter and Defendant Paynter Consulting, LLC states that the partnership will terminate upon the death of a partner.

82. Therefore, Plaintiffs' allegations of an ownership interest in Dr. Paynter's trade secrets and that Defendant Paynter Consulting, LLC is required to continue in the partnership with Plaintiffs are false.

Fifth Affirmative Defense – Plene Administravit

83. Dr. Paynter was at all times the sole owner of Defendant Paynter Consulting, LLC.

84. Dr. Paynter passed away on September 4, 2017.

85. Probate for Dr. Paynter's Estate was filed in the Pickens County Probate Court.

86. The Pickens County Probate Court has distributed all known assets of Dr. Paynter's Estate according to the terms of Dr. Paynter's will.

87. The Pickens County Probate Court concluded the probate of Dr. Paynter's Estate on March 25, 2019.

Request for Relief

Wherefore, having fully answered all of Plaintiffs' allegations and asserted appropriate affirmative defenses, Defendants Paynter and Nelson respectfully request the entry of judgment against Plaintiffs, providing the following relief:

- (A) dismissing the Amended Complaint with prejudice and denying each request for relief made by Plaintiffs;
- (B) declaring that Defendants Paynter and Nelson owe no duties to Plaintiffs;
- (C) declaring that Plaintiffs' claims are barred by *plene administravit*, *res judicata*, and collateral estoppel;
- (D) awarding Defendant Paynter and Nelson costs and attorneys' fees; and
- (E) such other and further relief as this Court deems just and proper.

COUNTERCLAIM

As for its counterclaim against Plaintiffs, Defendant Paynter and Nelson allege as follows:

1. Plaintiff Christopher Young has alleged that he is a citizen and resident of Denver, North Carolina.
2. Plaintiff Biotech Restorations, LLC has alleged that it is a North Carolina limited liability company having its offices in Lincoln County, North Carolina.
3. Defendant Paynter is a resident of California.
4. Defendant Nelson is a resident of Belize.
5. The Counterclaims arise out of the General Partnership Agreement described in paragraph 12 of the Amended Complaint.
6. This Court has personal jurisdiction over Plaintiffs because Plaintiffs have submitted to this Court by the filing of the Amended Complaint.

First Counterclaim – Breach of Contract

7. Exhibit A is a true and accurate copy of the General Partnership Agreement described in paragraph 12 of the Amended Complaint.

8. According to paragraph 4 of the General Partnership Agreement described in paragraph 12 of the Amended Complaint, the Partnership between Paynter Consulting, LLC and Plaintiffs terminated upon the death of Dr. Valerie Paynter.

9. Dr. Valerie Paynter died on September 4, 2017.

10. According to paragraph 4 of the General Partnership Agreement described in paragraph 12 of the Amended Complaint, Plaintiffs had the right to continue the business of the Partnership upon the death of Dr. Valerie Paynter.

11. Plaintiff Young testified during a hearing on July 22, 2021, that Plaintiffs have continued the business of the Partnership after the death of Dr. Valerie Paynter.

12. According to paragraph 4 of the General Partnership Agreement described in paragraph 12 of the Amended Complaint, Plaintiffs owe the heirs of Dr. Valerie Paynter 10% of net profits annually on any contract involving the use of the Factor.

13. Defendants Paynter and Nelson are the heirs of Dr. Valerie Paynter.

14. Defendants Paynter and Nelson are third-party beneficiaries of the General Partnership Agreement described in paragraph 12 of the Amended Complaint.

15. Plaintiffs have failed to pay Defendants Paynter and Nelson 10% of net profits annually on any contract involving the use of the Factor.

16. Plaintiff Young testified during the hearing on July 22, 2021, that Plaintiffs used the Factor in the performance of work after September 4, 2017, that resulted in approximately \$500,000 in net profits.

17. Based on Plaintiff Young's testimony during the hearing on July 22, 2021, Plaintiffs owe Defendants Paynter and Nelson approximately \$50,000 as third-party beneficiaries of the General Partnership Agreement described in paragraph 12 of the Amended Complaint.

18. Plaintiffs have refused to pay Defendants Paynter and Nelson 10% of net profits annually on any contract involving the use of the Factor.

19. Plaintiffs' failure and refusal to pay Defendants Paynter and Nelson 10% of net profits annually on any contract involving the use of the Factor constitutes a material breach of the General Partnership Agreement described in paragraph 12 of the Amended Complaint.

20. Plaintiffs' material breach of the General Partnership Agreement has resulted in damages to Defendants Paynter and Nelson of at least approximately \$50,000.

Prayer for Relief

WHEREFORE, Defendants respectfully requests that this Court enter a Judgment and Order:

- (a) Awarding Defendants actual damages sustained as a result of Plaintiffs' breach of contract;
- (b) Awarding Defendant its reasonable costs; and
- (r) Granting Defendants such other and further relief as this Court deems just and proper.

JURY DEMAND: Defendants Paynter and Nelson demand a trial by jury on all issues triable to a jury.

Respectfully submitted,

s/Steven R. LeBlanc
Steven R. LeBlanc (SC Bar 14221)
Steve LeBlanc, LLC
P.O. Box 9198
Greenville, S.C. 29604
Tel: (864) 902-4411
Steve@LeBlancLLC.com

Attorneys for Defendants Paynter and Nelson

CERTIFICATE OF SERVICE

I certify that on September 14, 2021, I electronically filed DEFENDANTS PAYNTER AND NELSON'S AMENDED ANSWER TO THE AMENDED COMPLAINT AND COUNTERCLAIM and served a copy on all counsel of record by means of the Court's Notice of Electronic Filing and email.

Respectfully submitted,

s/Steven R. LeBlanc
Steven R. LeBlanc (SC Bar 14221)
Steve LeBlanc, LLC
P.O. Box 9198
Greenville, S.C. 29604
Tel: (864) 902-4411
Steve@LeBlancLLC.com

Attorneys for Defendants Paynter and Nelson

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	13 TH JUDICIAL CIRCUIT
	)	
Christopher Young and Biotech Restorations, LLC,	)	Case No: 2019-CP-39-01224
	)	
Plaintiffs,	)	
	)	
vs.	)	ANSWER TO
	)	COUNTERCLAIMS
	)	
Joanna Marie Paynter, a/k/a Joey Painter, Samantha	)	
P. Nelson, and Paynter Consulting, LLC,	)	
	)	
Defendants.	)	
	)	

Plaintiffs Christopher Young and Biotech Restorations, LLC (hereafter “Plaintiffs”), Answering Defendants Joanna Marie Paynter, a/k/a Joey Paynter and Samantha P. Nelson Amended Answer and Counterclaim, filed September 14, 2021 (“Counterclaim”), would respectfully show unto this Court as follows:

FOR A FIRST DEFENSE

1. Each and every allegation set forth in the Counterclaim and not hereinafter specifically admitted, qualified, or explained, is denied.

FOR A SECOND DEFENSE

2. Plaintiffs admit the allegations in Paragraphs 1 and 2 of the Counterclaim.
3. Plaintiffs, on information and belief, admit the allegations in Paragraph 3 of the Counterclaim.
4. Plaintiffs are without information sufficient to admit or deny the allegations of

Paragraph 4 and, therefore, deny same.

5. Answering Paragraph 5 of the Counterclaim, Plaintiffs respond and state that the allegations of this paragraph set forth legal conclusions and do not require a response. To the extent that a response could be required to the allegations of this Paragraph, Plaintiffs deny.

6. Answering Paragraph 6 of the Counterclaim, Plaintiffs respond and state that the allegations of this paragraph set forth legal conclusions and do not require a response. To the extent that a response could be required to the allegations of this Paragraph, Plaintiffs deny.

7. Answering Paragraph 7 of the Counterclaim, Plaintiffs admit the referenced Exhibit appears to be a verbatim copy of the same General Partnership Agreement that was the subject of the 2015-Litigation, and as further shown in the federal court docket at ECFN-014-1, filed on Nov. 9, 2015 in Civil Action No. 8:15-cv-03778-TMC, which was removed from Pickens County Common Pleas (Case No. 2015-CP-39-01006). Responding further, Plaintiffs would crave reference to pages 2-3 of the above-referenced ECFN-014-1 for a true and correct copy the subject General Partnership Agreement.

8. Answering Paragraph 8 of the Counterclaim, Plaintiffs would crave reference to pages 2-3 of the above-referenced ECFN-014-1 (filed in the federal court after removal) for a true and correct copy the subject General Partnership Agreement, and deny any allegations inconsistent with the same. Plaintiffs are without information sufficient to admit or deny any remaining allegations of this Paragraph and therefore, deny same.

9. Plaintiffs admit the allegations in Paragraph 9 of the Counterclaim, and would crave reference to the Death Certificate in the Pickens County Probate Case No. 2017-ES-39-00607, which states as follows: "ACTUAL OR PRESUMED DATE OF DEATH: SEPTEMBER 04,

2017,” and deny any allegations inconsistent with the same. Plaintiffs are without information sufficient to admit or deny any remaining allegations of this Paragraph and therefore, deny same.

10. Answering Paragraph 10 of the Counterclaim, Plaintiffs would crave reference to pages 2-3 of the above-referenced ECFN-014-1 (filed in the federal court after removal) for a true and correct copy the subject General Partnership Agreement, and deny any allegations inconsistent with the same. Plaintiffs are without information sufficient to admit or deny any remaining allegations of this Paragraph and therefore, deny same.

11. Answering Paragraph 11 of the Counterclaim, Plaintiffs would crave reference to the transcript of the referenced hearing and deny any allegations inconsistent with the same. Plaintiffs are without information sufficient to admit or deny any remaining allegations of this Paragraph and therefore, deny same.

12. Answering Paragraph 12 of the Counterclaim, Plaintiffs would crave reference to pages 2-3 of the above-referenced ECFN-014-1 (filed in the federal court after removal) for a true and correct copy the subject General Partnership Agreement, and deny any allegations inconsistent with the same. Plaintiffs are without information sufficient to admit or deny any remaining allegations of this Paragraph and therefore, deny same.

13. Answering Paragraph 13 of the Counterclaim, Plaintiffs would crave reference to Pickens County Probate Case No. 2017-ES-39-00607, and deny any allegations inconsistent with the same. Plaintiffs are without information sufficient to admit or deny any remaining allegations of this Paragraph and therefore, deny same.

14. Answering Paragraph 14 of the Counterclaim, Plaintiffs admit so much as alleges that the subject General Partnership Agreement, at Para. 4, *inter alia*, states, “The continuing

partner will pay 10% of net profits annually to the heirs / estate of the deceased partner on any contract involving the use of the Factor, and 10% gross from the sale of the Factor Technology.” Plaintiffs are without information sufficient to admit or deny any remaining allegations of this Paragraph and therefore, deny same.

15. Paragraph 15 is denied.

16. Answering Paragraph 16 of the Counterclaim, Plaintiffs would crave reference to pages 2-3 of the above-referenced ECFN-014-1 (filed in the federal court after removal) for a true and correct copy the subject General Partnership Agreement, and deny any allegations inconsistent with the same. Plaintiffs are without information sufficient to admit or deny any remaining allegations of this Paragraph and therefore, deny same.

17. Paragraph 17 is denied.

18. Paragraph 18 is denied.

19. Paragraph 19 is denied.

20. Paragraph 20 is denied.

FOR A THIRD DEFENSE AS TO ALL CAUSES OF ACTION

21. Each and every allegation set forth in the preceding Paragraphs are realleged and reincorporated as fully as if set forth verbatim herein.

22. The Counterclaim fails to state a claim upon which relief can be based and accordingly, Plaintiff is entitled to judgment as a matter of law pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

FOR A FOURTH DEFENSE AS TO ALL CAUSES OF ACTION

23. Each and every allegation set forth in the preceding Paragraphs are realleged and reincorporated as fully as if set forth verbatim herein.

24. Plaintiff asserts the doctrine of Laches as a complete or partial bar to Defendants' Counterclaim.

FOR A FIFTH DEFENSE AS TO ALL CAUSES OF ACTION

25. Each and every allegation set forth in the preceding Paragraphs are realleged and reincorporated as fully as if set forth verbatim herein.

26. Plaintiff asserts that whatever damages, if any, that were sustained by the Defendants are subject to a set-off against the substantial damages owed to Plaintiffs under their breach of contract related claims in this action.

FOR A SIXTH DEFENSE AS TO ALL CAUSES OF ACTION

27. Each and every allegation set forth in the preceding Paragraphs are realleged and reincorporated as fully as if set forth verbatim herein.

28. Plaintiff reserves the right to plead additional defenses as may arise in the course of discovery in this action.

Wherefore, having fully Answered these Defendants' Counterclaims, Plaintiffs pray that these Defendants' Counterclaims be dismissed, with costs and fees awarded to Plaintiffs; and for such other and further relief as this Court may deem just and proper.

Respectfully Submitted,

WESLEY D. FEW, LLC

s/Wesley D. Few/
Wesley D. Few, S.C. Bar No. 15565
Post Office Box 9398
Greenville, South Carolina 29604
(864) 527-5906 | wes@wesleyfew.com

ATTORNEYS FOR PLAINTIFFS CHRISTOPHER
YOUNG AND BIOTECH RESTORATIONS, LLC

September 28, 2021
Greenville, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
Christopher Young and Biotech Restorations, LLC,	)	Case No: 2019-CP-39-01224
	)	
Plaintiffs,	)	
vs.	)	PLAINTIFFS' MOTION FOR
	)	DEFAULT JUDGMENT AGAINST
Joanna Marie Paynter, a/k/a Joey Painter, Samantha	)	SAMANTHA P. NELSON
P. Nelson, and Paynter Consulting, LLC,	)	
	)	
Defendants.	)	
	)	

NOTICE IS HEREBY GIVEN, that the undersigned attorney for Plaintiffs Christopher Young and Biotech Restorations, LLC ("Plaintiffs"), pursuant to Rule 55(a) and (b)(2), hereby moves for an order for entry of a Default Judgment against Defendant Samantha P. Nelson, holding her in default and granting a Default Judgment in favor of Plaintiffs in an amount to be determined by the Court at any hearing deemed necessary by the Court, to include injunctive relief as requested and set forth in the Complaint.

This motion is based on the Affidavits and pleadings on record showing that Defendant Samantha P. Nelson was served with the Summons and Verified Complaint in this action on October 3, 2019, and failed to file an Answer within thirty (30) days of said service.

As set forth below, the undersigned sets forth under oath the timeline showing that this Defendant in fact received the Summons and Complaint, and engaged her family's former counsel to advocate false information to the undersigned in an effort to avoid the consequences of this lawsuit:

1. **September 11, 2019:** Plaintiffs file Summons and Verified Complaint;

2. **October 3, 2019:** Pursuant to Rule 4(d)(8), SCRCP, service was perfected by USPS Certified Mail, Restricted Delivery, on Defendant Samantha P. Nelson. See Christopher Young's Certificate of Service on Samantha P. Nelson, e-filed in this Court on November 13, 2019, at approximately 01:22:52 P.M.;
3. **October 10, 2019:** Eric K. Englehardt, Esquire, of the Greenville, South Carolina bar, approaches the undersigned in the midst of a mediation of a separate case, wanting to advocate and negotiate on behalf the Defendants, including a promise to accept service for all Defendants, which was not honored;
4. **October 11, 2019:** Mr. Englehardt¹ emails the undersigned as follows: "Good seeing you yesterday and enjoy the weekend. Do me a favor and give me a call next week on the Young matter;"
5. **October 15, 2019:** the undersigned replied to the above on October 15, 2019, as follows: "Just tried your office line on that other case, Young v. Paynter et al. Call me on my mobile tomorrow;"
6. **October 17, 2019:** the undersigned has an entry in his time records indicating a telephone conversation with Mr. Englehardt;
7. **October 15, 2019:** the undersigned replied to the above on October 15, 2019, as follows: "Just tried your office line on that other case, Young v. Paynter et al. Call me on my mobile tomorrow;"
8. **October 29, 2019:** The undersigned emails Mr. Englehardt, under the subject line of, "Subject: FYI - green card for Samantha Paynter was signed on 10/3," statnin the email

¹ Mr. Englehardt represented the Defendant Paynter Consulting, LLC in this action, in a prior lawsuit brought in this County in 2015, captioned as Paynter Consulting, LLC v. Biotech Restorations, LLC and Christopher Young, 2015-CP-39-01006.

as follows: "That should answer your question about service. ... I am talking with my client and he seems open to a new agreement with the daughters along the lines of the 10% share as set forth in the Partnership Agreement, perhaps ... as we discussed, you could be there to monitor for them;"

9. **October 29, 2019:** Mr. Englehardt responded mistaking the law on service, as follows:
"Signed by whom though. Isn't that the issue? If it was done by a green card, she has to personally sign it to be in compliance, doesn't she?;"
10. **October 29, 2019:** The undersigned responds to Mr. Englehardt as follows: "Her signature is on it. ... Printed Her name and signed;"
11. **October 29, 2019, at 2:28 P.M.:** Mr. Englehardt responded further, as follows: "Can you scan and email it to me?;"
12. **October 29, 2019, at 3:22 P.M.:** The undersigned responds to Mr. Englehardt, attaching the scanned copy of the green card signed by Samnatha P. Nelson on October 3, 2019 (identical to Plaintiff's filing in this Court dated November 13, 2019), and inquires as follows: "Did you get any information from your folks on their efforts to sell the field notes, etc.?.;"
13. **October 29, 2019, at 6:20 P.M.:** Mr. Englehardt responded, as follows: "Sam says neither is that her handwriting nor how she signs her name. Her father in law, Tommy Nelson, was the one who received the envelope and that is his handwriting. He says signed for it because the mailman told him he could. ... Do you need affidavits to those facts?;"

14. **October 30, 2019, at 8:41 A.M.:** The undersigned inquires of Mr. Englehardt, again copying the inquiry from the day before, as follows: “Did you get any information from your folks on their efforts to sell the field notes, etc.?”;
15. **October 30, 2019, at 9:44 A.M.:** Mr. Englehardt responded, as follows: “It is still my understanding that no attempts to sell anything have occurred since Valerie’s death (or really since she got really ill toward the end). ... I’m out of town Friday, so we need to figure out your position on service so I can preserve their rights on this;”
16. **October 30, 2019, at 10:15 A.M.:** The undersigned responded, as follows: “I’ll take Affidavit testimony on that ... ;-),” but no such Affidavit was provided until after Samantha P. Nelson and her sister obtained different counsel, Mr. LeBlanc, *see* below, and after the undersigned filed his Affidavit of Default in this matter on January 7, 2020;
17. **October 30, 2019, at 10:17 A.M.:** Mr. Englehardt responded, as follows: “It sounded legit to me, but what do I know. ... Let me know about the service;”
18. **October 30, 2019, at 10:22 A.M.:** The undersigned responded, as follows: “Cracks me up your folks want to give Affidavits on allegedly inadequate service but not on the facts ...;”
19. **October 30, 2019, at 4:03 P.M.:** Mr. Englehardt responded, as follows: “Thanks for the call a few minutes ago. This will confirm that if our clients haven’t come to some agreement by early next week, I’ll accept service for them and the clock can begin running. I’ve passed along your thoughts about ... the agreement. As soon as I hear from them I’ll be in touch, though note I’m in New York from Friday morning until Monday afternoon;”

20. **November 7, 2019:** The undersigned sent a text and an email to Mr. Englehardt, as follows: “Hey boss, just checking in on that acceptance of service. I have held off on moving fwd based on what we had discussed, do you need us to send one over ??;”
21. **November 7, 2019:** The undersigned emails Mr. Englehardt, as follows: “Attached is the proposed Acceptance of Service in MS Word and PDF. ... Please sign this and return to us for filing, or maybe you can just e-file it. ... I will grant a 30 day extension of time, so we will have 60 days to try and get an agreement worked out, but I cannot let the time continue to pass without getting jurisdiction over the Defendants, which will be necessary to do a consent injunction anyway.”
22. **November 8, 2019:** Mr. Englehardt responded, as follows: “I’ve been tied up and just had a chance to look at this. Regarding your email, I want to make sure we’re on the same page. Accepting service will start the clock, but it doesn’t mean that they are consenting to jurisdiction. Obviously, if they agree to your terms on an injunction this point is moot, but I did want to make sure we agree on that. ... Also, I want to make sure my accepting service on their behalf doesn’t count as an appearance in the litigation as their counsel. My agreement with them is to help them handle service and perhaps a resolution outside of the litigation arena, but that I will not be counsel in the litigation;”
23. **On or after November 8, 2019:** The undersigned communicated with Mr. Englehardt to convey point that there never was any conditions placed on the negotiations for him to accept service, for example, related to jurisdiction, as requested for the first time in his emails of Nov. 8, 2019, quoted above;
24. **November 13, 2019:** The undersigned files the Plaintiffs’ Proof of Service (signed green card, return receipt, restricted delivery) of Defendant Samantha P. Nelson;

25. **January 6, 2020:** Steve LeBlanc, Esquire, of the Greenville, South Carolina bar, emails the undersigned out of the blue, advising, as follows: “Wes, ... It looks like I’ll be representing Joey Paynter and Samantha Nelson in this matter. I don’t believe the corporate entity still exists, but if it does, I’ll represent it as well. I understand various efforts have been made to serve my clients, but my clients did not sign for any of the mailed pleadings. I can accept service for my clients. ... I’ve done some bioremediation work for other clients before. If the technology works as advertised, it has substantial value worldwide. We should probably discuss the merits of the asserted claims and your clients’ interest in purchasing the technology before proceeding further. Otherwise, I’ll proceed with a motion to dismiss and find another buyer. ... I’ll be in the office later today. ... -Steve;”
26. **January 6-7, 2020:** The undersigned speaks to Mr. LeBlanc, and inquires about the previous factual position advocated by Mr. Englehardt on behalf of the Defendant Paynter sisters, namely that they did not have anything from Paynter Consulting, LLC, had never tried to sell anything, etc. etc. etc. (*see e.g.*, Oct. 30, 2019 email of 9:44 A.M., quoted above). The response received by the undersigned was that the Paynter sisters admitted they had lied to Mr. Englehardt all along;
27. **January 7, 2020:** The undersigned prepares and files his first Affidavit of Default of Defendant Samantha P. Nelson, along with the required proposed order;
28. **January 10, 2020:** The proposed order of default was denied, according to the NEF record in the Court’s docket, because: “Does not include Affidavit of Non-Military Service;”

29. **Sometime between January 7-14, 2020:** Prior to filing a Notice of Appearance, or Answer, or doing anything on the record as counsel to the Defendants, Mr. LeBlanc inquires of the undersigned about this case, the undersigned advises he has filed to put Defendant Samantha P. Nelson in default;
30. **January 14, 2020:** As best the undersigned can recall based on the signature dates on the Declarations, Mr. LeBlanc provides Defendant Samantha P. Nelson and her father-in-law's un-notarized Declarations to the undersigned. In response, the undersigned recalls he inquired if the Declarations were going to be filed;
31. **January 15, 2020, at 10:20 A.M.:** Defendant Samantha P. Nelson and her father-in-law file Affidavits with this Court setting forth what is apparently their rationale for why service was not perfected on her by the signing and returning of the green card with her signature on it on Oct. 3, 2019;
32. **January 15, 2020, at 3:49 P.M.:** The undersigned prepares and files his Amended Affidavit of Default of Defendant Samantha P. Nelson, addressing the lack of any Military Service by Defendant Nelson, and also, as recalled, with a new proposed order, also addressing the lack of Military Service, which was the only known reason for not having the default entered on Jan. 10, 2020;
- a. No action has been taken on this second Affidavit by the Court;
33. **January 28, 2020:** 117 days after being served on October 3, 2019, and approximately 110 days after having contacted and engaged Mr. Englehardt to represent her and her sister in this matter, Defendant Samantha P. Nelson and her sister Defendant Joanna Marie Paynter (but not Paynter Consulting, LLC), file an Answer to the Plaintiffs'

Complaint, and Mr. LeBlanc's office purports to hand delivered their first set of discovery requests to the undersigned.

Based upon the Court's record as set forth in the record and as summarized and supplemented above in Paras. 1-33, the Defendant Samantha P. Nelson was and is in default, as her Answer is filed out of time, as set forth in the undersigned Affidavits. Still further, nothing in the un-notarized Declarations of Defendant Samantha P. Nelson or her father-in-law, even if assumed to be entirely factual and accurate, establishes that service was not perfected on October 3, 2019, under S.C. R. Civ. Rule 4(d)(8) and / or in the alternative under Rule 4(d)(9).

WHEREFORE, Plaintiffs Christopher Young and Biotech Restorations, LLC, request entry of default and a Default Judgment entered against Defendant Samantha P. Nelson and a hearing or whatever further proceeding deemed necessary be set by the Court to determine and order Plaintiffs' damages as against this Defendant.

WESLEY D. FEW, LLC

s/Wesley D. Few/
Wesley D. Few, S.C. Bar No. 15565
Post Office Box 9398
Greenville, South Carolina 29604
(864) 527-5906 | wes@wesleyfew.com

ATTORNEYS FOR PLAINTIFFS
CHRISTOPHER YOUNG AND BIOTECH
RESTORATIONS, LLC

Greenville, South Carolina

February 5, 2020

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
	)	Case No: 2019-CP-39-01224
Christopher Young and Biotech Restorations, LLC,	)	
	)	PLAINTIFFS' MEMORANDUM
Plaintiffs,	)	IN SUPPORT OF DEFAULT
vs.	)	JUDGMENT AS AGAINST
	)	SAMANTHA P. NELSON (AND
Joanna Marie Paynter, a/k/a Joey Painter, Samantha	)	PAYNTER CONSULTING, LLC)
P. Nelson, and Paynter Consulting, LLC,	)	
	)	
Defendants.	)	
	)	

Plaintiffs Christopher Young and Biotech Restorations, LLC ("Plaintiffs"), submit this memorandum in support of their Motion for Default Judgment against Samantha P. Nelson ("Motion"), filed February 5, 2020.¹

OFFICERS OF THE COURT

1. Officer Joanna M. Paynter (Personal Representative, Case No. 2017-ES-39-00607) - As shown by **Exhibit A** to this Memorandum, Petitioners' Christopher Young and Biotech Restorations, LLC's Petition for Subsequent Administration, Removal of Personal representative, and Appointment of Special Administrator, at ¶¶'s 26-27, Joanna Marie Paynter applied to be the Personal Representative of her mother's estate on September 26, 2017. By applying and being appointed Personal Representative, she volunteered to become an Officer of

¹ This Motion was continued from a hearing scheduled for February 28, 2020, as the parties believed an agreement to resolve the Motion was achieved on February 27, 2020.

the Court.² Joanna Paynter also submitted to the jurisdiction of the South Carolina courts for any matters related to her *ex parte* probate of the estate. Ex. A, Petition at ¶ 27.

As an Officer of the Court, Joanna Marie Paynter, acting in concert with her younger sister, Defendant Samantha P. Nelson, the only other heir to their mother's estate, knowingly and intentionally withheld their mother's most valuable asset, Paynter Consulting, LLC. This is shown at ¶ 5 of the lawsuit filed by Paynter Consulting, LLC, on August 17, 2015 (2015-CP-39-01006, removed as 8:15-cv-03778-GRA-TMC), and its Factor Technology,³ also known to, possessed, and identified by Mr. LeBlanc in this action as the "technology." Motion at 25.

As further shown by Mr. LeBlanc's introductory email to the undersigned in this case, dated January 6, 2020, these sisters knew all along that the Paynter Consulting, LLC "Factor Technology" / "technology," was extremely valuable. Evidence will be presented that Joanna M. Paynter intended to use the funds from the sale of this "Factor Technology" / "technology," to create a spiritual retreat in California.

In the attached Petition filed with the Probate Court on Friday, April 24, 2020, the undersigned conservatively estimates and states the value of the "Factor Technology" / "technology," to be in excess of **\$1,000,00.00**. On information and belief, Valerie A. Paynter and

² See e.g., Boyd v. Richie, 159 S.C. 55, 58, 155 S.E. 844, 845 (1930) (stating, "Why, the only statutory trustee we have here is the administratrix and she is an officer of the Court. If it be otherwise, then such statutory trustee of this fund is not an officer but an unsworn, unbonded private person who played the part of an officer of the Court in exercising the power to collect and ipso facto becomes a private person to distribute funds in his official hands." (emphasis added)).

³ Id. at ¶ 5, stating, "5. Paynter Consulting, LLC, owns a proprietary biochemical formula used to remediate soil pollution known as "The Factor." Paynter Consulting is owned by Valerie Paynter, a retired Clemson University professor. The formula Paynter developed has broad implications for soil remediation at seriously polluted sites. The Factor can be customized to address the needs of various remediation projects based on soil conditions, contaminant type and contaminant level, among other criteria." (underlining emphasis added).

Joanna M. Paynter rejected an offer in excess of this amount prior to her passing on September 4, 2017.

As an Officer of the Court, Joanna M. Paynter perpetrated fraud on the Probate Court.

2. Officer Eric K. Englehardt, Esquire, Counsel to Paynter Consulting, LLC (Case No. 2015-CP-39-01006) – Mr. Englehardt has submitted an Affidavit / Declaration in this matter, dated April 24, 2020, which has been filed with the Court by Defendants.

The undersigned has set forth a detailed chronology of his communications with Mr. Englehardt, starting on October 10, 2019. Plaintiffs would respectfully reference here the Plaintiff's Motion at ¶¶'s 3-26. As the undersigned reads the Declaration from Englehardt, he has not disputed the undersigned's account of the facts of their communications as set forth in the Motion. Still further, neither Mr. Englehardt nor the Defendant Samantha P. Nelson ever contended that her father-in law was not "authorized" to sign for her to receive packages in the mail. Graham Law Firm, P.A. v. Makawi, 396 S.C. 290, 295, 721 S.E.2d 430, 433 (2012) (stating, "[w]hen the civil rules on service are followed, there is a presumption of proper service.' (citations omitted). Once the plaintiff has demonstrated compliance with the rules, the defendant can rebut an inference that service was effected only by showing 'that the return receipt was signed by an unauthorized person.'" (citing Rule 4(d)(8), SCRCPP) (underlining emphasis added)).

In fact, Defendant Nelson describes the subject service address as her "home," (Nelson Decl. at ¶ 3). There is also no doubt that she received the filed Summons and Complaint on or before October 10, 2019. There is also no doubt she and her sister contacted Mr. Englehardt on or before October 10, 2019, when he first began speaking to the undersigned about the case at a

mediation the two of us were participating in at the Upstate Mediation Center, 27 Cleveland Street, Suite 101, Greenville, South Carolina 29605. Motion, at ¶ 3.

For purposes of this motion, some of the most important communications with Mr. Englehardt, of those that are in writing, is set forth in the Motion at ¶¶'s 16-18. In this dialogue amongst Officers of the Court, the Paynter sisters had engaged Mr. Englehardt to “advocate” unwittingly and fraudulently to the undersigned Officer of the Court that the Defendant sisters did not have anything related to the Factor Technology, or the “technology,” as later referred to by Mr. LeBlanc.

Notably, as set forth in the Motion at ¶¶'s 16-18, the sisters engaged with Mr. Englehardt to provide false information to use in his “negotiations” with Mr. Few. In his own words to advise Plaintiffs they “ought to dismiss the case.” Englehardt Decl. at ¶ 3. When Mr. Englehardt refers to settlement negotiations in his Declaration at ¶¶'s 6, 7, and 9, those discussions centered around the sisters accepting a default judgment or consenting to judgment / injunction, and the jurisdiction of this Court. Motion, at ¶ 21 (referencing a “consent injunction”).

