24268

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED
DEC 18 2018
SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2015-CP-10-3891

Appellate Case No. 2018-000516

Athan Fokas ..... Respondent/Appellant,

v.

Phillip Ferderigos and Spiros Ferderigos ..... Appellants/Respondents.

RECORD ON APPEAL (VOLUME II)

ANDREW HASELDEN, ESQUIRE
Howser, Newman & Besley, LLC
215 East Bay Street, Suite #103
Charleston, South Carolina 29401
Phone: (843) 216-6940
ATTORNEY FOR ATHAN FOKAS

M. DAWES COOKE, JR., ESQUIRE
JEREMY E. BOWERS, ESQUIRE
Barnwell, Whaley, Patterson and Helms, LLC
Post Office Drawer H
Charleston, South Carolina 29402
Phone: (843) 577 – 7700
Facsimile: (843) 577 – 7708
ATTORNEYS FOR SPIROS FERDERIGOS

LESLIE S. LENHARDT, ESQUIRE
Lenhardt Law Firm, LLC
738 St. Andrews Boulevard, Suite C
Charleston, South Carolina 29407
Phone: (843) 371-5453
ATTORNEY FOR ATHAN FOKAS

IAN S. FORD, ESQUIRE
Ford Wallace Thomson, LLC
715 King Street
Charleston, South Carolina 29401
Phone: (843) 277-2011
ATTORNEY FOR PHILLIP FERDERIGOS

JOSEPH R. WESTON, ESQUIRE
STEPHANIE ANTHONY, ESQUIRE
Weston Craig Anthony, LLC
761 Johnnie Dodds Boulevard, Suite #100
Mount Pleasant, South Carolina 29464
Phone: (843) 881-4995
ATTORNEYS FOR SPIROS FERDERIGOS

LAURA W. ROBINSON, ESQUIRE
Vernis & Bowling of Columbia, LLC
1401 Main Street, Suite #655
Columbia, South Carolina 294201
Phone: (803) 234-5416
ATTORNEYS FOR PHILLIP FERDERIGOS

INDEX

Page

ORDERS, JUDGMENTS, DECREES, AND DECISIONS

Order Granting Summary Judgment to Defendants, filed February 20, 2018 1

Order Granting Plaintiff Partial Summary Judgment, filed February 22, 2018 14

Order Granting Plaintiff's Motion to Amend Complaint, filed November 9, 2016 25

PLEADINGS

Summons and Complaint, filed on July 14, 2015 26

Spiros Ferderigos Answer and Counterclaims, filed October 1, 2015 32

Exhibit 1: Fanouris Ferderigos Letter Dated August 21, 2015 41

Phillip Ferderigos Answer and Counterclaims, filed October 1, 2015 43

Exhibit 1: Fanouris Ferderigos Letter Dated August 21, 2015 52

Plaintiff's Reply to Spiros Ferderigos Counterclaims, filed May 31, 2016 54

Plaintiff's Reply to Phillip Ferderigos Counterclaims, filed May 31, 2016 57

Amended Complaint, filed February 24, 2017 60

Exhibit A: Affidavit of Stanley E. Barnett Dated September 10, 2015 66
Exhibit B: Deposition Excerpts from Irene Fokas 78
Exhibit C: Deposition Excerpts from Irene Fokas 80
Exhibit D: Deposition Excerpts from Irene Fokas 82
Exhibit E: Deposition Excerpts from Irene Fokas 83
Exhibit F: Deposition Excerpts from Irene Fokas 85

Spiros Ferderigos Amended Answer and Counterclaims, filed March 16, 2017 87

Exhibit A: Affidavit of Rania Nikatos Dated November 20, 2015 102
Exhibit B: Deposition Excerpts from Irene Fokas 104

Phillip Ferderigos Amended Answer and Counterclaims, filed March 20, 2017.....108

Exhibit A: Affidavit of Rania Nikatos Dated November 20, 2015.....123
Exhibit B: Deposition Excerpts from Irene Fokas.....125

Plaintiff's Reply to Spiros Ferderigos Amended Counterclaims, filed April 26, 2017...128

Exhibit A: Order on Defendants First MSJ Filed April 21, 2016.....132
Exhibit B: Affidavit of Emma Ruth Brittain Dated March 28, 2016.....133

Plaintiff's Reply to Phillip Ferderigos Amended Counterclaims, filed April 26, 2017 ..145

Exhibit A: Order on Defendants First MSJ Filed April 21, 2016.....149
Exhibit B: Affidavit of Emma Ruth Brittain Dated 150

TRANSCRIPTS

Motions Hearing Transcript, held December 11, 2017.....162

OTHER MATERIALS AND DOCUMENTS

Plaintiff's Motion to Amend Complaint, filed December 29, 2015 196

Spiros Ferderigos First Motion for Summary Judgment, filed February 5, 2016.....204

Phillip Ferderigos First Motion for Summary Judgment, filed February 12, 2016.....210

Exhibit A: Fanouris Ferderigos Letter Dated August 21, 2015.....217
Exhibit B: Barnett E-mails Dated October 27, 2015 218
Exhibit C: Affidavit of Irene Fokas Dated October 28, 2015.....220
Exhibit D: Deposition Excerpts from Irene Fokas.....221
Exhibit E: Affidavit of Rania Nikatos Dated November 20, 2015.....230
Exhibit F: Affidavit of Gerasimos Nikatos Dated December 2, 2015.....232
Exhibit G: Affidavit of Nathan M. Crystal Dated February 11, 2016.....234

Spiros Ferderigos Memo in Support of First MSJ, filed March 28, 2016 266

Exhibit 1: Fanouris Ferderigos Letter Dated August 21, 2015.....284
Exhibit 2: Affidavits of Irene Fokas Dated October 28, 2015.....285
Exhibit 3: Deposition Excerpts from Irene Fokas.....287
Exhibit 4: Affidavit of Rania Nikatos Dated November 20, 2015 297
Exhibit 5: Affidavit of Gerasimos Nikatos Dated December 2, 2015 299

Exhibit 6: Barnett E-mail Dated October 30, 2015.....301

Phillip Ferderigos Memo in Opposition to Motion to Amend, filed June 13, 2016.....303

Spiros Ferderigos Memo in Opposition to Motion to Amend, filed June 14, 2016 309

Exhibit 1: Fanouris Ferderigos Letter Dated August 21, 2015.....333
Exhibit 2: Affidavits of Irene Fokas Dated October 28, 2015.....334
Exhibit 3: Deposition Excerpts from Irene Fokas.....336
Exhibit 4: Affidavit of Rania Nikatos Dated November 20, 2015 346
Exhibit 5: Affidavit of Gerasimos Nikatos Dated December 2, 2015 348
Exhibit 6: Barnett E-mail Dated October 30, 2015.....350
Exhibit 7: Barnett Letter Dated January 26, 2015 351
Exhibit 8: Spiros Ferderigos E-mail Dated February 3, 2015 354

Plaintiff's Partial MSJ as to Phillip Ferderigos, filed August 25, 2017.....356

Exhibit A: Phillip Ferderigos Answer Filed October 1, 2015 (Case -3919).....360
Exhibit B: Supplemental Affidavit of Athan Fokas Dated February 22, 2017....397
Exhibit C: Phillip Ferderigos Answers to Interrogatories Dated June 21, 2016..400
Exhibit D: Deposition Excerpts from Phillip Ferderigos.....425
Exhibit E: Deposition Excerpts from Irene Fokas 442
Exhibit F: Deposition Excerpts from Athan Fokas.....453

Plaintiff's Partial MSJ as to Spiros Ferderigos, filed August 25, 2017 460

Exhibit A: Phillip Ferderigos Answer Filed October 1, 2015 (Case -3919).....464
Exhibit B: Supplemental Affidavit of Athan Fokas Dated February 22, 2017....500
Exhibit C: Spiros Ferderigos Answers to Interrogatories Dated 503
Exhibit D: Deposition Excerpts from Spiros Ferderigos 522
Exhibit E: Deposition Excerpts from Irene Fokas 527
Exhibit F: Deposition Excerpts from Athan Fokas.....536

Spiros Ferderigos Second Motion for Summary Judgment, filed September 14, 2017 ..543

Phillip Ferderigos Second Motion for Summary Judgment, filed September 28, 2017..551

Supplemental Affidavit of Stanley E. Barnett, filed December 4, 2017.....558

Phillip Ferderigos Memo in Opposition to Partial MSJ, filed December 6, 2017.....563

Exhibit 1: Text Messages Dated December 2014.....582
Exhibit 2: Excerpts of Answers and Counterclaims 583
Exhibit 3: Phillip Ferderigos First MSJ 597
Exhibit 4: Fokas E-mail Dated December 17, 2014 603
Exhibit 5: Deposition Excerpts from Irene Fokas.....604

Exhibit 6: Text Messages Dated March 2016 605
Exhibit 7: Fokas E-mails Dated November 24, 2014 608
Exhibit 8: Fokas E-mail Dated November 24, 2014 614
Exhibit 9: Text Messages Dated December 2014 615
Exhibit 10: Text Messages 616
Exhibit 11: Fokas E-mail Dated January 6, 2015 617
Exhibit 12: E-mails Dated November 21, 2014 618
Exhibit 13: Text Messages Dated December 2014 619
Exhibit 14: Deposition Excerpts from Irene Fokas 620
Exhibit 15: Deposition Excerpts from Irene Fokas 623
Exhibit 16: Deposition Excerpts from Irene Fokas 626

Spiros Ferderigos Memo in Opposition to Partial MSJ, filed December 7, 2017 629

Exhibit 1: Fokas E-mail Dated December 17, 2014 647
Exhibit 2: Deposition Excerpts from Irene Fokas 648
Exhibit 3: Text Messages Dated February 2017 649
Exhibit 4: Text Messages 650
Exhibit 5: Fokas E-mails Dated November 24, 2014 651
Exhibit 6: Text Messages Dated December 2014 652
Exhibit 7: Text Messages Dated December 2014 653
Exhibit 8: Text Messages 654
Exhibit 9: Fokas E-mail Dated January 6, 2015 655
Exhibit 10: Deposition Excerpts from Irene Fokas 656
Exhibit 11: Deposition Excerpts from Irene Fokas 659
Exhibit 12: Deposition Excerpts from Irene Fokas 662

Notice of Filing of Rania Nikatos Deposition Transcript, filed December 7, 2017 664

Exhibit A: Transcript 666
Exhibit 1: Affidavit of Rania Nikatos Dated November 20, 2015 734
Exhibit 2: Rania Nikatos Text Message Dated October 28 736
Exhibit 3: Plaintiff's Memo in Opposition to MSJ, filed March 28, 2016 737
Exhibit 4: Supplemental Affidavit of Stanley E. Barnett 753
Exhibit 5: Fokas and Odom E-mails Dated January 2013 758

Fokas E-mail Dated December 5, 2017 760

Affidavit of Irene Fokas, filed January 16, 2018 761

Plaintiff's Summons and Complaint (Action 3919), filed July 15, 2015 765

Spiros Ferderigos Answer and Counterclaims (Action 3919), filed October 1, 2015 774

Exhibit A: Tucker July 21, 2015, E-mail 809
Exhibit B: Tucker December 11, 2012 E-mail 811

Exhibit C: Fokas December 19, 2012, E-mail 812
Exhibit D: Spiros Ferderigos December 19, 2012, E-mail 814
Exhibit E: Odom January 11, 2013, E-mail 815
Exhibit F: June 17 and 18, 2014, E-mails 816
Exhibit G: February 5, 2013, Southcoast Loan Commitment Letter 817
Exhibit H: Fokas September 9, 2014, E-mail 821
Exhibit I: September 19, 2014, Text Messages 822
Exhibit J: September 24 and 25, 2014, E-mails 823
Exhibit K: October 10, 2014, Text Message 826
Exhibit L: November 21, 2014, Text Messages 827
Exhibit M: November 24 and 26, 2014, E-mails 829
Exhibit N: Closing Documents 835
Exhibit O: November 21, 2014, E-mails 889
Exhibit P: Phillip Ferderigos November 21, 2014, E-mail 891
Exhibit Q: Fokas November 21, 2014, E-mail 892
Exhibit R: November 21, 2014, E-mails 893
Exhibit S: Fokas November 24, 2014, E-mail 899
Exhibit T: December 16 and 17, 2014, Text Messages 900
Exhibit U: November 24, 2014, E-mails 901
Exhibit V: Release Communications 903
Exhibit W: Communications RE Jacob Ferderigos 910
Exhibit X: April 2015 Text Messages 912
Exhibit Y: Standard Agreement Between Owner and Contractor 913
Exhibit Z: Fanouris Ferderigos August 21, 2015, Letter 919
Exhibit AA: Fokas December 17, 2014, E-mail 920

Phillip Ferderigos Answer and Counterclaims (Action 3919), filed October 1, 2015 922

Exhibit A: Tucker July 21, 2015, E-mail 958
Exhibit B: Tucker December 11, 2012 E-mail 960
Exhibit C: Fokas December 19, 2012, E-mail 961
Exhibit D: Spiros Ferderigos December 19, 2012, E-mail 963
Exhibit E: Odom January 11, 2013, E-mail 964
Exhibit F: June 17 and 18, 2014, E-mails 965
Exhibit G: February 5, 2013, Southcoast Loan Commitment Letter 966
Exhibit H: Fokas September 9, 2014, E-mail 970
Exhibit I: September 19, 2014, Text Messages 971
Exhibit J: September 24 and 25, 2014, E-mails 972
Exhibit K: October 10, 2014, Text Message 975
Exhibit L: November 21, 2014, Text Messages 976
Exhibit M: November 24 and 26, 2014, E-mails 978
Exhibit N: Closing Documents 984
Exhibit O: November 21, 2014, E-mails 1036
Exhibit P: Phillip Ferderigos November 21, 2014, E-mail 1038
Exhibit Q: Fokas November 21, 2014, E-mail 1039
Exhibit R: November 21, 2014, E-mails 1040

Exhibit S: Fokas November 24, 2014, E-mail 1048
Exhibit T: December 16 and 17, 2014, Text Messages 1049
Exhibit U: November 24, 2014, E-mails 1050
Exhibit V: Release Communications 1052
Exhibit W: Communications RE Jacob Ferderigos 1059
Exhibit X: April 2015 Text Messages 1061
Exhibit Y: Standard Agreement Between Owner and Contractor 1062
Exhibit Z: Fanouris Ferderigos August 21, 2015, Letter 1068
Exhibit AA: Fokas December 17, 2014, E-mail 1069

Fokas Reply to Spiros Ferderigos (Action 3919), filed March 31, 2016 1070

Fokas Reply to Phillip Ferderigos (Action 3919), filed March 31, 2016 1076

Fokas Partial MSJ to Phillip Ferderigos (Action 3919), filed February 28, 2017 1082

Exhibit A: Affidavit of Athan Fokas 1085
Exhibit B: Phillip Ferderigos Answers to Interrogatories 1088
Exhibit C: Portions of Phillip Ferderigos Deposition Transcript 1113
Exhibit D: Portions of Irene Fokas Deposition Transcript 1130
Exhibit E: Portions of Athan Fokas Deposition Transcript Volume II 1140

Fokas Partial MSJ to Spiros Ferderigos (Action 3919), filed February 28, 2017 1147

Exhibit A: Affidavit of Athan Fokas 1150
Exhibit B: Phillip Ferderigos Answers to Interrogatories 1153
Exhibit C: Portions of Spiros Ferderigos Deposition Transcript 1171
Exhibit D: Portions of Irene Fokas Deposition Transcript 1176
Exhibit E: Portions of Athan Fokas Deposition Transcript Volume II 1186

Motion Hearing Transcript (Action 3919), dated June 8, 2017 1193

Order Granting Plaintiff Partial MSJ (Action 3919), dated August 31, 2017 1266

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON ATHAN FOKAS, ☒ Plaintiff v. PHILLIP FERDERIGOS AND SPIROS FERDERIGOS, ☐ Defendants.	)	IN THE COURT OF COMMON PLEAS CASE NO. 2015-CP-10-3891 MOTION FORM AND COVER SHEET

Plaintiff's Attorney:	Defendant's Attorney:
Leslie S. Lenhardt Address: 1876 Wallenberg Blvd., Charleston, SC 29407 phone: 843-371-5453 ext. 702 e-mail: Llenhardt@lenhardtlawfirm.com other:	M. Dawes Cooke, Jr. Address: 288 Meeting Street Charleston, SC 29401 phone: 843-577-7700 fax: email: mdc@barnell-whaley.com

☒ **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**
☐ **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**
☐ **PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)**

SECTION I: Hearing Information
Nature of Motion: Application and Motion for Default Judgment
Estimated Time Needed: 30 minutes Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type
☒ **Written motion attached**
☐ **Form Motion/Order**
I hereby move for relief or action by the court as set forth in the attached proposed order.

Dana Lenhardt — 8-25-17
Signature of Attorney for ☒Plaintiff / ☐Defendant — **Date submitted**

SECTION III: Motion Fee
☒ **PAID – AMOUNT: $25.00**
☐ **EXEMPT:** ☐ **Rule to Show Cause in Child or Spousal Support**
(check reason) ☐ **Domestic Abuse or Abuse and Neglect**
☐ **Indigent Status** ☐ **State Agency v. Indigent Party**
☐ **Sexually Violent Predator Act** ☐ **Post-Conviction Relief**
☐ **Motion for Stay in Bankruptcy**
☐ **Motion for Publication** ☐ **Motion for Execution (Rule 69, SCRCP)**
☐ **Proposed order submitted at request of the court; or,**
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter:
☐ **Other:**

JUDGE'S SECTION	
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other:	_____ JUDGE CODE: _____ Date: _____

CLERK'S VERIFICATION

Date Filed:

Collected by: _____
☐ MOTION FEE COLLECTED: _____

SCCA/233 (11-03)

☐ CONTESTED – AMOUNT DUE: _____

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT
Athan Fokas, Plaintiff, v. Philip Ferderigos, and Spiros Ferderigos, Defendant(s).	Case No.: 2015-CP-10- 3891 **PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO COUNTERCLAIMS OF SPIROS FERDERIGOS**

FILED
2017 AUG 25 PM 12:03
JULIE J. ARMSTRONG
CLERK OF COURT
BY DS

YOU WILL PLEASE TAKE NOTICE THAT the Plaintiff, Athan Fokas, by and through his undersigned counsel and pursuant to SCRCP Rule 56, will move before this Honorable Court for partial summary judgment on the counterclaim for defamation by Defendant Spiros Ferderigos set forth in his Answer and Counterclaims of Defendant Spiros Ferderigos to Plaintiff's Amended Complaint. The basis for this motion is that there are no genuine issues of material fact as to the allegations of the counterclaim, specifically that Plaintiff published to any third party the alleged defamatory statements set forth in the counterclaim.

The counterclaim of defamation is incorporated by reference from Spiros Ferderigos' Answer, Affirmative Defenses and Counterclaims in the pending case captioned Athan Fokas v. Phillip Ferderigos, Spiros Ferderigos and Jacob Ferderigos, Case No. 2015-CP-10-3919. Defendant Spiros Ferderigos' Answer in that case is attached to this Motion as an Exhibit. In addition, this Motion is supported by the attached exhibits:

Exhibit A: Spiros Ferderigos' Answer, Affirmative Defenses and Counterclaims, Case No. 2015-CP-10-3919

Exhibit B: Supplemental Affidavit of Plaintiff, Athan Fokas

Exhibit C: Answers to Interrogatories by Spiros Ferderigos

Exhibit D: Deposition excerpt of Spiros Ferderigos

Exhibit E: Deposition excerpt of Irene Fokas

Exhibit F: Deposition excerpt of Athan Fokas

LENHARDT LAW FIRM, LLC

Leslie S. Lenhardt, Esq.
S.C. Bar No. 15858
1876 Wallenberg Blvd.
Charleston, SC 29407
(843) 371-5453
llenhardt@lenhardtlawfirm.com

August 25, 2017
Charleston, SC

EXHIBIT A

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO. 2015-CP-10-3919
	)	
Athan Fokas,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**SPIROS FERDERIGOS' ANSWER, AFFIRMATIVE DEFENSES AND COUNTERCLAIMS**
	)	
Philip Ferderigos, Jacob Ferderigos, and Spiros Ferderigos,	)	
	)	
Defendants.	)	*Jury Trial Demanded*
	)	

Defendant Spiros Ferderigos through his undersigned counsel, respectfully submits the following Answer, Affirmative Defenses and Counterclaims to Plaintiff Athan Fokas' Complaint. Spiros Ferderigos denies each and every allegation not specifically admitted herein. Further, Spiros Ferderigos' Answers are limited to those allegations asserted against him. Spiros Ferderigos is not required to, and does not, respond to any allegations directed toward another defendant.

(1) Paragraph 1 does not contain allegations against Spiros Ferderigos. To the extent a response is required, Spiros Ferderigos admits Paragraph 1 upon information and belief.

(2) Paragraph 2 does not contain allegations against Spiros Ferderigos. To the extent a response is required, Spiros Ferderigos admits Paragraph 2.

(3) Spiros Ferderigos admits Paragraph 3.

(4) Paragraph 4 does not contain allegations against Spiros Ferderigos. To the extent a response is required, Spiros Ferderigos admits Paragraph 4.

(5) Spiros Ferderigos admits only that Athan Fokas and Defendants are members of Old Towne Suites, LLC (hereinafter "LLC"). Spiros Ferderigos denies the remainder of Paragraph 5.

(6) Spiros Ferderigos admits Paragraph 6.

(7) Spiros Ferderigos admits Paragraph 7 only to the extent that the currently existing rental business began after the upper two stories of 229 King Street were converted to rental units from restaurant seating. Spiros Ferderigos denies the remainder of Paragraph 7.

(8) Spiros Ferderigos admits Paragraph 8 only to the extent that in 2012, the parties began to investigate the possibility of, feasibility of, and their interest in constructing a new building above 229 King Street to be used for rental units. Spiros Ferderigos denies the remainder of Paragraph 8 and further denies the existence of any agreement to construct said building.

(9) Spiros Ferderigos denies Paragraph 9.

(10) Spiros Ferderigos admits Paragraph 10 only to the extent that, beginning no later than mid-2012, Athan Fokas and Jacob Ferderigos coordinated with an engineer(s), architect(s), and a contractor to develop plans to submit to the City of Charleston for possible approval to determine the cost, details, scope, feasibility and whether the City of Charleston would even allow the proposed project being considered by the parties. All activities at all times were for the consideration of a possible proposed project in the future; the parties entered into no agreements whatsoever, and all parties understood that any party could decide not to participate at any time. Spiros Ferderigos denies the remainder of Paragraph 10.

(11) Spiros Ferderigos admits Paragraph 11 only to the extent that Athan Fokas secured pre-approval of a loan for himself and for Jacob Ferderigos, the terms of which were never discussed with and/or agreed upon by Phillip and Spiros Ferderigos. Spiros Ferderigos denies the remainder of Paragraph 11. Athan Fokas and Jacob Ferderigos were supposed to get a personal loan for themselves which did not involve and/or affect Phillip and Spiros Ferderigos in any way whatsoever. Athan Fokas failed to secure such a loan.

(12) Spiros Ferderigos denies Paragraph 12.

(13) Spiros Ferderigos denies Paragraph 13.

(14) Spiros Ferderigos admits Paragraph 14 only to the extent that the parties expended expense and effort toward investigating the possibility of, feasibility of, and their interest in constructing the proposed project. Spiros Ferderigos denies the remainder of Paragraph 14 and denies that there was ever an agreement to construct the building between Athan Fokas and Spiros Ferderigos at any time whatsoever.

(15) Spiros Ferderigos denies Paragraph 15 as characterized.

(16) Spiros Ferderigos admits Paragraph 16 only to the extent that he was a candidate for a Family Court judgeship at the time Athan Fokas wrongfully demanded that Spiros Ferderigos mortgage his interest in 229 King Street and Athan Fokas unilaterally scheduled the closing for Athan Fokas' loan without consulting Spiros Ferderigos. As Spiros Ferderigos had never agreed to mortgage his interest in 229 King Street, Spiros Ferderigos was not willing to consider encumbering his interest in 229 King Street unless Athan Fokas signed a side/ancillary agreement that Spiros Ferderigos was satisfied would protect his most valuable asset known at the time. Spiros Ferderigos was further not

willing to amend his financial information and amend his judicial filings simply because Athan Fokas wrongfully demanded that Spiros Ferderigos encumber his financial interest(s). Spiros Ferderigos informed Athan Fokas that the timing of Athan Fokas' unilateral closing was not convenient for him, that he had never agreed to mortgage 229 King Street, and that he was not willing to even consider changing his financial status at the time.

(17) Spiros Ferderigos admits Paragraph 17.

(18) Spiros Ferderigos admits Paragraph 18 only to the extent that, if Athan Fokas would have signed the proposed written side/ancillary agreement prepared by Phillip and Spiros Ferderigos prior to the closing, Phillip and Spiros Ferderigos would have provided a mortgage of their portion of 229 King Street, assuming that the additional loan closing documents were also correct in all material aspects. Spiros Ferderigos denies the remainder of Paragraph 18.

(19) Spiros Ferderigos admits Paragraph 19 only to the extent that Athan Fokas refused to sign the side/ancillary agreement. Spiros Ferderigos denies the remainder of Paragraph 19. Specifically, Spiros Ferderigos denies that there was an agreement between the parties at any time.

(20) Spiros Ferderigos denies Paragraph 20.

(21) Spiros Ferderigos denies Paragraph 21 as characterized.

(22) Spiros Ferderigos denies Paragraph 22 as characterized and further denies that there was ever any agreement whatsoever between the parties at any time.

FOR A FIRST DEFENSE TO THE FIRST CAUSE OF ACTION
(Breach of Contract – Specific Performance)

(23) Responding to Paragraph 23, Spiros Ferderigos hereby incorporates by reference his responses to the allegations in the preceding paragraphs as fully as if repeated verbatim herein.

(24) Spiros Ferderigos denies Paragraph 24. Spiros Ferderigos has never verbally communicated with Athan Fokas about the proposed project being considered, and all communications between Spiros Ferderigos and Athan Fokas about the proposed project have been in writing.

(25) Spiros Ferderigos admits Paragraph 25 only to the extent that the parties were each responsible for their respective share of costs for considering the possibility of, feasibility of, and their interest in the proposed project being considered. Spiros Ferderigos denies the remainder of Paragraph 25.

(26) Spiros Ferderigos denies Paragraph 26.

(27) Spiros Ferderigos denies Paragraph 27.

(28) Spiros Ferderigos admits Paragraph 28 only to the extent that the parties paid expenses directly toward and directly for work to investigate the possibility of, feasibility of, and their interest in the proposed project being considered. Spiros Ferderigos denies the remainder of Paragraph 28 and denies that there was ever an agreement between the parties at any time.

(29) Spiros Ferderigos denies Paragraph 29.

(30) Spiros Ferderigos denies Paragraph 30.

(31) Spiros Ferderigos denies Paragraph 31.

(32) Spiros Ferderigos denies Paragraph 32.

(33) Spiros Ferderigos denies Paragraph 33.

(34) Spiros Ferderigos denies Paragraph 34.

FOR A FIRST DEFENSE TO THE SECOND CAUSE OF ACTION
(Breach of Contract -- Damages)

(35) Responding to Paragraph 35, Spiros Ferderigos hereby incorporates by reference his responses to the allegations in the preceding paragraphs as fully as if repeated verbatim herein.

(36) Spiros Ferderigos denies Paragraph 36.

FOR A FIRST DEFENSE TO THE THIRD CAUSE OF ACTION
(Violation of the Duty of Care -- S.C. Code Ann. § 33-44-409)

(37) Responding to Paragraph 37, Spiros Ferderigos hereby incorporates by reference his responses to the allegations in the preceding paragraphs as fully as if repeated verbatim herein.

(38) Paragraph 38 contains legal conclusions to which no response is required. To the extent a response is required, Spiros Ferderigos craves reference to the statutes cited in Paragraph 38 and, to the extent they are applicable, denies anything inconsistent therewith.

(39) Paragraph 39 contains legal conclusions to which no response is required. To the extent a response is required, Spiros Ferderigos craves reference to the statutes cited in Paragraph 39 and, to the extent they are applicable, denies anything inconsistent therewith. Spiros Ferderigos further denies that he owed any duty of care pursuant to

S.C. Code Ann. Section 33-44-409 to Athan Fokas relating to Spiros Ferderigos' real property interest in 229 King Street and/or the proposed project being considered. Spiros Ferderigos denies that the LLC statutes apply in this matter to impose any duty upon him, but, in the event the Court holds such duties do apply to him, Spiros Ferderigos denies that he breached any such duties.

(40) Spiros Ferderigos denies Paragraph 40.

(41) Spiros Ferderigos denies Paragraph 41.

FOR A SECOND DEFENSE TO ALL CAUSES OF ACTION

(42) Athan Fokas' claims fail to state facts sufficient to constitute a cause of action upon which relief can be granted. Therefore, pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure, the Complaint should be dismissed.

FOR A THIRD DEFENSE TO ALL CAUSES OF ACTION

(43) Athan Fokas' claims are barred, in whole or in part, by the doctrines of estoppel, ratification, waiver, laches, and/or unclean hands.

FOR A FOURTH DEFENSE TO ALL CAUSES OF ACTION
(Statute of Frauds and/or Statute of Limitations)

(44) Athan Fokas' Complaint states claims that are barred, in whole or in part, by the Statute of Frauds and/or statute of limitations.

FOR A FIFTH DEFENSE TO ALL CAUSES OF ACTION

(45) Athan Fokas has failed to mitigate his injuries and/or damages, if any.

FOR A SIXTH DEFENSE TO ALL CAUSES OF ACTION

(46) Spiros Ferderigos relies upon any other defenses that may become available or appear during discovery in the case and hereby reserves the right to amend this Answer to assert any such defenses. He also reserves the right to assert other and related defenses as may become available upon a determination of the law applicable to the action or any part thereof or claim therein.

FOR A SEVENTH DEFENSE
AND BY WAY OF AN AFFIRMATIVE DEFENSE THERETO
(Contributory/Comparative Negligence/Assumption of Risk)

(47) Any damage suffered by Athan Fokas is a direct and proximate result of his own comparative and contributory negligence and/or assumption of risk, and Athan Fokas'

recovery should be barred, or alternatively, reduced proportionately to Athan Fokas' comparative negligence/assumption.

FOR AN EIGHTH DEFENSE
AND BY WAY OF AN AFFIRMATIVE DEFENSE THERETO
(Release)

(48) The Plaintiff's claims are barred by release as the Plaintiff released Defendants from any alleged agreement on multiple occasions.

FOR AN NINTH DEFENSE
AND BY WAY OF AN AFFIRMATIVE DEFENSE THERETO
(Punitive Damages)

(49) The Defendant would show that the claim of Athan Fokas for punitive damages cannot be had because any award of punitive damages under South Carolina law without bifurcation of the trial so that any punitive damages issues are tried only after and if liability on the merits of the action have been found would violate Defendant's due process rights guaranteed by the United States Constitution and the South Carolina Constitution and would violate the common law and public policy of the State of South Carolina.

The Defendant would show that the claim of Athan Fokas for punitive damages cannot be had because an award of punitive damages under South Carolina law without being subject to a pre-determined limit on the amount of punitive damages that a jury might impose would violate Defendant's due process rights guaranteed by the United States Constitution and The South Carolina Constitution and would violate the common law of the State of South Carolina.

The Defendant alleges that the claim of Athan Fokas for punitive damages cannot be had because an award of punitive damages under South Carolina law by a jury that is not: a) provided with sufficiently clear standards for determining the appropriateness of the punitive damages award or size of such award; b) provided with accurate instructions as to the limits of punitive damages awards as determined by the principals underlying such an award; c) instructed that awarding punitive damages on invidiously discriminatory characteristics of the Defendant is improper; d) instructed to consider punitive damages under a standard for determining the amount that is neither vague, arbitrary nor capricious and that defines with reasonable clarity the actions of the Defendant upon which an award of punitive damages may be based; e) subjected to judicial review at both the trial and appellate court level under objective standards for determining appropriateness and reasonableness; and f) instructed that an award of punitive damages based on anything other than Defendant's conduct in connection with this alleged incident that is the subject of this lawsuit is forbidden; would violate the Defendant's equal protection and due process rights as guaranteed by the United Stated Constitution and the South Carolina Constitution and would also violate the laws of the State of South Carolina.

The Defendant alleges and says that the imposition of punitive damages on the basis of Athan Fokas' claims giving rise to this lawsuit would represent the deprivation of liberty and property without due process of law, the imposition of cruel and unusual punishment and excessive fines and deny the equal protection of the laws and violation of the Fifth, Sixth, Eighth, and Fourteenth Amendments to The Constitution of the United States and the comparable provisions of the State of South Carolina.

FOR A TENTH AFFIRMATIVE DEFENSE
(No Meeting of the Minds)

(50) Athan Fokas' claims are barred as there was no "meeting of the minds" and no binding agreement between the parties as to numerous material terms of the alleged agreement. Athan Fokas admits that Spiros Ferderigos did not agree to subject himself to personal liability on Fokas' personal loan involving the rental suite construction being considered at 229 King Street. A mortgage is a material term. It constitutes possible personal liability for Spiros Ferderigos by subjecting his most important and valuable asset known at the time, 229 King Street, to possible foreclosure in the event Fokas defaulted on his personal loan. Phillip Ferderigos told Athan Fokas that he would not mortgage or guarantee "anything" for Athan Fokas or anyone else. Spiros Ferderigos further informed Athan Fokas in writing on December 19, 2012, that he would not be willing to accumulate debt for the proposed project. A mortgage is a debt. In addition, Spiros Ferderigos signing his name as an individual (direct personal liability) and/or signing his interest as a member of the LLC (personal liability if the cooperate veil is pierced) for Athan Fokas' incorrect and non-agreed upon closing documents further constitutes exposure for a personal guarantee that Spiros Ferderigos never agreed to.

Athan Fokas' incorrect and non-agreed upon closing documents required Spiros Ferderigos to sign *as an individual* (1) a mortgage for Spiros Ferderigos' interest in 229 King Street, (2) an assignment of rents, (3) a hypothecation agreement, (4) a HUD Statement, (5) an agreement to provide insurance, and (6) a UCC Financing Statement/Addendum.

Athan Fokas' incorrect and non-agreed upon closing documents also required Spiros Ferderigos to assign his interests *as a member of the LLC* for (1) the Note as the Borrower for Athan Fokas' loan, (2) an assignment of rents for a construction loan agreement, (3) a guaranty of completion and performance agreement, (4) a commercial security agreement, (5) a hazardous substances certificate and indemnity agreement, (6) an agreement to provide insurance, and (7) a UCC Financing Statement/Addendum.

There were further numerous unknown material terms at the time Athan Fokas alleges the parties entered into an agreement that would make a meeting of the minds between the parties impossible, as the parties cannot and did not agree to material terms that were still unknown at the time. As such, the parties never reached a meeting of the minds as to the essential terms of a mortgage agreement, of a side agreement, and/or any material terms.

FOR AN ELEVENTH AFFIRMATIVE DEFENSE
(No Agreement to Agree)

(51) Athan Fokas' claims are barred as there was never even an "agreement to agree" between the parties. The cost of the proposed project, the scope of the proposed project, the financing details of the proposed project, the loan documentation details of the proposed project, and other material terms of the proposed project were simply unknown at the time Athan Fokas alleges an agreement was made. This is evidenced by the written documentation between the parties which have been attached as exhibits to Defendant(s) counterclaim(s).

FOR A TWELFTH AFFIRMATIVE DEFENSE
(No Consideration)

(52) Athan Fokas' claims fail for lack of consideration.

FOR A THIRTEENTH AFFIRMATIVE DEFENSE AND BY WAY OF COUNTERCLAIMS
(Facts)

(53) Athan Fokas is a citizen and resident of Charleston County, South Carolina. The text messages identified as (843) 813-5612 in the attached exhibits are text messages from Athan Fokas.

(54) Phillip Ferderigos is a citizen and resident of Charleston County, South Carolina.

(55) Spiros Ferderigos is a citizen and resident of Charleston County, South Carolina.

(56) Jacob Ferderigos is a citizen and resident of Charleston County, South Carolina.

(57) The father of Jacob Ferderigos, Phillip Ferderigos, and Spiros Ferderigos (hereinafter Ferderigos Brothers) established Old Towne Restaurant in 1972. Old Towne Restaurant is located at 229 King Street. The Parcel ID number for 229 King Street is 4570801063.

(58) Athan Fokas' father joined Ferderigos Brothers' father as a partner resulting in both Ferderigos Brothers' father and Athan Fokas' father each owning a respective fifty (50) percent interest in Old Towne Restaurant. Ferderigos Brothers' father and Athan Fokas' father purchased the real property located at 229 King Street with each receiving a fifty (50) percent respective interest in the real property.

(59) Ferderigos Brothers' father transferred his respective fifty (50) percent interest in the real property located at 229 King Street in equal shares to Ferderigos Brothers. Ferderigos Brothers' father further transferred his fifty (50) percent interest in Old Towne Restaurant to Jacob Ferderigos.

(60) Upon information and belief, Athan Fokas' father transferred his respective fifty (50) percent interest in Old Towne Restaurant and 229 King Street to Athan Fokas.

(61) Accordingly, Jacob Ferderigos and Athan Fokas each own a respective fifty (50) percent interest in Old Towne Restaurant. The Ferderigos Brothers own a combined fifty (50) percent interest in 229 King Street and Athan Fokas owns the remaining fifty (50) percent interest in 229 King Street.

(62) Old Towne Restaurant leases the first floor of 229 King Street from Ferderigos Brothers and Athan Fokas.

(63) In 2009, 229 King Street was burned in a fire. During the restoration period, Ferderigos Brothers and Athan Fokas converted the top two floors (second and third floor) into short term rental units (hereinafter "original rental units").

(64) Ferderigos Brothers and Athan Fokas paid their respective fifty (50) percent of all expenses for the original rental units in cash.

(65) Ferderigos Brothers and Athan Fokas did not mortgage 229 King Street for the original rental units.

(66) Ferderigos Brothers and Athan Fokas did not personally guarantee any asset and/or interest(s) for the original rental units (including but not limited to a mortgage).

(67) Ferderigos Brothers did not encumber any of their assets for Athan Fokas and Athan Fokas did not encumber any of his assets for Ferderigos Brothers for the original rental units.

(68) Ferderigos Brothers and Athan Fokas created Old Towne Suites, LLC (hereinafter the LLC) to distribute profits for the original rental units. Ferderigos Brothers own a combined fifty (50) percent interest of the LLC and Athan Fokas owns the remaining fifty (50) percent interest in the LLC. The LLC has no assets.

(69) After the LLC was created and the original rental units constructed, but no later than 2012, Athan Fokas informed one or more of the Ferderigos Brothers that he wanted to explore potentially adding new construction over the existing building at 229 King Street for additional short terms rental units (hereinafter "proposed project").

(70) Upon information and belief, Athan Fokas approached Phillip Ferderigos and told him that the parties should mortgage 229 King Street for the proposed project. Phillip Ferderigos informed Athan Fokas that he would not mortgage his interest in 229 King Street for the proposed project. Phillip Ferderigos has not had any substantive verbal communication(s) with Athan Fokas regarding the proposed project being explored since Phillip Ferderigos had the aforementioned communication wherein Phillip Ferderigos rejected Athan Fokas' request to encumber his asset(s).

(71) The Ferderigos Brothers were each individually comfortable exploring the possibility of, feasibility of, and exploring their interest in the proposed project; out of a matter of convenience, the Ferderigos Brothers and Athan Fokas paid their respective share of exploration expenses for the proposed project from their respective LLC profits.

(72) Ferderigos Brothers and Athan Fokas began exploring the proposed project in 2012 and by July 2012 were already accruing expenses for the exploration of the proposed project. *See Exhibit A and B.*

a. 08/06/12: First invoice from Tucker Architectural for concept drawings.
b. 12/11/12: Email from Tucker Architectural indicating that the concept drawings for the proposed project were approximately 80 percent complete.
c. 12/20/12: Final invoice from Tucker Architectural for concept drawings.

(73) By December 11, 2012, the architect hired by the parties was approximately eighty (80) percent complete with his concept drawings regarding the proposed project. *See Exhibit B.*

(74) Initially, Athan Fokas informed the Ferderigos Brothers the total cost of the proposed project would be approximately $900,000. *See Exhibit C.*

a. 12/19/12: Email from Athan Fokas stating "the total cost for the project to build will be somewhere between $800,000 and $900,000 with spending about 25,000 per unit to furnish and make them luxury units. I hope we can keep this project somewhere around $900,000."

(75) Athan Fokas and Jacob Ferderigos began searching for a personal loan/loan commitment(s) for themselves in the event the City of Charleston would approve the construction of the proposed project being explored, assuming that the parties could reach an agreement for all material terms to build the proposed project.

(76) On December 19, 2012, Athan Fokas sent an email informing the Ferderigos Brothers that he is attempting to get an approximate $900,000 loan for the proposed project and that he believes all parties should personally guarantee and mortgage their interests in 229 King Street for the attempted loan. *See Exhibit C.*

a. 12/19/12: Email from Athan Fokas stating "I hope we can keep this project somewhere around $900,000." "Our equity in Old Towne is somewhere between 5 and 10 million dollars. Many banks these days won't touch anything in the hospitality industry so it is no guaranteed that they will lend us the money. The note on the property should be somewhere in the neighborhood of $4000.00 a month if they let us carry the note for 30 years. If it is a 15 to 20 year note then the payments will be between $6000.00 and $8000.00 a month." "I'm only going to send information to banks that are very interested in doing the deal. I plan to give them Old Towne tax returns, Old Towne Suites income, and our personal

financial statements. Phillip asked if he would be personally guaranteeing the loan. Of course every loan out there wants the people taking out the loan to personally guarantee it. The loan is less than 20 percent of our total value and we have the income from our current suites that could easily pay the note so it's a no brainer. Let me know your thoughts."

(77) Spiros Ferderigos immediately responded, in writing, to Athan Fokas that he would not personally guarantee anyone else's loan or incur additional debts to accomplish the proposed project. Spiros Ferderigos stated that, if the proposed project moved forward, it would need to be in the same manner as the original rental units without Spiros Ferderigos accumulating debt, that Spiros Ferderigos anticipated paying cash for his share of the proposed project if the parties could reach an agreement, and that the cost of construction needed to be addressed. *See Exhibit D.*

a. 12/19/12: Spiros Ferderigos email response to Athan Fokas stating "Assuming all that pans out, there will be a continuing issue on how we finance. If the bank is looking for me (and I assume this goes for Phillip as well but I will let him speak for himself) to personally guarantee a loan I am not going to do it. There is to much that can go wrong with a personal guarantee. I am confident that Phillip, Jacob and I will be able to come up with our end of the amount needed and we can move forward without accumulating debt as we did for the first round of units." "The question is how do we get there, will it be by personally guaranteeing loans that could be catastrophic to our individual families or each individual raising the necessary funds and doing it without a million dollars in debt so we can greatly limit liability. I for one already have plenty of money sitting in a bank account for my share of the additional units." (Emphasis added).

(78) Spiros Ferderigos has never spoken verbally with Athan Fokas about the proposed project being explored. All communications between Spiros Ferderigos and Athan Fokas regarding the proposed project have been in writing.

(79) Athan Fokas and Jacob Ferderigos attempted several times to receive a personal loan/loan commitment(s) for the proposed project from numerous banks to no avail. *See Exhibit C.*

a. 12/19/12: Email from Athan Fokas stating "With that said I don't even know if the bank will lend us the money. First Citizens said they are not allowed to touch the hospitality industry. BB&T is 50/50 and will let me know if they are interested in a couple of days. South Carolina Bank and Trust seems very interested according to their President but will have to see our current income to make sure the numbers work. I'm meeting with Suntrust tomorrow but I think they will be a long shot."

(80) In January 2013, Athan Fokas made initial contact with his South Coast Bank loan officer seeking a loan/loan commitment. *See Exhibit E.* South Coast Bank is the lending bank Athan Fokas refers to in his Complaint.

a. 01/11/13: Email from Jeffrey Odom (South Coast Bank loan officer) to Athan Fokas stating "It was a pleasure meeting you yesterday afternoon. I just received your fax so it looks like it went through. I have also received your emails with the attached financial information. Thank you for getting everything to us so quickly. We will get to work and will be in touch shortly."

(81) Phillip Ferderigos and Spiros Ferderigos were not involved in Athan Fokas' and Jacob Ferderigos' attempts to get a personal loan/loan commitment(s) and did not provide any financial information or make any assurances to the bank(s) for the loan Athan Fokas and Jacob Ferderigos were seeking. Furthermore, any prior loan/loan commitment(s) obtained by Athan Fokas and Jacob Ferderigos was for a personal loan between them only and to be personally guaranteed by Athan Fokas and Jacob Ferderigos only. *See Exhibit F.*

a. 06/17/14: Email correspondence between Spiros Ferderigos and Athan Ferderigos wherein Spiros Ferderigos asks Athan Fokas and Jacob Ferderigos "The loan pre-approval that you guys have for the suites...are ya'll going to have to personally guarantee the loan?" Athan Fokas responds "We are pre approved, and since we personally asked for the loan yes we are personally guaranteeing it."

(82) Unknown to Phillip and Spiros Ferderigos at the time, Athan Fokas and Jacob Ferderigos secured a personal loan commitment for themselves from South Coast Bank on February 5, 2013. The loan commitment was for a one million dollar personal loan to Athan Fokas and Jacob Ferderigos in which Athan Fokas and Jacob Ferderigos would provide a mortgage for their interest(s) in 229 King Street, their interest(s) in the LLC, and an assignment of their rents and leases, in addition to other interest(s) of Athan Fokas and Jacob Ferderigos. The loan commitment expired February 15, 2013. *See Exhibit G.*

(83) The February 5, 2013, loan commitment secured by Athan Fokas and Jacob Ferderigos for their personal loan (which was unknown to Phillip and Spiros Ferderigos at the time) was not sufficient for the proposed project being explored as the costs of the proposed project continued to increase as a result of the proposed plans being repeatedly rejected by the relevant governmental agency.

(84) Accordingly, Athan Fokas had to keep seeking approval for a new personal loan/loan commitment(s) from South Coast Bank that would be sufficient for the ever growing costs of the proposed project being explored.

(85) Athan Fokas did not inform Phillip and Spiros Ferderigos that the approximate cost for the proposed project being explored increased from approximately $900,000 to approximately $2,000,000 until September 9, 2014. *See Exhibit H.*

a. 09/09/14: Email from Athan Fokas to Ferderigos Brothers stating "It looks like our new project of six more units will cost us around two million to build."

(86) Accordingly, based upon information provided by Athan Fokas, Phillip and Spiros Ferderigos were paying expenses toward exploring the potential proposed project from as early as December 2012 through September 9, 2014, under the incorrect information provided by Athan Fokas that the approximate cost of the proposed project was $900,000, not double that amount of approximately $2,000,000.

a. 12/19/12: Email from Athan Fokas stated "the total cost for the project to build will be somewhere between $800,000 and $900,000 with spending about 25,000 per unit to furnish and make them luxury units. I hope we can keep this project somewhere around $900,000." *See Exhibit C.*
b. 09/09/14: Email from Athan Fokas to Ferderigos Brothers stating "It looks like our new project of six more units will cost us around two million to build." *See Exhibit H.*

(87) Athan Fokas did not receive approval of his $1,800,000 personal loan and did not receive the details for his personal loan for the proposed project from his banker until September 2014. *See Exhibit I.*

a. 09/19/14: Text from Athan Fokas to Ferderigos Brothers stating "Good news! We are approved for 1.8 million." Spiros Ferderigos responds "can you email us the details of the loan sometime this weekend if you have a chance?" Athan Fokas responds "The banker just called me. I won't have the details till next week." (Emphasis added).

(88) On September 24, 2014, Athan Fokas, either intentionally and/or negligently, incorrectly informed the Ferderigos Brothers that his loan terms were for a fixed 5% interest rate for 20 years, the life of the alleged loan. When Athan Fokas subsequently became aware that he was incorrect about his loan terms, Athan Fokas attempted to get his banker to change the terms to what Athan Fokas believed he had. Athan Fokas' attempts to change his loan terms were rejected by his banker. Athan Fokas response to Phillip Ferderigos when he was unable to get his banker to change his loan terms to what Athan Fokas believed he had was "Well at least I tried." *See Exhibit J.*

a. 09/24/14: Athan Fokas email to Ferderigos Brothers stating " Well I don't know how I managed to sweet talk our banker into getting rid of the five year balloons and fixing it at 5% for the life of the loan which is unheard of in the current banking industry."
b. 09/25/14: Athan Fokas email to Jeffery Odom (South Coast Bank loan officer) asking his loan officer in regards to his loan terms "Can it say: 12 monthly payments of interest only followed by 239 consecutive monthly payments...so that it is truly a 20 years note. Just want to make sure that the note continues after 5 years."
c. 09/25/14: Jeffery Odom's response to Athan Fokas that "the note will be 12 months of interest only followed by 5 years of principal, interest, and escrow payments and then a balloon maturity, with monthly payments based on a 20 year

schedule. That is what you wanted and that is the same thing we are doing on your North Towne deal."

d. 09/25/14: Athan Fokas forwards Jeff Odom's email to Phillip Ferderigos and in response tells Phillip Ferderigos "Well at least I tried."

(89) The City of Charleston did not approve the proposed plans for the proposed project being explored until October 2014 and Athan Fokas informed the Ferderigos Brothers on October 10, 2014, that the permit for the proposed project being explored was approved. *See Exhibit K.*

(90) From 2012 to October 2014, the estimated costs of the proposed project increased from less than a million dollars to over two million dollars.

(91) When the city approved the proposed plans for the proposed project, Athan Fokas unilaterally scheduled a closing for what was to be Athan Fokas' and Jacob Ferderigos' personal loan. Jacob, Phillip, and Spiros Ferderigos were not informed nor involved in the scheduling of the closing date and were not informed of the closing date until after it had been scheduled by Athan Fokas.

(92) Upon information and belief, a few days prior to the closing for Athan Fokas' and Jacob Ferderigos' personal loan, Athan Fokas contacted Jacob Ferderigos and informed him that Phillip and Spiros Ferderigos would need to be present at the closing to mortgage their interests in 229 King Street for the loan. Jacob Ferderigos informed Athan Fokas that Phillip and Spiros Ferderigos never agreed to mortgage their interests in 229 King Street and that such a mortgage was outright rejected and never considered for the proposed project. Jacob Ferderigos further informed Athan Fokas that he did not believe Phillip and Spiros Ferderigos would agree to Athan Fokas' new material demand that they mortgage their interests in 229 King Street.

(93) Jacob Ferderigos informed Phillip and Spiros Ferderigos that Athan Fokas had scheduled a closing to be held in a few days and that Athan Fokas was demanding that Phillip and Spiros Ferderigos mortgage their interests in 229 King Street for Athan Fokas' and Jacob Ferderigos' personal loan.

(94) Upon being informed of this new demand, Spiros Ferderigos communicated with all parties in writing that he never agreed to mortgage his interest in 229 King Street for Athan Fokas' and Jacob Ferderigos' personal loan, however, he would consider mortgaging his interest in 229 King Street for Athan Fokas' and Jacob Ferderigos' personal loan so long as Athan Fokas signed a side/ancillary agreement that Spiros Ferderigos believed was sufficient to protect his financial asset, assuming that all closing documents were correct.

(95) Phillip Ferderigos also informed Athan Fokas that, although he never agreed to mortgage his interest in 229 King Street, he would consider doing so if Athan Fokas, Jacob Ferderigos, and Spiros Ferderigos signed a side agreement that Phillip Ferderigos

believed was sufficient to protect his financial asset, assuming that all closing documents were correct.

(96) Spiros Ferderigos further informed Athan Fokas, Jacob Ferderigos, and Phillip Ferderigos that the closing date scheduled by Athan Fokas without Spiros Ferderigos' input was not convenient for Spiros Ferderigos and that the closing would have to be scheduled for a later date.

(97) Athan Fokas scheduled a second closing date for November 21, 2014. The Ferderigos Brothers were prepared to attend the closing with Phillip and Spiros Ferderigos willing to mortgage their interests in 229 King Street so long as Athan Fokas agreed to and signed the side agreement prepared by Phillip and Spiros Ferderigos, assuming that all closing documents were correct. *See Exhibit L.*

a. 11/21/14: Text chain correspondence between Athan Fokas and Phillip/Spiros Ferderigos the date of the second scheduled closing – Phillip: "if the closing is going to happen today, I need to have it as late in the day as possible...If there any issues, let's just kick it the next week." Athan: "They scheduled if for 3:00 pm today. Will that work?" Phillip: "Should work for me, ask the lawyer to email me the HUD/settlement statement and all paperwork beforehand and I can review it and we can go through the closing more quickly..." Spiros: "From my end, we need to have the agreement signed and a copy of the closing docs to review beforehand. I want to make sure I know what I am signing. So agreement needs to be done and hud/settlement statement like Phillip said. I will block off 3 pm. Where is the closing?" "Once we get the green light on the agreement and the closing docs are reviewed/accurate (which I don't see a reason why they wouldn't be) then we can move forward this afternoon. If there are any issues with the agreement, ect then we will need to revisit everything at a later time."

(98) Athan Fokas, however, refused to agree to and never agreed to or signed the written side agreement necessary for Phillip and Spiros Ferderigos to mortgage their interest in 229 King Street. *See Exhibit M.*

a. 11/24/14: Email from Athan Fokas to Ferderigos Brothers stating "I'm not interested in you trying to bully me into signing any type of side agreement that is unnecessary. My attorney, as I said earlier, strongly was against it."
b. 11/24/14: Email response from Phillip Ferderigos to Athan Fokas stating "You are asking me to mortgage my part of Old Towne and you are unwilling to sign an Agreement to say that you will make your payments timely. I believe you have mortgaged your other properties and now you want to mortgage Old Towne. I am not your piggy bank. I will not mortgage my share of Old Towne for you unless you agree to make your payments timely. Unless you change your decision, there is no point in moving forward."
c. 11/24/14: Email response from Athan Fokas to Phillip Ferderigos stating "If you want me to sign a side agreement that guarantees I will pay the note then you will

sign one saying that you will come up with the money needed for construction or you shall suffer similar consequences."

d. 11/24/14: Email response from Phillip Ferderigos to Athan Fokas stating "I do not care what your bank is requiring of you to get your loan...that has nothing to do with me. I will not sign off on any mortgage of my share unless you sign an agreement that you will make your payments timely. If you are an intelligent person you will see that I can not and will not agree to mortgage my share of Old Towne if you do not agree to make your payments on time."

e. 11/24/14: Email response from Athan Fokas to Phillip Ferderigos stating "Well then it's done. I'll reverse as much as I can and just right it off as a stupid transaction dealing with Ferderigos Family."

(99) Furthermore, when the Ferderigos Brothers and Athan Fokas received the proposed closing documents to review just a few hours prior to the second closing, the closing documents included requirements that were never discussed and never agreed upon by Phillip and Spiros Ferderigos. *Exhibit N (closing documents).*

(100) The closing documents were incorrect in many ways by including provisions never agreed to or even discussed by the parties. Despite Athan Fokas' Complaint admitting that Phillip and Spiros Ferderigos never agreed to personally guarantee Athan Fokas' and Jacob Ferderigos' loan, the closing documents included terms that would expose Phillip and Spiros Ferderigos to personal liability such as (1) Phillip and Spiros Ferderigos signing their interests in the LLC as the borrower of the note (Athan Fokas' closing attorney admitted in writing that this could make Phillip and Spiros Ferderigos personally liable if the corporate veil were to be pierced and Athan Fokas admitted in an email that only Athan Fokas and Jacob Ferderigos were supposed to sign their individual memberships interests for the loan), (2) Phillip and Spiros Ferderigos signing a hypothecation agreement, (3) Phillip and Spiros Ferderigos assigning their rent profits for the benefit of the lending bank, (4) Phillip and Spiros Ferderigos personally signing the HUD Statement in their individual capacities, (5) Phillip and Spiros Ferderigos mortgaging their interests in 229 King Street, (6) Phillip and Spiros Ferderigos signing an agreement to provide insurance in their individual capacities, (7) Phillip and Spiros Ferderigos signing a UCC Financing Statement/Addendum in their individual capacities, and (8) Phillip and Spiros signing their interests in the LLC for a construction loan agreement, guaranty of completion and performance agreement, commercial security agreement, hazardous substances certificate and indemnity agreement, agreement to provide insurance, and UCC Financing Statement/Addendum, amongst other provisions. *See Exhibit N and O.*

a. 11/21/14: Email of Amy Haines (closing attorney) stating "Nothing in the documents I have makes you personally liable for the debt ... assuming the llc corporate veil could not be pierced for some reason." *See Exhibit O.*

b. 11/21/14: Email from Athan Fokas to Ferderigos Brothers stating "The bottom line is that the Old Towne Suites LLC on the note, that only Jacob and I are signing on as members, ..." *See Exhibit O.*

(101) Accordingly, the closing was canceled as Athan Fokas refused to agree to the terms of the side agreement and the closing documents included requirements never agreed to. *See Exhibit P.*

a. 11/21/14: Email from Phillip Ferderigos stating "it is clear that the bank has not been advised how to do the particulars correctly and this can not be rushed. Closing is off for today. If the docs can be fixed and all side agreements agreed to, then we can re-visit at that time."

(102) Later in the afternoon on the same date the second closing was cancelled, Athan Fokas informed the Ferderigos Brothers *for the first time* that he will be receiving approximately 2.7 million dollars on April 1, 2014, and that he intends to pay off his mortgage obligations at that time if Phillip and Spiros Ferderigos mortgage their interests in 229 King Street for his loan. *See Exhibit Q.*

a. 11/21/14: Email from Athan Fokas to Ferderigos Brothers stating "On April 1, I'm getting paid 3.5 million for a transaction I created long ago in which I have less then $800,000 invested in. I then plan to pay off my debt in full."

(103) Given this new material information, Phillip and Spiros Ferderigos communicated to Athan Fokas that they would like to consider Athan Fokas, Phillip Ferderigos, and Spiros Ferderigos paying cash for their portion of the proposed project. Athan Fokas refused to move forward unless Phillip and Spiros Ferderigos agreed to mortgage 229 King Street and sign the incorrect closing documents. *See Exhibit R.*

a. 11/21/14: Email correspondence between Athan Fokas and Phillip/Spiros Ferderigos Brothers – Phillip: "If you're coming into all the money, why don't we just move forward in April and we don't even need this loan at all." Spiros: "That's a great idea." Athan: "I'm not interested on funding anything more than my percentage as I have big plans for the rest. The bank will not just hang around for 8 months." Phillip: "Forget your bank, I have my bank…I think we should be fine, I like the idea…Athan, what do you say?" Spiros: "Sounds like a win for everyone. You would not be on any loan at all. Just paying your percentage. I think we should explore this before moving forward on a huge loan." Phillip: "I agree this is certainly something we should explore." Spiros: "Why risk that huge loan if we don't have to?" Phillip: "Spiro, you are making a lot of sense, Athan, what do you think?" Athan: "I'm at a swanky dinner now and half drunk but by then I will be n the money and not interested in an ventures but my own. I'm also working on a deal where I get 25% of $100,000,000.00 for just being an expert consultant. I hang out with the ultra wealthy now and play their games."

(104) Athan Fokas rejected moving forward without the parties incurring millions of dollars in debt despite Phillip and Spiros Ferderigos maintaining since 2012 that they were unwilling to accumulate debt for the proposed project being explored and despite Athan Fokas' new revelation confirming that accumulating debt in the form of a multi-million dollar mortgage was unnecessary since Athan Fokas will be receiving 2.7 million

dollars in cash (this is nearly three times Athan Fokas' portion of costs for the proposed project).

(105) On November 24, 2014, after the parties yet again reached an impasse on negotiations for the proposed project being explored, Athan Fokas emailed the Ferderigos Brothers that the thirty (30) plus year custom of the Ferderigos and Fokas families eating at Old Towne Restaurant for free was to cease immediately. *See Exhibit S.*

a. 11/24/14: Email from Athan Fokas to Ferderigos Brothers stating "Oh it has been a pleasure to say the least. I'm also done with paying your half of the food you so dearly like to eat at Old Towne weekly on my dime. If you don't pay your portion to me then Jacob will have to. All management will be put on notice."

(106) This is despite the fact that it has been the custom for the Ferderigos and Fokas families to eat for free at Old Towne Restaurant since the 1970's when Athan Fokas' and the Ferderigos Brothers' parents became partners in the restaurant. Upon information and belief, Athan Fokas changed the aforementioned custom for the purpose of harassing, humiliating, and attempting to coerce and gain an upper hand in negotiations against Ferderigos Brothers.

(107) Athan Fokas then took things even a step further and texted Phillip Ferderigos that he can't wait to spread malicious rumors/defame him around the community by stating that a multimillion dollar project couldn't get done because Phillip Ferderigos couldn't eat for free at Old Towne Restaurant and that he is sure everyone will find it "hilarious." He further went on to insult Phillip Ferderigos' weight, made an inappropriate comment about Phillip Ferderigos as a father and called Phillip Ferderigos "palabo" which means "stupid" in Greek. *See Exhibit T.*

a. 12/15/14: Text message from Athan Fokas to Ferderigos Brothers referring to Phillip Ferderigos stating "I can't wait to spread the word that the suites multimillion dollar project couldn't get done cause Phillip can't eat for free. I'm sure everyone will find it hilarious. I'm probably doing you a favor. Smaller waist line. I bet your kids will be real proud of you in the future too. Your dad was right for calling you palabo [stupid] Philipa."

(108) Athan Fokas is the individual who terminated negotiations with Ferderigos Brothers and said he was no longer willing to move forward with exploring the proposed project. *See Exhibit U.*

a. 11/24/14: Email from Athan Fokas to Ferderigos Brothers stating "I am interested in doing this deal now and will not do it later."
b. 11/24/14: Email from Athan Fokas to Ferderigos Brothers stating "Well then it's done. I'll reverse as much as I can and just right it off as a stupid transaction dealing with the Ferderigos Family."

(109) Athan Fokas has also repeatedly released, in writing, the Ferderigos Brothers from any alleged agreement he claims the parties reached regarding the proposed project being explored. *See Exhibit V.*

a. 10/21/14: Text from Athan Fokas to Ferderigos Brothers stating "I would rather leave it in your hands now and keep me in the loop if and when you all are ready." "It's in your court now. I could care less. My Zeus deal is bringing in plenty to keep my family happy."
b. 11/21/14: Email from Athan Fokas to Ferderigos Brothers stating "Think about the big picture talk to the bank yourselves and get things done if you like."
c. 11/21/14: Email from Athan Fokas to Ferderigos Brothers stating "I think it's best to think of the big picture of this new project which will put us in a boutique hotel category and forget about stupid details that carry no wait in the big picture." "In the end the building is what the bank wants and none of these side agreements really matter. I suggest you forget your agreement and I will forget mine and we move forward on a very profitable venture and get it done the way the bank allows."
d. 11/24/14: Email from Athan Fokas to Ferderigos Brothers stating "Are ya'll contacting the bank, my attorney, and the closing attorney or are we just forgetting about it?"
e. 11/24/14: Email from Athan Fokas to Ferderigos Brothers stating "If you are intelligent you will already know that the money will be there with the original suites income to pay for the loan. Cut your pompous attitude and either get it done or not."
f. 11/24/14: Email from Athan Fokas to Ferderigos Brothers stating "Well then it's done. I'll reverse as much as I can and just right it off as a stupid transaction dealing with the Ferderigos Family."
g. 12/15/14: Text from Athan Fokas to Ferderigos Brothers stating "We can discuss all options when we meet and hopefully come to a mutual agreement."

(110) Athan has further repeatedly exonerated Jacob Ferderigos from any liability, alleged agreement, or any wrongdoing regarding this lawsuit by declaring that Jacob Ferderigos is the only "innocent person" in all of this and that he will keep Jacob Ferderigos out of the lawsuit. *See Exhibit W.*

a. 11/26/14: Email from Athan Fokas to Ferderigos Brothers stating "Actually this entire deal has put such a bad taste that I dislike seeing you guys in public. Except Jacob of course. He is the only innocent one in this."
b. 04/24/15: Text from Athan Fokas to Jacob Ferderigos stating "We figured out a way to keep you out the law suit."

(111) After the second closing was cancelled, Phillip Ferderigos and Spiros Ferderigos were made aware that the final costs for the proposed project were still unknown at the time of the second closing. *See Exhibit X* (the parties did not know the costs for the windows and/or sprinkler costs for windows).

a. 04/24/15: Text from Athan Fokas to Jacob Ferderigos stating "This number does not include windows over allowance. The allowance was 55k and we still need to determine if glass is fire rated or if sprinklers can cover."

(112) In addition, after the second closing was cancelled, the Ferderigos Brothers became aware for the first time that Athan Fokas entered into a written agreement with the contractor to build the proposed project being explored on October 15, 2014, without their knowledge or consent. *See Exhibit Y.*

(113) Athan Fokas entered into this agreement with the contractor (Kevin Carroll) without the prior consent or knowledge of the Ferderigos Brothers to enter into an agreement with the contractor, did not provide a copy of the agreement and/or its terms to the Ferderigos Brothers before or after signing the agreement, and signed on behalf of Jacob Ferderigos without his consent.

(114) Upon information and belief, Athan Fokas has further defamed Phillip and Spiros Ferderigos by informing a third party that the proposed project being explored was terminated because Phillip and Spiros Ferderigos were not willing to provide a mortgage for Jacob Ferderigos' portion of the proposed project and that Athan Fokas was not seeking Phillip and Spiros Ferderigos to mortgage Athan Fokas' portion of the proposed project.

(115) Upon information and belief, Athan Fokas for months continued to contact and tell the contractor (Kevin Carroll) that the proposed project was moving forward as planned despite being told by the Ferderigos Brothers that the proposed project being explored would not move forward.

(116) Although Phillip and Spiros Ferderigos have continued to ask Athan Fokas to stop harassing them with his ongoing emails, Athan Fokas has continued to send numerous emails to Phillip and/or Spiros Ferderigos in an effort to coerce them into agreeing to mortgage their interest(s) in 229 King Street and sign the incorrect closing documents, including sending emails threatening litigation in an effort to coerce Phillip and Spiros Ferderigos to give into his demands. This includes one email in which he specifically mentions that his lawsuits are not costing him anything because his attorney has taken on his case as a contingency fee. Upon information and belief, all of these emails have been sent to Phillip and Spiros Ferderigos in an effort to obtain an upper hand in negotiations and to wrongfully coerce Phillip and Spiros Ferderigos to succumb to Athan Fokas' rejected and/or non-agreed upon demands.