The undersigned filed the green card of Samantha P. Nelson on November 13, 2019, making it available for anyone with Internet access to discover by searching under Case Records Search at www.sccourts.org, as every licensed attorney in South Carolina knows how to do and does on an almost daily basis, if they practice / litigate in the Court of Common Pleas.

3. Steven R. LeBlanc, Esquire, Counsel to Defendants (Case No. 2019-CP-39-01224)

- As shown in Plaintiffs’ Motion at ¶ 25, the undersigned was shocked to learn that the “story” he had been previously provided by the sisters via Officer Englehardt was *not factually accurate*. In fact, the sisters have had the “technology,” a/k/a the “Factor Technology,” all along. And, as of

January 6, 2020, the “technology” is represented to have “substantial value worldwide” by Mr. LeBlanc in his introductory email. *Id.* at ¶¶’s 25-26 (the undersigned noting he was told the “sisters admitted they lied to Mr. Englehardt all along”).

This was another attempt to defraud the Court via use of Officers of the Court.

On February 27, 2020, the undersigned emailed Mr. LeBlanc to remind him that he has represented to the undersigned, as follows: “You have already represented to me that YOU are in possession of the trade secret.”

CONCLUSION

For the reasons set forth above and in the Plaintiffs’ Motion, Plaintiffs would respectfully ask that the Motion be granted and that the relief sought as against the sisters and Paynter Consulting, LLC,⁴ be granted, as was the desire of Valerie A. Paynter when she hired counsel in May of 2006 to revise Paragraph 4 of the existing General Partnership Agreement to add in the 10% provision in benefit of her heirs.⁵

[signature on next page]

⁴ Despite the statement in his email dated Jan. 10, 2020 (Motion at ¶), and despite Mr. Few’s friendly offer to wager to Mr. LeBlanc that will end up representing the LLC, Mr. LeBlanc has adamantly refused to represent Paynter Consulting, LLC, despite his client, Joanna M. Paynter, having filed to “dissolve” it on January 21, 2020, identifying her role as its “Fiduciary.” Accordingly, Plaintiffs would respectfully request that Paynter Consulting, LLC also be subject to a default judgment. Attached here as **Exhibit B**.

⁵ *See e.g.*, ECFN-014-1, Exhibit A to Defendants’ Reply in Support of Motion to Compel Arbitration in removed federal case, 8:15-cv-03778-TMC. Attached here as **Exhibit C**. The revisions proposed by Valerie A. Paynter and Paynter Consulting, LLC in this May 23, 2006 email, are identical to the General Partnership Agreement that Paynter Consulting, LLC, put at issue in the 2015-Litigaton, known as 2015-CP-39-01006, and removed as 8:15-cv-03778-TMC. *See e.g.*, ECFN-010-1, Exhibit A to Defendants’ Motion to Compel Arbitration in removed federal case, 8:15-cv-03778-TMC. Attached here as **Exhibit D**.

Respectfully Submitted,

WESLEY D. FEW, LLC

s/Wesley D. Few/
Wesley D. Few, S.C. Bar No. 15565
Post Office Box 9398
Greenville, South Carolina 29604
(864) 527-5906 | wes@wesleyfew.com

ATTORNEYS FOR PLAINTIFFS
CHRISTOPHER YOUNG AND BIOTECH
RESTORATIONS, LLC

Greenville, South Carolina

April 28, 2020

Table of Exhibits

- Ex. A** – Verified Petition for Subsequent Administration, Removal of Personal Representative, and to Appoint Special Administrator, filed April 24, 2020, *In re: Valerie A. Paynter*, 2017-ES-39-00607;
- Ex. B** - January 21, 2020, Articles of Termination / dissolution filed with S.C. secretary of State, by Fiduciary, Joanna Paynter (Personal Representative, *In re: estate of Valerie A. Paynter*, 2017-ES-39-00607);
- Ex. C** - Email from Valerie A. Paynter, May 23, 2006, with attached red-line of proposed (and accepted) revisions to General Partnership Agreement (filed as ECFN-014-1 in removed federal case, 8:15-cv-03778-TMC, on Nov. 9, 2015); and
- Ex. D** - May 30, 2006 General Partnership Agreement (filed as ECFN-010-1 in removed federal case, 8:15-cv-03778-TMC, on Nov. 9, 2015)

WESLEY D. FEW, LLC

Attorney at Law

P.O. Box 9398, Greenville, South Carolina 29604

www.wesleyfew.com | wes@wesleyfew.com

O: 864-527-5906 | M: 864-404-7792

April 24, 2020

Via U.S. Mail, Hand Delivery and/ or Email

Probate Court
Pickens County Administration Facility
222 McDaniel Avenue, B-16
Pickens, SC 29671

RE: Christopher Young and Biotech Restorations, LLC (Petitioners)
Joanna Marie Paynter (Respondent)
C/A No.: 2017-ES-39-00607
Our File No.: 00277-001

To Whom It May Concern:

Enclosed please find two copies of Petitioners Christopher Young and Biotech Restorations, LLC's Verified Petition for Subsequent Administration, Removal of Personal Representative, and to Appoint Special Administrator, Form 334ES, with Summons and Certificate of Service for same. Also enclosed is check number 2467 in the amount of \$150.00 for the filing fee. We have enclosed a self-addressed, postage paid envelope to return us a file-stamped copy of the filed documents.

Should you have any questions or concerns please feel free to call me at 864-527-5906.

Sincerely,



Wesley D. Few

WDF/hdq
Enclosures

CC: Client (*via email only*)
Steven R. LeBlanc, Esq.
American Express
Wells Fargo Bank, N.A.
Citi Bank, N.A.
Joanna M. Paynter, as Personal Representative

STATE OF SOUTH CAROLINA

COUNTY OF: PICKENS

IN THE MATTER OF:

VALERIE ANNE PAYNTER, and Joanna Marie
Paynter, Personal Representative

☒ Decedent ☐ Alleged Incapacitated Individual

Christopher W. Young, and Biotech Restorations,
LLC,

Petitioner(s),

vs.

Joanna Marie Paynter, as Personal
Representative of Decedent's estate

Respondent(s).*

IN THE PROBATE COURT
CASE NUMBER 2017-ES-39-00607

▲ PROBATE COURT USE ONLY ▲

SUMMONS

*For Guardianship/Conservatorship matters, you must include the alleged incapacitated individual as a Respondent.

TO THE RESPONDENT(S) LISTED ABOVE:

YOU ARE HEREBY SUMMONED and required to Answer the Petition in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer upon the Petitioner(s) listed above at the following address(es):

Please Type or Print.

Wesley D. Few, Esquire, as Counsel to Petitioners Christopher Young and
Biotech Restorations, LLC

(Name of Petitioner/Attorney for Petitioner)

P.O. Box 9398

(Street Address or Mailing Address)

Greenville, South Carolina 29604

(City, State, and Zip Code)

Your Answer must be served on the Petitioner at the above address within **thirty (30) days** after the service of this Summons and Petition upon you, exclusive of the day of such service; and if you fail to answer the Petition within that time, judgment by default will be rendered against you for the relief demanded in the Petition.

Date: April 24, 2020

Greenville, SC

Signature of Petitioner(s)/Attorney for Petitioner(s)

S.C. Bar No. 15565

864-527-5906

wes@wesleyfew.com

STATE OF SOUTH CAROLINA)

IN THE PROBATE COURT)

COUNTY OF: PICKENS)APPLICATION/*PETITION FOR
SUBSEQUENT ADMINISTRATION

IN THE MATTER OF:)

VALERIE ANNE PAYNTER)

CASE NUMBER: 2017-ES-39-00607

(Decedent))

***ONLY COMPLETE THIS SECTION IF FILING
PETITION FOR SUBSEQUENT ADMINISTRATION**

*Christopher Young and Biotech Restorations, LLC

Petitioner(s)

vs.

*Joanna Marie Paynter as previous PR to Decedent's
estate

Respondent(s)

☐ INFORMAL☒ *FORMAL

The undersigned states as follows:

1. Subsequent administration of the above Estate is needed because:

☒ The following additional property in the above estate has been discovered. A description of the property and its approximate value at the date of Decedent's death is: **PAYNTER CONSULTING, LLC, valued by Decedent and Personal Representative well in excess of \$1,000,000.00, *inter alia*, other undisclosed personal property, including but not limited to accounts, vehicles, boats and / or boat motors. See attached PETITION FOR SUBSEQUENT ADMINISTRATION, REMOVAL OF PERSONAL REPRESENTATIVE, AND TO APPOINT SPECIAL ADMINSTRATOR.**

☐ Other reason: _____

- 2.
- ☐
- I served as Personal Representative under the previous administration and fiduciary bond requirement:

- ☐ was waived by Decedent's Will
☐ was waived pursuant to the filing of Waivers of Bond
☐ was waived by the Court
☐ was required and an appropriate bond is attached

☒ I did not serve as Personal Representative under the previous administration; my priority for this appointment is:

- ☐ named as Primary Personal Representative in Will
☐ named as Alternate Personal Representative in Will
☐ nominee of above Primary Personal Representative in Will
☐ nominee of above Alternate Personal Representative in Will
☐ surviving spouse of Decedent who is devisee of Decedent or nominee of said spouse
☐ other devisee of Decedent (describe): _____ or nominee of said devisee
☐ surviving spouse of Decedent or nominee of said spouse
☐ other heir of Decedent (describe): _____ or nominee of said heir
☐ creditor (Forty-five (45) days after death must have passed) or nominee of creditor; written statement of claim, FORM 371ES, is attached – see previously filed form 371ES
☒ other (describe): **Business partner in May 30, 2006 General Partnership Agreement with Decedent's company, P, providing for continuation of business and 10% distribution to heirs. Personal Representative attempting to sell Partnership assets, not disclosed in Informal probate of estate.**

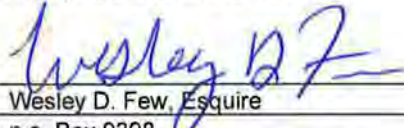
***NOTE: IF THIS IS A FORMAL PROCEEDING, IN ADDITION TO A PETITION, YOU MUST ALSO FILE A SUMMONS (FORM SCCA 401PC), AND PAY THE STATUTORY FILING FEE OF \$150.00. A HEARING IN THE PROBATE COURT ON THE PETITION MAY BE REQUIRED.**

VERIFICATION

The undersigned, being sworn, states that the facts set forth in the foregoing statements are true to the best of the undersigned's knowledge, information and belief; and hereby submits to the Court's jurisdiction in this matter.

SWORN to before me this 24th day
April, 20 20

Notary Public for South Carolina
My Commission Expires: _____

Signature: 
Print Name: Wesley D. Few, Esquire
Address: p.o. Box 9398
Greenville, South Carolina 29604
Telephone (Work): 864-527-5906
(Home): _____
(Cell): _____
Email: wes@wesleyfew.com
Relationship to Decedent/Estate: Attorney for Petitioners

ORDER FOR HEARING

IT IS HEREBY ORDERED that a hearing on this matter be set for:

DATE: _____
TIME: _____
PLACE: _____

Pursuant to SCPC 62-1-401, Petitioner is ordered to give notice of this hearing to all interested persons at least twenty (20) days prior to the hearing.

Executed this _____ day of _____, 20 ____.

David K. Allison, Probate Court Judge

ORDER FOR SUBSEQUENT ADMINISTRATION

IT IS HEREBY ORDERED that be appointed Personal Representative to administer property not previously administered as indicated in the above application/petition.

- ☐ Bond previously waived
☐ Previous bond waivers on file
☐ Other: _____

Executed this **24th** day of **April**, **2020**.

David K. Allison, Probate Court Judge

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Personal Representative of this estate and to submit to the Court's jurisdiction in this matter.

Signature: _____

Print Name: _____

Address: _____

Telephone (Work): _____

(Home): _____

(Cell): _____

Email: _____

Attorney: _____

Address: _____

Telephone: _____

Email: _____

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF PICKENS	)	13 TH JUDICIAL CIRCUIT
	)	
IN RE: Valerie Anne Paynter, and Joanna Marie Paynter, Personal Representative,	)	Case No: 2017-ES-39-00607
	)	
Christopher W. Young, and Biotech Restorations, LLC,	)	CHRISTOPHER YOUNG AND BIOTECH RESTORATIONS, LLC'S
	)	<u>VERIFIED</u> PETITION FOR
Petitioners,	)	SUBSEQUENT ADMINISTRATION,
	)	REMOVAL OF PERSONAL
v.	)	REPRESENTATIVE, & TO APPOINT
	)	SPECIAL ADMINISTRATOR
Joanna Marie Paynter, Personal Representative of Decedent's estate,	)	
	)	
Respondent.,	)	
	)	

TO: RESPONDENT: JOANNA M. PAYNTER, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF VALERIE ANNE PAYNTER, 24440 KATHLEEN DRIVE, LAGUNA NIGUEL, CALIFORNIA 92677, AND / OR 26571 DAPPLE GREY DRIVE, LAGUNA HILLS, CALIFORNIA 92653; AND STEVEN R. LEBLANC, ESQUIRE, P.O. BOX. 9198, GREENVILLE, SOUTH CAROLINA 29604, ATTORNEYS FOR JOANNA MARIE PAYNTER;

CREDITORS: (i) ELIZABETH HANSEN, PHILLIPS & COHEN ASSOCIATES, LTD. ON BEHALF OF CITIBANK, N.A., 1004 JUSTISON STREET, WILMINGTON DELAWARE 19801; PCAclaimfiling@phillips-cohen.com, CLAIM AMOUNT: \$16,915.72, DISALLOWED;

(ii) IMILIE BUDIASA, AMERICAN EXPRESS, PO BOX 1338, REYNOLDSBURG, OHIO 43068, (855) 807-3212, CLAIM AMOUNT: \$8,320.20, COMPROMISED AND PAID AT 10%, AT \$832.02, and

(iii) SHERRY L MYRTLE, WELLS FARGO BANK, N.A., OPERATION PROCESSOR, MAC #2505-02W, P.O. BOX 10438, DES MOINES, IA 50306-0438, CLAIM AMOUNT: \$14,812.24, WITHDRAWN.

YOU WILL PLEASE TAKE NOTICE that Petitioners Christopher Young ("Young") and Biotech Restorations, LLC ("Biotech") (hereafter collectively "Petitioners"), by and through their undersigned attorneys, will move before this Honorable Court, as soon as the matter may be heard, pursuant S.C. Rules of

Probate Court, Rule 2, SCRPC, S.C. Code Ann. § 62-3-1005,¹ and under the principles set forth in S.C. Rules of Civil Procedure Rule 60(b)(1) and (3), SCRCP, to grant relief from the March 25, 2019 Order Closing Estate, specifically for Subsequent Administration of the Estate, Removal of the Personal Representative, and Appointment of a Special Administrator.

Grounds for this Petitions include fraud, misrepresentation and inadequate disclosure of assets of the Decedent having “substantial worldwide value,” as set forth herein, by the Personal Representative and / or her agents, specifically with respect to Decedent’s company, Paynter Consulting, LLC.

The following facts and information in support of these Petitions are attempted to be set forth in a timeline, with information taken from publicly filed documents, as Verified by Petitioner Christopher W. Young, and / or matters for which the undersigned as an Officer of the Court has personal knowledge or believes to be true, and / or as will be proven in discovery in any necessary pending action,² and / or in any hearing before this Court:

1. On or about **November 19, 2004**, Decedent Valerie Anne Paynter and Petitioner Chris Young each signed a Joint Venture Agreement, and began doing business together as partners, splitting profits on a 50/50 basis.

¹ Section 1005 provides: “Unless previously barred by adjudication and except as provided in any accounting, the rights of successors and of creditors whose claims have not otherwise been barred against the personal representative for breach of fiduciary duty are barred unless a proceeding to assert the same is commenced within six months after the filing of the application for settlement of the estate, required by Section 62-3-1001. The rights thus barred do not include rights to recover from a personal representative for fraud, misrepresentation, or inadequate disclosure related to the settlement of the decedent's estate.”

² The undersigned is counsel to the Plaintiffs in that certain civil action filed on September 11, 2019 in Pickens County, known as Chris Young and Biotech Restorations, LLC, v. Joey Painter, Samantha Paynter, and Paynter Consulting, LLC, 2019-CP-39-01224 (hereafter the “2019-Lawsuit”)

2. On or about **November 23, 2005**, Chris Young formed Biotech Restorations, LLC, including by filing at the Office of the North Carolina Secretary of State.
3. On or about **January 10, 2006**, Decedent Valerie Anne Paynter and Chris Young signed that certain General Partnership Agreement.
4. This first said General Partnership Agreement stated in Para. 4, as follows:
 4. Term - The partnership shall commence on and continue until dissolved by mutual agreement of the partners. The partnership will terminate upon the death or incapacity of a partner. Any outstanding revenues or revenues anticipated from projects under contract at the time of a death or incapacity will be paid to the partner's designated beneficiary. In the event of a death of a partner, the remaining partner has the right to continue the business of the partnership by themselves or in conjunction with any other persons they may select.
5. On or about **May 30, 2006**, Decedent Valerie Anne Paynter for herself and / or for her newly formed limited liability company known as Paynter Consulting, LLC, and Chris Young for himself and / or for his limited liability company known as Biotech Restorations, LLC, signed a second General Partnership Agreement, on information and belief, prepared for Decedent and Paynter Consulting, LLC, by her legal counsel, Memminger Wiggins, Esq., of the South Carolina bar.
6. This second said General Partnership Agreement included modifications made by legal counsel to Paynter Consulting, LLC, including an additional sentence in Para. 4, as follows with red text and underlining added for emphasis:
 4. Term - The Partnership shall commence on and continue until dissolved by mutual agreement of the partners. The Partnership will terminate upon the death or incapacity of a partner. Any outstanding revenues or revenues anticipated from projects under contract at the time of a death or incapacity will be paid to the partner's designated beneficiary. In the event of a death of a partner, the remaining partner has the right to continue the business of the Partnership by themselves or in conjunction with any other persons they may select. The continuing partner will pay 10% of net profits annually to the heirs / estate of the deceased partner on any contract involving the use of. the Factor. and 10% gross from the sale of the Factor Technology.
7. During term of the Partnership between Paynter Consulting, LLC and Biotech

Restorations, LLC, over two dozen client funded bench scale studies were performed, and subsequent commercial sales of the Factor Technology were made resulting in Partnership payments to Paynter Consulting, LLC and its sole owner, Valerie A. Paynter of approximately one million dollars (\$1,000,000).

8. On or about **May 4, 2015**, the parties participated in a settlement conference / mediation.
9. The Personal Representative of the Decedent's estate, Joanna Marie Paynter, attended the mediation and participated in it on behalf of the Plaintiff to the 2015-Lawsuit, Paynter Consulting, LLC, owned and controlled by her mother, Decedent Valerie A. Paynter.
10. In spite of the provisions to the May 30, 2006 General Partnership Agreement added in by legal counsel to Paynter Consulting, LLC, the Decedent, Valerie A. Paynter, and her daughter, Personal Representative, Joanna Marie Paynter, on behalf of Paynter Consulting, LLC were requesting that Paynter Consulting, LLC be paid millions of dollars for the Factor Technology.
11. On or about **August 17, 2015**, Decedent Valerie Anne Paynter through her counsel and through her LLC known as Paynter Consulting LLC, filed that certain lawsuit known as *Paynter Consulting, LLC v. Biotech Restorations, LLC and Christopher Young*, 2015-CP-39-01006 (hereafter the "2015-Lawsuit").
12. In Paynter Consulting, LLC's 2015-Lawsuit, the May 30, 2006 General Partnership Agreement is referenced throughout the Complaint, including at ¶¶'s 4, 6-19, 11-14, 30-39, 41, 43-44, 47-48, 50-51, 53, 55-56, 59-60, 64, 71, 73, 77, 80-81, and the prayer for relief on pages 15-16 of said Complaint.
13. At Paragraph 5 of its 2015-Lawsuit, Paynter Consulting, LLC, alleged:
 5. Paynter Consulting, LLC, owns a proprietary biochemical formula used to remediate

soil pollution known as "The Factor." Paynter Consulting is owned by Valerie Paynter, a retired Clemson University professor. The formula Paynter developed has broad implications for soil remediation at seriously polluted sites. The Factor can be customized to address the needs of various remediation projects based on soil conditions, contaminant type and contaminant level, among other criteria.

14. On or about **September 21, 2015**, Paynter Consulting, LLC's 2015-Lawsuit was removed to federal court, and assigned Case No. 8:15-cv-03778-GRA, later known as 8:15-cv-03778-TMC.
15. During the pendency of the 2015-Lawsuit, Paynter Consulting, LLC and Petitioners here engaged John E. Gibson, Jr., CPA/ABV, CVA with Elliott Davis Decosimo, LLC to review certain documents submitted by the parties to prepare a written report of their findings and conclusions relating to the accounting of the partnership.
16. On or about **February 16, 2016**, the federal court ordered that Paynter Consulting, LLC's 2015-Lawsuit be sent to arbitration.
17. On or about **April 11, 2016**, Paynter Consulting filed its Motion to Dismiss, stating, *inter alia*, as follows:

Plaintiff still believes its allegations are supported by the evidence and applicable law in this dispute. However, due to the costs of this litigation to date as well as prospective attorney's fees and the costs in retaining an arbitrator or arbitrators to resolve this dispute, respectfully moves this Court for dismissal pursuant Fed. R. Civ. P. 41(a)(2).
18. On or about **May 9, 2016**, the 2015-Lawsuit was dismissed without prejudice.
19. Prior to Decedent's passing, despite the provisions placed into the General Partnership Agreement by Paynter Consulting, LLC and its attorneys, Valerie and Joanna Paynter on behalf of Paynter Consulting, LLC, solicited selling the "Factor," or the "trade secret" to third-parties. On information and belief, their asking price was in the millions of dollars, therefore, showing that Joanna Paynter knew that Paynter Consulting, LLC, was her mother's most valuable asset.

20. On information and belief, Joanna Paynter wanted a large amount of money from the sale of The Factor that she intended to use to build a spiritual retreat in California.
21. On **September 4, 2017**, Valerie Anne Paynter passed away (*See e.g.*, Death Certificate in this Court's file, dated September 7, 2017, and listing Joanna Paynter as the "Informant").
22. At the time of her passing, The Personal Representative and her sister knew or should have known that Decedent held ownership interests in at least the following assets / property:
 - a. her **residence** address at 200 Valley View Drive, Clemson, South Carolina 29631;
 - b. **Pavnter Consulting, LLC**, and its related property, including but not limited to as shown in the Pickens County Tax Records at Tax Receipt No. 057988-17-4, paid on or about **February 14, 2018**;
 - c. Paynter Consulting, LLC bank accounts at Wells Fargo Bank, N.A.;
 - d. on information and belief, a 2000 Toyota;
 - e. on information and belief, a 2010 Toyota;
 - f. on information and belief, household belongings such as furniture, clothes, jewelry and the like, on information and belief having value as will be shown in her insurance records;
 - g. on information and belief, a boat and / or a boat motor; and
 - h. on information and belief, other accounts and / or assets as will be revealed in discovery.
23. On or about **September 14, 2017**, on information and belief, either Joanna Paynter or her sister or some other person(s) acting under the direction of one or both of Joanna M. Paynter and / or Samantha P. Nelson, withdrew all the money that was in the Checking

Account ending in '7740 at Wells Fargo Bank, N.A., in the name of Paynter Consulting, LLC (Wells Fargo Bank, N.A. subpoena response provided February 28, 2020).

24. On or about **September 26, 2017**, Joanna M. Paynter signed and filed her Personal Representative Oath in this Court.
25. On or about **September 26, 2017**, Joanna M. Paynter signed and filed her Application for Informal Probate of Will and Appointment as Personal Representative Oath in this Court.
26. On or about **September 26, 2017**, this Court granted Joanna Marie Paynter's Application for Informal Probate of Will and Appointment as Personal Representative, and appointed Joanna M. Paynter as Personal Representative for the Decedent, making her an Officer of the Probate Court.
27. As part of her Qualification and Statement of Acceptance, Joanna Marie Paynter signed page 6 of Probate Form #ES300, which states as follows: "I accept this appointment and agree to perform the duties and discharge the trust of the office of Personal Representative of this estate. I further submit personally to the jurisdiction of the Court in any proceeding relating to the Estate."
28. On or about **October 16, 2017**, as Personal Representative of this estate, Joanna M. Paynter filed the Inventory and Appraisalment for her mother's estate, identifying only two assets of said estate, as follows: (i) residence address at 200 Valley View Drive, Clemson, SC 29631 (valued at \$295,000.00), and (ii) a Life Insurance Policy, allegedly having a cash value of \$4,590.70, as shown in the screenshot below:

RECAPITULATION		Non-Probate (ORIGINAL)	Probate
Schedule A - Real Estate			\$ 275,000.00
Schedule B - Stocks and Bonds			\$ 0
Schedule C - Notes Due Decedent and Cash			\$ 0
Schedule D - Insurance on Decedent's Life - Part 1 - Payable to Estate			\$ 4,590.40
Part 2 - Payable to Beneficiary			
Schedule E - Jointly Owned Property			\$ 0
Schedule F - Other Miscellaneous Assets Payable to Estate			\$ 0
Schedule G - Transfers During Decedent's Life			\$ 0
Schedule H - Powers of Appointment			\$ 0
Schedule I - Annuities and Retirement Accounts			\$ 0
GROSS VALUE OF PROBATE ESTATE			\$ 279,590.40

The undersigned, being sworn, states: That the following schedules contain a complete and accurate inventory and appraisal of all probate real and personal property of this estate so far as the undersigned is informed; that he/she has estimated and/or appraised all listed property at its fair market value, according to the best of his/her knowledge and ability.

SWORN to before me this 12th day of April, 2020.

Personal Representative: Joanna M. Paynter
Signature: Joanna M. Paynter
Notary Public: JOANNA M. PAYNTER

29. This Inventory and Appraisement, filed under oath by the Appointed Personal Representative Joanna M. Paynter, fails to disclose any assets in Schedules B, C, D, E, F, G, H and I, each showing a "zero," in the dollar value amount and "None," in the description column.
30. By way of example, the instructions portion of the Inventory and Appraisement at Schedule F, states as follows:
- SCHEDULE F - OTHER MISCELLANEOUS ASSETS PAYABLE TO ESTATE. List below any tangible personal property, including household goods & furnishings, vehicles, boats/motors/trailers, mobile homes that are not de-titled (Include year/make/model/VIN, if applicable), airplanes, equipment, interest in a partnership or unincorporated business, articles or collections having either artistic or intrinsic value, including coins, guns, artwork, jewelry, etc., and any other miscellaneous probate items not listed elsewhere, including any digital assets. If none so state. (For jointly owned tangible personal property with right of survivorship, you may list in Schedule E.)
31. Despite her express knowledge of Paynter Consulting, LLC, its 2015-Lawsuit, and attempts to sell the Factor Technology, as Personal Representative, Joanna M. Paynter did not disclose the existence of Paynter Consulting, LLC, or its ownership of the Factor Technology / technology to this Court, or to its claimants and creditors.
32. In the probate administration process, other 3rd party creditor claims were filed against the estate by the following:
- American Express, filed March 5, 2018 (claiming \$8,320.20, settled for \$0.10 on the dollar at \$832.02 on August 13, 2018);

- b. Wells Fargo Bank, N.A., filed February 21, 2018 (claiming \$14,812.24 on a Personal Installment Loan, and shown as “allowed” on April 25, 2018, but later shown as withdrawn on October 22, 2018); and
 - c. CitiBank, N.A., via Phillips & Cohen for \$16,915.72, filed March 5, 2018 (claiming \$16,915.72, and Disallowed by the Personal Representative).
33. On or about **February 26, 2019**, Deed of Distribution to Decedent’s daughters, Joanna Marie Paynter and Samantha D. Nelson.
 34. On or about **March 25, 2019**, the estate was closed.
 35. On **September 11, 2019**, the undersigned filed that certain lawsuit now known as *Chris Young and Biotech Restorations, LLC, v. Joey Painter, Samantha Paynter, and Paynter Consulting, LLC*, 2019-CP-39-01224 (hereafter the “2019 Lawsuit”).
 36. On **October 3, 2019**, Defendant Samantha P. Nelson was served with the Summons and Complaint to the 2019-Lawsuit.
 37. On or about **October 10, 2019**, the undersigned was contacted by counsel to Paynter Consulting, LLC in the 2015-Lawsuit, on behalf of the Defendants in the 2019-Lawsuit.
 38. As set forth in the filings in the 2019-Lawsuit, the undersigned was advised via counsel that the Defendants Joanna Marie Paynter and and Samantha P. Nelson did not ... [copy from that].
 39. On **November 13, 2019**, the undersigned filed the green card showing service to Samantha P. Nelson on October 3, 2019.
 40. On **January 6, 2020**, the undersigned received an email from Steven R. LeBlanc, Esquire, of the Greenville County Bar, which read as follows:

Wes,

It looks like I'll be representing Joey Paynter and Samantha Nelson in this matter. I don't believe the corporate entity still exists, but if it does, I'll represent it as well. I understand various efforts have been made to serve my clients, but my clients did not sign for any of the mailed pleadings. I can accept service for my clients.

I've done some bioremediation work for other clients before. If the technology works as advertised, it has substantial value worldwide. We should probably discuss the merits of the asserted claims and your clients' interest in purchasing the technology before proceeding further. Otherwise, I'll proceed with a motion to dismiss and find another buyer.

I'll be in the office later today.

Steve

Id. (italics added to all, underlining added for emphasis).

41. Counsel to the Defendants in the 2019-Lawsuit has represented to the undersigned that "he is in possession of the trade secret."
42. Claimants would incorporate by reference those allegations in that certain Plaintiffs' Motion For Default Judgment Against Samantha P. Nelson, filed on **February 5, 2020**, in Case No.: 2019-CP-39-01224, including specifically those allegations regarding the misrepresentations made to the undersigned by the Defendants Joanna M. Paynter and Samantha P. Nelson through their counsel, Mr. Eric K. Englehardt, Esquire (*See e.g.*, Motion at ¶¶'s 1-33 on pp. 2-8).
43. On or about **January 20, 2020**, Joanna Paynter filed Articles of Termination for Paynter Consulting, LLC, at the Office of the South Carolina Secretary of State (identifying herself as its FIDUCIARY, and answering "YES" to Question No. 4, which reads as follows: "4. Has the company wound up its business and terminated its legal existence? Y_e_s").
44. Under S.C. Probate Court Rule 2, SCRPC, "Each probate judge has the continuing

duty to monitor every matter pending in the probate court and to enforce prompt compliance with all requirements imposed by law upon administrators, executors, guardians and attorneys in the performance of their duties before the probate court.”

Id.

45. Further authority in support of these Petitions and in support of this Court’s authority to Order Subsequent Administration and Re-Opening of the Estate to address the undisclosed assts of Decedent, including Paynter Consulting, LLC, includes the following: Wood v. Anderson, 2017 MT 180 (Supreme Court of Montana, 2017) (addressing constructive fraud in probate context where perpetrator owed a legal duty, and acted to mislead the court); Estate of Sprowl, 2001 ME 10 (Supreme Judicial Court, 2010) (remanding because “neither the parties nor the court considered the applicability of [S.C. Code. Ann. § 62-3-1005].”); Spoffard v. Conant, 1998 Me. Super. LEXIS 252 (1998) (holding, “the bar does not apply to claims against the personal representative for fraud, misrepresentation, or inadequate disclosure related to the settlement of the decedent's estate.”); In re Estate of Lembach, 622 P.2d 606, 607 (Colo., Ct. App, Div. 1, 1981) (holding, “A probate court may revoke its orders and reopen proceedings with respect to the settlement of estates which have been irregularly made or procured by fraud or mistake.”); and In re Estates of Cahoon, 102 Idaho 542, 550-51 (1981) (noting, “In any event, the last sentence of [S.C. Code Ann. § 62-3-1005] excludes the operation of the limitation period when fraud, misrepresentation and inadequate disclosure, as alleged here, are involved.”).

46. For the reasons set forth herein, Petitioners respectfully request this Court to

issue an order for Subsequent Administration, Removal of Personal Representative, and Appointment of a Special Administrator, and an order requiring counsel to the Defendants in the 2019-Lawsuit to return the "trade secret" to the newly appointed Special Administrator of the Decedent's estate.

47. This Petition is based on the common law and statutory law of the State of South Carolina, the South Carolina Probate Court Rules. Petitioners reserve the right to submit a memorandum of law or other submissions in support of this Petition.

Respectfully submitted,

WESLEY D. FEW, LLC

s/Wesley D. Few/ 
Wesley D. Few, S.C. Bar No. 15565
Post Office Box 9398
Greenville, South Carolina 29604
(864) 527-5906 | wes@wesleyfew.com

ATTORNEYS FOR PETITIONERS CHRISTOPHER
YOUNG AND BIOTECH RESTORATIONS, LLC

Greenville, South Carolina
April 24, 2020

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

IN RE: Valerie Anne Paynter, and Joanna
Marie Paynter, Personal Representative,

Christopher W. Young, and Biotech
Restorations, LLC,

Petitioners,

IN THE PROBATE COURT

13TH JUDICIAL CIRCUIT

Case No: 2017-ES-39-00607

**VERIFICATION OF PETITION
FOR SUBSEQUENT
ADMINISTRATION**

I, Christopher W. Young, being duly sworn, say that I am one of the Petitioners herein, along with my company, Biotech Restorations, LLC, and have read the foregoing Verified Petition for Subsequent Administration, and know the contents thereof, and hereby verify that the allegations in the same are true of my own knowledge, except as matters therein stated to be alleged on information and belief; and to those matters I believe them to be true.

SWORN to and Subscribed before me

this _____ day of _____, 2020.

Notary Public for North Carolina

My Commission expires: _____

Signature of Petitioner

Copy 4/24/2020
Christopher W. Young 4/24/20

_____, North Carolina

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

IN RE: Valerie Anne Paynter, and Joanna
Marie Paynter, Personal Representative,

Christopher W. Young, and Biotech
Restorations, LLC,

Petitioners.

IN THE PROBATE COURT

THIRTEENTH JUDICIAL CIRCUIT

Case No: 2017-ES-39-00607

CERTIFICATE OF SERVICE

I, Drennan Quattlebaum, on behalf of the law office of Wesley D. Few, LLC, attorneys for the Defendants in this action, do hereby certify that I have served the below parties by U.S. Mail, Hand Delivery and/or email as set forth below on this date in this action with a copy of the document(s) listed below.

- 1) **Verified Petition for Subsequent Administration, Removal of Personal Representative, and to Appoint Special Administrator, along with Summons for the same.**

Probate Court
Pickens County
Administration Facility
222 McDaniel Avenue, B-16
Pickens, SC 29671

Steven R. LeBlanc
416 E North St, 2nd Floor
P.O. Box 9198
Greenville, SC 29604

Imilie Budiasa
American Express
PO Box 1338
Reynoldsburg, OH 43068

Sherry L. Myrtle
Wells Fargo Bank, N.A.
PO Box 10438
Des Moines, IA 50306-0438

Elizabeth Hansen
Phillips & Cohen Associates, Ltd.
1004 Justison St
Wilmington, DE 19801

Ms. Joanna M. Paynter
26571 Dapple Grey Drive
Laguna Hills, CA 92653

Ms. Joanna M. Paynter
24440 Kathleen Dr.
Laguna Niguel, CA 92677


H. Drennan Quattlebaum

April 24, 2020

Greenville, South Carolina

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Feb 27 2020
REFERENCE ID: 480016


SECRETARY OF STATE OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA
SECRETARY OF STATE

ARTICLES OF TERMINATION
LIMITED LIABILITY COMPANY - DOMESTIC

Filing ID: 200121-1340036

Filing Date: 01/21/2020

The following limited liability company, having dissolved and completed its winding up, terminates its existence by filing these articles of termination in accordance with the 1976 S.C. Code of Laws, as amended, Section 33-44-805:

1. The name of the limited liability company is:

PAYNTER CONSULTING, LLC

2. The date the articles of organization were filed is 01/27/2006.

3. The date of the dissolution of this limited liability company was 09/04/2017.

4. Has the company wound up its business and terminated its legal existence? Yes

5. Unless otherwise specified, these articles are effective when endorsed for filing by the Secretary of State. Specify the
date of any delayed effective date: _____
(Date)

Signed as Authorized Signature: Joanna Paynter

(Signature)

Joanna Paynter

(Print Name)

01/21/2020

(Date)

Capacity/Position of Person Signing (**You must check one box.**)

☐ Manager ☐ Member ☐ Organizer

☒ Fiduciary ☐ Attorney-in-Fact

EXHIBIT A

ELECTRONICALLY FILED - 2020 Apr 28 12:56 PM - PICKENS - COMMON PLEAS - CASE#2019CP3901224

Modifiable Agreement 5/30/06

GENERAL PARTNERSHIP AGREEMENT

THIS PARTNERSHIP AGREEMENT is entered into on January 1, 2006 between the following parties:

Biotech Restorations, LLC owned and operated solely by

Christopher W. Young
3913 Lake Spring Cove
Denver, North Carolina 28037

&

Paynter Consulting, LLC owned and operated solely by

Valerie A. Paynter
200 Valley View Drive
Clemson, South Carolina 29631

The above-named parties agree that upon the commencement date of this Partnership they shall be deemed to have become partners in business. The purposes, terms and conditions of this Partnership are as follows:

1. Name – Each partner will operate and own 100% of an independent business for the purpose of supporting the Partnership.
 - 1.a Christopher W. Young has incorporated Biotech Restorations, LLC to support the Partnership.
 - 2.a Valerie A. Paynter has incorporated Paynter Consulting, LLC to support the Partnership.
2. Principal place of business - The principal places of business of the Partnership shall be Denver, NC and Clemson, SC.
3. Purpose - The business of the partnership is set forth below and relates to the treatment of contaminated soil, marine sediments and other media as applicable to the Factor biotechnology. To the extent necessary for the remediation of soil and marine sediments, the Partnership will utilize proprietary products and services under an exclusive use permit which restricts the use of the Factor Biotechnology to this Partnership for all environmental business applications.
 - 3.a Christopher W. Young (representing Biotech Restorations, LLC) and Valerie A. Paynter (representing Paynter Consulting, LLC) jointly agree to work exclusively in support of the Partnership in matters relating to the development of and commercial use of Factor based products in the environmental remediation marketplace.
 - 3.b Paynter Consulting, LLC, having sole knowledge of the proprietary Factor formulation, agrees to provide the Partnership with exclusive use of Factor formulated products during the term of the Partnership, ongoing technical and scientific assistance in support of the Partnership and the first option to incorporate new technologies into the Partnership.
 - 3.c Biotech Restorations, LLC, having developed existing markets and business opportunities, agrees to provide ongoing business development and management of remediation projects in which Factor Products are in use and exclusive ongoing support of the Partnership.
4. Term - The Partnership shall commence on and continue until dissolved by mutual agreement of the partners. The Partnership will terminate upon the death or incapacity of a partner. Any outstanding revenues or revenues anticipated from projects under contract at the time of a death or incapacity will be paid to the partner's designated beneficiary. In the event of a death of a partner, the remaining partner has the right to continue the business of the Partnership by themselves or in conjunction with any other persons they may select. The continuing partner will pay 10% of net profits annually to the heirs / estate of the deceased partner on any contract involving the use of the Factor, and 10% gross from the sale of the Factor Technology.
4. Distribution of profits - The partners agree that net profits (after disbursement of expenses) arising from the Partnership will be distributed equally (50/50). A division of profits shall be made at such time as may be agreed upon by the partners and at the close of each fiscal year.
6. Control - The partners shall have exclusive control over the Factor Based Environmental Remediation Business and each partner shall have equal rights in the management and conduct of the Partnership business. Any difference arising as to the ordinary matters connected with the Partnership business shall be decided by a third party arbitrator chosen and agreed upon by the partners. Any act beyond the scope of this Partnership agreement or any contract that may subject this Partnership to liability shall be subject to the prior written consent of the partners.

5/30/06
Kurt F. [unclear]

7. Disputes - Disputes that would jeopardize new business, contracts, or existing clients and cannot be resolved by the partners within thirty days will be submitted to a mutually agreed upon arbitrator whose decision will be final. Any disagreements or differences that affect the management of the Partnership business and would jeopardize new business, contracts, or existing clients and cannot be resolved by the partners within thirty days will be submitted to an arbitration process designed to repair the partnership relationship and solve said differences or disputes.

8. Selling out - If a partner decides to sell their interests in the Partnership business to the remaining partner the interests will be valued at two and one half the current business equity (as determined by customary accounting principles). Payment for the interests sold shall be made over a time period acceptable to both partners. No partner may sell his or her interests in the Partnership business to a third party unless mutually agreed to by the other partner. Thirty days written notice of proposed sell out to the partner by the selling partner is required.

8.a Should the partners opt to sell all or any portion of the business, profits from the sale will be distributed on the same 50/50 basis.

9. Signatures of the Partners

Valerie A. Paynter for Paynter Consulting, LLC

Christopher W. Young for Biotech Restoration, LLC

Notary

Notary

Date Notarized

Date Notarized

Subj: **Re: Agreement**
Date: 5/23/2006 11:26:12 A.M. Eastern Standard Time
From: vapaynter@hotmail.com
To: CYoung2281@aol.com

Hi Chris,

Enjoyed our talk this morning as always, and felt it was productive. Thanks for the tip on how to make changes in color! On the computer its an 'A' to change the color of the words and a palette brush for the background. I learn something new every day. I am attaching the revised Agreement with the changes recommended by Mem (his name is Memminger Wiggins) which mainly were to focus more on the companies rather than on us as individuals to protect us, and the additions that you and I talked about this morning. Good luck with the business plan.

Regards, Val

From: CYoung2281@aol.com
To: vapaynter@hotmail.com
Subject: Re: MOU
Date: Mon, 22 May 2006 18:02:24 EDT

Thanks Val.

Let's talk tomorrow morning about 9.

Chris

Christopher Young
President
BTR
704 489 6538
cyoung2281@aol.com

THE INFORMATION CONTAINED IN THIS ELECTRONIC MAIL MESSAGE IS PRIVILEGED AND CONFIDENTIAL AND IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY USE, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE OR BY ELECTRONIC MAIL AND DELETE THE ORIGINAL MESSAGE. THANK YOU.

Thursday, May 25, 2006 America Online: CYoung2281

ELECTRONICALLY FILED
2006 Apr 28 12:56 PM - PICKENS - COMMON PLEAS - CASE#2019CP3901224

EXHIBIT A

GENERAL PARTNERSHIP AGREEMENT

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3913 Lake Spring Cove
Denver, North Carolina 28037

&

Paynter Consulting, LLC owned and operated solely by
Valerie A. Paynter
200 Valley View Drive
Clemson, South Carolina 29631

The above-named parties agree that upon the commencement date of this Partnership they shall be deemed to have become partners in business. The purposes, terms and conditions of this Partnership are as follows:

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 - 1.a Christopher W. Young has incorporated Biotech Restorations, LLC to support the Partnership.
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2. Principal place of business - The principal places of business of the Partnership shall be Denver, NC and Clemson, SC.
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 - 3.a Christopher W. Young (representing Biotech Restorations, LLC) and Valerie A. Paynter (representing Paynter Consulting, LLC) jointly agree to work exclusively in support of the Partnership in matters relating to the development of and commercial use of Factor based products in the environmental remediation marketplace.
 - 3.b Paynter Consulting, LLC, having sole knowledge of the proprietary Factor formulation, agrees to provide the Partnership with exclusive use of Factor formulated products during the term of the Partnership, ongoing technical and scientific assistance in support of the Partnership and the first option to incorporate new technologies into the Partnership.
 - 3.c Biotech Restorations, LLC, having developed existing markets and business opportunities, agrees to provide ongoing business development and management of remediation projects in which Factor Products are in use and exclusive ongoing support of the Partnership.
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4. Distribution of profits - The partners agree that net profits (after disbursement of expenses) arising from the Partnership will be distributed equally (50/50). A division of profits shall be made at such time as may be agreed upon by the partners and at the close of each fiscal year.
6. Control - The partners shall have exclusive control over the Factor Based Environmental Remediation Business and each partner shall have equal rights in the management and conduct of the Partnership business. Any difference arising as to the ordinary matters connected with the Partnership business shall be decided by a third party arbitrator chosen and agreed upon by the partners. Any act beyond the scope of this Partnership agreement or any contract that may subject this Partnership to liability shall be subject to the prior written consent of the partners.

7. Disputes - Disputes that would jeopardize new business, contracts, or existing clients and cannot be resolved by the partners within thirty days will be submitted to a mutually agreed upon arbitrator whose decision will be final. Any disagreements or differences that affect the management of the Partnership business and would jeopardize new business, contracts, or existing clients and cannot be resolved by the partners within thirty days will be submitted to an arbitration process designed to repair the partnership relationship and solve said differences or disputes.

8. Selling out - If a partner decides to sell their interests in the Partnership business to the remaining partner the interests will be valued at two and one half the current business equity (as determined by customary accounting principles). Payment for the interests sold shall be made over a time period acceptable to both partners. No partner may sell his or her interests in the Partnership business to a third party unless mutually agreed to by the other partner. Thirty days written notice of proposed sell out to the partner by the selling partner is required.

8.a Should the partners opt to sell all or any portion of the business, profits from the sale will be distributed on the same 50/50 basis.

9. Signatures of the Partners

Valerie A. Paynter
Valerie A. Paynter for Paynter Consulting, LLC

Christopher W. Young
Christopher W. Young for Biotech Restorations, LLC

Rose Dalton
Notary

5/30/2006
Date Notarized

My Commission Expires January 15, 2014

Rose Dalton
Notary

5/30/2006
Date Notarized

My Commission Expires January 15, 2014

) IN THE COURT OF COMMON PLEAS

) THIRTEENTH JUDICIAL CIRCUIT

)
) Case No: 2019-CP-39-01224

)
)
) **PLAINTIFFS' MOTION FOR**
) **DEFAULT JUDGMENT AGAINST**
) **PAYNTER CONSULTING, LLC**

)
) **PLAINTIFFS' MOTION FOR**
) **DEFAULT JUDGMENT AGAINST**
) **PAYNTER CONSULTING, LLC**

) **DEFAULT JUDGMENT AGAINST**
) **PAYNTER CONSULTING, LLC**

NOTICE IS HEREBY GIVEN, that the undersigned attorney for Plaintiffs Christopher Young and Biotech Restorations, LLC (“Plaintiffs”) pursuant to Rule 55(b)(2), hereby moves for a Default Damages / Relief hearing and an order of Default Judgment against Defendant Paynter Consulting, LLC, granting judgment in favor of Plaintiffs in an amount to be determined by the Court at any hearing deemed necessary by the Court, and providing for injunctive relief, as requested in the Complaint. This motion is further based and supported by the following:

1. Defendant Paynter Consulting, LLC is in default. *See* Order Adjudicating Default, dated May 19, 2020, e-filed in this Court at approximately 1:47 P.M.

2. In the Complaint, Plaintiffs bring seven (7) Causes of Action, the following five (5) of which were against Defendant Paynter Consulting, LLC:

- **1ST Cause of Action** (Declaratory Judgment, Breach of Agreement), S.C. Code Ann. § 15-53-10, *et seq.*, at Paras. 8 to 28;
- **2ND Cause of Action** (Mandatory Injunction – Return Lab Notes, Partnership Documents), at Paras. 29 to 32;
- **4TH Cause of Action** (Conversion), at Paras. 38 to 41;
- **6TH Cause of Action** (Breach of Fiduciary Duty – All Defendants), at Paras. 49 to 54; and

- **7TH Cause of Action** (Constructive Trust – in the Alternative), at Paras. 55 to 57.

In the claim(s) for injunctive relief, Plaintiffs are seeking an order, *inter alia*, to compel Paynter Consulting, LLC to return the Factor / trade secret documents described by counsel to the Defendants Samantha P. Nelson and Joanna Marie Paynter in his email dated June 11, 2020, at 3:32 PM, as follows:

For now, I would also say that the materials that constitute the trade secret need to more fully, accurately, and specifically described.

For example, how many lab books? ~20-30

How many pages in each one? ~50-450

Dates for the same. ~1993-2016

How many overall pages? etc. Please explain how any of this trivial pursuit is relevant to establishing the documents as trade secrets?

<https://mail.google.com/mail/u/0?ik=b904defa0a&view=pt&search=all&permthid=thread-f%3A1665500032184334383%7Cmsg-f%3A16664237493627...> 2/7

In their Motion for a Protective Order under Rule 26(c)(7), SCRCF, filed May 20, 2020, Defendants Samantha P. Nelson and Joanna Marie Paynter, in the Declaration of Joanna M. Paynter (**Exhibit 6** to Motion), at ¶¶'s 11-15, state:

11. I lived with my mother from August 2015 until May 2016, and during this time, my mother and I discussed in great lengths the Factor and how to use it.

12. In 2015 and 2016, I participated in discussions between my mother and various entities that offered more than \$10,000,000 to purchase my mother's bioremediation technology.

13. Between February and April 2016, my mother packed into boxes all of her laboratory notebooks, research notes, sampling and analysis procedures, and other documentation of her bioremediation technology and gave the boxes to my sister and me to have and own.

14. It is my understanding that the materials that my mother gave to my sister and me include documentation that demonstrates that her bioremediation technology is effective at removing Toxaphene, DDT, DDD, DDE, Dieldrin, PCBs, and several other contaminants from soil.

15. My sister and I have maintained continuous and exclusive control over the laboratory notebooks, research notes, sampling and analysis procedures, and other documentation of my mother's bioremediation technology, and we have never shared any of this information with anyone, except for our current attorney Steven LeBlanc.

These Defendants obtained this property during the period of the General Partnership Agreement referenced at ¶ 12 of the Plaintiff's Complaint in this action. At the time of this "transfer" or conveyance, a lawsuit was pending in district court, removed from this Court (hereafter the "2015-Lawsuit").¹

The 2015-Lawsuit resulted in an order to compel arbitration, as provided for in the May 30, 2006 General Partnership Agreement. (ECFN-025, dated Feb. 16, 2016). On or about April 11, 2016, Plaintiff in that case, Paynter Consulting, LLC, filed its motion to dismiss. (ECFN-028). On May 9, 2016, the district court dismissed the case without prejudice. (ECFN-032).

In ¶¶ 5-6 of the 2015-Lawsuit, Plaintiff Paynter Consulting, LLC alleged:

FACTUAL ALLEGATIONS

5. Paynter Consulting, LLC, owns a proprietary biochemical formula used to remediate soil pollution known as "The Factor." Paynter Consulting is owned by Valerie Paynter, a retired Clemson University professor. The formula Paynter developed has broad implications for soil remediation at seriously polluted sites. The Factor can be customized to address the needs of various remediation projects based on soil conditions, contaminant type and contaminant level, among other criteria.

6. On May 30, 2006, Paynter Consulting and Biotech Restorations entered into a partnership agreement (hereinafter "the partnership") to pursue business ventures across the country using The Factor. The partnership agreement was drafted by Christopher Young, the owner and sole member of Biotech Restorations.

Accordingly, during the pendency of Plaintiff Paynter Consulting, LLC's 2015-Lawsuit, Paynter Consulting, LLC, breached its fiduciary duty to Plaintiff Biotech Restorations, LLC under the General Partnership Agreement, by transferring the partnership's assets without notice. In fact,

¹ *Paynter Consulting, LLC v. Biotech restoration, LLC and Christopher Young*, 2015-CP-39-01006, later removed and assigned Case No. 8:15-cv-03778-GRA-TMC (hereafter the "2015-Lawsuit").

Plaintiff Chris Young did not learn of the details of this concealed transfer until on or about May 11, 2020, when counsel to Defendant Joanna Marie Paynter provided the undersigned with a Draft Declaration of Joanna M. Paynter. In that draft, Joanna M. Paynter stated in ¶ 13, as follows:

13. Around May 2016, my mother packed into boxes all of her laboratory notebooks, research notes, sampling and analysis procedures, and other documentation of her bioremediation technology and gave the boxes to my sister and me to have and own.

The Defendants have provided no documents to corroborate these alleged transfer date(s) of “Between February and April of 2016,” (filed Declaration, May 20, 2020) and “Around May 2016,” (Draft Declaration, May 11, 2020), only the Declaration of Joanna M. Paynter, filed with this Court on May 20, 2020, as **Exhibit 6** to the Motion for a Protective Order.

On or about January 21, 2020, Defendant Joanna M. Paynter filed Articles of Dissolution with the S.C. Secretary of State, attached here as **Exhibit A** (identifying herself as its FIDUCIARY). Accordingly, Defendant Joanna Marie Paynter, by her own Declaration, was in possession, custody and control of the Factor / trade secret technology from as early as February 2016 to sometime around or after January 6, 2020, when Mr. LeBlanc advised the undersigned, as follows:

Wes,

It looks like I'll be representing Joey Paynter and Samantha Nelson in this matter. I don't believe the corporate entity still exists, but if it does, I'll represent it as well. I understand various efforts have been made to serve my clients, but my clients did not sign for any of the mailed pleadings. I can accept service for my clients.

I've done some bioremediation work for other clients before. If the technology works as advertised, it has substantial value worldwide. We should probably discuss the merits of the asserted claims and your clients' interest in purchasing the technology before proceeding further. Otherwise, I'll proceed with a motion to dismiss and find another buyer.

I'll be in the office later today.

Steve

Mr. LeBlanc has since advised the undersigned he is in possession of the Factor / trade secret, as shown by his general description of the number of “lab books,” at ~20-30, and “pages in each one,” ~50-450, and dates for the same,” at ~1993-2016, as quoted above in his May 11, 2020, email response.

The May 30, 2020, General Partnership Agreement put at issue, and for which Paynter Consulting, LLC sought to dissolve in its 2015-Lawsuit, provided, *inter alia*, as follows, at ¶¶’s 4 and 9:

4. Term - The Partnership shall commence on and continue until dissolved **by mutual agreement of the partners**. The Partnership will terminate upon the death or incapacity of a partner. Any outstanding revenues or revenues anticipated from projects under contract at the time of a death or incapacity **will be paid to the partner's designated beneficiary**. In the event of a death of a partner, the remaining partner has the right to continue the business of the Partnership by themselves or in conjunction with any other persons they may select. The **continuing partner will pay 10% of net profits annually to the heirs / estate of the deceased partner on any contract involving the use of. the Factor, and 10% gross from the sale of the Factor Technology.**

...

7. Disputes - Disputes that would jeopardize new business, contracts, or existing clients and cannot be resolved by the partners within thirty days will be submitted to a mutually agreed upon arbitrator whose decision will be final. Any disagreements or differences that affect the management of the Partnership business and would jeopardize new business, contracts, or existing clients and cannot be resolved by the partners within thirty days will be **submitted to an arbitration process designed to repair the partnership relationship and solve said differences or disputes.**

Id. (red emphasis added).

The Court’s records show Defendant Paynter Consulting, LLC filed an unsuccessful action to dissolve the General Partnership Agreement, and then chose not to pursue and / or refused to go to arbitration, because the arbitrator would not have had the ability to dissolve the partnership, as Plaintiff Paynter Consulting, LLC sought in the 2015-Lawsuit. This is because the parties agreed that the arbitrator’s responsibility was to “repair the partnership relationship and solve said differences or disputes,” and is further shown by the parties’ agreement that the “The Partnership

shall commence on and continue until dissolved by mutual agreement of the partners.”

Instead, Paynter Consulting, LLC and the Defendants Samantha P. Nelson and Joanna Marie Paynter conveyed the Factor / trade secret secretly and for no consideration. The Defendants Samantha P. Nelson and Joanna Marie Paynter, now seek an order from this Court declaring that “the Factor” / trade secret, the same one put at issue in the 2015-Lawsuit, is to be protected from disclosure as a trade secret under S.C. Code Ann. § 39-8-10 *et seq.*

In view of the above, and the default of Paynter Consulting, LLC, Plaintiffs are entitled to an order from this Court, *inter alia*, “compelling the Defendants to turn over the Partnership documents, including all documents in the possession of the Defendants related to the Factor based technology.” (Complaint at ¶ 32).

WHEREFORE, Plaintiffs Christopher Young and Biotech Restorations, LLC respectfully request a Default Judgment be entered against Defendant Paynter Consulting, LLC, and a hearing or whatever further proceeding deemed necessary be set by the Court to determine and order Plaintiffs’ damages and other relief as against Defendant Paynter Consulting, LLC.

WESLEY D. FEW, LLC

s/Wesley D. Few/
Wesley D. Few, S.C. Bar No. 15565
Post Office Box 9398
Greenville, South Carolina 29604
(864) 527-5906 | wes@wesleyfew.com

ATTORNEYS FOR PLAINTIFFS
CHRISTOPHER YOUNG AND BIOTECH
RESTORATIONS, LLC

Greenville, South Carolina

June 24, 2020

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Feb 27 2020
REFERENCE ID: 480016


SECRETARY OF STATE OF SOUTH CAROLINA

Exhibit A
Default Judgment

Filing ID: 200121-1340036

Filing Date: 01/21/2020

STATE OF SOUTH CAROLINA
SECRETARY OF STATE

ARTICLES OF TERMINATION
LIMITED LIABILITY COMPANY - DOMESTIC

The following limited liability company, having dissolved and completed its winding up, terminates its existence by filing these articles of termination in accordance with the 1976 S.C. Code of Laws, as amended, Section 33-44-805:

1. The name of the limited liability company is:

PAYNTER CONSULTING, LLC

2. The date the articles of organization were filed is 01/27/2006.
3. The date of the dissolution of this limited liability company was 09/04/2017.
4. Has the company wound up its business and terminated its legal existence? Yes
5. Unless otherwise specified, these articles are effective when endorsed for filing by the Secretary of State. Specify the date of any delayed effective date: _____
(Date)

Signed as Authorized Signature: Joanna Paynter

(Signature)

Joanna Paynter

(Print Name)

01/21/2020

(Date)

Capacity/Position of Person Signing (**You must check one box.**)

- ☐ Manager ☐ Member ☐ Organizer
- ☒ Fiduciary ☐ Attorney-in-Fact

**STATE OF SOUTH CAROLINA
PICKENS COUNTY**

**IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2019-CP-3901224**

Christopher Young and Biotech Restorations,
LLC

Plaintiffs,

v.

Joanna Marie Paynter, a/k/a Joey Painter,
Samantha P. Nelson, and Paynter Consulting,
LLC,

Defendants.

**DEFENDANTS PAYNTER AND
NELSON'S MOTION FOR SUMMARY
JUDGMENT**

Defendants Paynter and Nelson respectfully seek summary judgment for all claims asserted by Plaintiffs Christopher Young and Biotech Restorations, LLC. In 2018, Plaintiffs filed a Creditor's Claim against the Estate of Dr. Valerie Paynter, claiming ownership of trade secrets discovered by Dr. Paynter and in the possession of Dr. Paynter's heirs, Defendants Paynter and Nelson. The Pickens County Probate Court denied Plaintiffs' claim, and Plaintiffs did not appeal that denial. Almost two years later, Plaintiffs commenced the present lawsuit to pursue the same claims against Defendants Paynter and Nelson. As a matter of law, Plaintiffs' claims are barred by res judicata.

I. Statement of Facts

Around 2004, Dr. Valerie Paynter developed a bioremediation technology that she named "the Factor" to remediate contaminated soil. In 2006, Dr. Paynter and Plaintiff Young signed a General Partnership Agreement stating, "Paynter Consulting, LLC, having sole knowledge of the proprietary Factor formulation, agrees to provide the Partnership with exclusive use of Factor formulated products during the term of the Partnership." Ex. 1, General Partnership Agreement,

¶ 3.b. The General Partnership Agreement also provided, “The Partnership will terminate upon the death or incapacity of a partner.” *Id.* at ¶ 4. Dr. Paynter never shared her trade secrets with Plaintiffs, and nothing in the General Partnership Agreement remotely conveys any ownership interest in Dr. Paynter’s trade secrets to Plaintiffs. *Id.*

Dr. Paynter died September 4, 2017. Ex. 2, Death Certification. During the probate of Dr. Paynter’s Estate, Plaintiffs filed a Creditor’s Claim, claiming ownership of Dr. Paynter’s Factor formulation trade secrets. Ex. 3, Statement of Creditor’s Claim. Specifically, Plaintiffs claimed that **they** owned Dr. Paynter’s trade secrets and that Dr. Paynter’s heirs – Defendants Paynter and Nelson – had possession of the trade secrets (i.e., Dr. Paynter’s laboratory and product formulation records), refused to return the trade secrets, and had attempted to sell the trade secrets in breach of the General Partnership Agreement. *Id.* Defendant Paynter, as the Personal Representative of Dr. Paynter’s Estate, disallowed Plaintiffs’ claim. Ex. 4, Notice of Disallowance of Claim. Plaintiffs did not pursue the claim further, and probate of Dr. Paynter’s Estate closed March 25, 2019. Ex. 5, Order Closing Estate.

Plaintiffs did not commence the present suit until January 19, 2021. Ex. 6, Acceptance of Service. Plaintiffs again claimed that they owned Dr. Paynter’s trade secrets and that Defendants Paynter and Nelson had possession of Dr. Paynter’s records, refused to return the records, and had attempted to sell the trade secrets in breach of the General Partnership Agreement. Compl., ¶ 1. On February 22, 2021, Plaintiffs filed an Amended Complaint, adding a new claim for a declaratory judgment that Dr. Paynter’s transfer of her Factor formulation trade secrets to her daughters was fraudulent. Am. Compl., pp. 18-20.

II. Analysis

A. Summary Judgment Standard

Summary judgment “shall be rendered forthwith if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” S.C. R. Civ. P. 56(c). The moving party has the burden of establishing the absence of any genuine issue as to a material fact. *Id.*; *Carolina Alliance for Fair Empl. v. South Carolina Dep’t of Labor, Licensing, & Regulation*, 337 S.C. 476, 523 S.E.2d 795 (Ct. App. 1999). “In determining whether any triable issues of fact exist, the evidence and all reasonable inferences therefrom must be viewed in the light most favorable to the non-moving party.” *Osborne v. Adams*, 346 S.C. 4, 7, 550 S.E.2d 319, 321 (2001).

B. Plaintiffs’ Claims are Barred by Res Judicata

“Res judicata bars subsequent actions by the same parties when the claims arise out of the same transaction or occurrence that was the subject of a prior action between those parties.” *Judy v. Judy*, 393 S.C. 160, 172, 712 S.E.2d 408, 414 (2011) (citation omitted). “Under the doctrine of res judicata, a litigant is barred from raising any issues which were adjudicated in the former suit and any issues which might have been raised in the former suit.” *Id.* (citation and quotation marks omitted). “Res judicata’s fundamental purpose is to ensure that no one should be twice sued for the same cause of action.” *Yelsen Land Co. v. State*, 397 S.C. 15, 22, 723 S.E.2d 592, 596 (2012).