(117) Upon information and belief, Athan Fokas informed Jacob Ferderigos that he is going to file a lawsuit against Phillip and Spiros Ferderigos only if it does not cost him anything, and that he is going to take Phillip and Spiros' homes from them and they will be out on the street. Upon information and belief, Athan Fokas sent such communications to be relayed to Phillip and Spiros Ferderigos in bad faith and in an effort to obtain an upper hand in negotiations and to wrongfully coerce Phillip and Spiros Ferderigos to succumb to Athan Fokas' rejected and/or non-agreed upon demands.

(118) On July 14, 2015, Athan Fokas filed a defamation lawsuit against Phillip and Spiros Ferderigos based upon information Athan Fokas alleges he received from his mother (Irene Fokas). Specifically, Athan Fokas' defamation lawsuit alleges that Phillip and Spiros Ferderigos told their father (Stavros Ferderigos), who repeated to Athan Fokas' mother (Irene Fokas), that Athan Fokas hired someone to set fire to 229 King Street and that Athan Fokas has filed a false insurance claim(s). Irene Fokas allegedly confronted Athan Fokas about these allegations.

(119) Athan Fokas knowingly and willfully filed the defamation lawsuit knowing that there was absolutely no basis for the lawsuit and knowing that his mother (Irene Fokas) never told Athan Fokas the information he alleges in the Complaint.

(120) On August 18, 2015, Athan Fokas' mother (Irene Fokas) admitted that she never discussed the topics of Athan Fokas being involved in the 229 King Street fire and/or false insurance claim(s) with Defendants' father. *See Exhibit Z.*

a. August 21, 2015 email from Fanouris Ferderigos (Irene Fokas' brother) to Stan Barnett (Athan Fokas' attorney): "This letter is to make you aware that on August 18, 2015 my sister, Irene Fokas, adamantly denied to me in person that Stavros Ferderigos ever told her anything about the allegations set forth above from your Complaint and that she has never even discussed with Stavros Ferderigos the topics of Athan Fokas being involved, directly or indirectly, with the fire at 229 King Street and/or anything to do with any of Athan Fokas' insurance claims. Irene Fokas further told me that she would testify under oath that she never was told about these allegations by Stavros Ferderigos in any way whatsoever."

(121) Upon information and belief, Irene Fokas never told Athan Fokas that Phillip and/or Spiros Ferderigos were the source of the information alleged in Athan Fokas' defamation lawsuit against Phillip and Spiros Ferderigos.

(122) Upon information and belief, Athan Fokas has, without approval/permission of Jacob, Phillip, and/or Spiros Ferderigos, used 229 King Street for his own personal catering business and to store inventory for his own personal catering business and/or other side projects. Athan Fokas has done so for his own pecuniary gain and to the detriment of Jacob, Phillip, and/or Spiros Ferderigos, who have not received notice of these activities and/or any rent or other payments for Athan Fokas' unauthorized use of 229 King Street.

(123) That with the exception of highlighting for emphasis, the Exhibits attached to Defendants' Counterclaims have not been altered or amended and are true and accurate copies of the written documentation.

FOR A FOURTEENTH AFFIRMTAIVE DEFENSE AND BY WAY OF COUNTERCLAIM
(Violation of Duty of Care – S.C. Code Ann. § 33-44-409 and LLC Statutes)

(124) Spiros Ferderigos repeats and realleges all of the above paragraphs as if set forth verbatim herein.

(125) Athan Fokas violated his duty of care to Spiros Ferderigos as set forth in the LLC statutes in numerous instances. While Spiros Ferderigos denies that the LLC statutes apply in this matter to impose any duties from Spiros Ferderigos to Athan Fokas, based on Athan Fokas' representations, conduct, and/or actions concerning the LLC, Athan Fokas breached his duty of care as further described below.

(126) Among other items, Athan Fokas violated his duty of care to Spiros Ferderigos by:

a. From December 19, 2012, until a few days before Athan Fokas' unilaterally scheduled closing, Athan Fokas never disclosed that he required Phillip and Spiros Ferderigos to mortgage their interest(s) in 229 King Street, personally guarantee their interests, and/or encumber their financial interests while Jacob, Phillip and Spiros Ferderigos continued to incur expenses for the proposed project under the belief that Athan Fokas was getting a personal loan with no assurances and/or encumbrances from Phillip and Spiros Ferderigos whatsoever;

b. Athan Fokas intentionally and improperly attempting to force Jacob, Phillip, and/or Spiros Ferderigos to do things that Jacob, Phillip, and/or Spiros Ferderigos never agreed to do;

c. While Jacob, Phillip, and/or Spiros Ferderigos continued to accrue significant expenses for the exploration of the proposed project under the belief from Athan Fokas that he and Jacob Ferderigos were getting their own personal loan, Athan Fokas purposefully, intentionally and/or negligently, did not

i. disclose he would be requiring Phillip and Spiros Ferderigos to mortgage their interests in 229 King Street for his benefit.

ii. disclose he would be requiring Phillip and Spiros Ferderigos to sign their interests in the LLC as borrower for Athan Fokas' loan for his benefit.

iii. disclose he would be requiring Phillip and Spiros Ferderigos to sign an assignment of rents for Athan Fokas' loan for his benefit.

iv. disclose he would be requiring Phillip and Spiros Ferderigos to sign a hypothecation agreement for Athan Fokas' loan for his benefit.

v. disclose he would be requiring Phillip and Spiros Ferderigos to sign a HUD Statement for Athan Fokas' loan for his benefit.

vi. disclose he would be requiring Phillip and Spiros Ferderigos to sign an agreement to provide insurance for Athan Fokas' loan for his benefit.

vii. disclose he would be requiring Phillip and Spiros Ferderigos to sign a UCC Financing Statement/Addendum for Athan Fokas' loan for his benefit.

viii. disclose he would be requiring Phillip and Spiros Ferderigos to sign their interest(s) in the LLC on the Note and/or authorize their interest(s) in the LLC to be signed on the Note.

ix. disclose he would be requiring Phillip and Spiros Ferderigos to sign their interest(s) in the LLC and/or authorize their interest(s) in the LLC to be signed for a construction loan agreement for Athan Fokas' loan for his benefit.

x. disclose he would be requiring Phillip and Spiros Ferderigos to sign their interest(s) in the LLC and/or authorize their interest(s) in the LLC to be signed for a guaranty of completion and performance agreement for Athan Fokas' loan for his benefit.

xi. disclose he would be requiring Phillip and Spiros Ferderigos to sign their interest(s) in the LLC and/or authorize their interest(s) in the LLC to be signed for a commercial security agreement for Athan Fokas' loan for his benefit.

xii. disclose he would be requiring Phillip and Spiros Ferderigos to sign their interest(s) in the LLC and/or authorize their interest(s) in the LLC to be signed for a hazardous substances certificate and indemnity agreement for Athan Fokas' loan for his benefit.

xiii. disclose he would be requiring Phillip and Spiros Ferderigos to sign their interest(s) in the LLC and/or authorize their interest(s) in the LLC to be signed for an agreement to provide insurance for Athan Fokas' loan for his benefit.

xiv. disclose he would be requiring Phillip and Spiros Ferderigos to sign their interest(s) in the LLC and/or authorize their interest(s) in the LLC to be signed for a UCC Financing Statement/Addendum for Athan Fokas' loan for his benefit.

d. Athan Fokas signing a loan commitment letter with his bank without the knowledge, consent, and/or approval of Phillip and Spiros Ferderigos, while now apparently claiming that the terms of that commitment letter somehow obligate

Phillip and Spiros Ferderigos to provide certain financial guarantees and/or encumbrances, which Phillip and Spiros Ferderigos had previously rejected.

e. Athan Fokas failing to obtain a personal loan to fund his portion of the proposed project.

f. Athan Fokas apparently having the funds to pay for his portion of the proposed project but choosing not to use his funds, but instead demanding Phillip and Spiros Ferderigos succumb to his demands which were outright rejected and never agreed upon.

g. Athan Fokas purposefully, intentionally, and/or negligently hiding from Jacob, Phillip, and/or Spiros Ferderigos the fact that Athan Fokas did not obtain a personal loan. Athan Fokas purposefully waited until a few days prior to Athan Fokas' unilaterally scheduled closing and after Jacob, Phillip and Spiros Ferderigos had already paid the vast majority of exploration costs before informing them that he did not have a personal loan. Athan Fokas willfully waited to disclose this material information in order to coerce Phillip and Spiros Ferderigos, who had by that time invested significant funds to explore the project, to give into his demands, which Phillip and Spiros Ferderigos had outright rejected and/or never agreed upon.

h. Athan Fokas purposefully waiting a few days before his first unilaterally scheduled closing to advise Jacob, Phillip, and Spiros Ferderigos that he needed Phillip and Spiros Ferderigos to underwrite his loan by providing him with a mortgage over their portion of 229 King Street, when Athan Fokas knew Phillip and Spiros Ferderigos had rejected such terms.

i. Athan Fokas demanding that Phillip and Spiros Ferderigos mortgage 229 King Street when Athan Fokas knew that Phillip and Spiros Ferderigos had outright rejected such material term.

j. Athan Fokas purposefully, willfully, and/or negligently unilaterally and continuously setting a closing date for his loan based on incorrect loan closing documents which would purport to require Phillip and Spiros Ferderigos to sign documents in Athan Fokas' favor, which Phillip and Spiros Ferderigos outright rejected and/or never agreed to sign.

k. Athan Fokas purposefully, willfully, and/or negligently and improperly adding new material terms in his loan documents that Phillip and Spiros Ferderigos had previously outright rejected and/or never agreed upon.

l. Athan Fokas negligently withholding and/or misrepresenting material terms of the proposed project.

m. Athan Fokas intentionally and negligently stating that Phillip and Spiros Ferderigos had made an oral agreement with him to mortgage their interests for his benefit in 229 King Street and to sign their respective interests in the LLC as a borrower for Athan Fokas' loan, when Athan Fokas knows that such statement are outright lies.

n. Athan Fokas purposefully, willfully, and/or negligently misrepresenting the requirements of his loan package and/or loan documents to Jacob, Phillip and/or Spiros Ferderigos.

o. Athan Fokas writing numerous communications to Defendants where Athan Fokas admitted to outrageous behavior, stating, he was "playing games," withholding material information, misrepresenting material information, introducing new material terms as a means to harass and annoy the Defendants, and threatening to spread malicious rumors and to defame the Defendant(s), all in an effort to improperly extort concessions out of the Ferderigos Brothers and to improperly coerce/force Phillip and Spiros Ferderigos to give Athan Fokas a mortgage over their portion of 229 King Street and to sign incorrect and improper loan closing documents.

p. Athan Fokas purposefully, intentionally, and/or negligently and falsely informing Jacob, Phillip, and/or Spiros Ferderigos that he needed a loan to fund his percentage of the project being explored. Athan Fokas purposefully, intentionally, and/or negligently hid the fact that he would be receiving 2.7 million dollars (nearly three times the amount necessary for his portion of the proposed project) within the building permit period in an effort to deceive and coerce Jacob, Phillip, and/or Spiros Ferderigos into believing it was necessary for them to mortgage their interests in 229 King Street for Athan Fokas' benefit and to deceive and to coerce them into signing incorrect closing documents for Athan Fokas' benefit. Athan Fokas hid such material information to try and force Phillip and Spiros Ferderigos into unnecessarily mortgaging their interest(s) in 229 King Street, and signing loan documents which Phillip and Spiros Ferderigos outright rejected and/or never agreed to sign.

q. Athan Fokas purposefully, intentionally, and/or negligently misrepresenting to Jacob, Phillip, and/or Spiros Ferderigos that he intended to pay off his portion of the loan when he received 2.7 million dollars on April 1, 2015, in order to wrongfully persuade and deceive Phillip and Spiros Ferderigos into mortgaging their interests in 229 King Street and sign incorrect closing documents for Athan Fokas' benefit. Such representation was an intentional lie when made. Phillip and Spiros Ferderigos stated to wait a few months for when Athan Fokas had his cash and Athan Fokas, Phillip Ferderigos and Spiros Ferderigos could pay cash for the proposed project. A few days later, Athan Fokas reversed course and stated that, when he did receive his cash on April 1, 2015, he may instead decide to purchase another building downtown instead of paying off the loan. Athan Fokas intentionally gave false information to attempt to coerce Jacob, Phillip,

and/or Spiros Ferderigos to provide Athan Fokas with a mortgage of 229 King Street and to sign incorrect closing documents for his benefit.

r. Athan Fokas purposefully, intentionally, and/or negligently misrepresenting to Jacob, Phillip and/or Spiros Ferderigos that he would not be willing to wait until April 1, 2015 (when he received his millions) to do the proposed project. Such representation was a lie when made. Athan Fokas misrepresented the fact that he would not wait until he received his millions on April 1, 2015, in an effort to deceive and coerce Jacob, Phillip, and/or Spiros Ferderigos into mortgaging their interests in 229 King Street for Athan Fokas' benefit and to deceive and to coerce Jacob, Phillip, and/or Spiros Ferderigos into signing the incorrect closing documents for Athan Fokas' benefit.

s. Athan Fokas refusing to wait until he received his millions of dollars on April 1, 2015, to consider moving forward with the proposed project.

t. Athan Fokas purposefully, intentionally, and/or negligently misrepresenting to Jacob, Phillip, and Spiros Ferderigos that his bank would not wait until April 1, 2015, when Athan Fokas informed Jacob, Phillip, and Spiros Ferderigos that Athan Fokas would receive his millions of dollars, while now alleging in his Complaint that his bank is still willing to offer a loan package to Athan Fokas.

u. Athan Fokas refusing to sign a side agreement protecting Phillip and Spiros Ferderigos' collateral, while at the same time demanding Phillip and Spiros Ferderigos give him a mortgage over their portion of 229 King Street.

v. Athan Fokas purposefully, willfully, and/or negligently and falsely claiming in his pleadings that he agreed to sign the side agreement when Athan Fokas rejected and never agreed to sign any such side agreement, but rather made additional demands of material terms on behalf of Phillip Ferderigos as a condition to Athan Fokas possible approval for executing the side agreement.

w. Athan Fokas knowing that his refusal to sign the side agreement resulted in the proposed project being terminated; however, Athan Fokas telling third parties that Phillip and Spiros Ferderigos terminated the proposed project for other reasons which Athan Fokas knew where false.

x. Athan Fokas harassing, threatening, mocking and attempting to coerce Jacob, Phillip, and Spiros Ferderigos by representing he was going to make twenty five million dollars ($25,000,000.00) as a consultant and by telling Jacob, Phillip, and Spiros Ferderigos "I hang out with the ultra wealthy now and play their games."

y. Athan Fokas interjecting new terms into the negotiations with ill will and actual malice by demanding that the parties change the thirty (30) plus year customary practice regarding food at Old Towne Restaurant for family members (both Ferderigos and Fokas family members) solely to be vindictive and to harass

Phillip and Spiros Ferderigos, and to otherwise coerce Phillip and Spiros Ferderigos to give into Athan Fokas' demands which had been rejected.

z. Athan Fokas defaming Phillip and/or Spiros Ferderigos because they would not give into Athan Fokas' demands, by telling third parties that Phillip and/or Spiros Ferderigos have no business sense and that the proposed projected fell apart because Phillip could not eat for free at Old Towne Restaurant and by calling Phillip Ferderigos stupid.

aa. Athan Fokas attempting to use the customary food practice at Old Towne Restaurant as a negotiating tactic to attempt to force Phillip and/or Spiros Ferderigos to give into Athan Fokas' demands which were rejected by Phillip and/or Spiros Ferderigos.

bb. Athan Fokas continuing to tell the contractor Kevin Carroll for months that the proposed project was moving forward despite Athan Fokas being repeatedly told by Jacob, Phillip, and/or Spiros Ferderigos that the proposed project was not moving forward.

cc. Athan Fokas repeatedly releasing Jacob, Phillip, and Spiros Ferderigos from any alleged agreement, liability and/or responsibility regarding the proposed project and then filing lawsuit(s) to attempt to coerce Jacob, Phillip and/or Spiros Ferderigos to do the very things that were released.

dd. Athan Fokas threatening to take Phillip and Spiros Ferderigos' homes and throw their children out on the street if Phillip and Spiros Ferderigos did not give Athan Fokas a mortgage and/or encumber their interests in Athan Fokas' favor and/or give into his demands, which Phillip and Spiros Ferderigos had rejected and/or were never agreed upon.

ee. Athan Fokas unilaterally and improperly executing a written contract with contractor Kevin Carroll to build the proposed project without the knowledge, consent and/or providing details of the contract to Jacob, Phillip, and/or Spiros Ferderigos. Athan Fokas purposefully and intentionally withheld such information from Jacob, Phillip, and/or Spiros Ferderigos.

ff. Athan Fokas unilaterally and improperly executing a written contract with the contractor Kevin Carroll purportedly on behalf of the LLC, without the knowledge, consent, and/or the authorization of Jacob, Phillip, and/or Spiros Ferderigos. Athan Fokas purposefully and intentionally withheld such information from Jacob, Phillip, and/or Spiros Ferderigos.

gg. Athan Fokas signing a written contract with contractor Kevin Carroll to build the proposed project on behalf of Jacob Ferderigos, by signing a signature line that included Jacob Ferderigos' name, without the knowledge, consent and/or providing details of the contract to Jacob Ferderigos. Athan Fokas purposefully

and intentionally withheld such information from Jacob, Phillip, and/or Spiros Ferderigos.

hh. Athan Fokas publishing malicious rumors/defamatory statement(s) to third parties that Phillip and Spiros Ferderigos have no business sense and that it is very sad. This is in reference to Phillip and Spiros Ferderigos not giving into Athan Fokas' wrongful and outright rejected and/or non-agreed upon demands for the proposed project being explored.

ii. Athan Fokas publishing malicious rumors/defamatory statement(s) concerning Phillip and Spiros Ferderigos by inquiring third parties about Phillip and/or Spiros Ferderigos alleged statements concerning Athan Fokas' involvement in the fire of 229 King Street.

jj. Athan Fokas publishing malicious rumors/defamatory statement(s) to third parties that the proposed project was terminated because Phillip and/or Spiros Ferderigos could not eat for free at Old Towne.

kk. Athan Fokas publishing malicious rumors/defamatory statement(s) by telling third parties that the proposed project has been terminated because Phillip and Spiros Ferderigos were not doing what they agreed to do.

ll. Athan Fokas publishing malicious rumors/defamatory statement(s) by telling third parties that Athan Fokas was not/is not seeking a mortgage from Phillip and/or Spiros Ferderigos for the proposed project.

mm. Athan Fokas telling third parties that Phillip and/or Spiros Ferderigos refused to give Jacob Ferderigos a mortgage for Jacob Ferderigos' portion of the loan and that Athan Fokas was not seeking a mortgage from Phillip and/or Spiros Ferderigos.

nn. Athan Fokas continuing to contact Jacob, Phillip, and/or Spiros Ferderigos despite threatening his lawsuits and being told by Phillip and Spiros Ferderigos to stop communicating with them. Athan Fokas continued to send obnoxious emails to Jacob, Phillip, and/or Spiros Ferderigos about how profitable the current suites project is and how profitable it would have been had the parties built the proposed project as Athan Fokas had demanded. Athan Fokas continues to harass Jacob, Phillip, and/or Spiros Ferderigos and continues to try to intimidate Jacob, Phillip, and/or Spiros Ferderigos into doing the proposed project, as well as trying to scare Jacob, Phillip, and/or Spiros Ferderigos concerning the high legal costs to defend against his frivolous lawsuits.

oo. Athan Fokas harassing, threatening, and mocking Jacob, Phillip, and/or Spiros Ferderigos by writing to them that "my attorney is working on a flat 20 percent contingency so he is not costing me anything until this case is settled," while threatening to file a multi-million dollar lawsuit against Jacob, Phillip, and/or

Spiros Ferderigos. This written information was sent by Athan Fokas to Jacob, Phillip, and/or Spiros Ferderigos in an attempt to harass and to coerce them to give into Athan Fokas' rejected and non-agreed upon demands by threatening that a lawsuit will cost Jacob, Phillip, and/or Spiros Ferderigos money, but will not cost Athan Fokas anything to proceed with his frivolous lawsuit strategy.

pp. Athan Fokas conducting unauthorized business and/or storing unauthorized inventory within 229 King Street for his own pecuniary gain without the knowledge and/or consent, and to the detriment, of Jacob, Phillip and/or Spiros Ferderigos.

qq. Athan Fokas knowingly and intentionally filing a frivolous defamation lawsuit against Phillip and Spiros Ferderigos knowing that the allegations therein were false.

(127) As a direct and proximate result of Athan Fokas' actions, Spiros Ferderigos has been injured. Accordingly, Spiros Ferderigos is entitled to actual, consequential, and punitive damages as determined by a jury.

FOR A FIFTEENTH AFFIRMATIVE DEFENSE AND BY WAY OF COUNTERCLAIM 2
(Negligent Misrepresentation)

(128) Spiros Ferderigos repeats and realleges all of the above paragraphs as if set forth verbatim herein.

(129) Athan Fokas made false representations to Spiros Ferderigos as set forth in Paragraph 126 and its subsections (Spiros Ferderigos' violation of duty of care claim).

(130) Athan Fokas had a pecuniary interest in making these representations/statements.

(131) Athan Fokas owed a duty of care to see that Athan Fokas communicated truthful information to Spiros Ferderigos.

(132) Athan Fokas breached that duty by failing to exercise due care.

(133) Spiros Ferderigos justifiably relied on said representations.

(134) Spiros Ferderigos suffered pecuniary loss as a proximate result of his reliance on the representations of Athan Fokas and Athan Fokas acted willfully, wantonly, carelessly, and recklessly, and as a direct and proximate result, Spiros Ferderigos has been injured. Accordingly, Spiros Ferderigos is entitled to actual, consequential, and punitive damages as determined by a jury.

FOR A SIXTEENTH AFFIRMATIVE DEFENSE AND BY WAY OF COUNTERCLAIM 3

(Fraud, Constructive Fraud)
(Concealment with Duty to Disclose)

(135) Spiros Ferderigos repeats and realleges all of the above paragraphs as if set forth verbatim herein.

(136) Athan Fokas further intentionally and purposely misrepresented facts set forth in Paragraph 126 and its subsections. (Spiros Ferderigos' violation of duty of care claim)

(137) Athan Fokas had a duty to disclose material information to Spiros Ferderigos and Athan Fokas failed to disclose such information.

(138) Prior to and/or during the negotiations with Athan Fokas, Athan Fokas implied and/or expressly represented to Spiros Ferderigos as set forth previously.

(139) Said representations were false.

(140) Said representations were material.

(141) Athan Fokas knew said representations were false when same were made. Alternatively, Athan Fokas knew his representations to Spiros Ferderigos were false and/or Athan Fokas' representations were made with reckless disregard as to their truth or falsity. Athan Fokas' failure to inform Spiros Ferderigos of his true intentions was intentional and/or negligent with reckless disregard to the truth upon which Spiros Ferderigos was relying.

(142) Athan Fokas intended Spiros Ferderigos to rely and act upon said representations. Spiros Ferderigos did not know said representations were false.

(143) Spiros Ferderigos had the right to rely upon, and in fact did rely upon, the truth of said representations. In the event that the element or scienter is not found, alternatively, that Spiros Ferderigos alleges and avers that Athan Fokas committed constructive fraud in that Athan Fokas breached legal, equitable, and fiduciary duty owed to Spiros Ferderigos.

(144) Athan Fokas acted willfully, wantonly, carelessly, and recklessly, and as a direct and proximate result, Spiros Ferderigos has been injured. Accordingly, Spiros Ferderigos is entitled to actual, consequential, and punitive damages as may be determined by a jury.

FOR A SEVENTEENTH AFFIRMATIVE DEFENSE AND BY WAY OF COUNTERCLAIM
(Defamation – Slander)

(145) Spiros Ferderigos repeats and realleges all of the above paragraphs as if set forth verbatim herein.

(146) Athan Fokas published false and defamatory statements to Jacob Ferderigos in writing that Phillip and Spiros Ferderigos "have no business sense and I'm sure we will be butting heads with Greek properties in the future. Very sad!!!" *See Exhibit AA.*

(147) Upon information and belief, Athan Fokas published false and defamatory statements to other third parties that Phillip and/or Spiros Ferderigos are bad business people and/or do not have any business sense.

(148) Athan Fokas published false and defamatory statements to other third parties that Phillip and/or Spiros Ferderigos accused him of setting fire to 229 King Street.

(149) Athan Fokas published false and defamatory statements to other third parties that the proposed project was not moving forward because Phillip and/or Spiros Ferderigos were not doing what they agreed to do.

(150) Upon information and belief, Athan Fokas published false and defamatory statements to other third parties that he was not seeking a mortgage and/or other financial assurances from Phillip and/or Spiros Ferderigos for the proposed project; while at the same time, filing a lawsuit demanding that Phillip and Spiros Ferderigos mortgage and/or provide financial assurances of their interests for Athan Fokas' benefit for the proposed project.

(151) Upon information and belief, Athan Fokas verbally (slander) and in writing/conduct (libel) threatened to publish and/or has published, with premeditation, false malicious rumors and defamatory statements to third parties about Spiros Ferderigos.

(152) Athan Fokas' slander and libel is actionable per se where Athan Fokas has alleged defamatory statements charging Spiros Ferderigos with commission of a crime of moral turpitude and/or unfitness in his business or profession. Athan Fokas has also published slander and libel that is not actionable per se.

(153) Athan Fokas has made false and defamatory statements concerning Spiros Ferderigos.

(154) Athan Fokas has acted with common law malice.

(155) Athan Fokas has made such statements via an unprivileged publication to third parties.

(156) Athan Fokas is at fault in publishing the statements.

(157) Athan Fokas has harmed Spiros Ferderigos via his defamatory statements and caused harm and/or special harm to Spiros Ferderigos caused by the publication.

(158) As a direct and proximate result of Athan Fokas' defamatory statements, which were made with common law actual malice, Spiros Ferderigos has been injured. Accordingly, Spiros Ferderigos is entitled to general damages, special damages, actual damages, consequential damages, and punitive damages as determined by a jury.

FOR AN EIGHTEENTH AFFIRMATIVE DEFENSE AND BY WAY OF COUNTERCLAIM
(Abuse of Process)

(159) Spiros Ferderigos repeats and realleges all of the above paragraphs as if set forth verbatim herein.

(160) Athan Fokas has employed the legal process for some purpose other than that for which it was intended by the law to effect – the improper use of a regularly issued process.

(161) Athan Fokas has commenced an action and caused process to issue without justification and is also misusing or misapplying the legal process for an end other than that which it was designed to accomplish.

(162) Athan Fokas is using the process for improper reasons with (1) an ulterior purpose; and (2) has done willful acts in the use of the process not proper in the regular conduct of the proceeding, to attempt to force Spiros Ferderigos to give Athan Fokas a mortgage and to sign incorrect loan documents by filing what Spiros Ferderigos believes to be frivolous lawsuits (where the exhibits attached to this pleading and the written documents of Athan Fokas himself prove Athan Fokas' lawsuits to be frivolous).

(163) As a direct and proximate result of Athan Fokas' actions, Spiros Ferderigos has been injured. Accordingly, Spiros Ferderigos is entitled to actual, consequential, and punitive damages as determined by a jury.

FOR AN NINETEENTH AFFIRMATIVE DEFENSE AND BY WAY OF COUNTERCLAIM
(Promissory Estoppel)

(164) Spiros Ferderigos incorporates all of the above paragraphs as fully as if reinstated verbatim herein.

(165) Jacob, Phillip, and/or Spiros Ferderigos acted in reasonable reliance on Athan Fokas' representations, promises, and other acts constituting inducements to continue moving forward with exploring the proposed project with Phillip and Spiros Ferderigos not being involved in and/or granting any assurances/encumbrances of any kind whatsoever for a loan. Jacob, Phillip, and/or Spiros Ferderigos continued to expend money towards receiving governmental approval for the new building being explored in reasonable reliance of Athan Fokas' representations, promises, and other acts.

(166) As a direct and proximate result of Athan Fokas' actions and Jacob, Phillip and/or Spiros Ferderigos' reasonable reliance thereon, Jacob, Phillip and/or Spiros Ferderigos suffered damages in an amount to be determined by a jury.

FOR A TWENTIETH DEFENSE AND BY WAY OF COUNTERCLAIM
(Initiation of Frivolous Proceedings, S.C. Code Ann. § 15-36-10)

(167) Spiros Ferderigos repeats and realleges all of the above paragraphs as if set forth verbatim herein.

(168) The Complaint filed in this current action constitutes a frivolous pleading under the South Carolina Frivolous Civil Proceedings Sanction Act, S.C. Code Ann. § 15-36-10 (2005), in the following particulars to wit:

a. A reasonable attorney in the same circumstances would believe that the Plaintiff's claim "was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law"; and

b. A reasonable attorney presented with the same circumstances would believe that the initiation of this civil cause "was intended merely to harass or injure the other party."

c. A reasonable attorney presented with the same circumstances would believe the pleading is frivolous and was brought for a purpose other than proper adjudication of the claim.

d. The pleading makes frivolous arguments not supported by the facts.

(169) Spiros Ferderigos respectfully asks this Honorable Court to sanction the Plaintiff for this frivolous pleading pursuant to S.C. Code Ann. § 15-36-10(G) (2005), and specifically, Spiros Ferderigos prays for the following relief:

a. That the Plaintiff pay reasonable costs and attorney's fees to defend this action and for punitive damages; and

b. That the Plaintiff pay a reasonable fine to the Court.

WHEREFORE, having fully answered Plaintiff's Complaint, Spiros Ferderigos prays that the Court:

a) Dismiss Plaintiff's Complaint with prejudice;

b) That Plaintiff take nothing by reason of his suit;

c) That Spiros Ferderigos recover costs and reasonable attorney's fees in defending this action;

d) That the Plaintiff be sanctioned for the initiation of this frivolous proceeding by being fined by this Honorable Court;

e) Enter judgment for Spiros Ferderigos on his counterclaims and award him damages for his actual, consequential, incidental, and punitive damages, and pre and post judgment interest; and

f) Award such other relief as the Court may deem just and proper.

Respectfully submitted,

M. DAWES COOKE, JR., ESQUIRE
JEREMY E. BOWERS, ESQUIRE
BARNWELL WHALEY PATTERSON & HELMS LLC
Post Office Drawer H
Charleston, South Carolina 29402
PHONE: (843) 577-7700
FACSIMILE: (843) 577-7708
ATTORNEYS FOR THE DEFENDANT/COUNTERCLAIMANT,
SPIROS FERDERIGOS

October 1, 2015
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO. 2015-CP-10-3919
	)	
Plaintiff Fokas,	)	
	)	
Plaintiff,	)	
v.	)	
	)	
Philip Ferderigos, Jacob Ferderigos, and Spiros Ferderigos,	)	
	)	
Defendants.	)	
	)	

I hereby certify that this 1st day of October 2015, I forwarded a copy of the foregoing Answer and Counterclaims of the Defendant, Spiros Ferderigos, via U.S. Mail with sufficient postage affixed thereto, properly addressed as follows:

Counsel Served:

Stanley E. Barnett, Esquire
SMITH, BUNDY, BYBEE & BARNETT
Post Office Box 1542
Mt. Pleasant, SC 29465-1542
Attorneys for Plaintiff

John A. Massalon, Esquire
WILLS MASSALON & ALLEN LLC
P.O. Box 859
Charleston, SC 29402

Richard A. Farrier, Esquire
K&L Gates LLP
134 Meeting Street, Suite 200
Charleston, SC 29401

Cheryl Rickard
Legal Assistant

Charleston, South Carolina

_____, 2015

EXHIBIT B

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	)	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT
Athan Fokas, Plaintiff, v. Philip Ferderigos, Spiros Ferderigos, and Jacob Ferderigos, Defendant(s).	)	Case No.: 2015-CP-10-3919

AFFIDAVIT OF ATHAN FOKAS

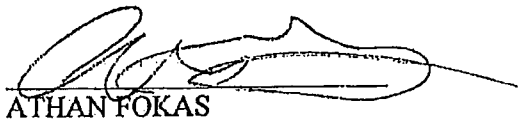
After being sworn, Affiant testified as follows:

1. I am Athan Fokas, a resident of Mount Pleasant, South Carolina and the Plaintiff in this case.

2. At no time, have I ever told anyone that the Defendants, Phillip and Spiros Ferderigos, had published defamatory remarks about me as they allege in their counterclaim in this case. When I learned that they had done this, I commenced a lawsuit against them for damages arising from these defamatory statements. That case is Case No. 2015-CP-10-3819.

2. Sometime in March or April of 2015, my mother told me in several different conversations that Spiros and Phillip Ferderigos were making defamatory statements accusing me of causing the fire at Old Towne Restaurant and of instances of insurance fraud. She commenced the conversation with me. I did not ask her about such statements or tell her I thought they were doing this before she engaged me in conversation. The statements concerning the allegations by Spiros and Phillip Ferderigos about me in this regard are false.

FURTHER AFFIANT SAYETH NOT.



ATHAN FOKAS

SWORN TO before me
this 23rd day of February 2017.

Notary Public for South Carolina
My Commission Expires on: 7/18/26

EXHIBIT C

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	IN THE COURT OF COMMON PLEAS NINTH JUDICIAL CIRCUIT CIVIL ACTION NO.: 2015-CP-10-3919
ATHAN FOKAS, Plaintiff, v. PHILIP FERDERIGOS, JACOB FERDERIGOS, and SPIROS FERDERIGOS, Defendants.	**SPIROS FERDERIGOS' ANSWERS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

TO: STAN BARNETT, ATTORNEY FOR THE PLAINTIFF

NOW COMES Defendant Spiros S. Ferderigos, by and through counsel, and answers Plaintiff's First Set of Interrogatories as follows:

Defendant states that these answers are complete and responsive in accordance with his understanding of the Interrogatories, as drafted, and are based upon records or other information in his possession, or reasonably available to him at the time they were made, and that if additional or different information is subsequently discovered or brought to his attention during the pendency of this cause which renders any initial Answer incomplete, incorrect or otherwise subject to supplementation, he will do so as required by the South Carolina Rules of Civil Procedure.

Defendant further states that in preparing and making these answers, he has not accepted or acquiesced in the purported directions, conditions or definitions imposed at the time the Interrogatories were propounded by Plaintiff, except and to the extent that the same may have been consistent or in conformity with his understanding of the applicable discovery rules.

GENERAL OBJECTIONS

Defendant hereby incorporates by reference the General Objections attached hereto as Exhibit A. All of these General Objections shall be deemed continuing throughout the responses to the specific Interrogatories that follow even when not further referred to in said responses. Defendant also reserves the right to amend, revise, correct, supplement, or clarify the answers and objections propounded herein, as discovery in this case is ongoing.

1. Defendant objects to each interrogatory to the extent it seeks information that constitutes evidence or reflects confidential communications between Defendant and Defendants' attorneys.

2. Defendant objects to each interrogatory to the extent it seeks information that constitutes evidence or reflects trial preparation materials or work product of Defendant or Defendants' representatives, agents, or attorneys. Defendant objects to each interrogatory to the extent it seeks information already available to or equally available to Defendant.

3. The following answers are based upon information presently available to Defendant and are made without prejudice to the rights of Defendant to utilize subsequently discovered information.

4. By making a Answer to any interrogatory or document request, Defendant does not intend or mean to waive the attorney-client privilege, the work-product rule or any other privilege, objection or other limitation upon discovery as to that interrogatory or as to any other present or future request for discovery.

5. All Answers to the interrogatories and Answers to the requests for production of documents are made without the waiver of these general objections, or the specific objections which are hereinafter set forth.

6. The foregoing objections are general ones applicable to all categories of information to be produced. The following Answers to any particular item of information should be deemed to include these objections and categories.

7. As to all discovery Answers: Defendant reserves the right to introduce and rely upon any documents or materials listed and information provided in any other party's discovery Answers, or any materials introduced or information obtained at any deposition of any party or witness. In addition, Defendant reserves the right to introduce any documents or materials as rebuttal, if necessary.

ANSWERS TO INTERROGATORIES

1. Give the names and addresses of persons known to the defendant or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

ANSWER:

1) Phillip Ferderigos – See Defendants' Answers/Counterclaims and Answers to Plaintiff's Requests to Produce for written or recorded statements.

2) **Jacob Ferderigos – See Defendants' Answers/Counterclaims and Answers to Plaintiff's Requests to Produce for written or recorded statements.**

3) **Spiros Ferderigos – See Defendants' Answers/Counterclaims and Answers to Plaintiff's Requests to Produce for written or recorded statements.**

4) **Athan Fokas – See Defendants' Answers/Counterclaims and Answers to Plaintiff's Requests to Produce for written or recorded statements.**

5) **Jeffrey Odom – Plaintiff should have contact information for Mr. Odom as Mr. Odom was Plaintiff's loan representative from Southcoast Community Bank.**

6) **Irene Fokas – See Irene Fokas Deposition and Affidavit(s) for written or recorded statements, which Defendant believes are already in the possession of Plaintiff.**

7) **Spiros Fokas – No Statement taken.**

8) **Gerasimos Nikatos – See Affidavit of Gerasimos Nikatos for written or recorded statements which Defendant believes are already in the possession of Plaintiff.**

9) **Rania Nikatos – See Affidavit of Rania Nikatos for written or recorded statements, which Defendant believes are already in the possession of Plaintiff.**

10) **Kevin Carroll – No Statement taken.**

11) **Justin Hansen – No Statement taken.**

These individuals will testify regarding any knowledge they may have concerning the allegations in the pleadings in this case. Defendant reserves the right to call at trial any witness identified by any other party.

2. Set forth a list of photographs, plats, sketches, or other prepared documents in possession of the defendant that relate to the claim or defense in the case.

ANSWER: See Defendants' Answers/Counterclaims and Answers to Plaintiff's Request for Production and accompanying documentation. See Defendants' Response to Request No. 1 and attached Bates stamped documentation.

3. Set forth the names and addresses of all insurance companies which have liability insurance coverage relating to the claim and set forth the number or numbers of the policies involved and the amount or amounts of liability coverage provided in each policy.

ANSWER: To be supplemented.

4. Set forth an itemized statement of all damages, exclusive of pain and suffering, claimed to have been sustained by the defendant as alleged in Defendants' counterclaims in this case.

ANSWER: Any and all damages to be determined by a jury. This includes, but is not limited to, any expenses paid toward the proposed project being considered, any potential loss of income had the proposed project being considered been built (had it not been for Plaintiff's wrongful actions), any damages that may be awarded by a jury for Plaintiff's defamatory statements, and actual and punitive damages to be determined by the jury for Plaintiff's conduct. See also Defendants' Answers/Counterclaims and Answers to Plaintiff's Requests to Produce.

5. List the names and addresses of any expert witnesses whom the defendant proposes to use as a witness at the trial of this case.

ANSWER: To be supplemented in accordance with the Rules of Civil Procedure. Defendant reserves the right to call a testifying expert at trial.

6. For each person known to the defendant or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important

facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

ANSWER: See Answer No. 1, Answer No.7, and Defendants' Answer and Counterclaims.

7. List every person to whom the defendant claims plaintiff published defamatory statements concerning this defendant and for each describe the date, place, time and manner of such publication and the substance of such defamatory statements defendant alleges plaintiff made to each such person.

ANSWER: Plaintiff published libel and slander per se, which are actionable per se and defamatory, to the following individuals:

1) Jacob Ferderigos – See Defendants' Answer/Counterclaims and Answers to Plaintiff's Requests for Production.

2) Justin Hansen – Upon information and belief, Plaintiff has inquired of Mr. Hansen if Defendant has accused him of inappropriate involvement regarding a fire at 229 King Street and/or has informed Mr. Hanson that Defendant is accusing Plaintiff of inappropriate involvement regarding the fire at 229 King Street. The exact date, place, and time of the statement is not known to Defendant at this time.

3) Kevin Carroll – See Defendants' Answer/Counterclaims and Answer to Plaintiff's Requests for Production. In addition, upon information and belief, Plaintiff informed Mr. Carroll that the proposed project being considered was not moving forward because Defendant was not willing to give his brother a mortgage and that Plaintiff was not seeking a mortgage from Defendant. Plaintiff defamed Defendant by advising Mr. Carroll that Defendant had made promises to him and that Defendant was breaching those promises to him and, further, that the proposed project was not being built because it was the

Defendants' fault. Plaintiff's statements to Mr. Carroll are defamatory per se and depicted Defendant as an unfit and stupid business person (i.e., that Defendant was unfit in his business or profession). Plaintiff also continuously informed Mr. Carroll that the proposed project was going to be built long after Plaintiff knew that the proposed project was not moving forward because of Plaintiff's own misrepresentations, while, at the same time, Plaintiff defamed this Defendant, blaming him for the Plaintiff's own failures to obtain the necessary funds to move forward with the proposed project. Plaintiff further misrepresented the circumstances of the proposed project falling apart and purposely and intentionally attempted to cast this Defendant in a bad light and in a defamatory manner.

4) Irene Fokas – See Deposition and Affidavit(s) of Irene Fokas, which Defendant believes are already in Plaintiff's possession.

In addition, upon information and belief, Plaintiff defamed this Defendant to numerous individuals, including to Defendants' brother, Jacob Ferderigos, Plaintiff's mother Irene Fokas, his father Spiros Fokas, his sister Rania Nikatos, and Old Towne Restaurant's Manager, Justin Hanson, by telling these individuals that the proposed project fell apart because Defendant Phillip Ferderigos could not eat for free at Old Towne, because Defendant is a stupid business person/that he has no business sense, because Defendant is jealous of him, because Defendant is a stupid and unwise business person. Plaintiff has also told these witnesses that Defendant made a promise to him to mortgage 229 King Street for Plaintiff's benefit and that Defendant broke such promise to him. Plaintiff published all of these statements with actual malice and ill will and intent to harm Defendant in an effort to extort and force Defendant to give him a mortgage over 229 King Street (when Plaintiff knows Defendant made no such promise) and to make other

concessions to Plaintiff, when Defendant never agreed to do any of those things. Plaintiff libeled this Defendant by stating Defendants (Phillip Ferderigos and Spiros Ferderigos) "have no business sense." Defendant further incorporates his Answer and Counterclaims, Defendants' Answers to Request for Production, and the libelous emails forwarded from Plaintiff to third parties concerning this Defendant.

8. For each of the instances of alleged publication of defamatory statements described by this defendant in Answer to interrogatory number 7, describe the exact manner in which this defendant learned of such publication and include the date when defendant so learned of each alleged publication.

ANSWER: See Answer No. 7.

9. For each instance in which defendant alleges plaintiff made misleading or untrue statements to this defendant as alleged in this Defendants' counterclaims, describe the date, manner, extent and nature of any actions taken by this defendant in reliance on each of said alleged misrepresentations.

ANSWER: See Answer No. 7, Answer No. 10, and Defendants' Answer/Counterclaims and Answers to Plaintiff's Request to Produce.

10. List all damages this defendant claims to have suffered as the proximate cause of any act of the plaintiff identified in Defendants' answer and counterclaims and for each alleged damage identify the nature of the loss, the date of the loss, the value defendant claims it represents in terms of money, the action of plaintiff the defendant claims caused the loss and way in which said alleged loss resulted from the alleged action of plaintiff.

ANSWER: See Defendants' Answers and Counterclaims. In addition, Defendant expended personal funds as a result of the Plaintiff's misrepresentations to the detriment of

Defendant. Defendant has also lost money and profit based on Plaintiff's wrongful actions. For the value it represents in terms of money, that is a determination to be made by the jury. Defendant further refers Plaintiff to Answer No. 4. Plaintiff has intentionally caused and continues to try to cause intentional and malicious harm to Defendants' business and reputation, which directly impacts his livelihood. Plaintiff has also filed frivolous lawsuits against this Defendant and caused harm to Defendant as set forth in Defendants' Answer and Counterclaims. Plaintiff is liable for actual and punitive damages to be determined by a jury.

11. With respect to the counterclaim by defendant for abuse of process, identify any demand for a collateral advantage made by plaintiff associated with any legal process defendant claims was improperly brought and list the date, the way such demand was communicated and describe the substance of said demand for collateral advantage. For each such communication, list all proof defendant claims proves the communication was made.

ANSWER: See Defendants' Answer/Counterclaims and Answers to Plaintiff's Request to Produce. In addition, Plaintiff has filed frivolous lawsuits against this Defendant in an effort to force Defendant to give him a mortgage and agree to other terms this Defendant never agreed to. The Plaintiff boasted that his lawyer was working on a contingency and his filing a frivolous lawsuit would not cost him any money, whereas it would cost Defendant large sums of money to defend against Plaintiff's frivolous claims. Plaintiff followed through with his threat and abuse of process, and the existence of these two lawsuits prove Defendants' abuse of process claim against Plaintiff. Plaintiff is demanding that this Defendant share in his risk of the project and underwrite his portion of the proposed project. This is a risk that Defendant never agreed to bear and Defendant does

not agree to bear. Plaintiff has always been responsible for his portion of the proposed project and the Plaintiff cannot use this Defendants' property in order to secure a loan for his benefit. Plaintiff has defamed Defendant and filed frivolous lawsuits against Defendant to try to force Defendant to give Plaintiff a mortgage (for Plaintiff's benefit) and to try to force Defendant to agree to other terms Defendant never agreed to. Plaintiff is improperly using the legal process to try to extort concessions from this Defendant by knowingly filing frivolous lawsuits against this Defendant.

12. Identify the date and circumstances in which defendant became aware of the terms for financing the project to expand the building at 229 King Street as identified by South Coast Bank. If there were separate times and circumstances for the elements of those terms set forth below, identify when and how defendant became aware of the terms related to:

a. A requirement that defendants mortgage their interest in 229 King Street;

b. A requirement that the LLC which operates the suites rental business be obligated to pay the bank on the note;

c. A requirement for a hypothecation agreement.

ANSWER: Defendant objects to Plaintiff's terminology in this Interrogatory. There were no "terms for financing the project to expand the building at 229 King Street" applicable to this Defendant. See Defendants' Answer and Counterclaims. Defendant incorporates and craves reference to his texts/emails.

Defendant objects to this Interrogatory as there was never a "requirement" as this Defendant never agreed to mortgage his interest in 229 King Street for the benefit of the Plaintiff or anyone else; likewise, there was never a "requirement" as this Defendant never agreed that the LLC be obligated to pay any note, and there was never a "requirement" as

this Defendant never agreed to sign a hypothecation agreement. This Defendant never agreed to provide Plaintiff with a mortgage for the proposed project, nor did he agree to the other terms as set forth in this Defendants' pleadings.

a. On or about October 17, 2014, Plaintiff contacted Jacob Ferderigos to inform him that Plaintiff had unilaterally scheduled a closing for the following week and informed Jacob Ferderigos for the first time Plaintiff demanded Defendant mortgage his interest in 229 King Street. This message was immediately repeated to Defendant by Jacob Ferderigos. When Jacob Ferderigos informed Defendant of this demand, Defendant immediately told Jacob Ferderigos that he would not mortgage his interest in 229 King Street. See also Defendants' Answer/Counterclaims and Answers to Plaintiff's Request to Produce.

b. Not until on or about November 21, 2014, the day of the second closing Plaintiff unilaterally scheduled, when the closing documents were sent to Defendant to be reviewed for the first time.

c. Not until November 21, 2014, the day of the second closing Plaintiff unilaterally scheduled, when the closing attorney for Plaintiff sent an email that "[t]here will also be hypothecation agreements, I believe." See also Defendants' Answer/Counterclaims and Answers to Plaintiff's Request to Produce.

13. If this defendant claims that he informed plaintiff he would refuse to mortgage his interest in 229 King Street as part of the financing of the project to expand the building, identify the date and circumstances and means by which this was communicated to plaintiff.

ANSWER: See Defendants' Answers/Counterclaims and Answers to Plaintiff's Request to Produce.

14. Does this defendant claim that he never agreed to mortgage his interest in 229 King Street as part of the financing of the project to expand the building?

ANSWER: Yes, see Answer No. 11 and 12; this Defendant never agreed to mortgage his interest in 229 King Street for the proposed project. There was never an agreement to mortgage Defendants' interest in 229 King Street as part of the financing for the proposed project being considered/explored for new construction above 229 King Street at any time, as further explained below.

In the initial stages of the parties considering/exploring new construction above 229 King Street, Plaintiff sent written correspondence on December 19, 2012, stating that he wanted Defendant to mortgage his interest in 229 King Street. Defendant immediately responded the same day via written correspondence, outright rejecting that he would mortgage his interests in 229 King Street and/or accumulate any debt for the proposed project being considered. (See Defendants Answers/Counterclaims and Answers to Plaintiff's Request to Produce).

With this clear understanding, the parties continued to consider and explore the possibility of the proposed project. It was not until on or about October 17, 2014, a few days prior to Plaintiff unilaterally scheduled a closing for the proposed project still being considered, that Plaintiff, for the first time, informed Defendant (through Jacob Ferderigos) that Plaintiff demanded Defendant provide him with a mortgage against his interest in 229 King Street so Plaintiff can get a loan for his share of the construction costs. For the first time ever, Defendant, on or about October 19, 2014, informed Plaintiff that he would consider providing a mortgage in his interest in 229 King Street on the condition and so long as the Plaintiff signed a side/ancillary agreement that Defendant felt was necessary

to protect his financial interests. Plaintiff refused to sign the side/ancillary agreement Defendant demanded in order to consider mortgaging his interests in 229 King Street. (See Defendants' Answers/Counterclaims and Answers to Plaintiff's Request to Produce).

15. If you take the position that the LLC which operates the suites rental business being obligated to make payment on the note to South Coast Bank would have a material effect on you, explain that effect why you allege this is true.

ANSWER: This Interrogatory is irrelevant. Defendant never agreed to mortgage or guarantee or in any way encumber his interest in 229 King Street for the benefit of Plaintiff or for anyone else. This Defendant was bringing cash to fund his portion of the proposed project outright and this Defendant was looking forward to enjoying the profit that would come from the investment once the proposed project was built. This Defendant never agreed to encumber his interest in the LLC or any income stream that the proposed project would bring. Per the Plaintiff's bank closing documents, the income and/or assets that would be used to pay the Note would include Defendants' own profits from the rental income. Defendant never agreed to such arrangement. Defendant further never agreed to have the LLC pay a Note or to use his rental profits in such a manner. Further, based on the incorrect closing documents, which were never agreed to, having the LLC obligated to make payment on the note potentially exposes this Defendant to personal liability and further potentially interferes with this Defendants' cash flow/profit from the LLC.

Defendant also objects to this Interrogatory as it is confusing. Subject to this objection, Defendant is unable to answer this Interrogatory as the final cost of the proposed project was never established or agreed to by the parties, and, as a result, Defendant cannot state what the income from the rental suites business would be. Defendant further

objects because he never agreed that any payment was to be made by the LLC and never agreed to/was under no obligation to have a payment for a loan required by Plaintiff to be paid out of Defendants' share of the rental suites business.

16. Identify the date and circumstances under which you became aware that the project to expand the building would be for an additional floor over and above what was originally investigated by you, the other defendants and plaintiff.

ANSWER: See Defendants' Answer/Counterclaims and Defendants Answers to Requests for Production. This Defendant craves reference to the texts and emails produced in discovery. Plaintiff represented that the total cost of the project would be less than One Million Dollars and, based on that figure, this Defendant would have been responsible for one-sixth of that amount, something that this Defendant had in cash and was willing to invest at the time for the proposed project. Defendant recalls that he was notified that the costs of the proposed project had ballooned from an estimated $900,000 to well over Two Million Dollars, on or about September 9, 2014.

17. If you disagree that the rental income from the suites rental business would be sufficient to cover the payments on the loan financing the expansion of the building at 229 King Street, explain why that is true and include what you think the shortfall in funds to cover said payments would likely be.

ANSWER: As the final cost of the proposed project was never established, Defendant does not know at this time if income from the rental suites would have been sufficient to cover payments on any loan obtained by Plaintiff to cover his fifty percent (50%) portion of the construction costs. Furthermore, this Interrogatory is irrelevant to this Defendant.

Defendant never agreed to have his share of profits from the rental suites to be used to pay a loan.

18. Do you agree that by the date of the first scheduled closing for the loan from South Coast Bank to finance the expansion of the building at 229 King Street all necessary design and regulatory approvals had been secured to allow the expansion to proceed? If you do not agree, explain why.

ANSWER: Defendant objects to the terminology of this Interrogatory. There was no expansion of the building as the proposed project was for building a new building. Further, Defendant is not aware if all necessary design and regulatory approvals had been secured to build a new building above 229 King Street by the time Plaintiff unilaterally scheduled a closing. However, Defendant knows that the final cost of the proposed project was never known. Decisions still needed to be made and the full cost of the proposed project was still unknown, including decisions/costs for windows and sprinkler systems, both material matters potentially increasing costs significantly. See also Defendants' Answer/Counterclaims and Answers to Request to Produce. Defendant craves reference to the texts/emails between the parties.

[SIGNATURE BLOCK ON THE NEXT PAGE]

BARNWELL WHALEY PATTERSON & HELMS, LLC

BY: _____

M. DAWES COOKE, JR., ESQUIRE
JEREMY E. BOWERS, ESQUIRE
288 Meeting Street, Suite #200 (29401)
Post Office Drawer H
Charleston, South Carolina 29402-0197
PHONE: (843) 577-7700
FACSIMILE: (843) 577-7708
ATTORNEYS FOR SPIROS FERDERIGOS

June 1, 2016
Charleston, South Carolina

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answers to Plaintiff's First Set of Interrogatories on behalf of the Defendant, SPIROS FERDERIGOS, has been served via U.S. Mail, on this 1st day of June 2016, to counsel of record as follows:

Stanley E. Barnett, Esquire
Smith, Bundy, Bybee & Barnett, P.C.
P.O. Box 1542
Mount Pleasant, SC 29465

Richard A. Farrier, Jr., Esquire
Jennifer H. Thiem, Esquire
K&L Gates, LLP
134 Meeting Street, Suite #200
Charleston, SC 29401

John A. Massalon, Esquire
I. Ryan Neville, Esquire
Wills Massalon & Allen, LLC
P.O. Box 859
Charleston, SC 29402

_____
Legal Secretary

EXHIBIT A

GENERAL OBJECTIONS

1. Defendant objects to the Interrogatories to the extent that they seek to impose any obligations beyond those provided for by the South Carolina Rules of Civil Procedure ("Rules") or any other applicable laws or rules.

2. Defendant objects to the Interrogatories to the extent that they seek information contained in documents that were prepared for or in anticipation of litigation, constitute attorney work-product, contain or divulge attorney-client communications, contain confidential or proprietary business information, or are otherwise protected from disclosure under applicable privileges, laws or rules. Defendant does not intend to disclose information that is privileged or otherwise immune from discovery. Disclosure of any protected or privileged information in response to the Interrogatories shall be deemed inadvertent and shall not constitute a waiver or prejudice of any privilege or any other ground for objecting to discovery with respect to any such documents, nor shall such inadvertent disclosure waive or prejudice Defendant's right to object to the use of any such information or documents during this or any subsequent proceeding.

3. Defendant objects to the Interrogatories to the extent that they seek information and documents that are a matter of public record, that are within the knowledge or possession of Plaintiff, or to which Plaintiff's access is equal to that of Defendant, on the grounds that providing such information and documents would impose an unreasonable burden and expense upon Defendant.

4. Defendant objects to the Interrogatories to the extent that they seek information that is overly broad and unduly burdensome for Plaintiff to locate and will result in an

unreasonable expenditure of costs that exceeds the value and relevancy of finding any such information and is disproportionate to the amounts in controversy in this case.

5. Defendant objects to the Interrogatories to the extent that they seek information prior to or beyond the scope of the subject dispute.

6. Defendant objects to the Interrogatories to the extent that they seek information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

7. Defendant's answers and objections to the Interrogatories are made without waiving, or intending to waive, but on the contrary preserving, and intending to preserve: (a) the right to object, on the grounds of competency, privilege, relevancy, materiality, confidentiality, authenticity, admissibility, or any other proper grounds, as evidence for any purpose, in whole or in part, the use of the responses provided by Defendant, in any subsequent proceeding, or in any trial in this or any other action; (b) the right to object on any and all grounds, at any time, to other discovery requests involving or relating to the subject matter of the Interrogatories to which Defendant has responded herein; and (c) the right to amend, revise, correct, supplement, or clarify the answers and objections propounded herein.

8. No objection or limitation, or lack thereof, made in these answers and objections shall be deemed an admission by Defendant as to the existence or nonexistence of information.

9. Defendant's answers to the Interrogatories are made to the best of his personal knowledge, information and belief. Defendant's discovery and investigation of the facts relevant to this case are ongoing.

10. All of these general objections shall be deemed continuing throughout the responses to the specific items of the Interrogatories that follow even when not further referred to in said responses. The failure to note the application of the general objections is not a waiver of

these general objections with respect to any Interrogatory. Defendant also reserves the right to assert additional general and specific objections arising from matters discovered during this litigation.

11. Defendant reserves the right to introduce and rely upon any documents or materials listed and information provided in any other party's discovery Answers, or any materials introduced or information obtained at any deposition of any party or witness. In addition, Defendant reserves the right to introduce any documents or materials as rebuttal, if necessary.

EXHIBIT D

IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
CHARLESTON COUNTY

DEPOSITION OF SPIROS FERDERIGOS

Athan Fokas,
Plaintiff,

vs. CASE NO. 2015-CP-10-3919

Phillip Ferderigos, Spiros Ferderigos,
and Jacob Ferderigos,
Defendants.

DEPONENT: SPIROS FERDERIGOS

DATE: NOVEMBER 11, 2016

TIME: 10:00 AM

LOCATION: BARNWELL WHALEY PATTERSON & HELMS
CHARLESTON, SOUTH CAROLINA

REPORTED BY: ANNE BOULEY MEYER, RPR
CLARK & ASSOCIATES, INC.
P.O. Box 73129
Charleston, SC 29415
843-762-6294
WWW.CLARK-ASSOCIATES.COM
Office@clark-associates.com

APPEARANCES

ON BEHALF OF PLAINTIFF:

SMITH BUNDY BYBEE & BARNETT
BY: STANLEY E. BARNETT
1037 Chuck Dawley Blvd., Suite 100-F
Mount Pleasant, SC 29464

ON BEHALF OF PLAINTIFF:

LENHARDT LAW FIRM
BY: LESLIE S. LENHARDT
1876 Wallenberg Blvd.
Charleston, SC 29407

ON BEHALF OF DEFENDANT SPIROS FERDERIGOS:

BARNWELL WHALEY PATTERSON & HELMS
BY: DAWES COOK, JR.
288 Meeting Street
Charleston, SC 29401

ON BEHALF OF DEFENDANT SPIROS FERDERIGOS:

WESTON LAW FIRM
BY: STEPHANIE A. PHILLIPS
761 Johnnie Dodds Blvd., Suite 100
Mount Pleasant, SC 29464

ON BEHALF OF DEFENDANT PHILLIP FERDERIGOS:

K&L GATES
BY: RICHARD A. FARRIER, JR.
134 Meeting Street, Suite 200
Charleston, SC 29401

ON BEHALF OF DEFENDANT JACOB FERDERIGOS:

WESTON LAW FIRM
BY: STEPHANIE A. PHILLIPS
761 Johnnie Dodds Blvd., Suite 100
Mount Pleasant, SC 29464

ON BEHALF OF DEFENDANT JACOB FERDERIGOS:

WILLS MASSALON & ALLEN
BY: IRISH RYAN NEVILLE
97 Broad Street
Charleston, SC 29401

INDEX

EXAMINATION

BY MR. BARNETT 5
BY MS. LENHARDT 112
CERTIFICATE OF REPORTER 147
DEPONENT CORRECTION SHEET 148

EXHIBITS

Exhibit No. 1 - E-mail chain 20
Exhibit No. 2 - E-mail chain 28
Exhibit No. 3 - Texts 38
Exhibit No. 4 - Answer/counter claims 74
Exhibit No. 5 - Phillip's statement 114
Exhibit No. 6 - Texts 120
Exhibit No. 7 - Affidavit 123

Page 89

Mr. Fokas.
Q. So you are seeking one-sixth of the costs that were spent doing the design and the permitting?
A. That's part of it.
Q. Okay. And you're seeking lost profits?
A. Sure.
Q. Okay.
A. Anything that he's seeking from me, I can seek from him. It's everything across the board. And especially with these horrible lies that he put forward to try to bully me into giving him a mortgage. I think that punitive damages comes into that completely.
But again, I'm saying this as a layperson. You'd have to direct that to my attorneys. It's just my personal opinion.
Q. Well, I have sat through an unfortunately large number of depositions in cases where people are suing each other for money, and this is a question, that I have to tell you, comes up at every one of them.
A. Sure.
Q. Whoever is seeking money is usually asked in a deposition, how much?

Page 90

A. I'm not offended by your question. But -- and I - and if I meant to say that I'm offended by it, I'm not. The thing is --
Q. I'm just telling you, this is what we do.
A. Oh, I know. What I'm saying is, again, you're asking my opinion. I have legal counsel for --
Q. No.
A. Well, you just asked me what my opinion was --
Q. I'm asking you what you are seeking.
A. Again, that is a legal question that you have to ask my attorneys. They're the ones who apply the facts of the case to the law, and they're the ones who are going to make the arguments based upon the facts of the case.
I've provided you all the facts in the discoveries, in the pleadings, in everything that's been filed. So I incorporate and refer you to those.
But including to those -- including to those is that I wouldn't have spent a penny on this project if Athan was honest from the beginning. And I also believe he could have done what he wanted.

Page 91

He literally had three times the amount of money a couple of months later. The project could have gone forward. He hid that from me. He lied to me. He said that, once I get my money I'm just going to pay the mortgage off. We all need the mortgage to get this done.
No. I don't need the mortgage. He's the one who said he needed the mortgage, but he didn't. Because he was -- and unless he's lying, he said he was going to make something like 12 percent or 1 percent off of $10 million, and he was coming in with $3 million.
That's after the fact. He tried to goad us into doing what he wanted to after the second closing fell apart. It was all lies.
And I believe that he did all this on purpose to try to get me to mortgage my interest in 229 King Street, which I have always refused to do, and including the current suits that we have right now. And that's just the truth; that's the facts.
Q. Let's move ahead to your claim for defamation damages --
A. Yes, sir.
Q. -- slander.
A. Yes, sir. Which page?

Page 92

Q. It starts on page 30.
A. Yes, sir.
Q. You allege that Athan Fokas published false and defamatory statements to Jacob Ferderigos in writing, that Phillip and Spiros Ferderigos have no business sense, and I'm sure we will be butting heads with Greek properties in the future, very sad, unquote.
How have you been damaged by that statement?
A. Okay. So, when -- you see he refers here to Greek properties. It is my understanding that Athan, as well as I, we have Greek properties in Greece that we pay taxes on in Greece, okay? So that's what he's referring to over there.
He owns some properties in Greece. And he's saying that we're going to butt heads in the management, or whatever it is, of those in the future. That's what he's referring to there is his Greek properties and my Greek properties.
He says I have no business sense. And if you read the full e-mail, you'll see it's a direct -- your brothers -- I think he said, your brothers have no business sense.
I am in the business of being an attorney, and I am also in the business of being an

Page 93

entrepreneur. I own rental properties. I am in that business. My reputation for both of those professions that I have, for both of those businesses, is everything.

So going around saying you have no business sense, he just went and told the contractor -- he implied to him that I lied about how much it would cost to hang some towel holders up saying, Spiros said X. Well, it was a lie. Do you think that guy is going to want to keep doing business with me?

I rely on these people in the community, and he is going around bad-mouthing me about it. So when he says I have no business sense, it affects me in my profession. And I think that's per se.

Q. Is the statement about towel holders in here somewhere? Did I miss it?

A. No. I'm just saying there's another example.

Q. Oh.

A. Yeah, I'm just -- because that's a newer one.

Q. Who's the contractor?

A. Let's see. The guy -- I don't know if contractor is the right word. It's the guy who was doing the work on it was Kevin Carroll.

Page 94

And there's a text from Athan saying, this is too expensive even for Greek terms, something like that. You know, why in the world is it this much? Spiros told me it's not going to be this much.

And then I have the text from Athan where he agrees to it, but he's making me look bad on purpose. He's trying to bully me.

Q. Making you look bad because your estimate of a towel-holder cost was wrong?

A. No. Because I asked Athan and my brothers, I said, Kevin Carroll says he can fix this for X amount.

I don't know who fixed the towel holders before, but they looked horrible, horrible. All this foam, and disgusting. So Kevin said, I can fix it for X amount for each towel holder.

I asked for permission, because in an LLC you have to ask for permission; you have to have a majority consent for those things. Athan said yes. So then Kevin was told yes.

Athan finds out about the bill and he says, Spiros didn't say that's what it is, making me look horrible to the builder, horrible. It's an extension of this stuff, a complete extension,

Page 95

trying to affect my reputation in the community.

Q. Has anyone refused to do business with you as a result of this, so far as you know?

A. So far as I know right now? No, I don't know. But how many people have heard about this stuff, where they're not doing business with me? I don't know. That's something that we have discovery for to bring it out.

Q. Has anyone told you that they have heard that you were a bad business person?

A. He told Jacob.

Q. Your brother, okay. Anyone else?

A. He told Jacob. Well, he strongly implied it by saying that I was wrong with what I was saying to Kevin Carroll. It wouldn't surprise me if Kevin Carroll thinks I have no business sense because of what he said.

Q. I got that down. Has anyone else told you, other than your brother, that they have heard that you're a bad business person?

A. Not to my face, no. Not that I know of, but we have discovery ongoing. But I have to say, again, he followed up in doing this with Kevin Carroll and tried to make me look bad to him.

I don't know what he said to the property

Page 96

manager or anybody else. But I guess we have discovery for that.

Q. You allege in paragraph 152 that Athan Fokas has alleged -- the defamatory statement is charging you with commission of a crime of moral turpitude and/or unfitness in his business.

What are you talking about there?

A. Saying I have no business sense.

Q. The same thing you just went over?

A. Yeah. I mean, whatever -- I incorporate everything that's in this complaint and in my pleadings and in discovery.

Again, all this stuff, this stuff that I'm saying in here, when he goes around and says that I have no business sense, that goes directly towards my reputation in the business that I'm in and affects it per se.

Q. You're not alleging that he's accused you of committing a crime?

A. Not that I know of.

Q. Okay. And other than your brother Jacob, who else are you saying that he has published these statements to?

A. Well, I just gave you an example of Kevin Carroll, on how he's telling him that I have no

Page 97

business sense by saying that I don't know how to do an estimate.
Q. About the towel holders?
A. It was a bunch of stuff. I think it was towel holders and tiles and all this other stuff.
And, yeah, discovery is going to be ongoing. We're going to have to depose a lot of people, and we're going to get to the bottom of it.
But when he's going around telling my brother, just arrogantly in writing that I have no business sense, I would assume he's going around saying it to other people.
Q. As we sit here right now today --
A. Yes, sir.
Q. -- today, do you know of another single, solitary person other than the two people you have mentioned?
A. For business sense?
Q. Yes.
A. No, I do not. Not sitting here today.
Q. All right.
Let's move on to the next counterclaim, use of process, page 32. At any time before this lawsuit was filed, did Athan Fokas make a demand on you for something that he wanted you to do so that

Page 98

he wouldn't file the lawsuit?
A. He's done a lot of things. Let's see here. He has threatened to come after me professionally as an attorney.
Q. I beg your pardon?
A. He has threatened to come after me professionally as an attorney.
Q. Be more specific about that, please.
A. Saying I have ethics -- that I violated my ethical duty as a lawyer for not giving him a mortgage on 229 King Street or not doing what he wanted me to do.
Q. When did he say that?
A. It's in the discovery I sent to you. He threatened to try to get me fired from my job as an assistant solicitor. He's done that. That's in text communications in writing that he sent to me.
Q. Okay. So you're saying that that's in these text messages that you're talking about?
A. It's in the communications between us. It's all in writing between him and me.
Q. All right.
A. He's threatened to come after me ethically. He's threatened to come after me for my current business to try to bully me into -- this is after

Page 99

the lawsuit is filed.
Q. Oh. After the lawsuit.
A. No. No. For the threat for me as an assistant solicitor. But for the threat for me professionally, it was before. But he's threatened that.
He's filed a frivolous defamation lawsuit for the sole purpose of trying to get an advantage in this action. He's filed some other lawsuit that I, you know, don't even know how to caption that.
Q. The frivolous defamation lawsuit, that was the one for which summary judgment was denied?
A. At that moment because y'all asked for more discovery.
Q. You moved for summary judgment --
A. And y'all asked for more time to do discovery, so he granted you more time to do discovery.
Q. Okay. All right.
So anything else that he made a demand from you about?
A. Okay. So like I said, but again, hundreds and hundreds of documents that I have given you. So I'm going to refer to those, incorporate those in my answer.

Page 100

And I'm going to talk off the top of my head as well, but I'm letting you know because of the hundreds and hundreds of documents that I gave you, I am incorporating those right here, right now.
But you have him threatening me ethically as an attorney. You have him threatening me for my current position that I am in. He's filing frivolous defamation lawsuits where the sole basis of it -- to amend the complaint on it to take that person out completely.
Q. Now, the question --
A. Then you have --
Q. I'm sorry. Go ahead.
A. No. I'm sorry.
Q. He hasn't filed an ethical complaint against you?
A. No, he hasn't. But he's threatened it.
Q. No one has filed an ethical complaint --
A. Nobody has threatened it. And it's frivolous, and the mere threat alone is absolutely insane.
Because as you see, the beauty, Mr. Barnett, of all this is that I have all of our communications in writing. Everything is there. This is a meritless, frivolous lawsuit.

EXHIBIT E

IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
CHARLESTON COUNTY

DEPOSITION OF IRENE FOKAS

ATHAN FOKAS,
Plaintiff,
vs. CASE NO. 2015-CP-10-3891
PHILLIP FERDERIGOS AND SPIROS FERDERIGOS,
Defendants.

DEPONENT: IRENE FOKAS

DATE: NOVEMBER 19, 2015

TIME: 9:37 A.M.

LOCATION: SMITH BUNDY BYBEE & BARNETT
MOUNT PLEASANT, SOUTH CAROLINA

REPORTED BY: RONDA K. BLANTON, RPR
NCRA REGISTERED PROFESSIONAL
REPORTER
CLARK & ASSOCIATES, INC.
P.O. BOX 73129
CHARLESTON, SC 29415
843-762-6294
office@clark-associates.com
WWW.CLARK-ASSOCIATES.COM

A. The other day --

THE WITNESS: The other day I had to come here to the office, to Phillip and Spiros.

THE INTERPRETER: The interpreter did not hear what you said or understand.

A. I came late, around 12; and the next day I received a paper saying that I had to go to the office where Spiros -- Spiros is. I asked them to cancel it or to reschedule because I came from a very long trip, but they did not do it.

Q. And the day of the week that you returned, was it a Friday?

A. I don't remember exactly.

Q. Okay. Okay. All right. Mrs. Fokas, did you -- before you went to Greece, did you discuss with your son Athan --

A. Yes.

Q. -- some allegations that you heard had been made about him?

A. Yes.

Q. And what were those allegations?

A. He was playing Tavli with his father. I told my -- my son to be very careful. I heard that they're going to come after you, and they're going to -- they're going to say things against

you.

They're going to say things about you about the insurance. They're going to say that you caused the fire, about a bicycle, and that you received money from insurance; or that he went skiing with his children. He got hurt. He pointed insurance. Things like that.

Q. You said a fire. Was there a specific place that he was accused of starting a fire?

MS. THIEM: Objection.

A. Yes. The whole town. They're going to accuse you of starting the fire -- fire there.

Q. And who was -- who were the people that you thought might accuse your son of these things?

MR. BOWERS: Object to the form.

A. His cousin. They were accusing him. They were going to destroy him.

Q. What are their names?

A. Spiros and Phillip Ferderigos.

MR. BARNETT: Do you want to chat with me?

MR. HASTIE: Just for purposes -- I meant to bring it up ahead of time, and I didn't; and I just want to set things out. This is

technicalities.

A. Okay.

Q. You didn't seem bothered by it.

Okay. All right. Let's go forward.

A. Okay.

Q. This discussion you had with your son, do you remember what month this was?

A. I don't remember exactly. Could have been April or May.

Q. Okay. It was in the spring.

THE WITNESS: Uh-huh, in the spring.

A. Yes.

Q. And where did you learn that these allegations might be made?

MR. BOWERS: Object to the form.

A. Unfortunately, I learned these things from my daughter. She was afraid for her brother. I would not say anything for a year-and-a-half because my daughter -- my daughter was involved.

It's difficult for your child. You want to say the truth, but you cannot. Because with my daughter, we are more than sisters. We are very, very -- we like each other very much. We're very close.

hearing these things; but I never asked her, "Where did you find this stuff? Where did you hear it?"

Q. You referred -- you said "them." "She worked with them," I think you said.

A. Yes.

THE INTERPRETER: I'm telling her to please state in sentences so that I can translate.

A. Yes. She has -- she does work with her cousins. They have a store together or stores. They have businesses together.

Q. And, again, the cousin's names are?

A. Spiros Ferderigos, Phillip Ferderigos, and Iakovos Ferderigos.

Q. When your daughter said that these things might be -- these allegations might be made against your son and that it would destroy him --

A. She was very afraid, and I was very afraid.

Q. Yes. Did your daughter say that it was one person or multiple people that would do these things?

MS. PHILLIPS: Objection.

A. She said her cousins will do it. Her cousins.

Q. Okay. Thank you. And those are the same people you just named; right?

MR. BARNETT: Ma'am, are you there? Madam interpreter?

(Pause in proceedings.)

MR. BARNETT: You there?

THE INTERPRETER: Yes. I could hear everything you said. You could not hear me.

MR. BARNETT: Yes. There was a little blip there.

THE INTERPRETER: I don't know what happened, but I never left. What was the last question?

MR. BARNETT: You know, Madam Court Reporter, do you mind reading it?

(The pending question was read back by the reporter.)

MR. BARNETT: And I think we had an answer.

THE REPORTER: That was the answer we couldn't hear.

A. Yes. It was -- it was her cousin.

Q. Okay. All right.

false insurance claims?

A. Yes. He told me that these -- the -- the accusations against Athan.

Q. And had your son Athan previously told you that Phillip and Spiros were accusing him of setting the fire at 229 King Street and filing false insurance claims?

A. I said that because my daughter told me. Are we going to repeat the same thing?

Q. No. But I want to know did your son Athan ever tell you that Phillip and Spiros were accusing him of those things?

A. Athan said that they are looking for things to accuse me.

Q. And --

A. And I -- and I -- and I heard them -- I heard the things from my daughter; and I told him, "They're accusing you of insurance."

Q. So no one other than Rania told you that Phillip and Spiros were accusing Athan of these things?

A. Nobody else.

Q. And then you heard those same things, though, from Mr. Barnett; correct?

A. I heard those things, as I said before,

EXHIBIT F

IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
CHARLESTON COUNTY

DEPOSITION OF ATHAN FOKAS
VOLUME II

ATHAN FOKAS,

Plaintiff,

vs. CASE NO. 2015-CP-10-3919

PHILLIP FERDERIGOS, JACOB FERDERIGOS AND SPIROS FERDERIGOS,

Defendants.

DEPONENT: ATHAN FOKAS

DATE: FEBRUARY 10, 2017

TIME: 2:10 P.M.

LOCATION: BARNWELL WHALEY PATTERSON & HELMS
CHARLESTON, SC

REPORTED BY: RUTH L. MOTT, RPR, CRR
CLARK & ASSOCIATES, INC.
P.O. Box 73129
Charleston, SC 29415
843-762-6294
WWW.CLARK-ASSOCIATES.COM
Ruth@clark-associates.com

APPEARANCES

ON BEHALF OF PLAINTIFF:

LAW OFFICE OF STANLEY E. BARNETT
BY: STANLEY E. BARNETT
305 North Civitas Street
Mount Pleasant, SC 29464

ON BEHALF OF PHILLIP FERDERIGOS:

K&L GATES
BY: RICHARD A. FARRIER, JR.
134 Meeting Street, Suite 500
Charleston, SC 29401

ON BEHALF OF JACOB FERDERIGOS:

WILLS MASSALON & ALLEN
BY: JOHN MASSALON
97 Broad Street
Charleston, SC 29401

ON BEHALF OF SPIROS FERDERIGOS:

BARNWELL WHALEY PATTERSON & HELMS
BY: M. DAWES COOKE, JR.
288 Meeting Street, Suite 200
Charleston, SC 29401

ALSO PRESENT:

LESLIE LENHARDT
PHILLIP FERDERIGOS
JACOB FERDERIGOS
SPIROS FERDERIGOS

INDEX

WITNESS	PAGE
ATHAN FOKAS	
BY MR. COOKE	323
BY MR. FARRIER	400
BY MR. MASSALON	444
BY MR. BARNETT	454
BY MR. COOKE	458
CERTIFICATE OF REPORTER	470

EXHIBITS

EXHIBIT	DESCRIPTION	PAGE
EXHIBIT NO. 36	EMAIL WITH ATTACHED ACCOUNTING	323
EXHIBIT NO. 37	EMAIL WITH ATTACHED DRAWINGS	326
EXHIBIT NO. 38	WEBSITE SCREENSHOT	337
EXHIBIT NO. 39	EMAIL WITH ATTACHED PERSONAL TAX RETURNS	342
EXHIBIT NO. 40	EMAIL AND ZEUS TAX RETURNS	347
EXHIBIT NO. 41	NORTH TOWNE TAX RETURNS	349
EXHIBIT NO. 42	FOREIGN DOCUMENT	351
EXHIBIT NO. 43	FOREIGN DOCUMENT	352
EXHIBIT NO. 44	FOREIGN DOCUMENT	355
EXHIBIT NO. 45	FOREIGN DOCUMENT	356
EXHIBIT NO. 46	FOREIGN DOCUMENT	361
EXHIBIT NO. 47	CONTRACT OF SALE	375
EXHIBIT NO. 48	CORRESPONDENCE	381
EXHIBIT NO. 49	EMAIL STRING	433
EXHIBIT NO. 50	BANK ACCOUNT DETAIL SCREENSHOT	449
EXHIBIT NO. 51	EMAIL WITH ATTACHED COMMITMENT LETTER	454
EXHIBIT NO. 52	EMAIL STRING	455
EXHIBIT NO. 53	TEXT MESSAGES	466

ATHAN FOKAS,
being previously duly sworn, testified as follows:

MR. COOKE: We're back on the record. Just to make sure we're clear on what we're doing here, we had had scheduled for this afternoon a deposition of Justin Hansen. By agreement we're going to postpone that, and we'll work with you on a time. And we had also intended to depose Kevin Carroll at some point. Is it all right if we just agree that we'll work with you on a time?

MR. BARNETT: Definitely, yes, right.

EXAMINATION

BY MR. COOKE:

Q. Okay. I'm going to backtrack only as little as I can possibly do and cover things that were already covered before, but here is an accounting that you have previously provided.

(Exhibit No. 36 marked for identification.)

Q. Who prepared this accounting?

A. I think Joe Tucker.

Q. So this is an accounting of just the account of the architectural fees that were paid?

A. And some engineering.

Q. Do these dates on the right, is that the

Page 436

for the notes in the first page.
Q. Yes or no?
A. I'm not sure. I'm not sure how that works. But the LLC was the reason they had the stream of money that would pay for the note in the first place.
Q. If you don't know, you don't know.
A. Okay.
Q. Did you tell your sister Rania that Phillip and Spiros promised to give you a mortgage and that they broke that promise?
A. I don't know.
Q. I'm going to ask you that same question as to several people. Did you ever tell that to Maki Nikatos?
A. I don't know.
Q. Did you ever tell that to Irene Fokas?
A. I don't think so.
Q. Did you ever tell Justin, the manager?
A. Can you repeat that question?
Q. Yes, that Phillip and Spiros promised to give you a mortgage and they broke the promise.
A. That was the original agreement that we had with Southcoast. We all agreed to sign on the mortgage.

Page 437

Q. Did you ever tell Justin, the manager at Old Towne, that Phillip and Spiros made an original promise to give you a mortgage and that they broke that promise?
A. I don't think so.
Q. Okay. Same question as to Kevin High.
A. I don't think so.
Q. I'm going to ask you that as to Spiro Fokas.
A. My father?
Q. Yes.
A. I don't think so.
Q. All right. Now, I'm going to ask you a question that is like that pertaining to those same individuals. Did you ever tell your sister Rania that Phillip and Spiros are stupid?
A. I don't think so.
Q. Did you ever tell that to Maki Nikatos?
A. I don't think so.
Q. Did you ever tell that to Irene Fokas?
A. Ditto.
Q. You did not tell that to Irene Fokas?
A. I don't think so.
Q. How about Kevin High?
A. I don't think so.
Q. How about Spiros Fokas?

Page 438

A. I don't think so.
Q. How about Justin, the manager?
A. I don't think so.
Q. All right. Next question, same program, did you ever tell your sister Rania that Phillip and Spiros are liars?
A. I don't think so.
Q. Same question is to say Maki Nikatos.
A. I don't think so.
Q. I'm going to read these names, and at the end you can just say, I don't think I told any of those people that, okay? It's quicker.
A. That would be quicker.
Q. Yes. I don't know if I said Maki Nikatos.
A. You did.
Q. Irene Fokas?
A. You did.
Q. Justin, the manager?
A. You did.
Q. Kevin High?
A. Yes.
Q. Spiros Fokas?
A. All those, I don't think I said any of those things about Phillip.
Q. Okay. Or how about Spiros?

Page 439

A. Or Spiros.
Q. All right. Did you and Kevin High ever talk or communicate about preferred advertising on your website?
A. No.
Q. I remember Dawes identifying this, and so I apologize if I'm asking a question related to Kevin High and his buying the property.
A. Your apology is accepted.
Q. I was apologizing to these guys, not to you.
A. Okay.
Q. What happened with Kevin High and his buying the property?
A. His buying what property?
Q. 493 King.
A. He did not buy 493 King.
Q. I know. But originally he was on the contract for sale, and then in a modification he was taken out as a purchaser.
A. Yes, we talked about originally he showed me the property and he would like to be a partner in the property.
Q. Okay.
A. But that didn't happen.
Q. Okay. Going to show you a paragraph out of

Page 440

our answer and counterclaim in this suit.
A. Okay.
Q. It is paragraph 71 out of our answer and counterclaim. Have you got a copy?
MR. BARNETT: I do, yes.
THE WITNESS: Could I ask you a question? How long do you think you will be deposing me because my wife wants to know.
Q. I think this is my last question, but it depends on your answer.
A. Okay. Tell me what answer you would like to hear.
Q. Look at paragraph 71 and read it to yourself, please.
A. I see it. I read it.
Q. Have you read both pages?
A. Yes.
Q. Do you agree in full or disagree in full with the allegations of that paragraph?
A. I disagree in full with the allegations of this paragraph.
Q. Is there anything in this paragraph which you would agree with?
A. We were sitting -- our kids were at dance practice one time at the church hall, and Phillip I

Page 441

think came and sat at the table where I was sitting; and I think we were drinking tea that day, so we had tea, and I don't remember anybody saying pussy or ignorant or moron. This may be how -- this may be what Phillip said happened, but this is not what happened. He said I accosted him, and I remember just sitting down at the table, drinking tea. And there were a lot of people at the table as well. It wasn't just the two of us.
Q. Do you agree that this is the only -- I'm sorry. You've already testified that there were many, many conversations about the Old Towne Suites project and about the mortgage. You've already testified about that, right?
Is that a yes?
A. That we've already testified about the --
Q. You already testified that there were --
A. Many conversations.
Q. -- many conversations concerning the mortgage.
A. Right.
Q. In this conversation what is being alleged is that Phillip and you had a conversation in which he said, I am not going to mortgage the property.
A. I don't remember that conversation.

Page 442

Q. You don't recall that conversation occurring at church at some point?
A. No.
Q. Okay. You don't recall a conversation that occurred at church during which Phillip said he was not going to guarantee the property?
A. No.
Q. Did you have a conversation with Phillip, I mean a verbal conversation with Phillip, not writings because we've got these writings here; but did you ever have a verbal conversation with Phillip during which he said, I am not going to mortgage the property and I am not going to guarantee anything related to this project?
A. No.
Q. Do you recall anyone else that was at the table that day?
A. I think it was -- it might have been Tony Forsberg, he was -- his kids were at dance as well. It might have been -- what is his name? There were a few people there, like Stephanie Moskos might have been at the table. She usually sat there. And there's a guy named Thanasi Tsimidilis, his wife is usually at that table as well.
Q. All right.

Page 443

A. And I think Tula Zecopoulos was there as well.
Q. Okay. Why don't you go ahead and spell those last two names now.
A. Zecopoulos is Z-E-C-O-P-O-U-L-O-S.
Q. Okay.
A. Tsimidilis -- I have to write it down.
THE REPORTER: Write it on here for me, that would be perfect (indicating).
THE WITNESS: I think that's how you spell his last name. I don't know his wife's name, but that's -- his name is Thanasi Tsimidilis. Thanasi is T-H-A-N-A-S-I.
Q. I just want to make sure I understand your testimony. There's a difference between a recollection and an educated guess or probability.
A. Right.
Q. Are you saying you actually remember these people being there or that these are the typical people that were there for this event.
A. Well, usually they have the -- the families whose kids do dance, we all sit at one table, and it's typical the people that always sit there. And Stephanie Moskos is always there. Tula is usually there. I think she was sitting to my -- no, I

Page 456

Q. Do you know whether your cousin Spiros is a close friend with Mr. Paulatos?
A. They're childhood friends and we go to church together and we often see each other.
Q. All right. Now, John Massalon asked you some questions about your complaint and your allegations against Jacob. I'm not going to re-ask you those. Before this lawsuit was filed, when Phillip and Spiros were telling you they did not want to go forward with the deal, did you discuss with Jacob the possibility that you might file the lawsuit?
A. Yes.
Q. Did you tell Jacob that you did not want to join him in the lawsuit?
A. Yes.
Q. Did you ask Jacob to enter into some sort of an agreement that if his cousins agreed or were required to go forward with the project that he would go forward with the project?
MR. MASSALON: I object. That's settlement discussions.
THE WITNESS: I think so. I think I did.
Q. What did he say?

Page 457

MR. MASSALON: Same objection.
THE WITNESS: He agreed to go forward with the project.
Q. Did he refuse to enter into an agreement?
MR. MASSALON: Same objection.
THE WITNESS: He would have to have the agreement from his brothers to have an agreement.
Q. Okay. So he wouldn't enter into an agreement unless his brothers said it was okay.
A. Yes.
Q. All right. Have you ever told anyone, I won't borrow Richard's list of people, but anyone other than your cousins -- I'm not asking you what you told your cousins.
A. Okay.
Q. Did you ever tell anyone else other than your cousins that Phillip was a bad businessman, and by that I mean a bad businessman or a really, really bad business -- any language at all disparaging his skill as a businessman?
A. No.
Q. Did you ever say that kind of thing in any words about your cousin Spiros?
A. No.
Q. Did you ever say that thing by whatever

Page 458

words about your cousin Jacob?
A. No.
Q. Have you ever accused your cousins -- well, take them one at a time. Have you ever said to any person other than your cousins that Phillip is dishonest in any way?
A. No.
Q. By whatever words.
A. No.
Q. Spiros, did you ever tell anybody that you thought Spiros was dishonest?
A. No.
Q. Did you ever tell anybody that you thought Jacob was dishonest?
A. No.
Q. Did you ever tell anybody that this project to expand the suites at 229 King Street was not going forward because Phillip Ferderigos could not eat for free at Old Towne Restaurant?
A. No.
MR. BARNETT: That's all I have.
MR. COOKE: I've got a few follow-up.
BY MR. COOKE:
Q. This is Exhibit 51. Take a look at that. This is dated September 24, 2014. Says, well, I

Page 459

don't know how I managed to sweet talk our banker into getting rid of the five year balloons and fixing it at 5 percent for the life of the loan, which is unheard in the current banking industry.
Do you now agree that you did not, in fact, talk your banker into getting rid of the five year balloons?
A. Yes. I misunderstood. So I always knew it was a 20-year loan for five year balloons, but then when I went back and reread something, maybe the commitment letter, maybe I -- for a second I interpreted it that way, I shot him out an email -- I don't know if this was around the time when I was at Zero George with all those guys and we were drinking, but definitely it was the original loan that I thought it was, which was a 20-year with five balloon payments.
Q. Okay. And then you did attach a copy of the amended or the new, I guess, commitment letter.
A. Okay.
Q. So my question is, as we've discussed many times, there was another commitment letter that was issued on or about February 5, 2013, for a $1 million loan, correct?
A. Correct, yes.

Page 460

Q. So do you have an email like this where you sent that commitment letter to Phillip and Spiros?
A. I haven't seen it. I don't know. Maybe I gave that to them in person, I copied it and gave that to them in person, but I don't remember.
Q. Or might you not have given it to them at all?
A. No, they would definitely have known that we received the million dollars or we would have not gone forward.
Q. I thought you said yesterday that you may have relied on Jacob to inform his side of the family.
A. To give it to them. If I did, I made a copy of it, gave it to Jacob, Jacob might have given it to his brothers; but we all knew about it because we were excited that we got the new loan, and we talked about it at our church gatherings as well.
Q. I noticed that you, in this email where you are introducing the letter, you do refer to the term of it, that is, you say that you talked the banker into getting rid of the five-year balloons and fixing it at 5 percent for the life of the loan. Is there any other email or other communication where you called Spiros's attention

Page 461

to the collateral required in this commitment?
A. I'm sure we talked about it, but I don't know if there are other emails out there. I would have shown all the emails.
Q. And how soon after this email did Ms. Haines issue the closing papers?
A. I'm not sure.
Q. Okay. You were shown Exhibit 52 which is an email from Pete Paulatos to Spiros, correct; and this was evidently sent to him around November 19, 2014.
A. Correct.
Q. Now, when did you first see this email?
A. I guess maybe last -- I don't know, couple days ago.
Q. So you've never seen that before?
A. No.
Q. Okay. Do you remember this morning seeing Exhibit 3 to the deposition of Mr. Odom?
A. Okay.
Q. Look at the page that's numbered 3 at the bottom.
A. Okay.
Q. There's an email from you to Jeff Odom dated November 20, 2014. Do you see that?

Page 462

A. Yes.
Q. It says, hey, Jeff, check out the email below. It seems that we only need $1,750,000 now. Look at the math below and let me know if it makes sense. Did you send that email?
A. Yes.
Q. And the forwarded message was a message from Spiros to you and Jacob and -- well, to you and Jacob with a copy to, evidently, himself and to Phillip; do you see that?
A. Yes.
Q. And it's regarding payments on loan, and you see it begins on the next page, Phillip is working on the agreement and anticipates, and so forth?
A. Yes.
Q. And then do you see about a third of the way down he says, here is the email from my accountant.
A. Correct.
Q. Do you see that?
A. Yes.
Q. All right. Now, compare the email that he quotes with the email that you're now saying you saw for the first time this week.
A. The email that I saw for the first time this week was the email from Pete Paulatos to Spiros.

Page 463

Q. Right.
A. The content was the accountant that we had no clue who the accountant was until Pete showed us the email.
Q. Yes. So do you agree that what Spiros forwarded to you in this email back on November 20, 2014, is essentially the same email that Pete Paulatos sent him on November 19?
A. Well, it's not the same email because he had other words up here, ha, yes, typo, 1.75 million, you are awesome, glad to know I was close, we are just going to do 7 point -- might have been 1.75 million.
I don't know how many other emails there are about Pete Paulatos talking about the project with Spiros or how many times they talked about the project with Spiros, but this is the first time that I knew that Pete Paulatos was involved in this case.
Q. But maybe I misunderstood the thrust of your being shown this exhibit. I thought that maybe it was to try to show somehow that Spiros had hidden this information from you, but I just want to make sure that we agree that he forwarded the substance of Mr. Paulatos's email to you on November 19,

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	)	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT
Athan Fokas, Plaintiff, v. Philip Ferderigos and Spiros Ferderigos, Defendant(s).	)	Case No.: 2015-CP-10-3891 **CERTIFICATE OF SERVICE**

I, Leslie S. Lenhardt, hereby certify that true and correct copies of Plaintiff's Motion for Partial Summary Judgment as to Counterclaims of Spiros Ferderigos were served on the undersigned parties by depositing copies of same in the United States Mail, postage prepaid, first class, this 25th day of August, 2017, addressed as follows:

Jennifer H. Thiem, Esquire
K&L Gates, LLP
134 Meeting Street, Suite 200
Charleston, SC 29401

Laura W. Robinson, Esquire
Vernis & Bowling of Columbia, LLC
1401 Main Street, Suite 655
Columbia, SC 29201

M. Dawes Cooke, Jr., Esquire
Barnwell Whaley Patterson & Helms
288 Meeting Street
Charleston, SC 29401

FILED
AUG 25 2017
JULIE J. ARMSTRONG
CLERK, C.P. & G.S.

Leslie S. Lenhardt

August 25, 2017

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON)

Athan Fokas,) CASE NO.
☐ Plaintiff) 2015-CP-10-3891

v.) MOTION AND ORDER INFORMATION FORM AND COVER SHEET

Phillip Ferderigos And Spiros Ferderigos,)
☒ Defendant.)

Plaintiff's Attorney:	Defendant's Attorney:
Leslie Lenhardt, Esquire, Bar No. Address: Lenhardt Law Firm, LLC 1876 Wallenberg Blvd. Charleston, SC 29407 phone: (843) 371-5453 fax: e-mail: llenhardt@lenhardtlawfirm.com other:	Jeremy E. Bowers, Esquire, Bar No. 74838 Address: Barnwell Whaley Patterson & Helms, LLC 288 Meeting Street, Suite #200 (29402) P.O. Drawer H Charleston, SC 29402 phone: (843) 577-7700 fax: (843) 577-7708 e-mail: jbowers@barnwell-whaley.com other:

☒ **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**
☐ **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**
☐ **PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)**

SECTION I: Hearing Information

Nature of Motion: Motion for Summary Judgment
Estimated Time Needed: 30 Minutes Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached
☐ Form Motion/Order
I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☐ Plaintiff / ☒ Defendant — September 14, 2017 Date submitted

SECTION III: Motion Fee

☒ PAID – AMOUNT: $25.00
☐ EXEMPT: (check reason)
☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter:
☐ Other:

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.
☐ Other:

_____
JUDGE

CODE: _____ Date: _____

CLERK'S VERIFICATION

Date Filed:

Collected by: _____

SCCA/233 (11-03)

☐ MOTION FEE COLLECTED: _____
☐ CONTESTED – AMOUNT DUE: _____

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON ATHAN FOKAS, Plaintiff, v. PHILLIP FERDERIGOS and SPIROS FERDERIGOS, Defendants.	)	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT CASE NO. 2015-CP-10-3891 **MOTION FOR SUMMARY JUDGMENT**

FILED
2017 SEP 14 PM 2:37
JULIE J. ARMSTRONG
CLERK OF COURT
BY

TO: LESLIE S. LENHARDT, ESQUIRE, COUNSEL FOR PLAINTIFF

PLEASE TAKE NOTICE THAT the Defendant, SPIROS FERDERIGOS (hereinafter referred to as "Spiros" or "Defendant"), by and through his undersigned counsel, will hereby move before this Honorable Court, in the Charleston County Courthouse on the tenth (10th) day after service hereof, or at such other time and location as determined by the Court, for an Order granting summary judgment against the Plaintiff's defamation claims. This motion is based on the grounds that no genuine issue of material fact exists against this Defendant.

Over two years after the Summons and Complaint were originally filed, Plaintiff has failed to present any evidence to create a genuine issue of material fact as to any publication to any third-party of any defamatory statement by this Defendant regarding Plaintiff. A review of the Plaintiff's current amended pleading shows that Plaintiff's attempted defamation case relies upon: (1) an alleged publication to the Plaintiff's lawyer/agent which is not a third-party (and, further, any alleged discussions being absolutely judicially privileged and non-admissible settlement negotiations pursuant to Rule 408, SCRE, and the absolute judicial privilege); (2) the Plaintiff's mother's admitted hearsay and speculation/conjecture that Defendant allegedly told Plaintiff's

sister Rania, who then allegedly told Plaintiff's mother, that Defendant would accuse Plaintiff of certain acts[1]; (3) and allegedly to Plaintiff's sister Rania, who has submitted an Affidavit and testified under oath in her deposition that this Defendant did not defame Plaintiff.

Importantly, in her deposition, Plaintiff's mother admitted that she basically "made up" her belief and speculated that this Defendant must have defamed her son. In her sworn testimony, Plaintiff's mother admitted she "guessed" and "figured" Defendants made such statements about Plaintiff, even though Rania never told her who allegedly made any such statements. (See Deposition of Irene Fokas, p. 11, line 20 – p. 12, line 3 and p. 89, line 6 – 19). Indeed, Rania testified that her mother told her (not the other way around) that the Defendants would defame the Plaintiff, and Rania denied that she ever told her mother that Defendants ever defamed the Plaintiff. Despite the fact that Plaintiff knows that his mother admitted under oath that she 'made up' her allegations, in bad faith, with this current amended pleading, Plaintiff has alleged factual allegations that Plaintiff knows are false.

Specifically, Irene Fokas testified that her daughter told her individuals would accuse Plaintiff of certain acts, but Irene Fokas then admitted under oath that she never asked her daughter who made such alleged statements (i.e., the identity of these supposed unknown individuals).[2]

---

[1] Accordingly, Plaintiff's mother admitted that she defamed this Defendant by telling her son (Plaintiff) that this Defendant would defame the Plaintiff. However, as Plaintiff's mother admitted she simply speculated that this Defendant would defame the Plaintiff (her son), Plaintiff cannot make such a factual allegation in his Amended Complaint. Moreover, his mother's speculation cannot create a genuine issue of material fact sufficient to survive Defendant's summary judgment motion. Further, the Court has already issued two restraining Orders and an Order of Contempt against Plaintiff in the various litigation involving Plaintiff and Defendants. At the November 7, 2016, hearing before Judge Nicholson, the Court further warned Plaintiff that a motion for sanctions for frivolous proceedings would be appropriate if Plaintiff were alleging factual allegations Plaintiff knew were false; however, the Court would allow Plaintiff to amend his pleadings. However, consistent with Plaintiff's prior contemptuous behavior, Plaintiff has willfully filed an Amended Complaint with erroneous factual allegations Plaintiff knows to be false.

[2] However, Irene Fokas did testify that her son (Plaintiff) or his attorney told her this Defendant would defame the Plaintiff. See Deposition of Irene Fokas, Page 46, line 3 – Page 47, line 7 (Q. Are you aware of any statements that Phillip or Spiros have made to Athan's lawyer? A. I heard that the guys had told the attorney ... that Philip and Spiros, they're going to accuse Athan for this and this and that. Q. Does she – do you know what the specifics of the

Further, Irene Fokas admitted under oath that she speculated that it must have come from one of the Defendants because they "work" with her daughter. Simply put, Defendant Spiros Ferderigos does not work with her daughter. Accordingly, Irene Fokas' "made up" speculation and hearsay, cannot, as a matter of law, be the source of Plaintiff's defamation claim against this Defendant. This is especially the case where Rania Nikatos has denied in both Affidavit and in her deposition that she ever told her mother that this Defendant said anything to her. (See Affidavit and Deposition of Rania Nikatos).

After over two years, Plaintiff has failed to put forth any evidence to create a genuine issue of material fact as to any publication to any third-party.[3] After Plaintiff admitted that his original pleadings were erroneous, Plaintiff has now amended his pleadings by improperly attempting to place alleged privileged and inadmissible settlement negotiations between Plaintiff's agent/counsel (who by definition is not a third-party) and the Defendants into evidence (as any alleged closed door settlement negotiations occurred after Plaintiff's counsel/agent specifically threatened litigation and was held at the request of the Plaintiff's counsel/agent to resolve the threatened litigation and possible countersuits by Defendants against Plaintiff[4]). Nevertheless, Plaintiff has not been able to provide any evidence to create a genuine issue of fact of any

---

accusations are? A. For fire, insurance, things like that ... Q. Who told you these things? **A. Either the attorney or my son).**

[3] Indeed, Plaintiff's allegation that Plaintiff's mother testified that this Defendant defamed Plaintiff is meritless. Plaintiff knows his mother testified she speculated that this Defendant must have defamed the Plaintiff. Plaintiff cannot in good conscience or in good faith make an allegation which Plaintiff already knows is false in his pleadings.

[4] Plaintiff's counsel/agent invited Defendants to meet with him to participate in a closed door meeting to discuss Defendants' alleged breach of contract and breach of their fiduciary duties to "try to work out a way forward so as to accomplish the goals of the agreement which are to the mutual benefit of all four of you" and "so that any further conflict can be avoided ..." Defendant Spiros Ferderigos replied to Plaintiff's counsel/agent letter that he "invite(s) the conversation of resolving these issues, because if Athan wants to file a frivolous lawsuit against me ... I will respond with my countersuits ... with numerous causes of action and well documented liability against Athan for his behavior." See Exhibit 8, Memorandum In Opposition To Plaintiff's Motion To Amend Complaint On Behalf Of Defendant Spiros Ferderigos filed June 15, 2016.

publication to any third-party which would support an action against this Defendant for defamation. Rather, this defamation lawsuit was/is nothing more than a frivolous attempt to get an upper hand in another legal matter between the parties.

For these reasons, Defendant respectfully requests the Court grant its Motion for Summary Judgment. Defendant reserves the right to file a memorandum in support of this Motion for Summary Judgment.

BARNWELL WHALEY PATTERSON & HELMS, LLC

BY: _____

M. DAWES COOKE, JR., ESQUIRE
JEREMY E. BOWERS, ESQUIRE
288 Meeting Street, Suite #200 (29401)
Post Office Drawer H
Charleston, South Carolina 29402-0197
PHONE: (843) 577-7700
FACSIMILE: (843) 577-7708
ATTORNEYS FOR DEFENDANT SPIROS FERDERIGOS

- AND -

WESTON LAW FIRM, P.A.

BY: _____ JRW

Joseph R. Weston, Esquire
Stephanie A. Phillips, Esquire
761 Johnnie Dodds Blvd., Suite #100 (29464)
Post Office Box 1992
Charleston, South Carolina 29465-1992
PHONE: (843) 881-4995
FACSIMILE: (866) 777-2495
ATTORNEYS FOR DEFENDANT SPIROS FERDERIGOS

September 14, 2017
Charleston, South Carolina

Certificate of Service 2015-CP-10-3891

I hereby certify that on the 14th day of September 2017, I served the foregoing Motion for Summary Judgment upon the parties to this action by U.S. mail, sufficient postage attached thereto, correctly addressed as follows:

Leslie S. Lenhardt, Esquire
Lenhardt Law Firm, LLC
1876 Wallenberg Blvd.
Charleston, SC 29407

Jennifer H. Thiem, Esquire
K&L Gates LLP
134 Meeting Street, Suite #200
Charleston, SC 29401

Laura W. Robinson
Vernis & Bowling of Columbia, LLC
1401 Main Street, Suites 655
Columbia SC 29201

FILED
2017 SEP 14 PM 2:37
JULIE J. ARMSTRONG
CLERK OF COURT
BY_____

Cheryl Lessard
Legal Assistant

BARNWELL WHALEY
PATTERSON & HELMS LLC
75 YEARS 1938-2013
Attorneys for businesses & professionals since 1938

Jeremy E. Bowers, Associate
jbowers@barnwell-whaley.com

September 14, 2017
VIA HAND DELIVERY

5033.001
Charleston County Clerk of Court
100 Broad Street, Suite #106
Charleston, South Carolina 29401-2258

RE: Fokas v. Ferderigos, et al.
Case No.: 2015-CP-10-3891

Dear Madam Clerk:

Enclosed please find the original and one (1) copy of the Motion for Summary Judgment filed on behalf of the Defendant, Spiros Ferderigos, in the above-referenced matter. Also, enclosed find the Motion Information Form and Cover Sheet as well as a check in the amount of Twenty-Five Dollars ($25.00) for the motion filing fee. Please file the original and return the filed stamped copy to me via our courier.

By copy of this letter, I am informing counsel for the Plaintiff of this communication with the Court and serving her with a copy of the Motion for Summary Judgment. If you have any questions, please do not hesitate to contact me at (843) 577-7700. Again, thank you for your cooperation in this matter. With kind regards, I am

Sincerely,

Jeremy E. Bowers

Encl.
cc w/encl.: Leslie Lenhardt, Esquire (via U.S. Mail)
Jennifer H. Thiem, Esquire (via U.S. Mail)
Joseph R. Weston, Esquire (via U.S. Mail)
Laura W. Robinson, Esquire (via U.S. Mail)

STATE OF SOUTH CAROLINA)) COUNTY OF CHARLESTON)) Athan Fokas) Plaintiff,) vs.) Phillip Ferderigos and Spiros Ferderigos) Defendant.)	IN THE COURT OF COMMON PLEAS NINTH JUDICIAL CIRCUIT CASE NO.: 2015-CP-10-03891 **MOTION AND ORDER INFORMATION FORM AND COVERSHEET**

Plaintiff's Attorney: Leslie S. Lenhardt Bar No. Address:1876 Wallenburg Blvd. Charleston, SC 29407 Phone: (843) 371-5453 Fax: E-mail: llenhardt@lenhardtlawfirm.com	Defendant's Attorney: Laura W. Robinson Bar No. 66582 Address: 1401 Main Street, Suite 665 Columbia, SC 29201 Phone: (803) 234-5416 Fax: (803) 978-6246 E-mail: lrobinson@scarolina-law.com

☒ **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**
☐ **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**
☐ **PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)**

SECTION I: Hearing Information

Nature of Motion: Motion for Summary Judgement
Estimated Time Needed: 1 hour Court Reporter Needed: ☒ YES/☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Laura W. Robinson 9.25.17
Signature of Attorney for ☐ Plaintiff /☒ Defendant Date submitted

SECTION III: Motion Fee

☒ PAID – AMOUNT: $25.00
☐ EXEMPT:
(check reason)
☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter:
☐ Other:

JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other:	JUDGE CODE Date:

CLERK'S VERIFICATION

Collected by: Date Filed:
☐ MOTION FEE COLLECTED: $
☐ CONTESTED – AMOUNT DUE: $

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON ATHAN FOKAS, Plaintiff, v. PHILLIP FERDERIGOS and SPIROS FERDERIGOS, Defendants.	)	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT CASE NO. 2015-CP-10-3891 **DEFENDANT PHILLIP FERDERIGOS' MOTION FOR SUMMARY JUDGMENT**

FILED
2017 SEP 28 PM 2:32
JULIE J. ARMSTRONG
CLERK OF COURT
BY

TO: LESLIE S. LENHARDT, ESQUIRE, COUNSEL FOR PLAINTIFF:

PLEASE TAKE NOTICE THAT the Defendant, PHILLIP FERDERIGOS (hereinafter referred to as "Phillip" or "Defendant"), by and through his undersigned counsel, will hereby move before this Honorable Court, in the Charleston County Courthouse on the tenth (10th) day after service hereof, or at such other time and location as determined by the Court, for an Order granting his motion for summary judgment to the Plaintiff's claims. This motion is based on the grounds that no genuine issue of material fact exists against this Defendant.

Over two years after the Summons and Complaint were originally filed, Plaintiff has failed to present any evidence to create a genuine issue of material fact as to any publication by this Defendant to any THIRD PARTY. A review of the Plaintiff's current amended pleading shows that Plaintiff's attempted defamation case relies upon: (1) an alleged publication to the Plaintiff's lawyer/agent which is not a third party (and, further, any alleged discussions being absolutely judicially privileged and non-admissible settlement negotiations pursuant to the absolute judicial privilege); (2) the Plaintiff's mother's admitted hearsay and speculation/conjecture (that Defendant allegedly told Plaintiff's sister Rania Nikatos, who then allegedly told Plaintiff's mother, that

Defendant would accuse Plaintiff of certain acts)[1]; (3) and an alleged publication to Plaintiff's sister Rania, who has submitted an Affidavit and testified under oath in her deposition that this Defendant DID NOT defame Plaintiff.

Importantly, in her deposition, Plaintiff's mother, Irene Fokas, admitted that she basically "made up" her belief and speculated that this Defendant must have defamed her son. In her sworn testimony, Plaintiff's mother admitted she "guessed" and "figured" Defendants made such statements about Plaintiff, even though her daughter, Rania, never told her who allegedly made any such statements. (See Deposition of Irene Fokas, p. 11, line 20 – p. 12, line 3 and p. 89, line 6 – 19). Indeed, Rania testified that her mother told her (not the other way around) that the Defendants would defame the Plaintiff, and Rania denied that she ever told her mother that Defendants ever defamed the Plaintiff. Despite the fact that Plaintiff knows that his mother admitted under oath that she 'made up' her allegations, in bad faith, with this current amended pleading, Plaintiff has alleged factual allegations that Plaintiff knows are false.

Specifically, Irene Fokas testified that her daughter told her individuals would accuse Plaintiff of certain acts, but Irene Fokas then admitted under oath that she never asked her daughter who made such alleged statements (i.e., the identity of these supposed unknown individuals).[2]

---

[1] Accordingly, Plaintiff's mother admitted that she defamed this Defendant by telling her son (Plaintiff) that this Defendant would defame the Plaintiff. However, as Plaintiff's mother admitted she simply speculated that this Defendant would defame the Plaintiff (her son), Plaintiff cannot ethically make such a factual allegation in his Amended Complaint. Moreover, Plaintiff's mother's speculation cannot create an issue of fact to survive Defendant's summary judgment motion. Further, the Court has already issued two restraining Orders and an Order of Contempt against Plaintiff in the various litigation involving Plaintiff and Defendants. At the November 7, 2016 hearing before Judge Nicholson, the Court further warned Plaintiff that a motion for sanctions for frivolous proceedings would be appropriate if Plaintiff were alleging factual allegations Plaintiff knew were false; however, the Court would allow Plaintiff to amend his pleadings. However, consistent with Plaintiff's prior contemptuous behavior, Plaintiff has willfully filed an Amended Complaint with erroneous factual allegations Plaintiff knows to be false.

[2] However, Irene Fokas did testify that her son (Plaintiff) or his attorney told her this Defendant would defame the Plaintiff. See Deposition of Irene Fokas, Page 46, line 3 – Page 47, line 7 (Q. Are you aware of any statements that Phillip or Spiros have made to Athan's lawyer? A. I heard that the guys had told the attorney ... that Philip and Spiros, they're going to accuse Athan for this and this and that. Q. Does she – do you know what the specifics of the accusations are? A. For fire, insurance, things like that ... Q. Who told you these things? **A. Either the attorney or my son).**

Further, Irene Fokas admitted under oath that she speculated that it must have come from one of the Defendants because they "work" with her daughter. Simply put, Defendant Phillip Ferderigos does not work with her daughter. Accordingly, Irene Fokas's "made up" speculation and hearsay, cannot, as a matter of law, be the source of Plaintiff's defamation claim against this Defendant. This is especially the case where Rania Nikatos has denied in both Affidavit and in her deposition that she ever told her mother that this Defendant said anything to her. (See Affidavit and Deposition of Rania Nikatos).

After over two years, Plaintiff has failed to put forth any evidence to create a genuine issue of material fact as to any publication to any THIRD PARTY.[3] After Plaintiff admitted that his original pleadings were erroneous, Plaintiff has now amended his pleadings by improperly attempting to place alleged privileged and inadmissible settlement negotiations between Plaintiff's agent/counsel (who by definition is not a THIRD PARTY) and the Defendants into evidence (as any alleged closed door settlement negotiations occurred after Plaintiff's counsel/agent specifically threatened litigation and was held at the request of the Plaintiff's counsel/agent to resolve the threatened litigation and possible countersuits by Defendants against Plaintiff[4]). Nevertheless, Plaintiff has not been able to provide any evidence to create a genuine issue of fact of any publication to any THIRD PARTY which would support an action against this Defendant

[3] Indeed, Plaintiff's allegation that Plaintiff's mother testified that this Defendant defamed Plaintiff is meritless. Plaintiff knows his mother testified she speculated that this Defendant must have defamed the Plaintiff. Plaintiff cannot in good conscience or in good faith make an allegation which Plaintiff already knows is false in his pleadings.

[4] Plaintiff's counsel/agent invited Defendants to meet with him to participate in a closed door meeting to discuss Defendants' alleged breach of contract and breach of their fiduciary duties to "try to work out a way forward so as to accomplish the goals of the agreement which are to the mutual benefit of all four of you" and "so that any further conflict can be avoided ..." Defendant Spiros Ferderigos replied to Plaintiff's counsel/agent letter that he "invite(s) the conversation of resolving these issues, because if Athan wants to file a frivolous lawsuit against me ... I will respond with my countersuits ... with numerous causes of action and well documented liability against Athan for his behavior." See Exhibit 8, Memorandum In Opposition To Plaintiff's Motion To Amend Complaint On Behalf Of Defendant Spiros Ferderigos filed June 15, 2016.

for defamation. Rather, this defamation lawsuit was/is nothing more than a frivolous attempt to get an upper hand in another legal matter between the parties.

Accordingly, Defendant respectfully requests the Court grant his Motion for Summary Judgment.

By: Laura W. Robinson

Laura W. Robinson
Vernis & Bowling of Columbia, LLC
1401 Main Street, Suite 665
Columbia, SC 29201
Tel: 803-234-5416
Fax: 803-978-6246
lrobinson@scarolina-law.com

Jennifer H. Thiem, Esquire
K&L Gates LLP
134 Meeting Street, Suite #500
Charleston, SC 29401
Tel: 843-579-5619
Fax: 843-579-8819
Jennifer.Thiem@klgates.com

September 25, 2017
Columbia, South Carolina

15-CP-10-3891

Certificate of Service

I hereby certify that on the 25 day of September 2017, I served the foregoing Motion for Summary Judgment upon the parties to this action by email and U.S. mail, sufficient postage attached thereto, correctly addressed as follows:

Leslie S. Lenhardt, Esquire
Lenhardt Law Firm, LLC
1876 Wallenberg Blvd.
Charleston, SC 29407

M. Dawes Cooke, Esquire
Jeremy E. Bowers, Esquire
Barnwell Whaley Patterson & Helms, LLC
288 Meeting Street, Suite 200
Charleston, SC 29401

Joseph R. Weston, Esq.
Weston Law Firm
Post Office Box 1992
Mt. Pleasant, SC 29465-1992

FILED
2017 SEP 28 PM 12: 32
JULIE J. ARMSTRONG
CLERK OF COURT
BY

Amanda M. Durr
Paralegal to Laura W. Robinson

VERNIS & BOWLING
ATTORNEYS AT LAW • EST. 1970
1401 Main Street, Suite 655, Columbia, South Carolina 29201 • Telephone: 803-234-5416 • Facsimile: 803-978-6246

September 25, 2017

Charleston County Court of Common Pleas
Julie J. Armstrong, Clerk of Court
100 Broad Street, Suite 106
Charleston, SC 29401

Re: Athan Fokas v Phillip Ferderigos and Spiros Ferderigos
Civil Action No.: 2015-CP-10-03891
File No.: 3257-15032

Julie
Dear Ms. ~~Armstrong~~:

Please find enclosed one (1) original and one (1) copy of Defendant Phillip Ferderigos' Motion for Summary Judgment, Motion Coversheet, and a check for $25.00 motion filing fee. I would appreciate your filing the same with the Court and returning a clocked copy in the self-addressed, stamped envelope enclosed.

By way of this letter, I have served copies of the same upon all counsel of record as indicated.

With kind regards, I am,

Respectfully,

Laura

Laura W. Robinson

LWR/amd
Enclosure

cc: Leslies S. Lenhardt, Esquire, via email and U.S. mail
Jennifer H. Thiem, Esquire, via email and U.S. mail
M. Dawes Cooke Esquire, via email and U.S. mail
Joseph R. Weston, Esquire, via email and U.S. mail
Phillip S. Ferderigos, Esquire, via email

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	)	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT
Athan Fokas, Plaintiff, v. Philip Ferderigos and Spiros Ferderigos, Defendant(s).	)	Case No.: 2015-CP-10-3891

FILED
2017 DEC -4 AM 11:10
JULIE J. ARMSTRONG
CLERK OF COURT
BY

SUPPLEMENTAL AFFIDAVIT OF STANLEY E. BARNETT

After being sworn, Affiant testified as follows:

1. I am Stan Barnett, formerly an attorney in the law firm of Smith, Bundy, Bybee & Barnett, P.C. and now a sole practitioner located in Mount Pleasant, S.C.

2. As I explained in my first Affidavit, I was retained by Plaintiff to evaluate a disagreement he had with two of his cousins, the defendants named above, about what he contended was their agreement to proceed with an expansion of the building the own together at 229 King Street. The purpose of the expansion was to add three floors to the building so that more rental suites could be added to the existing vacation suites rental business they now operate together with a third cousin, Jacob Ferderigos.

3. The dispute arose when the defendants refused to go forward with closing on the loan to finance the expansion. In response to a letter I wrote defendants, I received an offer to meet with Phillip and Spiros Ferderigos to discuss the contract issues. That is the sole issue for which a meeting was ultimately arranged on February 17, 2015 at the offices of Barnwell Whaley in Charleston.

5. I have reviewed the second motions for summary judgment filed by Defendants in the above styled action and can augment my original affidavit with the some additional statements based on my recollection of the meeting in February 2015.

6. It was and is my understanding that discussions in a settlement are privileged only if they relate to the subject to the disagreement which caused the settlement meeting to take place in the first place. The meeting on February 17, 2015 was set up between myself and Phillip and Spiros Ferderigos for only one purpose. That purpose was to explore ways for the parties to move forward with construction of the addition to 229 King Street. My correspondence to them which prompted the meeting was one laying out why a contract existed between the parties what breach of that contract to build the addition would mean to my client, Athan Fokas. Rather than discuss this issue, at the meeting with these Defendants in February 2015, the focus of their comments to me was to make threats against the Plaintiff in the form of a demand that unless he dropped any claim of the existence of a contract and their breach of this contract, they would make allegations that he committed insurance fraud as well as arson. They also strongly suggested that they would show he was committing tax fraud by bringing money to this country from Greece without complying with IRS rules. None of these allegations was in any way related to whether there was a contract to add onto 229 King Street or to how the parties could go forward with the project they had all funded up to that point.

7. As I said originally, the most shocking statement was by Spiros Ferderigos who wondered if he had some obligation as an assistant solicitor to see that the Plaintiff was charged with arson. He made this statement as a direct threat to Plaintiff specifically saying I should communicate this to the Plaintiff as a warning not to pursue allegations of contract breach against he and his brother, Phillip Ferderigos. Nothing about this statement related in any way to the purpose of our meeting,

to discuss whether there was a way to come to a resolution on the project to add floors to the building at 229 King Street. It was a naked threat to use his position as a state prosecutor to cause criminal charges to be brought against the Plaintiff.

8. I have read the statement Phillip Ferderigos prepared and which was submitted as an exhibit at his deposition in both this case and the contract case, No. 3919. Nearly all of that statement relates only to the discussions we had on February 17, 2015 concerning whether there was a way for the parties to discuss continuing with the project. I do not agree that this recitation is factual and specifically disagree with the claim that I agreed to commit Athan Fokas to a general mutual release as a precondition to resuming discussions.

9. I have also read the deposition of Phillip Ferderigos taken on September 21, 2016, which I also attended. Phillip's recitation of the portion of the conversation he and Spiros and I had concerning the fire at 229 King Street and the insurance claims filed by Athan Fokas is not accurate. Phillip specifically joined Spiros in making direct threats to accuse Athan of insurance fraud and arson if he moved forward with his claim for breach of contract. My notes made the next morning after the February 17, 2015 meeting are an accurate summary of what actually was discussed. Both Ferderigos brothers made direct threats to accuse Athan of criminal acts unless he abandoned his claim there was a contract to enlarge the building, a contract which they breached. There are other untruths included in Phillip Ferderigos' testimony, including his claim that I agreed for Athan Fokas to execute a mutual release. I had no such authority and only agreed to review a draft of such an agreement and present it to my client.

10. I have read the deposition of Spiros Ferderigos taken on November 11, 2016, which I also attended. His testimony concerning the meeting between he and Phillip Ferderigos and I on February 17, 2015 is simply not true. He, as well as Phillip, made clear, unequivocal threats to

accuse Athan Fokas of serious crimes, including arson, insurance fraud and tax evasion unless he, as a specific *quid pro quo*, agreed to abandon his claim that they were breaching a contract to enlarge 229 King Street. Spiros further said he might have an obligation as a state prosecutor to take action to see that Athan was charged with crimes and tied this decision directly to Athan's actions with respect to going forward with his claim of breach of contract. As noted above, my notes are contemporaneous with the discussion, made only hours after the meeting ended and are accurate. Spiros had a red well file folder which he held against his chest and kept tapping, saying that the proof of what he was accusing Athan of was in that folder, along with records of much of his discussion with Athan. It was Spiros who called out the name of the man he claimed was hired to start the fire at 229 King Street. As with Phillip, Spiros' allegations were not cast as concerns but as threats pure and simple. The unambiguous statement from Spiros was that if Athan made a breach of contract claim, he and Phillip would accuse him of arson, insurance fraud and tax evasion.

11. In my opinion, the statements by Spiros and Phillip Ferderigos during our meeting on February 17, 2015 were threats specifically stated for the purpose of intimidating Athan Fokas to abandon any claim that they were breaching a contract agreement with him. The actions by Spiros and Phillip Ferderigos in attempting to extort Athan Fokas into abandoning his contract claim by threatening him with criminal allegations were in no way related to the purpose of the meeting on February 17, 2015 which was solely to explore ways for the parties to continue with the project to add floors to 229 King Street.

[SIGNATURE PAGE FOLLOWS]

FURTHER AFFIANT SAYETH NOT.

STANLEY E. BARNETT

SWORN TO before me
this 4th day of December 2017.

Notary Public for South Carolina
My Commission Expires on:

LESLIE S. LENHARDT
Notary Public, State of South Carolina
My Commission Expires 7/18/2026

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO. 2015-CP-10-3891
	)	
Athan Fokas,	)	
Plaintiff,	)	
v.	)	**MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON BEHALF OF DEFENDANT PHILLIP FERDERIGOS**
Philip Ferderigos and Spiro Ferderigos,	)	
Defendants.	)	

2017 DEC -6 PM 2:48
JULIE J. ARMSTRONG
CLERK OF COURT
BY

Defendant, PHILLIP FERDERIGOS, by and through his undersigned counsel, hereby submits his Memorandum in Opposition to Plaintiff's Motion for Partial Summary Judgment as to Counterclaims of Phillip Ferderigos (hereinafter "Phillip").

INTRODUCTION

This matter involves Plaintiff Athan Fokas' repeated and malicious libel and slander of Phillip by Mr. Fokas' use of outright threats and intimidation tactics in order to force Phillip to agree to terms of an alleged "agreement" that Phillip never agreed to. With what can only be described as ill will, vitriol, and actual malice,[1] Mr. Fokas announced that he would repeatedly slander Phillip unless Phillip "gave in" to Mr. Fokas' demands:

> **Athan Fokas: "I can't wait to spread the word that the suites multimillion dollar project couldn't get done cause Phillip can't eat for free. I'm sure everyone will find it hilarious. I am probably doing you a favor. Smaller waistline. I bet your kids will be real proud of you in the future too. Your dad was right for calling you palabo [means "stupid' in Greek] Philipa."**
>
> See Exhibit T of Defendant's Answer and Counterclaims, also attached hereto as **Exhibit 1.**

[1] Mr. Fokas' improper, bully-type antics are consistent with his prior actions necessitating two (2) restraining Orders, two (2) Motions to Amend Tax Returns, and one Order of Contempt of Court which have already been issued against Mr. Fokas in this and in other litigation involving Mr. Fokas.

Then, in pre-meditated fashion and in an effort to gain advantage during on-going negotiations (for a proposed project that was being negotiated), Mr. Fokas proceeded to libel and slander Phillip to (1) his father Stavros Ferderigos, (2) his uncle Fanouris Ferderigos, (3) his aunt (Plaintiff's mother) Irene Fokas, (4) Plaintiff's wife Antonia Fokas, (5) Defendant's brother Spiro Ferderigos, (6) Defendant's brother Jacob Ferderigos and, upon information and belief, (7) other individual third parties as well. All of Mr. Fokas' libel and slander were published to third parties with the express purpose to harm Phillip and to intimidate/force him to agree to an alleged "agreement" Phillip rejected and never agreed to throughout the on-going negotiations.

ALLEGATIONS & PROCEDURAL HISTORY

The parties are presently involved in two lawsuits initiated by Mr. Fokas. One lawsuit (Civil Action No. 2015-CP-10-3919) involves a dispute about the parties (Phillip, his brothers Spiro and Jacob, and his cousin Plaintiff Athan Fokas) investigating the possibility of building an entirely new, separate, and free-floating building above 229 King Street to be used for rental units. In his Complaint, based on the parties exploring and negotiating the possibility of building a new building, Mr. Fokas alleges that Phillip and his brothers (the other Defendants) entered into a binding "oral" contract with Mr. Fokas, and that "Defendants breached the contract by refusing to carry out their obligations to execute the mortgage on the building and other parts of the loan documentation." Complaint ¶ 31 (C/A No. 2015-CP-10-3919). As to Phillip, Mr. Fokas specifically alleges Phillip refused to execute a mortgage and loan documents because "Defendant Philip Ferderigos demanded that Plaintiff execute an agreement whereby specified penalties would be paid in the event payments were not made on the note to the lending bank." [2]

[2] Significantly, Mr. Fokas' Complaint does not allege that Phillip breached any "alleged contract" because Phillip could not eat for free at the restaurant located on the first floor of 229 King Street (Old Towne Restaurant), or that Phillip breached any "alleged contract" because Phillip was jealous of Mr. Fokas and/or because of Phillip's stubbornness. Yet, Mr. Fokas published such statements repeatedly to third parties. As set forth below, Mr. Fokas

(Complaint ¶ 19, C/A No. 2015-CP-10-3919). However, Mr. Fokas' lawsuit is meritless as he alleges Phillip failed to execute a mortgage and loan documents for an approximate Two Million Dollar loan based on material terms Phillip never agreed to.[3] The details of Mr. Fokas' unbelievable actions and defamatory/libelous statements against Phillip are set forth in Defendant's Answer and Counterclaims paragraphs 53 through 123, a copy of which is attached as **Exhibit 2** for the Court's ease of reference. Moreover, Defendant's Motion for Summary Judgment in the 2015-CP-10-3919 case (Mr. Fokas' breach of contract case) outlining the lack of merit of Mr. Fokas' allegations is also attached as **Exhibit 3** for the Court's ease of reference. It is in this context that Mr. Fokas viciously lashed out, threatened, and repeatedly libeled and slandered Phillip.

In addition, Mr. Fokas also filed another meritless action in another lawsuit (Civil Action No. 2015-CP-10-3891) which involves unfounded allegations that Phillip allegedly published defamatory statements about Mr. Fokas, particularly with regard to setting fire to Old Towne Restaurant and filing false insurance claims.[4] Phillip filed an Answer and Counterclaim denying these false allegations. Phillip has also asserted a cause of action for the initiation of frivolous proceedings in both pending actions based on the lack of any evidence to support Mr. Fokas' breach of contract and defamation claims, as both lawsuits were intended to force Phillip to agree to an alleged oral agreement he never agreed to.[5]

---

libeled, slandered and defamed Phillip with ill will and malice by spreading these and other malicious and defamatory statements to third parties in an effort to try to force and coerce Phillip to sign a mortgage and closing documents that Phillip never agreed to.

[3] Indeed, the statute of frauds outright bars Mr. Fokas' claims.

[4] Mr. Fokas' defamation lawsuit is premised on his mother's speculation arising from hearsay.

[5] Mr. Fokas also filed a third meritless lawsuit (Civil Action No.2016-CP-10-3282) against Phillip which was summarily dismissed by an Order of the Court in another matter (Civil Action No. 2015-CP-10-5610).

STANDARD OF REVIEW

"Summary Judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. In determining whether any triable issue of fact exists, the evidence and all inferences which can reasonably be drawn therefrom must be viewed in the light most favorable to the nonmoving party. If triable issues exist, those issues must go to the jury." Miller v. Blumenthal Mills, Inc., 356 S.C. 204, 616 S.E.2d 722 (Ct. App. 2005). "Summary Judgment is appropriate if the pleadings, depositions, answers to interrogatories, and admissions of file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. On appeal from an order granting summary judgment, the appellate court will review all ambiguities, conclusions, and inferences arising in and from the evidence in a light most favorable to the non-moving party below." Id. at 219. "Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. Even when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied. However, when plain, palpable, and indisputable facts exist on which no reasonable minds cannot differ, summary judgment should be granted." Id. at 220.

"The party seeking summary judgment has the burden of clearly establishing the absence of a genuine issue of material fact. Once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings. Rather the nonmoving party must come forward with specific facts showing there is a genuine issue for trial." Id. at 220. (Emphasis added). "In 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." Hancock v. Mid-South Mgmt. Co., 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009). "Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law," Lanham v. Blue Cross & Blue Shield of S.C., 349 S.C. 356, 362, 563 S.E.2d 331, 333 (2002). Moreover, because summary judgment is a drastic remedy, it should be cautiously invoked to ensure a litigant is not improperly deprived of a trial on disputed factual issues. Madison ex rel. Bryant v. Babcock Ctr., Inc., 371 S.C. 123, 134, 638 S.E. 2d 650, 655 (2006). "The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder. Because it is a drastic remedy, summary judgment should be cautiously invoked to ensure that a litigant is not improperly deprived of a trial on disputed factual issues." Id. 220 (Emphasis added).

DEFAMATION JURISPRUDENCE

Under South Carolina law, "[t]he tort of defamation permits a plaintiff to recover for an injury to his reputation caused by the false statements of another." Banks v. St. Matthew Baptist Church, 406 S.C. 156, 161, 750 S.E.2d 605, 607 (2013). To prove defamation, a plaintiff must show "(1) a false and defamatory statement was made; (2) the unprivileged publication was made to a third party; (3) the publisher was at fault; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication." Erickson v. Jones St. Publishers, LLC, 368 S.C. 444, 464, 629 S.E.2d 653, 664 (2006). "A communication is defamatory if it tends to impeach the honesty, integrity, virtue, or reputation...." Hubbard and Felix, The South Carolina Law of Torts 462 (2d ed. 1997).

Further, the affirmative defense of conditional or qualified privilege only exists where a party who publishes defamatory matter concerning another is not liable for the publication if (1)

the matter is published upon an occasion that makes it conditionally privileged, and (2) the privilege is not abused. When one has an interest in the subject matter of a communication, and the person (or persons) to whom it is made has a corresponding interest, every communication honestly made, in order to protect such common interest, is privileged by reason of the occasion. The statement, however, must be such as the occasion warrants, and must be made in good faith to protect the interests of the one who makes it and the persons to whom it is addressed. The question whether the privilege has been abused is one for the jury. Common law actual malice means the defendant acted with ill will toward the plaintiff or acted recklessly or wantonly, meaning with conscious indifference towards the plaintiff's rights. Murray v. Holnam, 344 S.C. 129, 542 S.E.2d 743 (Ct. App. 2001).

"Defamatory communications take two forms: libel and slander." Erickson, 368 S.C. at 466, 629 S.E.2d at 664. "Slander is a spoken defamation while libel is a written defamation or one accomplished by actions or conduct." Id. "[A] statement may be actionable *per se,* in which case the defendant is presumed to have acted with common law malice and the plaintiff is presumed to have suffered general damages." Id. Under the common law, slander is actionable *per se* only when it charges the plaintiff with one of five types of acts or characteristics: (1) commission of a crime of moral turpitude; (2) contraction of a loathsome disease; (3) adultery; (4) unchastity; or (5) unfitness in one's business or profession. Holtzscheiter v. Thomson Newspapers, Inc., 332 S.C. 502, 511 n.5, 506 S.E.2d 497, 502 n.5 (1998). "Or a statement may be not actionable *per se,* in which case nothing is presumed and the plaintiff must plead and prove both common law malice and special damages." Erickson, 368 S.C. at 465, 629 S.E.2d at 664. Common law malice means the defendant acted with ill will toward the plaintiff or acted recklessly or wantonly, *i.e.*, with a conscious disregard of the

plaintiff's rights. Padgett v. Sun News, 278 S.C. 26, 32, 292 S.E.2d 30, 34 (1982). "The determination of whether or not a statement is actionable *per se* is a matter of law for the court to resolve." Erickson, 368 S.C. at 466, 629 S.E.2d at 665.