Res judicata requires proof of the following elements: (1) identity of the parties; (2) identity of the subject matter; and (3) adjudication of the issue in the former suit. *Riedman Corp. v. Greenville Steel Structures, Inc.*, 308 S.C. 467, 469, 419 S.E.2d 217, 218 (1992).

1. The Parties Are Identical

The first element to establish the defense of res judicata is “identity of the parties” – *i.e.*, the parties in the second proceeding are either identical to or in privity with the parties in the first proceeding. *Riedman Corp. v. Greenville Steel Structures, Inc.*, 308 S.C. 467, 469, 419 S.E.2d 217, 218 (1992). “Under the doctrine of res judicata, a final judgment on the merits rendered by a court of competent jurisdiction, without fraud or collusion, **is conclusive as to the rights of the parties and their privies.**” *Griggs v. Griggs*, 214 S.C. 177, 184, 51 S.E.2d 622, 626 (1949) (emphasis added). “[T]he concept of privity rests not on the relationship between the parties asserting it, but rather on each party’s relationship to the subject matter of the litigation.” *Yelsen Land Co. v. State*, 397 S.C. 15, 22, 723 S.E.2d 592, 596 (2012). “The term ‘privity’ when applied to a judgment or decree means one so identified in interest with another that he represents the same legal right. **One in privity is one whose legal interests were litigated in the former proceeding.**” *Richburg v. Baughman*, 290 S.C. 431, 434, 351 S.E.2d 164, 166 (1986) (emphasis added).

The first proceeding for purposes of res judicata was the probate of Dr. Paynter’s Estate in the Pickens County Probate Court from 2017-2019. On one side of the probate dispute, Christopher Young asserted a claim on behalf of his company Biotech Restorations for ownership of Dr. Paynter’s trade secrets. Ex. 3, Creditor’s Claim, p. 1. On the other side of the probate dispute, Joanna Paynter and Samantha Nelson opposed the claim as the sole heirs of Dr. Paynter’s Estate with possession of Dr. Paynter’s trade secrets. Therefore, no genuine dispute exists that the probate of Dr. Paynter’s Estate involved the identical parties as the case at bar, with Plaintiffs Young and Biotech Restorations on one side and Defendants Paynter and Nelson on the other side.

2. The Claims are Identical

The second element to establish a defense of res judicata is “identity of the subject matter” – *i.e.*, the claims arise out of the same transaction or occurrence that was the subject of the prior adjudication. *Riedman Corp. v. Greenville Steel Structures, Inc.*, 308 S.C. 467, 469, 419 S.E.2d 217, 218 (1992); *Judy v. Judy*, 393 S.C. 160, 172, 712 S.E.2d 408, 414 (2011). “[F]or purposes of res judicata, ‘cause of action’ is not the form of action in which a claim is asserted but, rather the ‘cause for action, **meaning the underlying facts combined with the law giving the party a right to a remedy of one form or another based thereon.**’” *Judy v. Judy*, 393 S.C. at 172, 712 S.E.2d at 414 (quoting *Plum Creek Dev. Co. v. City of Conway*, 334 S.C. 30, 36, 512 S.E.2d 106, 110 (1999)) (emphasis added). “The plaintiff’s claim is extinguished even when the plaintiff is ‘prepared in the second action (1) [t]o present evidence or grounds or theories of the case not presented in the first action, or (2) [t]o seek remedies or forms of relief not demanded in the first action.’” *S.C. Pub. Interest Found. v. Greenville County*, 401 S.C. 377, 388, 737 S.E.2d 502, 508 (Ct. App. 2013) quoting *Restatement (Second) of Judgments* § 25 (1982 & Supp. 2012).

All of Plaintiffs’ claims in both the probate of Dr. Paynter’s Estate and the case at bar involve the same transaction or occurrence. Specifically, during the probate of Dr. Paynter’s Estate, Plaintiffs alleged that (1) the General Partnership Agreement granted Plaintiffs sole ownership of Dr. Paynter’s trade secrets, (2) Defendants Paynter and Nelson had possession of Dr. Paynter’s trade secrets, (3) Defendants Paynter and Nelson refused to turn over Dr. Paynter’s trade secrets to Plaintiffs, and (4) Defendants Paynter and Nelson had attempted to sell Dr. Paynter’s trade secrets. Ex. 3 Creditor’s Claim, p. 1. Plaintiffs repeat the same allegations in the present lawsuit, as shown in the table below.

Probate Court Allegation	Amended Complaint Allegation
the General Partnership Agreement granted Plaintiffs sole ownership of Dr. Paynter's trade secrets	¶¶ 1, 73
Defendants Paynter and Nelson had possession of Dr. Paynter's trade secrets	¶¶ 1, 71, 76, 98, 99, 104, 105, 108
Defendants Paynter and Nelson refused to turn over Dr. Paynter's trade secrets to Plaintiffs	¶¶ 1, 78, 87, 92, 105
Defendants Paynter and Nelson had attempted to sell Dr. Paynter's trade secrets	¶¶ 1, 56, 72, 75, 88, 93

The preceding table demonstrates that the same transaction or occurrence forms the basis for all of Plaintiffs claims in each proceeding, and it does not matter that Plaintiffs now style their claims under different causes of action. *Judy v. Judy*, 393 S.C. at 172, 712 S.E.2d at 414; *S.C. Pub. Interest Found. v. Greenville County*, 401 S.C. at 388, 737 S.E.2d at 508. Stated differently, Plaintiffs' present causes of action for breach of agreement, return lab notes, interference with contract, conversion, aiding and abetting breach of fiduciary duty, breach of fiduciary duty, constructive trust, and fraudulent conveyance are all predicated on the same allegations made during probate of Dr. Paynter's Estate, namely that (1) the General Partnership Agreement granted Plaintiffs sole ownership of Dr. Paynter's trade secrets, (2) Defendants Paynter and Nelson had possession of Dr. Paynter's trade secrets, (3) Defendants Paynter and Nelson refused to turn over Dr. Paynter's trade secrets to Plaintiffs, and (4) Defendants Paynter and Nelson had attempted to sell Dr. Paynter's trade secrets.

In addition, Plaintiffs identify the same evidence to support their claims in both proceedings. Just as they did during probate of Dr. Paynter's Estate, Plaintiffs again rely on the General Partnership Agreement as the only evidence to support their ownership claim to Dr. Paynter's trade secrets. As the Supreme Court has stated, "Because the tort duties that were breached and the evidence was the same in both proceedings, there was 'identity of subject

matter’ for the purposes of *res judicata*.” *Judy v. Judy*, 393 S.C. at 173, 712 S.E.2d at 415.

Therefore, no genuine dispute exists that the subject matter of the present matter is identical to the subject matter of Dr. Paynter’s Estate, and the second element required for *res judicata* is met.

3. The Pickens County Probate Court Fully Adjudicated Plaintiffs’ Claims

The third and final element to establish *res judicata* is an adjudication of the issue in the former suit. *Riedman Corp. v. Greenville Steel Structures, Inc.*, 308 S.C. 467, 469, 419 S.E.2d 217, 218 (1992).

Probate Courts in South Carolina have exclusive, original jurisdiction over all subject matter related to the estates of decedents. S.C. Code § 62-1-302(a)(1). Dr. Paynter was a resident of Pickens County when she died. Ex. 2, Death Certification. Therefore, the Pickens County Probate Court had exclusive, original jurisdiction over any claims asserted against Dr. Paynter’s Estate.

As previously discussed, Plaintiffs filed a claim for sole ownership of Dr. Paynter’s trade secrets during the probate of Dr. Paynter’s Estate. Ex. 3 Creditor’s Claim. The Pickens County Probate Court disallowed Plaintiffs’ claim. Ex. 4, Notice of Disallowance of Claim. Plaintiffs did not pursue the claim further, and probate of Dr. Paynter’s Estate closed March 25, 2019. Ex. 5, Order Closing Estate. Therefore, the decision of the Pickens County Probate Court constitutes a final, adverse adjudication of Plaintiffs’ ownership claim of Dr. Paynter’s trade secrets.

III. Conclusion

“The doctrine [of *res judicata*] flows from the principle that public interest requires an end to litigation and no one should be sued twice for the same cause of action.” *Duckett v. Goforth*, 374 S.C. 446, 464, 649 S.E.2d 72, 81 (Ct. App. 2007) (citation omitted). Plaintiffs

asserted the same claims against Defendants Paynter and Nelson during the probate of Dr. Paynter's Estate, and the Pickens County Probate Court denied all of Plaintiffs' claims. Plaintiffs did not appeal that decision and instead waited almost two years before commencing the present lawsuit to assert the **same** claims against the **same** Defendants. As a matter of law, res judicata bars Plaintiffs' claims, and Defendants Paynter and Nelson are entitled to summary judgment.

Respectfully submitted,

s/Steven R. LeBlanc
Steven R. LeBlanc (SC Bar 14221)
Steve LeBlanc, LLC
P.O. Box 9198
Greenville, S.C. 29604
Tel: (864) 902-4411
Steve@LeBlancLLC.com

Attorneys for Defendants Paynter and Nelson

CERTIFICATE OF SERVICE

I certify that on February 6, 2022, I filed **DEFENDANTS PAYNTER AND NELSON'S MOTION FOR SUMMARY JUDGMENT** and served a copy on all counsel of record by means of the Court's Notice of Electronic Filing.

Respectfully submitted,

s/Steven R. LeBlanc
Steven R. LeBlanc (SC Bar 14221)
Steve LeBlanc, LLC
P.O. Box 9198
Greenville, S.C. 29604
Tel: (864) 902-4411
Steve@LeBlancLLC.com

Attorneys for Defendants Paynter and Nelson

GENERAL PARTNERSHIP AGREEMENT

THIS PARTNERSHIP AGREEMENT is entered into on January 1, 2006 between the following parties:

Biotech Restorations, LLC owned and operated solely by
Christopher W. Young
3913 Lake Spring Cove
Denver, North Carolina 28037

&

Paynter Consulting, LLC owned and operated solely by
Valerie A. Paynter
200 Valley View Drive
Clemson, South Carolina 29631

The above-named parties agree that upon the commencement date of this Partnership they shall be deemed to have become partners in business. The purposes, terms and conditions of this Partnership are as follows:

1. Name - Each partner will operate and own 100% of an independent business for the purpose of supporting the Partnership.
 - 1.a Christopher W. Young has incorporated Biotech Restorations, LLC to support the Partnership.
 - 2.a Valerie A. Paynter has incorporated Paynter Consulting, LLC to support the Partnership.
2. Principal place of business - The principal places of business of the Partnership shall be Denver, NC and Clemson, SC.
3. Purpose - The business of the partnership is set forth below and relates to the treatment of contaminated soil, marine sediments and other media as applicable to the Factor biotechnology. To the extent necessary for the remediation of soil and marine sediments, the Partnership will utilize proprietary products and services under an exclusive use permit which restricts the use of the Factor Biotechnology to this Partnership for all environmental business applications.
 - 3.a Christopher W. Young (representing Biotech Restorations, LLC) and Valerie A. Paynter (representing Paynter Consulting, LLC) jointly agree to work exclusively in support of the Partnership in matters relating to the development of and commercial use of Factor based products in the environmental remediation marketplace.
 - 3.b Paynter Consulting, LLC, having sole knowledge of the proprietary Factor formulation, agrees to provide the Partnership with exclusive use of Factor formulated products during the term of the Partnership, ongoing technical and scientific assistance in support of the Partnership and the first option to incorporate new technologies into the Partnership.
 - 3.c Biotech Restorations, LLC, having developed existing markets and business opportunities, agrees to provide ongoing business development and management of remediation projects in which Factor Products are in use and exclusive ongoing support of the Partnership.
4. Term - The Partnership shall commence on and continue until dissolved by mutual agreement of the partners. The Partnership will terminate upon the death or incapacity of a partner. Any outstanding revenues or revenues anticipated from projects under contract at the time of a death or incapacity will be paid to the partner's designated beneficiary. In the event of a death of a partner, the remaining partner has the right to continue the business of the Partnership by themselves or in conjunction with any other persons they may select. The continuing partner will pay 10% of net profits annually to the heirs / estate of the deceased partner on any contract involving the use of the Factor, and 10% gross from the sale of the Factor Technology.
4. Distribution of profits - The partners agree that net profits (after disbursement of expenses) arising from the Partnership will be distributed equally (50/50). A division of profits shall be made at such time as may be agreed upon by the partners and at the close of each fiscal year.
6. Control - The partners shall have exclusive control over the Factor Based Environmental Remediation Business and each partner shall have equal rights in the management and conduct of the Partnership business. Any difference arising as to the ordinary matters connected with the Partnership business shall be decided by a third party arbitrator chosen and agreed upon by the partners. Any act beyond the scope of this Partnership agreement or any contract that may subject this Partnership to liability shall be subject to the prior written consent of the partners.

CONFIDENTIAL

BR_00022



7. Disputes - Disputes that would jeopardize new business, contracts, or existing clients and cannot be resolved by the partners within thirty days will be submitted to a mutually agreed upon arbitrator whose decision will be final. Any disagreements or differences that affect the management of the Partnership business and would jeopardize new business, contracts, or existing clients and cannot be resolved by the partners within thirty days will be submitted to an arbitration process designed to repair the partnership relationship and solve said differences or disputes.

8. Selling out - If a partner decides to sell their interests in the Partnership business to the remaining partner the interests will be valued at two and one half the current business equity (as determined by customary accounting principles). Payment for the interests sold shall be made over a time period acceptable to both partners. No partner may sell his or her interests in the Partnership business to a third party unless mutually agreed to by the other partner. Thirty days written notice of proposed sell out to the partner by the selling partner is required.

8.a Should the partners opt to sell all or any portion of the business, profits from the sale will be distributed on the same 50/50 basis.

9. Signatures of the Partners

Valerie A. Paynter
Valerie A. Paynter for Paynter Consulting, LLC

Christopher W. Young
Christopher W. Young for Biotech Restorations, LLC

Rose Dalton
Notary

Rose Dalton
Notary

5/30/2006
Date Notarized

My Commission Expires January 15, 2014

5/30/2006
Date Notarized

My Commission Expires January 15, 2014

STATE OF SOUTH CAROLINA
CERTIFICATION OF VITAL RECORD

DEATH CERTIFICATION

STATE FILE NUMBER: 139-17-032624

DECEDENT'S NAME: *VALERIE ANNE PAYNTER*

AKA: NA

ARMED FORCES: NO

DATE OF BIRTH: **DOB** 1939

TYPE OF PLACE OF DEATH: DECEDENT'S HOME

NAME AND ADDRESS OF PLACE OF DEATH: 200 VALLEY VIEW DRIVE, CLEMSON, SC 29631

PLACE OF DISPOSITION: ROBINSON CREMATORY

DISPOSITION LOCATION: EASLEY, SOUTH CAROLINA

METHOD OF DISPOSITION: CREMATION

DECEDENT'S RESIDENCE: 200 VALLEY VIEW DRIVE, CLEMSON, PICKENS COUNTY, SC, 29631

PLACE OF BIRTH: ENGLAND

SEX: FEMALE

SOCIAL SECURITY NUMBER: **REDACTED**-9647

AGE: 78 YEARS

COUNTY OF DEATH: PICKENS

MARITAL STATUS: WIDOWED (AND NOT REMARRIED)

SURVIVING SPOUSE'S NAME: NA

FATHER'S NAME: FRANK GRIFFITHS

MOTHER'S NAME PRIOR TO FIRST MARRIAGE: ANNIE COLEY

INFORMANT'S NAME: JOANNA PAYNTER

MAILING ADDRESS: 200 VALLEY VIEW DRIVE, CLEMSON, SC, 29631

FUNERAL HOME: DUCKETT-ROBINSON FUNERAL HOME, 108 CROSS CREEK RD. CENTRAL, SC, 29630

FUNERAL DIRECTOR: ALTON B CUMBIE III

EMBALMER'S NAME: NOT EMBALMED

ACTUAL OR PRESUMED DATE OF DEATH: SEPTEMBER 04, 2017

ACTUAL OR PRESUMED TIME OF DEATH: 1143

CAUSE OF DEATH - PART I

METASTATIC COLON CANCER WITH BOWEL OBSTRUCTION
COLON CANCER

RELATIONSHIP: DAUGHTER

LICENSE NUMBER: 1353

LICENSE NUMBER: NA

MANNER OF DEATH: NATURAL

OTHER SIGNIFICANT CONDITIONS - PART II:

NA

CORONER CONTACTED? NO

DATE OF INJURY: NA

PLACE OF INJURY: NA

LOCATION OF INJURY: NA

HOW THE INJURY OCCURRED?

NA

AUTOPSY PERFORMED? NO

TIME OF INJURY: NA

AUTOPSY AVAILABLE? NA

INJURY AT WORK? NA

CERTIFIER NAME AND TITLE: DR. MARK WALSH

LICENSE NUMBER: 20774

CERTIFIER'S ADDRESS: NA

DATE FILED: SEPTEMBER 07, 2017

DATE OF ISSUANCE: SEPTEMBER 07, 2017

SPECIAL INSTRUCTIONS:

NA

SC06283772

This is a true certification of the facts on file in the Division of Vital Records, SC Department of Health and Environmental Control.

Catherine E. Heigel
Catherine E. Heigel
Director and State Registrar

Shae R. Sutton
Shae R. Sutton
Assistant State Registrar

This is watermarked paper. Do not accept without noting watermark. Hold to light to verify watermark.

Revision Date: 07/31/2015

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF PICKENS

STATEMENT OF CREDITOR'S CLAIM

IN THE MATTER OF:
VALERIE ANNE PAYNTER
(Decedent)

CASE NUMBER: 2017ES3900607



Decedent's Date of Death (if known): SEPTEMBER 4, 2017

Decedent's Last Mailing Address: 200 VALLEYVIEW DRIVE, CLEMSON, SOUTH CAROLINA 29631

Creditor:	CHRISTOPHER YOUNG
Address:	137 CROSS CENTER ROAD, # 143, DENVER, NORTH CAROLINA 28037
Telephone:	704 489 6538
Email:	chrisyoung@biotechrestorations.com
Original Creditor:	CHRISTOPHER YOUNG
Address (if different from above)	3913 LAKE SPRING COVE CT., DENVER, NORTH CAROLINA 28037
Claim Amount Due:	\$1,000,000
Account Number:	
Other Reference Number:	PROPERTY OF THE PARTNERSHIP IN POSSESSION OF THE DECEDENTS HEIRS
Basis of claim (Ex: Contract, Services Rendered for decedent, etc):	AS STIPULATED IN THE SURVIVING PARTNERSHIP AGREEMENT (EXHIBIT 1) BETWEEN THE DECEDENT AND YOUNG, THE SURVIVING PARTNER WAS ENTITLED TO CONTINUE THE BUSINESS. THE DECEDENTS LABORATORY AND PRODUCT FORMULATION RECORDS, PRODUCT COMPONENT SUPPLIER INFORMATION AND OTHER TECHICAL NOTES DIRECTLY RELATING TO THE BUSINESS AND THAT ARE PROPERTY OF THE PARTNERSHIP ARE HELD BY THE DECEDENT'S DAUGHTERS WHO HAVE REFUSED REPEATED REQUESTS FOR THE RETURN OF THE PROPERTY OF THE PARTNERSHIP AND HAVE ATTEMPTED TO SELL THE THE CONFIDENTIAL AND PROPRIETARY PROPERTY ABSENT THE LEGAL RIGHT TO DO SO.
Date claim will become due (if not already due)	CLAIM BECAME DUE UPON THE PARTNER'S DEATH, SEPTEMBER 4, 2017
Nature of uncertainty as to the claim, if any (i.e. contingent claim, amount of claim, due date):	NO UNCERTAINTY AS THE SURVIVING PARTNERSHIP AGREEMENT AND INTELLECTUAL PROPERTY AGREEMENT STIPULATE THE SURVIVING PARTNER'S RIGHTS TO CONTINUE THE BUSINESS AND SOLE OWNERSHIP OF THE INTELLECTUAL PROPERTY DEVELOPED DURING THE TERM OF THE PARTNERSHIP BETWEEN THE DECEDENT AND YOUNG.
Description of security as to the claim, if any (Ex: Collateral for the debt)	COPIES OF THE SIGNED PARTNERSHIP AGREEMENT AND INTELLECTUAL PROPERTY AGREEMENT ATTACHED

Signature: 

Printed Name: CHRISTOPHER W. YOUNG
Title: DECEDENT'S BUSINESS PARTNER
Date: FEBRUARY 27, 2018

INSTRUCTIONS: Claims **MUST** be filed with the Probate Court of the county in which the Decedent's Estate is under administration and may be delivered or mailed to the fiduciary appointed to administer the Estate (see SCPC 62-3-803, 62-3-804, and 62-3-805).

No claim against a Decedent's estate may be presented or legal action commenced against a Decedent's Estate prior to the appointment of a Personal Representative to administer the Decedent's Estate (except see SCPC 62-3-804(1)(b)).

Satisfaction or withdrawal of claim (FORM 325) **MUST** be filed once claim is resolved.

ELECTRONICALLY FILED - 2022 Feb 06 6:50 PM - PICKENS - COMMON PLEAS - CASE#2019CP3901224

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GENERAL PARTNERSHIP AGREEMENT

THIS PARTNERSHIP AGREEMENT is entered into on January 1, 2006 between the following parties:

Biotech Restorations, LLC owned and operated solely by
Christopher W. Young
3913 Lake Spring Cove
Denver, North Carolina 28037

&
Paynter Consulting, LLC owned and operated solely by
Valerie A. Paynter
200 Valley View Drive
Clemson, South Carolina 29631

The above-named parties agree that upon the commencement date of this Partnership they shall be deemed to have become partners in business. The purposes, terms and conditions of this Partnership are as follows:

1. Name - Each partner will operate and own 100% of an independent business for the purpose of supporting the Partnership.
 - 1.a Christopher W. Young has incorporated Biotech Restorations, LLC to support the Partnership.
 - 2.a Valerie A. Paynter has incorporated Paynter Consulting, LLC to support the Partnership.
2. Principal place of business - The principal places of business of the Partnership shall be Denver, NC and Clemson, SC.
3. Purpose - The business of the partnership is set forth below and relates to the treatment of contaminated soil, marine sediments and other media as applicable to the Factor biotechnology. To the extent necessary for the remediation of soil and marine sediments, the Partnership will utilize proprietary products and services under an exclusive use permit which restricts the use of the Factor Biotechnology to this Partnership for all environmental business applications.
 - 3.a Christopher W. Young (representing Biotech Restorations, LLC) and Valerie A. Paynter (representing Paynter Consulting, LLC) jointly agree to work exclusively in support of the Partnership in matters relating to the development of and commercial use of Factor based products in the environmental remediation marketplace.
 - 3.b Paynter Consulting, LLC, having sole knowledge of the proprietary Factor formulation, agrees to provide the Partnership with exclusive use of Factor formulated products during the term of the Partnership, ongoing technical and scientific assistance in support of the Partnership and the first option to incorporate new technologies into the Partnership.
 - 3.c Biotech Restorations, LLC, having developed existing markets and business opportunities, agrees to provide ongoing business development and management of remediation projects in which Factor Products are in use and exclusive ongoing support of the Partnership.
4. Term - The Partnership shall commence on and continue until dissolved by mutual agreement of the partners. **The Partnership will terminate upon the death or incapacity of a partner.** Any outstanding revenues or revenues anticipated from projects under contract at the time of a death or incapacity will be paid to the partner's designated beneficiary. In the event of a death of a partner, the remaining partner has the right to continue the business of the Partnership by themselves or in conjunction with any other persons they may select. The continuing partner will pay 10% of net profits annually to the heirs / estate of the deceased partner on any contract involving the use of the Factor, and 10% gross from the sale of the Factor Technology.
4. Distribution of profits - The partners agree that net profits (after disbursement of expenses) arising from the Partnership will be distributed equally (50/50). A division of profits shall be made at such time as may be agreed upon by the partners and at the close of each fiscal year.
6. Control - The partners shall have exclusive control over the Factor Based Environmental Remediation Business and each partner shall have equal rights in the management and conduct of the Partnership business. Any difference arising as to the ordinary matters connected with the Partnership business shall be decided by a third party arbitrator chosen and agreed upon by the partners. Any act beyond the scope of this Partnership agreement or any contract that may subject this Partnership to liability shall be subject to the prior written consent of the partners.

7. Disputes - Disputes that would jeopardize new business, contracts, or existing clients and cannot be resolved by the partners within thirty days will be submitted to a mutually agreed upon arbitrator whose decision will be final. Any disagreements or differences that affect the management of the Partnership business and would jeopardize new business, contracts, or existing clients and cannot be resolved by the partners within thirty days will be submitted to an arbitration process designed to repair the partnership relationship and solve said differences or disputes.

8. Selling out - If a partner decides to sell their interests in the Partnership business to the remaining partner the interests will be valued at two and one half the current business equity (as determined by customary accounting principles). Payment for the interests sold shall be made over a time period acceptable to both partners. No partner may sell his or her interests in the Partnership business to a third party unless mutually agreed to by the other partner. Thirty days written notice of proposed sell out to the partner by the selling partner is required.

8.a Should the partners opt to sell all or any portion of the business, profits from the sale will be distributed on the same 50/50 basis.

9. Signatures of the Partners

Valerie A. Paynter
Valerie A. Paynter for Paynter Consulting, LLC

Christopher W. Young
Christopher W. Young for Biotech Restorations, LLC

Rose Dalton
Notary

5/30/2006
Date Notarized

My Commission Expires January 15, 2014

Rose Dalton
Notary

5/30/2006
Date Notarized

My Commission Expires January 15, 2014

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Biotech Restorations, LLC

Factor Remediation Biotechnology Statement of Ownership

Bioremediation of soil borne organic pollutants is the most effective and least expensive remedial treatment available when compared to landfill, incineration, soil vapor extraction and a variety of other highly engineered treatment systems. The capacity of natural soil microorganisms to eliminate simple chemical pollutants has long been established however; the capacity of indigenous microorganisms to eliminate complex persistent organic pollutants has been less reliable - until now.

Natural attenuation and bioremediation are synonymous in that remediation occurs through a biological process wherein the indigenous microbial population consumes the organic pollutants. In both natural attenuation and bioremediation, the microorganisms express enzymes that break down pollutants into less complex organic constituents that are then consumed by the bacteria for growth and reproduction. The elegant simplicity of this natural remediation process is remarkable however the process has been limited in its application. Certain classes of chemical pollutants and organic chemical compounds are highly persistent and effectively immune to biological activity. Sites contaminated by these persistent organic pollutants (POPs) represent both the greatest remediation challenge as well as the greatest threat to the environment and human health.

The team of Dr. Valerie Paynter and Christopher Young has dedicated years of research and their personal fortunes to the development of a novel biological treatment for eliminating persistent organic pollutants such as PCBs, pesticides, and dioxins.

The team's development of restorative treatments (*aka Factors*) represents one of the most important developments in the field of environmental remediation in the past 40 years. Factors are non-hazardous and non-toxic compounds that reverse the chemically induced impairment of enzyme production. Factor treatments allow the indigenous microbial population to secrete reductive enzymes that de-chlorinate the chemical pollutants then promote rapid degradation of the resulting constituent compounds without producing toxic metabolites. Factor treatments restore the innate natural reductive capabilities that are repressed by exposure to man-made chemical pollutants.

Valerie Paynter and Christopher Young entered into a Partnership Agreement on January 1, 2006 and the partnership agreement remains in full effect. Valerie Paynter and Christopher Young are jointly responsible for the development of and share equal ownership of the Factor biotechnology and the biotechnology's commercial applications including any and all derivative products or applications that have or may be developed from this proprietary biotechnology. The partners attest through their respective signatures and notarization to the accuracy of this statement of joint ownership of the proprietary Factor biotechnology.

Valerie A. Paynter 09/20/13
Valerie A. Paynter

Christopher W. Young 09/20/13
Christopher W. Young

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P. 1

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SEP 20 13 09:37P V Paynter

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STATE OF SOUTH CAROLINA

COUNTY OF: PICKENS

IN THE MATTER OF:
VALERIE ANNE PAYNTER
(Decedent)

IN THE PROBATE COURT

PROOF OF DELIVERY

CASE NUMBER: 2017ES3900607



On the 27th day of February, 2018, I mailed or delivered the following document(s):

Form #371ES Statement of Creditor's Claim

- ☒ A copy of which is attached hereto and incorporated herein, or
☐ The original of which is on file with the Court.

Delivery was accomplished by the following method (check appropriate box):

- ☐ personal delivery ☐ ordinary first-class mail
☒ certified mail ☐ registered mail
☐ commercial delivery ☐ electronic message (Article 7, Trust matters only)

to each of the following persons at the address shown:

NAME	ADDRESS
JOEY AND/OR SAM PAYNTER	200 VALLEYVIEW DRIVE, CLEMSON, SC 29631
PROBATE COURT, PICKEN COUNTY	222 MCDANIEL AVENUE, B-16, PICKENS, SC 29671
ADMINISTRATIVE FACILITY	

SWORN to before me this 27th day of
February, 2018

Daniella Dickson
Notary Public for South Carolina NORTH CAROLINA
My Commission Expires: July 20, 2019



Relationship to
Decedent/Estate:

Signature: [Signature]
Print Name: CHRISTOPHER W. YOUNG
Address: 137 CROSS CENTER RD. # 143
DENVER, NORTH CAROLINA . 28037
Telephone (Work): 704 489 6588
(Home): 704 489 1825
(Cell): 704 549 6905
E-mail: CHRISYOUNG@BIOTECHRESTORATIONS.COM
BUSINESS PARTNER OF 12 YEARS

STATE OF SOUTH CAROLINA

COUNTY OF: PICKENS

IN THE MATTER OF:
VALERIE ANNE PAYNTER
(Decedent)

IN THE PROBATE COURT

PROOF OF DELIVERY

CASE NUMBER: 2017ES3900607

On the 24 day of APRIL, 2018, I mailed or delivered the following document(s):

FORM 372ES NOTICE OF ALLOWANCE/DISALLOWANCE OF CLAIM

- ☒ A copy of which is attached hereto and incorporated herein, or
☐ The original of which is on file with the Court.



Delivery was accomplished by the following method (check appropriate box):

- ☐ personal delivery ☒ ordinary first-class mail
☐ certified mail ☐ registered mail
☐ commercial delivery ☐ electronic message (Article 7, Trust matters only)

to each of the following persons at the address shown:

NAME	ADDRESS
PROBATE COURT, PICKENS COUNTY	220 MCDANIEL AVENUE, B-16, PICKENS, SC 29671
ADMINISTRATIVE FACILITY - ORIGINAL	
CHRISTOPHER YOUNG - COPY	137 CROSS CENTER ROAD, #143 DENVER, NC 28037

SWORN to before me this 24 day of
APRIL, 2018

Jill Helen Durbin
Notary Public for South Carolina
My Commission Expires:

Jill Helen Durbin
Notary Public
State of South Carolina
February 18, 2025

Relationship to
Decedent/Estate:

Signature: Joanna Paynter
Print Name: JOANNA PAYNTER
Address: 200 VALLEY VIEW DRIVE
CLEMSON, SC 29631
Telephone (Work):
(Home):
(Cell): 949-293-7455
E-mail: JOEY.PAYNTER@GMAIL.COM
PERSONAL REPRESENTATIVE AND
DAUGHTER



FORM #120PC (1/2014)
62-1-401, 62-3-706, 62-3-1001, SCRCP 4(d)(9)



STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF: PICKENS

NOTICE OF ALLOWANCE/DISALLOWANCE OF CLAIM

IN THE MATTER OF:
VALERIE ANNE PAYNTER
(Decedent)

CASE NUMBER: 2017ES3900607

TO:	Creditor:	CHRISTOPHER YOUNG
	Address:	137 CROSS CENTER ROAD, #143, DENVER, NORTH CAROLINA 28037
	Telephone:	704-489-6538
	Email:	CHRISYOUNG@BIOTECHRESTORATIONS
	Original Creditor:	CHRISTOPHER YOUNG
	Address (if different from above):	3913 LAKE SPRING COVE CT., DENVER, NORTH CAROLINA 28037
	Filed Date of Claim:	FEBRUARY 27, 2018
	Claim Amount:	1,000,000
	Account Number:	
	Other Reference Number:	

Allowance of a claim is evidence the Personal Representative accepts the claim as a valid debt of the Decedent's estate. Allowance of a claim may not be construed to imply the estate will have sufficient assets with which to pay the claim.