ARGUMENT

I. MR. FOKAS PUBLISHED DEFAMATORY STATEMENTS TO MULTIPLE THIRD PARTIES CONCERNING PHILLIP.

Phillip has set forth Mr. Fokas' own written communications to third parties and deposition testimony of Mr. Fokas' own mother that clearly set forth that Mr. Fokas did indeed defame Defendant in both unprivileged defamatory statements that are *actionable per se* and in unprivileged defamatory statements that are not *actionable per se*, with ill will and common law malice.

A. Mr. Fokas' *Actionable Per Se* Defamatory Statements

Mr. Fokas made numerous written unprivileged defamatory statements that are *actionable per se* as Mr. Fokas' defamatory statements charged Phillip with an act or characteristic "of unfitness in one's business or profession" and/or "commission of a crime of moral turpitude."

(1) As set forth in Defendant's Exhibit AA of his Counterclaim, and attached hereto as **Exhibit 4**, Mr. Fokas made unprivileged defamatory *actionable per se* statements to third party Jacob (Iakovos) Ferderigos in writing that Phillip is unfit in his business or profession: **"your brothers [Phillip and Spiros Ferderigos] have no business sense and I'm sure we will be butting heads with Greek properties in the future. Very sad!!!"** (Emphasis added).

In addition to being a licensed attorney, Phillip also owns several real estate investment (both residential and commercial) properties in Greece and in South Carolina. To understand the

context of the above statement, Phillip, his brothers, and Mr. Fokas own property that provides rental income in Greece. Indeed, Phillip's business involves commercial and residential real estate investments in Greece that he and his brothers inherited from his father, which Mr. Fokas also inherited from his father. It is in this context wherein Mr. Fokas attacks Phillip's "business sense," defaming Phillip's fitness for such business to his brother/business partner Jacob Ferderigos. As such, Mr. Fokas' libel to Jacob Ferderigos, defaming Phillip's fitness for his business, is actionable per se.

(2) Mr. Fokas further made unprivileged defamatory *actionable per se* statements to third party (Irene Fokas, Defendant's aunt) by informing said third party that Phillip is unfit in his business or profession, See Deposition of Irene Fokas, Page 74, lines 3 – 8, attached hereto as **Exhibit 5**:

> **Q. Okay. So then as a result of what your son Athan told you, do you think that Phillip and Spiros are bad business people?**
>
> **A. Yeah. I tell you this for the second time. I answered this already. We're going to talk about the same things over and over again?**

(3) Plaintiff further made unprivileged defamatory *actionable per se* statements to third party (Jacob Ferderigos) in writing by informing him that Phillip was manipulating him and trying to keep him and his other brother from having more income so that Phillip can keep his brothers (i.e., and his business partners) beneath him:

"There were no demands but we all know this is Phillip talking and exaggerating words as usual." ... "So enough with your ridiculous rhetoric and let Jacob and I take care of business as we always have for the last ten plus years!" ... "I actually now think that you didn't go along with building the new suites so that your brothers would not be able to have more income so that you can keep them below. you. Just like your dad said that Phillip is the King of the family. (Emphasis Added).

See **Exhibit 6**, Text from Mr. Fokas to Jacob Ferderigos.

(4) Plaintiff further made unprivileged defamatory *actionable per se* statements to third party (Irene Fokas) that Phillip accused Mr. Fokas of arson and insurance fraud, [See Section E. of this Memorandum]

B. Plaintiff's Defamatory Statements That Are Not *Actionable Per Se*

In addition to the above *actionable per se* defamatory statements, Mr. Fokas also made numerous unprivileged written and verbal defamatory statements that are not *actionable per se* against Phillip. This includes:

(1) publishing to third parties the false statements that the proposed project being considered was not moving forward because Phillip was not doing what he agreed to do, including (a) Mr. Fokas telling third parties that Mr. Fokas did nothing to delay the proposed project, but that the reason the proposed project did not move forward was because Phillip could not eat for free at the restaurant located on the first floor of 229 King Street, Old Towne Restaurant[6] and (b) telling third parties that the reason the proposed project was not moving forward was because Phillip was jealous that Mr. Fokas had a greater ownership interest in 229 King Street than Phillip and/or Phillip's stubbornness; and

(2) publishing to third parties that Phillip accused Mr. Fokas of willfully setting fire to 229 King Street for insurance proceeds and other insurance fraud.

C. Mr. Fokas' Defamatory Statements That The Reason The Proposed Project Did Not Move Forward Was Because Defendant Could Not Eat For Free at Old Towne Restaurant and Phillip Was To Blame For The Proposed Project Failing

In his Complaint, Mr. Fokas alleges that Phillip breached an alleged contract by (1) "refusing to carry out their obligations to execute the mortgage on the building" and (2) "other parts of the loan documentation." See Complaint ¶ 31 (C/A No. 2015-CP-10-3919). Mr. Fokas

[6] In contrast, the "real" reason the negotiations ceased was Mr. Fokas' "fault," based on his own improper actions and demands.

Complaint details one alleged reason that this Defendant refused to execute a mortgage, "Defendant Philip Ferderigos demanded that Plaintiff execute an agreement whereby specified penalties would be paid in the event payments were not made on the note to the lending bank." Mr. Fokas does not allege, nor even make mention, in his Complaint that the proposed project being explored failed to move forward because Phillip could not eat for free at a restaurant located on the first floor of 229 King Street (Old Towne Restaurant).

Despite this fact, Mr. Fokas threatened to defame Phillip in the community (if he did not execute a mortgage and other loan documents Mr. Fokas had his bank prepare, but which Phillip had rejected and never agreed to) by threatening Phillip, in writing, that Mr. Fokas would publish to the community that a "multimillion dollar deal" did not move forward because Phillip could not "eat for free," adding that he believed everyone would find it "hilarious" and referencing that Phillip was "stupid":

> **Athan Fokas: "I can't wait to spread the word that the suites multimillion dollar project couldn't get done cause Phillip can't eat for free. I'm sure everyone will find it hilarious. I am probably doing you a favor. Smaller waist line. I bet your kids will be real proud of you in the future too. Your dad was right for calling you palabo [means "stupid' in Greek] Philipa."**
>
> See Exhibit T of Defendant's Answer and Counterclaims, also attached hereto as **Exhibit 1.**

Thereafter, Mr. Fokas made true on his threat to defame Phillip in the community as set forth herein:

1. Mr. Fokas terminated the on-going negotiations, not Phillip.

Initially, it is undisputable that, among other reasons, *Mr. Fokas* terminated the second set of negotiations after the parties reached an impasse concerning a side agreement requirement (to protect Phillip's collateral), a mortgage and incorrect loan closing documents Mr. Fokas prepared, which Phillip never agreed to:

11/24/14: Email from Athan Fokas to Ferderigos Brothers stating "I'm not interested in you trying to bully me into signing any type of side agreement that is unnecessary. My attorney, as I said earlier, strongly was against it."

11/24/14: Email response from Phillip Ferderigos to Athan Fokas stating "You are asking me to mortgage my part of Old Towne and you are unwilling to sign an Agreement to say that you will make your payments timely. I believe you have mortgaged your other properties and now you want to mortgage Old Towne. I am not your piggy bank. I will not mortgage my share of Old Towne for you unless you agree to make your payments timely. Unless you change your decision, there is no point in moving forward."

11/24/14: Email response from Athan Fokas to Phillip Ferderigos stating "I am not asking you to do anything. The bank is requiring that all parties sign off on the mortgage. I did secure that you didn't have to personally guarantee the note. Quite [sic] trying to put yourself on a pedestal. If you want me to sign a side agreement that guarantees I will pay the note then you will sign one saying that you will come up with the money needed for construction or you shall suffer similar consequences. If you are intelligent you will already know that the money will be there with the original suites income to pay for the loan. Cut your pompous attitude and either get it done or not..."

11/24/14: Email response from Phillip Ferderigos to Athan Fokas stating "I do not care what your bank is requiring of you to get your loan...that has nothing to do with me. I will not sign off on any mortgage of my share unless you sign an agreement that you will make your payments timely. If you are an intelligent person you will see that I can not and will not agree to mortgage my share of Old Towne if you do not agree to make your payments on time."

11/24/14: Email response from Athan Fokas to Phillip Ferderigos stating "Well then it's done. I'll reverse as much as I can and just right it off as a stupid transaction dealing with Ferderigos Family." (Emphasis added).

See Defendant's Answer and Counterclaim, Exhibit M, attached as **Exhibit 6.**

2. **Mr. Fokas introduced the "eat for free" at Old Towne Restaurant threat into negotiations, not Phillip.**

By 11/24/2014, Mr. Fokas ended negotiations by stating "Well, then it's done. I'll reverse as much as I can and just right [sic] it off as a stupid transaction dealing with Ferderigos Family." Thereafter, angry that Phillip would not mortgage his property for Mr. Fokas' benefit,

for the first time, it was *Mr. Fokas* himself who interjected that the thirty (30) plus year custom of the Ferderigos and Fokas families eating at Old Towne Restaurant for free was to cease immediately.[7]

> **Athan Fokas: "Oh it has been a pleasure to say the least. I'm also done with paying your half of the food you so dearly like to eat at Old Towne weekly on my dime. If you don't pay your portion to me then Jacob will have to. All management will be put on notice."**
>
> See Exhibit S of Defendant's Answer and Counterclaims, also attached hereto as **Exhibit 8.**

This was done in an effort to harass, attempt to coerce and to gain an upper hand in negotiations, and "get back" at Phillip for not giving into Mr. Fokas' inappropriate demands. In other words, Mr. Fokas took such action out of ill will and malice.

> **3. Mr. Fokas threatened to defame Phillip with his false reason for the negotiations falling apart, said fabrication being designed to pressure Phillip into complying with Mr. Fokas' demands or to harm Phillip's reputation.**

When his attempt failed to inappropriately coerce Phillip into giving a mortgage for Mr. Fokas' benefit or signing incorrect loan documents, something Phillip never agreed to do, Mr. Fokas took matters to the next level and viciously threatened to defame and spread defamatory statements to the community that the proposed project being considered failed because Phillip could not eat for free:

> **Athan Fokas: "I can't wait to spread the word that the suites multimillion dollar project couldn't get done cause Phillip can't eat for free. I'm sure everyone will find it hilarious. I am probably doing you a favor. Smaller waist line. I bet your kids will be real proud of you in the future too. Your dad was right for calling you palabo [means "stupid' in Greek] Philipa." (Emphasis Added).**

---

[7] Comparable to the scenes of the movie "Big Fat Greek Wedding," both Ferderigos and Fokas family members had been eating "for free" for decades as they all grew up working in the family business. Mr. Fokas' ill will and contempt were on full display when he then attempted to use such long standing tradition as a bargaining chip in his negotiations. Failing to have its desired effect, it was shortly thereafter that Mr. Fokas concocted the fabrication that the negotiations come to an end when Phillip could not eat "for free" at Old Towne Restaurant. Mr. Fokas' rumor was intended to "defame" Phillip into complying with Mr. Fokas' demands.

See Exhibit T of Defendant's Answer and Counterclaims, also attached hereto as **Exhibit 1.**

Mr. Fokas threat was clearly intended to put pressure on Phillip to comply with Mr. Fokas' demands, otherwise Mr. Fokas threatened to spread his false rumor that the negotiations failed because Phillip could not eat for free at Old Towne Restaurant. Mr. Fokas knew such allegation was false and would injure Phillip's reputation, which is exactly why he threatened Phillip that he would take such action.

4. Mr. Fokas proceeded to defame Phillip.

Thereafter, Mr. Fokas made true on his threat to defame Phillip in the community and defamed Phillip by telling third parties Stavros Ferderigos (Defendants' father), Dr. Fanouris Ferderigos (Defendants' uncle), and Antonia Fokas (Plaintiff's spouse) that the proposed project being considered did not move forward because Phillip could not eat "for free" at Old Towne Restaurant:

> **Athan: "I just spoke to your dad and he doesn't think everyone should eat at Old Towne for free either."** See Exhibit T of Defendant's Answer and Counterclaims, also attached hereto as **Exhibit 9.**
>
> **Athan: "Phillip I expressed your thoughts to uncle Fanouri and for what it's worth he thinks nobody should eat for free and he says it has become childish at this point."** See **Exhibit 10,** attached hereto.
>
> **Athan email to Spiros, Phillip, Jacob Ferderigos and copying third party Antonia Fokas: "If this deal is dead and you guys will not go forward unless you get to eat for free at Old Towne then I would like my expenses paid back to me because I have not delayed this project and we have had two closing's cancelled due to you guys reluctance to move forward ... I also feel that I can receive my attorney fees back due to a breach of contract and there may be ethics violations for Spiro admitting to threatening me by text. I have had trouble sleeping since I have received that text which could be breach or of bad faith dealing between partners. The eating at Old Towne for free was never an agreement between us going forward with the new suites and cannot be brought up now to delay the project ... I have cc'd my wife on this email so that she will be informed of all my conversations because we are life partners." (Emphasis added)** See **Exhibit 11,** attached hereto.

The rumor based on Mr. Fokas' outright lie, that the multi-million dollar deal fell apart because Phillip could not eat for free, was thus "born" by Plaintiff. Although it was Mr. Fokas who abruptly ceased on-going negotiations by insulting Phillip and his family on 11/24/14, Mr. Fokas proceeded to viciously spread his defamatory lie (that the negotiations ceased because Phillip could not eat for free) in order to try to force Phillip to agree to material terms he never agreed to.[8]

5. Thereafter, Mr. Fokas attempted to negotiate with the "eat for free" term as leverage in his on-going negotiation attempts.

After threatening to defame Phillip and then defaming Phillip by spreading rumors that Phillip failed to move forward with the proposed project negotiations because Phillip could not eat for free at Old Towne, Mr. Fokas then attempted to negotiate with the "eat for free" issue as leverage in his on-going negotiation attempts:

> **12/16/14: "As I was running this morning I came up with a proposal. I will agree to let you eat for free if you are out of the note and you put your 350 g's in escrow."**
>
> See **Exhibit 13**, attached hereto.

Based on the above, the entire "eat for free" debacle was a negotiating tactic of Mr. Fokas, which he employed to threaten, and then to defame, and ultimately to negotiate, with Phillip. Further, Mr. Fokas' initial reference to "the community" finding Mr. Fokas' defamation to be "hilarious" reflects his ill will and malice to have Mr. Fokas' defamation negatively impact Phillip's reputation if Phillip failed to comply with Mr. Fokas' demands.

---

[8] To further prove Mr. Fokas' ill will and malice, Mr. Fokas proceeded to threaten threatened to build the new building on Phillip's property without his consent and he threatened that he would take ownership of that new building without Phillip's consent. See Email/Text to Ami Haynes and others attached as **Exhibit 12**, stating "To all parties. Let it be know [sic] that I will be more than happy to acquire an extra 1/6 percentage of this new project to that Phillip Ferderigos does not have to worry about signing as long as I own an extra 1/6th percent of the new project."

D. Mr. Fokas' Defamatory Statements That The Proposed Project Did Not Move Forward Because Phillip Was Jealous Of Him and/or Phillip's Stubbornness

Thereafter, Mr. Fokas further defamed Phillip by publishing defamatory statements to third party Irene Fokas that the reason the proposed project did not move forward was because Phillip was jealous that Mr. Fokas has a larger ownership interest in 229 King Street than Phillip and/or because of Phillip's stubbornness.

Irene Fokas admitted in her deposition that everything she knows about the proposed project being considered at 229 King Street she learned directly from Mr. Fokas, See **Exhibit 14** attached hereto:

> Deposition of Irene Fokas, Page, 64, lines 4-7:
>
> **Q. And Athan is the one that has told you everything you know about the project at 229 King Street; correct?**
>
> **A. Of course.**
>
> Deposition of Irene Fokas, Page 57, lines 12-15:
>
> **Q. But you never spoke with Phillip, Jacob, or Spiros about the proposed building?**
>
> **A. No. I did not speak to them because I knew what was happening**

Irene Fokas admitted in her deposition that Mr. Fokas told her that Phillip was not being asked/required to mortgage his interest in 229 King Street for Mr. Fokas to receive a loan for the proposed project being considered (despite the basis of Mr. Fokas' lawsuit alleging that Phillip did agree to provide such a mortgage), and that the reason the proposed project did not go forward was because Phillip was jealous that Mr. Fokas has a fifty percent ownership interest in 229 King Street, while Phillip only owned a one-third interest in 229 King Street. She also stated Plaintiff told her that the proposed project being considered at 229 King Street did not move forward because of Phillip's stubbornness. See **Exhibit 15** attached hereto:

Deposition of Irene Fokas, Page 51, lines 6 – Page 52, line 11:

Q. And did you know that in order for your son to get that loan, Phillip and Spiros would have to mortgage their interest in 229 King Street for Athan Fokas' loan?

A. I don't believe these things...[t]hey are not starting because the boys have – it's like – stubborn. They're stubborn ... [o]r because the – Athan has half of the – half. They have half. They only have one-third.

Deposition of Irene Fokas, Page 53, lines 20-24:

Q. How did you come to know that Phillip and Spiros said these things?

A. He [Athan] said the stubbornness or the jealousy ...

Again, Mr. Fokas spread false rumors to injure Phillip's reputation and to attempt to "shame" Phillip into compliance of Mr. Fokas' demands.

E. Mr. Fokas' Defamatory Statements to Third Parties That Phillip Accused Mr. Fokas of Willfully Setting Fire to 229 King Street For Insurance Proceeds and Other Insurance Fraud

Irene Fokas admitted in her deposition that Mr. Fokas told her that Phillip was going to accuse Mr. Fokas of filing false insurance claims and setting fire to 229 King Street for insurance proceeds. Irene Fokas admitted in her deposition that Mr. Fokas made these unprivileged defamatory statements to her about Phillip, and that they were either made directly by Mr. Fokas to her or through Mr. Fokas' agent, Stanley Barnett, to her. See **Exhibit 16**, attached hereto:

Deposition of Irene Fokas, Page 46, line 3 – Page 47, line 7:

Q. Okay. Are you aware of any statements that Phillip or Spiros have made to Athan's lawyer?

A. I heard that the guys had told the attorney.

A. That Phillip and Spiros, they're going to accuse Athan for this and this and that.

Q. Does she – do you know what the specifics of the accusations are?

A. For fire, insurance, things like that ...

Q. Who told you these things?

A. Either the attorney or my son.

Accordingly, Plaintiff or his attorney told Irene Fokas that Phillip would accuse Mr. Fokas of arson or insurance fraud and Mr. Fokas sued Phillip for defamation based on his mother's speculation, or rather her repeating to Plaintiff what Plaintiff told her (that Phillip would accuse Mr. Fokas of such things).[9]

F. Further Inquiry is Required of Mr. Fokas' Written Communications to Kevin High, the Property Manager for Old Towne Suites, LLC, where Mr. Fokas (and presumably Mr. High) Have Refused to Comply with Discovery Requests/ Subpoena.

In addition, further inquiry is required from additional third parties, including discovery from Kevin High, the property manager for Old Towne Suites, LLC. It is expected further inquiry into written communications between Plaintiff and Mr. High may reveal additional libelous and defamatory statements of Mr. Fokas concerning Phillip. Kevin High is the property manager of Old Towne Suites, LLC and Defendants have requested a copy of all written communications (texts/emails) between Mr. High and Mr. Fokas concerning Old Towne Suites, LLC and/or concerning the Defendants via requests to produce and a subpoena directly to Mr. High. However, Mr. Fokas has refused to respond to discovery requests and Mr. High has not responded to his subpoena, apparently objecting to providing such documentation via a motion for protective order filed by Mr. Fokas which is currently pending before the Court.

Phillip believes that the written communications between Mr. Fokas and Mr. High may reveal additional libelous statements from Mr. Fokas to Mr. High concerning Phillip. However, based on the objections which have been filed, Phillip has been prevented from obtaining such

[9] Ironically, had Mr. Fokas not defamed Phillip first, then Irene Fokas would not have "speculated" that Phillip would defame her son, Mr. Fokas. Then, Mr. Fokas seized on his mother's speculation to assert a frivolous lawsuit against Phillip for defamation.

documentation. Moreover, Mr. Fokas' objections are meritless as Kevin High is a property manager of Old Towne Suites, LLC and, as a member of the LLC, Phillip is entitled to any and all communications between Mr. High and Mr. Fokas.[10] Accordingly, the objections lodged and the refusal of Mr. Fokas to respond to discovery are in bad faith and additional evidence is expected if Mr. Fokas and Mr. High fully comply with the discovery request and the subpoena.

CONCLUSION

In order to prevail in his Motion for Summary Judgment, Mr. Fokas has the burden of clearly establishing the absence of a genuine issue of material fact and that he is entitled to judgment as a matter of law. In determining whether any triable issue of fact exists, the evidence and all inferences must be viewed in the light most favorable to Phillip. Furthermore, because it is a drastic remedy, summary judgment should be cautiously invoked to ensure that a litigant is not improperly deprived of a trial on disputed factual issues. As set forth above, Mr. Fokas has failed to meet his burden of proof to clearly establish an absence of a genuine issue of material fact. To the contrary, Phillip has proved Mr. Fokas defamed him by Mr. Fokas' own admissions and writings to third parties. Phillip has specifically set forth Mr. Fokas' own written communications to third parties and deposition testimony of Mr. Fokas' own mother which clearly sets forth that Mr. Fokas did indeed defame Phillip with both defamatory statements to third parties that are *actionable per se*, as well as defamatory statements that not *actionable per se*.

---

[10] It appears that Mr. Fokas' counsel has offered to provide selected documents responsive to the request/subpoena that he deems are relevant. Indeed, he seeks to shield any documents that he views as being personal from discovery. Discovery, however, does not work that way and Mr. Fokas is not the arbiter of what he feels is personal and what he feels is business. Rather, Defendants are entitled to all documents responsive to the request/subpoena and for Plaintiff to provide a privilege log concerning any documents where a privilege may exist; thereafter, it is the Court which is the arbiter concerning the validity of any claimed privilege. Plaintiff has not provided any documents or a privilege log in such regard. Also, Phillip has already agreed to a confidentiality order concerning the production of such documents. Accordingly, Mr. Fokas' feigned rationale for failing to respond to discovery is merely a pre-text to avoid producing such documentation.

Based upon the evidence discussed above, Defendant Phillip Ferderigos respectfully asks this Honorable Court to deny Mr. Fokas' Motion For Partial Summary Judgment.

K & L GATES, LLP

BY: _____

Jennifer H. Thiem
234 Meeting Street, Suite 500
Charleston, SC 29401
Phone: 843-579-5619
Fax: 843-579-8819
jennifer.thiem@klgates.com

ATTORNEYS FOR DEFENDANT PHILLIP FERDERIGOS

December 6, 2017
Charleston, South Carolina

(843) 813-5612

I can't wait to spread the word that the suites in Hilton dollar project couldn't get done cause Phillip can't eat for free. I'm sure everyone will find it hilarious. I'm probably doing you a favor. Smaller waist line. I bet your kids will be real proud of you in the future too. Your dad was right for calling you pallabo Phillpa. 4:52 PM

Tuesday, December 16, 2014

(843) 813-5612

As I was running this morning I came up with a proposal. I will agree to let you eat for free if you are out of the note and you put your 850 g's in escrow. This is because you will sign off on the mortgage without needing to. And this will take place as long as my portion of the mortgage is not paid off. If we go the other rout where we split everything 50/50 on the loan then you are signing for your own 16% interest and therefore we are even. 7:18 AM

Wednesday, December 17, 2014

(843) 813-5612

I just spoke to your dad and he doesn't think everyone should eat at Old Towne for free either. 1:45 PM

EXHIBIT

1

FOR A THIRTEENTH AFFIRMATIVE DEFENSE
AND BY WAY OF COUNTERCLAIMS
(Facts)

(53) Athan Fokas is a citizen and resident of Charleston County, South Carolina. The text messages identified as (843) 813-5612 in the attached exhibits are text messages from Athan Fokas.

(54) Phillip Ferderigos is a citizen and resident of Charleston County, South Carolina.

(55) Spiros Ferderigos is a citizen and resident of Charleston County, South Carolina.

(56) Jacob Ferderigos is a citizen and resident of Charleston County, South Carolina.

(57) The father of Jacob Ferderigos, Phillip Ferderigos, and Spiros Ferderigos (hereinafter Ferderigos Brothers) established Old Towne Restaurant in 1972. Old Towne Restaurant is located at 229 King Street. The Parcel ID number for 229 King Street is 4570801063.

(58) Athan Fokas' father joined Ferderigos Brothers' father as a partner resulting in both Ferderigos Brothers' father and Athan Fokas' father each owning a respective fifty (50) percent interest in Old Towne Restaurant. Ferderigos Brothers' father and Athan Fokas' father purchased the real property located at 229 King Street with each receiving a fifty (50) percent respective interest in the real property.

(59) Ferderigos Brothers' father transferred his respective fifty (50) percent interest in the real property located at 229 King Street in equal shares to Ferderigos Brothers. Ferderigos Brothers' father further transferred his fifty (50) percent interest in Old Towne Restaurant to Jacob Ferderigos.

(60) Upon information and belief, Athan Fokas' father transferred his respective fifty (50) percent interest in Old Towne Restaurant and 229 King Street to Athan Fokas.

(61) Accordingly, Jacob Ferderigos and Athan Fokas each own a respective fifty (50) percent interest in Old Towne Restaurant. The Ferderigos Brothers own a combined fifty (50) percent interest in 229 King Street and Athan Fokas owns the remaining fifty (50) percent interest in 229 King Street.

(62) Old Towne Restaurant leases the first floor of 229 King Street from Ferderigos Brothers and Athan Fokas.

(63) In 2009, 229 King Street was burned in a fire. During the restoration period, Ferderigos Brothers and Athan Fokas converted the top two floors (second and third floor) into short term rental units (hereinafter "original rental units").

(64) Ferderigos Brothers and Athan Fokas paid their respective fifty (50) percent of all expenses for the original rental units in cash.

EXHIBIT

(65) Ferderigos Brothers and Athan Fokas did not mortgage 229 King Street for the original rental units.

(66) Ferderigos Brothers and Athan Fokas did not personally guarantee any asset and/or interest(s) for the original rental units (including but not limited to a mortgage).

(67) Ferderigos Brothers did not encumber any of their assets for Athan Fokas and Athan Fokas did not encumber any of his assets for Ferderigos Brothers for the original rental units.

(68) Ferderigos Brothers and Athan Fokas created Old Towne Suites, LLC (hereinafter the LLC) to distribute profits for the original rental units. Ferderigos Brothers own a combined fifty (50) percent interest of the LLC and Athan Fokas owns the remaining fifty (50) percent interest in the LLC. The LLC has no assets.

(69) After the LLC was created and the original rental units constructed, but no later than 2012, Athan Fokas informed one or more of the Ferderigos Brothers that he wanted to explore potentially adding new construction over the existing building at 229 King Street for additional short terms rental units (hereinafter "proposed project").

(70) Athan Fokas approached Phillip Ferderigos and told him that the parties should mortgage 229 King Street for the proposed project. Phillip Ferderigos informed Athan Fokas that he would not mortgage his interest in 229 King Street for the proposed project. Phillip Ferderigos has not had any substantive verbal communication(s) with Athan Fokas regarding the proposed project being explored since Phillip Ferderigos had the aforementioned communication wherein Phillip Ferderigos rejected Athan Fokas' request to encumber his asset(s).

(71) Specifically, the first and last substantive conversation Phillip Ferderigos had with Athan Fokas about the proposed project was when Athan Fokas accosted Phillip Ferderigos at the Hellenic Center trying to convince Phillip Ferderigos that the parties should build a new building. Phillip Ferderigos specifically told Athan Fokas that he would not mortgage or guarantee "anything" for any proposed project and that he intended to pay cash for his portion of the proposed project. Athan Fokas proceeded to call Phillip Ferderigos a "pussy," "ignorant" and a "moron" and stated it was "ridiculous" that Phillip Ferderigos would not mortgage Old Towne for the proposed project. Phillip Ferderigos told Athan Fokas that he did not care what Athan Fokas thought and that he would not mortgage or guarantee "anything." Phillip Ferderigos explained that he was very debt averse and did not want to mortgage 229 King Street because he did not want to accumulate debt for the proposed project. Athan Fokas again said Phillip Ferderigos was being "ridiculous" and then Athan Fokas asked Phillip Ferderigos to sell him his rights to allow Athan Fokas to build the building himself. Phillip Ferderigos rejected Athan Fokas' ridiculous offer and again told Athan Fokas that he would not mortgage 229 King Street but instead would only consider doing a proposed project if he had the cash to do so. After such an unpleasant discussion with Athan Fokas, Phillip Ferderigos

has purposely avoided substantively discussing the proposed project with Athan Fokas and any substantive communications concerning the proposed project thereafter were in writing.

(72) The Ferderigos Brothers were each individually comfortable exploring the possibility of, feasibility of, and exploring their interest in the proposed project; out of a matter of convenience, the Ferderigos Brothers and Athan Fokas paid their respective share of exploration expenses for the proposed project from their respective LLC profits.

(73) Ferderigos Brothers and Athan Fokas began exploring the proposed project in 2012 and by July 2012 were already accruing expenses for the exploration of the proposed project. *See Exhibit A and B.*

a. 08/06/12: First invoice from Tucker Architectural for concept drawings.
b. 12/11/12: Email from Tucker Architectural indicating that the concept drawings for the proposed project were approximately 80 percent complete.
c. 12/20/12: Final invoice from Tucker Architectural for concept drawings.

(74) By December 11, 2012, the architect hired by the parties was approximately eighty (80) percent complete with his concept drawings regarding the proposed project. *See Exhibit B.*

(75) Initially, Athan Fokas informed the Ferderigos Brothers the total cost of the proposed project would be approximately $900,000. *See Exhibit C.*

a. 12/19/12: Email from Athan Fokas stating "the total cost for the project to build will be somewhere between $800,000 and $900,000 with spending about 25,000 per unit to furnish and make them luxury units. I hope we can keep this project somewhere around $900,000."

(76) Athan Fokas and Jacob Ferderigos began searching for a personal loan/loan commitment(s) for themselves in the event the City of Charleston would approve the construction of the proposed project being explored, assuming that the parties could reach an agreement for all material terms to build the proposed project.

(77) On December 19, 2012, Athan Fokas sent an email informing the Ferderigos Brothers that he is attempting to get an approximate $900,000 loan for the proposed project and that he believes all parties should personally guarantee and mortgage their interests in 229 King Street for the attempted loan. *See Exhibit C.*

a. 12/19/12: Email from Athan Fokas stating "I hope we can keep this project somewhere around $900,000." "Our equity in Old Towne is somewhere between 5 and 10 million dollars. Many banks these days won't touch anything in the hospitality industry so it is no guaranteed that they will lend us the money. The note on the property should be somewhere in the neighborhood of $4000.00 a

month if they let us carry the note for 30 years. If it is a 15 to 20 year note then the payments will be between $6000.00 and $8000.00 a month." "I'm only going to send information to banks that are very interested in doing the deal. I plan to give them Old Towne tax returns, Old Towne Suites income, and our personal financial statements. Phillip asked if he would be personally guaranteeing the loan. Of course every loan out there wants the people taking out the loan to personally guarantee it. The loan is less than 20 percent of our total value and we have the income from our current suites that could easily pay the note so it's a no brainer. Let me know your thoughts."

(78) Spiros Ferderigos immediately responded, in writing, to Athan Fokas that he would not personally guarantee anyone else's loan or incur additional debts to accomplish the proposed project. Spiros Ferderigos stated that, if the proposed project moved forward, it would need to be in the same manner as the original rental units without Spiros Ferderigos accumulating debt, that Spiros Ferderigos anticipated paying cash for his share of the proposed project if the parties could reach an agreement, and that the cost of construction needed to be addressed. *See Exhibit D.*

a. 12/19/12: Spiros Ferderigos email response to Athan Fokas stating "Assuming all that pans out, there will be a continuing issue on how we finance. If the bank is looking for me (and I assume this goes for Phillip as well but I will let him speak for himself) to personally guarantee a loan I am not going to do it. There is to much that can go wrong with a personal guarantee. I am confident that Phillip, Jacob and I will be able to come up with our end of the amount needed and we can move forward without accumulating debt as we did for the first round of units." "The question is how do we get there, will it be by personally guaranteeing loans that could be catastrophic to our individual families or each individual raising the necessary funds and doing it without a million dollars in debt so we can greatly limit liability. I for one already have plenty of money sitting in a bank account for my share of the additional units." (Emphasis added).

(79) Upon information and belief, Spiros Ferderigos has never spoken verbally with Athan Fokas about the proposed project being explored. All communications between Spiros Ferderigos and Athan Fokas regarding the proposed project have been in writing.

(80) Athan Fokas and Jacob Ferderigos attempted several times to receive a personal loan/loan commitment(s) for the proposed project from numerous banks to no avail. *See Exhibit C.*

a. 12/19/12: Email from Athan Fokas stating "With that said I don't even know if the bank will lend us the money. First Citizens said they are not allowed to touch the hospitality industry. BB&T is 50/50 and will let me know if they are interested in a couple of days. South Carolina Bank and Trust seems very interested according to their President but will have to see our current income to make sure the numbers work. I'm meeting with Suntrust tomorrow but I think they will be a long shot."

(81) In January 2013, Athan Fokas made initial contact with his South Coast Bank loan officer seeking a loan/loan commitment. *See Exhibit E.* South Coast Bank is the lending bank Athan Fokas refers to in his Complaint.

a. 01/11/13: Email from Jeffrey Odom (South Coast Bank loan officer) to Athan Fokas stating "It was a pleasure meeting you yesterday afternoon. I just received your fax so it looks like it went through. I have also received your emails with the attached financial information. Thank you for getting everything to us so quickly. We will get to work and will be in touch shortly."

(82) Phillip Ferderigos and Spiros Ferderigos were not involved in Athan Fokas' and Jacob Ferderigos' attempts to get a personal loan/loan commitment(s) and did not provide any financial information or make any assurances to the bank(s) for the loan Athan Fokas and Jacob Ferderigos were seeking. Furthermore, any prior loan/loan commitment(s) obtained by Athan Fokas and Jacob Ferderigos was for a personal loan between them only and to be personally guaranteed by Athan Fokas and Jacob Ferderigos only. *See Exhibit F.*

a. 06/17/14: Email correspondence between Spiros Ferderigos and Athan Ferderigos wherein Spiros Ferderigos asks Athan Fokas and Jacob Ferderigos "The loan pre-approval that you guys have for the suites...are ya'll going to have to personally guarantee the loan?" Athan Fokas responds "We are pre approved, and since we personally asked for the loan yes we are personally guaranteeing it."

(83) Unknown to Phillip and Spiros Ferderigos at the time, Athan Fokas and Jacob Ferderigos secured a personal loan commitment for themselves from South Coast Bank on February 5, 2013. The loan commitment was for a one million dollar personal loan to Athan Fokas and Jacob Ferderigos in which Athan Fokas and Jacob Ferderigos would provide a mortgage for their interest(s) in 229 King Street, their interest(s) in the LLC, and an assignment of their rents and leases, in addition to other interest(s) of Athan Fokas and Jacob Ferderigos. The loan commitment expired February 15, 2013. *See Exhibit G.*

(84) The February 5, 2013, loan commitment secured by Athan Fokas and Jacob Ferderigos for their personal loan (which was unknown to Phillip and Spiros Ferderigos at the time) was not sufficient for the proposed project being explored as the costs of the proposed project continued to increase as a result of the proposed plans being repeatedly rejected by the relevant governmental agency.

(85) Accordingly, Athan Fokas had to keep seeking approval for a new personal loan/loan commitment(s) from South Coast Bank that would be sufficient for the ever growing costs of the proposed project being explored.

(86) Athan Fokas did not inform Phillip and Spiros Ferderigos that the approximate cost for the proposed project being explored increased from approximately $900,000 to approximately $2,000,000 until September 9, 2014. *See Exhibit H.*

a. 09/09/14: Email from Athan Fokas to Ferderigos Brothers stating "It looks like our new project of six more units will cost us around two million to build."

(87) Accordingly, based upon information provided by Athan Fokas, Phillip and Spiros Ferderigos were paying expenses toward exploring the potential proposed project from as early as December 2012 through September 9, 2014, under the incorrect information provided by Athan Fokas that the approximate cost of the proposed project was $900,000, not double that amount of approximately $2,000,000.

a. 12/19/12: Email from Athan Fokas stated "the total cost for the project to build will be somewhere between $800,000 and $900,000 with spending about 25,000 per unit to furnish and make them luxury units. I hope we can keep this project somewhere around $900,000." *See Exhibit C.*
b. 09/09/14: Email from Athan Fokas to Ferderigos Brothers stating "It looks like our new project of six more units will cost us around two million to build." *See Exhibit H.*

(88) Athan Fokas did not receive approval of his $1,800,000 personal loan and did not receive the details for his personal loan for the proposed project from his banker until September 2014. *See Exhibit I.*

a. 09/19/14: Text from Athan Fokas to Ferderigos Brothers stating "Good news! We are approved for 1.8 million." Spiros Ferderigos responds "can you email us the details of the loan sometime this weekend if you have a chance?" Athan Fokas responds "The banker just called me. I won't have the details till next week." (Emphasis added).

(89) On September 24, 2014, Athan Fokas, either intentionally and/or negligently, incorrectly informed the Ferderigos Brothers that his loan terms were for a fixed 5% interest rate for 20 years, the life of the alleged loan. When Athan Fokas subsequently became aware that he was incorrect about his loan terms, Athan Fokas attempted to get his banker to change the terms to what Athan Fokas believed he had. Athan Fokas' attempts to change his loan terms were rejected by his banker. Athan Fokas response to Phillip Ferderigos when he was unable to get his banker to change his loan terms to what Athan Fokas believed he had was "Well at least I tried." *See Exhibit J.*

a. 09/24/14: Athan Fokas email to Ferderigos Brothers stating " Well I don't know how I managed to sweet talk our banker into getting rid of the five year balloons and fixing it at 5% for the life of the loan which is unheard of in the current banking industry."
b. 09/25/14: Athan Fokas email to Jeffery Odom (South Coast Bank loan officer) asking his loan officer in regards to his loan terms "Can it say: 12 monthly payments of interest only followed by 239 consecutive monthly payments...so that it is truly a 20 years note. Just want to make sure that the note continues after 5 years."

c. 09/25/14: Jeffery Odom's response to Athan Fokas that "the note will be 12 months of interest only followed by 5 years of principal, interest, and escrow payments and then a balloon maturity, with monthly payments based on a 20 year schedule. That is what you wanted and that is the same thing we are doing on your North Towne deal."
d. 09/25/14: Athan Fokas forwards Jeff Odom's email to Phillip Ferderigos and in response tells Phillip Ferderigos "Well at least I tried."

(90) The City of Charleston did not approve the proposed plans for the proposed project being explored until October 2014 and Athan Fokas informed the Ferderigos Brothers on October 10, 2014, that the permit for the proposed project being explored, was approved. *See Exhibit K,*

(91) From 2012 to October 2014, the estimated costs of the proposed project increased from less than a million dollars to over two million dollars.

(92) When the city approved the proposed plans for the proposed project, Athan Fokas unilaterally scheduled a closing for what was to be Athan Fokas' and Jacob Ferderigos' personal loan. Jacob, Phillip, and Spiros Ferderigos were not informed nor involved in the scheduling of the closing date and were not informed of the closing date until after it had been scheduled by Athan Fokas.

(93) Upon information and belief, a few days prior to the closing for Athan Fokas' and Jacob Ferderigos' personal loan, Athan Fokas contacted Jacob Ferderigos and informed him that Phillip and Spiros Ferderigos would need to be present at the closing to mortgage their interests in 229 King Street for the loan. Jacob Ferderigos informed Athan Fokas that Phillip and Spiros Ferderigos never agreed to personally mortgage their interests in 229 King Street and that such a mortgage was outright rejected and never considered for the proposed project. Jacob Ferderigos further informed Athan Fokas that he did not believe Phillip and Spiros Ferderigos would agree to Athan Fokas' new material demand that they mortgage their interests in 229 King Street.

(94) Jacob Ferderigos informed Phillip and Spiros Ferderigos that Athan Fokas had scheduled a closing to be held in a few days and that Athan Fokas was demanding that Phillip and Spiros Ferderigos mortgage their interests in 229 King Street for Athan Fokas' and Jacob Ferderigos' personal loan.

(95) Upon being informed of this new demand, Spiros Ferderigos communicated with all parties in writing that he never agreed to mortgage his interest in 229 King Street for Athan Fokas' and Jacob Ferderigos' personal loan, however, he would consider mortgaging his interest in 229 King Street for Athan Fokas' and Jacob Ferderigos' personal loan so long as Athan Fokas signed a side/ancillary agreement that Spiros Ferderigos believed was sufficient to protect his financial asset, assuming that all closing documents were correct.

(96) Phillip Ferderigos also informed Athan Fokas that, although he never agreed to mortgage his interest in 229 King Street, he would consider doing so if Athan Fokas, Jacob Ferderigos, and Spiros Ferderigos signed a side agreement that Phillip Ferderigos believed was sufficient to protect his financial asset, assuming that all closing documents were correct.

(97) Spiros Ferderigos further informed Athan Fokas, Jacob Ferderigos, and Phillip Ferderigos that the closing date scheduled by Athan Fokas without Spiros Ferderigos' input was not convenient for Spiros Ferderigos and that the closing would have to be scheduled for a later date.

(98) Athan Fokas scheduled a second closing date for November 21, 2014. The Ferderigos Brothers were prepared to attend the closing with Phillip and Spiros Ferderigos willing to mortgage their interests in 229 King Street so long as Athan Fokas agreed to and signed the side agreement prepared by Phillip and Spiros Ferderigos, assuming that all closing documents were correct. *See Exhibit L.*

a. 11/21/14: Text chain correspondence between Athan Fokas and Phillip/Spiros Ferderigos the date of the second scheduled closing – Phillip: "if the closing is going to happen today, I need to have it as late in the day as possible...If there any issues, let's just kick it the next week," Athan: "They scheduled if for 3:00 pm today. Will that work?" Phillip: "Should work for me, ask the lawyer to email me the HUD/settlement statement and all paperwork beforehand and I can review it and we can go through the closing more quickly..." Spiros: "From my end, we need to have the agreement signed and a copy of the closing docs to review beforehand. I want to make sure I know what I am signing. So agreement needs to be done and hud/settlement statement like Phillip said. I will block off 3 pm. Where is the closing?" "Once we get the green light on the agreement and the closing docs are reviewed/accurate (which I don't see a reason why they wouldn't be) then we can move forward this afternoon. If there are any issues with the agreement, ect then we will need to revisit everything at a later time."

(99) Athan Fokas, however, refused to agree to and never agreed to or signed the written side agreement necessary for Phillip and Spiros Ferderigos to mortgage their interests in 229 King Street. *See Exhibit M.*

a. 11/24/14: Email from Athan Fokas to Ferderigos Brothers stating "I'm not interested in you trying to bully me into signing any type of side agreement that is unnecessary. My attorney, as I said earlier, strongly was against it."
b. 11/24/14: Email response from Phillip Ferderigos to Athan Fokas stating "You are asking me to mortgage my part of Old Towne and you are unwilling to sign an Agreement to say that you will make your payments timely. I believe you have mortgaged your other properties and now you want to mortgage Old Towne. I am not your piggy bank. I will not mortgage my share of Old Towne for you unless you agree to make your payments timely. Unless you change your decision, there is no point in moving forward.".

c. 11/24/14: Email response from Athan Fokas to Phillip Ferderigos stating "If you want me to sign a side agreement that guarantees I will pay the note then you will sign one saying that you will come up with the money needed for construction or you shall suffer similar consequences."
d. 11/24/14: Email response from Phillip Ferderigos to Athan Fokas stating "I do not care what your bank is requiring of you to get your loan...that has nothing to do with me. I will not sign off on any mortgage of my share unless you sign an agreement that you will make your payments timely. If you are an intelligent person you will see that I can not and will not agree to mortgage my share of Old Towne if you do not agree to make your payments on time."
e. 11/24/14: Email response from Athan Fokas to Phillip Ferderigos stating "Well then it's done. I'll reverse as much as I can and just right it off as a stupid transaction dealing with Ferderigos Family."

(100) Furthermore, when the Ferderigos Brothers and Athan Fokas received the proposed closing documents to review just a few hours prior to the second closing, the closing documents included requirements that were never discussed and never agreed upon by Phillip and Spiros Ferderigos. *Exhibit N (closing documents).*

(101) The closing documents were incorrect in many ways by including provisions never agreed to or even discussed by the parties. Despite Athan Fokas' Complaint admitting that Phillip and Spiros Ferderigos never agreed to personally guarantee Athan Fokas' and Jacob Ferderigos' loan, the closing documents included terms that would expose Phillip and Spiros Ferderigos to personal liability such as (1) Phillip and Spiros Ferderigos signing their interests in the LLC as the borrower of the note (Athan Fokas' closing attorney admitted in writing that this could make Phillip and Spiros Ferderigos personally liable if the corporate veil were to be pierced and Athan Fokas admitted in an email that only Athan Fokas and Jacob Ferderigos were supposed to sign their individual memberships interests for the loan), (2) Phillip and Spiros Ferderigos signing a hypothecation agreement, (3) Phillip and Spiros Ferderigos assigning their rent profits for the benefit of the lending bank, (4) Phillip and Spiros Ferderigos personally signing the HUD Statement in their individual capacities, (5) Phillip and Spiros Ferderigos mortgaging their interests in 229 King Street, (6) Phillip and Spiros Ferderigos signing an agreement to provide insurance in their individual capacities, (7) Phillip and Spiros Ferderigos signing a UCC Financing Statement/Addendum in their individual capacities, and (8) Phillip and Spiros signing their interests in the LLC for a construction loan agreement, guaranty of completion and performance agreement, commercial security agreement, hazardous substances certificate and indemnity agreement, agreement to provide insurance; and UCC Financing Statement/Addendum, amongst other provisions. *See Exhibit N and O.*

a. 11/21/14: Email of Amy Haines (closing attorney) stating "Nothing in the documents I have makes you personally liable for the debt ... assuming the llc corporate veil could not be pierced for some reason." *See Exhibit O.*

b. 11/21/14: Email from Athan Fokas to Ferderigos Brothers stating "The bottom line is that the Old Towne Suites LLC on the note, that only Jacob and I are signing on as members, ..." *See Exhibit O.*

(102) Accordingly, the closing was canceled as Athan Fokas refused to agree to the terms of the side agreement and the closing documents included requirements never agreed to. *See Exhibit P.*

a. 11/21/14: Email from Phillip Ferderigos stating "It is clear that the bank has not been advised how to do the particulars correctly and this can not be rushed. Closing is off for today. If the docs can be fixed and all side agreements agreed to, then we can re-visit at that time."

(103) Later in the afternoon on the same date the second closing was cancelled, Athan Fokas informed the Ferderigos Brothers *for the first time* that he will be receiving approximately 2.7 million dollars on April 1, 2014, and that he intends to pay off his mortgage obligations at that time if Phillip and Spiros Ferderigos mortgage their interests in 229 King Street for his loan. *See Exhibit Q.*

a. 11/21/14: Email from Athan Fokas to Ferderigos Brothers stating "On April 1, I'm getting paid 3.5 million for a transaction I created long ago in which I have less then $800,000 invested in. I then plan to pay off my debt in full."

(104) Given this new material information, Phillip and Spiros Ferderigos communicated to Athan Fokas that they would like to consider Athan Fokas, Phillip Ferderigos, and Spiros Ferderigos paying cash for their portion of the proposed project. Athan Fokas refused to move forward unless Phillip and Spiros Ferderigos agreed to mortgage 229 King Street and sign the incorrect closing documents. *See Exhibit R.*

a. 11/21/14: Email correspondence between Athan Fokas and Phillip/Spiros Ferderigos Brothers – Phillip: "If you're coming into all the money, why don't we just move forward in April and we don't even need this loan at all." Spiros: "That's a great idea." Athan: "I'm not interested on funding anything more than my percentage as I have big plans for the rest. The bank will not just hang around for 8 months." Phillip: "Forget your bank, I have my bank...I think we should be fine, I like the idea...Athan, what do you say?" Spiros: "Sounds like a win for everyone. You would not be on any loan at all. Just paying your percentage. I think we should explore this before moving forward on a huge loan." Phillip: "I agree this is certainly something we should explore." Spiros: "Why risk that huge loan if we don't have to?" Phillip: "Spiro, you are making a lot of sense, Athan, what do you think?" Athan: "I'm at a swanky dinner now and half drunk but by then I will be n the money and not interested in an ventures but my own. I'm also working on a deal where I get 25% of $100,000,000.00 for just being an expert consultant. I hang out with the ultra wealthy now and play their games."

(105) Athan Fokas rejected moving forward without the parties incurring millions of dollars in debt despite Phillip and Spiros Ferderigos maintaining since 2012 that they were unwilling to accumulate debt for the proposed project being explored and despite Athan Fokas' new revelation confirming that accumulating debt in the form of a multi-million dollar mortgage was unnecessary since Athan Fokas will be receiving 2.7 million dollars in cash (this is nearly three times Athan Fokas' portion of costs for the proposed project).

(106) On November 24, 2014, after the parties yet again reached an impasse on negotiations for the proposed project being explored, Athan Fokas emailed the Ferderigos Brothers that the thirty (30) plus year custom of the Ferderigos and Fokas families eating at Old Towne Restaurant for free was to cease immediately. *See Exhibit S.*

a. 11/24/14: Email from Athan Fokas to Ferderigos Brothers stating "Oh it has been a pleasure to say the least. I'm also done with paying your half of the food you so dearly like to eat at Old Towne weekly on my dime. If you don't pay your portion to me then Jacob will have to. All management will be put on notice."

(107) This is despite the fact that it has been the custom for the Ferderigos and Fokas families to eat for free at Old Towne Restaurant since the 1970's when Athan Fokas' and the Ferderigos Brothers' parents became partners in the restaurant. Upon information and belief, Athan Fokas changed the aforementioned custom for the purpose of harassing, humiliating, and attempting to coerce and gain an upper hand in negotiations against Ferderigos Brothers.

(108) Athan Fokas then took things even a step further and texted Phillip Ferderigos that he can't wait to spread malicious rumors/defame him around the community by stating that a multimillion dollar project couldn't get done because Phillip Ferderigos couldn't eat for free at Old Towne Restaurant and that he is sure everyone will find it "hilarious." He further went on to insult Phillip Ferderigos' weight, made an inappropriate comment about Phillip Ferderigos as a father and called Phillip Ferderigos "palabo" which means "stupid" in Greek. *See Exhibit T.*

a. 12/15/14: Text message from Athan Fokas to Ferderigos Brothers referring to Phillip Ferderigos stating "I can't wait to spread the word that the suites multimillion dollar project couldn't get done cause Phillip can't eat for free. I'm sure everyone will find it hilarious. I'm probably doing you a favor. Smaller waist line. I bet your kids will be real proud of you in the future too. Your dad was right for calling you palabo [stupid] Philipa."

(109) Athan Fokas is the individual who terminated negotiations with Ferderigos Brothers and said he was no longer willing to move forward with exploring the proposed project. *See Exhibit U.*

a. 11/24/14: Email from Athan Fokas to Ferderigos Brothers stating "I am interested in doing this deal now and will not do it later."

b. 11/24/14: Email from Athan Fokas to Ferderigos Brothers stating "Well then it's done. I'll reverse as much as I can and just right it off as a stupid transaction dealing with the Ferderigos Family.".

(110) Athan Fokas has also repeatedly released, in writing, the Ferderigos Brothers from any alleged agreement he claims the parties reached regarding the proposed project being explored. *See Exhibit V.*

a. 10/21/14: Text from Athan Fokas to Ferderigos Brothers stating "I would rather leave it in your hands now and keep me in the loop if and when you all are ready." "It's in your court now. I could care less. My Zeus deal is bringing in plenty to keep my family happy."
b. 11/21/14: Email from Athan Fokas to Ferderigos Brothers stating "Think about the big picture talk to the bank yourselves and get things done if you like."
c. 11/21/14: Email from Athan Fokas to Ferderigos Brothers stating "I think it's best to think of the big picture of this new project which will put us in a boutique hotel category and forget about stupid details that carry no wait in the big picture." "In the end the building is what the bank wants and none of these side agreements really matter. I suggest you forget your agreement and I will forget mine and we move forward on a very profitable venture and get it done the way the bank allows."
d. 11/24/14: Email from Athan Fokas to Ferderigos Brothers stating "Are ya'll contacting the bank, my attorney, and the closing attorney or are we just forgetting about it?"
e. 11/24/14: Email from Athan Fokas to Ferderigos Brothers stating "If you are intelligent you will already know that the money will be there with the original suites income to pay for the loan. Cut your pompous attitude and either get it done or not."
f. 11/24/14: Email from Athan Fokas to Ferderigos Brothers stating "Well then it's done. I'll reverse as much as I can and just right it off as a stupid transaction dealing with the Ferderigos Family."
g. 12/15/14: Text from Athan Fokas to Ferderigos Brothers stating "We can discuss all options when we meet and hopefully come to a mutual agreement."

(111) Athan has further repeatedly exonerated Jacob Ferderigos from any liability, alleged agreement, or any wrongdoing regarding this lawsuit by declaring that Jacob Ferderigos is the only "innocent person" in all of this and that he will keep Jacob Ferderigos out of the lawsuit. *See Exhibit W.*

a. 11/26/14: Email from Athan Fokas to Ferderigos Brothers stating "Actually this entire deal has put such a bad taste that I dislike seeing you guys in public. Except Jacob of course. He is the only innocent one in this."
b. 04/24/15: Text from Athan Fokas to Jacob Ferderigos stating "We figured out a way to keep you out the law suit."

(112) After the second closing was cancelled, Phillip Ferderigos and Spiros Ferderigos were made aware that the final costs for the proposed project were still unknown at the time of the second closing. *See Exhibit X* (the parties did not know the costs for the windows and/or sprinkler costs for windows).

a. 04/24/15: Text from Athan Fokas to Jacob Ferderigos stating "This number does not include windows over allowance. The allowance was 55k and we still need to determine if glass is fire rated or if sprinklers can cover."

(113) In addition, after the second closing was cancelled, the Ferderigos Brothers became aware for the first time that Athan Fokas entered into a written agreement with the contractor to build the proposed project being explored on October 15, 2014, without their knowledge or consent. *See Exhibit Y.*

(114) Athan Fokas, entered into this agreement with the contractor (Kevin Carroll) without the prior consent or knowledge of the Ferderigos Brothers to enter into an agreement with the contractor, did not provide a copy of the agreement and/or its terms to the Ferderigos Brothers before or after signing the agreement, and signed on behalf of Jacob Ferderigos without his consent.

(115) Upon information and belief, Athan Fokas has further defamed Phillip and Spiros Ferderigos by informing a third party that the proposed project being explored was terminated because Phillip and Spiros Ferderigos were not willing to provide a mortgage for Jacob Ferderigos' portion of the proposed project and that Athan Fokas was not seeking Phillip and Spiros Ferderigos to mortgage Athan Fokas' portion of the proposed project.

(116) Upon information and belief, Athan Fokas for months continued to contact and tell the contractor (Kevin Carroll) that the proposed project was moving forward as planned despite being told by the Ferderigos Brothers that the proposed project being explored would not move forward.

(117) Although Phillip and Spiros Ferderigos have continued to ask Athan Fokas to stop harassing them with his ongoing emails, Athan Fokas has continued to send numerous emails to Phillip and/or Spiros Ferderigos in an effort to coerce them into agreeing to mortgage their interest(s) in 229 King Street and sign the incorrect closing documents, including sending emails threatening litigation in an effort to coerce Phillip and Spiros Ferderigos to give into his demands. This includes one email in which he specifically mentions that his lawsuits are not costing him anything because his attorney has taken on his case as a contingency fee. Upon information and belief, all of these emails have been sent to Phillip and Spiros Ferderigos in an effort to obtain an upper hand in negotiations and to wrongfully coerce Phillip and Spiros Ferderigos to succumb to Athan Fokas' rejected and/or non-agreed upon demands.

(118) Upon information and belief, Athan Fokas informed Jacob Ferderigos that he is going to file a lawsuit against Phillip and Spiros Ferderigos only if it does not cost him

anything, and that he is going to take Phillip and Spiros' homes from them and they will be out on the street. Upon information and belief, Athan Fokas sent such communications to be relayed to Phillip and Spiros Ferderigos in bad faith and in an effort to obtain an upper hand in negotiations and to wrongfully coerce Phillip and Spiros Ferderigos to succumb to Athan Fokas' rejected and/or non-agreed upon demands.

(119) On July 14, 2015, Athan Fokas filed a defamation lawsuit against Phillip and Spiros Ferderigos based upon information Athan Fokas alleges he received from his mother (Irene Fokas). Specifically, Athan Fokas' defamation lawsuit alleges that Phillip and Spiros Ferderigos told their father (Stavros Ferderigos), who repeated to Athan Fokas' mother (Irene Fokas), that Athan Fokas hired someone to set fire to 229 King Street and that Athan Fokas has filed a false insurance claim(s). Irene Fokas allegedly confronted Athan Fokas about these allegations.

(120) Athan Fokas knowingly and willfully filed the defamation lawsuit knowing that there was absolutely no basis for the lawsuit and knowing that his mother (Irene Fokas) never told Athan Fokas the information he alleges in the Complaint.

(121) On August 18, 2015, Athan Fokas' mother (Irene Fokas) admitted that she never discussed the topics of Athan Fokas being involved in the 229 King Street fire and/or false insurance claim(s) with Defendants' father. *See Exhibit Z.*

a. August 21, 2015 email from Fanouris Ferderigos (Irene Fokas' brother) to Stan Barnett (Athan Fokas' attorney): "This letter is to make you aware that on August 18, 2015 my sister, Irene Fokas, adamantly denied to me in person that Stavros Ferderigos ever told her anything about the allegations set forth above from your Complaint and that she has never even discussed with Stavros Ferderigos the topics of Athan Fokas being involved, directly or indirectly, with the fire at 229 King Street and/or anything to do with any of Athan Fokas' insurance claims. Irene Fokas further told me that she would testify under oath that she never was told about these allegations by Stavros Ferderigos in any way whatsoever."

(122) Upon information and belief, Irene Fokas never told Athan Fokas that Phillip and/or Spiros Ferderigos were the source of the information alleged in Athan Fokas' defamation lawsuit against Phillip and Spiros Ferderigos.

(123) Upon information and belief, Athan Fokas has, without approval/permission of Jacob, Phillip, and/or Spiros Ferderigos, used 229 King Street for his own personal catering business and to store inventory for his own personal catering business and/or other side projects. Athan Fokas has done so for his own pecuniary gain and to the detriment of Jacob, Phillip, and/or Spiros Ferderigos, who have not received notice of these activities and/or any rent or other payments for Athan Fokas' unauthorized use of 229 King Street.

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	IN THE COURT OF COMMON PLEAS NINTH JUDICIAL CIRCUIT CIVIL ACTION NO.: 2015-CP-10-3919
ATHAN FOKAS, Plaintiff, v. PHILIP FERDERIGOS, JACOB FERDERIGOS, and SPIROS FERDERIGOS, Defendants.	**NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT ON BEHALF OF DEFENDANT PHILLIP FERDERIGOS**

TO: STAN BARNETT, ATTORNEY FOR THE PLAINTIFF

YOU WILL PLEASE TAKE NOTICE THAT the Defendant, PHILLIP FERDERIGOS (hereinafter referred to as "Phillip"), by and through his undersigned counsel, will hereby move before this Honorable Court, in the Charleston County Courthouse on the tenth (10th) day after service hereof, or at such other time and location as determined by the Court, for an Order granting summary judgment as to all causes of action in his favor.

This Honorable Court should grant summary judgment because no genuine issue of material fact exists and Phillip moves for summary judgment for the following reasons: there is no genuine issue of material fact that (1) the material terms Plaintiff alleges were not known at the time the Plaintiff alleges the parties entered into any "agreement"; (2) the material terms Plaintiff alleges were not agreed upon by Phillip; (3) there was no "meeting of the minds" necessary to form a binding agreement and/or no "meeting of the minds" of what constituted the material terms of any alleged agreement; (4) there is no signed written agreement between the Plaintiff and Phillip concerning the material terms of any alleged agreement the Plaintiff alleges; (5) the Plaintiff's claims are barred by the Statute of Frauds; (6) South Carolina does not

EXHIBIT 5

recognize "agreements to agree," and Phillip did not agree to an agreement to agree; and (7) there was no binding agreement as Plaintiff repeatedly released Defendants in writing from any alleged agreement and informed Defendants that he himself [Plaintiff] could abandon any alleged agreement.

Here, essentially, all parties agree that Plaintiff and Defendants were exploring the possibility of building a new building at 229 King Street. All parties agree that the parties spent money investigating the proposed project, including paying their respective share of fees for engineering, architectural work, planning and zoning approval, and design work for the proposed project. However, when negotiations of material terms came to an impasse (concerning material terms of the proposed project itself, as well as terms of financing the proposed project), Plaintiff threatened and subsequently filed this present lawsuit, which Phillip asserts is simply a meritless action[1] designed to force him to agree to material terms he had, has, and continues to resoundingly reject.

Specifically, from 2012 to October 17, 2014, the parties were exploring the possibility of building a new building at 229 King Street (a property which the Plaintiff and Defendants own as tenants in common). Plaintiff and Defendant Jacob Ferderigos were supposed to get a personal loan for the proposed project, but Defendant Spiros Ferderigos and Phillip would bring their own cash to the transaction if it were to occur. Importantly, during this time period, Defendant Spiros Ferderigos and Phillip never agreed and specifically rejected providing any guarantees, mortgages, encumbering their interests, or incurring any debt in regard to the proposed project.

After the issuance of a permit, on or about October 17, 2014, Plaintiff told Defendant Jacob Ferderigos that his brothers (Phillip and Spiros) had to sign a mortgage concerning their

[1] For example, Plaintiff himself subsequently sent written emails/texts advising that his attorney is not costing him anything and Defendants need to agree to his terms or he would continue to force Defendants to spend money on attorneys' fees defending the case.

interests in 229 King Street for the proposed project. As such, Plaintiff demanded that Defendants Spiros Ferderigos and Phillip encumber their interest in 229 King Street for the proposed project. This demand had been previously rejected by Defendant Spiros Ferderigos and Phillip.

Although both Defendants Spiros and Phillip Ferderigos had outright rejected such demand previously; from October 17, 2014 until the filing of Plaintiff's Complaint, Defendants Spiros Ferderigos and Phillip attempted to negotiate material terms to potentially move forward with the proposed project, including a Side Agreement/Ancillary Contract which would protect their respective collateral if Plaintiff were to default on any loan obligations, IF Phillip were to sign a mortgage for Plaintiff to get his loan. As to Phillip, Plaintiff refused to agree to the Side Agreement terms and placed even more terms upon Phillip, which Phillip summarily rejected. Further, aside from Phillip negotiating the possibility of signing a mortgage for the proposed project, Plaintiff subsequently demanded that Phillip sign, in his individual capacity, additional documents with material terms which Phillip never agreed to, including, but not limited to: (1) a mortgage for Phillip's interest in 229 King Street, (2) an assignment of rents, (3) a hypothecation agreement, (4) a HUD Statement, (5) an agreement to provide insurance, and (6) a UCC Financing Statement/Addendum. Plaintiff's incorrect and non-agreed upon closing documents also required Phillip to assign his interests *as a member of the LLC* for (1) the Note as the Borrower for Plaintiff's loan, (2) an assignment of rents for a construction loan agreement, (3) a guaranty of completion and performance agreement, (4) a commercial security agreement, (5) a hazardous substances certificate and indemnity agreement, (6) an agreement to provide insurance, and (7) a UCC Financing Statement/Addendum. See Par. 101 of Phillip's Answer & Counterclaim.

Finally, thereafter, Plaintiff threatened to build the building on Defendant's property, without Defendant's permission. Moreover, Plaintiff subsequently introduced even more terms to try to force Phillip to mortgage his property for Plaintiff's benefit, this time unilaterally decreeing that the 20 plus year custom of the parties and their families eating for free at the family restaurant was to immediately cease, and, when such tactic failed, by then threatening to defame Phillip by spreading false rumors as to why the proposed project fell apart if Phillip did not give Plaintiff what he wanted: See Phillip's Answer & Counterclaim Par. 108, Email from Plaintiff dated 12/15/14, stating "I can't wait to spread the word that the suites multimillion dollar project couldn't get done cause Phillip can't eat for free. I'm sure everyone will find it hilarious. I'm probably doing you a favor. Smaller waist line. I bet your kids will be real proud of you in the future too. Your dad was right for calling you palabo [stupid] Philipa."

Phillip hereby incorporates his detailed Answer and Counterclaim and the accompanying Exhibits which set forth and prove that Plaintiff's pleadings and allegations lack merit. There were further numerous unknown material terms at the time Plaintiff alleges the parties entered into an agreement that would make a meeting of the minds between the parties impossible, as the parties cannot and did not agree to material terms that were still unknown at the time. As such, the parties never reached a meeting of the minds as to the essential terms of a mortgage agreement, a side agreement, and/or any other material terms set forth in Plaintiff's bank closing documents, or other additional material terms. Plaintiff's claims are barred as there was never even an "agreement to agree" between the parties. The cost of the proposed project, the scope of the proposed project, the financing details of the proposed project, the loan documentation details of the proposed project, and other material terms of the proposed project were simply unknown and/or rejected by Phillip at the time Plaintiff alleges an agreement was made. This is

evidenced by the written documentation between the parties which have been attached as exhibits to Phillip's Answer and Counterclaims.