☐ the claim is allowed.

☐ the claim is partially allowed in the amount of \$ _____; the balance is disallowed. Explanation (optional):

☒ the claim is disallowed in full. Explanation (optional): WITH ALL DUE RESPECT, THE CLAIM FROM CHRISTOPHER YOUNG IS OF A PERSONAL NATURE AND BEARS NO VALIDITY OR TRUTH. **NOR WOULD THIS CLAIM HAVE ANY CONNECTION TO HER PERSONAL ESTATE SINCE VALERIE PAYNTER OWNED PAYNTER CONSULTING, LLC AND THAT ENDED UPON HER DEATH.**

The disallowed claim or the disallowed portion of your claim will be forever barred unless you commence a legal proceeding requiring a Summons, a Petition and a filing fee of \$150.00 for allowance of the claim in accordance with SCPC 62-3-804(2), within thirty (30) days after the mailing or other service of this Notice of Allowance/Disallowance of Claim.

Executed this 24 day of APRIL, 2018.

Signature: Joanna Paynter
Print Name: JOANNA PAYNTER
Address: 200 VALLEY VIEW DRIVE
CLEMSON, SOUTH CAROLINA 29631

Telephone (Work): _____
(Home): _____
(Cell): 9492937455
Email: JOEY.PAYNTER@GMAIL.COM

Attorney: _____
Address: _____

Telephone: _____
Email: _____

STATE OF SOUTH CAROLINA

COUNTY OF: PICKENS

IN THE MATTER OF:

VALERIE ANNE PAYNTER

(Decedent)

JOANNA MARIE PAYNTER

(Personal Representative)



IN THE PROBATE COURT

ORDER CLOSING ESTATE

CASE NUMBER: 2017ES3900607

Upon consideration of the Application for Settlement, it appears to the Court that the allegations in the Application are true. All required notices have been given/waived. The asset(s) has/have been administered according to the laws of South Carolina.

The final closing documents have been considered and/or waived.

The Personal Representative(s) in the above estate appear(s) to have completed the administration, and the appointment is hereby terminated.

It is appropriate that the sureties on the bond, if any, in this estate be released. If applicable, the security instrument recorded in the Office of the Clerk of Court (or ROD) in Book __, at Page __, shall be and is hereby released, and cancellation of said instrument is authorized.

Therefore, the estate is closed.

IT IS SO ORDERED.

Executed this **25th** day of **March, 2019**.

Jodi B. Moom, associate
DAVID K. ALLISON, Probate Court Judge

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	13 th JUDICIAL CIRCUIT
	)	
Chris Young and Biotech Restorations, LLC,	)	Case No: 2019-CP-39-01224
	)	
Plaintiffs,	)	
	)	ACCEPTANCE OF
vs.	)	SERVICE
	)	
Joanna M. Paynter, a/k/a Joey Paynter, Samantha P.	)	
Nelson, and Paynter Consulting, LLC,	)	
	)	
Defendants.	)	

Pursuant to Rule 4(j) of the S.C. Rules of Civil Procedure, the undersigned, Steven R. LeBlanc, Esquire, of Steve LeBlanc, LLC, P.O. Box 9198, Greenville, South Carolina 29604, Greenville County Bar, having a physical address of 416 E. North St., 2nd Floor, Greenville, SC 29601, certify that I am authorized by **Defendants Joanna M. Paynter, a/k/a Joey Paynter, Samantha P. Nelson** to receive and accept service and did receive a copy of the following on the date as shown below:

- Plaintiffs' Summons and Verified Complaint, filed September 11, 2019.

Steve LeBlanc, LLC

s/Steven R. LeBlanc
 Steven R. LeBlanc, S.C. Bar No. 14221
 PO Box 9198
 Greenville, SC 29604
 (864) 902-4411
steve@leblancllc.com

ATTORNEYS FOR DEFENDANTS JOANNA M.
 PAYNTER, A/K/A JOEY PAYNTER, SAMANTHA P.
 NELSON

Greenville, South Carolina

January 19, 2021

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	13 TH JUDICIAL CIRCUIT
	)	
CHRISTOPHER YOUNG AND	)	
BIOTECH RESTORATIONS, LLC	)	C.A. No.: 2019-CP-39-01224
	)	
PLAINTIFFS,	)	
	)	
V.	)	CHRISTOPHER YOUNG AND
	)	BIOTECH RESTORATIONS, LLC'S
	)	NOTICE OF MOTION AND MOTION
JOANNA MARIE PAYNTER, A/K/A	)	FOR PARTIAL SUMMARY
JOEY PAYNTER, SAMANTHA P.	)	JUDGMENT – FRAUDULENT
NELSON, AND PAYNTER	)	CONVEYANCE
CONSULTING, LLC, ⁱ	)	
	)	
DEFENDANTS.	)	
	)	

TO: STEVEN R. LEBLANC, ESQUIRE, COUNSEL TO DEFENDANTS JOANNA MARIE PAYNTER, A/K/A JOEY PAYNTER, AND SAMANTHA P. NELSON:

YOU WILL PLEASE TAKE NOTICE that the undersigned attorneys for Christopher Young and Biotech Restorations, LLC's (hereafter "Plaintiffs") will respectfully move before the presiding Judge of the 13th Judicial Circuit within ten (10) days from the date hereof or as soon thereafter as counsel may be heard under S.C. R. Civ. P. Rule 56 for an order granting the Plaintiffs partial summary judgment on Plaintiffs' claim numbers I, II, IV, VII and VIII, respectively for the following:

- I. Breach of Contract,ⁱⁱ General Partnership Agreement (§§'s 59 to 81);
- II. Mandatory Injunction, Lab Notes,ⁱⁱⁱ Etc. (§§'s 82 to 85);
- IV. Conversion (§§'s 91 to 94);
- VII. Constructive Trust (§§'s 107 to 109); and
- VIII. Fraudulent Conveyance, S.C. Code § 27-23-10 *et seq.* (§§'s 110 to 124).

(Amended Complaint, filed Feb. 22, 2021).

The grounds for this motion stem from the same General Partnership Agreement that Paynter Consulting, LLC filed its prior lawsuit on August 17, 2015 (hereafter the “2015 Lawsuit”).¹ Specifically, the May 30, 2006 General Partnership Agreement, entered into between Paynter Consulting, LLC and Biotech Restorations, LLC (Ex. 1, ECFN-014-1, filed in the 2015 Lawsuit on Nov. 9, 2015). In the 2015 Lawsuit, Judge Cain’s order to arbitrate stated, “On May 30, 2006, Paynter and Biotech entered into a partnership agreement for purposes of conducting business related to “the treatment of contaminated soil, marine sediments and other media.” (ECFN-025, at 1 of 8). The Court in the 2015 Lawsuit then referenced the parties’ arbitration provision, found in Para. 7 of the General Partnership Agreement (Id. at 1-2), and ruled, “Having determined that a valid arbitration agreement exists between the parties, the FAA requires this court to stay this matter pending arbitration of ‘any issue referable to arbitration’ under the agreement, and the Fourth Circuit has found this stay-of-litigation provision to be mandatory.” (Id. at 8 of 8).

The District Court addressed Paynter Consulting, LLC’s arguments in 2015-16 that the “arbitration” provision included in the General Partnership Agreement was intended to, instead, to provide for a “mediation,”^{iv} stating:

Paynter filed a response in opposition on October 30, 2015, arguing that the parties intended for the second sentence of paragraph seven to facilitate mediation, not arbitration. (ECF No. 13 at 3). The response also contends that any ambiguity in the contract should be construed against Young, the drafter of the agreement. (*Id.* at 6). In a reply filed on November 9, 2015, Biotech and Young maintain that the parties collaboratively drafted the agreement and that the term “arbitration” must be given its plain and ordinary meaning. (ECF No. 14 at 1–2). Additionally, Biotech and Young argue that any ambiguity in the terms of the agreement must be construed in favor of arbitration. (*Id.*)

Id. at 2-3.

Accordingly, Paynter Consulting, LLC knew in 2015 and in 2016 that the 2015 Lawsuit going into “arbitration” would not enable them to escape the provisions of the parties’ General Partnership Agreement, which was their intention in filing suit instead of pursuing arbitration, as the General Partnership Agreement required. Defendants Joanna Paynter and Samantha Nelson were involved in the decision to pursue the 2015 Lawsuit, attended the mediation conferences and are identified throughout the privilege log provided related to that representation by Mr. Englehardt, which commenced at least as early as December 29, 2014, and, by way of example, thereafter as follows:

Bates No.	Date	From	To	CC	Description	Privilege Claim
PRIV-00259	4/6/16	Joey Paynter	Yale Galanter		Communication with clients regarding legal advice.	A/C; WP
PRIV-00260 PRIV-00261	12/29/14	Eric Englehardt	Valerie Paynter	Joey Paynter Sam Paynter Patti Sexton	Communication with clients regarding legal advice.	A/C; WP
PRIV-00262 PRIV-00263	1/14/15	Eric Englehardt	Valerie Paynter	Patti Sexton	Communication with clients regarding legal advice.	A/C; WP
PRIV-00264	1/15/15	Valerie Paynter	Eric Englehardt	Joey Paynter Sam Paynter Valerie Paynter	Communication with clients regarding legal advice.	A/C; WP
PRIV-00265 PRIV-00266	1/16/15	Valerie Paynter	Joey Paynter		Communication with clients regarding legal advice.	A/C; WP
PRIV-00270 PRIV-00271	1/20/15	Valerie Paynter	Eric Englehardt		Communication with clients regarding legal advice.	A/C; WP
PRIV-00272 PRIV-00273	1/21/15	Eric Englehardt	Valerie Paynter	Joey Paynter Patti Sexton Sarah Hurley	Communication with clients regarding legal advice.	A/C; WP
PRIV-00274 PRIV-00277	1/22/15	Eric Englehardt	Valerie Paynter Joey Paynter	Sarah Hurley Patrick Quinn	Communication with clients regarding legal advice.	A/C; WP
PRIV-00278 PRIV-00279	1/22/15	Eric Englehardt	Valerie Paynter Joey Paynter	Sarah Hurley Patrick Quinn	Communication with clients regarding legal advice.	A/C; WP
PRIV-00280 PRIV-00281	1/23/15	Valerie Paynter	Eric Englehardt	Joey Paynter	Communication with clients regarding legal advice.	A/C; WP
PRIV-00282	2/2/15	Valerie Paynter	Eric Englehardt		Communication with clients regarding legal advice.	A/C; WP
PRIV-00283 PRIV-00285	2/3/15	Eric Englehardt	Valerie Paynter Joey Paynter	Sarah Hurley	Communication with clients regarding legal advice.	A/C; WP
PRIV-00286	2/3/15	Eric Englehardt	Valerie Paynter Joey Paynter	Sarah Hurley	Communication with clients regarding legal advice.	A/C; WP

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(attached also as Exhibit 6, dated Sept. 3, 2020).

Joey Paynter’s Declaration, signed on May 19, 2020, and filed May 20, 2020, acknowledges her involvement in the Factor and the 2015 Lawsuit, stating, “I lived with my

mother from August 2015 until May 2016, and during this time, my mother and I discussed in great lengths the Factor and how to use it” Id. at Para. 11 (attached here as Exhibit _). In Para. 12 of her Declaration, Joey Paynter states, “In 2015 and 2016,^v I participated in discussions between my mother and various entities that offered more than \$10,000,000 to purchase my mother's bioremediation technology.” Id. In her deposition, Joey Paynter testified she was involved from the beginning with her mother in identifying and finding Mr. Englehardt to be retained as counsel for Paynter Consulting, beginning at least as early as 2014. (Ex. 4, Joanna Paynter, Depo. Excerpts, e.g., at page 46, lines 17-24).

Defendants were well aware of the potential value of the Factor technology, but did not wish to receive only / merely the 10% their mother bargained for in 2006. (Exhibit 1, General Partnership Agreement, at Para. 4, providing, inter alia, as follows:

In the event of a death of a partner, the remaining partner has the right to continue the business of the Partnership by themselves or in conjunction with any other persons they may select. The continuing partner will pay 10% of net profits annually to the heirs / estate of the deceased partner on any contract involving the use of the Factor, and 10% gross from the sale of the Factor Technology.

Id.

By Defendants’ own account of the facts, their mother did not even state an intention to “give” them this technology until 2009, three years after she signed the General Partnership Agreement in May 2006 on behalf of her company, Paynter Consulting, LLC. (Ex. 5, Paynter Declaration, Para. 7, stating, “During this meeting in August 2009, my mother also explained that the particular formulation for the bioremediation technology varies for each contaminated site, depending on the physical characteristics of the soil and contaminants at the site, and my mother generally referred to the formulations as ‘the Factor.’”). Importantly, counsel to Defendants has argued that the Defendants know the “ingredients in the Factor,” (Ex. 5, Paynter

Decl. at Para. 8), separate and apart from the materials subject to this Court's August 16, 2020 order, referenced above. As a result, Defendants contend Plaintiffs here can never acquire the Factor technology by virtue of this lawsuit, even if they were awarded full access to the materials described in Para. 1 of the August 17, 2020 order.

In contrast, in their Motion for Protective Order filed May 20, 2020, Defendants sought protection of their alleged "trade secret" (i.e., the Factor"), and sought only protection of the materials described in this Court's August 17, 2020 order, in Para. 1, as follows: "approximately 20-30 lab notebooks, having approximately 50-450 pages in each lab notebook, that were created from approximately 1993 until 2016, that describe Dr. Paynter's bioremediation trade secrets, and counsel for Defendants Paynter and Nelson shall retain all such materials while this matter is pending unless directed otherwise by this Court."

Defendants did not seek protection from discovery of any information they now claim to have possession of separate and apart from what was specifically made the subject of the August 17, 2020 order.

ESTOPPEL

Defendants Joanna Paynter and Samantha Paynter Nelson are the sole heirs of Valerie Paynter and successors to the General Partnership Agreement (Ex. 1) interest of Paynter Consulting, LLC.^{vi} Defendant Joanna Paynter applied for and was appointed Personal Representative of the Estate of Valerie Paynter on Sept. 26, 2017. In requesting appointment as the Personal Representative, Joanna Paynter signed the required Qualification and Statement of Acceptance, in which she affirmed under oath, "I accept this appointment and agree to perform the duties and discharge the trust of the office of Personal Representative of this estate. I further

submit personally to the jurisdiction of the Court in any proceeding relating to the Estate.”

(Exhibit 2).

Paynter Consulting, LLC asserted ownership of the same technology at issue in this lawsuit in the 2015 Lawsuit, as follows:

Paynter Consulting, LLC, owns a proprietary biochemical formula used to remediate soil pollution known as "The Factor." Paynter Consulting is owned by Valerie Paynter, a retired Clemson University professor. The formula Paynter developed has broad implications for soil remediation at seriously polluted sites. The Factor can be customized to address the needs of various remediation projects based on soil conditions, contaminant type and contaminant level, among other criteria.

Id. at Para. 5 (underline emphasis added).

Defendants may not argue ownership of the Factor by anyone other than Paynter Consulting, LLC. Yet, Defendants Joanna Paynter and Samantha Nelson each now claim they own the Factor technology. (See e.g., Ex. 5, Declaration of Joanna Paynter, at 15; see also Exs. 3-4, Defendants’ Depo. Transcript Excerpts). Defendants admit they have no documentation to show that the Factor technology was ever transferred from Paynter Consulting, LLC.

Additionally, Defendants never advised Paynter Consulting, LLC’s partner in the General Partnership Agreement, Plaintiffs in this action, of the transfer that they now allege makes them the sole owners of the Factor technology. Defendants have stated they intend to sell the Factor technology. Defendants’ fee agreement with Mr. LeBlanc in this matter provides his only source of fees will come from a sale / license of the Factor technology. (Nelson Depo., page 162, lines 2-11, stating, “he took us on a contingency ... if we sell the Factor, then he gets a percentage.”) (excerpts attached as Exhibit 3).

Defendants Joanna Paynter and Nelson now claim exclusive ownership of the same technology they and their mother put at issue in the 2015 Lawsuit, known as the Factor.

STATUTE OF ELIZABETH, S.C. CODE ANN. § 27-23-10 ET SEQ.

S.C. Code Ann. § 27-23-10, provides, “every gift, grant alienation, bargain, transfer, and conveyance of lands... for any intent or purpose to delay, hinder, or defraud creditors and others of their just and lawful actions, suits, debts, accounts, damages, penalties, and forfeitures must be deemed and taken... to be clearly and utterly void...” *Id.* (underline emphasis added).

In *Gordon v. Lancaster*, 795 S.E.2d 857, 863 (Ct. App. 1993), the Court of Appeals stated as follows regarding fraudulent conveyances:

The Statute of Elizabeth "does not limit its application to judgment creditors. Its protection also extends to other types of parties defrauded in connection with the conveyance of property. . . . With a voluntary int[ra]-family transfer, the burden shifts to the transferee to establish the transfer was valid.

Id. (underline emphasis added). In *Lebovitz v. Mudd*, 293 S.C. 49, 52, 358 S.E.2d 698, 700 (1987), the Supreme Court also stated, “As the emphasized language clearly shows, [S.C. Code Ann. § 27-23-10] does not limit its application to judgment creditors. Rather, its protection extends to other types of parties defrauded in connection with the conveyance of property.”

As noted in *Coleman*, “Practically all of the indicia of fraud enumerated above are present in this case, and we think the lower court erred in concluding factually that the conveyance was bona fide on the part of Linzie Rogers.” *Id.* The Court in *Coleman* further held the “intent of [decedent] was imputable to the grantees.” *Id.* S.C Code § 27-23-30 provides for imprisonment for up to ½ a year for “fraudulent conveyances.”

FACTS IN SUPPORT OF FRAUDULENT CONVEYANCE

Here, the conveyance occurred during the pendency of the failed 2015 Lawsuit by Paynter Consulting, LLC. In that lawsuit, Defendant Joanna Paynter intended to “dissolve,” the May 30, 2006 General Partnership Agreement, but failed to do so. The net effect of this recently

disclosed secret transfer was to avoid the 10% to the heirs provision set forth above in Paragraph 4 of the May 30, 2006 General Partnership Agreement. But for this lawsuit and the above-identified Petition in the Probate Court, the Defendants were going to avoid paying any of their mother's creditors, and also deprive Plaintiffs of their rights under the May 30, 2006 General Partnership Agreement.

Analysis of Defendants' claim of "acquisition" of exclusive ownership of the Factor reads like a case study on the Court's recitation of the nine (9) badges of fraud. In Coleman v. Daniel, 261 S.C. 198, 209, 199 S.E.2d 74, 79 (1973), the S.C. Supreme Court identified the following as recognized "badges of fraud," stating:

The facts which are recognized indicia of fraud are numerous, and no court could pretend to anticipate or catalog them all. Among the generally recognized badges of fraud are the [1] insolvency or indebtedness of the transferor, [2] lack of consideration for the conveyance, [3] relationship between the transferor and the transferee, [4] the pendency or threat of litigation, [5] secrecy or concealment, [6] departure from the usual method of business, [7] the transfer of the debtor's entire estate, [8] the reservation of benefit to the transferor, and [9] the retention by the debtor of possession of the property.

Id.

BADGES OF FRAUD

Evidence from Defendants relating to these nine (9) Badges of Fraud shows, as follows:

[1] insolvency or indebtedness of the transferor: Deposition testimony of Joanna Paynter (Exhibit 4), at page 81, line 3, and page 167, line 4 to page 169, stating, inter alia:

- ... did your mom tell about the value of the Factor?

A That it was the most precious thing to her.

Q Okay. And then what about in economic terms, did she give any opinion on the value of the Factor in economic terms?

A Yeah. The only thing my mom ever specifically said, she never wanted to give it for less than 10 million.

Q So the only person that you're certain that you ever told about this is Mr. LeBlanc?

A Yes.

(Ex. 4, Joanna M. Paynter, Deposition Transcript, pp. 81, lines 2-10, 167 to 169 (detailing the failure of Defendant Joanna Paynter to disclose this \$10 million asset to creditors of her mother's estate, including American Express, which accepted approximately \$832.02 on their claim for \$8,320.20 in the probate of the estate. (Release of Claim, filed Aug. 13, 2018, Case No. 2017-ES-39-00607))).

[2] lack of consideration for the conveyance: Declaration of Joanna Paynter (Ex.5, at Paras. 13 to 15), setting forth that their mother "gave" them the Factor in 2016. See also Deposition of Joanna Paynter (Ex. 4), at: (i) page 85, line 23 to page 86, line 20; (ii) page 89, lines 4 to 20; (iii) page 91, line 16 to page 92, line 16; and Deposition of Samantha P. Nelson (Ex. 3), at (iv) page 116, line 16 to page 117, line 7; and (v) page 125, line 22 to page 127, line 8).

[3] relationship between the transferor and the transferee: The transfer as alleged was from mother to her daughters and only heirs.

[4] the pendency or threat of litigation: The 2015 Lawsuit was pending and the dispute had been ordered to arbitration in 2016.

[5] secrecy or concealment: Deposition of Joanna Paynter (Ex. 4), at: (i) page 84, line 8 to 17; (ii) page 173, line 18 to page 174, line 15; (iii) page 177, line 17 to page 179, line 4; and Deposition of Samantha P. Nelson (Ex. 3), at (iv) page 118, line 3 to 25); and

- Q So the only person that you're certain that you ever told about this is Mr. LeBlanc?

A Yes.

(Ex. 4, Deposition of Joanna Paynter , at pg. 182, lines 11 to 23);

- Q Is there anywhere in this communication to Jason Dibble that you tell him the reason you and your sister are on the phone call or in the meetings is because you own the technology? Did you ever say that to him?

A No. He knew we were part of it all.

Q So you never represented to him that you and your sister were the real owners of the technology?

A We never had the opportunity to say that, directly.

(Ex. 4, Deposition of Joanna Paynter , at pg. 178, lines 5 to 15);

- Q And you've already answered my question that there's no documents to show that this gift was made, other than the affidavit that you signed that is Exhibit 1 to this deposition, correct?

A That's correct. I don't have any other document.

(Ex. 4, Deposition of Joanna Paynter , at pg. 170, lines 6 to 11);

- Q Do you know if your mom, or you, or your sister, ever told Mr. Englehardt that you were the owner, or about to become the owner, as of April of 2016, of the Factor technology?

A I have no idea what my mom would have said to Eric about that, so I actually don't know.

(Ex. 4, Deposition of Joanna Paynter , at pg. 92, lines 18 to 23); and

- Q At any point in time, did you tell any representatives of American Express that your mother had given to you and your sister the Factor technology, as is described in your affidavit that's Exhibit 1 to this deposition at paragraph 13?

WITNESS: Why would I do that? No.

BY MR. FEW: Did you tell them anything about your mother's ownership of Paynter Consulting, LLC?

A I didn't speak about anything that no longer existed.

Q So that's a no?

A Correct.

Q What about Wells Fargo and City Bank, did you disclose the existence of Paynter Consulting, LLC, to them?

A Paynter Consulting, LLC, did not exist.

Q Is that a no?

A There was nothing to disclose.

(Ex. 4, Deposition of Joanna Paynter, at pg. 168, lines 5 to 25).

[6] departure from the usual method of business: As noted above from Defendant Joanna Paynter's Deposition at page 92, and lines 1 to 16 (Ex. 4), apart from Joanna Paynter's May 19-20, 2020 Declaration, there are no documents to show / corroborate that the Factor was transferred / given to Defendants in 2016.

[7] the transfer of the debtor's entire estate:

- Q So you and your sister have been the owners of the technology that's referred to in paragraphs 12 and 13 of this affidavit, since, roughly, April of 2016?

A Well, it says here between February and April 2016, she packed up her boxes, and then it says she gave it to my sister and me to have and own, so I'm still saying that that is correct.

Q So you've been the owner of the Factor technology with your sister, to the exclusion of your mother because she gave it to you, since April of 2016?

A I'm saying that she gave it to me and my sister April 2016, with her boxes and the notes and all of that, that's correct; and then, that she told us what the formula was back in 2009.

(Ex. 4, Joanna Paynter Transcript, pg. 91, lines 8 to 23).

As noted above, the estate of Valerie Paynter did not have enough assets to pay her credit card debts, due to the failure of the Personal Representative to disclose the existence of Paynter Consulting , LLC in the Inventory and Appraisement, filed Oct. 16, 2017 (Ex. 9).

[8] the reservation of benefit to the transferor: As noted above, Paynter Consulting, LLC continued to negotiate, for example with EnvirogenX, Inc. (Ex. 7), to “exclusively” license the Factor, despite the alleged no-consideration conveyance to the Defendants in 2016;

[9] the retention by the debtor of possession of the property.: As noted immediately above in analyzing badge of fraud factor no. 8, Paynter Consulting, LLC continued to attempt to sell the Factor, during and after the pendency of the 2015 Lawsuit and subsequent order to arbitrate.

- Q “But your testimony today is that you own it, or you and your sister own it?”

A “Well, both, my sister and I, so I don't know how the whole legal stuff works. What I can tell you is, 2009 my mom told us what it was and she explained all of it to us and how it worked, that's what I can tell you; and I can tell you in 2016, and I know because that was before I was leaving before I went back to California, she made sure my sister and I had everything, and said, Here, this is for you girls, this is yours; that's what I can tell you.”

Q “So is it your belief, or position, that you should have the ability to sell the Factor or license the Factor now?”

“A Now? Yeah, I believe I can do -- yeah.”

(Ex. 4, Paynter Transcript, pg. 86, lines 5 to 20).

The time line below further summarizes and sets forth Defendants’ account of the gift / transfer of the Factor. This is a story disclosed to the Plaintiffs and their counsel for the first time on May 11, 2020, via a Draft Declaration provided by counsel to the Defendants, to be provided in support of the Defendants’ Motion for Protective Order, filed May 20, 2020. The May 11 Draft was substantially identical to the Declaration filed, May 20, 2020, excepting a revision to Paragraph 13 changing the date of the gift of the Factor from “around May 2016,” to “Between February and April 2016.” (Ex. 11). This “story” shows a “fraudulent conveyance” made during the course of the failed 2015 Lawsuit,^{vii} for no consideration, and cloaked in secrecy for almost four (4) years, until forced out of the woodwork in this lawsuit:

- **2004** – Defendant Joanna Paynter asserts she “learned that [her] mother had developed a bioremediation technology that was effective at cleaning contaminated soil” (Ex. 5, Paynter Decl. at ¶ 3);
- **Nov. 19, 2004** - Valerie A. Paynter and Christopher Young execute a hand-written joint venture agreement, agreeing to split profits on a 50 / 50 basis;

- **Jan. 10, 2006** – Valerie A. Paynter and Christopher Young execute a two-page General Partnership Agreement in their individual capacities;
- **May 30, 2006** – Valerie A. Paynter and Christopher Young, each acting on behalf of their recently formed limited liability companies, Paynter Consulting, LLC, and Biotech Restorations, LLC, execute a revised two-page General Partnership Agreement (Ex. 1) naming the LLC’s as the partners, and also making revisions, *inter alia*, to Paragraph 4, as shown in red below:

4. Term - The **P**artnership shall commence on and continue until dissolved by mutual agreement of the partners. The **P**artnership will terminate upon the death or incapacity of a partner. Any outstanding revenues or revenues anticipated from projects under contract at the time of a death or incapacity will be paid to the partner's designated beneficiary. In the event of a death of a partner, the remaining partner has the right to continue the business of the **Partnership** by themselves or in conjunction with any other persons they may select. The continuing partner will pay 10% of net profits annually to the heirs / estate of the deceased partner on any contract involving the use of the Factor, and 10% gross from the sale of the Factor Technology.

Id.; see also ECFN-014-1 in the 2015 Lawsuit, filed Nov. 9, 2015 (Ex. 1).

- **2009** – Defendant Joanna Paynter asserts that after her father passed away in 2009, that during a “meeting in August 2009, my mother said that she wanted to give my sister and me her bioremediation technology before she died, and she told my sister and me the ingredients in the Factor.” (Ex. 5, Paynter Decl. at ¶¶’s 4-8);
- **January 15, 2015** – Valerie A. Paynter, on information and belief, with the assistance and encouragement of her daughters, retains Eric Englehardt, Esquire, of the Greenville, South Carolina bar, and of the Turner Padgett law firm, to represent their interests (Mr. Englehardt letter dated Jan. 15, 2015);
- **August 17, 2015** – Paynter Consulting, LLC, via their counsel, Mr. Englehardt, files the 2015 Lawsuit, alleging in ¶ 5, as follows:

5. Paynter Consulting, LLC, owns a proprietary biochemical formula used to remediate soil pollution known as "The Factor." Paynter Consulting is owned by Valerie Paynter, a retired Clemson University professor. The formula Paynter developed has broad implications for soil remediation at seriously polluted sites. The Factor can be customized to address the needs of various remediation projects based on soil conditions, contaminant type and contaminant level, among other criteria.

Id. (underline emphasis added).

- **February 16, 2016** – S.C. District Court order, signed by The Honorable Timothy M. Cain, granted Defendants’ Motion to Compel Arbitration (ECFN-025);
- **February to April of 2016** – Joanna Paynter claims in her filed Declaration that her mother Valerie A. Paynter, gave her and her sister the Factor, as follows:
 “Between February and April 2016, my mother packed into boxes all of her laboratory notebooks, research notes, sampling and analysis procedures, and other documentation of her bioremediation technology and gave the boxes to my sister and me to have and own.” (Ex. 5, Paynter Decl. at ¶ 13);
- **May of 2016** – Joanna Paynter claimed in Draft Declaration that her mother Valerie A. Paynter, gave her and her sister the Factor in May 2016, as follows:
 “Around May 2016, my mother packed into boxes all of her laboratory notebooks, research notes, sampling and analysis procedures, and other documentation of her bioremediation technology and gave the boxes to my sister and me to have and own.” (Ex. 11, Joanna Paynter Draft Decl. at ¶ 13, dated May 11, 2020, filed as an Exhibit 1 to Plaintiff’s Motion to Compel, filed May 19, 2020);
 - o Neither the filed Declaration of Joanna M. Paynter nor the Draft Declaration of Joanna M. Paynter references any documents that corroborate this story of a “gift,” of the Factor in 2016, and the transfer

was never disclosed to the Plaintiffs until May 11, 2020, when the undersigned received the email from counsel to Joanna Paynter enclosing the Draft Declaration for the first time;

- **May 9, 2016** – S.C. District Court dismisses the 2015 Lawsuit upon motion of Paynter Consulting, LLC (ECFN-032);
- **September 4, 2017** – Valerie A. Paynter passes away;
- **September 26, 2017** - Joanna M. Paynter signs and files her Personal Representative Oath in the Pickens County Probate Court (Ex. 12, Probate Court file, at page 13 of 65, In re: Valerie A. Paynter, 2017-ES-39-00607);
- **September 26, 2017** - Joanna M. Paynter signs and files her Application for Informal Probate of Will and Appointment as Personal Representative Oath in this Court (Ex. 2, Probate Court file, at pages 6-11 of 65, In re: Valerie A. Paynter, 2017-ES-39-00607);
- **September 26, 2017** – the Probate Court granted Joanna Marie Paynter's Application for Informal Probate of Will and Appointment as Personal Representative, and appointed Joanna M. Paynter as Personal Representative for the Decedent, making her an Officer of the Probate Court (Ex. 2, Probate Court file, at pages 10-11 of 65, In re: Valerie A. Paynter, 2017-ES-39-00607);
- **October 16, 2017** - as Personal Representative of the estate of her mother, Valerie A. Paynter, Joanna M. Paynter filed the Inventory and Appraisement for her mother's estate, identifying only two assets of said estate, as follows: (i) residence address at 200 Valley View Drive, Clemson, SC 29631 (valued at \$295,000.00), and (ii) a Life Insurance Policy, allegedly having a cash value of \$4,590.70, as

shown in the screenshot below:

RECAPITULATION		Non-Probate (OPTIONAL)	Probate
Schedule A - Real Estate			\$ 275,000.00
Schedule B - Stocks and Bonds			\$ 0
Schedule C - Notes Due Decedent and Cash			\$ 0
Schedule D - Insurance on Decedent's Life - Part 1 - Payable to Estate			\$ 4,590.70
Part 2 - Payable to Beneficiary			\$
Schedule E - Jointly Owned Property			\$
Schedule F - Other Miscellaneous Assets Payable to Estate			\$ 0
Schedule G - Transfers During Decedent's Life			\$ 0
Schedule H - Powers of Appointment			\$ 0
Schedule I - Annuities and Retirement Accounts			\$ 0
GROSS VALUE OF PROBATE ESTATE			\$ 279,590.70

The undersigned, being sworn, states: That the following schedules contain a complete and accurate inventory and appraisal of all probate real and personal property of this estate so far as the undersigned is informed; that he/she has estimated and/or appraised all listed property at its fair market value, according to the best of his/her knowledge and ability.

SWORN to before me this 12th day of April 2019

Personal Representative
Signature: Joanna Marie Paynter
By: JOANNA MARIE PAYNTER

(Ex. 9, Probate Court file, at pages 18-21 of 65, *In re: Valerie A. Paynter*, 2017-ES-39-00607);

- This Inventory and Appraisal, filed under oath by the Appointed Personal Representative Joanna M. Paynter, fails to disclose any assets in Schedules B, C, E, F, G, H and I, each showing a “zero,” in the dollar value amount and “None,” or “N/A,” in the description column (*Id.*);
- **2018** – As Personal Representative of the estate of Valerie A. Paynter, Joanna M. Paynter denies / disallows all creditor claims or other claims, excepting American Express, which accepted payment amounting to 10% of their claimed amount due (Probate Court file, at pages 22-65 of 65, *In re: Valerie A. Paynter*, 2017-ES-39-00607);
- **February 22, 2019** – Deed of Distribution of Valerie A. Paynter’s residence to her daughters, Defendants Joanna M. Paynter and Samantha P. Nelson (Book 2035, Pages 332-336, recorded Feb. 26, 2019);
- **March 25, 2019** – Probate Court issues order settling estate of Valerie A. Paynter (Probate Court file, at page 65 of 65, *In re: Valerie A. Paynter*, 2017-ES-39-00607);

- **June 17, 2019** – Defendants Joanna M. Paynter and Samantha P. Nelson convey the residence property of their mother to Mr. McLamore and Ms. Vanegas-Gamboa (Book 2068, Pages 335-339, recorded June 19, 2019);
- **June 17, 2019** – A deposit is made to the account of Valerie A. Paynter at Wells Fargo Bank, N.A., also known as the ‘6177 account in an amount of \$28,164.04 (Wells Fargo subpoena response (unredacted), dated March 3, 2020), and withdrawals in amounts of \$5,000.00 and \$10,000.00 were taken on June 21, 2019, as shown below:

Transaction history

<i>Date</i>	<i>Check Number</i>	<i>Description</i>	<i>Deposits/ Additions</i>	<i>Withdrawals/ Subtractions</i>
6/17		Edeposit IN Branch/Store 06/17/19 04:06:27 Pm 955 Tiger Blvd Clemson SC 6177	28,164.04	
6/21	1030	Deposited OR Cashed Check		5,000.00
6/21	1032	Check		15,000.00
6/24		Interest Payment	0.04	
Ending balance on 6/24				
Totals			\$28,164.08	\$20,000.00

The Ending Daily Balance does not reflect any pending withdrawals or holds on deposited funds that may have been outstanding on your account w transactions posted. If you had insufficient available funds when a transaction posted, fees may have been assessed.

Id. at page 363 of 417 of the ‘6177 Account;

- **September 11, 2019** – Plaintiffs filed this lawsuit;
- **Jan. 6, 2020** – Mr. LeBlanc advises the undersigned he may be representing the daughters and the entity, Paynter Consulting, LLC, if it still exists (LeBlanc email, dated Jan. 6, 2020);
- **Jan. 8, 2020** – According to staff at the Pickens County Probate Court, a Mr. LeBlanc paid \$16.25 in cash for copies of certain documents from the Probate Court file, known as In re: Valerie A. Paynter, 2017-ES-39-00607;

- **Jan. 21, 2020** - Joanna Paynter files Articles of Termination for Paynter Consulting, LLC, at the Office of the South Carolina Secretary of State (Ex. 13, identifying herself as its FIDUCIARY, and answering “YES” to Question No. 4, which reads as follows: ”4. Has the company wound up its business and terminated its legal existence? _Y_e_s _”);
- **April 24, 2020** – the undersigned files by mail the Plaintiffs / Petitioners’ first Petition for Subsequent Administration, Removal of Personal Representative, and Appointment of Special Administrator in the Pickens County Probate Court; and
- **May 8, 2020** - the undersigned files by hand delivery the Plaintiffs / Petitioners’ Amended Petition for Subsequent Administration, Removal of Personal Representative, and Appointment of Special Administrator in the Pickens County Probate Court, believed to be assigned as Case No. 2017-ES-39-00607-2, which is hereby incorporated by reference.

S.C. Code Ann. § 27-23-10 et seq., The Statute of Elizabeth

The purpose of the Statute of Elizabeth is to provide a way for creditors and others affected by fraudulent transfers to “undo” those transfers, and have them set aside as void. As set forth in S.C. Code Ann. § 27-23-10, “every gift, grant alienation, bargain, transfer, and conveyance of lands... for any intent or purpose to delay, hinder, or defraud creditors and others of their just and lawful actions, suits, debts, accounts, damages, penalties, and forfeitures must be deemed and taken... to be clearly and utterly void...” *Id.* (underline emphasis added).

In *Coleman v. Daniel*, 261 S.C. 198, 209, 199 S.E.2d 74, 79 (1973), the S.C. Supreme Court identified the following as recognized “badges of fraud,” stating:

The facts which are recognized indicia of fraud are numerous, and no court could pretend to anticipate or catalog them all. Among the generally recognized badges of fraud are the [1] insolvency or indebtedness of the transferor, [2] lack of consideration for the conveyance, [3] relationship between the transferor and the transferee, [4] the pendency or threat of litigation, [5] secrecy or concealment, [6] departure from the usual method of business, [7] the transfer of the debtor's entire estate, [8] the reservation of benefit to the transferor, and [9] the retention by the debtor of possession of the property.

Id.

SUMMARY JUDGMENT STANDARD

“[I]n cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence in order to withstand a motion for summary judgment. However, in cases requiring a heightened burden of proof or in cases applying federal law, we hold that the non-moving party must submit more than a mere scintilla of evidence to withstand a motion for summary judgment.” *Hancock v. Mid-South Mgmt. Co.*, 381 S.C. 326, 330-331, 673 S.E.2d 801, 803 (2009).

As noted above, the burden shifts to the Defendants to show that the conveyance of the Factor was not fraudulent.

Defendants’ knowing participation in the fraudulent scheme to convey and conceal the gift of the Factor constitutes the basis of the Plaintiffs’ motion for summary judgment on Claims I, II, IV and VII. The facts set forth in this motion, from the Defendants’ own testimony and sworn statements filed in this action, as well as in the probate case, 2017-ES-39-00607, necessitate issuance of an order as soon as reasonably practical under the Statute of Elizabeth (Plaintiffs’ Claim VIII) setting aside the conveyance from Paynter Consulting, LLC to the Defendants.

CONCLUSION

For the reasons set forth herein and the undisputed facts in the records of the Courts of this County and District Court of South Carolina, Plaintiffs Christopher Young and Biotech

Restorations, LLC, respectfully request an order setting aside the fraudulent transfer of the property of Paynter Consulting, LLC, known as the “Factor” to the Defendants Joanna M. Paynter and Samantha P. Nelson.

Respectfully Submitted,

WESLEY D. FEW, LLC

s/Wesley D. Few/
Wesley D. Few, S.C. Bar No. 15565
P.O. Box 9398
Greenville, South Carolina 29604
864-527-5906 | wes@wesleyfew.com

ATTORNEYS FOR CHRISTOPHER YOUNG
AND BIOTECH RESTORATIONS, LLC

April 13, 2022
Greenville, South Carolina

TABLE OF EXHIBITS

- Ex 1 – May 30, 2006 General Partnership Agreement (ECFN-014-1);
- Ex 2 – Sept. 26, 2017, Application (and Order) for Appointment as Personal Representative, 2017-ES-39-00607;
- Ex 3 - Samantha P. Nelson, Deposition Excerpts, pp. 116, 117, 118, 125-127, and 162;
- Ex 4 – Joanna M. Paynter, Deposition Excerpts, pp. 46, 81, 84, 85, 86, 89, 91, 92, 167-169, 170, 173, 174, 177-179, and 182;
- Ex 5 - Joanna Paynter, Declaration, filed May 20, 2020;
- Ex 6 – Sept. 3, 2020, excerpt from privilege log;
- Ex 7 - April 26, 2017, Term Sheet with Paynter Consulting, LLC (Exhibit 6 to Joey Paynter Depo., PAYN-11679 to 11681);
- Ex 8 – August 17, 2020, Protective Order;
- Ex 9 – Oct. 16, 2017, Inventory and Appraisement, 2017-ES-39-00607;
- Ex 10 – March 5, 2018, Probate Judge letter, 2017-ES-39-00607;

Ex 11 - May 11, 2020, draft Declaration of Joanna Paynter, Cf. Ex. 5;

Ex 12 - Sept. 26, 2017, Oath of Personal Representative, 2017-ES-39-00607;

Ex 13 – Jan. 21, 2020, Articles of Termination, Paynter Consulting, LLC, filed by Joanna Paynter as “Fiduciary”

ⁱ By order of this Court dated June 14, 2021, Defendant Paynter Consulting, LLC, is in default. Paynter Consulting, LLC was the Plaintiff in a prior lawsuit sent to arbitration by order of The Honorable Timothy M. Cain, U.S. District Judge, by Order dated Feb. 16, 2016 (ECFN-025, Paynter Consulting, LLC v. Biotech Restorations, LLC and Christopher Young, 2019-CP-39-01006, removed and assigned Case No. 8:15-cv-03778-GRA-TMC) (hereafter the “2015 Lawsuit”).

ⁱⁱ Defendants Paynter and Nelson have also alleged a claim for Breach of Contract (including referencing and attaching the May 30, 2006 General Partnership Agreement), in their amended Answer and Counterclaim, filed Sept. 14, 2021, at pages 14 to 16).

ⁱⁱⁱ By order of this Court dated August 17, 2020:

Counsel for Defendants Paynter and Nelson is currently in possession of approximately 20-30 lab notebooks, having approximately 50-450 pages in each lab notebook, that were created from approximately 1993 until 2016, that describe Dr. Paynter's bioremediation trade secrets, and counsel for Defendants Paynter and Nelson shall retain all such materials while this matter is pending unless directed otherwise by this Court.

Id. at 1-2.

^{iv} The General Partnership Agreement at Para. 7, provided as follows:

Disputes that would jeopardize new business, contracts, or existing clients and cannot be resolved by the partners within thirty days will be submitted to a mutually agreed upon arbitrator whose decision will be final. Any disagreements or differences that affect the management of the Partnership business and would jeopardize new business, contracts, or existing clients and cannot be resolved by the partners within thirty days will be submitted to an arbitration process designed to repair the partnership relationship and solve said differences or disputes.

Id. (underline emphasis added).

^v This was just after Paynter Consulting, LLC filed the 2015 Lawsuit, and is relevant to the badge of fraud factors 4, 5, 6, 7, 8 and 9. See also Exhibit 7, (detailing negotiations with a Mr. Jason Dibble with a company known as EnvirogenX, Inc., who Defendants have acknowledged made an offer to buy the Factor technology in the 2016-2017 time period, after the 2015 Lawsuit was ordered to arbitration. (Exhibit 7 to Joey Paynter Depo., PAYN-11679 to 11681) (stating, *inter alia*, “The ‘Parties’ intend to transact the sale of Paynter's FACTOR so that EnvirogenX will have sole and exclusive rights to use the FACTOR in any and all verticals or usages, worldwide with no restrictions as to its commercialization” (underline emphasis added)).

^{vi} The parties' General Partnership Agreement, at Para. 4, provided as follows:

The Partnership shall commence on and continue until dissolved by mutual agreement of the partners. The Partnership will terminate upon the death or incapacity of a partner. Any outstanding revenues or revenues anticipated from projects under contract at the time of a death or incapacity will be paid to the partner's designated beneficiary. In the event of a death of a partner, the remaining partner has the right to continue the business of the Partnership by themselves or in conjunction with any other persons they may select. The continuing partner will pay 10% of net profits annually to the heirs / estate of the deceased partner on any contract involving the use of the **Factor**, and 10% gross from the sale of the **Factor Technology**.

Id. (underline and bold emphasis added).

^{vii} As noted above, the 2015 Lawsuit was filed in this Court on Aug. 17, 2015, and later removed. Paynter Consulting, LLC v. Biotech Restoration, LLC and Christopher Young, 2015-CP-39-01006, removed and assigned Case No. 8:15-cv-03778-GRA-TMC (referenced here as the "2015 Lawsuit").

EXHIBIT A

ELECTRONICALLY FILED - 2022 Apr 13 8:13 PM - PICKENS - COMMON PLEAS - CASE#2019CP3901224

Modified Agreement 5/30/16

GENERAL PARTNERSHIP AGREEMENT

THIS PARTNERSHIP AGREEMENT is entered into on January 1, 2006 between the following parties:

Biotech Restorations, LLC owned and operated solely by

Christopher W. Young
3913 Lake Spring Cove
Denver, North Carolina 28037

&

Paynter Consulting, LLC owned and operated solely by

Valerie A. Paynter
200 Valley View Drive
Clemson, South Carolina 29631

The above-named parties agree that upon the commencement date of this Partnership they shall be deemed to have become partners in business. The purposes, terms and conditions of this Partnership are as follows:

1. Name – Each partner will operate and own 100% of an independent business for the purpose of supporting the Partnership.
 - 1.a Christopher W. Young has incorporated Biotech Restorations, LLC to support the Partnership.
 - 2.a Valerie A. Paynter has incorporated Paynter Consulting, LLC to support the Partnership.
2. Principal place of business - The principal places of business of the Partnership shall be Denver, NC and Clemson, SC.
3. Purpose - The business of the partnership is set forth below and relates to the treatment of contaminated soil, marine sediments and other media as applicable to the Factor biotechnology. To the extent necessary for the remediation of soil and marine sediments, the Partnership will utilize proprietary products and services under an exclusive use permit which restricts the use of the Factor Biotechnology to this Partnership for all environmental business applications.
 - 3.a Christopher W. Young (representing Biotech Restorations, LLC) and Valerie A. Paynter (representing Paynter Consulting, LLC) jointly agree to work exclusively in support of the Partnership in matters relating to the development of and commercial use of Factor based products in the environmental remediation marketplace.
 - 3.b Paynter Consulting, LLC, having sole knowledge of the proprietary Factor formulation, agrees to provide the Partnership with exclusive use of Factor formulated products during the term of the Partnership, ongoing technical and scientific assistance in support of the Partnership and the first option to incorporate new technologies into the Partnership.
 - 3.c Biotech Restorations, LLC, having developed existing markets and business opportunities, agrees to provide ongoing business development and management of remediation projects in which Factor Products are in use and exclusive ongoing support of the Partnership.
4. Term - The Partnership shall commence on and continue until dissolved by mutual agreement of the partners. The Partnership will terminate upon the death or incapacity of a partner. Any outstanding revenues or revenues anticipated from projects under contract at the time of a death or incapacity will be paid to the partner's designated beneficiary. In the event of a death of a partner, the remaining partner has the right to continue the business of the Partnership by themselves or in conjunction with any other persons they may select. The continuing partner will pay 10% of net profits annually to the heirs/estate of the deceased partner on any contract involving the use of the Factor, and 10% gross from the sale of the Factor Technology.
4. Distribution of profits - The partners agree that net profits (after disbursement of expenses) arising from the Partnership will be distributed equally (50/50). A division of profits shall be made at such time as may be agreed upon by the partners and at the close of each fiscal year.
6. Control - The partners shall have exclusive control over the Factor Based Environmental Remediation Business and each partner shall have equal rights in the management and conduct of the Partnership business. Any difference arising as to the ordinary matters connected with the Partnership business shall be decided by a third party arbitrator chosen and agreed upon by the partners. Any act beyond the scope of this Partnership agreement or any contract that may subject this Partnership to liability shall be subject to the prior written consent of the partners.

5/30/16
KCP F&P

7. Disputes - Disputes that would jeopardize new business, contracts, or existing clients and cannot be resolved by the partners within thirty days will be submitted to a mutually agreed upon arbitrator whose decision will be final. Any disagreements or differences that affect the management of the Partnership business and would jeopardize new business, contracts, or existing clients and cannot be resolved by the partners within thirty days will be submitted to an arbitration process designed to repair the partnership relationship and solve said differences or disputes.

8. Selling out - If a partner decides to sell their interests in the Partnership business to the remaining partner the interests will be valued at two and one half the current business equity (as determined by customary accounting principles). Payment for the interests sold shall be made over a time period acceptable to both partners. No partner may sell his or her interests in the Partnership business to a third party unless mutually agreed to by the other partner. Thirty days written notice of proposed sell out to the partner by the selling partner is required.

8.a Should the partners opt to sell all or any portion of the business, profits from the sale will be distributed on the same 50/50 basis.

9. Signatures of the Partners

Valerie A. Paynter for Paynter Consulting, LLC

Christopher W. Young for Biotech Restoration, LLC

Notary

Notary

Date Notarized

Date Notarized

Subj: **Re: Agreement**
Date: 5/23/2006 11:26:12 A.M. Eastern Standard Time
From: vapaynter@hotmail.com
To: CYoung2281@aol.com

Hi Chris,

Enjoyed our talk this morning as always, and felt it was productive. Thanks for the tip on how to make changes in color! On the computer its an 'A' to change the color of the words and a palette brush for the background. I learn something new every day. I'm attaching the revised Agreement with the changes recommended by Mem (his name is Memminger Wiggins) which mainly were to focus more on the companies rather than on us as individuals to protect us, and the additions that you and I talked about this morning. Good luck with the business plan.

Regards, Val

From: CYoung2281@aol.com
To: vapaynter@hotmail.com
Subject: Re: MOU
Date: Mon, 22 May 2006 18:02:24 EDT

Thanks Val.

Let's talk tomorrow morning about 9.

Chris

Christopher Young
President
BTR
704 489 6538
cyoung2281@aol.com

THE INFORMATION CONTAINED IN THIS ELECTRONIC MAIL MESSAGE IS PRIVILEGED AND CONFIDENTIAL AND IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY USE, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE OR BY ELECTRONIC MAIL AND DELETE THE ORIGINAL MESSAGE. THANK YOU.

Thursday, May 25, 2006 America Online: CYoung2281

ELECTRONICALLY FILED - 2006 APR 13 8:13 PM - PICKENS - COMMON PLEAS - CASE#2019CP3901224

STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF: PICKENSIN THE MATTER OF:
VALERIE ANNE PAYNTER
(Decedent)CASE NUMBER: 2017ES3900607***COMPLETE THIS SECTION ONLY IF FILING PETITION FOR
FORMAL TESTACY AND/OR FORMAL APPOINTMENT**

* _____
Petitioner(s)

vs.

* _____
Respondent(s)

**APPLICATION FOR INFORMAL**

(check any that apply)

- ☒ PROBATE OF WILL
- ☒ APPOINTMENT

***PETITION FOR FORMAL**

- ☐ TESTACY
- ☐ APPOINTMENT

If this is a formal filing, please explain on page 3 attach pleadings pursuant to SC Rules of Civil Procedure.

***NOTE: IF THIS IS A FORMAL PROCEEDING, IN ADDITION TO THIS FORM PETITION, YOU MUST ALSO FILE A SUMMONS (FORM SCCA 401PC), AND PAY THE STATUTORY FILING FEE OF \$150.00. A HEARING IN THE PROBATE COURT ON THE PETITION MAY BE REQUIRED.**

I. ALL APPLICANTS/PETITIONERS MUST COMPLETE THIS SECTION.

1. Applicant/Petitioner(s): JOANNA MARIE PAYNTER
 Address: 24440 KATHLEEN DRIVE LAGUNA NIGUEL, CA 92677
 Telephone (Work): _____
 (Home): _____
 (Cell): 949-293-7455
 Email: joeypaynter@gmail.com
 Relationship to Decedent: DAUGHTER

2. Decedent Information:

Full Legal Name
(including all known names): VALERIE ANNE PAYNTER
 Date of Birth: 04/19/1939
 Date of Death: 09/04/2017
 Age at date of death: 78

3. Venue for this proceeding is proper in this County because:

- ☒ Decedent was domiciled in this County at date of death: CLEMSON, SC 29631
 Address: 200 VALLEY VIEW DRIVE County PICKENS State: South Carolina.
- ☐ Decedent was **not** domiciled in **South Carolina**, but property of Decedent was located in this County at date of death at:
 Address: _____ County PICKENS State: South Carolina.
- ☐ Decedent has a right to take legal action in this County because: _____

If the above address is the address of a nursing home, prison, or other residential facility, please give the last address of the Decedent prior to entering a facility: _____

4(a). Names and addresses of beneficiaries (devisees) named in the Will.

Full Legal Name (including all known names)	Year of Birth	Full Address	Relationship to Decedent
JOANNA MARIE PAYNTER	1978	24440 KATHLEEN DRIVE LAGUNA NIGUEL, CA 92677	DAUGHTER
SAMANTHA DAWN PAYNTER NELSON	1985	38 STAFFORDSHIRE WAY SIMPSONVILLE, SC 29681	DAUGHTER

☐ See attached for additional devisees (check if applicable)

4(b). Names and addresses of intestate heirs who are not devisees (persons who inherit if Decedent left no Will).

Full Legal Name (including all known names)	Year of Birth	Full Address	Relationship to Decedent
JOANNA MARIE PAYNTER	1978	24440 KATHLEEN DRIVE LAGUNA NIGUEL, CA 92677	DAUGHTER
SAMANTHA DAWN PAYNTER NELSON	1985	38 STAFFORDSHIRE WAY SIMPSONVILLE, SC 29681	DAUGHTER
JASON MARK PAYNTER	1976	DECEASED	SON - Deceased
JONATHAN BRETT PAYNTER	1981	DECEASED	SON - Deceased

☐ See attached for additional intestate heirs (check if applicable)

4(c) Did all of the above persons survive one hundred and twenty (120) hours since the death of Decedent?

☐ YES ☒ NO If no, please explain on page 3.

5. Did Decedent have any change of marital status or the birth or adoption of any children after execution of this Will, if one exists, or has any child of the Decedent been born since his/her death, or is any birth of a child of the Decedent anticipated? (This includes illegitimate children.)

☒ NO ☐ YES If yes, please explain, on page 3.

6. To the best of your knowledge, was the Decedent a patient in a non-private State of South Carolina mental health facility during his/her lifetime?

☒ NO ☐ YES If yes, please explain, on page 3.

7. Has a Guardian or Conservator ever been appointed by a Court for this person?

☒ NO ☐ YES If yes, please explain on page 3.

8. Has a Personal Representative of the Decedent been appointed prior to this date by a Court in this state or elsewhere?

☒ NO ☐ YES If yes, please state details, including name and address of such Personal Representative on page 3.

9. Have you received or are you aware of any Demands for Notice (Form 111ES) of any probate or appointment proceeding concerning the Decedent that may have been filed in this state or elsewhere?

☒ NO ☐ YES If yes, please state details, including names and addresses on page 3.

10. Have more than ten (10) years passed since the Decedent's death?

☒ NO ☐ YES If yes, please state circumstances authorizing tardy probate on page 3.

11(a). Did the Decedent own probate real estate?

☐ NO ☒ YES If yes, an approximate value of \$ 243,700. (Note: A complete inventory of probate assets with fair market values to be filed after Personal Representative is appointed.)

11(b). Did the Decedent own probate personal property?

☒ NO ☐ YES If yes, an approximate value of \$ _____. (Note: A complete inventory of probate assets with fair market values to be filed after Personal Representative is appointed.)

12. After the exercise of reasonable diligence, are you aware of any unrevoked Will and/or Codicil(s)?

☐ YES If yes, then proceed to Section II.
☒ NO If no, then proceed to Section III.

II. IF A WILL EXISTS, PLEASE COMPLETE THIS SECTION.

1. Regarding the Decedent's Will:

- ☐ The original is attached.
☒ The original is in the Court's possession.
☐ An exemplified (authenticated) copy of a Will probated in another jurisdiction is attached.
☐ An exemplified (authenticated) copy of a Will not probated in another jurisdiction is attached.
☐ The original of the Will is lost, destroyed, or otherwise unavailable, however, a description of its contents is attached. (for formal proceeding, explain below or attach supplemental pleadings)

2. The execution date of the Will was: 11/02/2009
Codicil(s):

3. Is there a memorandum that disposed of tangible personal property pursuant to 62-2-512?

☒ NO ☐ YES If yes, attach hereto.

4. To the best of your knowledge, do you believe the Will listed above is the Decedent's validly executed last Will?

☒ YES ☐ NO If no, please explain on page 3.

5. To the best of your knowledge, is any witness to the will an "interested witness" (i.e., does the will make any devise to a witness, a witness's spouse, or a witness's issue)?

☒ NO ☐ YES If yes, please explain on page 3.

COMPLETE EXPLANATION (S) FOR QUESTIONS IN SECTIONS I and II HERE.
(If more space is required, use additional sheets.)

4(c) JASON MARK PAYNTER - DECEASED 1976 Stillborn
+ JONATHAN BRETT PAYNTER - DECEASED 1983

III. IF APPLYING FOR INFORMAL OR FORMAL APPOINTMENT, PLEASE COMPLETE THE FOLLOWING.

1. If the Applicant/Petitioner is not the proposed Personal Representative(s), list name and address of the person you are proposing be appointed as the fiduciary:

2. Priority for appointment of the proposed Personal Representative (whether applicant or nominee) is:

- ☒ named as Primary Personal Representative in Will
☐ named as Alternate Personal Representative in Will
☐ nominee of above Primary Personal Representative in Will
☐ nominee of above Alternate Personal Representative in Will
☐ surviving spouse of Decedent who is devisee of Decedent or nominee of said spouse
☐ other devisee of Decedent (describe): _____ or nominee of said devisee
☐ surviving spouse of Decedent or nominee of said spouse
☐ other heir of Decedent (describe): _____ or nominee of said heir
☐ creditor (forty-five (45) days after death must have passed) or nominee of creditor; written statement of claim, FORM 371ES, is attached
☐ other (describe): _____

3. List below the name(s) of any other person(s), if any, having an equal or higher priority of appointment than the proposed Personal Representative:

IV. ALL APPLICANTS/PETITIONERS MUST COMPLETE VERIFICATION.

VERIFICATION

The undersigned, being sworn, states that the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief, and hereby submits to the Court's jurisdiction in this matter.

SWORN to before me this 26th day of
September, 2017

Signature of
Applicant/Petitioner:

Joanna Parvate

Kathy P. Zorn
Notary Public for South Carolina
My Commission Expires: 1-2-2024

SWORN to before me this _____ day of
_____, 20____

Signature of Co-
Applicant/Co-Petitioner: _____

Notary Public for South Carolina
My Commission Expires: _____

ORDER OF INFORMAL PROBATE

IT IS HEREBY ORDERED that the above application for probate of a Will executed 11/02/2009 and

- ☐ Codicil executed _ and
☐ Memorandum

be informally ☒ GRANTED ☐ DENIED.

Executed this 26th day of September, 2017.

Kathy P. Zorn

KATHY P. ZORN, Probate Court Judge

☐ For formal probate of Will, see separate order executed ____

ORDER OF INFORMAL APPOINTMENT

IT IS HEREBY ORDERED that the above Application for Appointment be granted upon the filing of an appropriate bond, if applicable, and upon the signing of the Qualification and Statement of Acceptance of appointment.

Bond

- ☐ Fiduciary Bond in the amount of \$____
☒ Bond not required for Personal Representative nominated by Will
☐ Bond not required as Personal Representative is sole heir or sole devisee
☐ Bond not required as Personal Representative is state agency, bank, or trust company
☐ Bond waivers filed
☐ See order dated
☐ Other:

Notice to Creditors

- ☒ Required
☐ Not Required

Executed this 26th day of September, 2017.

Kathy P. Zorn

KATHY P. ZORN, Probate Court Judge

☐ For formal appointment of Personal Representative, see separate order executed ____

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Personal Representative of this estate. I further submit personally to the jurisdiction of the Court in any proceeding relating to the Estate.

Signature: Joanna Paynter
Print Full Name: JOANNA MARIE PAYNTER
Address: 24440 KATHLEEN DRIVE
LAGUNA NIGUEL, CA 92677
Telephone (Work): _____
(Home): 949-293-7455
(Cell): _____
Email: _____

Signature: _____
Print Full Name: _____
Address: _____
Telephone (Work): _____
(Home): _____
(Cell): _____
Email: _____

*Attorney: My own
Address: _____
Telephone: _____
Email: _____

*By completing this information, attorney is designated as attorney of record for assisting Personal Representative until proper withdrawal.

IN THE COURT OF
COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

— — —

Defendants.

Case No.
2019-CP-39-01224

1 APPEARANCES:

2 WESLEY D. FEW, LLC
3 BY: WESLEY D. FEW, ESQUIRE (Via Videoconference)
4 416 North Street
5 Greenville, South Carolina 29601
6 864-527-5906
7 wes@wesleyfew.com
8 Representing the Plaintiffs

9 STEVE LeBLANC, LLC
10 BY: STEVE R. LeBLANC, ESQUIRE (Via Videoconference)
11 416 North Street
12 Greenville, South Carolina 29601
13 864-902-4411
14 steve@leblancllc.com
15 Representing the Defendants

16 ALSO PRESENT:

17 Christopher Young (Via Videoconference)
18 Joey Paynter (Via Videoconference)

I N D E X

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Stipulation

4

EXAMINATION

By Mr. Few

4

Signature of Deponent

164

Certificate of Reporter

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E X H I B I T S

PLAINTIFFS' EXHIBITS DESCRIPTION

MARKED

1 Lawsuit paperwork filed 9-21-15

94

2 General Partnership Agreement
filed 11/9/15

104

3 Order dated 2-16-16

108

4 General Partnership Agreement
signed on 5/30/06

135

5 General Partnership Agreement
filed on 9/4/21

155

1 Q Have you ever met --

2 A I don't know -- I will -- let me rephrase
3 that. I know of him and I have met him briefly
4 but...

5 Q What do you know about him?

6 A Just that he -- I think he works at Clemson
7 University. I'm not 100 percent sure on that. I
8 believe he works at Clemson University. I don't -- I
9 don't really know much.