Plaintiff's claims are barred as there was no "meeting of the minds" and no binding agreement between the parties as to numerous material terms of the alleged agreement. Plaintiff admits that Phillip did not agree to subject himself to personal liability for Plaintiff's personal loan. A mortgage is a material term. It constitutes possible personal liability for Phillip by subjecting his most important and valuable asset known at the time, 229 King Street, to possible foreclosure in the event Plaintiff defaulted on his personal loan. Phillip told Plaintiff that he would not mortgage or guarantee "anything" for Plaintiff or anyone else. Spiros Ferderigos further informed Fokas in writing on December 19, 2012, that he would not be willing to accumulate debt or pledge his assets for the proposed project. In addition, Phillip signing his name as an individual (direct personal liability) and/or signing his interest as a member of the LLC (personal liability if the corporate veil is pierced) for Plaintiff's incorrect and non-agreed upon closing documents further constitutes exposure for a personal guarantee that Phillip never agreed to.

Phillip bases this Motion for Summary Judgment upon the pleadings, deposition testimony and accompanying exhibits, Affidavits, any documents filed with this motion and subsequent memorandum and with the court, the applicable law, and any memorandum of law to be submitted to the Court. Phillip reserves the right to supplement this Motion with additional memoranda, Affidavits, and other documents in support of the arguments contained herein.

K & L GATES, LLP

Richard A. Farrier
Jennifer H. Thiem
134 Meeting Street, Suite 500
Charleston, SC 29401
Telephone: (843) 579-5600
Facsimile: (843) 579-5601
Email: richard.farrier@klgates.com
jennifer.thiem@klgates.com

ATTORNEYS FOR DEFENDANT PHILLIP FERDERIGOS

February 28, 2017
Charleston, South Carolina

Jacob Ferderigos <iakovosstavros@gmail.com>

Fwd: Flood Policy - Cancellation

1 message

Iakovos Ferderigos <iakovosstavros@gmail.com> Sun, Jan 11, 2015 at 7:28 PM
To: Spiros Ferderigos <spirosferderigos@gmail.com>, Phillip Ferderigos <pferderigos@barnwell-whaley.com>

Sent from my IPhone

Begin forwarded message:

> **From:** Athan Fokas <fokasa@bellsouth.net>
> **Date:** December 17, 2014 at 9:48:07 AM EST
> **To:** "iakovosstavros@gmail.com" <iakovosstavros@gmail.com>
> **Subject: Fwd: Flood Policy - Cancellation**
>
> I cancelled the flood insurance below so we can get our money back. The storage unit date was just missed so we are paid thru Jan 12. I don't think we are going to recover any money from Kevin because he is going to say that was work to get us here. We still owe the structural engineer $3000.00 and we owe the bank for the appraisal which is about $2000.00. Your Brother's have no business sense and I'm sure we will be butting heads with Greek properties in the future. Very sad!!

Sent from my IPhone

EXHIBIT 4

Fanouris is saying -- (Greek.)
A. My brother Fanouris said, "This is crazy. I've never heard of things like this." So we did not have a problem after that.
Q. Do you know anything about a request for a mortgage related to building the project at 229 King Street?
A. No. I never got involved in things like this.
Q. Do you know if your son Athan made any money from the sale -- from the sale of his restaurant Zeus'?

00073

A. He sold the store. Yes. He did donate it. They pay for it.
Q. Do you know the details of that?
A. I do not get involved with things like that.
Q. Did your son Athan tell you that it was stupid for Phillip and Spiros not to build the building?
A. He did say that it is stupid or superior to have such a chance to build the apartments and not to take this opportunity to do it.
Q. Did Athan tell you that it was Phillip an Spiros' fault that the building was not being built?
A. Of course. And afterwards it was not as formal as at the beginning. He told us he did not agree with the things, but later --
Q. So as a result of what Athan told you about this, do you believe it is Phillip and Spiros' fault that the building is not being built?
A. Of course. I told Athan -- two-and-a-half years later everything was ready to be done, and they didn't want to do it but -- and they didn't have to wait for Spiros to become a judge.

00074

They could have started, and you wouldn't -- they would have been finished by now.
Q. Okay. So then as a result of what your son Athan told you, do you think that Phillip and Spiros are bad business people?
A. Mean I tell you this for the second time. I answered this already. We're going to talk about the same things over and over again?
Q. No. The -- the question -- the question was different.
A. We answered this question. It was exactly the same thing.
Q. No. The first question that you answered was: Do you believe it is Phillip and Spiros' fault that the building was not built?

EXHIBIT 5

Friday, March 18, 2016

athanfokas@gmail.com

My dad was a little upset that you wouldn't speak with him about giving Justin a $10.00 a shift raise and then threatened to call the police if he doesn't leave your public restaurant.
He said that you were born in his house and that's the thank you you've given him. 1:51 PM

Monday, March 21, 2016

athanfokas@gmail.com

Did you drop off the suites check? 2:56 PM

athanfokas@gmail.com

Jason just text me this: "We had another chair break while a customer was eating lunch today."
Do you want to go in there with me one morning so we can fix the rest of the chairs. Except for the 27 I fixed the rest need two holes drilled in each leg and then screwed to the frame to prevent those legs from coming apart. Let me know when you are available. 4:05 PM

Jacob Ferderigos

Athan, I am not discussing Old Towne business decisions with you or agreeing to you being an intermediary between me and your father. Stop texting me. Again, if the chairs are not safe then they need be thrown out immediately. To this day we are continuing to seat customers in those chairs. I find it very suspicious that all of the sudden you are texting me that chairs are breaking after you demanded that the corporation purchase your personal chairs, tables, and other inventory, and after you made repairs, without my knowledge or consent, to chairs that never should have been put back into circulation for customers to use. In the rare instances a chair breaks, it is supposed to be removed - not "repaired" by you and put back to use. You are not a chair expert. You are not a safety expert. You are not an engineer. It is unbelievably dangerous for you to have done that. 6:07 PM

athanfokas@gmail.com

There were no demands but we all know this is Phillip talking and exaggerating words as usual. You may not be aware of this Phillip but Old Towne Restaurant pays Jacob and I $500.00 twice a month to make sure Old Towne business is taken care of. So enough with your ridiculous rhetoric and let Jacob and I take care of business as we always have for the last ten plus years! 6:22 PM

EXHIBIT

6

Jacob Ferderigos

Athan, I am tired of you insulting me. You consistently ignore my thoughts and treat me like I am stupid by saying that what I tell you must be coming from Phillip. You treat me like a dumb person and I am tired of it. I am a fifty percent co-owner in the corporation and you cannot talk to me like that, especially if you are now claiming that you are an employee. Stop texting me or trying to talk to me about Old Towne. Those are things that need to be taken care of between the two equal co-owners of the corporation.

You know very well that we began drawing a small salary from the corporation because the bookkeeper told us that it was required by the IRS because we are a profitable owner operator corporation. Because we were both co-owners of the corporation, we began drawing the salary. This was done when you were representing that you were my fifty percent equal co-owner and I believed you. Given your latest filings with the Court, that is something that needs to be changed immediately because you are no longer claiming to being my equal fifty percent co-owner in the corporation, but just an employee. Stop making stuff up that you know is not true. Also, for the last time, do not text me anymore. Do not send me harassing texts. I will not respond to any more of your texts.

7:56 PM

athanfokas@gmail.com

You don't have to respond but in the last ten years Jacob has never written me one paragraph much less these novels that Phillip likes to write. Your writing style is seen in all the paperwork of all three lawsuits Phillip. Jacob did tell me after you decided you weren't going to build the new suites Phillip that (Jacob's quote) "my brothers (Phillip & Spiro) think I'm stupid cause they are attorneys and I'm not"

I don't think Jacob is stupid at all. He is the one who realized what a great profitable deal these new suites would be given our track record. Now you have turned your brother Jacob into a puppet getting him to send your words on his phone. I actually now think that you didn't go along with building the new suites so that your brothers would not be able to have more income so that you can keep them below you. Just like your dad said that Phillip is the King of the family.

And the checks that Jacob and I receive is because we are overseeing the managers and making sure the restaurant runs smoothly. I continue to make sure the restaurant runs well and continue to fix any issues that we have with Old Towne because that's what I get paid to do. On another note: Justin has expressed that he would like a raise. Apparently that was discussed at Starbucks when he signed the affidavit you guys wrote for him and then realized that it was incorrect information. Justin is a reliable employee and he is asking a $10.00 a shift raise which is not unreasonable at all. My father has spoken to Justin and agreed with the raise but would like confirmation from Jacob. If Justin quits then I will have to pick up his shifts until we find another manager or I will split those shifts with Jacob but he has already said that he doesn't have extra time to work extra shifts. I and my father would like to know if Jacob agree's with this raise that he had already discussed with Justin when he was tricked into signing an affidavit that was false but forgot to mention it to me or my father.

8:27 PM

Tuesday, March 22, 2016

athanfokas@gmail.com

Good news! The city extended the building permit to build the new suites through August 24, 2017. We have plenty of time now to negotiate.

11:05 AM

Gmail

spiros ferderigos <spirosferderigos@gmail.com>

Old Towne Suites

Athan Fokas <fokasa@bellsouth.net> Mon, Nov 24, 2014 at 12:13 PM
To: Phillip Ferderigos <pferderigos@bamwell-whaley.com>
Cc: "<iakovosstavros@gmail.com>" <iakovosstavros@gmail.com>, spiros ferderigos <spirosferderigos@gmail.com>

I do what I will with whatever money I have and you can't dictate otherwise. I told you my intent but six months from now my intent may change. Regardless of that fact the bank wants to close this month if in fact we proceed. I'm not interested in you trying to bully me into signing any type of side agreement that is unnecessary. My attorney, as I said earlier, strongly was against it.

Sent from my iPhone
[Quoted text hidden]

EXHIBIT
7

Gmail

spiros ferderigos <spirosferderigos@gmail.com>

Old Towne Suites

Mon, Nov 24, 2014 at 1:00 PM

Phillip Ferderigos <pferderigos@barnwell-whaley.com>
To: Athan Fokas <fokasa@bellsouth.net>
Cc: iakovosstavros@gmail.com, spiros ferderigos <spirosferderigos@gmail.com>

Athan, once again, you can not even answer a simple question directly.

You are asking me to mortgage my part of Old Towne and you are unwilling to sign an Agreement to say that you will make your payments timely.

I believe you have mortgaged your other properties and now you want to mortgage Old Towne. I am not your piggie bank. I will not mortgage my share of Old Towne for you unless you agree to make your payments timely.

Unless you change your decision, there is no point in moving forward.

Phillip S. Ferderigos, Esq.
Member

288 Meeting St., Ste 200 (29401)
PO Drawer H
Charleston, SC 29402
Phone: (843) 577-7700
Facsimile: (843) 577-7708

Email: pferderigos@barnwell-whaley.com

---Original Message---
From: Athan Fokas [mailto:fokasa@bellsouth.net]
(Quoted text hidden)

Gmail
by Google

spiros ferderigos <spirosferderigos@gmail.com>

Old Towne Suites

Athan Fokas <fokasa@bellsouth.net> Mon, Nov 24, 2014 at 1:31 PM
To: Phillip Ferderigos <pferderigos@bamwell-whaley.com>
Cc: "<lakovosstavros@gmail.com>" <lakovosstavros@gmail.com>, spiros ferderigos <spirosferderigos@gmail.com>,

I am not asking you to do anything. The bank is requiring that all parties sign off on the mortgage. I did secure that you didn't have to personally guarantee the note. Quit trying to put yourself on a pedestal. If you want me to sign a side agreement that guarantees I will pay the note then you will sign one saying that you will come up with the money needed for construction or you shall suffer similar consequences. If you are intelligent you will already know that the money will be there with the original suites income to pay for the loan. Cut your pompous attitude and either get it done or not. We are currently paying for an expensive business risk policy, paid for a flood policy we don't need if not constructing, have been paying two months on a storage container, and prepaid our over $20,000.00 property taxes two months early in order to close. Not to mention we have over $60,000.00 already invested in this deal.

Sent from my iPhone
[Quoted text hidden]

Old Towne Suites

Phillip Ferderigos <pferderigos@barnwell-whaley.com> Mon, Nov 24, 2014 at 1:43 PM
To: Athan Fokas <fokasa@bellsouth.net>
Cc: jakovosstavros@gmail.com, spiros ferderigos <spirosferderigos@gmail.com>

I do not care what your bank is requiring of you to get your loan....that has nothing to do with me.

I will not sign off on any mortgage of my share unless you sign an agreement that you will make your payments timely. If you are an intelligent person, you will see that I can not and will not agree to mortgage my share of Old Towne if you do not agree to make your payments on time.

Phillip S. Ferderigos, Esq.
Member

288 Meeting St., Ste 200 (29401)
PO Drawer H
Charleston, SC 29402
Phone: (843) 577-7700
Facsimile: (843) 577-7708

Email: pferderigos@barnwell-whaley.com
-----Original Message-----
From: Athan Fokas [mailto:fokasa@bellsouth.net]
[Quoted text hidden]

Gmail

spiros ferderigos <spirosferderigos@gmail.com>

Old Towne Suites

Athan Fokas <fokasa@bellsouth.net> Mon, Nov 24, 2014 at 1:46 PM
To: Phillip Ferderigos <pferderigos@barnwell-whaley.com>
Cc: "<lakovosstavros@gmail.com>" <lakovosstavros@gmail.com>, spiros ferderigos <spirosferderigos@gmail.com>

Well then it's done. I'll reverse as much as I can and just right it off as a stupid transaction dealing with the Ferderigos Family.

Sent from my IPhone
[Quoted text hidden]

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Old Towne Suites

Athan Fokas <fokasa@bellsouth.net> Wed, Nov 26, 2014 at 11:46 AM
To: Spiros Ferderigos <spirosferderigos@gmail.com>
Cc: Phillip Ferderigos <pferderigos@barnwell-whaley.com>, "<lakovosstavros@gmail.com>" <lakovosstavros@gmail.com>

The irony in all this is that the son's want extra assurances that money will be paid back when the way our fathers always did it is with a hand shake. Ask your dad how many times my father loaned him money.(his grocery store off America St, to buy Old Towne in 72, and to build our first apartment building in Greece) and, there was no paperwork and all was paid back. In this case nobody is loaning anyone money but just a couple of hard headed kids who don't understand how family works. I don't think anybody owes anybody any money do they? I don't think anyone has any history of any money not being paid back do they?
We are all older now and our families have grown and we don't have to spend Thanksgiving together. Actually this entire deal has put such a bad taste that I dislike seeing you guys in public. Except Jacob of course. He is the only innocent one in this. Later on down the line when I'm in the money I may consider loaning Jacob the money and having a 25/75 split on the new building because I know that Jacob will pay me back and I won't need any side agreements trying to take more of his ownership if he doesn't pay. Bottom line is payments come out of profits and I know he is good for it.

Sent from my iPhone

> On Nov 24, 2014, at 2:17 PM, Spiros Ferderigos <spirosferderigos@gmail.com> wrote:
>
[Quoted text hidden]

Gmail

spiros ferderigos <spirosferderigos@gmail.com>

Old Towne Suites

Athan Fokas <fokase@bellsouth.net> Mon, Nov 24, 2014 at 1:55 PM
To: Phillip Ferderigos <pferderigos@barnwell-whaley.com>
Cc: "<lakovosstavros@gmail.com>" <lakovosstavros@gmail.com>, spiros ferderigos <spirosferderigos@gmail.com>

Oh it was been a pleasure to say the least. I'm also done with paying your half of the food you so dearly like to eat at Old Towne Weekly on my time. If you don't pay your portion to me then Jacob will have to. All management will be put on notice.

Sent from my iPhone
[Quoted text hidden]

EXHIBIT
8

(843) 813-5612

I can't wait to spread the word that the suites multimillion dollar project couldn't get done cause Phillip can't eat for free. I'm sure everyone will find it hilarious. I'm probably doing you a favor. Smaller waist line. I bet your kids will be real proud of you in the future too. Your dad was right for calling you palabo Philipa. 4:52 PM

Tuesday, December 16, 2014

(843) 813-5612

As I was running this morning I came up with a proposal. I will agree to let you eat for free if you are out of the note and you put your 350 g's in escrow. This is because you will sign off on the mortgage without needing to. And this will take place as long as my portion of the mortgage is not paid off. If we go the other rout where we split everything 50/50 on the loan then you are signing for your own 16% interest and therefore we are even. 7:18 AM

Wednesday, December 17, 2014

(843) 813-5612

I just spoke to your dad and he doesn't think everyone should eat at Old Towne for free either. 1:45 PM

EXHIBIT

9

Me

No, that is not what I said. I will not meet with you to discuss any options until we go back to the status quo first. If that is a problem, then that is fine. 1:26 PM

(843) 813-5612

I do not understand what the status quo interpretation was but am sure if we meet we can figure that out. 1:28 PM

Me

Alhan, I do not have time for the games that you are playing today. If you want clarification, I will prepare a contract for you and Jacob to sign that says our respective families can eat at old towne for free. Just like it has been for decades. I'll have it for your consideration sometime next week, assuming I have a time to get to it.

If you do not like that requirement on the front end, that's fine. I am not interested in moving forward with options.

Thanks, Phillip 1:39 PM

(843) 813-5612

I'm not playing games but if all familles get to eat for free and Jacob and I are paying for the food cost then do we get free legal advise in return? 1:41 PM

Me

Alhan, I am not interested in moving forward with you. Please do not email or text me anymore.

Have a nice day sir, Phillip 1:42 PM

(843) 813-5612

Why can't you have a business discussion and come to an agreement t 1:43 PM

(843) 813-5612

that make sense 1:43 PM

(843) 813-5612

Phillip I expressed your thoughts to uncle Fanour and for what it's worth he thinks nobody should eat for free and he says it has become childish at this point. He also asked what happened to the escrow money you said you would put up. Maybe you should call him. 3:11 PM

EXHIBIT

10

Gmail spiros ferderigos <spirosferderigos@gmail.com>

Old Towne Suites Addition:

1 message

Athan Fokas <athanfokas@gmail.com> Tue, Jan 6, 2015 at 12:20 PM
To: "jakovosstavros@gmail.com" <jakovosstavros@gmail.com>, spiros ferderigos <spirosferderigos@gmail.com>, Phillip Ferderigos <pferderigos@barnwell-whaley.com>
Cc: Antonia Fokas <antoniafokas@hotmail.com>, "zeusseafood@bellsouth.net" <zeusseafood@bellsouth.net>

Gentlemen,
I hope you are having a good New Year so far and hope it is prosperous for you.
I spoke with Jacob today and asked him where we are on the suites. He said that he hasn't spoken to Phillip or Spiro. Jacob did ask me to put a hold on it until after the holidays and that is why I am writing you now. I have tallied up our expenses thus far on the new suites project and came up with $79727.99. We still owe $3000.00 to our engineer and we owe $2500.00 for our original appraisal to the bank and we owe $350.00 to Amy Haines for the title search. I plan to have those bill paid once we receive our end of the year suites check this week. All in all the project so far has cost $85577.99 which puts us at $42789.00 each for the Fokas half and the Ferderigos half. If this deal is dead and you guys will not go forward unless you get to eat for free at Old Towne then I would like my expenses paid back to me because I have not delayed this project and we have had two closing's cancelled due to you guys reluctance to move forward. The contractor did express that prices are increasing and he would not be able to honor our original contract because of the delay. I'm not sure what that increase will be and if we move forward I do think that the Fokas 50% is not responsible for the increase.
I would like to know where you guys stand on this because next week I plan to hand over all the emails and texts of our conversations to my attorney so we can file a Specific Performance Lawsuit asking you to either finish the deal or pay me my expenses to get out of it. I also feel that I can receive my attorney fees back due to a breach of contract and there may be ethics violations for Spiro admitting to threatening me by text. I have had trouble sleeping since I have received that text which could be breach of bad faith dealing between partners.
The eating at Old Towne for free was never an agreement between us going forward with the new suites and cannot be brought up now to delay the project.
I would like to have your answer my this Friday January 9.
Sincerely,
Athan Fokas
P.S. I have cc'd my wife on this email so that she will be informed of all my conversations because we are life partners.

EXHIBIT
11

617

Phillip Ferderigos

From: Athan Fokas [fokasa@bellsouth.net]
Sent: Friday, November 21, 2014 2:47 PM
To: Phillip Ferderigos
Cc: Amy Haines; Spiros Ferderigos; Athan Fokas; <lakovosstavros@gmail.com>
Subject: Re: Old Town

This is all humorous to me. I do all the work and line your pockets with money and you complain and wine in the process. I have many other projects that I am working on that are better appreciated.

Sent from my iPhone

On Nov 21, 2014, at 2:29 PM, Phillip Ferderigos <pferderigos@barnwell-whaley.com> wrote:

> Athan,
>
> Jacob, Spiro and I own ½ of 229 King Street and ¼ of Old Towne Suits, LCC. Although we attempted and are attempting to build a new building on that property, to the benefit of all, it is clear that there is no agreement between you and us on the details of how the note is to be structured or personally guaranteed, as well as other details.
>
> Until these particulars are resolved, we regretfully can not move forward with the project. I recommend we re-set the closing for next week to see if we can work through these issues.
>
> If not, then we can not move forward. Thanks, Phillip.
>
> --
>
> Phillip S. Ferderigos, Esq.
> Member
>
> <image001.jpg>
>
> 288 Meeting St., Ste 200 (29401)
> PO Drawer H
> Charleston, SC 29402
> Phone: (843) 577-7700
> Facsimile: (843) 577-7708
>
> Email: pferderigos@barnwell-whaley.com
>
> **From:** Athan Fokas [mailto:fokasa@bellsouth.net]
> **Sent:** Friday, November 21, 2014 2:10 PM
> **To:** Phillip Ferderigos
> **Cc:** Amy Haines; Spiros Ferderigos; Athan Fokas; <lakovosstavros@gmail.com>
> **Subject:** Re: Old Town
>
> To all parties. Let it be know that I will be more than happy to acquire an extra 1/6 percentage of this new projects so that Phillip Ferderigos does not have to worry about signing as long as I own an extra 1/6th percent of the new project.
>
> Sincerely,
> Athan Fokas

EXHIBIT
Date 1/21

Athan to Phillip 0082

(843) 813-5612

I can't wait to spread the word that the suites multimillion dollar project couldn't get done cause Phillip can't eat for free. I'm sure everyone will find it hilarious. I'm probably doing you a favor. Smaller waist line. I bet your kids will be real proud of you in the future too. Your dad was right for calling you palabo Phillpa. 4:52 PM

Tuesday, December 16, 2014

(843) 813-5612

As I was running this morning I came up with a proposal. I will agree to let you eat for free if you are out of the hole and you put your 350 g's in escrow. This is because you will sign off on the mortgage without needing to. And this will take place as long as my portion of the mortgage is not paid off. If we go the other rout where we split everything 50/50 on the loan then you are signing for your own 16% interest and therefore we are even. 7:18 AM

Wednesday, December 17, 2014

(843) 813-5612

I just spoke to your dad and he doesn't think everyone should eat at Old Towne for free either. 1:45 PM

EXHIBIT

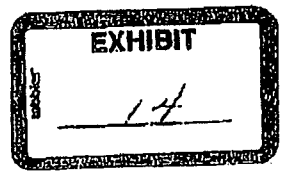
Thanksgiving 2014?
A. If he said something bad about them?
Q. Not necessarily anything bad. Just does he remember -- or does she -- do you remember your son Athan talking about Phillip and Spiros during the family Thanksgiving last year?
A. Yes. I don't remember.
Q. Do you remember if your son Athan told everyone that the reason why the building was not being built was because of Phillip and Spiros?
A. Jacob did not say anything, but then he became -- he -- before Iakovos did not take their side, but now he takes their side.
Q. Okay. My question is: Do you remember at last Thanksgiving your son Athan telling everyone at the dinner table that the reason the building was not being built was because of Phillip and Spiros?
A. I cannot -- you're asking me such a question. Is it better on a holiday like Thanksgiving we will be discussing things like that?

00063

Q. So is your response that, no, that was not discussed?
A. No. But I was very upset inside because I could not be with my entire family, and then I kept it to myself. I did not complain. I --
Q. Who all was present at that Thanksgiving?
A. My family.
THE WITNESS: My family.
Q. Can you provide the names of those individuals? As many as you can.
A. My children, my grandchildren.
THE WITNESS: That's all. Me and my husband.
A. And me and my husband. That's all.
Q. Did your son Athan tell you that Phillip and Spiros broke a promise to him regarding building the building at 229 King Street?
A. I knew this from before, but we did not discuss it at Thanksgiving.
Q. Right. Not at Thanksgiving. At any time did your son Athan tell you that Phillip and Spiros broke a promise to him regarding building the building?
A. They do not want to build the

00064

apartments.
Q. And did Athan tell you that?
A. Who else? Of course.
Q. And Athan is the one that has told you everything you know about the project at 229 King



Street, correct?
A. Of course.
Q. Was the first time that you spoke to Mr. Barnett when you returned from Greece in October of 2015?
A. Yes.
Q. Had you ever spoken with him before that time?
A. No.
Q. And where did you all meet?
A. My house.
Q. Are you aware of whether or not Mr. Barnett ever tried to contact you before you came back to America from Greece?
A. No.
Q. When you met with Mr. Barnett, were your daughter Rania and your son Athan present for that meeting?
A. Yes.
Q. Was anyone else present?

00065

A. No.
Q. And during that meeting did Mr. Barnett tell you that you would not need to appear for your deposition?
A. No. He didn't tell me such a thing.
Q. Okay.
A. What do you mean not to go? Where?
Q. That you would not need to appear for your deposition on October 28.
A. No. He did not say such a thing.
Q. Did you discuss with Mr. Barnett the fire that happened at 229 King Street?
A. We said something. We talked about the fact that his cousins are trying to accuse him of these things.
Q. And so Mr. Barnett told you that Phillip and Spiros were telling people that Athan started the fire at 229 King Street?
A. I don't know if he said it that day.
Q. Do you know what you all discussed, then, in regards to 229 King Street?
A. We said that they are accusing Athan for the fire and for insurance.
Q. So Mr. Barnett told you that Spiros and Phillip were accusing Athan of starting the fire

00066

and filing false claims?
A. Yes. Maybe. I think he told me. He must have told me. I don't remember well.
Q. Did Mr. Barnett tell you any of the details about the lawsuits that Athan filed or started?
A. He said that they accusing Athan for

THE WITNESS: The problems.
A. -- the problems.

Q. Did you ever speak with Phillip or Spiros Ferderigos about the project of building a building?
A. I didn't speak to them because I knew what -- what they would tell me. They would tell me that it's our fault. It is your son's fault.
Q. Did you ever speak with Jacob Ferderigos about building the proposed building?
A. I know that he did not agree. Iakovos did not agree with his brothers, but he's on their side now; and now the three of them are going after Athan.
Q. But you never spoke with Jacob about the plans to build the building?
A. No. He -- but I know he was in good terms with him at this, but now things change. He's with his brothers, and they are accusing Athan.
Q. And the only people involved in this proposed building were your son Athan, Phillip Ferderigos, Jacob Ferderigos, and Spiros Ferderigos; correct?
A. Yes.
Q. And you have not spoken with Phillip, Spiros, or Jacob Ferderigos about the proposed building; correct?
A. I remembered that they were saying that why isn't he doing it faster? For my son, why this is not happening? What is he doing?
Q. But you did not speak with Phillip, Jacob, or Spiros about the proposed building; correct?
A. No. She said -- she said my brother said that when these apartments are built, we're not going to have any problems. We're going to have plenty of money.
Q. But you never spoke with Phillip, Jacob, or Spiros about the proposed building?
A. No. I did not speak to them because I knew what was happening.
Q. And the reason you knew what was happening was because your son, Athan Fokas, told you what was happening?
A. Everything was good for two-and-a-half years. All together -- all together the family, we celebrated holidays.
Q. I understand that.
But I'm trying to understand how you came to know this information as to what happened with the building. Is the source of your -- is

everything is ready; and they say they don't want to do it. That is the problem.

And they bring out all these other things, and they accusing Athan. The main problem is that they can start building, and everything can go away. They can throw out all the papers, and they can start.

He -- all that Athan wants,-- he doesn't

00050

want any money. He only wants to start this building. He's been waiting for two-and-a-half years. He's been working towards this for two-and-a-half years, and I don't understand why they don't want to start. This is good for everyone.

Q. And is Athan Fokas the source of your information on that?

A. Who else?

Q. Are you aware that your son, Athan Fokas, was asking Phillip and Spiros to mortgage their interest in 229 King Street to build that building?

A. I don't know about these things. To get a loan on the building?

Q. Yes. In Phillip and Spiros' name for -- . for --

A. He's been told that they had to get a loan on the building? For two-and-a-half years, that's now we find this out?

Q. Do you understand that Phillip and Spiros were going to pay cash for this building?

MR. BARNETT: Object to the form.

A. I don't -- I don't think he did, but they never -- they put the money down. When it was time to start the building, they did not put

00051

the money down. But they haven't -- two-and-a-half years, they knew there had to be a loan.

Q. Do you understand that your son needed a loan for that project?

A. I knew that, and they knew that.

Q. And did you know that in order for your son to get that loan, Phillip and Spiros would have to mortgage their interest in 229 King Street for Athan Fokas' loan?

A. I don't believe these things. They knew this for two-and-a-half years, and the youngest said I had to become -- wants to get the position, the highest position, and -- because --

THE INTERPRETER: Judge?

THE WITNESS: Yes. (Greek.) What we say before?

THE INTERPRETER: The judge?

THE WITNESS: The judge, yes. (Greek.) Building, the apartments. And I don't understand

EXHIBIT 10

why. The evidence is already -- everything that -- to start it, where to Spiros and three months, stop to start. And after Spiros all ready to start, Phillip will say, I know what, no. No start the building. After two-and-a-half years no how -- (Greek.) With Athan everything,

00052

you know. So I know -- that's all of that stuff.

MR. HASTIE: Did either the court reporter or the --

THE WITNESS: (Greek.)

A. They are not starting because the boys have -- it's like stubborn. They're stubborn.

THE WITNESS: Yeah. I think so. (Greek.)

A. Or because the -- Athan has half of the -- half. They have half. They only have one-third.

THE WITNESS: I don't know. I will no understand why no start and all about the copy that's coming now for nothing.

Q. Is that the reason that you believe the buildings or the rental units were not built?

A. If there was a problem, they would have told us two-and-a-half years ago.

THE WITNESS: Yeah.

A. If Spiros did not wait to become -- whatever he wants to become, then he would have started.

THE WITNESS: Yeah. And he waited three months to Spiros, if he go there. Stop. No go. So it's ready to start; and after that, say no, I

00053

not going to start after two-and-a-half years.

Q. And are all those things what your son, Athan Fokas, told you?

A. I listened because my brother would say, "Did they start building yet? Those apartments? What is Athan doing?".

Q. But is it Athan Fokas that told you the reasons why you're saying here today Phillip and Spiros are not building the building?

A. No, no, no. I -- it's stubbornness.

THE WITNESS: Yeah.

A. That's -- because there's no other reason.

Q. Okay. So there's no other reason, but how did you come to understand that this was the reason?

A. Because they said it's not going to be done. It's not going to be done.

THE WITNESS: He say, no, no.

Q. How did you come to know that Phillip and Spiros said these things?

A. He said the stubbornness or the jealousy that they're not getting -- they're also not getting tests.

THE WITNESS: (Greek.) Before it's finished to start. Two-years-and-a-half, and Athan's worked to -- to everything be okay to start the building. Why no say before? But I'm saying everything is okay to start.

Q. Is everything you know about this proposed project, did that come from Athan Fokas, your son?

A. Everything was good. My brother was asking me. "Why is Athan not doing this? Why is he not starting it? Why aren't they finishing?"

Q. I understand that, Mrs. Fokas; but can you tell me: Is Athan Fokas the person that told you everything you know about this proposed project?

A. All I know is that he tried to and worked very hard, and he suffered for two-and-a-half years to start building this apartment.

We would have not waited for Spiros to become a Judge. We had to wait for three months, then we would have started.

THE WITNESS: Yeah. After three months, we waited for Spiros -- (Greek.)

A. We waited three months for Spiros to become a Judge; and then three months later Spiros said, "I don't want to do it." We fell off the -- the cloud. It was like a mountain for us. We waited and waited for this to start.

Q. Are you just guessing that these are the reasons why the building was not completed or started, or is this what Athan Fokas told you?

A. They said we waited for two-and-a-half years. Everything was ready. Athan said, "We're ready"; and then we had to wait for Spiros to become a judge.

THE WITNESS: After three months, Spiros -- (Greek.) No be the judge. So now all ready. So go to start. He say no. I not going to start.

Q. I understand that that's what you believe happened, but how is it that you know that that's what happened? Is that what your son, Athan Fokas, told you; or are you guessing?

A. We lived this things every day.

Q. I understand that you lived these things every day, but were you involved in the building of the building?

A. No. But I -- I would always see the -- I could always see --

or Spiros ever said anything to Mr. Barnett?
A. No.
Q. Is everything that you know about what was told to Mr. Barnett, did that come from your son, Athan Fokas, or Mr. Barnett himself?
MR. BOWERS: And that might have been worded very poorly; and if it is, please ask me to rephrase it, Madam Interpreter.
THE INTERPRETER: Yes. Please rephrase it, yes.
Q. Everything that you know about what Stanley Barnett has been told came from either

00046

Athan Fokas or Mr. Barnett; correct?
A. Don't understand.
Q. Okay. Are you aware of any statements that Philip or Spiros have made to Athan's lawyer?
A. I heard --
THE INTERPRETER: The interpreter wants to hear her answer again. I don't understand what she's saying.
MR. BOWERS: Okay.
A. I heard that the guys had told the attorney.
MR. BOWERS: I'm sorry. Could you get her to rephrase that answer 'cause I'm not sure that I understand.
THE INTERPRETER: I know.
I heard from where.
A. That Philip and Spiros, they're going to accuse Athan for this and this and that.
Q. And what is "this, this, and that"?
A. Whatever my daughter told me. The things she was afraid for her brother.
Q. But you're not aware of what those things are?
A. Accusations against Athan.

00047

Q. Does she -- do you know what the specifics of the accusations are?
A. For fire insurance, things like that.
Q. But Rania did not tell you these things.
A. Not for the attorney.
Q. Who told you these things?
A. Either the attorney or my son.
Q. Okay. Before today had you ever told anyone that Rania was the source of the information that you had about destroying Athan Fokas?
A. No. I said I was -- I was forced to say this to my son when he came here.
Q. Today?
A. Not today. When I came back -- when I

EXHIBIT
16

2015-CP-10-3891

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON BEHALF OF DEFENDANT PHILLIP FERDERIGOS** was served upon the parties to this action by U.S. mail, sufficient postage attached thereto, to the following counsel of record:

Leslie S. Lenhardt, Esquire
Lenhardt Law Firm, LLC
1876 Wallenberg Blvd.
Charleston, SC 29407

M. Dawes Cooke, Esquire
Jeremy E. Bowers, Esquire
Barnwell Whaley Patterson & Helms, LLC
288 Meeting Street, Suite 200
Charleston, SC 29401

Joseph R. Weston, Esquire
Stephanie A. Phillips, Esquire
P.O. Box 1992
Charleston, SC 29465-1992

Laura Robinson, Esquire
Vernis & Bowling of Columbia, LLC
1401 Main Street, Suite 655
Columbia, SC 29201

2017 DEC -6 PM 2:48
JULIE J. ARMSTRONG
CLERK OF COURT
BY

Legal Assistant

December 6, 2017
Charleston, SC

K&L GATES

December 6, 2017

Jennifer H. Thiem
T +1 843 579 5638

jenniferjthiem@klgates.com

VIA HAND DELIVERY

The Honorable Julie J. Armstrong
Charleston County Clerk of Court
100 Broad Street, Suite 106
Charleston, SC 29401

Re: **Athan Fokas v. Philip Ferderigos and Spiros Ferderigos**
Case No. 2015-CP-10-3891

Dear Ms. Armstrong:

Enclosed herewith please find the original and one copy of Memorandum in Opposition to Plaintiff's Motion for Partial Summary Judgment on Behalf of Defendant Phillip Ferderigos in connection with the above-referenced matter.

Please file the original and return the filed-stamped copy to me *via* our courier.

Thank you for your assistance with this matter. Please do not hesitate to contact me if you have any questions. By copy of this letter, we are serving same on all counsel of record.

With kind regards, I remain.

Sincerely,

Jennifer H. Thiem

JHT/glm
Enclosures
cc: Leslie S. Lenhardt, Esq,
M. Dawes Cooke, Jr., Esq.
Jeremy E. Bowers, Esq.
Joseph R. Weston, Esq.
Stephanie A. Phillips, *Esq.*
Laura Robinson, Esq.
(via email and U.S. mail, w/encl.)

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	IN THE COURT OF COMMON PLEAS NINTH JUDICIAL CIRCUIT CIVIL ACTION NO.: 2015-CP-10-3891
ATHAN FOKAS, Plaintiff, v. PHILIP FERDERIGOS, SPIROS FERDERIGOS, and JACOB FERDERIGOS Defendants.	**MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON BEHALF OF DEFENDANT SPIROS FERDERIGOS**

TO: LESLIE LENHARDT, ESQUIRE, ATTORNEYS FOR THE PLAINTIFF

Defendant, SPIROS FERDERIGOS, by and through his undersigned counsel, hereby submits this Memorandum in Opposition to Plaintiff's Motion for Partial Summary Judgment as to Counterclaims of Spiros Ferderigos. Plaintiff seeks summary judgment only as to Defendant's counterclaim for defamation. Because Defendant has put forth evidence to show Plaintiff published defamatory statements impugning Defendant's honesty and integrity to third-parties, including statements about his unfitness to serve as an attorney and assistant solicitor, this Honorable Court must deny Plaintiff's Motion for Partial Summary Judgment.

PLAINTIFF'S ALLEGATIONS & PROCEDURAL HISTORY

The parties are involved in two lawsuits. One lawsuit (Civil Action No. 2015-CP-10-3919) involves a dispute about their underlying investigation into the possibility of, feasibility of, and their interest in constructing an entirely new, separate, and free-floating building above 229 King Street to be used for rental units. Plaintiff (hereinafter Mr. Fokas) alleges Defendant entered into an oral contract with Mr. Fokas related to the construction of these new rental units above 229 King Street. Complaint ¶ 24 (C/A No. 2015-CP-10-3919). Further, Plaintiff alleges

"Defendants breached the contract by refusing to carry out their obligations to execute the mortgage on the building and other parts of the loan documentation." Complaint ¶ 31 (C/A No. 2015-CP-10-3919). Mr. Fokas' Complaint details two alleged reasons Defendants refused to execute a mortgage: (1) "Defendant Spiros Ferderigos refused to sign the mortgage for the closing as he was in contention for a seat on the South Carolina Circuit Court and informed Plaintiff the mortgage might affect his consideration" (Complaint ¶ 16, C/A No. 2015-CP-10-3919); and (2) "Defendant Philip Ferderigos demanded that Plaintiff execute an agreement whereby specified penalties would be paid in the event payments were not made on the note to the lending bank. If this agreement were executed, said Defendant agreed he would execute the mortgage" (Complaint ¶ 19, C/A No. 2015-CP-10-3919).

Mr. Fokas' Complaint does not allege Defendant breached any "alleged contract" because Defendant could not eat for free at the restaurant located on the first floor of 229 King Street (Old Towne Restaurant). Plaintiff's Complaint also does not allege Defendant breached any "alleged contract" because Defendant was jealous of Mr. Fokas and/or because of Defendant's stubbornness. As set forth below, Mr. Fokas defamed Defendant by spreading these and other malicious and defamatory statements to third parties in an effort to coerce Defendant to sign a mortgage and closing documents he never agreed to sign.

Mr. Fokas also filed the current lawsuit against Defendant (Civil Action No. 2015-CP-10-3891) which alleges Defendant published defamatory statements about Mr. Fokas, particularly with regard to setting fire to Old Towne Restaurant and filing false insurance claims. Defendant filed an Answer and Counterclaim denying these allegations. Defendant also asserted a cause of action for the initiation of frivolous proceedings in both pending actions based on the lack of any evidence to support Mr. Fokas' breach of contract and defamation claims.

STANDARD OF REVIEW

"Summary judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law." Miller v. Blumenthal Mills, Inc., 365 S.C. 204, 219, 616 S.E.2d 722, 729 (Ct. App. 2005). "Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law." Id. at 220, 616 S.E.2d at 729. "Even when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied." Id. "However, when plain, palpable, and indisputable facts exist on which no reasonable minds cannot differ, summary judgment should be granted." Id. "In determining whether any triable issue of fact exists, the evidence and all inferences which can reasonably be drawn therefrom must be viewed in the light most favorable to the nonmoving party." Id. at 219, 616 S.E.2d at 729. "If triable issues exist, those issues must go to the jury." Id.

"The party seeking summary judgment has the burden of clearly establishing the absence of a genuine issue of material fact." Id. at 220, 616 S.E.2d at 730 (emphasis added). "Once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings." Id. "Rather the nonmoving party must come forward with specific facts showing there is a genuine issue for trial." Id. (emphasis added).

"The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder." Id. Because it is a drastic remedy, summary judgment should be cautiously invoked to ensure that a litigant is not improperly deprived of a trial on disputed factual issues." Id. (emphasis added). "In 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." Hancock v. Mid-South Mgmt. Co., 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009).

DEFAMATION JURISPRUDENCE

Under South Carolina law, "[t]he tort of defamation permits a plaintiff to recover for an injury to his reputation caused by the false statements of another." Banks v. St. Matthew Baptist Church, 406 S.C. 156, 161, 750 S.E.2d 605, 607 (2013). To prove defamation, a plaintiff must prove the following elements: "(1) a false and defamatory statement was made; (2) the unprivileged publication was made to a third party; (3) the publisher was at fault; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication." Erickson v. Jones St. Publishers, LLC, 368 S.C. 444, 464, 629 S.E.2d 653, 664 (2006). "A communication is defamatory if it tends to impeach the honesty, integrity, virtue, or reputation...." Hubbard and Felix, The South Carolina Law of Torts 462 (2d ed. 1997).

"Defamatory communications take two forms: libel and slander." Erickson, 368 S.C. at 466, 629 S.E.2d at 664. "Slander is a spoken defamation while libel is a written defamation or one accomplished by actions or conduct." Id. "[A] statement may be actionable *per se,* in which case the defendant is presumed to have acted with common law malice and the plaintiff is presumed to have suffered general damages." Id. Under the common law, slander is actionable *per se* only when it charges the plaintiff with one of five types of acts or characteristics: (1) commission of a crime of moral turpitude; (2) contraction of a loathsome disease; (3) adultery; (4) unchastity; or (5) unfitness in one's business or profession. Holtzscheiter v. Thomson Newspapers, Inc., 332 S.C. 502, 511 n.5, 506 S.E.2d 497, 502 n.5 (1998). "Or a statement may be not actionable *per se,* in which case nothing is presumed and the plaintiff must plead and prove both common law malice and special damages." Erickson, 368

S.C. at 465, 629 S.E.2d at 664. Common law malice means the defendant acted with ill will toward the plaintiff or acted recklessly or wantonly, *i.e.*, with a conscious disregard of the plaintiff's rights. Padgett v. Sun News, 278 S.C. 26, 32, 292 S.E.2d 30, 34 (1982). "The determination of whether or not a statement is actionable *per se* is a matter of law for the court to resolve." Erickson, 368 S.C. at 466, 629 S.E.2d at 665.

"In a defamation action, the defendant may assert the affirmative defense of conditional or qualified privilege." Swinton Creek Nursery v. Edisto Farm Credit, 334 S.C. 469, 484, 514 S.E.2d 126, 134 (1999). "Under this defense, one who publishes defamatory matter concerning another is not liable for the publication if (1) the matter is published upon an occasion that makes it conditionally privileged, and (2) the privilege is not abused." Id. When one has an interest in the subject matter of a communication, and the person (or persons) to whom it is made has a corresponding interest, every communication honestly made, in order to protect such common interest, is privileged by reason of the occasion. Murray v. Holnam, 344 S.C. 129, 140, 542 S.E.2d. 743, 749 (Ct. App. 2001). The statement, however, must be such as the occasion warrants, and must be made in good faith to protect the interests of the one who makes it and the persons to whom it is addressed. Id. The question whether the privilege has been abused is one for the jury. Id. A qualified privilege does not prevent liability for defamation where the statement is made with actual malice. Id. Common law actual malice means the defendant acted with ill will toward the plaintiff or acted recklessly or wantonly, meaning with conscious indifference towards the plaintiff's rights. Id.

ARGUMENT

This Honorable Court must deny Plaintiff's Motion for Partial Summary judgment because, as set forth herein, Defendant has set forth Mr. Fokas' written communications to third

parties and deposition testimony of Mr. Fokas' own mother showing Mr. Fokas did indeed defame Defendant in both unprivileged defamatory statements that are actionable *per se* and in unprivileged defamatory statements that are not actionable *per se*.

I. Plaintiff's published defamatory statements that are actionable *per se* for which malice and damages are presumed.

Mr. Fokas published numerous written unprivileged defamatory statements to third-parties that are actionable *per se*. In these defamatory statements, Mr. Fokas charged Defendant with an act or characteristic "of unfitness in one's business or profession" and/or "commission of a crime of moral turpitude." As shown in the exhibits referenced below, Mr. Fokas published at least four defamatory statements about Defendant that were actionable *per se*.

First, as set forth in Defendant's Exhibit AA of his Counterclaim, and attached hereto as Exhibit 1, Plaintiff made unprivileged defamatory actionable *per se* statements to Iakovos Ferderigos in writing that Defendant is unfit in his business or profession. In particular, Plaintiff published to Iakovos Ferderigos the statement **"your brothers [Phillip and Spiros Ferderigos] have no business sense and I'm sure we will be butting heads with Greek properties in the future. Very sad!!!"** See Exhibit 1, attached hereto (emphasis added). Defendant owns several rental properties, including the existing rental units at 229 King Street with Mr. Fokas. These defamatory statements published by Mr. Fokas impugn Defendant's ability to manage or oversee these businesses.

Second, Plaintiff further made unprivileged defamatory actionable *per se* statements to Irene Fokas, Defendant's aunt, by informing her Defendant is unfit in his business or profession. See Deposition of Irene Fokas, Page 74, lines 3 – 8, attached hereto as Exhibit 2. In pertinent part, Mrs. Fokas testified she believes Defendant is a bad business person based upon statements made to her by Plaintiff:

Q. Okay. So then as a result of what your son Athan told you, do you think that Phillip and Spiros are bad business people?

A. Yeah. I tell you this for the second time. I answered this already. We're going to talk about the same things over and over again?

See Deposition of Irene Fokas, Page 74, lines 3 – 8, attached hereto as Exhibit 2 (emphasis added). Again, these defamatory statements published by Mr. Fokas impugn Defendant's ability to manage or oversee his rental businesses.

Third, Plaintiff further made unprivileged defamatory actionable *per se* statements to Iakovos Ferderigos and Phillip Ferderigos in writing that Defendant is unfit in his profession as an attorney and accused Defendant of committing the crime of perjury in these communications. In a communication published to Iakovos Ferderigos and Phillip Ferderigos, Plaintiff wrote **"Spiro, you have already been proven to have lie'd in your deposition. I think that may be grounds for disbarment. Continue to lie and see where that gets you."** See Exhibit 3, attached hereto (emphasis added). This time, Mr. Fokas directly impugns Defendant's honesty, integrity, and reputation with regard to his work as an attorney. Mr. Fokas even goes so far as to threaten Defendant's law license.

Fourth, Mr. Fokas further made unprivileged defamatory actionable *per se* statements to Iakovos Ferderigos and Phillip Ferderigos in writing by informing them Defendant is unfit in his profession as an assistant solicitor. In a communication published to Iakovos Ferderigos and Phillip Ferderigos, Plaintiff wrote as follows:

> **"Speaking of fiduciary duty, I was a little shocked when I read in Stan Barnett's affidavit that you Spiro Ferderigos told him that it may be your fiduciary duty to inform the police as a current solicitor that you should tell them that I was involved in the fire at Old Towne without any proof whatsoever. That is a grave error from a solicitor. Does your boss know about that comment you made? Who exactly is your boss?"**

See Exhibit 4, attached hereto (emphasis added). Again, Mr. Fokas directly impugns Defendant's honesty, integrity, and reputation with regard to his work as an assistant solicitor.

These four defamatory statements published by Plaintiff to third-parties constitute actionable *per se* defamation. Because these statements impeach Defendant's honesty, integrity, virtue, and reputation, they are defamatory. These statements are false, as demonstrated by the testimony of Defendant. Plaintiff does not allege any privilege protects these communications from a defamation claim. Plaintiff published these defamatory statements to third-parties, including Irene Fokas, Iakovos Ferderigos, and/or Phillip Ferderigos. These statements either charge Defendant with the commission of a crime or impugn his fitness to serve as a businessman, attorney, or assistant solicitor, and as a result, they are actionable *per se*. For these defamatory statements which are actionable *per se*, the Court must presume Plaintiff acted with common law malice and presume Defendant suffered actual damages. For these reasons, Defendant has set forth evidence showing Plaintiff published defamatory statements about him to third-parties and has suffered damages as a result, and therefore, this Honorable Court must deny Plaintiff's Motion for Partial Summary Judgment.

II. Plaintiff published additional defamatory statements about Defendant to third-parties that are not actionable *per se*.

In addition to the above actionable *per se* defamatory statements, Mr. Fokas also published numerous unprivileged written and verbal defamatory statements about Defendant to third-parties that are not actionable *per se*. First, Mr. Fokas published to third parties false statements alleging the proposed project of new rental units was not moving forward because Defendant was not doing what he agreed to do. For example, Mr. Fokas informed third parties he did nothing to delay the proposed project and the reason the proposed project did not move forward was because Defendant could not eat for free at the restaurant located on the first floor

of 229 King Street, Old Towne Restaurant. Mr. Fokas told Defendant he thought the community would find his defamatory statements "hilarious." Second, Mr. Fokas also told other third parties the reason the proposed project was not moving forward was because Defendant was jealous Mr. Fokas had a greater ownership interest in 229 King Street than Defendant and/or Defendant's stubbornness. Third, Mr. Fokas published defamatory statements to third parties claiming Defendant accused Mr. Fokas of willfully setting fire to 229 King Street for insurance proceeds and other insurance fraud. As more fully set forth below, each of these statements constituted the publication of defamatory statements by Plaintiff about Defendant.

A. Mr. Fokas published defamatory statements blaming Defendant for the proposed project not moving forward and alleging the reason the proposed project did not move forward was because Defendant could not eat at Old Towne Restaurant for free.

In his Complaint, Mr. Fokas alleges Defendants Phillip and Spiros Ferderigos breached the alleged contract by (1) "refusing to carry out their obligations to execute the mortgage on the building" and (2) "other parts of the loan documentation." See Complaint ¶ 31 (C/A No. 2015-CP-10-3919). Mr. Fokas' Complaint details one alleged reason this Defendant refused to execute a mortgage: "Defendant Spiros Ferderigos refused to sign the mortgage for the closing as he was in contention for a seat on the South Carolina Circuit Court and informed Plaintiff the mortgage might affect his consideration." (Complaint ¶ 16, C/A No. 2015-CP-10-3919).

Mr. Fokas does not allege, nor even make mention, in his Complaint that the proposed project being explored failed to move forward because Defendant could not eat for free at a restaurant located on the first floor of 229 King Street (Old Towne Restaurant). Despite this fact, Mr. Fokas threatened to defame Defendant in the community if he did not execute the mortgage and loan documents Defendant never agreed to sign. Mr. Fokas informed Defendant he would publish in the community a "multimillion dollar deal" did not move forward because Defendant

could not eat for free, adding he believed everyone would find it "hilarious." Mr. Fokas made true on his threat to defame Defendant in the community as set forth herein.

It is undisputable that *Mr. Fokas* terminated the second set of negotiations after the parties were unable to reach a resolution regarding execution of a side agreement and loan closing documents for the proposed project being considered. The written documentation from the negotiations cannot be clearer:

> **11/24/14: Email from Athan Fokas to Ferderigos Brothers stating "I'm not interested in you trying to bully me into signing any type of side agreement that is unnecessary. My attorney, as I said earlier, strongly was against it."**
>
> **11/24/14: Email response from Phillip Ferderigos to Athan Fokas stating "You are asking me to mortgage my part of Old Towne and you are unwilling to sign an Agreement to say that you will make your payments timely. I believe you have mortgaged your other properties and now you want to mortgage Old Towne. I am not your piggy bank. I will not mortgage my share of Old Towne for you unless you agree to make your payments timely. Unless you change your decision, there is no point in moving forward."**
>
> **11/24/14: Email response from Athan Fokas to Phillip Ferderigos stating "I am not asking you to do anything. The bank is requiring that all parties sign off on the mortgage. I did secure that you didn't have to personally guarantee the note. Quite [sic] trying to put yourself on a pedestal. If you want me to sign a side agreement that guarantees I will pay the note then you will sign one saying that you will come up with the money needed for construction or you shall suffer similar consequences. If you are intelligent you will already know that the money will be there with the original suites income to pay for the loan. Cut your pompous attitude and either get it done or not..."**
>
> **11/24/14: Email response from Phillip Ferderigos to Athan Fokas stating "I do not care what your bank is requiring of you to get your loan...that has nothing to do with me. I will not sign off on any mortgage of my share unless you sign an agreement that you will make your payments timely. If you are an intelligent person you will see that I can not and will not agree to mortgage my share of Old Towne if you do not agree to make your payments on time. "**

11/24/14: Email response from Athan Fokas to Phillip Ferderigos stating "Well then it's done. I'll reverse as much as I can and just right it off as a stupid transaction dealing with Ferderigos Family."

See Defendant's Answer and Counterclaim, Exhibit M.

Angry because Defendants would not mortgage their personal assets for Mr. Fokas' benefit, *Mr. Fokas* interjected for the first time that the thirty (30) plus year custom of the Ferderigos and Fokas families eating at Old Towne Restaurant for free was to cease immediately. This was done in an effort to harass, humiliate, attempt to coerce, and "get back" at Defendants for not giving into his inappropriate demands.

Athan Fokas: "Oh it has been a pleasure to say the least. I'm also done with paying your half of the food you so dearly like to eat at Old Towne weekly on my dime. If you don't pay your portion to me then Jacob will have to. All management will be put on notice."

See Exhibit S of Defendant's Answer and Counterclaims, also attached hereto as Exhibit 5.

When this attempt failed to coerce Defendants Phillip and Spiros Ferderigos into giving a mortgage of their personal assets for Mr. Fokas' benefit, something Phillip and Spiros never agreed to do, Mr. Fokas took matters to the next level and threatened to defame and spread defamatory statements to the community that the proposed project being considered failed because Defendants could not eat for free:

Athan Fokas: "I can't wait to spread the word that the suites multimillion dollar project couldn't get done cause Phillip can't eat for free. I'm sure everyone will find it hilarious. I am probably doing you a favor. Smaller waist line. I bet your kids will be real proud of you in the future too. Your dad was right for calling you palabo [means "stupid' in Greek] Philipa."

See Exhibit T of Defendant's Answer and Counterclaims, also attached hereto as Exhibit 6.

Mr. Fokas made true on his threat to defame Defendants in the community and defamed Defendants by telling Stavros Ferderigos (Defendants' father), Dr. Fanouris Ferderigos (Defendants' uncle), and Antonia Fokas (Plaintiff's spouse) that the proposed project being

considered did not move forward because Defendants could not eat for free at Old Towne Restaurant:

> **Athan: "I just spoke to your dad and he doesn't think everyone should eat at Old Towne for free either."** See Exhibit T of Defendant's Answer and Counterclaims, also attached hereto as Exhibit 7 (emphasis added).
>
> **Athan: "Phillip I expressed your thoughts to uncle Fanouri and for what it's worth he thinks nobody should eat for free and he says it has become childish at this point."** See Exhibit 8, attached hereto (emphasis added).
>
> **Athan email to Spiros, Phillip, Jacob Ferderigos and copying third party Antonia Fokas: "If this deal is dead and you guys will not go forward unless you get to eat for free at Old Towne then I would like my expenses paid back to me because I have not delayed this project and we have had two closing's cancelled due to you guys reluctance to move forward ... I also feel that I can receive my attorney fees back due to a breach of contract and there may be ethics violations for Spiro admitting to threatening me by text. I have had trouble sleeping since I have received that text which could be breach or of bad faith dealing between partners. The eating at Old Towne for free was never an agreement between us going forward with the new suites and cannot be brought up now to delay the project ... I have cc'd my wife on this email so that she will be informed of all my conversations because we are life partners."** See Exhibit 9, attached hereto (emphasis added).

These statements published by Plaintiff to third-parties constitute defamation because these statements impeach Defendant's honesty, integrity, virtue, and reputation. These statements are false, as demonstrated by the e-mails and text messages from Plaintiff himself. Plaintiff does not allege any privilege protects these communications from a defamation claim. Plaintiff published these defamatory statements to third-parties, including Stavros Ferderigos, Fanouri Ferderigos, and Antonia Fokas. Plaintiff acted with common law malice because he published these defamatory statements in an effort to coerce Defendant into building the new construction at 229 King Street. For these reasons, Defendant has set forth evidence showing Plaintiff published defamatory statements about him to third-parties and has suffered damages as

a result, and therefore, this Honorable Court must deny Plaintiff's Motion for Partial Summary Judgment.

B. Mr. Fokas published defamatory statements alleging the proposed project did not move forward because Defendant was jealous of him or blaming Defendant's stubbornness.

As set forth below, Mr. Fokas further defamed Defendant by publishing defamatory statements to Irene Fokas the reason the proposed project did not move forward was because Defendant was jealous Mr. Fokas has a larger ownership interest in 229 King Street than Defendant and/or because of Defendant's stubbornness.

Irene Fokas admitted in her deposition everything she knows about the proposed project being considered at 229 King Street she learned directly from Mr. Fokas. See Exhibit 10 attached hereto. In particular, Mrs. Fokas testified as follows:

> Deposition of Irene Fokas, Page, 64, lines 4-7:
>
> **Q. And Athan is the one that has told you everything you know about the project at 229 King Street; correct?**
>
> **A. Of course.**
>
> Deposition of Irene Fokas, Page 57, lines 12-15:
>
> **Q. But you never spoke with Phillip, Jacob, or Spiros about the proposed building?**
>
> **A. No. I did not speak to them because I knew what was happening.**

Irene Fokas admitted in her deposition Mr. Fokas defamed Defendant by telling her Defendants Phillip and Spiros Ferderigos were not being required to mortgage their interest in 229 King Street in order for Mr. Fokas to receive a loan for the proposed project being considered (despite the basis of Mr. Fokas' lawsuit alleging that they did agree to provide such a mortgage). Irene Fokas also testified Plaintiff told her the proposed project did not move

forward because Defendants were jealous Mr. Fokas has a fifty percent ownership interest in 229 King Street, while they only each have one-third (sic) interest in 229 King Street or that proposed project being considered at 229 King street did not move forward because of Defendants' stubbornness:

Deposition of Irene Fokas, Page 51, lines 6 – Page 52, line 11:

Q. And did you know that in order for your son to get that loan, Phillip and Spiros would have to mortgage their interest in 229 King Street for Athan Fokas' loan?

A. I don't believe these things...[t]hey are not starting because the boys have – it's like – stubborn. They're stubborn ... [o]r because the – Athan has half of the – half. They have half. They only have one-third.

Deposition of Irene Fokas, Page 53, lines 20-24:

Q. How did you come to know that Phillip and Spiros said these things?

A. He [Athan] said the stubbornness or the jealousy ...

See Exhibit 11 attached hereto (emphasis added).

These statements published by Plaintiff to Irene Fokas constitute defamation because these statements impeach Defendant's honesty, integrity, virtue, and reputation. These statements are false, as demonstrated by the e-mails and text messages from Plaintiff himself set forth above and Defendant's deposition testimony. Plaintiff does not allege any privilege protects these communications from a defamation claim. Plaintiff published these defamatory statements to third-parties, Irene Fokas. Plaintiff acted with common law malice because he published these defamatory statements in an effort to coerce Defendant into building the new construction at 229 King Street. For these reasons, Defendant has set forth evidence showing Plaintiff published defamatory statements about him to third-parties and has suffered damages as a result, and therefore, this Honorable Court must deny Plaintiff's Motion for Partial Summary Judgment.

C. Mr. Fokas published defamatory statements alleging Defendant accused Mr. Fokas of willfully setting fire to 229 King Street for insurance proceeds and other insurance fraud.

Irene Fokas admitted in her deposition Mr. Fokas told her Defendant is going to accuse Mr. Fokas of setting fire to 229 King Street for insurance proceeds and filing false insurance claims. Irene Fokas admitted in her deposition Mr. Fokas made these unprivileged defamatory statements to her about Defendant. These statements were either made directly by Mr. Fokas or through Mr. Fokas' agent, Stanley Barnett.

Deposition of Irene Fokas, Page 46, line 3 – Page 47, line 7:

Q. Okay. Are you aware of any statements that Phillip or Spiros have made to Athan's lawyer?

A. I heard that the guys had told the attorney.

A. That Phillip and Spiros, they're going to accuse Athan for this and this and that.

Q. Does she – do you know what the specifics of the accusations are?

A. For fire, insurance, things like that ...

Q. Who told you these things?

A. Either the attorney or my son.

See Exhibit 12, attached hereto (emphasis added).

These statements published by Plaintiff to Irene Fokas constitute defamation because these statements impeach Defendant's honesty, integrity, virtue, and reputation. These statements are false, as demonstrated by Defendant's deposition testimony and the deposition testimony from Civil Action No. 2015-CP-10-3891. Plaintiff does not allege any privilege protects these communications from a defamation claim. Plaintiff published these defamatory statements to third-parties, Irene Fokas. Plaintiff acted with common law malice because he published these defamatory statements in an effort to coerce Defendant into building the new

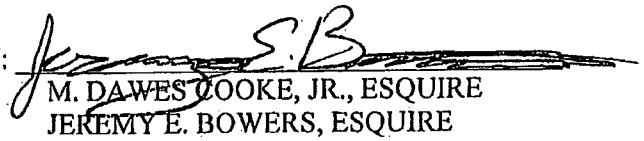
construction at 229 King Street. For these reasons, Defendant has set forth evidence showing Plaintiff published defamatory statements about him to third-parties and has suffered damages as a result, and therefore, this Honorable Court must deny Plaintiff's Motion for Partial Summary Judgment.

CONCLUSION

As set forth above, Mr. Fokas has failed to meet his burden of proof to clearly establish an absence of a genuine issue of material fact. To the contrary, Defendant has put forth evidence showing Mr. Fokas' defamatory written and oral communications to third parties about Defendant. Mr. Fokas published defamatory statements about Defendant to third-parties in statements that are actionable *per se*, for which Mr. Fokas' malice in publishing the statements and Defendant's damages are presumed. Further, Defendant has put forth evidence Mr. Fokas published defamatory statements that not actionable *per se* but for which Mr. Fokas' purpose of publishing was to coerce Defendant to build the new construction at 229 King Street. As a result of the publication of these defamatory statements by Mr. Fokas, Defendant suffered damages to his reputation in the community and even within his family.

Based upon these arguments and any arguments raised at the hearing on this motion, Defendant respectfully asks this Honorable Court to deny Mr. Fokas' Motion for Partial Summary Judgment.

BARNWELL WHALEY PATTERSON & HELMS, LLC

BY: 

M. DAWES COOKE, JR., ESQUIRE
JEREMY E. BOWERS, ESQUIRE
288 Meeting Street, Suite #200 (29401)
Post Office Drawer H
Charleston, South Carolina 29402-0197
PHONE: (843) 577-7700
FACSIMILE: (843) 577-7708
ATTORNEYS FOR DEFENDANT SPIROS FERDERIGOS

December 7, 2017
Charleston, South Carolina

2015-CP-10-3891

Certificate of Service

I hereby certify that the foregoing **MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON BEHALF OF DEFENDANT SPIROS FERDERIGOS** was served upon the parties to this action by U.S. mail, sufficient postage attached thereto, to the following counsel of record:

Leslie S. Lenhardt, Esquire
Lenhardt Law Firm, LLC
1876 Wallenberg Blvd.
Charleston, SC 29407

Jennifer H. Thiem, Esquire
K&L Gates LLP
134 Meeting Street, Suite #500
Charleston, SC 29401

This the 7th day of December 2017.

FILED
2017 DEC -7 AM 11:36
JULIE J. ARMSTRONG
CLERK OF COURT
BY

Cheryl D. Leonard
Legal Secretary

Jacob Ferderigos <iakovosstavros@gmail.com>

Fwd: Flood Policy - Cancellation

1 message

Iakovos Ferderigos <iakovosstavros@gmail.com> Sun, Jan 11, 2015 at 7:28 PM
To: Spiros Ferderigos <spirosferderigos@gmail.com>, Phillip Ferderigos <pferderigos@barnwell-whaley.com>

Sent from my iPhone

Begin forwarded message:

From: Athan Fokas <fokasa@bellsouth.net>
Date: December 17, 2014 at 9:48:07 AM EST
To: "iakovosstavros@gmail.com" <iakovosstavros@gmail.com>
Subject: Fwd: Flood Policy - Cancellation

I cancelled the flood insurance below so we can get our money back. The storage unit date was just missed so we are paid thru Jan 12. I don't think we are going to recover any money from Kevin because he is going to say that was work to get us here. We still owe the structural engineer $3000.00 and we owe the bank for the appraisal which is about $2000.00. Your brother's have no business sense and I'm sure we will be butting heads with Greek properties in the future. Very sad!!!

Sent from my iPhone

EXHIBIT
tabbies 1

Fanouris is saying -- (Greek.)
A. My brother Fanouris said, "This is crazy. I've never heard of things like this." So we did not have a problem after that.
Q. Do you know anything about a request for a mortgage related to building the project at 229 King Street?
A. No. I never got involved in things like this.
Q. Do you know if your son Athan made any money from the sale -- from the sale of his restaurant Zeus?