10 Q Do you know if he ever worked for your
11 mother?

12 A Worked for my mom? No.

13 Q Do you know if he ever did any work related
14 to The Factor?

15 A No.

16 Q So your testimony is who owns The Factor as
17 of today?

18 A You're asking -- I'm sorry. That was a
19 question?

20 Q Yes.

21 A Me and my sister.

22 Q Okay. And when did you become the owners
23 of The Factor?

24 A I feel like she gave us like all of her
25 stuff back in 2016, like spring of 2016.

1 Q Are there any documents that show that
2 there was this transfer of The Factor in spring of
3 2016 to you and your sister?

4 A Any documents? Like what kind of document?

5 Q Like documents, something signed by
6 somebody --

7 A No.

8 Q -- which would be your mother. Similar to
9 when you sold your mother's house. I think you had a
10 power of attorney to sign the closing documents for
11 your sister. Does that sound familiar?

12 A Yeah.

13 Q So your testimony is that The Factor was
14 transferred to you and your sister in the spring of
15 2016?

16 A Right.

17 Q And do you recall if the lawsuit that
18 Mr. Englehardt brought was still pending when the
19 transfer occurred?

20 A Oh, I don't know. I don't know when
21 that -- I don't know when that ended or the time
22 frame of that exactly.

23 Q At the time that The Factor was transferred
24 to you and your sister, what is your understanding of
25 its value?

1 A It's valuable. I mean, what are you
2 wanting me to say?

3 Q My question was, at the time of the
4 transfer of The Factor to you and your sister that
5 you're testifying about, what was your understanding
6 of its value?

7 A That it was something that was valuable.
8 It was valuable and it was a secret that only me, my
9 mom and my sister at that point knew about.

10 Q Did you understand it to be worth more than
11 a million dollars at that time?

12 A I just feel like that is, again, like -- I
13 mean, it's only worth what someone's willing to pay
14 so I don't know. I can't say that dollar amount on
15 there. I don't really know what it's worth. I think
16 it's worth a lot personally but I think a lot of
17 things hold a lot of value that a lot of people don't
18 think so I don't think what I say really matters.

19 Q Did you believe The Factor was worth more
20 than a million dollars or less than a million dollars
21 at the time that you testified that your mother
22 transferred it to you and your sister in the spring
23 of 2016?

24 A Do I believe it's worth it? Sure. Yes.
25 The reality of it, I don't know.

1 the spring of 2016, correct?

2 A Uh-huh.

3 Q Did you or your sister pay your mother
4 anything to become owners of The Factor?

5 A No.

6 Q You --

7 A I said no. Can you hear me?

8 Q In the fall of 2016 specifically in
9 November, was your mother checking her e-mail?

10 A I can't answer that. I'm not my mother.

11 Q All I can ask you is what you know about so
12 if I wasn't --

13 A I don't know. I would assume yes.

14 Q Do you think your mother was capable of
15 scanning an attachment and sending it by e-mail in
16 November of 2016?

17 A She probably had the help of me or my
18 sister to do something like that.

19 Q So you and your sister own The Factor
20 according to your testimony equally; is that right?

21 A Yes.

22 Q And your testimony is that your mother gave
23 it to you in the spring of 2016, correct?

24 A Yes.

25 Q And so what exactly did she give you at

1 that time?

2 A She just gave us her like lab notebooks.

3 Q This would be the lab notebooks that she
4 would have used to do the bench studies for The
5 Factor?

6 A I guess, yeah.

7 Q Well, did you see them?

8 A Have I seen them? Yes.

9 Q Did she physically hand the lab notebooks
10 to you?

11 A Yes. To me and my sister.

12 Q And where did that occur?

13 A In her home.

14 Q Approximately what all did that involve?
15 Like, for example, if you will look up here we call
16 this a banker's box. Have you ever seen one of
17 these?

18 A Yes.

19 Q Would all of the information have fit in
20 one of these banker's boxes?

21 A No. More.

22 Q And I'll just go up. Do you think it would
23 have been two banker's boxes or more?

24 A No. Maybe like three, three or four boxes,
25 maybe, but I don't really remember exactly how many

1 boxes. I just -- there was a few boxes full of
2 stuff, full of paperwork and lab notebooks.

3 Q So other than those lab notebooks that you
4 just described that would have filled somewhere
5 between two and four banker's boxes, right, what else
6 did she give you as a part of giving you The Factor
7 in the spring of 2016?

8 A That was it.

9 Q And it's my understanding that Mr. LeBlanc
10 is in possession of all of those notebooks that you
11 just described?

12 A Yes.

13 Q So Mr. LeBlanc, according to your
14 testimony, is in possession of everything that
15 constitutes The Factor.

16 A Everything that constitutes -- I'm sorry.
17 Is that question for me or are you asking -- is that
18 for me?

19 Q Yes. You're the only one that's being
20 deposed. I'm not trying to be smart about it but it
21 is late in the day and...

22 A All right. All right. That was just
23 confusing the way you said that.

24 So -- right. Any materials that my mom
25 gave to us I handed it over to Mr. LeBlanc so he has

1 rate, no.

2 Q What is your understanding of how

3 Mr. LeBlanc will be compensated for his work in this

4 case?

5 A He took us on as a contingency.

6 Q A contingency of what?

7 A Of -- that he represented us and if we sell

8 The Factor, then he gets a percentage.

9 Q Have you paid Mr. LeBlanc anything to date

10 for fees or costs or travel or anything like that?

11 A No.

12 MR. FEW: All right. That's all of the

13 questions I have.

14 MR. LeBLANC: I don't have any questions.

15 Thank you.

16 THE COURT REPORTER: Is this going to be a

17 read and sign, Steve?

18 MR. LeBLANC: Yes. If you send me a copy,

19 I'll send it to her.

20 THE COURT REPORTER: Okay. Are you going

21 to want a copy of the transcript?

22 MR. LeBLANC: I don't think so.

23 THE COURT REPORTER: Okay.

24 - - -

25 (Witness excused.)

STATE OF SOUTH CAROLINA
COUNTY OF PICKENS

COURT OF COMMON PLEAS

- - -

Christopher Young and
Biotech Restorations, LLC,

C.A. NO.:
2019-CP-39-01224

Plaintiffs,

vs.

Joanna Marie Paynter, a/k/a
Joey Paynter, Samantha P. Nelson,
and Paynter Consulting, LLC,

Defendants.

VIDEO CONFERENCE DEPOSITION OF
JOANNA MARIE PAYNTER a/k/a JOEY PAYNTER

DATE TAKEN: Tuesday, March 30, 2021

TIME BEGAN: 10:04 a.m.

TIME ENDED: 5:47 p.m.

LOCATION: (Remote Locations.)

REPORTED BY: Lisa Garson, Court Reporter
EVERYWORD, INC.
P.O. Box 1459
Columbia, South Carolina 29202
803-212-0012

1 APPEARANCES:

2
3 WESLEY D. FEW, LLC
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864.902.4411
11 steve@leblancllc.com
Representing the Defendants
12 via Video Conference
13
14

15 ALSO ATTENDING:

16 CHRISTOPHER YOUNG
17 SAMANTHA NELSON
18
19
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22
23
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I N D E X

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1 A Correct.

2 Q And you had been involved in finding him
3 to help your mom in the prior litigation; is that a
4 fair statement?

5 A My mom requested that I looked for people
6 and so I did what she asked.

7 Q Okay. And as part of that request, did
8 you speak to other attorneys, other than Eric
9 Englehardt, that y'all did not retain for services
10 back in the 2014, '15 time period?

11 A I believe there may have been -- did we
12 speak to -- no. I think Eric was actually the only
13 one we spoke to.

14 Q How did you get in touch with Eric? Was
15 that through a referral from someone else?

16 A Google.

17 Q So your testimony is that your mom asked
18 you to find an attorney for what purpose; for
19 something related to Chris Young and the
20 partnership agreement?

21 A Yes. My mom said she wanted to -- she
22 was upset with how things were and didn't know who
23 to find and who to ask, so we did a search
24 together.

25 Q Okay. So is it your recollection, then,

1 obviously passed away in September of '17, but what
2 did your mom tell about the value of the Factor?

3 A That it was the most precious thing to
4 her.

5 Q Okay. And then what about in economic
6 terms, did she give any opinion on the value of the
7 Factor in economic terms?

8 A Yeah. The only thing my mom ever
9 specifically said, she never wanted to give it for
10 less than 10 million.

11 Q And then when you talk -- and we can get
12 into this later, as necessary. You've been kind
13 enough to produce over 10,000 pages of documents,
14 which is a little overwhelming but that's kind of
15 the way things go these days; and to that end, all
16 of those e-mails that were produced by you and
17 through Mr. LeBlanc, that are from, or to, your
18 e-mail address, those are things that you provided
19 to Mr. LeBlanc, correct?

20 A The e-mails that we gave you are stuff
21 that I provided to Steve, to Mr. LeBlanc, yes.

22 Q I guess what I'm saying is, you're not
23 gonna later say -- because we sat in this room and
24 took depositions of witnesses that deny the
25 authenticity of e-mails, so you have no reason to

1 communications to, as you say, support your mom; is
2 that a fair statement?

3 A Yeah. None of this stuff was ever about
4 me, it was always about my mom; so again, I was
5 present because my mom wanted me to be there to
6 help her, but I was not -- I was never part of what
7 was happening.

8 Q So if your mom was the one doing the
9 negotiations in 2017 with EnvirogenX and Bruce
10 Paschal, and you said maybe Rob Campbell, who owned
11 the Factor in 2017?

12 A I did and my sister did, but my mom was
13 the one who was the scientist. As you've
14 uncovered, I'm a mere psychologist.

15 Q So you and your sister owned the Factor
16 in 2017?

17 A That's correct.

18 Q And tell us how that came about.

19 A How we owned it?

20 Q Yes.

21 A Okay. Well, back in -- after my dad
22 died, my mom pulled my sister and I into her room
23 and she told us all about what -- in detail, more
24 detail than I think my sister and I wanted at the
25 time, and told us about what it did and told us

1 what it was and said that this was ours to have
2 when she was no longer around because she was
3 afraid that -- she didn't know when she would die,
4 so she was letting us know that this was ours; and
5 I think Sam and I just sort of shrugged it off, as
6 in, okay, cool, thanks mom, we got it, we
7 understand; and then after the whole -- all the
8 lawsuit stuff that was going on, my mom came to my
9 sister and I and wanted to give us all of her
10 documentation on it; and it was during that time
11 where I was staying with my mom after that 2015 to
12 2016 period, and then she slowly removed her books
13 from her lab; and in a period of going through it,
14 she then handed my sister and I the books and
15 basically said, this is for you girls.

16 Q So am I understanding your testimony to
17 be that the technology that has been referred to in
18 the -- I call it the 2015 lawsuit that
19 Mr. Englehardt brought, and he referred to the
20 Factor; do you recall that?

21 A Do I recall that he referred to
22 technology referred to as the Factor?

23 Q Yeah. In the lawsuit, I believe we've
24 quoted that from, I think, paragraph five of that
25 lawsuit. He quotes the Factor, and he says that

1 Paynter Consulting owns it; do you remember that?

2 A Well, I don't really remember that but I
3 remember -- if it's written down, I'm sure that's
4 what was stated.

5 Q But your testimony today is that you own
6 it, or you and your sister own it?

7 A Well, both, my sister and I, so I don't
8 know how the whole legal stuff works. What I can
9 tell you is, 2009 my mom told us what it was and
10 she explained all of it to us and how it worked,
11 that's what I can tell you; and I can tell you in
12 2016, and I know because that was before I was
13 leaving before I went back to California, she made
14 sure my sister and I had everything, and said,
15 Here, this is for you girls, this is yours; that's
16 what I can tell you.

17 Q So is it your belief, or position, that
18 you should have the ability to sell the Factor or
19 license the Factor now?

20 A Now? Yeah, I believe I can do -- yeah.

21 Q And have you made any efforts to sell or
22 license the Factor since your mother passed away?

23 A No, I have not.

24 Q Do you know if your sister has made any
25 efforts to sell or license the Factor since your

1 bioremediation technology and gave the boxes to my
2 sister and me to have and own." Do you see that?

3 A I do.

4 Q Okay. So is it your testimony that, from
5 April of 2016, you and your sister were the owners
6 of the Factor technology?

7 A Yeah. I would say that my sister and I
8 owned it. My mom -- my sister and I wanted my mom
9 to do whatever she wanted; but, yeah, she gave it
10 to us so it says right there, my sister and me to
11 have and own, so that is correct.

12 Q And is there any -- other than this
13 affidavit that you signed, are you aware of any
14 documents that would corroborate the fact that your
15 mother gave you the Factor technology as described
16 in paragraph 13?

17 A Are you asking, are there any documents
18 in regards to that?

19 Q Yes.

20 A Not that I know of.

21 Q Okay. And in paragraph 12 you say, "In
22 2015 and 2016, I participated in discussions
23 between my mother and various entities that offered
24 more than \$10 million to purchase my mother's
25 bioremediation technology;" is that right?

1 sister?

2 A Right now?

3 Q Yes.

4 A I believe my mom told my sister and I
5 what it was, and she gave that to us; and I
6 absolutely believe that because I was there, so,
7 yeah.

8 Q So you and your sister have been the
9 owners of the technology that's referred to in
10 paragraphs 12 and 13 of this affidavit, since,
11 roughly, April of 2016?

12 A Well, it says here between February and
13 April 2016, she packed up her boxes, and then it
14 says she gave it to my sister and me to have and
15 own, so I'm still saying that that is correct.

16 Q So you've been the owner of the Factor
17 technology with your sister, to the exclusion of
18 your mother because she gave it to you, since
19 April of 2016?

20 A I'm saying that she gave it to me and my
21 sister April 2016, with her boxes and the notes and
22 all of that, that's correct; and then, that she
23 told us what the formula was back in 2009.

24 Q And I think I asked you this a minute
25 ago, but I want to make sure I have an answer. Are

1 there any documents other than this affidavit that
2 would show that this valuable technology was gifted
3 to you and your sister in, or around, April of
4 2016?

5 MR. LeBLANC: Objection to the form.

6 WITNESS: Does that mean that I answer,
7 or don't?

8 MR. LeBLANC: Yeah. You always answer.

9 WITNESS: Oh, okay. Now I lost the
10 question. Mr. Few, will you repeat that? I'm
11 sorry.

12 MR. FEW: Lisa, can you repeat it for me,
13 please?

14 (Requested testimony read back by the
15 court reporter.)

16 WITNESS: Not that I'm aware of.

17 BY MR. FEW:

18 Q Do you know if your mom, or you, or your
19 sister, ever told Mr. Englehardt that you were the
20 owner, or about to become the owner, as of April of
21 2016, of the Factor technology?

22 A I have no idea what my mom would have
23 said to Eric about that, so I actually don't know.

24 Q And let me ask you about a gentleman by
25 the name, Memminger Wiggins; do you know who that

1 question. Formally or informally, did you speak
2 with Kay Barrett about the handling of the estate?

3 A The only conversation I had with Kay was
4 on the day my mom died. She said if I needed any
5 help, she'd help me; and I said, No, thank you.

6 Q In the handling of the estate, there were
7 three creditor claims: I believe one from City
8 Bank; one from American Express; and one from Wells
9 Fargo; that were all, I guess, unsecured.

10 You negotiated the American Express claim
11 and paid like 10 percent, which was \$800, roughly;
12 do you remember that?

13 A I do.

14 Q Did you have any telephone conversations
15 with people at Wells Fargo about that?

16 A I did.

17 Q I'm sorry -- I meant American Express.
18 Did you have any telephone conversations with the
19 people at America Express about their claim?

20 A Yes. That was how we negotiated.

21 Q Okay. So is it fair to say that you came
22 to an agreement that you would pay them 10 percent,
23 and that was based on their review of the inventory
24 and appraisalment that you filed with the probate
25 court?

1 A No. It was based on an offer that I said
2 I'd be willing to do that amount, will you consider
3 it; and then we had several phone calls, and they
4 came back and agreed.

5 Q At any point in time, did you tell any
6 representatives of American Express that your
7 mother had given to you and your sister the Factor
8 technology, as is described in your affidavit
9 that's Exhibit 1 to this deposition at paragraph
10 13?

11 MR. LeBLANC: Objection to the form.

12 WITNESS: Why would I do that? No.

13 BY MR. FEW:

14 Q Did you tell them anything about your
15 mother's ownership of Paynter Consulting, LLC?

16 A I didn't speak about anything that no
17 longer existed.

18 Q So that's a no?

19 A Correct.

20 Q What about Wells Fargo and City Bank, did
21 you disclose the existence of Paynter Consulting,
22 LLC, to them?

23 A Paynter Consulting, LLC, did not exist.

24 Q Is that a no?

25 A There was nothing to disclose.

1 Q Is that a yes or a no?

2 A How can I say yes or no? There's nothing
3 to disclose; so, no, I did not disclose anything
4 because nothing existed.

5 Q So who gave you and your sister the
6 Factor; Paynter Consulting, LLC, or your mother?

7 A Well, I can only speak that my mother is
8 the one who gave it to me. I believe my mom was
9 the one who owned the Factor.

10 Q Well, Mr. Englebardt's lawsuit says that
11 Paynter Consulting, LLC, owns the Factor, didn't
12 he?

13 A I wouldn't know. Again, I don't know all
14 of the ins and outs of that lawsuit.

15 Q Well, let me just highlight it for you
16 again. I mean, all I'm asking you is what his
17 lawsuit said, and I've highlighted it right here.
18 It says, "Paynter Consulting, LLC, owns a
19 proprietary biochemical formula used to remediate
20 soil pollution known as the Factor."

21 That's the first sentence of paragraph
22 five of the 2015 lawsuit that Mr. Englebardt
23 brought, is it not?

24 A I see that it's written there.

25 Q So my question to you is, did Paynter

1 Consulting, LLC, give you and your sister the
2 Factor, or did your mom give it to you?

3 A My understanding is that my mom gave it
4 to me, and I can't speak about anything to do with
5 the LLC.

6 Q And you've already answered my question
7 that there's no documents to show that this gift
8 was made, other than the affidavit that you signed
9 that is Exhibit 1 to this deposition, correct?

10 A That's correct. I don't have any other
11 document.

12 Q When was the first time that Chris Young
13 would have been advised that you and your sister
14 had owned the Factor since April of 2016?

15 A Well, what I know from that point is that
16 he knew that he didn't own it; and he knew that he
17 never owned it; and he knew that my mom and my
18 sister and I were not ever disclosing it to him.

19 Q Well, I'm very appreciative of you
20 listening to my questions and answering them, but
21 what I'm asking you right now is, when was the
22 first time Chris Young, to your knowledge, was
23 informed that you and your sister had owned the
24 Factor starting as early as April of 2016?

25 A Well, I would imagine he was informed

1 Q And to be clear, you and your mom and
2 your sister didn't seek any legal advice, or get
3 any legal opinions, about transferring ownership of
4 the Factor to you and your sister in April of 2016,
5 as is set forth in your affidavit, your
6 declaration, at paragraph 13, which is Exhibit 1 to
7 this deposition?

8 MR. LeBLANC: Objection to the form.
9 You can answer.

10 WITNESS: That's correct.

11 BY MR. FEW:

12 Q I'm eventually gonna get around to the
13 declaration. Okay. This is a three-page
14 declaration that I believe you signed on May 26,
15 2020; and this generally relates to your role as
16 personal representative; is that fair to say?

17 A Yes.

18 Q So if you and your sister owned the
19 Factor, as of April 2016, when you were
20 participating in negotiations with people to sell
21 it, or license it, or do whatever with it, why did
22 y'all continue to negotiate under the name of
23 Paynter Consulting, LLC, with your mother being the
24 signatory?

25 MR. LeBLANC: Objection to the form.

1 WITNESS: I don't know if I even
2 understood all of that last sentence.

3 We didn't. The simple answer is, my
4 mom's a scientist, I'm not. Who would you
5 rather do business with?

6 BY MR. FEW:

7 Q All right. Let me try to find my next
8 exhibit. Can you see this document, three pages,
9 called Term Sheet for a Transaction Between
10 EnvirogenX and Paynter Consulting, LLC?

11 A Yes. I can see that.

12 Q What do you recall about this?

13 A It was a term sheet that EnvirogenX came
14 up with for my mom.

15 Q Was this presented on April 26, 2017?

16 A Well, the date -- April 26. That must
17 have been a second -- so they sent over a few. I
18 think the first one they sent over was in 2016.
19 Can I see this top again?

20 Q Sure. Yeah.

21 A I mean, I can't tell you. I see the date
22 is there, and I can't tell you which one that was
23 but that looks to me -- yeah, that was one of the
24 ones that they did.

25 Q And when you say, they, are we referring

1 e-mail?

2 A I do.

3 Q And then I'm gonna scroll -- it looks
4 like he responds -- I think it ought to be a law
5 that all e-mails should be most recent from the
6 top.

7 So you sent this to your sister a little
8 bit later, it looks like you maybe forwarded it to
9 her right here; is that what that is?

10 A I guess that's -- yeah. So it would have
11 been a forward I would imagine.

12 Q And then on the 16th, it looks like you
13 get a response from him, and then you say you're
14 leaving for Kenya. Does that ring a bell? Did you
15 go to Africa sometime in 2016?

16 A I did, yeah.

17 Q And you say here -- starting right here
18 where I've got it highlighted at the bottom of the
19 third page and down through this whole paragraph --
20 I don't necessarily want to read that into the
21 record because we've already made this an exhibit,
22 but I'll read the first sentence and see if this
23 refreshes your memory.

24 You say, "The reason my sister and I are
25 on phone calls or show up with her to meetings is

1 because my mom isn't always able to hear or
2 understand what was communicated." Do you see
3 that?

4 A I see that written.

5 Q Is there anywhere in this communication
6 to Jason Dibble that you tell him the reason you
7 and your sister are on the phone call or in the
8 meetings is because you own the technology?

9 Did you ever say that to him?

10 A No. He knew we were part of it all.

11 Q So you never represented to him that you
12 and your sister were the real owners of the
13 technology?

14 A We never had the opportunity to say that,
15 directly.

16 Q Well, you're communicating directly with
17 him in this e-mail, aren't you?

18 A Yeah. But that's not about face-to-face,
19 hey, let me tell you every single detail. It's a
20 conversation between two people that are trying to
21 have a deal.

22 Q And then even in 2017, he's still making
23 an offer to Paynter Consulting, LLC, isn't he?

24 MR. LeBLANC: Objection to the form.

25 BY MR. FEW:

1 Q That's what's shown on Exhibit 6, right?

2 A That's what I see written.

3 Q So these are pretty substantial
4 negotiations for the offerer to not be advised who
5 the true owner of the asset is, don't you think?

6 A Actually, I don't. I think it's a term
7 sheet, and I think it never got past a term sheet.

8 Q When is the first time you ever told
9 anybody that you and your sister had owned the
10 Factor since April of 2017?

11 MR. LeBLANC: Objection to the form.

12 WITNESS: I don't know dates but I'm sure
13 I told some of my friends.

14 BY MR. FEW:

15 Q Let me rephrase the question because I
16 think I said the date wrong. When was the first
17 time you ever told anybody that you and your sister
18 owned the Factor, as of April 2016, as is set forth
19 in your declaration in this case in paragraph 13 of
20 Exhibit 1 to this deposition?

21 MR. LeBLANC: Objection to the form.

22 WITNESS: I imagine I would have told
23 some of my friends. I don't know if I spoke
24 about that.

25 BY MR. FEW:

1 Exhibit 1, I mean, wouldn't she have been as much
2 aware of the fact that you and her were the owners
3 of the Factor starting in April 2016, as you were
4 aware of it?

5 A Yeah.

6 Q So do you have any reason to believe that
7 she won't give similar testimony if and when her
8 deposition is taken?

9 A I would imagine she would say the exact
10 same thing.

11 Q Do you know if your sister has ever told
12 anybody that you and her were the owners of the
13 Factor technology as is set forth in your affidavit
14 in paragraph 13 of Exhibit 1 to this deposition?

15 A That is a question you would have to ask
16 her, but not that I know.

17 Q So the only person that you're certain
18 that you ever told about this is Mr. LeBlanc?

19 A Yes.

20 Q And that would have been sometime in May
21 of 2020?

22 A No. That would have been earlier when
23 we've had lots of phone calls.

24 Q Do you remember when you told him that?

25 MR. LeBLANC: Objection to the form, and

STATE OF SOUTH CAROLINA
PICKENS COUNTY

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2019-CP-3901224

Christopher Young and Biotech Restorations,
LLC

Plaintiffs,

v.

Joanna Marie Paynter, a/k/a Joey Painter,
Samantha P. Nelson, and Paynter Consulting,
LLC,

Defendants.

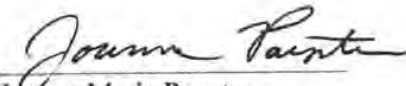
DECLARATION OF JOANNA MARIE PAYNTER

I, Joanna Marie Paynter, make the following declaration based on my personal knowledge of the facts described herein:

1. I am a named Defendant in the above-captioned matter.
2. My mother is Dr. Valerie Paynter. My mother received a degree in Chemistry from London University, a PhD in Plant Physiology with an emphasis in Biochemistry from Clemson University, and taught at Clemson University for 25 years. As far back as I can recall, my mother has been doing research, experiments, and studies within her field.
3. Around 2004, I learned that my mother had developed a bioremediation technology that was effective at cleaning contaminated soil.
4. My father is Dr. Malcolm Paynter, and my father died August 20, 2009.
5. Within a week of my father's death, my mother met with my sister and me to share with us the bioremediation technology that she had developed.
6. During this meeting in August 2009, my mother explained that many pesticides and other contaminants include chlorinated hydrocarbons having a Carbon-Chloride bond that allows the chemicals to last a long time and not breakdown, and the bioremediation technology that she developed breaks down the Carbon-Chloride bonds present in many sources of contamination.

7. During this meeting in August 2009, my mother also explained that the particular formulation for the bioremediation technology varies for each contaminated site, depending on the physical characteristics of the soil and contaminants at the site, and my mother generally referred to the formulations as "the Factor."
8. During this meeting in August 2009, my mother said that she wanted to give my sister and me her bioremediation technology before she died, and she told my sister and me the ingredients in the Factor.
9. My mother was very protective of the ingredients included in the Factor, and I am not aware of anyone who has ever known the ingredients included in the Factor, except for my mother, my father, my sister, and me.
10. Attached as Exhibit A to this Declaration is an October 18, 2013, email from Chris Young to my mother in which Chris Young claimed that an entity was offering more than \$56,000,000 to purchase my mother's bioremediation technology.
11. I lived with my mother from August 2015 until May 2016, and during this time, my mother and I discussed in great lengths the Factor and how to use it.
12. In 2015 and 2016, I participated in discussions between my mother and various entities that offered more than \$10,000,000 to purchase my mother's bioremediation technology.
13. Between February and April 2016, my mother packed into boxes all of her laboratory notebooks, research notes, sampling and analysis procedures, and other documentation of her bioremediation technology and gave the boxes to my sister and me to have and own.
14. It is my understanding that the materials that my mother gave to my sister and me include documentation that demonstrates that her bioremediation technology is effective at removing Toxaphene, DDT, DDD, DDE, Dieldrin, PCBs, and several other contaminants from soil.
15. My sister and I have maintained continuous and exclusive control over the laboratory notebooks, research notes, sampling and analysis procedures, and other documentation of my mother's bioremediation technology, and we have never shared any of this information with anyone, except for our current attorney Steven LeBlanc.
16. I understand that Chris Young's attorney in the present litigation has indicated that Chris Young remains willing to pay \$1,000,000 to purchase my mother's bioremediation technology.

I declare under penalty of perjury that the foregoing is true and correct. Executed on
May 19, 2020.


Joanna Marie Paynter

Bates No.	Date	From	To	CC	Description	Privilege Claim
PRIV-00259	4/6/16	Joey Paynter	Yale Galanter		Communication with clients regarding legal advice.	A/C; WP
PRIV-00260 PRIV-00261	12/29/14	Eric Englehardt	Valerie Paynter	Joey Paynter Sam Paynter Patti Sexton	Communication with clients regarding legal advice.	A/C; WP
PRIV-00262 PRIV-00263	1/14/15	Eric Englehardt	Valerie Paynter	Patti Sexton	Communication with clients regarding legal advice.	A/C; WP
PRIV-00264	1/15/15	Valerie Paynter	Eric Englehardt	Joey Paynter Sam Paynter Valerie Paynter	Communication with clients regarding legal advice.	A/C; WP
PRIV-00265 PRIV-00266	1/16/15	Valerie Paynter	Joey Paynter		Communication with clients regarding legal advice.	A/C; WP
PRIV-00270 PRIV-00271	1/20/15	Valerie Paynter	Eric Englehardt		Communication with clients regarding legal advice.	A/C; WP
PRIV-00272 PRIV-00273	1/21/15	Eric Englehardt	Valerie Paynter	Joey Paynter Patti Sexton Sarah Hurley	Communication with clients regarding legal advice.	A/C; WP
PRIV-00274 PRIV-00277	1/22/15	Eric Englehardt	Valerie Paynter Joey Paynter	Sarah Hurley Patrick Quinn	Communication with clients regarding legal advice.	A/C; WP
PRIV-00278 PRIV-00279	1/22/15	Eric Englehardt	Valerie Paynter Joey Paynter	Sarah Hurley Patrick Quinn	Communication with clients regarding legal advice.	A/C; WP
PRIV-00280 PRIV-00281	1/23/15	Valerie Paynter	Eric Englehardt	Joey Paynter	Communication with clients regarding legal advice.	A/C; WP
PRIV-00282	2/2/15	Valerie Paynter	Eric Englehardt		Communication with clients regarding legal advice.	A/C; WP
PRIV-00283 PRIV-00285	2/3/15	Eric Englehardt	Valerie Paynter Joey Paynter	Sarah Hurley	Communication with clients regarding legal advice.	A/C; WP
PRIV-00286	2/3/15	Eric Englehardt	Valerie Paynter Joey Paynter	Sarah Hurley	Communication with clients regarding legal advice.	A/C; WP

**Term Sheet for a Transaction between
EnvirogenX, Inc
and Paynter Consulting, LLC, Valery Paynter
April, 26, 2017**

General Intent	EnvirogenX and Paynter Consulting (“EnvirogenX”) and Paynter Consulting/Valerie Paynter(“Paynter”) wish to enter into a transaction, whereby EnvirogenX purchases all rights, and exclusive use to the "FACTOR" soil remediation technology currently held by Paynter, for soil remediation, and all other usages currently, or to be added in the future. This will include all continuing improvements, modifications, refinement, patents, usages, that will be developed and modified by Paynter, as Paynter continues to refine and modify that technology known as the "FACTOR", for soil remediation. EnvirogenX intends to purchase any and all rights of this FACTOR and Paynter agrees to sell all right, title and usage to EnvirogenX. EnvirogenX and Paynter together (the “Parties”) will negotiate the terms of this relationship (the “Transaction”) in a final Definitive Agreement (“Agreement”) .
Effective Date	The date on which the final Transaction closes is referred to as the Effective Date.
Sale of FACTOR	The "Parties" intend to transact the sale of Paynter's FACTOR so that EnvirogenX will have sole and exclusive rights to use the FACTOR in any and all verticals or usages, worldwide with no restrictions as to its commercialization.
Resources	Paynter will provide its FACTOR product and will also continue to modify, refine, test, experiment, and continue to build on its current formulation to create new and better products, and all of these refinements, modifications and enhancements will be included in the transaction between the "Parties".
TRANSACTION	The "Parties" agree to the following sale terms. EnvirogenX will pay \$250,000.00, per year, over the next 4 years to Paynter, as HARD MONEY, only after EnvirogenX has completed its testing and due diligence period.