00073

A. He sold the store. Yes. He did donate it. They pay for it.
Q. Do you know the details of that?
A. I do not get involved with things like that.
Q. Did your son Athan tell you that it was stupid for Phillip and Spiros not to build the building?
A. He did say that it is stupid or superior to have such a chance to build the apartments and not to take this opportunity to do it.
Q. Did Athan tell you that it was Phillip an Spiros' fault that the building was not being built?
A. Of course. And afterwards it was not as formal as at the beginning. He told us he did not agree with the things, but later --
Q. So as a result of what Athan told you about this, do you believe it is Phillip and Spiros' fault that the building is not being built?
A. Of course. I told Athan -- two-and-a-half years later everything was ready to be done, and they didn't want to do it but -- and they didn't have to wait for Spiros to become a judge.

00074

They could have started, and you wouldn't -- they would have been finished by now.
Q. Okay. So then as a result of what your son Athan told you, do you think that Phillip and Spiros are bad business people?
A. Yeah. I tell you this for the second time. I answered this already. We're going to talk about the same things over and over again?
Q. No. The -- the question -- the question was different.
A. We answered this question. It was exactly the same thing.
Q. No. The first question that you answered was: Do you believe it is Phillip and Spiros' fault that the building was not built?



Athan Fokas

By other side business do you mean Old Towne Payroll Account and Old Towne Restaurant account that your brother Jacob own's 50% of? You were all were in cahoots when Jacob and I opened the Old Towne Suites account back in 2011. Or else you would've mentioned something within the last five plus years that it has been in operation. I'm sure judge Nicholson will love to hear you explain that one. Spiro, you have already been proven to have lie'd in your deposition. I think that may be grounds for disbarment. Continue to lie and see where that gets you. 4:17 PM

Spiros Ferderigos

Athan, I have absolutely no idea what you are talking about. You are again wrong and stating things you know are wrong. Trying to threaten me with fabrications does not absolve you of your requirements under the LLC statute. As we have said repeatedly before, as soon as Philip, Jacob and I were made aware that you opened the LLC account to our exclusion, you were immediately notified. All of that is documented in writing.

In your text, you apparently overlooked answering my question of the $120. Is my cursory review correct? 4:36 PM

Wednesday, February 15, 2017

Spiros Ferderigos

Gentlemen, please see the email I just sent in regards to the LLC with the subject line "Re: Old Towne Suites, LLC Bank Vote/Resolution" 9:43 AM

Athan Fokas

I emailed you my response. Thanks, Athan 10:55 AM

EXHIBIT tabbies 3

Athan Fokas

I am 50% owner and you guys are all 16%. If you start pulling your weight and checking on things that would be great but if a light bulb is out and you want approval to change it then maybe you need to take a 101 business course to enlighten yourself. 4:28 PM

I think it is your fiduciary duty as owner to check on things?

Spiros Ferderigos

Athan, check the LLC statute. You can not do anything without the prior knowledge and approval as set forth above. Neither can I. You are on notice again that everything needs the prior knowledge of all members and the prior approval of the majority of the membership interest. 50 percent does not get there. Again. I look forward to your text and the texts of the other members about what needs to be voted on for the Suites. I will do the same. I am not going to engage in conversation about how you feel the LLC obligations should be vs what they are by law. I expect the next text to be about a Suites decision that needs to be voted on. Thank you. 4:34 PM

Athan Fokas

Speaking of fiduciary duty, I was a little shocked when I read in Stan Barnetts affidavit that you Spiro Ferderigos told him that it may be your fiduciary duty to inform the police as a current solicitor that you should tell them that I was involved in the fire at Old Towne without any proof whatsoever. That is a grave error from a solicitor. Does your boss know about that comment you made? Who exactly is your boss? 4:36 PM

Spiros Ferderigos

Athan, do you have a question to ask about a decision that needs to be made regarding the Suites? Otherwise, stop abusing this text chain. 4:50 PM

Athan Fokas

This chain was started by you on October 19, 2014 saying that you had to hold off signing the paperwork for the new suites cause you were trying to become a judge. How did that work out for you? 5:01 PM

Spiros Ferderigos

Athan, do you have a question to ask about a decision that needs to be made regarding the Suites? Otherwise, stop abusing this text chain. 5:09 PM

EXHIBIT

4

650

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Old Towne Suites

Athan Fokas <fokasa@bellsouth.net> Mon, Nov 24, 2014 at 1:55 PM
To: Phillip Ferderigos <pferderigos@bamwell-whaley.com>
Cc: "<lakovosstavros@gmail.com>" <lakovosstavros@gmail.com>, spiros ferderigos <spirosferderigos@gmail.com>

Oh it has been a pleasure to say the least. I'm also done with paying your half of the food you so dearly like to eat at Old Towne weekly on my dime. If you don't pay your portion to me then Jacob will have to. All management will be put on notice.

Sent from my IPhone
[Quoted text hidden]

EXHIBIT
5

(843) 813-5612

I can't wait to spread the word that the suites multimillion dollar project couldn't get done cause Phillip can't eat for free. I'm sure everyone will find it hilarious. I'm probably doing you a favor. Smaller waist line. I bet your kids will be real proud of you in the future too. Your dad was right for calling you palabo Philipa. 4:52 PM

Tuesday, December 16, 2014

(843) 813-5612

As I was running this morning I came up with a proposal. I will agree to let you eat for free if you are out of the note and you put your 350 g's in escrow. This is because you will sign off on the mortgage without needing to. And this will take place as long as my portion of the mortgage is not paid off. If we go the other rout where we split everything 50/50 on the loan, then you are signing for your own 16% interest and therefore we are even. 7:18 AM

Wednesday, December 17, 2014

(843) 813-5612

I just spoke to your dad and he doesn't think everyone should eat at Old Towne for free either. 1:45 PM

EXHIBIT

tabbies

6

(843) 813-5612

I can't wait to spread the word that the suites multimillion dollar project couldn't get done cause Phillip can't eat for free. I'm sure everyone will find it hilarious. I'm probably doing you a favor. Smaller waist line. I bet your kids will be real proud of you in the future too. Your dad was right for calling you palabo Philipa. 4:52 PM

Tuesday, December 16, 2014

(843) 813-5612

As I was running this morning I came up with a proposal. I will agree to let you eat for free if you are out of the note and you put your 350 g's in escrow. This is because you will sign off on the mortgage without needing to. And this will take place as long as my portion of the mortgage is not paid off. If we go the other rout where we split everything 50/50 on the loan then you are signing for your own 16% interest and therefore we are even. 7:18 AM

Wednesday, December 17, 2014

(843) 813-5612

I just spoke to your dad and he doesn't think everyone should eat at Old Towne for free either. 1:45 PM

EXHIBIT

7

Me

No, that is not what I said. I will not meet with you to discuss any options until we go back to the status quo first. If that is a problem, then that is fine. 1:26 PM

(843) 813-5612

I do not understand what the status quo interpretation was but am sure if we meet we can figure that out. 1:28 PM

Me

Athan, I do not have time for the games that you are playing today. If you want clarification, I will prepare a contract for you and Jacob to sign that says our respective families can eat at old towne for free. Just like it has been for decades. I'll have it for your consideration sometime next week, assuming I have a time to get to it.

If you do not like that requirement on the front end, that's fine. I am not interested in moving forward with options. Thanks, Phillip 1:39 PM

(843) 813-5612

I'm not playing games but if all families get to eat for free and Jacob and I are paying for the food cost then do we get free legal advise in return? 1:41 PM

Me

Athan, I am not interested in moving forward with you. Please do not email or text me anymore. Have a nice day sir. Phillip 1:42 PM

(843) 813-5612

Why can't you have a business discussion and come to an agreement t 1:43 PM

(843) 813-5612

that make sense 1:43 PM

(843) 813-5612

Phillip I expressed your thoughts to uncle Fanouri and for what it's worth he thinks nobody should eat for free and he says it has become childish at this point. He also asked what happened to the escrow money you said you would put up. Maybe you should call him. 3:11 PM

EXHIBIT

8

SF RTP 000260

Gmail spiros ferderigos <spirosferderigos@gmail.com>

Old Towne Suites Addition:

1 message

Athan Fokas <athanfokas@gmail.com> Tue, Jan 6, 2015 at 12:20 PM
To: "lakovosstavros@gmail.com" <lakovosstavros@gmail.com>, spiros ferderigos <spirosferderigos@gmail.com>, Phillip Ferderigos <pferderigos@bamwell-whaley.com>
Cc: Antonia Fokas <antoniafokas@hotmail.com>, "zeusseafood@bellsouth.net" <zeusseafood@bellsouth.net>

Gentlemen,
I hope you are having a good New Year so far and hope it is prosperous for you.
I spoke with Jacob today and asked him where we are on the suites. He said that he hasn't spoken to Phillip or Spiro. Jacob did ask me to put a hold on it until after the holidays and that is why I am writing you now. I have tallied up our expenses thus far on the new suites project and came up with $79727.99. We still owe $3000.00 to our engineer and we owe $2500.00 for our original appraisal to the bank and we owe $350.00 to Amy Haines for the title search. I plan to have those bill paid once we receive our end of the year suites check this week. All in all the project so far has cost $85577.99 which puts us at $42789.00 each for the Fokas half and the Ferderigos half. If this deal is dead and you guys will not go forward unless you get to eat for free at Old Towne then I would like my expenses paid back to me because I have not delayed this project and we have had two closing's cancelled due to you guys reluctance to move forward.
The contractor did express that prices are increasing and he would not be able to honor our original contract because of the delay. I'm not sure what that increase will be and if we move forward I do think that the Fokas 50% is not responsible for the increase.
I would like to know where you guys stand on this because next week I plan to hand over all the emails and texts of our conversations to my attorney so we can file a Specific Performance Lawsuit asking you to either finish the deal or pay me my expenses to get out of it. I also feel that I can receive my attorney fees back due to a breach of contract and there may be ethics violations for Spiro admitting to threatening me by text. I have had trouble sleeping since I have received that text which could be breach or of bad faith dealing between partners.
The eating at Old Towne for free was never an agreement between us going forward with the new suites and cannot be brought up now to delay the project.
I would like to have your answer my this Friday January 9.
Sincerely,
Athan Fokas
PS: I have cc'd my wife on this email so that she will be informed of all my conversations because we are life partners.

EXHIBIT
abbies
9

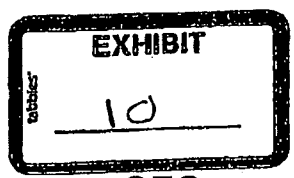
Thanksgiving 2014?
A. If he said something bad about them?
Q. Not necessarily anything bad. Just does he remember -- or does she -- do you remember your son Athan talking about Phillip and Spiros during the family Thanksgiving last year?
A. Yes. I don't remember.
Q. Do you remember if your son Athan told everyone that the reason why the building was not being built was because of Phillip and Spiros?
A. Jacob did not say anything, but then he became -- he -- before Iakovos did not take their side, but now he takes their side.
Q. Okay. My question is: Do you remember at last Thanksgiving your son Athan telling everyone at the dinner table that the reason the building was not being built was because of Phillip and Spiros?
A. I cannot -- you're asking me such a question. Is it better on a holiday like Thanksgiving we will be discussing things like that?

00063

Q. So is your response that, no, that was not discussed?
A. No. But I was very upset inside because I could not be with my entire family, and then I kept it to myself. I did not complain. I --
Q. Who all was present at that Thanksgiving?
A. My family.
THE WITNESS: My family.
Q. Can you provide the names of those individuals? As many as you can.
A. My children, my grandchildren.
THE WITNESS: That's all. Me and my husband.
A. And me and my husband. That's all.
Q. Did your son Athan tell you that Phillip and Spiros broke a promise to him regarding building the building at 229 King Street?
A. I knew this from before, but we did not discuss it at Thanksgiving.
Q. Right. Not at Thanksgiving. At any time did your son Athan tell you that Phillip and Spiros broke a promise to him regarding building the building?
A. They do not want to build the

00064

apartments.
Q. And did Athan tell you that?
A. Who else? Of course.
Q. And Athan is the one that has told you everything you know about the project at 229 King



Street; correct?
A. Of course.
Q. Was the first time that you spoke to Mr. Barnett when you returned from Greece in October of 2015?
A. Yes.
Q. Had you ever spoken with him before that time?
A. No.
Q. And where did you all meet?
A. My house.
Q. Are you aware of whether or not Mr. Barnett ever tried to contact you before you came back to America from Greece?
A. No.
Q. When you met with Mr. Barnett, were your daughter Rania and your son Athan present for that meeting?
A. Yes.
Q. Was anyone else present?

00065

A. No.
Q. And during that meeting did Mr. Barnett tell you that you would not need to appear for your deposition?
A. No. He didn't tell me such a thing.
Q. Okay.
A. What do you mean not to go? Where?
Q. That you would not need to appear for your deposition on October 28.
A. No. He did not say such a thing.
Q. Did you discuss with Mr. Barnett the fire that happened at 229 King Street?
A. We said something. We talked about the fact that his cousins are trying to accuse him of these things.
Q. And so Mr. Barnett told you that Phillip and Spiros were telling people that Athan started the fire at 229 King Street?
A. I don't know if he said it that day.
Q. Do you know what you all discussed, then, in regards to 229 King Street?
A. We said that they are accusing Athan for the fire and for insurance.
Q. So Mr. Barnett told you that Spiros and Phillip were accusing Athan of starting the fire

00066

and filing false claims?
A. Yes. Maybe. I think he told me. He must have told me. I don't remember well.
Q. Did Mr. Barnett tell you any of the details about the lawsuits that Athan filed or started?
A. He said that they accusing Athan for

THE WITNESS: The problems.
A. -- the problems.

Q. Did you ever speak with Phillip or Spiros Ferderigos about the project of building a building?
A. I didn't speak to them because I knew what -- what they would tell me. They would tell me that it's our fault. It is your son's fault.
Q. Did you ever speak with Jacob Ferderigos about building the proposed building?
A. I know that he did not agree. Iakovos did not agree with his brothers, but he's on their side now; and now the three of them are going after Athan.
Q. But you never spoke with Jacob about the plans to build the building?
A. No. He -- but I knew he was in good terms with him at this, but now things change. He's with his brothers, and they are accusing Athan.
Q. And the only people involved in this proposed building were your son Athan, Phillip Ferderigos, Jacob Ferderigos, and Spiros Ferderigos; correct?
A. Yes.
Q. And you have not spoken with Phillip, Spiros, or Jacob Ferderigos about the proposed building; correct?
A. I remembered that they were saying that why isn't he doing it faster? For my son, why this is not happening? What is he doing?
Q. But you did not speak with Phillip, Jacob, or Spiros about the proposed building; correct?
A. No. She said -- she said my brother said that when these apartments are built, we're not going to have any problems. We're going to have plenty of money.
Q. But you never spoke with Phillip, Jacob, or Spiros about the proposed building?
A. No. I did not speak to them because I knew what was happening.
Q. And the reason you knew what was happening was because your son, Athan Fokas, told you what was happening?
A. Everything was good for two-and-a-half years. All together -- all together the family, we celebrated holidays.
Q. I understand that.
But I'm trying to understand how you came to know this information as to what happened with the building. Is the source of your -- is

everything is ready; and they say they don't want to do it. That is the problem.

And they bring out all these other things, and they accusing Athan. The main problem is that they can start building, and everything can go away. They can throw out all the papers, and they can start.

He -- all that Athan wants -- he doesn't

00050

want any money. He only wants to start this building. He's been waiting for two-and-a-half years. He's been working towards this for two-and-a-half years, and I don't understand why they don't want to start. This is good for everyone..

Q. And is Athan Fokas the source of your information on that?

A. Who else?

Q. Are you aware that your son, Athan Fokas, was asking Phillip and Spiros to mortgage their interest in 229 King Street to build that building?

A. I don't know about these things. To get a loan on the building?

Q. Yes. In Phillip and Spiros' name for -- . for --

A. He's been told that they had to get a loan on the building? For two-and-a-half years, that's now we find this out?

Q. Do you understand that Phillip and Spiros were going to pay cash for this building?

MR. BARNETT: Object to the form.

A. I don't -- I don't think he did, but they never -- they put the money down. When it was time to start the building, they did not put

00051

the money down. But they haven't -- two-and-a-half years, they knew there had to be a loan.

Q. Do you understand that your son needed a loan for that project?

A. I knew that, and they knew that.

Q. And did you know that in order for your son to get that loan, Phillip and Spiros would have to mortgage their interest in 229 King Street for Athan Fokas' loan?

A. I don't believe these things. They knew this for two-and-a-half years, and the youngest said I had to become -- wants to get the position, the highest position, and -- because --

THE INTERPRETER: Judge?

THE WITNESS: Yes. (Greek.) What we say before?

THE INTERPRETER: The judge?

THE WITNESS: The judge, yes. (Greek.) Building, the apartments. And I don't understand

EXHIBIT 11

why. The evidence is already -- everything that -- to start it, where to Spiros and three months, stop to start. And after Spiros all ready to start, Phillip will say, I know what, no. No start the building. After two-and-a-half years no how -- (Greek.) With Athan everything,

00052

you know. So I know -- that's all of that stuff.

MR. HASTIE: Did either the court reporter or the --

THE WITNESS: (Greek.)

A. They are not starting because the boys have -- it's like -- stubborn. They're stubborn.

THE WITNESS: Yeah. I think so. (Greek.)

A. Or because the -- Athan has half of the -- half. They have half. They only have one-third.

THE WITNESS: I don't know. I will no understand why no start and all about the copy that's coming now for nothing.

Q. Is that the reason that you believe the buildings or the rental units were not built?

A. If there was a problem, they would have told us two-and-a-half years ago.

THE WITNESS: Yeah.

A. If Spiros did not wait to become -- whatever he wants to become, then he would have started.

THE WITNESS: Yeah. And he waited three months to Spiros, if he go there. Stop. No go. So it's ready to start; and after that, say no, I

00053

not going to start after two-and-a-half years.

Q. And are all those things what your son, Athan Fokas, told you?

A. I listened because my brother would say, "Did they start building yet? Those apartments? What is Athan doing?"

Q. But is it Athan Fokas that told you the reasons why you're saying here today Phillip and Spiros are not building the building?

A. No, no, no. I -- it's stubbornness.

THE WITNESS: Yeah.

A. That's -- because there's no other reason.

Q. Okay. So there's no other reason, but how did you come to understand that this was the reason?

A. Because they said it's not going to be done. It's not going to be done.

THE WITNESS: He say, no, no.

Q. How did you come to know that Phillip and Spiros said these things?

A. He said the stubbornness or the jealousy that they're not getting -- they're also not getting tests.

THE WITNESS: (Greek.) Before it's

00054

finished to start. Two-years-and-a-half, and Athan's worked to -- to everything be okay to start the building. Why no say before? But I'm saying everything is okay to start.

Q. Is everything you know about this proposed project, did that come from Athan Fokas, your son?

A. Everything was good. My brother was asking me. "Why is Athan not doing this? Why is he not starting it? Why aren't they finishing?"

Q. I understand that, Mrs. Fokas; but can you tell me: Is Athan Fokas the person that told you everything you know about this proposed project?

A. All I know is that he tried to and worked very hard, and he suffered for two-and-a-half years to start building this apartment.

We would have not waited for Spiros to become a Judge. We had to wait for three months, then we would have started.

THE WITNESS: Yeah. After three months, we waited for Spiros -- (Greek.)

A. We waited three months for Spiros to become a Judge; and then three months later Spiros said, "I don't want to do it." We fell

00055

off the -- the cloud. It was like a mountain for us. We waited and waited for this to start.

Q. Are you just guessing that these are the reasons why the building was not completed or started, or is this what Athan Fokas told you?

A. They said we waited for two-and-a-half years. Everything was ready. Athan said, "We're ready"; and then we had to wait for Spiros to become a judge.

THE WITNESS: After three months, Spiros -- (Greek.) No be the judge. So now all ready. So go to start. He say no. I not going to start.

Q. I understand that that's what you believe happened, but how is it that you know that that's what happened? Is that what your son, Athan Fokas, told you; or are you guessing?

A. We lived this things every day.

Q. I understand that you lived these things every day, but were you involved in the building of the building?

A. No. But I -- I would always see the -- I could always see --

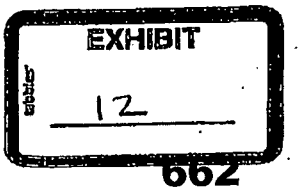
or Spiros ever said anything to Mr. Barnett?
A. No.
Q. Is everything that you know about what was told to Mr. Barnett, did that come from your son, Athan Fokas, or Mr. Barnett himself?
MR. BOWERS: And that might have been worded very poorly; and if it is, please ask me to rephrase it, Madam Interpreter.
THE INTERPRETER: Yes. Please rephrase it, yes.
Q. Everything that you know about what Stanley Barnett has been told came from either

00046

Athan Fokas or Mr. Barnett; correct?
A. Don't understand.
Q. Okay. Are you aware of any statements that Phillip or Spiros have made to Athan's lawyer?
A. I heard --
THE INTERPRETER: The interpreter wants to hear her answer again. I don't understand what she's saying.
MR. BOWERS: Okay.
A. I heard that the guys had told the attorney.
MR. BOWERS: I'm sorry. Could you get her to rephrase that answer 'cause I'm not sure that I understand.
THE INTERPRETER: I know.
I heard from where.
A. That Phillip and Spiros, they're going to accuse Athan for this and this and that.
Q. And what is "this, this, and that"?
A. Whatever my daughter told me. The things she was afraid for her brother.
Q. But you're not aware of what those things are?
A. Accusations against Athan.

00047

Q. Does she -- do you know what the specifics of the accusations are?
A. For fire, insurance, things like that.
Q. But Rania did not tell you these things.
A. Not for the attorney.
Q. Who told you these things?
A. Either the attorney or my son.
Q. Okay. Before today had you ever told anyone that Rania was the source of the information that you had about destroying Athan Fokas?
A. No. I said I was -- I was forced to say this to my son when he came here.
Q. Today?
A. Not today. When I came back -- when I



BARNWELL WHALEY PATTERSON & HELMS LLC | 75 YEARS 1938-2013

Attorneys for businesses & professionals since 1938

Jeremy E. Bowers, Associate
jbowers@barnwell-whaley.com

December 7, 2017
VIA HAND DELIVERY

5033.001
Charleston County Clerk of Court
100 Broad Street, Suite #106
Charleston, South Carolina 29401-2258

RE: Fokas v. Ferderigos, et al.
Case No.: 2015-CP-10-3891

Dear Madam Clerk:

Enclosed please find the original and one (1) copy of the Memorandum in Opposition to Plaintiff's Motion for Partial Summary Judgment filed on behalf of the Defendant, Spiros Ferderigos, in the above-referenced matter. Please file the original and return the filed stamped copy to me via our courier.

By copy of this letter, I am informing counsel for the Plaintiff of this communication with the Court and serving her with a copy of the Motion for Summary Judgment. If you have any questions, please do not hesitate to contact me at (843) 577-7700. Again, thank you for your cooperation in this matter. With kind regards, I am

Sincerely,

Jeremy E. Bowers

Encl.
cc w/encl.: Leslie Lenhardt, Esquire (via U.S. Mail)
Jennifer H. Thiem, Esquire (via U.S. Mail)
Joseph R. Weston, Esquire (via U.S. Mail)
Laura W. Robinson, Esquire (via U.S. Mail)

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CIVIL ACTION NO.: 2015-CP-10-3891

ATHAN FOKAS,

Plaintiff,

v.

PHILIP FERDERIGOS, SPIROS FERDERIGOS, and JACOB FERDERIGOS

Defendants.

NOTICE OF FILING OF DEPOSITION TRANSCRIPT (URANIA NIKATOS)

2017 DEC -7 PM 1:35
BY
JULIE J. ARENDS
CLERK OF COURT

TO: LESLIE LENHARDT, ESQUIRE, ATTORNEYS FOR THE PLAINTIFF

Defendant, SPIROS FERDERIGOS, by and through his undersigned counsel, hereby files the deposition transcript of Urania Nikatos dated February 28, 2017. A copy of the deposition transcript along with all exhibits is attached hereto as Exhibit A.

BARNWELL WHALEY PATTERSON & HELMS, LLC

BY: _____

M. DAWES COOKE, JR., ESQUIRE
JEREMY E. BOWERS, ESQUIRE
288 Meeting Street, Suite #200 (29401)
Post Office Drawer H
Charleston, South Carolina 29402-0197
PHONE: (843) 577-7700
FACSIMILE: (843) 577-7708
ATTORNEYS FOR DEFENDANT SPIROS FERDERIGOS

December 7, 2017
Charleston, South Carolina

2015-CP-10-3891

Certificate of Service

I hereby certify that the foregoing **NOTICE OF FILING OF DEPOSITION TRANSCRIPT (URANIA NIKATOS)** was served upon the parties to this action by U.S. mail, sufficient postage attached thereto, to the following counsel of record:

Leslie S. Lenhardt, Esquire
Lenhardt Law Firm, LLC
1876 Wallenberg Blvd.
Charleston, SC 29407

Jennifer H. Thiem, Esquire
K&L Gates LLP
134 Meeting Street, Suite #500
Charleston, SC 29401

2017 DEC -7 PM 1:46
JULIE J. ARMSTRONG
CLERK OF COURT
BY

This the 7th day of December 2017.

Cheryl D. Lockard
Legal Secretary

STATE OF SOUTH CAROLINA)IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON)NINTH JUDICIAL CIRCUIT

Athan Fokas, Plaintiff, v. Phillip Federigos and Spiros Federigos, Defendants.	)Civil Action No.:)2015-CP-10-3891

****

DEPOSITION OF: URANIA NIKATOS

DATE TAKEN: Tuesday, February 28, 2017

TIME: 11:34 A.M.

PLACE: Barnwell Whaley
288 Meeting Street
Charleston, South Carolina

REPORTED BY: MARY ANN RIDENOUR, RPR, CLR
Registered Professional Reporter,
Certified LiveNote Reporter
and Notary Public

EXHIBIT
A

A P P E A R A N C E S

REPRESENTING THE PLAINTIFF:

LESLIE S. LENHARDT, ESQUIRE
Lenhardt Law Firm
1876 Wallenberg Boulevard
Charleston, South Carolina 29407
llenhardt@lenhardtlawfirm.com

REPRESENTING THE DEFENDANTS:

JEREMY E. BOWERS, ESQUIRE
Barnwell Whaley
288 Meeting Street
Charleston, South Carolina 29401
jbowers@barnwell-whaley.com

ROBERT P. JACKMAN, ESQUIRE
Vernis & Bowling of Columbia
1401 Main Street, Suite 655
Columbia, South Carolina 29201
rjackman@scarolina-law.com

STEPHANIE P. ANTHONY, ESQUIRE (SPIROS FEDERIGOS)
Weston Law Firm
761 Johnnie Dodds Boulevard, Suite 100
Mount Pleasant, South Carolina 29464
santhony@westonlawfirm.com

ALSO PRESENT:

ATHAN FOKAS
PHILLIP FEDERIGOS
SPIROS FEDERIGOS

I N D E X

Testimony of Urania Nikatos

Direct Examination by Ms. Lenhardt.....4
Cross-Examination by Mr. Bowers.....35
Redirect Examination by Ms. Lenhardt.....65

CERTIFICATE.....67
ERRATA.....68

INDEX OF EXHIBITS

Plaintiff's Exhibit No. 1 - Affidavit of Rania Nikatos.....26
Defendant's Exhibit No. 2 - Text messages.....48
Defendant's Exhibit No. 3 - Plaintiff's Memorandum in Opposition to Defendants' Motions for Summary Judgment.....51
Defendant's Exhibit No. 4 - Supplemental Affidavit of Stanley E. Barnett.....56
Defendant's Exhibit No. 5 - Emails.....63

STIPULATIONS

It is hereby stipulated and agreed by and between the parties hereto, through their respective counsel, that the reading and signing of the transcript is reserved by the Deponent.

(The deposition commenced at 11:34 A.M.)

URANIA NIKATOS, SWORN.

DIRECT EXAMINATION BY MS. LEHNHARDT:

Q. Good morning.

A. Good morning.

Q. I'm Leslie Lenhardt.

A. Nice to meet you. Hi.

Q. Nice to meet you, too. May I call you Rania?

A. Absolutely.

Q. Okay.

A. That's what I go by.

Q. Thank you so much.

Are you represented by counsel today?

A. No.

Q. Okay. All right. Have you ever had your deposition taken before?

A. No, not this way. I mean, I wrote -- signed a...

Q. An affidavit?

A. Something.

Q. Okay.

A. I don't know what it's called. But, yeah. No.

Q. You signed that in connection with this litigation?

A. Yes.
Q. Okay.
A. Yes.
Q. All right. Well, this is just a little fact-finding mission for me. And I don't want it to be uncomfortable or embarrassing or anything like that. I'm just going to be asking you some questions about the facts surrounding this particular lawsuit.
A. Sure.
Q. Okay?
A. Perfect.
Q. And if you have any questions, if I don't phrase a question correctly, please let me know and I will rephrase it.
A. Sure.
Q. And if you need to take a break for any reason, please just let me know.
A. Okay.
Q. I don't anticipate this is going to take very long, but just in case.
A. All right.
Q. Are you under the influence of any medications today that would prevent you from testifying truthfully?
A. No.

Q. Okay. And you're doing this very well so far, but when I do ask a question if you would answer verbally, instead of saying uh-huh or huh-uh.

A. Yes or no.

Q. Yes or no --

A. Absolutely.

Q. -- is great. It's great for the record.

A. Yes.

Q. And then, one more thing. We cannot talk over one another. So let me finish my question and I'll let you finish your answer, mainly for the court reporter's benefit, okay?

A. Very good.

Q. All right. And so you are aware that you're being deposed in connection with a lawsuit that Athan Fokas has filed against Phillip and Spiros Federigos?

A. Yes.

Q. Okay. And give me your understanding of what the allegations in that lawsuit are.

A. Will you ask me a question? What do you mean?

Q. What --

A. Like -- like --

Q. What do you think -- what are the allegations of the lawsuit? What is Athan alleging that Phillip

and Spiros have done?

A. I'm assuming knowing or talking about fires, the fire. I'm not sure.

Q. Okay.

A. Something like that.

Q. Okay.

A. I guess.

Q. All right. Are you --

A. I don't know.

Q. Okay.

A. I try not to stay involved in this stuff.

Q. All right. Are you aware that the lawsuit alleges defamation?

A. What does that mean?

Q. Okay. You don't know what "defamation" means?

A. Explain to me.

Q. Okay. Defamation is a statement that is untrue, that is made to a third person.

MR. BOWERS: Object to the form.

MR. JACKMAN: Object to the form.

THE WITNESS: What?

MR. BOWERS: You can answer.

BY MS. LENHARDT:

Q. Sorry. The lawyers will object to questions

that I ask. And you can go ahead -- you can go ahead and answer. But it's for the record.

A. Okay. So what is your question?

Q. All right. I'll tell you what. I'm going to go down a different road, and we'll come back to that, okay?

A. Okay.

Q. All right. Let's go -- let's come back. Your full name, for the record, is what?

A. Urania Nikatos.

Q. Where were you born?

A. Here is Charleston, South Carolina.

Q. All right. When?

A. May 30, 1966.

Q. Okay. And where do you currently live?

A. 34 Held Circle, Charleston, South Carolina, 29412.

Q. All right. And are you married?

A. Yes.

Q. Okay. And is this your first marriage?

A. Yes.

Q. And who are you married to?

A. Gerasimos Nikatos.

THE REPORTER: Can you spell that?

THE WITNESS: Spell it? G-e-r-a-s-i-m-o-s.

BY MS. LENHARDT:

Q. Okay. Do you have any children?

A. Yes.

Q. Okay. What are their names and ages?

A. Andreas, Andrew, is 30, and Niki is 27. N-i-k-i.

Q. Okay. And your parents are Irene and Spiros?

A. Uh-huh.

Q. Okay. And Athan Fokas is your brother?

A. Uh-huh.

Q. Do you have any another siblings?

A. Uh-huh.

Q. Who are they?

A. Effie and Dena.

Q. Okay.

A. Well, Effeffe and Medena, if you want full names. Effie Fokas and Dena Moses.

Q. Okay. And how old are they?

A. Dena is -- just turned 40. And Effie is 43, I want to say.

Q. Okay.

A. Or 42, 43. Forty-three.

Q. And your cousins are Phillip, Jacob and Spiros --

A. Yes.
Q. -- is that correct?
A. Yes.
Q. Okay. Would you say you're close with your family?
A. Yes.
Q. Are you close with your cousins, as well?
A. Yes.
Q. Okay. And with your mother and father?
A. Yes.
Q. All right. And do you see them often?
A. My parents?
Q. Your parents and your cousins?
A. My family, all the time.
Q. All the time?
A. My cousins, during festival or church, or something to that nature.
Q. Okay.
A. Recently, more recently.
Q. Okay. Do you talk about your business interests with your cousins?
A. No.
Q. No?
A. No.
Q. Okay. Do you talk about business with your

parents?

A. No.

Q. Okay. What -- what businesses do you own, if any?

A. My -- with my name on them?

Q. Uh-huh.

A. None.

Q. Okay. Does your husband own any businesses?

A. Yes.

Q. What are those?

A. Eat A Pita, North Towne, and that's it.

Q. Okay. Does he own Eat A Pita by himself?

A. No.

Q. Who are his partners?

A. With Jacob, our cousin.

Q. Okay. And how long has he owned the restaurant?

A. Eat A Pita, eight years, nine years, eight years, nine, something like that.

Q. Okay. And do you own any real property?

A. Us? Me?

Q. You?

A. Other than our home?

Q. Your -- do you own your home?

A. Yes.

Q. Okay. And is that in your name and your husband's name?

A. Yes.

Q. Okay. And is the restaurant -- do you own the Eat A Pita building?

A. No.

Q. Just the restaurant?

A. Yes. And I don't own it.

Q. Okay. And it's your husband that owns it?

A. The build -- the business.

Q. The business?

A. Uh-huh.

Q. Do you own or does your husband own any real property in Greece?

A. My husband has a house in Greece.

Q. Okay. Is that just a personal residence?

A. Uh-huh.

Q. Okay. Any other real properties?

A. No.

Q. Okay. And you don't personally own any?

A. No.

Q. Okay. All right. So you're familiar with the property located at 229 King Street; is that correct?

A. Yes.

Q. And your cousins, along with Athan, own some luxury rental suites there?

A. Uh-huh.

Q. Right?

A. Uh-huh.

Q. Okay. And at some point, they wanted to do an expansion of the rental suites business; is that right?

MR. JACKMAN: Object to the form.

BY MS. LENHARDT:

A. Yes.

Q. Okay. And so are you also in -- familiar with the litigation that has come out of the suites business?

A. The issues they're having?

Q. The lawsuit --

A. The lawsuit?

Q. -- that was filed?

A. A little bit, yeah.

Q. Okay. You know there was a lawsuit filed?

A. I do.

Q. Okay.

A. I've read it. I've seen it.

Q. You've read the Complaint?

A. I've read it online.

Q. Okay.

A. But I haven't been keeping up with it. But, yes, I've read it. I've seen it.

Q. Okay. And have you read the lawsuit that brings us here today for your deposition?

A. I've seen it. I haven't read it all.

Q. Okay.

A. But I know.

Q. You know what are the issues involved in this lawsuit that you're being deposed on today?

A. I think that they're saying that they knew about -- my cousins knew about Athan and the fire, and that they've been talking about it to people. I don't know; that's what I'm assuming.

Q. Okay. All right. So there's some allegations about Athan and the fire.

A. Okay.

Q. The fire that you're referring to is the fire that occurred at 229 King Street?

A. Uh-huh.

MR. BOWERS: Object to the form.

MR. JACKMAN: Object to the form.

BY MS. LENHARDT:

Q. You're going to have to deal with those objections, unfortunately.

A. Okay.

Q. They'll probably come a lot.

A. Okay. That's fine.

Q. So you do know about the fire that happened at 229 King Street?

A. I do.

Q. Do you remember when that was?

A. Eight years ago, nine years ago. Long time ago.

Q. Okay.

A. Yes.

Q. And what is your recollection of how that fire started?

A. My recollection on how that fire started? That my brother did work on the roof and it started.

Q. Okay. All right. Has anyone ever told you that Athan tried to start the fire?

A. No.

Q. Okay. Have you ever told anyone that Athan tried to start the fire?

A. No.

Q. Okay. All right. If you can recall back to the spring of 2015, were you aware of the dispute between Athan and the cousins about the rental suites business at that time?

MR. JACKMAN: Object to the form.
BY MS. LENHARDT:
A. When -- when was this?
Q. In the spring of 2015?
A. So two years ago?
Q. Uh-huh.
A. I don't recall. I -- when the lawsuit happened -- what are you asking me?
Q. Well, when did you first learn that there was a dispute about the suites business?
MR. BOWERS: Object to the form.
BY MS. LENHARDT:
A. When did I learn there was a dispute? I'd say I learned -- I don't remember.
Q. Do you remember whether or not you knew about the dispute with the suites business before the actual lawsuit was filed?
MR. BOWERS: Object to the form.
BY MS. LENHARDT:
A. Yes.
Q. Yes?
A. I think I heard about it.
Q. Okay. Before the --
A. But I don't -- yeah, I think I heard about it.

Q. Okay. And so if I represent to you that the lawsuit was filed in the summer of 2015, would you have known about the dispute before that, in the spring of 2015?

A. Yeah, I think I heard about it.

Q. Okay. How did you hear about it?

A. I'd say I don't remember.

Q. You don't remember who first told you about the dispute with the rental suites?

A. (No verbal response.)

Q. I need you to answer.

A. First heard about it?

Q. Uh-huh.

A. I'd say I'm not sure. I don't remember. I'd say that -- I don't know.

Q. Okay. So you can't tell me who told you first about the dispute with the rental suites?

A. That there was a disagreement?

Q. Yes.

A. I would probably say my cousin Jacob, that there was a disagreement, and that's about it.

Q. Okay. What -- what did he -- what was the substance of that conversation, as far as you recall?

A. That they're not agreeing. I don't know, that they're not agreeing. They're just not agreeing.

That's all. It was never any detail.

Q. Okay. Did you speak with either Phillip or Spiros about the dispute?

A. Never, no.

Q. Never?

A. Never.

Q. Okay. All right. You said you were very close with your parents?

A. Yes.

Q. And you're close with your mother?

A. Yes.

Q. And would you accompany her to various appointments that she had?

A. Yes.

Q. Like doctors' appointments?

A. Yes.

Q. Okay. And would you have conversations, when you did do that, have conversations with her?

A. Yes.

Q. About the family?

A. Yes.

Q. Okay. All right. And you're aware that your mother gave a deposition in this case?

A. Yes.

Q. Okay. And she testified that during one of

those doctor visits you told her that Athan -- that Phillips and Spiros --

MR. JACKMAN: Object to the form.

BY MS. LENHARDT:

Q. -- were saying that Athan set fire to 229 King Street?

A. Yes.

MR. BOWERS: Object to the form.

MR. JACKMAN: Object to the form.

BY MS. LENHARDT:

A. I'm aware she says that. But it's not true.

Q. It's not true?

A. No.

Q. Okay. Did you discuss anything related to this lawsuit with her, at any time?

A. Yes.

Q. Okay. And I'd like to know what you discussed and when you discussed it, so if you could go through that with me?

A. When I heard that things weren't going well and it was a possible lawsuit, I -- I told Mom.

Q. Okay. And what -- what exactly did you tell her?

A. That morning telling her -- telling her that it's horrible to do this, to be in this situation with

the family.

Q. Okay.

A. That's it.

Q. And what situation -- describe the situation that you referred to.

A. Being in a lawsuit together as a family.

Q. Okay.

A. Yeah.

Q. Did you discuss anything about Athan and his relationship with the fire?

A. Mom told me about the fire; I didn't tell her about the fire.

Q. Okay. And exactly what -- how did that conversation go? Tell me what was -- exactly what was said.

A. It was in the doctor's office. She does not remember that.

Q. Okay. What did she say?

A. It was in the doctor's office. And she said, They're going to try to blame Athan about the fire.

Q. Okay.

A. And I told Athan that, and I told Stan that a long time ago.

Q. Okay.

A. That's exactly how it went.

Q. What about Athan filing false insurance claims, did you ever have any conversations with your mother about that?

A. I don't know about any false insurance claims or situations. I -- nobody talked to me about any of that or anything. I told Mom that I'm worried about him, I'm worried about Athan, and I'm worried about stuff. You know, I don't know. Things may come -- come out that's hard for -- for -- for him, or families, or whatever. I was worried about him.

Q. And why? Why, exactly, were you worried about him?

A. Because he's my brother and I'm worried about him.

Q. Okay.

A. I was worried about this, about it. That's it.

Q. About "it" meaning?

A. About getting in a lawsuit.

Q. Okay. Okay. When your mother told you about -- or what did you say? You testified that your mother told you about the fire?

A. Uh-huh, she told me.

MR. JACKMAN: Object to the form.

BY MS. LENHARDT:

Q. Had you heard about Athan and the fire from anyone else?

A. No.

Q. Okay. So the first time that you heard about Athan and his role in the fire was when your mother told you?

A. I always knew about the fire.

Q. Athan -- right. I'm asking about Athan's role in the fire. Was the first time that anybody talked to you about Athan's role in the fire when your mother first told you that?

A. I always knew Athan's role in the fire, because I was -- I knew that his work did the fire, so...

Q. Okay.

A. So...

Q. Your mother -- you just testified that your mother told you that Athan tried to start the fire or that there were people telling you -- telling -- saying that Athan tried to start the fire?

MR. JACKMAN: Object to the form.

BY MS. LENHARDT:

A. Mom said to me that they're -- what they're saying about your brother, or whatever, it's been a while that they're -- want to blame Athan for the fire.

She didn't tell me who or what or why. Didn't ask.

Q. Okay. And you said they were going to blame him for the fire?

A. That's what I believe she told me then.

Q. Okay.

A. She told me about the fire. I don't know anything else.

Q. Who is "they"?

A. She didn't tell me who.

Q. Okay.

A. I don't know where that came out from.

Q. Okay.

A. Or why.

Q. Okay. And that was the first time that you had heard anything like that?

A. Yes.

Q. Okay.

A. Yes.

Q. All right. And then in 2015, your mother and your father left for Greece, that summer?

A. Yes.

Q. Okay. Did you discuss what your mother told you about the fire with anyone else during that summer?

A. No.

Q. Okay. And you said you had not heard anything about Athan filing any false insurance claims; is that correct?

A. I -- no, I don't know.

Q. Okay.

A. No.

Q. Okay. When they returned from Greece, do you recall that your mother received a subpoena to be present for a deposition right after she got back from Greece?

A. Yes.

Q. Okay. How did you come to find out about that?

A. She told me that day.

Q. Okay. And --

A. Or something like that, that day.

Q. Okay. And what did she say?

A. That she was coming here to -- and she needed -- she wanted me to help her. So I came. I was here.

Q. Okay. All right. And what happened when you arrived here? The "here" is Barnwell Whaley? This is where y'all were?

A. Yes.

Q. Okay. Tell me what happened that morning

when you arrived here with your mother.

A. I came here and I came into the room with her.

Q. And what happened?

A. And she had to -- she worded how she wanted the paper to be, to whatever she -- the -- what is it called instead of a deposition?

Q. An affidavit?

A. Affidavit. Affidavit. And she worded it how she wanted it and signed it.

Q. Okay. And who was in the room with you when this was happening?

A. The lawyers, my cousins, me.

Q. Okay. All right. Did anybody ask you to take an affidavit to her before you arrived at Barnwell Whaley?

A. No.

Q. Okay. You weren't involved in drafting the affidavit?

A. Never heard about it before that moment, no.

Q. Okay. All right. And how much time do you spend at Eat A Pita? Do you work there?

A. I help out, so it varies.

Q. Okay.

A. It depends on how busy we are or what they

need from me.

Q. Okay. And does Stavros ever eat there?

A. I don't see him there. My husband does sometimes. He goes in the morning. But I don't -- I've only seen him once, twice.

Q. Okay. How about Phillip, does he come and eat at the restaurant?

A. I haven't seen Phillip in the place in a while.

Q. What about Spiros?

A. I haven't seen Spiro in a while. It's been a while.

Q. Okay. All right. And through conversations with anybody at Eat A Pita, have you ever heard anyone mention that your brother, Athan, started the fire at 229 King Street?

A. No.

Q. Okay. And I just want to mark this as an exhibit.

(Plaintiff's Exhibit No. 1 marked for identification.)

BY MS. LENHARDT:

A. May I look at it?

Q. Absolutely. I'm going to show you what's marked as Exhibit 1 to your deposition. Do you

recognize this document?

A. Uh-huh.

Q. Okay. And it's an affidavit that's signed by you?

A. Uh-huh.

Q. And it was dated 11/20/15; is that right?

A. Yes.

Q. Okay. You're aware that your mother's deposition occurred on the 19th of November?

A. The day before this.

Q. The day before you signed it?

A. I don't remember which days and everything. But -- or how many days it was or anything. But, yes. I mean, if you tell me that, then, yes.

Q. Okay. And who first approached you about signing this affidavit?

A. I don't remember.

Q. Okay. You don't have any recollection of how this came to you for your signature?

A. I don't remember who told me to go to sign this. But I said, Of course, I will, and went.

Q. Okay. How did you find out about your mother's testimony in her deposition?

A. The day she had it, she told me. I was here.

Q. You attended her deposition?

A. I did.
Q. Okay.
A. I was in the room with her.
Q. Okay. And so in response to the deposition, you signed this affidavit dated 11/20/15?
A. Yes.
Q. Okay. And do you -- who drafted this affidavit?
A. There was the young girl --
THE WITNESS: Oh, hi. You came back in. When did you come back in? That's her.
BY MS. LENHARDT:
Q. Okay. You're pointing to --
A. I don't know her name.
MS. ANTHONY: Stephanie Anthony.
BY MS. LENHARDT:
A. And it was just the two of us.
Q. Okay. All right. And I think I asked you this, but you didn't -- you don't remember who actually requested that you come and sign an affidavit?
A. I don't.
Q. Okay. And you're positive that you were at the deposition of your mother the day before you signed this?
A. In the room with her?

Q. Yes.

A. That day when my mother came and she signed hers, like this?

Q. No.

A. Oh, I was here the day my mother came, when she signed, like this.

Q. Okay. Right. And then subsequent to that, she gave a full deposition.

A. I was not here for that.

Q. Okay.

A. So sorry.

Q. Okay.

A. Yeah, no. I don't know about any of that. So sorry.

Q. Okay. Well, then, if you weren't at the deposition on November the 19th, then how did you decide that you needed to sign an affidavit?

A. I was here when she signed.

Q. Right.

A. Whatever she did with this, like this, like I did. And -- and that's -- and I guess that's what brought that up. I wasn't there for the deposition. I don't know what happened to that deposition.

Q. Okay. You've read what she wrote in her affidavit, correct?

A. I did. I was here with her.
Q. Okay.
A. I don't remember it all, but I was here.
Q. Okay. Do you disagree with anything she put in that affidavit?
A. That was what her -- no. That was what she -- I don't know what she -- I mean, so I don't remember what was in it. And that was whatever she signed. I mean, I don't know. I don't disagree with anything.
Q. Okay. All right. Well, if you --
A. Sorry.
Q. If you weren't at her deposition, then I'm -- I want to know why you felt an affidavit was necessary?
A. Okay. Because she told me that she -- that I told her. And I didn't tell her about the fire. So I wanted to make sure that -- that that -- that's why I did this.
Q. Okay.
A. I remember the day she told me that I told her about the fire.
Q. Okay. And tell me what happened there.
A. She -- she came from Greece, the first day she was here. She came the fall. And she said that I

said -- we talked again. I'm like, I don't know anything. I don't want to know anything about the fire and whatever, and who told you. And she said, But you told me. I said, I did not tell you. She didn't remember that. So...

And I told my brother that exact day, that that's what Mama thought.

Q. Okay.

A. And I knew that was wrong, because it's wrong.

Q. Does she have -- does she have problems with her memory?

A. I'm -- has before, forgets things. But I think we all do, yeah.

Q. Okay.

A. I mean, yeah.

Q. Okay. All right. Let's look at your affidavit. So --

A. Okay.

Q. You say Phillip and/or Spiros have never told me that Athan hired someone to set fire to 229 King Street, that Athan Fokas was involved with the fire at 229 King Street, and/or that Athan had filed false insurance claims.

And that's true still, to your --

A. Very true.

Q. -- knowledge?

A. Yes.

Q. Okay. And has anyone ever told you that Athan hired someone to set fire to 229 King Street?

A. No.

Q. Okay. Or that Athan has filed false insurance claims?

A. No, nobody.

Q. All right. And then you say, I've never heard Phillip and/or Spiros Federigos say that Athan Fokas hired someone to set fire to 229 King Street, that Athan Fokas was involved with the fire at 229 King Street, or that Athan Fokas has filed any false insurance claims?

A. That is correct.

Q. And that is still correct today?

A. That is still correct.

Q. Okay. And you've never heard anybody tell that Athan allegedly did those things?

A. No.

Q. Okay. And, again, your mother's testimony in her deposition that you told her about these allegations is not true?

A. It is not true.

MR. JACKMAN: Object to the form.

BY MS. LENHARDT:

Q. All right. And that's sort of subsumed within your number three in your affidavit, that you say you never told Irene that I ever heard anyone say that Phillip and/or Spiros Federigos said that Athan Fokas hired someone to set fire to 229 King Street?

A. That's correct.

MR. JACKMAN: Object to the form.

BY MS. LENHARDT:

Q. Okay. All right. And I have never heard from anyone that Phillip and/or Spiros said that Athan Fokas hired someone to set fire to 229 King Street and that Athan was involved with the fire, or that Athan Fokas has filed any false insurance claims?

MR. JACKMAN: Object to the form.

BY MS. LENHARDT:

Q. And that is still correct and true?

A. That is still correct and true.

Q. Okay. Did you ever tell your mother that your cousins were going to try to destroy Athan?

A. No.

Q. Never said that?

A. Never said that.

Q. Okay. Did you ever tell Athan that you made

your bed and now you're going to lie in it?

A. I told Athan you made your bed, so keep -- so leave me out of that bed. I don't want to get involved.

Q. Okay. Let's take just a quick break. I should be wrapping up.

(A brief recess was taken.)

BY MS. LENHARDT:

Q. I just have a couple more questions about your affidavit.

A. Okay.

Q. Tell me -- if you told me already, I apologize. But where did you sign the affidavit? Where were you?

A. I was in Mount Pleasant, at a law firm there. I don't remember where.

Q. Okay.

A. Or which one, or whose it was. But it was with her. She knows.

Q. Okay. Okay. All right. And you said you do not recall who contacted you about signing this?

A. I don't.

Q. All right. You don't remember if it was a lawyer?

A. I don't. I don't remember. I don't remember

if Jacob told me if I wanted to do it. And, you know, and then -- I don't remember. I don't --

Q. Okay.

A. -- know where I was. I don't.

Q. Okay. But you were -- you did sit down and go over it at a law firm in Mount Pleasant?

A. Yes.

Q. Okay.

A. Yes, just her and I.

Q. Okay. Well, that's all the questions I have.

A. Thank you.

Q. Thank you.

CROSS-EXAMINATION BY MR. BOWERS:

Q. Good afternoon. My name is Jeremy Bowers. We met previously.

A. Yes.

Q. Can I call you Rania, as well?

A. Absolutely.

Q. Rania, referring to Exhibit No. 1, is that your signature at the bottom?

A. Here?

Q. Yes, ma'am.

A. Yes.

Q. And is everything in that affidavit true and accurate?

A. Yes.

Q. Okay. Did anyone force you to sign that affidavit?

A. No.

Q. Were you coerced or intimidated to give that affidavit?

A. No. My own free will.

Q. Okay. And I apologize if I go over some of the same stuff that Leslie did.

A. Okay.

Q. But I kind of have to, for chronology's sake.

A. All right.

Q. I think you testified that you recalled coming here previously for your mom's deposition, to this office, right?

A. To this office, when she -- not for the deposition, apparently, for when she signed this thing.

Q. So it was originally scheduled -- are you aware that it was originally scheduled to be a deposition?

A. Yes.

Q. Okay. Did your mom prefer to give an affidavit or statement rather than have her deposition taken in full?

A. That's what she told me, yes.

Q. Prior to that day, did you have -- do you recall having conversations with your brother's prior attorney, Stan Barnett?

A. Repeat that.

Q. Prior to the day that you were here with your mom, do you recall having telephone conversations with Stan Barnett, your brother's previous attorney in this case?

A. Yes.

Q. Okay. What was the substance of those conversations?

A. He would tell me things or talk about it. And I asked him not to, because I said I didn't want to be involved in anything. I think we spoke maybe twice, one at the house and one on -- my husband and I were driving, and we had a bad signal, so I was having a hard time understanding or getting through to him about this.

Q. And did you tell him during those conversations -- did you tell Mr. Barnett that you had never heard Phillip or Spiro say that your brother started a fire at 229 King Street or that he filed false insurance claims?

A. I don't know if we talked about that. But, yes.

Q. Okay. So you're not sure if you talked with Mr. Barnett about the allegations that were being made?

A. I remember telling him that I did not tell my mother about the fire or anything of that, or tell my mother about the fire. She told me in the doctor's office.

Q. Do you recall if Mr. Barnett asked you directly if you ever heard Phillip or Spiro say those things to you?

A. I don't remember if he asked that question, sorry. I mean, very possible.

Q. Would you have told -- if he asked you that question, would you have told him, I never heard Phillip or Spiro say those things?

MS. LENHARDT: Object to the form.

BY MR. BOWERS:

A. Yes.

Q. Because you, in fact, have never heard Phillip or Spiro say those things, right?

A. Exactly. Exactly. Yes. So, no, I would -- exactly that.

Q. Did you inform Mr. Barnett during these conversations that your mother is the one that actually told you?

A. Yes.
Q. Okay.
A. This was before I even was aware that my mother thought that I was the one telling her --
Q. Right.
A. -- on top of it.
Q. And did you also inform Mr. Barnett that your mother was concerned that these allegations might come to light against Athan?
A. Repeat that.
Q. Do you recall during these conversations with Mr. Barnett saying that your mother had concerns that these allegations might come to light against your brother?
A. My mother?
Q. Yes.
A. I don't know if we ever said that or talked about that.
Q. Okay. And your mom never told you who told her --
A. No.
Q. -- about these rumors?
A. No.
Q. She just told you that she had heard about it?

A. Yes.
Q. And she was concerned about it?
A. Yes.
Q. And she was concerned about her son, your brother?
A. Yes. I guess that would be the gist of it.
Q. Okay.
A. Yes.
Q. When your mom came here that first time for what was supposed to be a deposition, I think you said she preferred to do a statement or an affidavit --
A. Uh-huh.
Q. -- over the deposition, right?
A. Yes.
Q. Okay. And that was accommodated for her, right?
A. Yes.
Q. Okay. At any time during that day, did Phillip or Spiro treat you or your mother with any kind of disrespect or anger, or otherwise mistreat either one of you?
A. No.
Q. Did any of Phillip or Spiro's attorneys, Ms. Anthony, myself, Ms. Thiem, did any of them ever mistreat your mom or you?

A. No.

Q. At any time, did Phillip or Spiro intimidate or coerce your mom into signing her affidavit?

A. No.

Q. At any time, did Phillip or Spiro's attorneys coerce or intimidate your mom into signing her affidavit?

A. No.

Q. And when your mom was here that day, were you with her the whole time?

A. Yes.

Q. Was she ever alone with Phillip and Spiro?

A. No.

Q. Was she ever alone with Phillip and Spiro's attorneys?

A. No.

Q. Were there times during that day when she was, though, alone with your brother and his attorney, Mr. Barnett?

A. I don't know.

Q. Okay.

A. I don't remember.

Q. Do you remember her going to review the proposed affidavit in another room with your brother and Mr. Barnett?

A. I think so. Yes, actually.

Q. And at the end of that day, did you and your mom meet with Phillip and Spiro separately, in one of the back conference rooms?

A. Yes.

Q. When -- now, that day, you didn't come with your mom, right?

A. No.

Q. You arrived first? You arrived before she did?

A. I, again, don't remember if I arrived before her or if she arrived and I came.

Q. Okay. When you were with her in one of the conference rooms over here, were Phillip and Spiro present or were just their attorneys present with you and your mom?

A. When we first came, or the whole time, or --

Q. The whole time. Let's start -- okay. Let's start with when they -- when you first arrived.

A. Okay.

Q. Okay. Did Phillip and Spiro escort your mom into one of the conference rooms where you already were?

A. I don't know.

Q. Okay. Do you recall if Phillip and Spiro

stayed in the room with you, your mom, and the attorneys, while the statement was being prepared?

A. I don't know.

Q. Okay.

A. Partly. I don't know.

Q. Okay.

A. Maybe. I don't remember.

Q. You just don't remember?

A. I don't remember.

Q. Okay.

A. Sorry.

Q. Do you remember --

A. I think they were in there part of the time, but I don't think the whole time. I don't remember.

Q. Okay. Do you remember there being a statement drafted?

A. Yes.

Q. And it was in English, right?

A. Yes.

Q. Did your mom ask that it be translated to Greek?

A. Yes.

Q. And originally were you trying to translate it in Greek for her, just verbally, not written?

A. To help her?

Q. Right.
A. I guess, yes.
Q. Do you recall then the attorneys asking the Greek interpreter that had been scheduled for the deposition to translate it in writing, in Greek?
A. Yes.
Q. And that was at your mom's request?
A. Yes.
Q. Correct?
A. Yes.
Q. Because she doesn't completely understand English?
A. Yes.
Q. Especially when it's written, right?
A. Yes.
Q. Okay.
A. She talked to a Greek lady on the phone, right.
Q. Right. And she actually physically spoke with the Greek interpreter on the phone?
A. Yes.
Q. And during those conversations, your mom would actually ask the Greek interpreter what certain words meant?
A. Yes.

Q. Because she had different understandings of what that Greek word was?

A. Yes.

Q. Okay. And at certain times, your mom even asked her to change certain words, right?

A. Yes.

Q. Okay. And at that point, those conversations were occurring in Greek, right?

A. Yes.

Q. Okay. Did any of the attorneys for Phillip or Spiro participate in those Greek conversations between your mom and the Greek interpreter?

A. No.

Q. And no one tried to force your mother to sign that affidavit, right?

A. No.

Q. And do you know if the Greek interpreter, in fact, made the changes that your mom requested to that document?

A. Yes.

Q. And did your mom tell you that everything that was in that affidavit was true and correct?

A. Yes.

Q. Were Phillip and Spiro pleasant with you and your mom --

A. Yes.

Q. -- that day?

Were the attorneys for Phillip and Spiro pleasant with you and your mom that day?

A. Yes.

Q. In fact, your mom thought she recognized me, and we discussed that maybe she saw me at the Bi-Lo at Shelmore; is that correct?

A. I don't remember.

Q. Do you recall at any time during that day your brother coming into the conference room where you, your mother and the attorneys were?

A. Yes.

Q. Describe for me the manner in which he came into that room. Do you remember?

A. No.

Q. Okay. Do you remember your brother having conversations with your mom about the content of the proposed statement?

A. Before she signed?

Q. Right.

A. I don't remember.

Q. Do you remember your brother raising your voice -- his voice at your mother?

A. I don't remember.

Q. Do you remember getting into a disagreement with your brother at all during that day?

A. I still don't. I don't know if that -- no. I don't remember.

Q. Do you remember your mom having any conversation back and forth with your brother?

A. At the end, we -- or whatever. We spoke in the room together.

Q. Okay. But before the actual statement got signed --

A. Okay.

Q. -- do you remember your mom having any back and forth --

A. Yeah. Yes. Yes.

Q. -- with your brother?

A. Yes. Yes. Yes.

Q. Okay. Was that over the content of the statement or do you recall?

A. Yes.

Q. Okay.

A. I think so. Yes.

Q. Were those --

A. Yes.

Q. -- conversations occurring in Greek?

A. Sure. Yes. Yes.

Q. Okay. Do you recall what the content of those conversations were?

A. I guess it was what -- from what it said on the paper that she was going to sign, and went back and forth. They did.

Q. Okay.

A. Yes.

Q. Was your brother disagreeing with some of the content of the affidavit?

A. Yes.

Q. Was your mother telling him, no, it's -- it's right, it's true?

A. She felt it was true.

Q. Okay. Do you recall after that day, at the end of that day, after everybody's gone home, do you recall sending a text message to Phillip and Spiro?

A. Yes.

Q. What do you -- what do you remember the content of that text message?

A. To thank them for being kind to us, and worked with us, with my mom.

Q. Okay.

A. Yes.

(Defendant's Exhibit No. 2 marked for identification.)

BY MR. BOWERS:

Q. Take a moment and read Exhibit No. 2 to yourself, Rania.

A. Sure.

Q. Does that appear to be the text message and the reply to the text message that you sent to Phillip and Spiro, and their replies?

A. Yes.

Q. Okay. And in that, do you, like you just testified, thank them for trying to make things easy on your mom?

A. Yes. I was there for my mom.

Q. And it says, Thank you for trying to make today as easy as possible for Mom and working with us to the best of your ability. I appreciate that very much?

A. Uh-huh.

Q. Right?

A. Uh-huh.

Q. And that's what you sent to Phillip and Spiro that day?

A. Yes. She changed a lot of things on there and whatever. They were -- whatever it read, she changed -- they changed it to the words that she wanted it to be, as many times as she needed it. So, yes,

that's why I said that.

Q. Okay. And I think you mentioned she made multiple changes to the document, right?

A. She did.

Q. And they gave her that -- Phillip and Spiro, their attorneys, gave her as much time as she needed to make those changes and feel comfortable with it, right?

A. Yes.

Q. And, ultimately, at the end of the day, you saw her sign that affidavit, right?

A. Yes.

Q. Now, I think we've talked previously about Mr. Barnett, right, your brother's previous attorney in this --

A. Yes.

Q. -- litigation?

A. Yes.

Q. And we mentioned that you had had some telephone conversations with him?

A. Yes.

Q. Have you seen any of the court filings or affidavits that Mr. Barnett has prepared that reference his conversations with you?

A. No.

Q. Okay.

A. Did not know there were any.

Q. Okay.

MR. BOWERS: This is Exhibit 3, please.

(Defendant's Exhibit No. 3 marked for identification.)

BY MR. BOWERS:

Q. I'm going to turn your attention to what's been marked as Exhibit No. 3. I'm not going to make you read all of this, obviously.

A. Oh, good.

Q. If you could turn to page ten for me, please.

A. Wow. Okay.

Q. At the very bottom, the very last paragraph, it says, Recently, Defendants obtained an affidavit from Rania in which she denies telling her mother anything about the allegations defendants threatened to make against plaintiff.

That's the affidavit that we've marked as Exhibit No. 1, right?

A. Uh-huh. Yes.

Q. It continues to say, It is not known under what conditions this affidavit was secured by defendants, given the intimidation and coercion they inflicted on Mrs. Fokas. However, any affidavits

submitted by defendants should be treated with extreme skepticism.

Are you aware of any coercion or intimidation that Phillip and Spiro or their attorneys inflicted on your mom?

A. No.

Q. Okay. And you were with her that whole day, right?

A. Yes.

Q. Okay. And the affidavit that you gave, Exhibit No. 1, you weren't coerced or intimidated to give that, right?

A. Not at all, no.

Q. And Mr. Barnett wouldn't have any information about under what circumstances you gave that affidavit, right?

A. No.

Q. Because you said only you and Ms. Anthony were there, right?

A. That's it.

Q. Okay.

A. No.

Q. So what Mr. Barnett has written here on page ten, that's just not true --

A. Not true.

Q. -- right? Okay.

Do you know why he would have written that?

A. No.

Q. Okay. Just one more section of this. On page 13, one large paragraph.

A. Okay.

Q. We'll really start in the middle, but the first part talks about the day that your mom was here for that first deposition, all right, where she ultimately signed her affidavit?

A. Very good.

Q. Okay. I want to start in the middle where it says, She was presented, right here.

A. Uh-huh.

Q. She was presented an affidavit written in English and told she needed to sign it.

Was your mom told she needed to sign the affidavit?

A. No.

Q. She refused, as she does not read English.

She didn't refuse; she asked for it to be interpreted into Greek, right?

A. Yes.

Q. That was her choice because, originally, you were trying to translate it verbally to her?

A. Yes.

Q. And she said that she would feel more comfortable if it were written in Greek?

A. Yes.

Q. And you didn't feel comfortable doing that?

A. I wanted her to feel comfortable. And it was her choice.

Q. Right. Ultimately, an affidavit was translated into Greek. And that was done by the independent Greek interpreter, right?

A. Yes.

Q. And that's the same person that your mom was able to have actual telephone conversations with?

A. Yes.

Q. She made numerous changes until the limited number of facts set forth in the affidavit were correct. At one point, Phillip Federigos threatened Mrs. Fokas, his aunt, that unless she signed the affidavit he would keep her there for another two or three hours, this after she had already been at Barnwell Whaley essentially imprisoned by a deposition subpoena for three hours.

Is that true?

A. Not true.

Q. Phillip never had threatened your mom?

A. Never.

Q. Your mom wasn't imprisoned here at Barnwell Whaley, was she?

A. No.

Q. She got to talk to your brother, right?

A. Yes.

Q. She got to talk to Mr. Barnett, right?

A. Yes.

Q. She got to talk to both of them before she ever signed the affidavit, right?

A. Uh-huh.

Q. It goes on to say, Mrs. Fokas' affidavit was therefore obtained through the most extreme intimidation short of physical force imaginable and in clear violation of the ethical and moral obligations of defendants, both lawyers, and their counsel.

Is that true?

A. No.

Q. Was there ever any extreme intimidation?

A. No.

Q. Are you aware of any ethical or moral obligations that Phillip and Spiro violated that day?

A. No.

Q. Their attorneys?

A. No.

Q. That's simply false, right?

A. Yes.

Q. And to the contrary, Phillip and Spiro and their attorneys were pleasant, polite, courteous to your mom the entire time?

A. Yes.

Q. You were with her the whole day?

A. The whole time, yes.

Q. Okay. Again, do you know why Mr. Barnett would have written this?

A. No.

Q. Was Mr. Barnett in the room with you and Spiro and Philip's attorneys that day?

A. No.

Q. Do you know how he would have knowledge of anything that he wrote there in that paragraph?

A. No.

Q. Okay.

(Defendant's Exhibit No. 4 marked for identification.)

BY MR. BOWERS:

Q. Rania, I'm going to show you what's been marked as Exhibit No. 4 to your deposition.

A. Okay.

Q. This is an affidavit from Stan Barnett.

A. Okay.

Q. I'm going to turn your attention to page three, if I can. I'm sorry, the bottom -- the very bottom of page two, very bottom of page two.

A. Okay.

Q. The very last line. As Mrs. Fokas testified in her deposition taken in November 2015, she was approached by her daughter, Rania, on the morning of October 28th, claiming to speak for Phillip Federigos and offering to allow her to not be deposed if she would sign an affidavit the defendants had drafted.

Did you approach your mom about giving an affidavit that day?

A. When I talked to mom that day, that morning that she was going to do that, she didn't want to be -- do a deposition and wanted to see how we could get -- how -- I'm trying to recall -- how we could get it not to do it. And she said she would sign the paper saying what was in the paper.

Q. Okay.

A. And she wanted help with that. So that's why I came down.

Q. Okay.

A. So...

Q. She asked you to be here?

A. Yes.

Q. Okay. Continuing into paragraph number five, the second sentence, it says, Neither Athan nor I were allowed to go into the room with her, despite Athan's strong objections.

I think we've already covered this, but your brother came into the room several times, right?

A. He had -- he was in the room with us at some point, not during the signing or, I think, the changing of the Greek into the English and the Greek, and the signing of it. But they did speak through it, before she signed it. They spoke.

Q. Okay.

A. And he read it, too, or something, I remember.

Q. Okay. Continuing on to paragraph number six. Paragraph six, page four.

A. Yeah, paragraph six, page six?

Q. Paragraph six, page four.

A. Okay, I see where the numbers are. Okay, go ahead.

Q. The very first line. The treatment of Mrs. Fokas is the worst abuse of a witness by lawyers I have ever seen.

A. Wow.

Q. Is that true?
A. No. No.
Q. Do you know how Mr. Barnett would have any knowledge of that, if he wasn't in the room?
A. No.
Q. Did he -- did Mr. Barnett ask you if your mom was being abused in that room?
A. No.
Q. Simply not true, right?
A. Simply not true.
Q. It's false?
A. It's false.
Q. You wouldn't have sent the text message to Phillip and Spiro at the end of the day otherwise, right?
A. No.
Q. Okay. Continuing on to that next sentence it says, From the subpoena served on her on the day of her return --

Paragraph six still, second sentence.

From the subpoena served on her on the day of her return from a day-long trip from Greece to give a deposition only four days later.

Do you know if Mr. Barnett actually wrote after your mom received this subpoena, saying your mom was

ready, willing, and able to give her deposition that Wednesday? Do you know if that occurred?

A. I don't know.

Q. Okay. To the threat to have her sanctioned when she complained she didn't fell well enough and asked for a postponement and, finally, to the outrageous effort to coerce her to sign an affidavit on a threat of keeping her for four hours longer, after she had already been held for three hours, there was a concerted scheme to intimidate her so as to extract an affidavit of the defendants' creation.

That's just not true, right?

A. Not true.

Q. Your mom wasn't held, right?

A. No.

Q. She wasn't coerced?

A. We stayed as long as she needed to feel okay with what she signed.

Q. And it took time for the Greek interpreter to make changes --

A. Absolutely.

Q. -- that your mom requested, right?

A. Absolutely.

Q. Do you know where the Greek interpreter was?

A. Where she was?

Q. Yeah.

A. I don't remember.

Q. She wasn't here?

A. She was on the phone.

Q. Right. Defendants, who are both lawyers, and their lawyers owe witnesses an obligation not to treat them in this bullying and abusive fashion.

Did Phillip and Spiro bully your mom that day?

A. No.

Q. Did their attorneys bully your mom that day?

A. No.

Q. Were they abusive in any way to your mom that day?

A. No.

Q. Mr. Barnett's affidavit just isn't true in paragraph six, right?

A. It is not true. I am shocked.

Q. And you would know because you were there, right?

A. I was there the whole time.

Q. Then Exhibit No. 3, which we've already gone over, that's not true either, right?

A. This one?

Q. The content that we went over on page ten and

page 13.

A. Not true.

Q. Exhibit No. 1 that you gave, your affidavit, you understand that to be under oath, right?

A. Yes.

Q. There's penalties if that's not -- if what you say is a lie; isn't that right, and you understand that?

A. Yes.

Q. You understand that Mr. Barnett's affidavit, Exhibit No. 4 that we just talked about, is also under oath, right?

A. Yes.

Q. And you're testifying here today that what's in Mr. Barnett's affidavit is not true?

A. Yes.

MR. FOKAS: Object to that.

BY MR. BOWERS:

Q. So would you agree with me that Mr. Barnett's representations to the court of what happened that day and how your mother was treated are just false?

A. False.

Q. And you would agree that Mr. Barnett's representations that Phillip, Spiro, and their attorneys tried to force, threaten, abuse, or act

inappropriately with your mother that day are just not true?

A. Not true.

Q. Can we take a short break?

MS. LENHARDT: Absolutely.

(A brief recess was taken.)

(Defendant's Exhibit No. 5 marked for identification.)

BY MR. BOWERS:

Q. Rania, I have just a few more questions and one more document to review with you. I'm going to show you what's been marked as Exhibit No. 5. And I'm going to ask you to start with the second e-mail from the bottom. This is an e-mail from Jeff Odom to Zeus Grill and Seafood. And it says, Athan, we are still working on it. Who are the owners of North Towne Greek Restaurant, Inc.? Basically, I'm wondering who all is involved in the ownership of the building. I should have an answer for you soon. Thanks for your patience. Jeff.

Then above that appears to be your brother's reply. North Towne is owned by me and my brother-in-law, your husband, 50 percent, 50 percent. On a side note, I might reopen North Towne if Jim and Nick's takes most of Zeus, which I will be getting the

Letter of Intent any day now. They approved the drive-through that the architect laid out. If I reopen North Towne, I will work a side deal to take a 100 percent of the building and business, and pay my brother-in-law very low monthly payments.

Were you aware that Athan was in talks with his banker about considering to open -- reopen North Towne and take 100 percent of the building, 100 percent of the business, and just pay your husband very low monthly payments?

A. No.

Q. Did your brother ever tell you that he was going to do that?

A. No.

Q. Did your husband ever mention that Athan told him he was going to do that?

A. No.

Q. Do you recall -- going back to the day that you and your mom were here, do you recall Athan ever coming in and yelling or raising his voice at your mom?

A. He was frustrated, upset about her signing it. He didn't want her to sign it.

Q. Okay. But she told him that it's all accurate and it's all true, right?

A. She signed it because that's how she felt, yes, all accurate, all true.

Q. Do you remember Athan telling your mom that Phillip and Spiro are liars?

A. I don't remember.

Q. Okay. That's all the questions I have. Thank you, Rania.

MS. LENHARDT: I just have a couple follow-up questions.

THE WITNESS: Okay.

REDIRECT EXAMINATION BY MS. LENHARDT:

Q. The morning that your mother and you came to Barnwell Whaley, didn't you make a phone call to your mom that morning?

A. When we -- if we talked on the phone before we came here? I think so, yes.

Q. Okay.

A. Yes.

Q. And did you offer to bring a statement to your mom so that she wouldn't have to come to Barnwell Whaley?

A. I don't remember bringing any statement or having any statement.

Q. Do you remember asking her to bring one to her?

A. No, I don't.

Q. Okay. Okay. And I think you testified that you were with your mother the entire time?

A. Uh-huh.

Q. Okay. So there wasn't a time when your mom was in the room with Spiros and Phillip by themselves?

A. No, I don't -- I don't recall that ever happening, no.

Q. Okay. You don't recall or you know that that wasn't true?

A. I left the room once or twice, once or twice when they need -- they wanted to -- Mom was -- they were not in the room with Mom. They were relaying a message to me for her, for them, or something. But no. So no, I don't -- Mom -- Mom was not in the room by herself with them.

Q. Okay. All right. I think that's it.

A. Okay.

MR. BOWERS: That's it. All done.

MS. LENHARDT: Thank you.

(The deposition concluded at 12:54 P.M.)

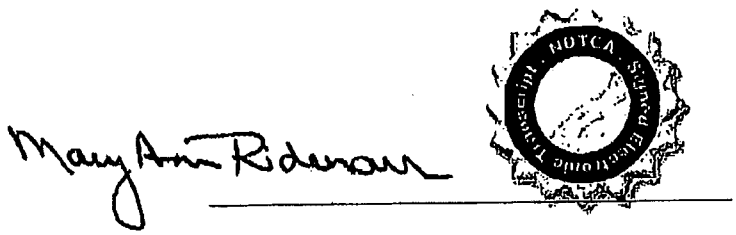
C E R T I F I C A T E

STATE OF SOUTH CAROLINA:
COUNTY OF DORCHESTER:

I, MARY ANN RIDENOUR, Registered Professional Reporter and Notary Public, State of South Carolina at Large, certify that I was authorized to and did stenographically report the foregoing deposition of Urania Nikatos; and that the transcript is a true record of the testimony given by the witness, and was sworn as such.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

WITNESS MY HAND AND OFFICIAL SEAL this 16th day of March, 2017, in the Town of Summerville, County of Dorchester, State of South Carolina.



Mary Ann Ridenour, RPR, CLR
and Notary Public
My commission expires:
March 14, 2021

ERRATA SHEET

In Re: Fokas v Federigos

****

I have read the transcript of my deposition and find no changes.

_____

(Urania Nikatos)

****

At the time of the reading and signing of the deposition, the following changes were noted:

Page	Line	Change

_____

(Urania Nikatos)

Sworn to and suscribed before me this _____ day of _____, 2017, _____ County, South Carolina.

_____, Notary Public.

My commission expires:_____

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON ATHAN FOKAS, Plaintiff, vs. PHILLIP FERDERIGOS and SPIROS FERDERIGOS, Defendant.	IN THE COURT OF COMMON PLEAS NINTH JUDICIAL CIRCUIT CASE NO.: 2015-CP-10-3891 **AFFIDAVIT OF RANIA NIKATOS**

NOW COMES RANIA NIKATOS, OF FULL AGE, BEING DULY SWORN, DEPOSES AND SAYS AS FOLLOWS:

1. That Phillip and/or Spiros Ferderigos have never told me that Athan Fokas hired someone to set fire to 229 King Street, that Athan Fokas was involved with the fire at 229 King Street, and/or that Athan Fokas has filed false insurance claim(s).

2. That I have never heard Phillip and/or Spiros Ferderigos say that Athan Fokas hired someone to set fire to 229 King Street, that Athan Fokas was involved with the fire at 229 King Street, and/or that Athan Fokas has filed any false insurance claim(s).

3. That I never told Irene Fokas that I have ever heard anyone say that Phillip and/or Spiros Ferderigos said that Athan Fokas hired someone to set fire to 229 King Street, that Athan Fokas was involved with the fire at 229 King Street, and/or that Athan Fokas has filed any false insurance claim(s).

4. That I have never heard from anyone that Phillip and/or Spiros Ferderigos said that Athan Fokas hired someone to set fire to 229 King Street, that Athan Fokas was involved with the fire at 229 King Street, and/or that Athan Fokas has filed any false insurance claim(s).

5. That I am making this statement freely, voluntarily, and under sound mind.

AND FURTHER DEPONENT SAYETH NOT.

11/20/15
Date

Rania Nikatos

PLAINTIFF'S EXHIBIT
I Nikatos
2-28-17 MR

EXHIBIT
4

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

On this 20th day of November, 2015, before me personally appeared Rania Nikatos, to me known to be the person described in and who executed the foregoing affidavit, and acknowledged that she executed the same as her free act and deed.

Notary Public for South Carolina

My commission expires: 9/21/2022

JULIE CRAIG
Notary Public, South Carolina
My Commission Expires
September 21, 2022

iMessage
Wed, Oct 28, 4:42 PM

Rania Nikatos

Thank you for trying to make today as easiest as possible for mom and working with us to the best of you ability! I appreciate that very much!

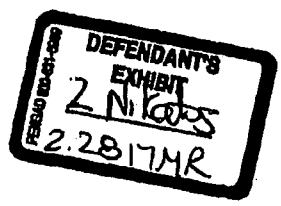
Thank you for being there. Know that we love you and your mom and hate it was under these circumstances.

Phillip Ferderigos

Thanks Rania, I am sorry you had to deal with all of that...

Rania Nikatos

I know! I feel the same way!



STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON Athan Fokas, Plaintiff, v. Philip Ferderigos and Spiros Ferderigos, Defendant(s).	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT Case No.: 2015-CP-10-3891

FILED
2016 MAR 28 AM 11:53
JULIE J. ARMSTRONG
CLERK OF COURT

PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT

INTRODUCTION

In this case, the Defendants seek summary judgment as to the Plaintiff's claim that they published defamatory statements about him. Defendants focus solely on what they argue is the lack of any direct proof of publication of those statements. The materials submitted by Defendants also indicate that they seek to have sanctions imposed on Plaintiff and his attorney, Stan Barnett. For that reason, Plaintiff will address the facts and the law both in terms of the propriety of summary judgment and sanctions. The law in South Carolina has been clear since Duckworth v. First National Bank of S.C., 254 S.C. 563, 176 S.E.2D 297 (1970) that publication of defamatory statements may be proven by circumstantial evidence. The record developed so far in this case demonstrates the existence of genuine issues of material fact sufficient to submit the case to a jury. Ample circumstantial evidence exists that the Defendants published defamatory statements about the Plaintiff. For this reason summary judgment is not proper. The S.C. Supreme Court has also held that where summary judgment is not proper, sanctions pursuant to

DEFENDANT'S EXHIBIT
3 Nikatos
2.28.17 MK

Rule 11 of the S.C.R.C.P. and/or the Frivolous Proceedings Act, S.C. Code Sec. 15-36-10, et seq. must be denied as it must be presumed that in such a case the attorney had sufficient cause to file the case. Hanahan v. Simpson, 326 S.C. 140, 485 S.E.2d 903 (1997).

STATUS OF THE CASE

This case was filed at the same time as a case, also filed by Plaintiff, against these Defendants and their brother, Jacob ("Iakovos" in Greek) for breach of a contract to add floors to a building all of the parties own together at 229 King Street in downtown Charleston. The answers of Defendants in this case incorporated by reference all of their answers in the breach of contract case, Case No. 2015-CP-10-3919. Those answers contained numerous offensive and demeaning statements which this Court, in response to Plaintiff's motion, ordered stricken pursuant to Rule 12(f) by Order dated December 16, 2015. Defendant Spiros Ferderigos moved pursuant to Rule 54 for an order altering or amending that Order. That motion has not been ruled on. As a consequence, Defendants have not filed the amended answers ordered by this Court and Plaintiff has not filed replies to the counterclaims asserted in their original answers. The pleading phase of this case is, therefore, not complete. For this reason, the only discovery which has been done is the taking of the deposition of Plaintiff's mother, Irene Fokas, who has testified she heard from her daughter and from her brother, Fanouris, the substance of the defamatory statements made about her son, the Plaintiff. This deposition was taken by agreement of the parties. Other discovery would not be permitted by Rule 26(c), absent further agreement.

Based on Irene Fokas' deposition, Plaintiff has moved to amend his complaint to conform to the substance of her testimony. The original complaint contained the allegation at paragraph 8: "Defendants threatened to accuse Plaintiff of various criminal acts if he pursued a lawsuit

against them, said acts including: arson and the filing of various fraudulent insurance claims."

Paragraph 11 made the following general allegation:

"Defendants have published entirely false and defamatory statements about Plaintiff for the purposes of: a) injuring the personal and business reputation of both, and b) intimidating Plaintiff into refraining from pursuing legal action against them based on their refusal to go forward with the plan to expand the building and the suites rental business operated there, such defamatory statements including, but not limited to:

a. Hiring someone to set fire to the second floor of the building at 229 King Street for the purpose of collecting insurance proceeds.

b. Falsely claiming in an insurance claim that he had been injured working in the restaurant business operated on the first floor of said building when he had, in fact, been injured in ways not related to the business, all for the purpose of collecting insurance proceeds."

Paragraph 12 made a more specific allegation upon information and belief:

"Upon information and belief, Defendants communicated the above statements to their father, Plaintiff's uncle, for the purpose of intimidating Plaintiff into refraining for demanding that they go forward with the plan to expand the suites rental business."

Paragraph 14 states:

"Plaintiff has been confronted with said statements by his mother, Defendants' aunt, who has identified them as the source of said statements."

The amended complaint seeks only to change the specific allegations of paragraphs 12 and 14 so as to read:

"12. Upon information and belief, Defendants communicated the above statements to members of their and Plaintiff's family for the malicious purpose of intimidating Plaintiff into refraining for demanding that they go forward with the plan to expand the suites rental business."

"14. Plaintiff has been confronted with said statements by his mother, Defendants' aunt, who upon information and belief came to hear these falsehoods as the direct and proximate result of the publication of these falsehoods by Defendants."

This motion, to which both Defendants have objected, has not yet been heard.

STANDARD FOR SUMMARY JUDGMENT

The standard for summary judgment under South Carolina law is high. "Because it is a drastic remedy, summary judgment should be cautiously invoked so no person will be improperly deprived of a trial of the disputed factual issues." McCall v. State Farm Mut. Auto. Ins. Co., 359 S.C. 372, 376-77, 597 S.E.2d 181, 184 (Ct. App. 2004)(quoting Murray v. Holnam, Inc., 344 S.C. 129, 138, 542 S.E.2d 743, 747 (Ct. App. 2001). Furthermore, in determining whether any triable issues of fact exist, the court must view the evidence and all reasonable inferences that may be drawn from the evidence in the light most favorable to the non-moving party. Manning v. Quinn, 294 S.C. 383, 365 S.E.2d 24 (1988). If there is a "scintilla of evidence" in the record which gives rise to a genuine issue of material fact, summary judgment should not be granted. Howle v. Woods, 231 S.C. 75, 97 S.E.2d 205 (1957).

A trial court may grant a motion for summary judgment only when the "pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Rule 56(c), SCRCP; *See also*, Tupper v. Dorchester

County, 326 S.C. 318, 487 S.E.2d 187 (1997). "Even when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied."

STANDARD FOR SANCTIONS

The standard for imposition of sanctions under Rule 11 and under the Frivolous Proceedings Act is similarly high. The South Carolina Supreme Court held in 1997 that where a motion for summary judgment is denied, the moving party is foreclosed from recovering sanctions under either Rule 11 or the Frivolous Proceedings Act. Hanahan v. Simpson, supra. The Court reasoned that if a court concludes the matter is sufficient to go to trial, the party against whom sanctions is sought has a reasonable belief that the claim is valid. Therefore, if, as set forth below, there is evidence in the record to defeat a motion for summary judgment by Defendants, they are not entitled to sanctions under either Rule 11 or the Frivolous Proceedings Act.

CIRCUMSTANTIAL EVIDENCE MAY BE RELIED UPON TO PROVE PUBLICATION OF DEFAMATORY STATEMENTS

To prove defamation, a Plaintiff must prove that a defendant made a defamatory statement and that it was communicated or published to a third person. Duckworth at 254 S.E.2d 570. In Duckworth, the Supreme Court addressed the question of whether direct evidence of publication to third parties was necessary to support a defamation claim. The Court held it was not and ruled that circumstantial evidence was sufficient to prove publication.

In Duckworth, a bank officer summoned the plaintiff to the bank after a check deposited at the bank bounced. While the bank officer denied making any such statements, the plaintiff testified that he accused him on the phone of being a "swindler" and that in an open bank lobby cubicle the bank officer yelled at him again accusing him of trying to swindle the bank. The

plaintiff testified there were other persons standing nearby who must have heard these loudly stated accusations, but there was no evidence of any specific names of such persons. Other bank employees also testified they were nearby but denied that they heard the bank officer accuse the plaintiff of being a swindler. Duckworth continues to be the law in South Carolina. The Court of Appeals followed the rule of that case in Wilhoit v. WCSC, Inc., 293 S.C. 34, 358 S.E.2d 397 (Ct. App. 1987), holding that the issue of publication can be submitted to a jury upon circumstantial evidence that a third party could have heard the defamatory remarks and understood them to refer to the plaintiff.

Proof of threats to commit a specific act has routinely been recognized by South Carolina courts as competent circumstantial evidence to prove that the individual who made the threat did, in fact, do what was threatened. The question has often come up in criminal prosecutions. In State v. Roger Dewitt Prince, 316 S.C. 57, 447 S.E.2D 177 (Ct. App. 1994), evidence that a defendant had threatened to kill the deceased unless he "changed what he was doing" was held to support a circumstantial case that the defendant had hired someone to murder the deceased. Again in State v. Ricky Prince, 335 S.C. 466, 517 S.E.2D 229 (Ct. App. 1999), evidence of a threat was held to be proper circumstantial evidence supporting prosecution for damaging a car. In that case, the defendant had threatened the owner of the car, his estranged wife. Along with other circumstantial evidence, his threat of violence to his wife was held to be sufficient to support his conviction for malicious property damage in the absence of direct evidence the defendant had done all of the damage to his wife's car.

It is telling that Defendants' motions make no mention of the law of defamation in South Carolina or the law surrounding use of circumstantial evidence generally. Their motions are premised on the incorrect assumption that direct proof of publication to specific third persons is

required to establish a case for defamation. As explained below, the record developed to date, even under the limited discovery possible given the incomplete pleadings, gives rise to significant circumstantial evidence that Defendants published defamatory statements to third persons. Specifically, the evidence is that they threatened they would accuse Plaintiff of three specific illegal acts if he pursued his breach of contract claim against them. There is also evidence that they made these statements to Plaintiff's sister, Rania Nikatos, and to their uncle Fanouris Ferderigos, who, in turn, communicated them to Plaintiff's mother, Irene Fokas. [1]

CIRCUMSTANTIAL EVIDENCE OF PUBLICATION BY DEFENDANTS

For three years, Plaintiff, Defendants and their brother, Jacob, planned to expand the rental suites business they operate in a jointly owned building at 229 King Street by adding floors to the building. After all permits and a loan package had been approved, a closing was scheduled in October 2014. Defendants wanted to postpone the closing and a second one was scheduled in November 2014. Again, Defendants would not agree to execute the mortgage of the building required by the lending bank. (Defendants were not required to sign as personal guarantors of the note; only Plaintiff and Jacob Ferderigos were to be personally liable on the note). When Defendants again refused to close in early 2015, Plaintiff retained Stan Barnett to communicate to Defendants that they were in breach of a contract to add floors to the building and expand the rental suites business.

In response to Barnett's letter to Plaintiffs of February 2, 2015, Defendants responded denying there was a contract. Spiros responded by email and added that if Plaintiff pursued a breach of contract claim, he would assert his own claims against Plaintiff. (Exhibit A, Affidavitr of Stan Barnett). Through Philip, the Defendants agreed to meet Barnett to discuss whether there

[1] Plaintiff's sister's actual name is "Urania" but she is routinely referred to simply as Rania and that is how she is identified in the affidavit Defendants say she executed.

was a way for them to negotiate a way with Plaintiff to go forward with the project, which they said they continued to be in favor of. As Barnett's September 2015 Affidavit explains, he met with them at 5:00 p.m. at the law firm of Barnwell Whaley Helms and Patterson on Meeting Street in Charleston on February 17, 2015. Barnett memorialized the extraordinary substance of his discussion with Defendants the following day in handwritten notes attached to his Affidavit. Pertinent to the motion now before the Court, Barnett recorded that both Defendants accused Plaintiff of three specific instances of criminal conduct, all involving insurance claims: 1) that he hired someone to set fire to the second floor of the building at 229 King Street some years earlier; 2) that he filed a worker's comp claim for an injury which was not suffered at work at the restaurant that operates on the first floor of 229 King, but in a skiing accident; and 3) that he filed a roof damage claim as the result of a hurricane in 1999 when, in fact, the roof was not damaged in the hurricane. Both Defendants made it clear that if Plaintiff continued to allege that they were in breach of contract, they would accuse him of these three criminal acts. (Exhibit A).

In spite of the inflammatory accusations by Defendants, they agreed to pursue avenues of discussion that might lead to an agreement to proceed with the project. Efforts to find such an agreement continued for weeks, but failed. In April, Barnett was contacted by attorneys on behalf of both Defendants (the same attorneys representing them in this action). They came to Barnett's office and a general discussion was had on ways to move forward with the project, which both Defendants' attorneys said their clients wished to pursue. After significant effort, however, no agreement was reached.

As Plaintiff's Affidavit (Exhibit B, Affidavit of Plaintiff) explains, in either late April or early May, his mother, Irene Fokas, confronted him with her belief that the Defendants were preparing to use allegations against him of criminal conduct to "destroy him" if he did not drop

his claims that they were breaching the contract. The allegations were the same which Defendants threatened they would make when they met with Barnett on February 17, 2015. Mrs. Fokas would not tell Plaintiff who made these statements to her. He concluded that they were made to her by the Defendants' father, her brother, as she relayed her fears to him immediately after visiting her brother, Steve, at his home in Charleston.

Mrs. Fokas testified in her November 2015 deposition that in April of 2015, her daughter, Rania told her that "her cousins", the Defendants, were planning on using the same allegations they had threatened to publish when they met with Barnett, to "destroy" Plaintiff. Mrs. Fokas testified that Rania specially told her that the Defendants had told her this. (Exhibit C, Fokas Deposition, p. 7-8, 11-13, 42-45, 47-48, 67,79-81, 88-89). For instance, at page 8 she testified:

Q: And what were those allegations?

A: ...I told my...my son to be very careful. I heard that they're going to come after you, and they're going to come after you, and they're going to...they're going to say things against you.

They're going to say things about the insurance. They're going to say that you caused the fire, about a bicycle, and that you received money from insurance; or that he went skiing with his children. He got hurt. He pointed insurance. Things like that.

Q: You said a fire. Was there a specific place that he was accused of starting a fire?

A: Yes. The whole town. They're going to accuse you of starting the fire...fire there.

Q: And who was...who were the people that you thought might accuse your son of these things?

A: His cousin. They were accusing him. They were going to destroy him.

Q: What are their names?

A: Spiros and Philip Ferderigos.

At page 10, she identifies her daughter Rania as the source of this information:

Q: And where did you learn that these allegations might be made?

A: Unfortunately, I learned these things from my daughter. She was afraid for her brother...

At page 12-13, she testified that Rania identified the Defendants as the source of the threats:

Q: Yes. Did your daughter say that it was one person or multiple people that would do these things?

A: She said her cousins will do it. Her cousins.

Again at page 42, she testified:

A: ... And I told him that someone told me that Athan should be very careful. His cousins are doing these things, and he's going to be hurt; and I did not tell him who told me.

Q: And is that person who told you Rania?

A: Yes. ...

She repeated the same testimony at pages 44-45, 47-48, 67, 80-81 ; and 88-89.

She also testified that Rania is very often in contact with them and works with their brother, Jacob, in a business her husband owns with him. (Exhibit C, p. 11-12).

Recently, Defendants obtained an affidavit from Rania in which she denies telling her mother anything about the allegations Defendants threatened to make against Plaintiff. (Exhibit E to Motion by Philip Ferderigos). It is not known under what conditions this affidavit was secured by Defendants. Given the intimidation and coercion they inflicted on Mrs. Fokas, however, any affidavit submitted by Defendants should be treated with extreme skepticism.

When further efforts to reach a framework for negotiations for pursuing the project failed in the Summer of 2015, Plaintiff decided to pursue an action for breach of contract. In order to protect his reputation inside and outside of his family he also elected to pursue an action for defamation against Defendants who had made good on their threat to injure him with false allegations of criminal conduct. These actions were filed on July 14, 2015 and pursuant to agreement with Defendants' counsel, Barnett sent the complaints to them to accept service when Philip returned from Greece. (Ultimately, neither of Defendants' counsel executed an acceptance of service form and Defendants were personally served).

The parents of Plaintiff and the parents of Defendants spend six months in the same village in Greece from which they immigrated to the United States. In 2015, all of the parents as well as Defendants' uncle Fanouris were in Greece for five months until October 24, 2015, when Plaintiff's parents returned to America. While there, Plaintiff's mother was subjected to considerable pressure from her brothers, Fanouris, and Defendants' father, Steve ("Stavros" in Greek). According to her deposition, Steve primarily kept his distance from her, claiming his sons told him he could not speak to her. Near the end of the trip, however, Fanouris was very direct with her about Plaintiff's defamation case against Defendants.

At page 15 of Mrs. Fokas' deposition (Exhibit C), she testified:

Q: Okay. Did you speak to Fanouris about this same lawsuit?

A: Faouris told me many times, "Ask Athan to stop the lawsuit because he's going to find his devil. Even if he says the truth, he's going to find his devil."

Q: What...what did you mean by...what does that mean, do you think?

A: That they will always find...they will always come out as a ...right because they're attorneys. They know what they are doing.

Q: Did he say that things that were not the truth would be said?

A: He said many people are in jail, and they are innocent.

Fanouris also asked Mrs. Fokas while they were in Greece to confirm that Steve was not the person who told her the Defendants were planning to make the defamatory statements about Plaintiff. She confirmed that Steve was not the source and Fanouris wrote Barnett a letter explaining this fact. He did not mention his own statements which Mrs. Fokas related in her deposition.

The day Mrs. Fokas and Plaintiff's father returned from Greece, she was served with a subpoena by Spiro's Fokas' attorney demanding that she appear at Barnwell Whaley to give her deposition four days later on October 28, 2015. Prior to her return, she had explained to Plaintiff that her daughter, Rania, was the person who told her in the spring that Defendants were planning to make the allegations of criminal conduct against Plaintiff. Barnett met with Mrs. Fokas on the day before her noticed deposition and she related both her discussions with her daughter and with Fanouris in Greece. She asked that she be allowed to provide a written statement in lieu of a deposition and Barnett emailed Defendant's counsel relaying the request. No response was received to that email. At the end of the interview, Mrs. Fokas also asked that the deposition be postponed as she was weary from the long trip back from Greece and did not feel well. She also has a heart condition. She is 74 years old. Barnett relayed this message as well and incorrectly assumed that Defendants' counsel would be interested in her welfare. Instead of being solicitous of her health concerns, Jeremy Bowers, a lawyer representing Spiros Ferderigos, emailed Barnett objecting to his "interference" with the deposition subpoena and threatening that, unless Mrs. Fokas appeared at the deposition by 11:00 a.m. the next day, he would seek a Rule to Show Cause against her as well as sanctions. Barnett forwarded this to

Plaintiff who conveyed the threat to his mother. (Exhibit D, Barnett Supplemental Affidavit and Exhibits 1 and 2 thereto).

Instead of proceeding with a deposition on October 28, however, Defendants first attempted to have Mrs. Fokas not come to the deposition at all. Rania, contacted her mother and said that Philip Ferderigos had prepared an affidavit and that if Mrs. Fokas signed it, she would not have to be deposed. Mrs. Fokas does not read English. (Exhibit C, p. 21). She refused citing the threat by Bowers to have her sanctioned unless she appeared for the deposition. When she arrived at Barnwell Whaley, she was taken into a room alone with Defendants and their counsel, Bowers for Spiros and Jennifer Thiem for Philip Ferderigos. Plaintiff and Barnett were not allowed to be present and the door was kept closed. (Exhibit D, Barnett Supplemental Affidavit). Mrs. Fokas testified in the deposition that was finally held on November 19, 2015, as to what happened behind the closed door at Barnwell Whaley. She was presented an affidavit written in English and told she needed to sign it. She refused as she does not read English. Ultimately, an affidavit was translated into Greek. She made numerous changes until the limited number of facts set forth in the affidavit were correct. At one point, Philip Ferderigos threatened Mrs. Fokas, his aunt, that unless she signed an affidavit he would keep her there for another 2 or 3 hours, this after she had already been at Barnwell Whaley – essentially imprisoned by a deposition subpoena – for three hours. (Exhibit C, p. 18-25, 32-33). Mrs. Fokas' affidavit attached to Defendant Philip Ferderigos' Motion as Exhibit C was, therefore, obtained through the most extreme intimidation short of physical force imaginable and in clear violation of the ethical and moral obligations of Defendants (both lawyers) and their counsel. It should, therefore, be disregarded by the Court. The better explanation of Mrs. Fokas' testimony is her deposition.

THERE IS A GENUINE ISSUE OF MATERIAL FACT AS TO PUBLICATION OF DEFAMATORY STATEMENTS BY DEFENDANTS

The record to date can be summarized as follows:

On February 17, 2015, Defendants threatened in their meeting with Barnett to publish three specific defamatory allegations of criminal conduct by Plaintiff if he did not drop his claim of breach of contract. Defendants may deny they made these threats. Barnett's testimony, however, gives rise to an issue of fact on this point.

By late April 2015, efforts to resolve the dispute over how to proceed with the project at 229 King Street had failed to generate a solution.

In either late April or early May 2015, Plaintiff's mother heard from her daughter, Rania, that Defendants were planning to "destroy" Plaintiff by making the same allegations of criminal conduct they told Barnett they would make unless he dropped his breach of contract claims. She says Rania told her this and that later in Greece her brother, Fanouris, told her that if Plaintiff did not drop his suit, he "would find his devil" at the hands of the Defendants as they were lawyers who "knew what they were doing." While Rania denies she told her mother these things in an affidavit, that affidavit is suspect because of Defendants' treatment of Mrs. Fokas, and, in any event, merely creates a question of fact.

There is substantial evidence, therefore, that Defendants threatened to make defamatory allegations that Plaintiff committed specific crimes. There is also substantial evidence that they published these allegations so that Rania, Plaintiff's sister, heard them and that their uncle Fanouis heard them. There is evidence that both Rania and Fanouris communicated these defamatory statements to Plaintiff's mother.

Under the rule of Duckworth, the circumstantial evidence of Defendants' publication of defamatory statements may properly be submitted to the jury to prove the publication element of Plaintiff's claim of defamation. For this reason, summary judgment is not proper.

CONDUCT OF BARNETT IN INVESTIGATING AND FILNG THIS ACTION

As if they were making a motion for sanctions, Defendants complain that Barnett's actions were not consistent with Rule 11 or the Frivolous Proceedings Act. They cite his failure to interview Mrs. Fokas, instead, they claim, relying entirely on Plaintiff's report to him of what Mrs. Fokas would say. They cite only Mrs. Fokas' testimony that her brother Steve did not tell her anything about Defendants' defamatory statements and ignore her testimony that both her daughter Rania and her brother Fanouris told her the Defendants intended to "destroy" Athan with these allegations. Most significantly, they ignore the Defendants' own threats made to Barnett on February 17, 2015 to publish the same defamatory allegations ultimately communicated to Mrs. Fokas.

While Barnett did not interview Mrs. Fokas (and could not because of her admitted refusal to discuss the matter beyond what she told Plaintiff) prior to filing this suit, he was told by the Defendants themselves at their meeting with him (which was supposed to be for the purpose of finding a way forward for the project) that they would publish defamatory statements about Plaintiff. Their threat – clearly stated to Barnett – to publish three specific instances of criminal conduct coupled with the communication of those allegations to Plaintiff's mother gave rise to a reasonable belief as an attorney that there was probable cause to believe Defendants had published defamatory allegations about Plaintiff.

Chrystal's affidavit, specifically, and Defendants' motions generally are so selective in their recitation of the factual record and so devoid of any discussion of the law governing actions

for defamation as to render both the motions and Chrystal's affidavit violations of the duty of candor to a court set forth in Rule 3.3 of the SC Rules of Professional Conduct. The full record shows Barnett's actions to have been reasonable and consistent with his responsibilities under Rule 11 and the Frivolous Proceedings Act. The Affidavit Emma Ruth Brittain sets forth this conclusion. Unlike Chrystal's affidavit, her affidavit is based on assessment of the entire record.

If this Court denies Defendants' Motions for Summary Judgment, Defendants are barred from seeking sanctions under either Rule 11 or the Frivolous Proceedings Act. Hanahan, holding that where a court has denied a motion for summary judgment, the moving party is barred from seeking sanctions as it must be presumed that filing and pursuing the case in question was based on adequate facts known to the lawyer.

CONCLUSION

Based on the foregoing, Plaintiff respectfully requests this Court to deny the Motions for Summary Judgment by both Defendants and to hold that sanctions against Plaintiff and his counsel are not appropriate.

Respectfully submitted,

Ellison D. Smith, IV
Smith, Bundy, Bybee & Barnett, PC
P.O. Box 1542
Mount Pleasant, SC 29465
(843) 881-1623

March 24, 2016
Mount Pleasant, SC

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT
Athan Fokas, Plaintiff, v. Philip Ferderigos and Spiros Ferderigos, Defendant(s).	Case No.: 2015-CP-10-3891

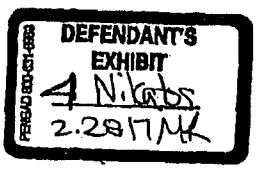
SUPPLEMENTAL AFFIDAVIT OF STANLEY E. BARNETT

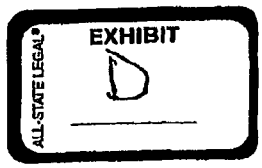
After being sworn, Affiant testified as follows:

1. I am Stan Barnett, an attorney in the law firm of Smith, Bundy, Bybee & Barnett, P.C. located in Mount Pleasant, S.C. and attorney for the Plaintiff in this case.

2. I have reviewed in detail the Motions for Summary Judgment filed by the defendants in this matter, including the Affidavit of Nathan Chrystal and several emails attached to the motion of Philip Ferderigos. Both the motion filed by Philip Ferderigos and the Chrystal Affidavit contain statements not directly related to the substance of the defendants' motions, but directed at casting me in a bad light, I assume, for the purpose of enhancing their chances of prevailing on their motions. Several of these statements are outright misrepresentations of the facts that require me to set the record straight by providing the Court with the complete email chain and the full circumstances.

3. At page 3 of the Motion of Philip Ferderigos, there is the statement that I "attempted to unilaterally cancel the duly noticed deposition" of Irene Fokas, the Plaintiff's mother. Some of my emails to Jeremy Bowers, counsel for Spiros Ferderigos, are included, but not all of them,





and Bower's final email to me regarding the deposition is also not included. Mrs. Fokas is in her mid 70s and suffers from heart problems. She returned to Charleston from a nearly 24 hour long journey from Greece on Saturday, October 24, 2015. She was served with a subpoena by counsel for Spiros Ferderigos to appear the following Wednesday, October 28 at 9:00 a.m. to give a deposition. I met with her on Tuesday, October 27 and she very quickly asked me if it was possible for her to simply give a statement and not be deposed. I emailed this request to Bowers as soon as she made the request. (My email, typed on my phone, misspells her name as Mrs Comas, instead of Fokas, although the subject line correctly identifies her). (Exhibit 1). I never received an answer to this question. At the end of my interview with Mrs. Fokas, she told me she did not feel well and wanted to postpone the deposition if she could not give a written statement instead. Athan Fokas explained to me that his mother suffers from heart problems. Based on those two facts, I emailed Bowers again and told him I thought the deposition needed to be postponed because of her health issues and incorrectly assumed that he, his co-counsel and their clients, Mrs. Fokas' nephews, would not want to subject her to any health risk. I was clearly wrong in that assumption. Bowers responded to my emails just after 4:00 p.m. with an email refusing to agree to postpone the deposition and complaining that I was "interfering" with his deposition subpoena. He also made this explicit threat directed at Mrs. Fokas, "The deposition is moving forward as duly noticed and her failure to appear will be followed by an immediate Rule to Show Cause where we will ask for costs and sanctions." (Exhibit 2). I forwarded this crude threat to my client, who shared it with his mother and I informed Bowers that everyone would be present, albeit at 11 instead of 9 due to expected heavy rain.

4. The Motion by Philip Ferderigos at page 3 incorrectly says that Mrs. Fokas requested that she provide an Affidavit instead of giving testimony. As Mrs. Fokas testified in her deposition

taken in November 2015, she was approached by her daughter, Rania, on the morning of October 28 claiming to speak for Philip Ferderigos and offering to allow her to not be deposed if she would sign an affidavit the defendants had drafted. Mrs. Fokas does not read English and her nephews are well aware of this fact. Because she had been so crudely threatened by Bowers the day before, she refused to consider the affidavit as an option and insisted she be taken to the deposition at Barnwell Whaley's offices for fear she would be punished as Bowers threatened to do. (See Irene Fokas Deposition, p. 18-25).

5. At the Barnwell Whaley offices, Mrs. Fokas was immediately taken into a room with Philip and Spiros Ferderigos and their lawyers. Neither Athan nor I were allowed to go into the room with her despite Athan's strong objections. I reminded Bowers and Jennifer Thiem, an attorney representing Philip Ferderigos, that Mrs. Fokas had some heart issues and had already complained of not feeling well. Despite these protestations, Mrs. Fokas was kept in a room with the door closed for a considerable time, my recollection is that it was for over an hour, before she emerged for the first time. She explained to Athan and I that she was being asked to sign a statement written in English, which she refused to do. She was taken back into the room again with the door closed. While I was not a witness to what was transpiring in the room, she testified about what occurred in her deposition. She was told by Philip Ferderigos, after some three hours of this outrageous conduct by the Defendants and their counsel, that if she did not sign the affidavit, he would keep her there for another 3 to 4 hours. Only when an affidavit was translated into Greek by an interpreter (who had been retained by the Defendants for the deposition) and after she went over it with Athan did she agree to sign one that was corrected as she directed to eliminate inaccurate statements inserted by the Defendants and their counsel.

6. The treatment of Mrs. Fokas is the worst abuse of a witness by lawyers I have ever seen. From the subpoena served on her on the day of her return from a day long trip from Greece to give a deposition only 4 days later, to the threat to have her sanctioned when she complained she did not feel well enough and asked for a postponement, and finally to the outrageous effort to coerce her to sign an affidavit on the threat of keeping her for 4 hours longer after she had already been held for 3 hours, there was a concerted scheme to intimidate her so as to extract an affidavit of the Defendants' creation. Defendants, who are both lawyers, and their lawyers owe witnesses an obligation not to treat them in this bullying and abusive fashion.

7. Nathan Chrystal's Affidavit refers to an exchange of emails between myself and counsel for the Defendants in which counsel for Philip Ferderigos, Richard Farrier, asked me to identify anyone I knew to whom the Defendants had published the defamatory statements. Chrystal refers to my final response to Farrier in which I said I no longer believed I was dealing with lawyers who were acting in good faith. This statement was not made solely in response to Farrier's request for names of persons to whom the Defendants had published defamatory statements. On October 30, pursuant to the agreement I reached with Farrier's and Cooke's associates on October 28, I proposed a dismissal of the defamation case with a mutual release. In my cover letter I noted that I found the effort by Defendants and the two associate lawyers to get Mrs. Fokas to sign an affidavit "questionable." Farrier's response to me by email was that, "the representations in your letter are inaccurate and my client finds them offensive." The abject denial of what occurred at Barnwell Whaley's offices on October 28 and the refusal to agree to a dismissal of the defamation case with a mutual release convinced me there was no good faith being displayed by Defendants' counsel and there was no purpose in trying to have any dialogue with them. (Exhibit 3).

FURTHER AFFIANT SAYETH NOT.

STANLEY E. BARNETT

SWORN TO before me
this 24th day of March 2016.

Cindy M. Grooms
Notary Public for South Carolina
My Commission Expires on: 11/26/23

Darold Charpia

From: Jeffrey W. Odom
Sent: Friday, January 25, 2013 3:55 PM
To: 'ZEUS GRILL & SEAFOOD'
Subject: RE: Old Towne Suites

Athan,
I hope you are having a nice day. How many square feet are each of the new units going to be? How many square feet are the existing units? What is the cost to build per square foot? When can you get us an exact cost budget from your contractor?

Thanks,

Jeffrey W. Odom
Vice President / Loan Officer
Southcoast Community Bank
530 Johnnie Dodds Blvd.
Mt. Pleasant, SC 29464
(Office) - 843.216.3087
(Fax) - 843.884.2886
(Cell) - 843.729.8224

From: ZEUS GRILL & SEAFOOD [mailto:zeusseafood@bellsouth.net]
Sent: Thursday, January 24, 2013 2:37 PM
To: Jeffrey W. Odom
Subject: RE: Old Towne Suites

North Towne is owned by me and my brother in law Gerasimos Nikatos 50%.50%. On a side note I might reopen North Towne if Jim and Nicks takes most of Zeus which I will be getting the letter of intent any day now. They approved the drive thru that the architect laid out. If I reopen North Towne I will work a side deal to take it 100% of the building and business and pay my brother in law very low monthly payments. 90% of my staff is from North Charleston so it will be an easy transition if I decide to do that.

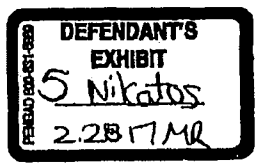
From: Jeffrey W. Odom [mailto:jodom@southcoastbank.com]
Sent: Thursday, January 24, 2013 12:05 PM
To: 'ZEUS GRILL & SEAFOOD'
Subject: RE: Old Towne Suites

Athan,
We are still working on it. Who are the owners of North Towne Greek Restaurant, Inc. (basically, I'm wondering who all is involved in the ownership of the building)? I should have an answer for you soon. Thanks for your patience.

Jeff

From: ZEUS GRILL & SEAFOOD [mailto:zeusseafood@bellsouth.net]
Sent: Thursday, January 24, 2013 11:08 AM
To: Jeffrey W. Odom
Subject: Old Towne Suites

Hey Jeffrey,
How is the info looking for the Old Towne Suites expansion approval?



BARNWELL WHALEY | 75 YEARS 1938-2013
PATTERSON & HELMS LLC
Attorneys for businesses & professionals since 1938

Jeremy E. Bowers, Associate
jbowers@barnwell-whaley.com

December 7, 2017
VIA HAND DELIVERY

5033.001
Charleston County Clerk of Court
100 Broad Street, Suite #106
Charleston, South Carolina 29401-2258

RE: Fokas v. Ferderigos, et al.
Case No.: 2015-CP-10-3891

Dear Madam Clerk:

Enclosed please find an original and one (1) copy of the Notice of Filing of Deposition Transcript filed on behalf of the Defendant, Spiros Ferderigos, in the above-referenced matter. Please file the Notice of Filing of Deposition Transcript along with the deposition transcript and exhibits from the deposition of Urania Nikatos. Please return a filed stamped copy of the Notice of Filing of Deposition Transcript to me via our courier.

By copy of this letter, I am informing counsel for the Plaintiff of this communication with the Court and serving them with a copy of the Notice of Filing of Deposition Transcript. If you have any questions, please do not hesitate to contact me at (843) 577-7700. Again, thank you for your cooperation in this matter. With kind regards, I am

Sincerely,

Jeremy E. Bowers

Encl.
cc w/encl.: Leslie Lenhardt, Esquire (via U.S. Mail)
Jennifer H. Thiem, Esquire (via U.S. Mail)
Joseph R. Weston, Esquire (via U.S. Mail)
Laura W. Robinson, Esquire (via U.S. Mail)

Gmail spiros ferderigos <spirosferderigos@gmail.com>

Our insurance breakdown

Zeus Grill and Seafood <zeusseafood@bellsouth.net> Tue, Dec 5, 2017 at 5:56 PM
To: spiros ferderigos <spirosferderigos@gmail.com>
Cc: Iakovos Ferderigos <Iakovosstavros@gmail.com>, Phillip <pferderigos@barnwell-whaley.com>

Spiro,

With all due respect, there is no rent agreement with Old Towne Restaurant paying for bills other than its own Old Towne Restaurant operational bills and there never was. Your father gifted his interest which was half of the restaurant portion to his first born son Jacob Ferderigos. My father did the same with me. We agreed to pay $4000.00 a month out of the Old Towne Restaurant in rent to be split amongst the tenants in common according to ownership. Keeping with Greek tradition the first born is supposed to be taking care of the family but you and Phillip keep trying unjustly take things away from Jacob. It seems that it is a common practice with the Ferderigos family starting with your own father kicking his mother out of her own house. I wouldn't doubt it if you would tried to take everything from your brother Jacob if you could. In the past we paid our bills through the restaurant and the three of you brothers split your amount owed amongst yourselves. Jacob and I discussed these expenses that were not Old Towne Restaurant expenses many times and I've attached one of our texts discussing the cable bill for the upstairs rental suites that you so dearly try to act like it is the restaurant obligation to pay the rental units cable bills because of some made up rental agreement. In this text we discussed Jacob splitting half of the bill with you and Phillip separately. We all agreed that it was more beneficial to run those expenses through the restaurant because the restaurant tax base is over 30% and the rental income upstairs taxes are only taxed at 15% due to it being passive income. Therefore your brother Jacob and I saved tax money by running those non Old Towne Restaurant expenses through the restaurant. Now that you guys started complaining about commingling businesses and Judge Nicholson ruled that this practice can no longer happen, we have to pay our expenses through the proper business. All Old Towne upstairs rental expenses now have to be paid by the owners who are tenants in common (myself 50% and Jacob, Spiro, and Phillip Ferderigos the remaining 50% which comes out to 16.666 percent for each of you). The building expenses which are air-conditioning units, walls, ceilings, roof ect., must be paid by the owners who are tenants in common (myself 50% and Jacob, Spiro, and Phillip Ferderigos the remaining 50% which comes out to 16.666 percent for each of you). The Old Towne Restaurant expenses must be paid by the owners Jacob Ferderigos and Myself 50/50. I have paid for all the rental units expense (Electric, Water, and cable bill) out of my personal funds while I am holding the books this quarter because frankly getting you three to agree to anything collectively takes an act of judge to order it and that takes time. I suspect when Jacob takes over the books he will have to do pay those bill out of his personal funds unless you guys all of a sudden see common sense reality and come to some agreement. I also paid the replacement of an air-conditioning unit in our building out of my personal funds in the amount of $3600.00 that I expect to be reimbursed for. I also paid a air-conditioning repair bill for our building in the amount of $269.00 that I expect to be reimbursed for.

I will not pay for the building insurance out of my pocket or the upstairs rentals out of my pocket. I expect you three to come up with half of those insurance expenses and I will pay the other half. This needs to be done before we are issued a cancellation notice which may be in a week or so. If you three do not come up with half of the money then we will go without insurance and if an accident happens then we will be responsible as tenants in common.

Sincerely,

Athan Fokas

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT
Athan Fokas, Plaintiff, v. Phillip Ferderigos and Spiros Ferderigos, , Defendant(s).	Case No.: 2015-CP-10-3891

FILED
2018 JAN 16 PM 4:23
JULIE J. ARMSTRONG
CLERK OF COURT
BY

AFFIDAVIT OF IRENE FOKAS

After being sworn, Affiant testified as follows:

1. I am Irene Fokas and I am a resident of Charleston County, South Carolina over the age of 18 years of age.
2. In April or May of 2015, before I traveled to Greece for the summer, I told my son, Athan Fokas, that I heard his cousins, Phillip and Spiros Ferderigos, were going to tell others that he caused a fire at 229 King Street and that he improperly received money from insurance claims. I told him, "they're accusing you of insurance." I told him to not get involved with Phillip and Spiros because they are attorneys and that they can change things. He was not the one who told me about these statements.
3. Athan asked me who told me these things and I did not tell him at the time.
4. In fact, it was my daughter, Urania Nikatos, who told me,before I left for Greece, that she was afraid that her cousins would "destroy" Athan by claiming that he had caused the fire at 229 King Street and that he had improperly received money from insurance claims. She said that Athan should be careful because they would accuse him of these things. We had multiple conversations about her fears.

5. When I returned from my trip from Greece, my daughter denied telling me that Phillip and Spiros were going to destroy Athan by telling others about the fire and the insurance. But I know why she told me these things and that is because she was very afraid for her brother Athan.

FURTHER THE AFFIANT SAYETH NOT.

Irene Fokas

Irene Fokas

SWORN TO before me

This 16 day of January, 2018

Notary Public for South Carolina
My Commission Expires on 3-16-2021

ZACHARY T. BRAMSCHREIBER
My Commission Expires
NOTARY PUBLIC
03-16-2021
STATE OF SOUTH CAROLINA

ΠΟΛΙΤΕΙΑ ΤΗΣ ΝΟΤΙΑΣ ΚΑΡΟΛΙΝΑΣ ΚΟΜΗΤΕΙΑ ΤΟΥ ΤΣΑΡΛΕΣΤΟΝ AthanFokas, Ενάγων, κατά των Phillip Ferderigoskαι Spiros Ferderigos, , Εναγομένων.	)	ΠΡΩΤΟΔΙΚΕΙΟ (COURT OF COMMON PLEAS) ΓΙΑ ΤΗΝ ΕΝΑΤΗ ΔΙΚΑΣΤΙΚΗ ΠΕΡΙΦΕΡΕΙΑ Αρ. υπόθεσης: 2015-CP-10-3891

ΕΝΟΡΚΗ ΚΑΤΑΘΕΣΗ ΤΗΣ IRENE FOKAS

Αφού ορκίστηκε, η ενόρκως καταθέτουσα δήλωσε τα εξής:

1. Ονομάζομαι Irene Fokas, είμαι κάτοικος της Κομητείας Τσάρλεστον της Νότιας Καρολίνας και είμαι άνω των 18.
2. Τον Απρίλιο ή τον Μάιο του 2015, πριν αναχωρήσω για την Ελλάδα όπου θα παραθέριζα, μετέφερα στον γιο μου, Athan Fokas, ότι έμαθα πως τα ξαδέλφια του, οι Philip και Spiros Ferderigos, θα διέδιδαν ότι ο γιος μου είχε προκαλέσει φωτιά στη διεύθυνση 229 King Street και ότι είχε εισπράξει χρήματα από την ασφάλεια εξαπατώντας την. Του είπα, «σε κατηγορούν ότι εξαπάτησες την ασφάλεια». Του είπα να μην ανακατευτεί με τον Phillip και τον Spiros γιατί είναι δικηγόροι και θα μπορούσαν να διαστρεβλώσουν τα γεγονότα. Δεν μου ανέφερε ο ίδιος αυτές τις δηλώσεις.
3. Ο Athan με ρώτησε ποιος μου τα είπε αυτά αλλά εγώ δεν του αποκάλυψα τίποτα.
4. Συγκεκριμένα, η κόρη μου, Urania Nikatos, μου εκμυστηρεύτηκε, πριν αναχωρήσω για την Ελλάδα, τον φόβο της ότι τα ξαδέλφια της θα «κατέστρεφαν» τον Athan ισχυριζόμενοι ότι εκείνος είχε προκαλέσει τη φωτιά στη διεύθυνση 229 King Street και

ότι είχε εισπράξει την αποζημίωση από την ασφάλεια εξαπατώντας την. Η κόρη μου πρόσθεσε ότι ο Athan θα πρέπει να είναι προσεκτικός γιατί θα τον κατηγορούσαν για αυτά τα δύο γεγονότα. Συζητήσαμε πολλές φορές σχετικά με τους φόβους της.

5. Όταν επέστρεψα από το ταξίδι μου στην Ελλάδα, η κόρη μου αρνήθηκε ότι μου είχε εκμυστηρευτεί ότι ο Phillip και ο Spiros σκόπευαν να καταστρέψουν τον Athan διαδίδοντας ότι ήταν υπαίτιος για τη φωτιά και ότι είχε εισπράξει την αποζημίωση από την ασφάλεια εξαπατώντας την. Ξέρω όμως γιατί μου τα είπε αυτά και ο λόγος ήταν επειδή φοβόταν πολύ για τον αδελφό της, τον Athan.

Η ΕΝΟΡΚΩΣ ΚΑΤΑΘΕΤΟΥΣΑ ΔΕΝ ΔΗΛΩΣΕ ΤΙΠΟΤΕ ΑΛΛΟ.

Irene Fokas

Irene Fokas

ΟΡΚΙΣΤΗΚΕ ενώπιον εμού

Σήμερα, _____ ημέρα του μήνα _____ 2018

_____

Συμβολαιογράφος της Νότιας Καρολίνας
Η θητεία μου λήγει στις _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

Athan Fokas)
Plaintiff(s))

vs.)

Philip Ferderigos, Jacob Ferderigos and Spiros Ferderigos)
Defendant(s))

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2015 -CP-10 -3919

(Please Print)
Submitted By: Stan Barnett
Address: 1037 Chuck Dawley Blvd., Suite 100
Building F, Mount Pleasant, SC 29464

SC Bar #: 533
Telephone #: 843. 881. 1623
Fax #: 843. 881. 4406
Other:
E-mail: stanleyb@scbLaw.com

FILED
2015 JUL 15 PM 2:28
CHARLESTON COUNTY, SC
CLERK OF COURT

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 Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption 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)	Previous Notice of Intent Case #	☐ Premises Liability (330)	☐ Mechanic's Lien (430)
☒ Breach of Contract (140)	20____-CP-_____-	☐ Products Liability (340)	☐ Partition (440)
☐ Other (199)	☐ Notice/ File Med Mal (230)	☐ Personal Injury (350)	☐ Possession (450)
	☐ Other (299)	☐ Wrongful Death (360)	☐ Building Code Violation (460)
		☐ Other (399)	☐ Other (499)

Inmate Petitions	Judgments/Settlements	Administrative Law/Relief	Appeals
☐ PCR (500)	☐ Death Settlement (700)	☐ Reinstate Driver's License (800)	☐ Arbitration (900)
☐ Mandamus (520)	☐ Foreign Judgment (710)	☐ Judicial Review (810)	☐ Magistrate-Civil (910)
☐ Habeas Corpus (530)	☐ Magistrate's Judgment (720)	☐ Relief (820)	☐ Magistrate-Criminal (920)
☐ Other (599)	☐ Minor Settlement (730)	☐ Permanent Injunction (830)	☐ Municipal (930)
	☐ Transcript Judgment (740)	☐ Forfeiture-Petition (840)	☐ Probate Court (940)
	☐ Lis Pendens (750)	☐ Forfeiture—Consent Order (850)	☐ SCDOT (950)
	☐ Transfer of Structured Settlement Payment Rights Application (760)	☐ Other (899)	☐ Worker's Comp (960)
			☐ Zoning Board (970)
	☐ Other (799)		☐ Public Service Commission (990)
			☐ Employment Security Comm (991)
			☐ Other (999)

Special/Complex /Other	
☐ Environmental (600)	☐ Pharmaceuticals (630)
☐ Automobile Arb. (610)	☐ Unfair Trade Practices (640)
☐ Medical (620)	☐ Out-of State Depositions (650)
☐ Other (699)	☐ Motion to Quash Subpoena in an Out-of-County Action (660)
	☐ Sexual Predator (510)

Submitting Party Signature: Stan Barnett **Date:** 7/15/15

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT
Athan Fokas, Plaintiff, v. Philip Ferderigos, Jacob Ferderigos, and Spiros Ferderigos, Defendant(s).	Case No.: 2015-CP-10-3919 **SUMMONS** (Breach of Contract, Specific Performance, Breach of Fiduciary Duty) (Jury Trial Demanded)

FILED
2015 JUL 15 PM 2:28
JULIE J. ARMSTRONG
CLERK OF COURT

TO THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint in this action, a copy of which is hereby served upon you, and to serve a copy of your answer to the said complaint upon the subscriber, Stan Barnett, of Smith, Bundy, Bybee & Barnett, P.C., Post Office Box 1542, Mt. Pleasant, South Carolina 29465-1542, within thirty (30) days after service thereof, exclusive of the day of service; and if you fail to do so judgment by default will be rendered against you for the relief demanded in the complaint.

Stan Barnett

Stan Barnett
SMITH, BUNDY, BYBEE & BARNETT
Post Office Box 1542
Mt. Pleasant, South Carolina 29465-1542
Telephone: (843) 881-1623
Attorneys for Plaintiff

Mount Pleasant, South Carolina
July 15, 2015

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT
Athan Fokas, Plaintiff, v. Philip Ferderigos, Jacob Ferderigos, and Spiros Ferderigos, Defendant(s).	Case No.: 2015-CP-10-3919 **COMPLAINT** (Breach of Contract, Specific Performance, Breach of Fiduciary Duty) (Jury Trial Demanded)

FILED
2015 JUL 15 PM 2:28
JULIE J. ARMSTRONG
CLERK OF COURT

COMES NOW the Plaintiff who for his complaint against the Defendants named above alleges as follows:

COMES NOW the Plaintiff, Athan Fokas, who for his Complaint against Defendants alleges as follows:

1. Plaintiff is a citizen and resident of Charleston County, South Carolina.
2. Defendant Philip Ferderigos is a citizen and resident of Charleston County, South Carolina.
3. Defendant Spiros Ferderigos is a citizen and resident of Charleston County, South Carolina.
4. Defendant Jacob Ferderigos is a citizen and resident of Charleston County, South Carolina.
5. Plaintiff and Defendants ("the Ferderigos brothers") are owners and principals of Old Towne Suites, LLC which operates a business in the building located at 229 King Street which houses the Old Towne Restaurant, said business being rental of luxury suites.

6. Plaintiff and Defendants Ferderigos together hold title to the building at 229 King Street with Plaintiff owning an undivided one half interest and the other one half undivided interest being held in equal shares by the said Ferderigos brothers.
7. The luxury suite rental business described above was commenced after the upper story of 229 King Street was converted from restaurant seating to luxury suites.
8. The success and profitability of the suites rental business was such that the parties agreed in 2012 to investigate the possibility of adding more rental suites by expanding the building.
9. In early 2013, the parties jointly agreed to investigate financing options and Defendants authorized Plaintiff to look for acceptable financing.
10. Plaintiff and Jacob Ferderigos worked in late 2012 and throughout 2013 with engineers, an architect and others to develop plans for the expansion of the building, all with the knowledge and consent of Philip and Spiros Ferderigos.
11. By January 2014, Plaintiff secured pre-approval of a loan for the building expansion for more rental suites in which he and Jacob Ferderigos would personally guarantee the loan but the other Defendants would not execute a personal guarantee.
12. The details of the loan package was explained to Defendants who were aware that they would be required to execute a mortgage for the building and that the LLC would be a signatory on the note to the lending bank and Defendants consented to these things being done.
13. Defendants Philip and Spiros Ferderigos agreed to execute the mortgage so long as they were not required to sign as personal guarantors on the note to the bank, and at no time were they asked by Plaintiff or any lending bank to do so.

14. Based on this agreement, Plaintiff expended considerable expense and effort toward securing planning and zoning approval for the project and in finalizing design plans.

15. A closing was scheduled by Plaintiff and Jacob Ferderigos with the bank for October 24, 2014.

16. Defendant Spiros Ferderigos refused to sign the mortgage for the closing as he was in contention for a seat on the South Carolina Circuit Court and informed Plaintiff the mortgage might affect his consideration.

17. A second closing was set for late November 2014.

18. Prior to the second closing Defendant Philip Ferderigos demanded that Plaintiff execute an agreement whereby specified penalties would be paid in the event payments were not made on the note to the lending bank. If this agreement were executed, said Defendant agreed he would execute the mortgage.

19. Initially, Plaintiff refused to sign the agreement as it was a change in the agreement of the parties and the scheduled closing was cancelled due to Defendants Philip and Spiros Ferderigos' refusal to sign the mortgage.

20. Plaintiff agreed to sign the agreement presented to him by Defendant Philip Ferderigos in early 2015.

21. Despite Plaintiff's agreement to sign the above agreement, Defendants refused to sign the mortgage and notified Plaintiff they would not go forward with the planned expansion of the building. Defendant Jacob Ferderigos has maintained he would not agree to going forward unless his brothers, Philip and Spiros, agreed to do so.

22. Defendants have continued to refuse to go forward with the agreement to expand the building and suites rental business despite repeated requests by Plaintiff to do so and despite the continued offer of the lending bank to complete the loan.

FOR A FIRST CAUSE OF ACTION
(Breach of Contract – Specific Performance)

23. Paragraphs 1 -21 are realleged herein.

24. A verbal contract was formed between the parties to expand the building at 229 King Street for the purpose of expanding the number of rental suites for their ongoing business.

25. The parties agreed to share the expense of the expansion planning in shares equal to their ownership of the building and of the LLC.

26. The parties agreed that they would all mortgage the building as part of a loan to finance the building expansion.

27. The parties agreed that only the LLC, Plaintiff and Jacob Ferderigos would sign the note as guarantors of the loan.

28. The parties entered into part performance in furtherance of their agreement in the form of payment of a total of $86,000 in fees for engineering, architectural work, planning and zoning approval and design work so that by the time a final loan package was offered by the bank, all designs and plans and all zoning approvals for the project were complete.

29. The sole contingency in said contract was securing of financing for the project.

30. Offer of a loan package by the lending bank, South Coast Bank, fulfilled the contingency so that all parties were bound to carry out their agreements making up the contract.

31. Defendants breached the contract by refusing to carry out their obligation to execute the mortgage on the building and other parts of the loan documentation.

32. Plaintiff has no adequate remedy at law as the contract involves a specific project at a specific property.

33. Plaintiff is entitled to specific performance of the contract whereby Defendants are ordered to execute the mortgage on 229 King Street as provided for in the loan package offered by South Coast Bank.

34. In addition, Plaintiff is entitled to associated damages he has incurred in the form of any increase in the costs to construct the building addition which have resulted from the delay in proceeding with the project, as well as the attorneys fees and costs incurred in proceeding with this action.

FOR A SECOND CAUSE OF ACTION
(Breach of Contract – Damages)

35. Paragraphs 1 -33 are realleged herein.

36. In the alternative, should specific performance not be ordered, Plaintiff is entitled by reason of Defendants' breach of contract to recover all damages incurred by reason of said breach in the form of lost profits from the rental suites expansion and associated costs incurred toward the project paid for by Plaintiff, as well as attorneys fees and costs incurred in bringing this action.

FOR A THIRD CAUSE OF ACTION
(Violation of the Duty of Care – S.C. Code Sec. 33-44-409)

37. Paragraphs 1 – 35 are realleged herein.

38. The duties of the members of the Old Towne Suites, LLC are governed by S.C. Code Sec. 33-44- 10, et seq. and specifically by 33-44-409.

39. Defendants as members of the LLC owe to Plaintiff a duty to refrain from engaging in conduct which is grossly negligent or reckless or which is intentional misconduct.

40. Defendants' refusal to execute the mortgage in accord with their agreement with Plaintiff and their brother Jacob as described above was grossly negligent, reckless and constitutes intentional misconduct, and as such constitutes a breach of their duty of care and a breach of the fiduciary duty they owe to Plaintiff.