The "Parties" further agree that Paynter will have the ability to be paid an additional \$40,000,000.00 (ceiling) from distributions generated by EnvirogenX (these additional monies would be paid by EnvirogenX from any NET PROFITS that may be generated from FACTOR sales. EnvirogenX agrees that it will apply up to 5% of any NET PROFITS and apply it to these additional monies for a period of 10 years.

Milestones	Much of EnvirogenX's interest in the product is based on its belief that the FACTOR technology's true value has not been realized. The "Parties", recognizing the limited commercial success attained thus far, have purposely crafted this transaction based on possible future success, where payouts for the FACTOR purchase will come through NET PROFITS generated from future revenue growth.
Other Services	The "Parties" are entering into this agreement with the expectation that the FACTOR's technology will have commercial usage beyond its current state (beyond Soil Remediation), and, in fact, this is a crucial element in EnvirogenX's interest in the FACTOR purchase.
Exclusivity	The "Parties" intend for this transaction to be one where "exclusivity" is granted to EnvirogenX, until EnvirogenX completes it's core HARD MONEY purchase price of \$1,000,000.00; and, at that point, EnvirogenX will have complete ownership of the FACTOR technology.
Communication	Communications of any kind to clients, vendors, or other external parties regarding this Term Sheet or the contemplated Transaction will be sent only with the express written approval of the "Parties".
Confidentiality	The existence and terms of this Term Sheet, and the fact that negotiations may be ongoing between the "Parties", are strictly

confidential and may not be disclosed without written approval of the "Parties".

Indemnification

The "Parties will mutually indemnify one another and its affiliates and will indemnify, defend, and hold harmless, one another's officers, agents, and employees from and against any and all liabilities, claims, losses, lawsuits, judgments, and/or expenses including attorney fees, arising, either directly or indirectly, from any act or failure to act by any of its officers or employees, that occur during or arise out of management's business prior to or after the Effective Date.

Non-Binding Commitment

This Term Sheet merely constitutes a statement of the present material intentions of the "Parties", but that except as set forth under the heading "Confidentiality" and "Exclusivity" above as to which the parties intend to be legally bound, no legally binding agreement or obligation of any party are covered by this Term Sheet. A binding commitment with respect to the transactions (other than as set forth under "Confidentiality" and "Exclusivity") will result only upon the execution of definitive agreements, if any. No oral modifications to this principle shall be valid. Any disagreements regarding this Term Sheet shall be settled by Binding Arbitration in Miami Dade County FL..

EnvirogenX, Inc

Paynter Consulting, LLC

By: _____

By: _____

Jason Dibble

Valerie Paynter

CEO

Principal: _____

Date: _____

Date: _____

STATE OF SOUTH CAROLINA

COUNTY OF: PICKENS

IN THE PROBATE COURT

INVENTORY AND APPRAISEMENT

IN THE MATTER OF:
VALERIE ANNE PAYNTER
 (Decedent)



ORIGINAL

AMENDED # _____

(must restate the unchanged information from the original Inventory)

CASE NUMBER: 2017ES3900607

File the original Inventory and Appraisement with the Probate Court within ninety (90) days following the fiduciary appointment. A copy shall be sent to each interested person who has demanded it. A Proof of Delivery must be filed with the Court. The gross fair market value of all probate assets, regardless of location (whether in this state or elsewhere), should be listed as of the date of death. Continue on additional sheets if necessary. An Amended Inventory should be utilized for correcting, adjusting or adding to an original inventory, and must restate the unchanged information from the original Inventory. A qualified and disinterested appraiser may be employed to ascertain the value of any asset. If an appraiser is employed, his/her name and address must be indicated with the item of items he/she appraised.

RECAPITULATION

	Non-Probate (OPTIONAL)	Probate
Schedule A - Real Estate		\$ 275,000. ⁰⁰
Schedule B - Stocks and Bonds		\$ 0
Schedule C - Notes Due Decedent and Cash		\$ 0
Schedule D - Insurance on Decedent's Life - Part 1 - Payable to Estate		\$ 4,590.70
Part 2 - Payable to Beneficiary	\$	
Schedule E - Jointly Owned Property	\$	
Schedule F - Other Miscellaneous Assets Payable to Estate		\$ 0
Schedule G - Transfers During Decedent's Life	\$	\$ 0
Schedule H - Powers of Appointment	\$	\$ 0
Schedule I - Annuities and Retirement Accounts	\$	\$ 0
GROSS VALUE OF PROBATE ESTATE		\$ 279,590.70

The undersigned, being sworn, states: That the following schedules contain a complete and accurate inventory and appraisement of all probate real and personal property of this estate so far as the undersigned is informed; that he/she has estimated and/or appraised all listed property at its fair market value, according to the best of his/her knowledge and ability.

SWORN to before me this 12th day of

October 20 17.

Notary Public, South Carolina

My Commission Expires:



Jill Helen Durbin
 Notary Public
 State of South Carolina
 February 18, 2025

Telephone: _____

Email: _____

Personal Representative

Signature: _____

Print Name: JOANNA MARIE PAYNTER

Address: 24440 KATHLEEN DRIVE
LAGUNA NIGUEL, CA 92677

Telephone (Work): _____

949-293-7455

(Cell): _____

(Email): joey.paynter@gmail.com

Co-Personal Representative

Signature (if applicable) _____

Name: _____

Address: _____

Telephone (Work): _____

Telephone (Home): _____

(Cell): _____

(Email): _____

WHEN COMPLETING THE FOLLOWING SCHEDULES LIST ALL PROBATE ASSETS, REGARDLESS OF LOCATION. ALL OUT-OF-STATE PROBATE ASSETS MUST BE DISCLOSED. NON-PROBATE PROPERTY NEED NOT BE DISCLOSED.

SCHEDULE A - REAL ESTATE. List below any real estate in Decedent's name alone or tenants in common (not as joint with right of survivorship or tenants in the entirety). Describe each property by listing its full address, tax map number, deed book and page, and description consistently (for example: house, lot, buildings, acreage). Also list oil/mineral rights and time shares if it is real property. If none, so state. If the property is encumbered, list the full fair market value of the property here and the encumbrance on the Encumbrance Schedule below. (For jointly owned property with right of survivorship, you may list in Schedule E.)

Item No.	Description	% owned by Decedent	Fair Market Value	Value of Decedent's interest
1.	Home, 200 Valley View Drive, Clemson, SC 29631 Tax Map Number: 4053-12-67-9444	100 %	\$275,000. ⁰⁰	100 %
2.				
3.				
	Tax Map Number:			

TOTAL SCHEDULE A

(also enter under recapitulation, page 1)

\$ 275,000.⁰⁰

SCHEDULE B - STOCKS AND BONDS. List below all stocks and bonds in the Decedent's name alone or tenants in common (not as joint with right of survivorship). Identify each type of security and the number of shares. If none, so state. (For jointly owned property with right of survivorship, you may list in Schedule E.)

Item No.	Description	Face Value	Appraised Value
1.	NONE		
2.			
3.			
4.			

TOTAL SCHEDULE B

(also enter under recapitulation, page 1)

\$ 0

SCHEDULE C - CASH, BANK ACCOUNTS, NOTES RECEIVABLES. List all bank accounts owned by Decedent alone or as tenants in common (checking, savings, CDs, money market, brokerage, employment bonus, cash award, final paycheck, etc.); cash on hand, notes payable to Decedent, and survival action proceeds. If none, so state. List each separate account type and institution and last two digits of the account. (For jointly owned property with right of survivorship, you may list in Schedule E.)

Item No.	Description	Value
1.	NONE	
2.		
3.		

TOTAL SCHEDULE C

(also enter under recapitulation, page 1)

\$ 0

SCHEDULE D - LIFE INSURANCE (If none, so state.)

Part 1 - Life Insurance - List the insurance on the life of the Decedent which is payable to the Estate.

Item No.	Description	Value
1.	Peba	4,590.70
2.		
3.		

TOTAL PART 1

(also enter under recapitulation, page 1)

\$ 4,590.70

(If more space is required, insert additional sheets of same size.)

Part 2 (OPTIONAL) - You may list here the insurance on the life of the Decedent which is payable to beneficiaries.

Item No.	Description	Beneficiary	Value
1.			
2.			
3.			

TOTAL PART 2

(also enter under recapitulation, page 1)

\$ 0

SCHEDULE E - (OPTIONAL) JOINT WITH RIGHT OF SURVIVORSHIP - You may list below any non-probate property jointly owned by the Decedent with another with right of survivorship. List each separate account type and institution and the last two digits of each account.

Item No.	Description	Joint Owner(s)	Percentage Includible	Value of Decedent's Interest
1.				
2.				
3.				

TOTAL SCHEDULE E

(also enter under recapitulation, page 1)

\$ N/A

SCHEDULE F - OTHER MISCELLANEOUS ASSETS PAYABLE TO ESTATE. List below any tangible personal property, including household goods & furnishings, vehicles, boats/motors/trailers, mobile homes that are not de-titled (Include year/make/model/VIN, if applicable), airplanes, equipment, interest in a partnership or unincorporated business, articles or collections having either artistic or intrinsic value, including coins, guns, artwork, jewelry, etc., and any other miscellaneous probate items not listed elsewhere, including any digital assets. If none, so state. (For jointly owned tangible personal property with right of survivorship, you may list in Schedule E.)

Item No.	Description	Value
1.	NONE	
2.		
3.		
4.		
5.		

TOTAL SCHEDULE F

(also enter under recapitulation, page 1)

\$ 0

NOTE: FOR SCHEDULES G, H, AND I. LIST VALUES ONLY IF PAYABLE TO ESTATE.

SCHEDULE G - TRANSFERS DURING DECEDENT'S LIFE. List any transfers intended to take effect at death if such property is payable to the Estate. You may list in the "Optional" section below any non-probate transfers intended to take effect at death not payable to the Estate, including United States Government Bonds "Payable on Death," accounts which are "Transfer on Death," a trust created by Decedent in which income for life was retained by the Decedent, power to revoke or other incidents of ownership retained by the Decedent, lifetime transfers of real property in which Decedent retained life estate, etc. If none, so state.

List date and type of transfer and list total amount payable to estate:

1.	NONE	
2.		

(OPTIONAL) describe and list amounts not payable to estate:

1.		
2.		

TOTAL SCHEDULE G

(also enter under recapitulation, page 1)

\$ 0

(If more space is required, insert additional sheets of same size.)

SCHEDULE H – POWERS OF APPOINTMENT. List property, both real and personal, over which Decedent possessed a Power of Appointment whether testamentary or otherwise, if such property is payable to the Estate. You may list property subject to such power if it was not payable to the Estate in the "Optional" section below. If none, so state.

Describe and list total amount payable to estate:

1.	NONE	
2.		

(OPTIONAL) describe and list amounts not payable to estate:

1.		
2.		

TOTAL SCHEDULE H

(also enter under recapitulation, page 1)

\$ 0

SCHEDULE I – ANNUITIES AND RETIREMENT ACCOUNTS (IRA's, 401(K), etc.). List any annuities or retirement accounts owned by the Decedent and payable to the Estate. You may list in the "Optional" section below any accounts payable to a beneficiary which is not payable to the Estate.

Describe and list total amount payable to estate:

1.	NONE	
2.		
3.		

(OPTIONAL) describe and list amounts not payable to estate:

1.		
2.		
3.		

TOTAL SCHEDULE I

(also enter under recapitulation, page 1)

\$ 0

ENCUMBRANCES (e.g., mortgages, liens, judgments, etc., but not general debts of the estate). List debts of the Decedent secured by assets on the above Schedules and describe the debt and the specific asset encumbered.

Item No.	Schedule & Item Number Encumbered Thereby	Description & Amount
1.	Equity - Wells Fargo - home equity loan	Home \$189,738.83
2.		
3.		

TOTAL ENCUMBRANCES

(also enter under recapitulation, page 1)

\$ 189,738.83

(If more space is required, insert additional sheets of same size.)

Probate Court
County of Pickens

222 McDaniel Avenue B-16
Pickens, South Carolina 29671

KATHY P. ZORN
PROBATE JUDGE

Telephone (864) 898-5903

JODI B. BROOM
ASSOCIATE PROBATE JUDGE
KIMBERLY L. CISSON
CLERK

March 5, 2018

Mr. Christopher W. Young
137 Cross Center Road, #143
Denver, NC 28037

RE: Estate of VALERIE ANNE PAYNTER, Deceased
Case No.: 2017ES3900607

Dear MR. YOUNG:

I have received your claim on the above-captioned estate. Please find enclosed a stamped copy for your records.

As for your Motion for Declaratory Judgment, I am returning it in as much as you should file this in Circuit Court.

For your information, the estate Inventory is enclosed, please note that it does not reflect the Partnership as an estate asset.

Thank you in advance.

Yours very truly,

(Ms.) Kathy P. Zorn

KPZ/tlt

Encl.

cc: MS. JOANNA MARIE PAYNTER
24440 KATHLEEN DRIVE
LAGUNA NIGUEL, CA 92677

ELECTRONICALLY FILED - 2022 Apr 13 8:13 PM - PICKENS - COMMON PLEAS - CASE#2019CP3901224

**STATE OF SOUTH CAROLINA
PICKENS COUNTY**

**IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2019-CP-3901224**

Christopher Young and Biotech Restorations,
LLC

Plaintiffs,

v.

Joanna Marie Paynter, a/k/a Joey Painter,
Samantha P. Nelson, and Paynter Consulting,
LLC,

Defendants.

DECLARATION OF JOANNA MARIE PAYNTER

I, Joanna Marie Paynter, make the following declaration based on my personal knowledge of the facts described herein:

1. I am a named Defendant in the above-captioned matter.
2. My mother is Dr. Valerie Paynter. My mother received a degree in Chemistry from London University, a PhD in Plant Physiology with an emphasis in Biochemistry from Clemson University, and taught at Clemson University for 25 years. As far back as I can recall, my mother has been doing research, experiments, and studies within her field.
3. Around 2004, I learned that my mother had developed a bioremediation technology that was effective at cleaning contaminated soil.
4. My father is Dr. Malcolm Paynter, and my father died August 20, 2009.
5. Within a week of my father's death, my mother met with my sister and me to share with us the bioremediation technology that she had developed.
6. During this meeting in August 2009, my mother explained that many pesticides and other contaminants include chlorinated hydrocarbons having a Carbon-Chloride bond that allows the chemicals to last a long time and not breakdown, and the bioremediation technology that she developed breaks down the Carbon-Chloride bonds present in many sources of contamination.

7. During this meeting in August 2009, my mother also explained that the particular formulation for the bioremediation technology varies for each contaminated site, depending on the physical characteristics of the soil and contaminants at the site, and my mother generally referred to the formulations as "the Factor."
8. During this meeting in August 2009, my mother said that she wanted to give my sister and me her bioremediation technology before she died, and she told my sister and me the ingredients in the Factor.
9. My mother was very protective of the ingredients included in the Factor, and I am not aware of anyone who has ever known the ingredients included in the Factor, except for my mother, my father, my sister, and me.
10. Attached as Exhibit A to this Declaration is an October 18, 2013, email from Chris Young to my mother in which Chris Young claimed that an entity was offering more than \$56,000,000 to purchase my mother's bioremediation technology.
11. I lived with my mother from August 2015 until May 2016, and during this time, my mother and I discussed in great lengths the Factor and how to use it.
12. In 2015 and 2016, I participated in discussions between my mother and various entities that offered more than \$10,000,000 to purchase my mother's bioremediation technology.
13. Around May 2016, my mother packed into boxes all of her laboratory notebooks, research notes, sampling and analysis procedures, and other documentation of her bioremediation technology and gave the boxes to my sister and me to have and own.
14. It is my understanding that the materials that my mother gave to my sister and me include documentation that demonstrates that her bioremediation technology is effective at removing Toxaphene, DDT, DDD, DDE, Dieldrin, PCBs, and several other contaminants from soil.
15. My sister and I have maintained continuous and exclusive control over the laboratory notebooks, research notes, sampling and analysis procedures, and other documentation of my mother's bioremediation technology, and we have never shared any of this information with anyone, except for our current attorney Steven LeBlanc.
16. I understand that Chris Young's attorney in the present litigation has indicated that Chris Young remains willing to pay \$1,000,000 to purchase my mother's bioremediation technology.

I declare under penalty of perjury that the foregoing is true and correct. Executed on _____

_____, in _____.

Joanna Marie Paynter

IN THE MATTER OF THE ESTATE OF VALERIE ANNE PAYNTER, DECEASED
CASE NUMBER 2017ES3900607



PERSONAL REPRESENTATIVE OATH

- I will file the Information to Heirs and Devisees within 30 days after my appointment OR I will get Waivers of Notice from all heirs and devisees.
- I will file the Inventory within 90 days of my appointment.
- I will marshal or take care of all assets including tangible personal property and real estate. I will safeguard all income, interest, rent, refund checks, etc.
- I cannot sell real estate or tangible personal property owned by the decedent that has a value over \$10,000.00 without the authority to do so granted to me in the decedent's will or a court order (formal hearing for real estate) (informal application for personal property) (Form 329ES) giving me this specific authority.
- I will keep excellent records of everything I do (receipts).
- I will deal with life insurance payable to the estate and taxes concerning the estate.
- I understand if a demand for notice or a demand for a list of non-probate assets is filed, I am responsible for sending any and all copies to the demandant.
- I will deal with any and all claimants (investigate, pay, deny, or settle) including the mandatory allowance or disallowance of these claims within 60 days after the presentment of the claim or within 14 months after the death of the decedent, whichever is later.
- I will file all documents within the designated time periods.
- I understand that I am responsible to make sure all assets of the estate are properly administered and that I can be personally liable to any beneficiary or other person(s) having an interest in the estate for any negligence and/or intentional misconduct in the performance of my duties as Personal Representative.
- I must resolve the debts of the estate before I make any distributions to heirs or devisees of the estate.
- I will close the estate at the proper time. (Closing documents can be obtained from this Court after the latter of all applicable time limits for claims.)
- I understand that the Court cannot give me legal advice OR help fill out forms.
- As the personal representative, I have the right to an attorney for assistance.

I have read and understand my duties to the Court. I now swear or affirm that I accept this appointment and agree to perform the duties and discharge the trust of the office of personal representative of this estate. I understand there are consequences if I fail to comply with my duty to the court and that I can be issued a Summons.

Sworn to before me this 26 day of Sept., 2017.

Kathy P. Zorn
Pickens County Probate Judge

Joanne Painter
Personal Representative

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Feb 27 2020
REFERENCE ID: 480016


SECRETARY OF STATE OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA
SECRETARY OF STATE

ARTICLES OF TERMINATION
LIMITED LIABILITY COMPANY - DOMESTIC

Filing ID: 200121-1340036

Filing Date: 01/21/2020

The following limited liability company, having dissolved and completed its winding up, terminates its existence by filing these articles of termination in accordance with the 1976 S.C. Code of Laws, as amended, Section 33-44-805:

1. The name of the limited liability company is:

PAYNTER CONSULTING, LLC

2. The date the articles of organization were filed is 01/27/2006.

3. The date of the dissolution of this limited liability company was 09/04/2017.

4. Has the company wound up its business and terminated its legal existence? Yes

5. Unless otherwise specified, these articles are effective when endorsed for filing by the Secretary of State. Specify the date of any delayed effective date: _____
(Date)

Signed as Authorized Signature: Joanna Paynter

(Signature)

Joanna Paynter

(Print Name)

01/21/2020

(Date)

Capacity/Position of Person Signing (**You must check one box.**)

☐ Manager ☐ Member ☐ Organizer

☒ Fiduciary ☐ Attorney-in-Fact

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	13 TH JUDICIAL CIRCUIT
	)	
	)	
CHRISTOPHER YOUNG AND	)	
BIOTECH RESTORATIONS, LLC	)	
	)	C.A. No.: 2019-CP-39-01224
PLAINTIFFS,	)	
	)	
V.	)	CHRISTOPHER YOUNG AND
	)	BIOTECH RESTORATIONS, LLC'S
JOANNA MARIE PAYNTER, A/K/A	)	NOTICE OF MOTION FOR
JOEY PAYNTER, SAMANTHA P.	)	RECONSIDERATION OF ORDER
NELSON, AND PAYNTER	)	FILED NOV. 10, 2022
CONSULTING, LLC,	)	
	)	
DEFENDANTS.	)	

TO: STEVE LEBLANC, ESQUIRE, DEFENDANTS JOANNA MARIE PAYNTER, A/K/A JOEY PAYNTER, SAMANTHA P. NELSON, AND PAYNTER CONSULTING, LLC,

YOU WILL PLEASE TAKE NOTICE that the undersigned attorneys for Christopher Young and Biotech Restorations, LLC's (hereafter "Plaintiffs") will respectfully move before the presiding Judge of the 13th Judicial Circuit within ten (10) days from the date hereof or as soon thereafter as counsel may be heard under S.C. R. Civ. P. Rule 59 for an order to correct a mistake in construing and interpreting the General Partnership Agreement in its order filed Nov. 10, 2022 (the "Order").

A. Mistake re: 90 / 10 % Splits (Para. 4, General Partnership Agreement)

The Order references and quotes from Paragraph 4 of the General Partnership Agreement at pages 3 and 5. The Order also references (and partially quotes) provisions of Paragraph 4 of the General Partnership Agreement, stating:

The terms of the Agreement provide the remaining partner (in this case, Plaintiffs) with the “right” to continue the business of the Partnership after termination of the Agreement due to death of a partner, provided that the continuing partner must pay 10% of the net profits annually from the continuation of the business to the heirs/estate of the deceased partner.

Id. at 3.

The 10 % of the net profits provision referenced above comes from Paragraph 4 of the General Partnership Agreement, last sentence, which provides, “[t]he **continuing partner** will pay 10 % of net profits annually to the **heirs / estate of the deceased partner** on any contract involving the use of the Factor, and 10% gross from the **sale of the Factor Technology.**” Id. at 1 of 2. (underline and bold emphasis added).

The Order correctly sets forth this percentage split on page 3, as referenced above, but mistakenly flip-flops the 90/10 % split when referencing the results / effect of a “sale of the Factor Technology.” Id. at 6 (stating, “In addition, in compliance with the terms set forth in the Agreement, if the Defendants choose to sell the Factor Biotechnology, they would be required to pay the Plaintiffs 10% gross from the sale.”). The order must be corrected to set forth the split of the sale proceeds as between the “continuing partner” and the “heirs / estate of the deceased partner,” consistent with the plain meaning of the text in the General Partnership Agreement, as follows: “In addition, in compliance with the terms set forth in the Agreement, if a “sale of the Factor Technology” occurs, Defendants would be required to pay Plaintiffs 90% gross from the sale.”

B. Error: “Nothing in the remainder of the Agreement requires Paynter Consulting or Dr. Paynter to share, transfer, or otherwise disclose the Factor Biotechnology to anyone, including Plaintiffs.”

As noted above, the last sentence of Paragraph 4 of the General Partnership Agreement provides for a 10 % interest in the Factor to the “heirs / estate of the deceased partner.” Id. This

10 % was to be paid on “use of the Factor,” annually, and “10% gross from the sale of the Factor Technology.” Id. The General Partnership Agreement absolutely contemplated that the non-deceased / “remaining partner” or “continuing partner” would have control over the Factor sufficient to “continue the business of the partnership,” in the “event of death of [the other] partner.” Id. Such control was to enable the “continuing partner” to “use” the Factor independently and to merely pay a “net profit” distribution to the “heirs / estate of the deceased partner,” at the end of each year.

The Order is in error to state that “nothing” requires “share, transfer or otherwise.” How is the “continuing partner” to use the Factor without having it? How is the “continuing partner” to sell the “Factor Technology,” without having it? The partner’s intent was to provide a mutual benefit to the “heirs / estate of the deceased partner,” regardless of which partner died first.

The “remaining / continuing partner” was to have the right to use and / or sell the Factor Technology. As has been set forth in the record in this matter, the only reasonable and mutually applicable (fair) interpretation of the General Partnership Agreement is that the partners intended to create a situation whereby the “heirs / estate of the deceased partner,” would continue to receive a 10 % distributional interest in the Factor, and not have to be involved in the business to receive it. The “heirs / estate of the deceased partner” were also to receive “10 % gross from the sale of the Factor Technology.” Id. To read the General Partnership any other way creates an interpretation that is not only not within the plain meaning of the texts, but also nonsensical, in that the “continuing partner” would have the rights to 90 % of the use of the Factor, but only 10 % in its sale.

“A constructive trust will arise whenever the circumstances under which property was acquired make it inequitable that it should be retained by the one holding the legal title.” Dye v.

Gainey, 320 S.C. 65, 68, 463 S.E.2d 97, 99 (Ct. App. 1995). “A constructive trust results from fraud, bad faith, abuse of confidence, or violation of a fiduciary duty which gives rise to an obligation in equity to make restitution. Fraud is an essential element, although it need not be actual fraud.” Id. “Constructive trusts have none of the elements of an express trust, but arise entirely by operation of law without reference to any actual or supposed intention of creating a trust and are resorted to by equity to vindicate right and justice or frustrate fraud.” Wolfe v. Wolfe, 56 S.E.2d 343, 346, 215 S.C. 530, 535 (1949).

Defendants have admittedly claimed and exercised exclusive ownership over the Factor since April 2016 (Joey Paynter Declaration, at ¶¶’s 11 to 15, filed May 20, 2020), and have withheld same from the “business of the partnership,” a constructive trust is necessary to protect the interests of the parties and to enable Plaintiffs to finally receive the benefits of the right to use and/ or sell the Factor, as is expressly set forth in the General Partnership Agreement.

CONCLUSION

For the reasons set forth herein, Plaintiffs respectfully request alteration or amendment of the Order to cure the (a) clerical / drafting mistake and (b) errors set forth above.

[signature on next page]

Most Respectfully submitted,

WESLEY D. FEW, LLC

s/Wesley D. Few/
Wesley D. Few, S.C. Bar No. 15565
P.O. Box 9398
Greenville, South Carolina 29604
864-527-5906 | wes@wesleyfew.com

ATTORNEYS FOR CHRISTOPHER YOUNG
AND BIOTECH RESTORATIONS, LLC

November 11, 2022
Greenville, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	13 TH JUDICIAL CIRCUIT
	)	
	)	
CHRISTOPHER YOUNG AND	)	
BIOTECH RESTORATIONS, LLC	)	
	)	C.A. No.: 2019-CP-39-01224
PLAINTIFFS,	)	
	)	
V.	)	CHRISTOPHER YOUNG AND
	)	BIOTECH RESTORATIONS, LLC'S
JOANNA MARIE PAYNTER, A/K/A	)	NOTICE OF MOTION UNDER RULE
JOEY PAYNTER, SAMANTHA P.	)	60 OF ORDER FILED NOV. 17, 2022
NELSON, AND PAYNTER	)	
CONSULTING, LLC,	)	
	)	
DEFENDANTS.	)	

TO: STEVE LEBLANC, ESQUIRE, DEFENDANTS JOANNA MARIE PAYNTER, A/K/A JOEY PAYNTER, SAMANTHA P. NELSON, AND PAYNTER CONSULTING, LLC,

YOU WILL PLEASE TAKE NOTICE that the undersigned attorneys for Christopher Young and Biotech Restorations, LLC's (hereafter "Plaintiffs") will respectfully move before the presiding Judge of the 13th Judicial Circuit within ten (10) days from the date hereof or as soon thereafter as counsel may be heard under S.C. R. Civ. P. Rule 60(a) and / or (b)(1) for an order to correct a mistake in construing and interpreting the General Partnership Agreement in its order filed Nov. 10, 2022 (the "Order").¹

At issue is the Court's interpretation of the last sentence of Para. 4 of the parties' General Partnership Agreement. The sentence in question reads as follows:

¹ The Court issued two orders on Nov. 17, 2022. The first order, a Form 4 order issued at 9:09 A.M., granted and denied in part the Plaintiffs; Rule 59 Motion, filed Nov. 11, 2022. The 2nd order, issued at 9:14 A.M., is the subject of this Rule 60 Motion.

The continuing partner will pay 10% of net profits annually to the heirs / estate of the deceased partner on any contract involving the use of the Factor, and 10% gross from the sale of the Factor Technology.

(Ex. 2 to Plaintiff's Supp. Memo, filed Sept. 29, 2022).

In its 2nd order dated Nov. 17, 2022, the Court correctly interprets the first 90 / 10 percentage split of "net profits" by stating the 10 % goes to the "heirs / estate of the deceased partner on any contract involving the use of the Factor." *Id.* at 3 of 7 (stating, "The terms of the Agreement provide the remaining partner (in this case, Plaintiffs) with the 'right' to continue the business of the Partnership after termination of the Agreement due to death of a partner, provided that the continuing partner must pay 10% of the net profits annually from the continuation of the business to the heirs/estate of the deceased partner."). However, in interpreting the final portion of the "sentence in question," the Court flips the percentage split, stating as follows: "In addition, in compliance with the terms set forth in the Agreement, if the Defendants choose to sell the Factor Biotechnology, they would be required to pay the Plaintiffs 10% gross from the sale." *Id.* at 6 of 7.

This motion under Rule 60 presents essentially the same issue as was raised by the Plaintiffs in their Motion under Rule 59, filed Nov. 11, 2022, however, the Court failed to explain its rationale for its obviously incorrect interpretation of the "sentence in question," in either of the orders issued on Nov. 17, 2022.

In fact, absent from the record in this matter are the following exhibits consisting of email communications with the Court regarding its order dated Nov. 10, 2022, and the Plaintiffs' Motion under Rule 59, filed Nov. 11, 2022. As these communications show the Defendants' arguments in opposition to the Plaintiffs' Rule 59 Motion, as well as the Court's viewpoint on the "sentence in question," they must be made part of the record at this time:

Ex. 1: Court email 1, Nov. 11, 2022;

Ex. 1-A: Attachment to Court email 1 (proposed order for counsel to “consent” to);

Ex. 2: Defense counsel email 1, Nov. 11, 2022 (in opposition to Rule 59 Motion);

Ex. 3: Court email 2, Nov. 15, 2022 (“re-reading Agreement in addition to case law”);

Ex. 4: Plaintiff counsel email 1, Nov. 15, 2022 (requesting hearing / status conference);

Ex. 5: Court email No. 3, dated Nov. 15, 2022.

For the reasons set forth herein, Plaintiffs respectfully request correction of the Nov. 17, 2022 Order issued at 9:14 A.M. to accurately interpret and explain the interpretation of the “sentence in question.” The undersigned additionally respectfully requests the Court allow the parties to be heard at a hearing on the record on this Rule 60 Motion. Such record development will be useful to all to ensure to the Court and the parties that the Court has accurately interpreted the “sentence in question,” in accordance with principles of South Carolina law on contracts.

Most Respectfully submitted,

WESLEY D. FEW, LLC

s/Wesley D. Few/
Wesley D. Few, S.C. Bar No. 15565
P.O. Box 9398
Greenville, South Carolina 29604
864-527-5906 | wes@wesleyfew.com

ATTORNEYS FOR CHRISTOPHER YOUNG
AND BIOTECH RESTORATIONS, LLC

November 28, 2022
Greenville, South Carolina