41. By reason of the above breach of the duty of care and of their fiduciary duty to Plaintiff, Defendants are liable to Plaintiff for all damages he has incurred as a result of said breach in the form of lost profits, increased costs of construction of the building expansion and costs incurred by Plaintiff for the purpose of carrying out the building expansion as well as for the attorneys fees and costs incurred in pursuing this action.

WHEREFORE, Plaintiff prays that this Honorable Court inquire into the mattes set forth herein and grant to Plaintiff:

1. Judgment against Defendants for specific performance requiring Defendants to consummate the contract between the parties by executing the documents necessary for the loan to finance the project which is the object of their contract;
2. Judgment against Defendants for damages incurred by Plaintiff as the result of Defendants' refusal to consummate the contract between the parties;
3. Judgment against Defendants for damages incurred by Plaintiffs as the result of Defendants' breach of their duty as members of the Old Towne Suites, LLC;

4. Judgment against Defendants for the Plaintiff's attorneys' fees and the costs of pursuing this action; and

5. Such other and further relief as this Court may deem just and proper.

Respectfully submitted,

Stan Barnett
Smith, Bundy, Bybee & Barnett, PC
P.O. Box 1542
Mount Pleasant, SC 29465
(843) 881-1623

July 5, 2015
Mount Pleasant, SC

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO. 2015-CP-10-3919
	)	
Athan Fokas,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	**SPIROS FERDERIGOS' ANSWER, AFFIRMATIVE DEFENSES AND COUNTERCLAIMS**
Philip Ferderigos, Jacob Ferderigos, and Spiros Ferderigos,	)	
	)	
Defendants.	)	*Jury Trial Demanded*
	)	

FILED
2015 OCT -1 PM 4:20
JULIE J. ARMSTRONG
CLERK OF COURT
BY

Defendant Spiros Ferderigos through his undersigned counsel, respectfully submits the following Answer, Affirmative Defenses and Counterclaims to Plaintiff Athan Fokas' Complaint. Spiros Ferderigos denies each and every allegation not specifically admitted herein. Further, Spiros Ferderigos' Answers are limited to those allegations asserted against him. Spiros Ferderigos is not required to, and does not, respond to any allegations directed toward another defendant.

(1) Paragraph 1 does not contain allegations against Spiros Ferderigos. To the extent a response is required, Spiros Ferderigos admits Paragraph 1 upon information and belief.

(2) Paragraph 2 does not contain allegations against Spiros Ferderigos. To the extent a response is required, Spiros Ferderigos admits Paragraph 2.

(3) Spiros Ferderigos admits Paragraph 3.

(4) Paragraph 4 does not contain allegations against Spiros Ferderigos. To the extent a response is required, Spiros Ferderigos admits Paragraph 4.

(5) Spiros Ferderigos admits only that Athan Fokas and Defendants are members of Old Towne Suites, LLC (hereinafter "LLC"). Spiros Ferderigos denies the remainder of Paragraph 5.

(6) Spiros Ferderigos admits Paragraph 6.

(7) Spiros Ferderigos admits Paragraph 7 only to the extent that the currently existing rental business began after the upper two stories of 229 King Street were converted to rental units from restaurant seating. Spiros Ferderigos denies the remainder of Paragraph 7.

(8) Spiros Ferderigos admits Paragraph 8 only to the extent that in 2012, the parties began to investigate the possibility of, feasibility of, and their interest in constructing a new building above 229 King Street to be used for rental units. Spiros Ferderigos denies the remainder of Paragraph 8 and further denies the existence of any agreement to construct said building.

(9) Spiros Ferderigos denies Paragraph 9.

(10) Spiros Ferderigos admits Paragraph 10 only to the extent that, beginning no later than mid-2012, Athan Fokas and Jacob Ferderigos coordinated with an engineer(s), architect(s), and a contractor to develop plans to submit to the City of Charleston for possible approval to determine the cost, details, scope, feasibility and whether the City of Charleston would even allow the proposed project being considered by the parties. All activities at all times were for the consideration of a possible proposed project in the future; the parties entered into no agreements whatsoever, and all parties understood that any party could decide not to participate at any time. Spiros Ferderigos denies the remainder of Paragraph 10.

(11) Spiros Ferderigos admits Paragraph 11 only to the extent that Athan Fokas secured pre-approval of a loan for himself and for Jacob Ferderigos, the terms of which were never discussed with and/or agreed upon by Phillip and Spiros Ferderigos. Spiros Ferderigos denies the remainder of Paragraph 11. Athan Fokas and Jacob Ferderigos were supposed to get a personal loan for themselves which did not involve and/or affect Phillip and Spiros Ferderigos in any way whatsoever. Athan Fokas failed to secure such a loan.

(12) Spiros Ferderigos denies Paragraph 12.

(13) Spiros Ferderigos denies Paragraph 13.

(14) Spiros Ferderigos admits Paragraph 14 only to the extent that the parties expended expense and effort toward investigating the possibility of, feasibility of, and their interest in constructing the proposed project. Spiros Ferderigos denies the remainder of Paragraph 14 and denies that there was ever an agreement to construct the building between Athan Fokas and Spiros Ferderigos at any time whatsoever.

(15) Spiros Ferderigos denies Paragraph 15 as characterized.

(16) Spiros Ferderigos admits Paragraph 16 only to the extent that he was a candidate for a Family Court judgeship at the time Athan Fokas wrongfully demanded that Spiros Ferderigos mortgage his interest in 229 King Street and Athan Fokas unilaterally scheduled the closing for Athan Fokas' loan without consulting Spiros Ferderigos. As Spiros Ferderigos had never agreed to mortgage his interest in 229 King Street, Spiros Ferderigos was not willing to consider encumbering his interest in 229 King Street unless Athan Fokas signed a side/ancillary agreement that Spiros Ferderigos was satisfied would protect his most valuable asset known at the time. Spiros Ferderigos was further not

willing to amend his financial information and amend his judicial filings simply because Athan Fokas wrongfully demanded that Spiros Ferderigos encumber his financial interest(s). Spiros Ferderigos informed Athan Fokas that the timing of Athan Fokas' unilateral closing was not convenient for him, that he had never agreed to mortgage 229 King Street, and that he was not willing to even consider changing his financial status at the time.

(17) Spiros Ferderigos admits Paragraph 17.

(18) Spiros Ferderigos admits Paragraph 18 only to the extent that, if Athan Fokas would have signed the proposed written side/ancillary agreement prepared by Phillip and Spiros Ferderigos prior to the closing, Phillip and Spiros Ferderigos would have provided a mortgage of their portion of 229 King Street, assuming that the additional loan closing documents were also correct in all material aspects. Spiros Ferderigos denies the remainder of Paragraph 18.

(19) Spiros Ferderigos admits Paragraph 19 only to the extent that Athan Fokas refused to sign the side/ancillary agreement. Spiros Ferderigos denies the remainder of Paragraph 19. Specifically, Spiros Ferderigos denies that there was an agreement between the parties at any time.

(20) Spiros Ferderigos denies Paragraph 20.

(21) Spiros Ferderigos denies Paragraph 21 as characterized.

(22) Spiros Ferderigos denies Paragraph 22 as characterized and further denies that there was ever any agreement whatsoever between the parties at any time.

FOR A FIRST DEFENSE TO THE FIRST CAUSE OF ACTION
(Breach of Contract – Specific Performance)

(23) Responding to Paragraph 23, Spiros Ferderigos hereby incorporates by reference his responses to the allegations in the preceding paragraphs as fully as if repeated verbatim herein.

(24) Spiros Ferderigos denies Paragraph 24. Spiros Ferderigos has never verbally communicated with Athan Fokas about the proposed project being considered, and all communications between Spiros Ferderigos and Athan Fokas about the proposed project have been in writing.

(25) Spiros Ferderigos admits Paragraph 25 only to the extent that the parties were each responsible for their respective share of costs for considering the possibility of, feasibility of, and their interest in the proposed project being considered. Spiros Ferderigos denies the remainder of Paragraph 25.

(26) Spiros Ferderigos denies Paragraph 26.

(27) Spiros Ferderigos denies Paragraph 27.

(28) Spiros Ferderigos admits Paragraph 28 only to the extent that the parties paid expenses directly toward and directly for work to investigate the possibility of, feasibility of, and their interest in the proposed project being considered. Spiros Ferderigos denies the remainder of Paragraph 28 and denies that there was ever an agreement between the parties at any time.

(29) Spiros Ferderigos denies Paragraph 29.

(30) Spiros Ferderigos denies Paragraph 30.

(31) Spiros Ferderigos denies Paragraph 31.

(32) Spiros Ferderigos denies Paragraph 32.

(33) Spiros Ferderigos denies Paragraph 33.

(34) Spiros Ferderigos denies Paragraph 34.

FOR A FIRST DEFENSE TO THE SECOND CAUSE OF ACTION
(Breach of Contract -- Damages)

(35) Responding to Paragraph 35, Spiros Ferderigos hereby incorporates by reference his responses to the allegations in the preceding paragraphs as fully as if repeated verbatim herein.

(36) Spiros Ferderigos denies Paragraph 36.

FOR A FIRST DEFENSE TO THE THIRD CAUSE OF ACTION
(Violation of the Duty of Care -- S.C. Code Ann. § 33-44-409)

(37) Responding to Paragraph 37, Spiros Ferderigos hereby incorporates by reference his responses to the allegations in the preceding paragraphs as fully as if repeated verbatim herein.

(38) Paragraph 38 contains legal conclusions to which no response is required. To the extent a response is required, Spiros Ferderigos craves reference to the statutes cited in Paragraph 38 and, to the extent they are applicable, denies anything inconsistent therewith.

(39) Paragraph 39 contains legal conclusions to which no response is required. To the extent a response is required, Spiros Ferderigos craves reference to the statutes cited in Paragraph 39 and, to the extent they are applicable, denies anything inconsistent therewith. Spiros Ferderigos further denies that he owed any duty of care pursuant to

S.C. Code Ann. Section 33-44-409 to Athan Fokas relating to Spiros Ferderigos' real property interest in 229 King Street and/or the proposed project being considered. Spiros Ferderigos denies that the LLC statutes apply in this matter to impose any duty upon him, but, in the event the Court holds such duties do apply to him, Spiros Ferderigos denies that he breached any such duties.

(40) Spiros Ferderigos denies Paragraph 40.

(41) Spiros Ferderigos denies Paragraph 41.

FOR A SECOND DEFENSE TO ALL CAUSES OF ACTION

(42) Athan Fokas' claims fail to state facts sufficient to constitute a cause of action upon which relief can be granted. Therefore, pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure, the Complaint should be dismissed.

FOR A THIRD DEFENSE TO ALL CAUSES OF ACTION

(43) Athan Fokas' claims are barred, in whole or in part, by the doctrines of estoppel, ratification, waiver, laches, and/or unclean hands.

FOR A FOURTH DEFENSE TO ALL CAUSES OF ACTION
(Statute of Frauds and/or Statute of Limitations)

(44) Athan Fokas' Complaint states claims that are barred, in whole or in part, by the Statute of Frauds and/or statute of limitations.

FOR A FIFTH DEFENSE TO ALL CAUSES OF ACTION

(45) Athan Fokas has failed to mitigate his injuries and/or damages, if any.

FOR A SIXTH DEFENSE TO ALL CAUSES OF ACTION

(46) Spiros Ferderigos relies upon any other defenses that may become available or appear during discovery in the case and hereby reserves the right to amend this Answer to assert any such defenses. He also reserves the right to assert other and related defenses as may become available upon a determination of the law applicable to the action or any part thereof or claim therein.

FOR A SEVENTH DEFENSE
AND BY WAY OF AN AFFIRMATIVE DEFENSE THERETO
(Contributory/Comparative Negligence/Assumption of Risk)

(47) Any damage suffered by Athan Fokas is a direct and proximate result of his own comparative and contributory negligence and/or assumption of risk, and Athan Fokas'

recovery should be barred, or alternatively, reduced proportionately to Athan Fokas' comparative negligence/assumption.

FOR AN EIGHTH DEFENSE
AND BY WAY OF AN AFFIRMATIVE DEFENSE THERETO
(Release)

(48) The Plaintiff's claims are barred by release as the Plaintiff released Defendants from any alleged agreement on multiple occasions.

FOR AN NINTH DEFENSE
AND BY WAY OF AN AFFIRMATIVE DEFENSE THERETO
(Punitive Damages)

(49) The Defendant would show that the claim of Athan Fokas for punitive damages cannot be had because any award of punitive damages under South Carolina law without bifurcation of the trial so that any punitive damages issues are tried only after and if liability on the merits of the action have been found would violate Defendant's due process rights guaranteed by the United States Constitution and the South Carolina Constitution and would violate the common law and public policy of the State of South Carolina.

The Defendant would show that the claim of Athan Fokas for punitive damages cannot be had because an award of punitive damages under South Carolina law without being subject to a pre-determined limit on the amount of punitive damages that a jury might impose would violate Defendant's due process rights guaranteed by the United States Constitution and The South Carolina Constitution and would violate the common law of the State of South Carolina.

The Defendant alleges that the claim of Athan Fokas for punitive damages cannot be had because an award of punitive damages under South Carolina law by a jury that is not: a) provided with sufficiently clear standards for determining the appropriateness of the punitive damages award or size of such award; b) provided with accurate instructions as to the limits of punitive damages awards as determined by the principals underlying such an award; c) instructed that awarding punitive damages on invidiously discriminatory characteristics of the Defendant is improper; d) instructed to consider punitive damages under a standard for determining the amount that is neither vague, arbitrary nor capricious and that defines with reasonable clarity the actions of the Defendant upon which an award of punitive damages may be based; e) subjected to judicial review at both the trial and appellate court level under objective standards for determining appropriateness and reasonableness; and f) instructed that an award of punitive damages based on anything other than Defendant's conduct in connection with this alleged incident that is the subject of this lawsuit is forbidden; would violate the Defendant's equal protection and due process rights as guaranteed by the United Stated Constitution and the South Carolina Constitution and would also violate the laws of the State of South Carolina.

The Defendant alleges and says that the imposition of punitive damages on the basis of Athan Fokas' claims giving rise to this lawsuit would represent the deprivation of liberty and property without due process of law, the imposition of cruel and unusual punishment and excessive fines and deny the equal protection of the laws and violation of the Fifth, Sixth, Eighth, and Fourteenth Amendments to The Constitution of the United States and the comparable provisions of the State of South Carolina.

FOR A TENTH AFFIRMATIVE DEFENSE
(No Meeting of the Minds)

(50) Athan Fokas' claims are barred as there was no "meeting of the minds" and no binding agreement between the parties as to numerous material terms of the alleged agreement. Athan Fokas admits that Spiros Ferderigos did not agree to subject himself to personal liability on Fokas' personal loan involving the rental suite construction being considered at 229 King Street. A mortgage is a material term. It constitutes possible personal liability for Spiros Ferderigos by subjecting his most important and valuable asset known at the time, 229 King Street, to possible foreclosure in the event Fokas defaulted on his personal loan. Phillip Ferderigos told Athan Fokas that he would not mortgage or guarantee "anything" for Athan Fokas or anyone else. Spiros Ferderigos further informed Athan Fokas in writing on December 19, 2012, that he would not be willing to accumulate debt for the proposed project. A mortgage is a debt. In addition, Spiros Ferderigos signing his name as an individual (direct personal liability) and/or signing his interest as a member of the LLC (personal liability if the cooperate veil is pierced) for Athan Fokas' incorrect and non-agreed upon closing documents further constitutes exposure for a personal guarantee that Spiros Ferderigos never agreed to.

Athan Fokas' incorrect and non-agreed upon closing documents required Spiros Ferderigos to sign *as an individual* (1) a mortgage for Spiros Ferderigos' interest in 229 King Street, (2) an assignment of rents, (3) a hypothecation agreement, (4) a HUD Statement, (5) an agreement to provide insurance, and (6) a UCC Financing Statement/Addendum.

Athan Fokas' incorrect and non-agreed upon closing documents also required Spiros Ferderigos to assign his interests *as a member of the LLC* for (1) the Note as the Borrower for Athan Fokas' loan, (2) an assignment of rents for a construction loan agreement, (3) a guaranty of completion and performance agreement, (4) a commercial security agreement, (5) a hazardous substances certificate and indemnity agreement, (6) an agreement to provide insurance, and (7) a UCC Financing Statement/Addendum.

There were further numerous unknown material terms at the time Athan Fokas alleges the parties entered into an agreement that would make a meeting of the minds between the parties impossible, as the parties cannot and did not agree to material terms that were still unknown at the time. As such, the parties never reached a meeting of the minds as to the essential terms of a mortgage agreement, of a side agreement, and/or any material terms.

FOR AN ELEVENTH AFFIRMATIVE DEFENSE
(No Agreement to Agree)

(51) Athan Fokas' claims are barred as there was never even an "agreement to agree" between the parties. The cost of the proposed project, the scope of the proposed project, the financing details of the proposed project, the loan documentation details of the proposed project, and other material terms of the proposed project were simply unknown at the time Athan Fokas alleges an agreement was made. This is evidenced by the written documentation between the parties which have been attached as exhibits to Defendant(s) counterclaim(s).

FOR A TWELFTH AFFIRMATIVE DEFENSE
(No Consideration)

(52) Athan Fokas' claims fail for lack of consideration.

FOR A THIRTEENTH AFFIRMATIVE DEFENSE
AND BY WAY OF COUNTERCLAIMS
(Facts)

(53) Athan Fokas is a citizen and resident of Charleston County, South Carolina. The text messages identified as (843) 813-5612 in the attached exhibits are text messages from Athan Fokas.

(54) Phillip Ferderigos is a citizen and resident of Charleston County, South Carolina.

(55) Spiros Ferderigos is a citizen and resident of Charleston County, South Carolina.

(56) Jacob Ferderigos is a citizen and resident of Charleston County, South Carolina.

(57) The father of Jacob Ferderigos, Phillip Ferderigos, and Spiros Ferderigos (hereinafter Ferderigos Brothers) established Old Towne Restaurant in 1972. Old Towne Restaurant is located at 229 King Street. The Parcel ID number for 229 King Street is 4570801063.

(58) Athan Fokas' father joined Ferderigos Brothers' father as a partner resulting in both Ferderigos Brothers' father and Athan Fokas' father each owning a respective fifty (50) percent interest in Old Towne Restaurant. Ferderigos Brothers' father and Athan Fokas' father purchased the real property located at 229 King Street with each receiving a fifty (50) percent respective interest in the real property.

(59) Ferderigos Brothers' father transferred his respective fifty (50) percent interest in the real property located at 229 King Street in equal shares to Ferderigos Brothers. Ferderigos Brothers' father further transferred his fifty (50) percent interest in Old Towne Restaurant to Jacob Ferderigos.

(60) Upon information and belief, Athan Fokas' father transferred his respective fifty (50) percent interest in Old Towne Restaurant and 229 King Street to Athan Fokas.

(61) Accordingly, Jacob Ferderigos and Athan Fokas each own a respective fifty (50) percent interest in Old Towne Restaurant. The Ferderigos Brothers own a combined fifty (50) percent interest in 229 King Street and Athan Fokas owns the remaining fifty (50) percent interest in 229 King Street.

(62) Old Towne Restaurant leases the first floor of 229 King Street from Ferderigos Brothers and Athan Fokas.

(63) In 2009, 229 King Street was burned in a fire. During the restoration period, Ferderigos Brothers and Athan Fokas converted the top two floors (second and third floor) into short term rental units (hereinafter "original rental units").

(64) Ferderigos Brothers and Athan Fokas paid their respective fifty (50) percent of all expenses for the original rental units in cash.

(65) Ferderigos Brothers and Athan Fokas did not mortgage 229 King Street for the original rental units.

(66) Ferderigos Brothers and Athan Fokas did not personally guarantee any asset and/or interest(s) for the original rental units (including but not limited to a mortgage).

(67) Ferderigos Brothers did not encumber any of their assets for Athan Fokas and Athan Fokas did not encumber any of his assets for Ferderigos Brothers for the original rental units.

(68) Ferderigos Brothers and Athan Fokas created Old Towne Suites, LLC (hereinafter the LLC) to distribute profits for the original rental units. Ferderigos Brothers own a combined fifty (50) percent interest of the LLC and Athan Fokas owns the remaining fifty (50) percent interest in the LLC. The LLC has no assets.

(69) After the LLC was created and the original rental units constructed, but no later than 2012, Athan Fokas informed one or more of the Ferderigos Brothers that he wanted to explore potentially adding new construction over the existing building at 229 King Street for additional short terms rental units (hereinafter "proposed project").

(70) Upon information and belief, Athan Fokas approached Phillip Ferderigos and told him that the parties should mortgage 229 King Street for the proposed project. Phillip Ferderigos informed Athan Fokas that he would not mortgage his interest in 229 King Street for the proposed project. Phillip Ferderigos has not had any substantive verbal communication(s) with Athan Fokas regarding the proposed project being explored since Phillip Ferderigos had the aforementioned communication wherein Phillip Ferderigos rejected Athan Fokas' request to encumber his asset(s).

(71) The Ferderigos Brothers were each individually comfortable exploring the possibility of, feasibility of, and exploring their interest in the proposed project; out of a matter of convenience, the Ferderigos Brothers and Athan Fokas paid their respective share of exploration expenses for the proposed project from their respective LLC profits.

(72) Ferderigos Brothers and Athan Fokas began exploring the proposed project in 2012 and by July 2012 were already accruing expenses for the exploration of the proposed project. *See Exhibit A and B.*

a. 08/06/12: First invoice from Tucker Architectural for concept drawings.
b. 12/11/12: Email from Tucker Architectural indicating that the concept drawings for the proposed project were approximately 80 percent complete.
c. 12/20/12: Final invoice from Tucker Architectural for concept drawings.

(73) By December 11, 2012, the architect hired by the parties was approximately eighty (80) percent complete with his concept drawings regarding the proposed project. *See Exhibit B.*

(74) Initially, Athan Fokas informed the Ferderigos Brothers the total cost of the proposed project would be approximately $900,000. *See Exhibit C.*

a. 12/19/12: Email from Athan Fokas stating "the total cost for the project to build will be somewhere between $800,000 and $900,000 with spending about 25,000 per unit to furnish and make them luxury units. I hope we can keep this project somewhere around $900,000."

(75) Athan Fokas and Jacob Ferderigos began searching for a personal loan/loan commitment(s) for themselves in the event the City of Charleston would approve the construction of the proposed project being explored, assuming that the parties could reach an agreement for all material terms to build the proposed project.

(76) On December 19, 2012, Athan Fokas sent an email informing the Ferderigos Brothers that he is attempting to get an approximate $900,000 loan for the proposed project and that he believes all parties should personally guarantee and mortgage their interests in 229 King Street for the attempted loan. *See Exhibit C.*

a. 12/19/12: Email from Athan Fokas stating "I hope we can keep this project somewhere around $900,000." "Our equity in Old Towne is somewhere between 5 and 10 million dollars. Many banks these days won't touch anything in the hospitality industry so it is no guaranteed that they will lend us the money. The note on the property should be somewhere in the neighborhood of $4000.00 a month if they let us carry the note for 30 years. If it is a 15 to 20 year note then the payments will be between $6000.00 and $8000.00 a month." "I'm only going to send information to banks that are very interested in doing the deal. I plan to give them Old Towne tax returns, Old Towne Suites income, and our personal

financial statements. Phillip asked if he would be personally guaranteeing the loan. Of course every loan out there wants the people taking out the loan to personally guarantee it. The loan is less than 20 percent of our total value and we have the income from our current suites that could easily pay the note so it's a no brainer. Let me know your thoughts."

(77) Spiros Ferderigos immediately responded, in writing, to Athan Fokas that he would not personally guarantee anyone else's loan or incur additional debts to accomplish the proposed project. Spiros Ferderigos stated that, if the proposed project moved forward, it would need to be in the same manner as the original rental units without Spiros Ferderigos accumulating debt, that Spiros Ferderigos anticipated paying cash for his share of the proposed project if the parties could reach an agreement, and that the cost of construction needed to be addressed. *See Exhibit D.*

a. 12/19/12: Spiros Ferderigos email response to Athan Fokas stating "Assuming all that pans out, there will be a continuing issue on how we finance. If the bank is looking for me (and I assume this goes for Phillip as well but I will let him speak for himself) to personally guarantee a loan I am not going to do it. There is to much that can go wrong with a personal guarantee. I am confident that Phillip, Jacob and I will be able to come up with our end of the amount needed and we can move forward without accumulating debt as we did for the first round of units." "The question is how do we get there, will it be by personally guaranteeing loans that could be catastrophic to our individual families or each individual raising the necessary funds and doing it without a million dollars in debt so we can greatly limit liability. I for one already have plenty of money sitting in a bank account for my share of the additional units." (Emphasis added).

(78) Spiros Ferderigos has never spoken verbally with Athan Fokas about the proposed project being explored. All communications between Spiros Ferderigos and Athan Fokas regarding the proposed project have been in writing.

(79) Athan Fokas and Jacob Ferderigos attempted several times to receive a personal loan/loan commitment(s) for the proposed project from numerous banks to no avail. *See Exhibit C.*

a. 12/19/12: Email from Athan Fokas stating "With that said I don't even know if the bank will lend us the money. First Citizens said they are not allowed to touch the hospitality industry. BB&T is 50/50 and will let me know if they are interested in a couple of days. South Carolina Bank and Trust seems very interested according to their President but will have to see our current income to make sure the numbers work. I'm meeting with Suntrust tomorrow but I think they will be a long shot."

(80) In January 2013, Athan Fokas made initial contact with his South Coast Bank loan officer seeking a loan/loan commitment. *See Exhibit E.* South Coast Bank is the lending bank Athan Fokas refers to in his Complaint.

a. 01/11/13: Email from Jeffrey Odom (South Coast Bank loan officer) to Athan Fokas stating "It was a pleasure meeting you yesterday afternoon. I just received your fax so it looks like it went through. I have also received your emails with the attached financial information. Thank you for getting everything to us so quickly. We will get to work and will be in touch shortly."

(81) Phillip Ferderigos and Spiros Ferderigos were not involved in Athan Fokas' and Jacob Ferderigos' attempts to get a personal loan/loan commitment(s) and did not provide any financial information or make any assurances to the bank(s) for the loan Athan Fokas and Jacob Ferderigos were seeking. Furthermore, any prior loan/loan commitment(s) obtained by Athan Fokas and Jacob Ferderigos was for a personal loan between them only and to be personally guaranteed by Athan Fokas and Jacob Ferderigos only. *See Exhibit F.*

a. 06/17/14: Email correspondence between Spiros Ferderigos and Athan Ferderigos wherein Spiros Ferderigos asks Athan Fokas and Jacob Ferderigos "The loan pre-approval that you guys have for the suites...are ya'll going to have to personally guarantee the loan?" Athan Fokas responds "We are pre approved, and since we personally asked for the loan yes we are personally guaranteeing it."

(82) Unknown to Phillip and Spiros Ferderigos at the time, Athan Fokas and Jacob Ferderigos secured a personal loan commitment for themselves from South Coast Bank on February 5, 2013. The loan commitment was for a one million dollar personal loan to Athan Fokas and Jacob Ferderigos in which Athan Fokas and Jacob Ferderigos would provide a mortgage for their interest(s) in 229 King Street, their interest(s) in the LLC, and an assignment of their rents and leases, in addition to other interest(s) of Athan Fokas and Jacob Ferderigos. The loan commitment expired February 15, 2013. *See Exhibit G.*

(83) The February 5, 2013, loan commitment secured by Athan Fokas and Jacob Ferderigos for their personal loan (which was unknown to Phillip and Spiros Ferderigos at the time) was not sufficient for the proposed project being explored as the costs of the proposed project continued to increase as a result of the proposed plans being repeatedly rejected by the relevant governmental agency.

(84) Accordingly, Athan Fokas had to keep seeking approval for a new personal loan/loan commitment(s) from South Coast Bank that would be sufficient for the ever growing costs of the proposed project being explored.

(85) Athan Fokas did not inform Phillip and Spiros Ferderigos that the approximate cost for the proposed project being explored increased from approximately $900,000 to approximately $2,000,000 until September 9, 2014. *See Exhibit H.*

a. 09/09/14: Email from Athan Fokas to Ferderigos Brothers stating "It looks like our new project of six more units will cost us around two million to build."

(86) Accordingly, based upon information provided by Athan Fokas, Phillip and Spiros Ferderigos were paying expenses toward exploring the potential proposed project from as early as December 2012 through September 9, 2014, under the incorrect information provided by Athan Fokas that the approximate cost of the proposed project was $900,000, not double that amount of approximately $2,000,000.

a. 12/19/12: Email from Athan Fokas stated "the total cost for the project to build will be somewhere between $800,000 and $900,000 with spending about 25,000 per unit to furnish and make them luxury units. I hope we can keep this project somewhere around $900,000." *See Exhibit C.*
b. 09/09/14: Email from Athan Fokas to Ferderigos Brothers stating "It looks like our new project of six more units will cost us around two million to build." *See Exhibit H.*

(87) Athan Fokas did not receive approval of his $1,800,000 personal loan and did not receive the details for his personal loan for the proposed project from his banker until September 2014. *See Exhibit I.*

a. 09/19/14: Text from Athan Fokas to Ferderigos Brothers stating "Good news! We are approved for 1.8 million." Spiros Ferderigos responds "can you email us the details of the loan sometime this weekend if you have a chance?" Athan Fokas responds "The banker just cslled me. I won't have the details till next week." (Emphasis added).

(88) On September 24, 2014, Athan Fokas, either intentionally and/or negligently, incorrectly informed the Ferderigos Brothers that his loan terms were for a fixed 5% interest rate for 20 years, the life of the alleged loan. When Athan Fokas subsequently became aware that he was incorrect about his loan terms, Athan Fokas attempted to get his banker to change the terms to what Athan Fokas believed he had. Athan Fokas' attempts to change his loan terms were rejected by his banker. Athan Fokas response to Phillip Ferderigos when he was unable to get his banker to change his loan terms to what Athan Fokas believed he had was "Well at least I tried." *See Exhibit J.*

a. 09/24/14: Athan Fokas email to Ferderigos Brothers stating " Well I don't know how I managed to sweet talk our banker into getting rid of the five year balloons and fixing it at 5% for the life of the loan which is unheard of in the current banking industry."
b. 09/25/14: Athan Fokas email to Jeffery Odom (South Coast Bank loan officer) asking his loan officer in regards to his loan terms "Can it say: 12 monthly payments of interest only followed by 239 consecutive monthly payments...so that it is truly a 20 years note. Just want to make sure that the note continues after 5 years."
c. 09/25/14: Jeffery Odom's response to Athan Fokas that "the note will be 12 months of interest only followed by 5 years of principal, interest, and escrow payments and then a balloon maturity, with monthly payments based on a 20 year

schedule. That is what you wanted and that is the same thing we are doing on your North Towne deal."

d. 09/25/14: Athan Fokas forwards Jeff Odom's email to Phillip Ferderigos and in response tells Phillip Ferderigos "Well at least I tried."

(89) The City of Charleston did not approve the proposed plans for the proposed project being explored until October 2014 and Athan Fokas informed the Ferderigos Brothers on October 10, 2014, that the permit for the proposed project being explored was approved. *See Exhibit K.*

(90) From 2012 to October 2014, the estimated costs of the proposed project increased from less than a million dollars to over two million dollars.

(91) When the city approved the proposed plans for the proposed project, Athan Fokas unilaterally scheduled a closing for what was to be Athan Fokas' and Jacob Ferderigos' personal loan. Jacob, Phillip, and Spiros Ferderigos were not informed nor involved in the scheduling of the closing date and were not informed of the closing date until after it had been scheduled by Athan Fokas.

(92) Upon information and belief, a few days prior to the closing for Athan Fokas' and Jacob Ferderigos' personal loan, Athan Fokas contacted Jacob Ferderigos and informed him that Phillip and Spiros Ferderigos would need to be present at the closing to mortgage their interests in 229 King Street for the loan. Jacob Ferderigos informed Athan Fokas that Phillip and Spiros Ferderigos never agreed to mortgage their interests in 229 King Street and that such a mortgage was outright rejected and never considered for the proposed project. Jacob Ferderigos further informed Athan Fokas that he did not believe Phillip and Spiros Ferderigos would agree to Athan Fokas' new material demand that they mortgage their interests in 229 King Street.

(93) Jacob Ferderigos informed Phillip and Spiros Ferderigos that Athan Fokas had scheduled a closing to be held in a few days and that Athan Fokas was demanding that Phillip and Spiros Ferderigos mortgage their interests in 229 King Street for Athan Fokas' and Jacob Ferderigos' personal loan.

(94) Upon being informed of this new demand, Spiros Ferderigos communicated with all parties in writing that he never agreed to mortgage his interest in 229 King Street for Athan Fokas' and Jacob Ferderigos' personal loan, however, he would consider mortgaging his interest in 229 King Street for Athan Fokas' and Jacob Ferderigos' personal loan so long as Athan Fokas signed a side/ancillary agreement that Spiros Ferderigos believed was sufficient to protect his financial asset, assuming that all closing documents were correct.

(95) Phillip Ferderigos also informed Athan Fokas that, although he never agreed to mortgage his interest in 229 King Street, he would consider doing so if Athan Fokas, Jacob Ferderigos, and Spiros Ferderigos signed a side agreement that Phillip Ferderigos

believed was sufficient to protect his financial asset, assuming that all closing documents were correct.

(96) Spiros Ferderigos further informed Athan Fokas, Jacob Ferderigos, and Phillip Ferderigos that the closing date scheduled by Athan Fokas without Spiros Ferderigos' input was not convenient for Spiros Ferderigos and that the closing would have to be scheduled for a later date.

(97) Athan Fokas scheduled a second closing date for November 21, 2014. The Ferderigos Brothers were prepared to attend the closing with Phillip and Spiros Ferderigos willing to mortgage their interests in 229 King Street so long as Athan Fokas agreed to and signed the side agreement prepared by Phillip and Spiros Ferderigos, assuming that all closing documents were correct. *See Exhibit L.*

a. 11/21/14: Text chain correspondence between Athan Fokas and Phillip/Spiros Ferderigos the date of the second scheduled closing – Phillip: "if the closing is going to happen today, I need to have it as late in the day as possible...If there any issues, let's just kick it the next week." Athan: "They scheduled if for 3:00 pm today. Will that work?" Phillip: "Should work for me, ask the lawyer to email me the HUD/settlement statement and all paperwork beforehand and I can review it and we can go through the closing more quickly..." Spiros: "From my end, we need to have the agreement signed and a copy of the closing docs to review beforehand. I want to make sure I know what I am signing. So agreement needs to be done and hud/settlement statement like Phillip said. I will block off 3 pm. Where is the closing?" "Once we get the green light on the agreement and the closing docs are reviewed/accurate (which I don't see a reason why they wouldn't be) then we can move forward this afternoon. If there are any issues with the agreement, ect then we will need to revisit everything at a later time."

(98) Athan Fokas, however, refused to agree to and never agreed to or signed the written side agreement necessary for Phillip and Spiros Ferderigos to mortgage their interest in 229 King Street. *See Exhibit M.*

a. 11/24/14: Email from Athan Fokas to Ferderigos Brothers stating "I'm not interested in you trying to bully me into signing any type of side agreement that is unnecessary. My attorney, as I said earlier, strongly was against it."
b. 11/24/14: Email response from Phillip Ferderigos to Athan Fokas stating "You are asking me to mortgage my part of Old Towne and you are unwilling to sign an Agreement to say that you will make your payments timely. I believe you have mortgaged your other properties and now you want to mortgage Old Towne. I am not your piggy bank. I will not mortgage my share of Old Towne for you unless you agree to make your payments timely. Unless you change your decision, there is no point in moving forward."
c. 11/24/14: Email response from Athan Fokas to Phillip Ferderigos stating "If you want me to sign a side agreement that guarantees I will pay the note then you will

sign one saying that you will come up with the money needed for construction or you shall suffer similar consequences."

d. 11/24/14: Email response from Phillip Ferderigos to Athan Fokas stating "I do not care what your bank is requiring of you to get your loan...that has nothing to do with me. I will not sign off on any mortgage of my share unless you sign an agreement that you will make your payments timely. If you are an intelligent person you will see that I can not and will not agree to mortgage my share of Old Towne if you do not agree to make your payments on time."
e. 11/24/14: Email response from Athan Fokas to Phillip Ferderigos stating "Well then it's done. I'll reverse as much as I can and just right it off as a stupid transaction dealing with Ferderigos Family."

(99) Furthermore, when the Ferderigos Brothers and Athan Fokas received the proposed closing documents to review just a few hours prior to the second closing, the closing documents included requirements that were never discussed and never agreed upon by Phillip and Spiros Ferderigos. *Exhibit N (closing documents).*

(100) The closing documents were incorrect in many ways by including provisions never agreed to or even discussed by the parties. Despite Athan Fokas' Complaint admitting that Phillip and Spiros Ferderigos never agreed to personally guarantee Athan Fokas' and Jacob Ferderigos' loan, the closing documents included terms that would expose Phillip and Spiros Ferderigos to personal liability such as (1) Phillip and Spiros Ferderigos signing their interests in the LLC as the borrower of the note (Athan Fokas' closing attorney admitted in writing that this could make Phillip and Spiros Ferderigos personally liable if the corporate veil were to be pierced and Athan Fokas admitted in an email that only Athan Fokas and Jacob Ferderigos were supposed to sign their individual memberships interests for the loan), (2) Phillip and Spiros Ferderigos signing a hypothecation agreement, (3) Phillip and Spiros Ferderigos assigning their rent profits for the benefit of the lending bank, (4) Phillip and Spiros Ferderigos personally signing the HUD Statement in their individual capacities, (5) Phillip and Spiros Ferderigos mortgaging their interests in 229 King Street, (6) Phillip and Spiros Ferderigos signing an agreement to provide insurance in their individual capacities, (7) Phillip and Spiros Ferderigos signing a UCC Financing Statement/Addendum in their individual capacities, and (8) Phillip and Spiros signing their interests in the LLC for a construction loan agreement, guaranty of completion and performance agreement, commercial security agreement, hazardous substances certificate and indemnity agreement, agreement to provide insurance, and UCC Financing Statement/Addendum, amongst other provisions. *See Exhibit N and O.*

a. 11/21/14: Email of Amy Haines (closing attorney) stating "Nothing in the documents I have makes you personally liable for the debt ... assuming the llc corporate veil could not be pierced for some reason." *See Exhibit O.*
b. 11/21/14: Email from Athan Fokas to Ferderigos Brothers stating "The bottom line is that the Old Towne Suites LLC on the note, that only Jacob and I are signing on as members, ..." *See Exhibit O.*

(101) Accordingly, the closing was canceled as Athan Fokas refused to agree to the terms of the side agreement and the closing documents included requirements never agreed to. *See Exhibit P.*

a. 11/21/14: Email from Phillip Ferderigos stating "it is clear that the bank has not been advised how to do the particulars correctly and this can not be rushed. Closing is off for today. If the docs can be fixed and all side agreements agreed to, then we can re-visit at that time."

(102) Later in the afternoon on the same date the second closing was cancelled, Athan Fokas informed the Ferderigos Brothers *for the first time* that he will be receiving approximately 2.7 million dollars on April 1, 2014, and that he intends to pay off his mortgage obligations at that time if Phillip and Spiros Ferderigos mortgage their interests in 229 King Street for his loan. *See Exhibit Q.*

a. 11/21/14: Email from Athan Fokas to Ferderigos Brothers stating "On April 1, I'm getting paid 3.5 million for a transaction I created long ago in which I have less then $800,000 invested in. I then plan to pay off my debt in full."

(103) Given this new material information, Phillip and Spiros Ferderigos communicated to Athan Fokas that they would like to consider Athan Fokas, Phillip Ferderigos, and Spiros Ferderigos paying cash for their portion of the proposed project. Athan Fokas refused to move forward unless Phillip and Spiros Ferderigos agreed to mortgage 229 King Street and sign the incorrect closing documents. *See Exhibit R.*

a. 11/21/14: Email correspondence between Athan Fokas and Phillip/Spiros Ferderigos Brothers – Phillip: "If you're coming into all the money, why don't we just move forward in April and we don't even need this loan at all." Spiros: "That's a great idea." Athan: "I'm not interested on funding anything more than my percentage as I have big plans for the rest. The bank will not just hang around for 8 months." Phillip: "Forget your bank, I have my bank…I think we should be fine, I like the idea…Athan, what do you say?" Spiros: "Sounds like a win for everyone. You would not be on any loan at all. Just paying your percentage. I think we should explore this before moving forward on a huge loan." Phillip: "I agree this is certainly something we should explore." Spiros: "Why risk that huge loan if we don't have to?" Phillip: "Spiro, you are making a lot of sense, Athan, what do you think?" Athan: "I'm at a swanky dinner now and half drunk but by then I will be n the money and not interested in an ventures but my own. I'm also working on a deal where I get 25% of $100,000,000.00 for just being an expert consultant. I hang out with the ultra wealthy now and play their games."

(104) Athan Fokas rejected moving forward without the parties incurring millions of dollars in debt despite Phillip and Spiros Ferderigos maintaining since 2012 that they were unwilling to accumulate debt for the proposed project being explored and despite Athan Fokas' new revelation confirming that accumulating debt in the form of a multi-million dollar mortgage was unnecessary since Athan Fokas will be receiving 2.7 million

dollars in cash (this is nearly three times Athan Fokas' portion of costs for the proposed project).

(105) On November 24, 2014, after the parties yet again reached an impasse on negotiations for the proposed project being explored, Athan Fokas emailed the Ferderigos Brothers that the thirty (30) plus year custom of the Ferderigos and Fokas families eating at Old Towne Restaurant for free was to cease immediately. *See Exhibit S.*

a. 11/24/14: Email from Athan Fokas to Ferderigos Brothers stating "Oh it has been a pleasure to say the least. I'm also done with paying your half of the food you so dearly like to eat at Old Towne weekly on my dime. If you don't pay your portion to me then Jacob will have to. All management will be put on notice."

(106) This is despite the fact that it has been the custom for the Ferderigos and Fokas families to eat for free at Old Towne Restaurant since the 1970's when Athan Fokas' and the Ferderigos Brothers' parents became partners in the restaurant. Upon information and belief, Athan Fokas changed the aforementioned custom for the purpose of harassing, humiliating, and attempting to coerce and gain an upper hand in negotiations against Ferderigos Brothers.

(107) Athan Fokas then took things even a step further and texted Phillip Ferderigos that he can't wait to spread malicious rumors/defame him around the community by stating that a multimillion dollar project couldn't get done because Phillip Ferderigos couldn't eat for free at Old Towne Restaurant and that he is sure everyone will find it "hilarious." He further went on to insult Phillip Ferderigos' weight, made an inappropriate comment about Phillip Ferderigos as a father and called Phillip Ferderigos "palabo" which means "stupid" in Greek. *See Exhibit T.*

a. 12/15/14: Text message from Athan Fokas to Ferderigos Brothers referring to Phillip Ferderigos stating "I can't wait to spread the word that the suites multimillion dollar project couldn't get done cause Phillip can't eat for free. I'm sure everyone will find it hilarious. I'm probably doing you a favor. Smaller waist line. I bet your kids will be real proud of you in the future too. Your dad was right for calling you palabo [stupid] Philipa."

(108) Athan Fokas is the individual who terminated negotiations with Ferderigos Brothers and said he was no longer willing to move forward with exploring the proposed project. *See Exhibit U.*

a. 11/24/14: Email from Athan Fokas to Ferderigos Brothers stating "I am interested in doing this deal now and will not do it later."
b. 11/24/14: Email from Athan Fokas to Ferderigos Brothers stating "Well then it's done. I'll reverse as much as I can and just right it off as a stupid transaction dealing with the Ferderigos Family."

(109) Athan Fokas has also repeatedly released, in writing, the Ferderigos Brothers from any alleged agreement he claims the parties reached regarding the proposed project being explored. *See Exhibit V.*

a. 10/21/14: Text from Athan Fokas to Ferderigos Brothers stating "I would rather leave it in your hands now and keep me in the loop if and when you all are ready." "It's in your court now. I could care less. My Zeus deal is bringing in plenty to keep my family happy."
b. 11/21/14: Email from Athan Fokas to Ferderigos Brothers stating "Think about the big picture talk to the bank yourselves and get things done if you like."
c. 11/21/14: Email from Athan Fokas to Ferderigos Brothers stating "I think it's best to think of the big picture of this new project which will put us in a boutique hotel category and forget about stupid details that carry no wait in the big picture." "In the end the building is what the bank wants and none of these side agreements really matter. I suggest you forget your agreement and I will forget mine and we move forward on a very profitable venture and get it done the way the bank allows."
d. 11/24/14: Email from Athan Fokas to Ferderigos Brothers stating "Are ya'll contacting the bank, my attorney, and the closing attorney or are we just forgetting about it?"
e. 11/24/14: Email from Athan Fokas to Ferderigos Brothers stating "If you are intelligent you will already know that the money will be there with the original suites income to pay for the loan. Cut your pompous attitude and either get it done or not."
f. 11/24/14: Email from Athan Fokas to Ferderigos Brothers stating "Well then it's done. I'll reverse as much as I can and just right it off as a stupid transaction dealing with the Ferderigos Family."
g. 12/15/14: Text from Athan Fokas to Ferderigos Brothers stating "We can discuss all options when we meet and hopefully come to a mutual agreement."

(110) Athan has further repeatedly exonerated Jacob Ferderigos from any liability, alleged agreement, or any wrongdoing regarding this lawsuit by declaring that Jacob Ferderigos is the only "innocent person" in all of this and that he will keep Jacob Ferderigos out of the lawsuit. *See Exhibit W.*

a. 11/26/14: Email from Athan Fokas to Ferderigos Brothers stating "Actually this entire deal has put such a bad taste that I dislike seeing you guys in public. Except Jacob of course. He is the only innocent one in this."
b. 04/24/15: Text from Athan Fokas to Jacob Ferderigos stating "We figured out a way to keep you out the law suit."

(111) After the second closing was cancelled, Phillip Ferderigos and Spiros Ferderigos were made aware that the final costs for the proposed project were still unknown at the time of the second closing. *See Exhibit X* (the parties did not know the costs for the windows and/or sprinkler costs for windows).

a. 04/24/15: Text from Athan Fokas to Jacob Ferderigos stating "This number does not include windows over allowance. The allowance was 55k and we still need to determine if glass is fire rated or if sprinklers can cover."

(112) In addition, after the second closing was cancelled, the Ferderigos Brothers became aware for the first time that Athan Fokas entered into a written agreement with the contractor to build the proposed project being explored on October 15, 2014, without their knowledge or consent. *See Exhibit Y.*

(113) Athan Fokas entered into this agreement with the contractor (Kevin Carroll) without the prior consent or knowledge of the Ferderigos Brothers to enter into an agreement with the contractor, did not provide a copy of the agreement and/or its terms to the Ferderigos Brothers before or after signing the agreement, and signed on behalf of Jacob Ferderigos without his consent.

(114) Upon information and belief, Athan Fokas has further defamed Phillip and Spiros Ferderigos by informing a third party that the proposed project being explored was terminated because Phillip and Spiros Ferderigos were not willing to provide a mortgage for Jacob Ferderigos' portion of the proposed project and that Athan Fokas was not seeking Phillip and Spiros Ferderigos to mortgage Athan Fokas' portion of the proposed project.

(115) Upon information and belief, Athan Fokas for months continued to contact and tell the contractor (Kevin Carroll) that the proposed project was moving forward as planned despite being told by the Ferderigos Brothers that the proposed project being explored would not move forward.

(116) Although Phillip and Spiros Ferderigos have continued to ask Athan Fokas to stop harassing them with his ongoing emails, Athan Fokas has continued to send numerous emails to Phillip and/or Spiros Ferderigos in an effort to coerce them into agreeing to mortgage their interest(s) in 229 King Street and sign the incorrect closing documents, including sending emails threatening litigation in an effort to coerce Phillip and Spiros Ferderigos to give into his demands. This includes one email in which he specifically mentions that his lawsuits are not costing him anything because his attorney has taken on his case as a contingency fee. Upon information and belief, all of these emails have been sent to Phillip and Spiros Ferderigos in an effort to obtain an upper hand in negotiations and to wrongfully coerce Phillip and Spiros Ferderigos to succumb to Athan Fokas' rejected and/or non-agreed upon demands.

(117) Upon information and belief, Athan Fokas informed Jacob Ferderigos that he is going to file a lawsuit against Phillip and Spiros Ferderigos only if it does not cost him anything, and that he is going to take Phillip and Spiros' homes from them and they will be out on the street. Upon information and belief, Athan Fokas sent such communications to be relayed to Phillip and Spiros Ferderigos in bad faith and in an effort to obtain an upper hand in negotiations and to wrongfully coerce Phillip and Spiros Ferderigos to succumb to Athan Fokas' rejected and/or non-agreed upon demands.

(118) On July 14, 2015, Athan Fokas filed a defamation lawsuit against Phillip and Spiros Ferderigos based upon information Athan Fokas alleges he received from his mother (Irene Fokas). Specifically, Athan Fokas' defamation lawsuit alleges that Phillip and Spiros Ferderigos told their father (Stavros Ferderigos), who repeated to Athan Fokas' mother (Irene Fokas), that Athan Fokas hired someone to set fire to 229 King Street and that Athan Fokas has filed a false insurance claim(s). Irene Fokas allegedly confronted Athan Fokas about these allegations.

(119) Athan Fokas knowingly and willfully filed the defamation lawsuit knowing that there was absolutely no basis for the lawsuit and knowing that his mother (Irene Fokas) never told Athan Fokas the information he alleges in the Complaint.

(120) On August 18, 2015, Athan Fokas' mother (Irene Fokas) admitted that she never discussed the topics of Athan Fokas being involved in the 229 King Street fire and/or false insurance claim(s) with Defendants' father. *See Exhibit Z.*

a. August 21, 2015 email from Fanouris Ferderigos (Irene Fokas' brother) to Stan Barnett (Athan Fokas' attorney): "This letter is to make you aware that on August 18, 2015 my sister, Irene Fokas, adamantly denied to me in person that Stavros Ferderigos ever told her anything about the allegations set forth above from your Complaint and that she has never even discussed with Stavros Ferderigos the topics of Athan Fokas being involved, directly or indirectly, with the fire at 229 King Street and/or anything to do with any of Athan Fokas' insurance claims. Irene Fokas further told me that she would testify under oath that she never was told about these allegations by Stavros Ferderigos in any way whatsoever."

(121) Upon information and belief, Irene Fokas never told Athan Fokas that Phillip and/or Spiros Ferderigos were the source of the information alleged in Athan Fokas' defamation lawsuit against Phillip and Spiros Ferderigos.

(122) Upon information and belief, Athan Fokas has, without approval/permission of Jacob, Phillip, and/or Spiros Ferderigos, used 229 King Street for his own personal catering business and to store inventory for his own personal catering business and/or other side projects. Athan Fokas has done so for his own pecuniary gain and to the detriment of Jacob, Phillip, and/or Spiros Ferderigos, who have not received notice of these activities and/or any rent or other payments for Athan Fokas' unauthorized use of 229 King Street.

(123) That with the exception of highlighting for emphasis, the Exhibits attached to Defendants' Counterclaims have not been altered or amended and are true and accurate copies of the written documentation.

FOR A FOURTEENTH AFFIRMTAIVE DEFENSE
AND BY WAY OF COUNTERCLAIM
(Violation of Duty of Care – S.C. Code Ann. § 33-44-409 and LLC Statutes)

(124) Spiros Ferderigos repeats and realleges all of the above paragraphs as if set forth verbatim herein.

(125) Athan Fokas violated his duty of care to Spiros Ferderigos as set forth in the LLC statutes in numerous instances. While Spiros Ferderigos denies that the LLC statutes apply in this matter to impose any duties from Spiros Ferderigos to Athan Fokas, based on Athan Fokas' representations, conduct, and/or actions concerning the LLC, Athan Fokas breached his duty of care as further described below.

(126) Among other items, Athan Fokas violated his duty of care to Spiros Ferderigos by:

a. From December 19, 2012, until a few days before Athan Fokas' unilaterally scheduled closing, Athan Fokas never disclosed that he required Phillip and Spiros Ferderigos to mortgage their interest(s) in 229 King Street, personally guarantee their interests, and/or encumber their financial interests while Jacob, Phillip and Spiros Ferderigos continued to incur expenses for the proposed project under the belief that Athan Fokas was getting a personal loan with no assurances and/or encumbrances from Phillip and Spiros Ferderigos whatsoever;

b. Athan Fokas intentionally and improperly attempting to force Jacob, Phillip, and/or Spiros Ferderigos to do things that Jacob, Phillip, and/or Spiros Ferderigos never agreed to do;

c. While Jacob, Phillip, and/or Spiros Ferderigos continued to accrue significant expenses for the exploration of the proposed project under the belief from Athan Fokas that he and Jacob Ferderigos were getting their own personal loan, Athan Fokas purposefully, intentionally and/or negligently, did not

i. disclose he would be requiring Phillip and Spiros Ferderigos to mortgage their interests in 229 King Street for his benefit.

ii. disclose he would be requiring Phillip and Spiros Ferderigos to sign their interests in the LLC as borrower for Athan Fokas' loan for his benefit.

iii. disclose he would be requiring Phillip and Spiros Ferderigos to sign an assignment of rents for Athan Fokas' loan for his benefit.

iv. disclose he would be requiring Phillip and Spiros Ferderigos to sign a hypothecation agreement for Athan Fokas' loan for his benefit.

v. disclose he would be requiring Phillip and Spiros Ferderigos to sign a HUD Statement for Athan Fokas' loan for his benefit.

vi. disclose he would be requiring Phillip and Spiros Ferderigos to sign an agreement to provide insurance for Athan Fokas' loan for his benefit.

vii. disclose he would be requiring Phillip and Spiros Ferderigos to sign a UCC Financing Statement/Addendum for Athan Fokas' loan for his benefit.

viii. disclose he would be requiring Phillip and Spiros Ferderigos to sign their interest(s) in the LLC on the Note and/or authorize their interest(s) in the LLC to be signed on the Note.

ix. disclose he would be requiring Phillip and Spiros Ferderigos to sign their interest(s) in the LLC and/or authorize their interest(s) in the LLC to be signed for a construction loan agreement for Athan Fokas' loan for his benefit.

x. disclose he would be requiring Phillip and Spiros Ferderigos to sign their interest(s) in the LLC and/or authorize their interest(s) in the LLC to be signed for a guaranty of completion and performance agreement for Athan Fokas' loan for his benefit.

xi. disclose he would be requiring Phillip and Spiros Ferderigos to sign their interest(s) in the LLC and/or authorize their interest(s) in the LLC to be signed for a commercial security agreement for Athan Fokas' loan for his benefit.

xii. disclose he would be requiring Phillip and Spiros Ferderigos to sign their interest(s) in the LLC and/or authorize their interest(s) in the LLC to be signed for a hazardous substances certificate and indemnity agreement for Athan Fokas' loan for his benefit.

xiii. disclose he would be requiring Phillip and Spiros Ferderigos to sign their interest(s) in the LLC and/or authorize their interest(s) in the LLC to be signed for an agreement to provide insurance for Athan Fokas' loan for his benefit.

xiv. disclose he would be requiring Phillip and Spiros Ferderigos to sign their interest(s) in the LLC and/or authorize their interest(s) in the LLC to be signed for a UCC Financing Statement/Addendum for Athan Fokas' loan for his benefit.

d. Athan Fokas signing a loan commitment letter with his bank without the knowledge, consent, and/or approval of Phillip and Spiros Ferderigos, while now apparently claiming that the terms of that commitment letter somehow obligate

Phillip and Spiros Ferderigos to provide certain financial guarantees and/or encumbrances, which Phillip and Spiros Ferderigos had previously rejected.

e. Athan Fokas failing to obtain a personal loan to fund his portion of the proposed project.

f. Athan Fokas apparently having the funds to pay for his portion of the proposed project but choosing not to use his funds, but instead demanding Phillip and Spiros Ferderigos succumb to his demands which were outright rejected and never agreed upon.

g. Athan Fokas purposefully, intentionally, and/or negligently hiding from Jacob, Phillip, and/or Spiros Ferderigos the fact that Athan Fokas did not obtain a personal loan. Athan Fokas purposefully waited until a few days prior to Athan Fokas' unilaterally scheduled closing and after Jacob, Phillip and Spiros Ferderigos had already paid the vast majority of exploration costs before informing them that he did not have a personal loan. Athan Fokas willfully waited to disclose this material information in order to coerce Phillip and Spiros Ferderigos, who had by that time invested significant funds to explore the project, to give into his demands, which Phillip and Spiros Ferderigos had outright rejected and/or never agreed upon.

h. Athan Fokas purposefully waiting a few days before his first unilaterally scheduled closing to advise Jacob, Phillip, and Spiros Ferderigos that he needed Phillip and Spiros Ferderigos to underwrite his loan by providing him with a mortgage over their portion of 229 King Street, when Athan Fokas knew Phillip and Spiros Ferderigos had rejected such terms.

i. Athan Fokas demanding that Phillip and Spiros Ferderigos mortgage 229 King Street when Athan Fokas knew that Phillip and Spiros Ferderigos had outright rejected such material term.

j. Athan Fokas purposefully, willfully, and/or negligently unilaterally and continuously setting a closing date for his loan based on incorrect loan closing documents which would purport to require Phillip and Spiros Ferderigos to sign documents in Athan Fokas' favor, which Phillip and Spiros Ferderigos outright rejected and/or never agreed to sign.

k. Athan Fokas purposefully, willfully, and/or negligently and improperly adding new material terms in his loan documents that Phillip and Spiros Ferderigos had previously outright rejected and/or never agreed upon.

l. Athan Fokas negligently withholding and/or misrepresenting material terms of the proposed project.

m. Athan Fokas intentionally and negligently stating that Phillip and Spiros Ferderigos had made an oral agreement with him to mortgage their interests for his benefit in 229 King Street and to sign their respective interests in the LLC as a borrower for Athan Fokas' loan, when Athan Fokas knows that such statement are outright lies.

n. Athan Fokas purposefully, willfully, and/or negligently misrepresenting the requirements of his loan package and/or loan documents to Jacob, Phillip and/or Spiros Ferderigos.

o. Athan Fokas writing numerous communications to Defendants where Athan Fokas admitted to outrageous behavior, stating, he was "playing games," withholding material information, misrepresenting material information, introducing new material terms as a means to harass and annoy the Defendants, and threatening to spread malicious rumors and to defame the Defendant(s), all in an effort to improperly extort concessions out of the Ferderigos Brothers and to improperly coerce/force Phillip and Spiros Ferderigos to give Athan Fokas a mortgage over their portion of 229 King Street and to sign incorrect and improper loan closing documents.

p. Athan Fokas purposefully, intentionally, and/or negligently and falsely informing Jacob, Phillip, and/or Spiros Ferderigos that he needed a loan to fund his percentage of the project being explored. Athan Fokas purposefully, intentionally, and/or negligently hid the fact that he would be receiving 2.7 million dollars (nearly three times the amount necessary for his portion of the proposed project) within the building permit period in an effort to deceive and coerce Jacob, Phillip, and/or Spiros Ferderigos into believing it was necessary for them to mortgage their interests in 229 King Street for Athan Fokas' benefit and to deceive and to coerce them into signing incorrect closing documents for Athan Fokas' benefit. Athan Fokas hid such material information to try and force Phillip and Spiros Ferderigos into unnecessarily mortgaging their interest(s) in 229 King Street, and signing loan documents which Phillip and Spiros Ferderigos outright rejected and/or never agreed to sign.

q. Athan Fokas purposefully, intentionally, and/or negligently misrepresenting to Jacob, Phillip, and/or Spiros Ferderigos that he intended to pay off his portion of the loan when he received 2.7 million dollars on April 1, 2015, in order to wrongfully persuade and deceive Phillip and Spiros Ferderigos into mortgaging their interests in 229 King Street and sign incorrect closing documents for Athan Fokas' benefit. Such representation was an intentional lie when made. Phillip and Spiros Ferderigos stated to wait a few months for when Athan Fokas had his cash and Athan Fokas, Phillip Ferderigos and Spiros Ferderigos could pay cash for the proposed project. A few days later, Athan Fokas reversed course and stated that, when he did receive his cash on April 1, 2015, he may instead decide to purchase another building downtown instead of paying off the loan. Athan Fokas intentionally gave false information to attempt to coerce Jacob, Phillip,

and/or Spiros Ferderigos to provide Athan Fokas with a mortgage of 229 King Street and to sign incorrect closing documents for his benefit.

r. Athan Fokas purposefully, intentionally, and/or negligently misrepresenting to Jacob, Phillip and/or Spiros Ferderigos that he would not be willing to wait until April 1, 2015 (when he received his millions) to do the proposed project. Such representation was a lie when made. Athan Fokas misrepresented the fact that he would not wait until he received his millions on April 1, 2015, in an effort to deceive and coerce Jacob, Phillip, and/or Spiros Ferderigos into mortgaging their interests in 229 King Street for Athan Fokas' benefit and to deceive and to coerce Jacob, Phillip, and/or Spiros Ferderigos into signing the incorrect closing documents for Athan Fokas' benefit.

s. Athan Fokas refusing to wait until he received his millions of dollars on April 1, 2015, to consider moving forward with the proposed project.

t. Athan Fokas purposefully, intentionally, and/or negligently misrepresenting to Jacob, Phillip, and Spiros Ferderigos that his bank would not wait until April 1, 2015, when Athan Fokas informed Jacob, Phillip, and Spiros Ferderigos that Athan Fokas would receive his millions of dollars, while now alleging in his Complaint that his bank is still willing to offer a loan package to Athan Fokas.

u. Athan Fokas refusing to sign a side agreement protecting Phillip and Spiros Ferderigos' collateral, while at the same time demanding Phillip and Spiros Ferderigos give him a mortgage over their portion of 229 King Street.

v. Athan Fokas purposefully, willfully, and/or negligently and falsely claiming in his pleadings that he agreed to sign the side agreement when Athan Fokas rejected and never agreed to sign any such side agreement, but rather made additional demands of material terms on behalf of Phillip Ferderigos as a condition to Athan Fokas possible approval for executing the side agreement.

w. Athan Fokas knowing that his refusal to sign the side agreement resulted in the proposed project being terminated; however, Athan Fokas telling third parties that Phillip and Spiros Ferderigos terminated the proposed project for other reasons which Athan Fokas knew where false.

x. Athan Fokas harassing, threatening, mocking and attempting to coerce Jacob, Phillip, and Spiros Ferderigos by representing he was going to make twenty five million dollars ($25,000,000.00) as a consultant and by telling Jacob, Phillip, and Spiros Ferderigos "I hang out with the ultra wealthy now and play their games."

y. Athan Fokas interjecting new terms into the negotiations with ill will and actual malice by demanding that the parties change the thirty (30) plus year customary practice regarding food at Old Towne Restaurant for family members (both Ferderigos and Fokas family members) solely to be vindictive and to harass

Phillip and Spiros Ferderigos, and to otherwise coerce Phillip and Spiros Ferderigos to give into Athan Fokas' demands which had been rejected.

z. Athan Fokas defaming Phillip and/or Spiros Ferderigos because they would not give into Athan Fokas' demands, by telling third parties that Phillip and/or Spiros Ferderigos have no business sense and that the proposed projected fell apart because Phillip could not eat for free at Old Towne Restaurant and by calling Phillip Ferderigos stupid.

aa. Athan Fokas attempting to use the customary food practice at Old Towne Restaurant as a negotiating tactic to attempt to force Phillip and/or Spiros Ferderigos to give into Athan Fokas' demands which were rejected by Phillip and/or Spiros Ferderigos.

bb. Athan Fokas continuing to tell the contractor Kevin Carroll for months that the proposed project was moving forward despite Athan Fokas being repeatedly told by Jacob, Phillip, and/or Spiros Ferderigos that the proposed project was not moving forward.

cc. Athan Fokas repeatedly releasing Jacob, Phillip, and Spiros Ferderigos from any alleged agreement, liability and/or responsibility regarding the proposed project and then filing lawsuit(s) to attempt to coerce Jacob, Phillip and/or Spiros Ferderigos to do the very things that were released.

dd. Athan Fokas threatening to take Phillip and Spiros Ferderigos' homes and throw their children out on the street if Phillip and Spiros Ferderigos did not give Athan Fokas a mortgage and/or encumber their interests in Athan Fokas' favor and/or give into his demands, which Phillip and Spiros Ferderigos had rejected and/or were never agreed upon.

ee. Athan Fokas unilaterally and improperly executing a written contract with contractor Kevin Carroll to build the proposed project without the knowledge, consent and/or providing details of the contract to Jacob, Phillip, and/or Spiros Ferderigos. Athan Fokas purposefully and intentionally withheld such information from Jacob, Phillip, and/or Spiros Ferderigos.

ff. Athan Fokas unilaterally and improperly executing a written contract with the contractor Kevin Carroll purportedly on behalf of the LLC, without the knowledge, consent, and/or the authorization of Jacob, Phillip, and/or Spiros Ferderigos. Athan Fokas purposefully and intentionally withheld such information from Jacob, Phillip, and/or Spiros Ferderigos.

gg. Athan Fokas signing a written contract with contractor Kevin Carroll to build the proposed project on behalf of Jacob Ferderigos, by signing a signature line that included Jacob Ferderigos' name, without the knowledge, consent and/or providing details of the contract to Jacob Ferderigos. Athan Fokas purposefully

and intentionally withheld such information from Jacob, Phillip, and/or Spiros Ferderigos.

hh. Athan Fokas publishing malicious rumors/defamatory statement(s) to third parties that Phillip and Spiros Ferderigos have no business sense and that it is very sad. This is in reference to Phillip and Spiros Ferderigos not giving into Athan Fokas' wrongful and outright rejected and/or non-agreed upon demands for the proposed project being explored.

ii. Athan Fokas publishing malicious rumors/defamatory statement(s) concerning Phillip and Spiros Ferderigos by inquiring third parties about Phillip and/or Spiros Ferderigos alleged statements concerning Athan Fokas' involvement in the fire of 229 King Street.

jj. Athan Fokas publishing malicious rumors/defamatory statement(s) to third parties that the proposed project was terminated because Phillip and/or Spiros Ferderigos could not eat for free at Old Towne.

kk. Athan Fokas publishing malicious rumors/defamatory statement(s) by telling third parties that the proposed project has been terminated because Phillip and Spiros Ferderigos were not doing what they agreed to do.

ll. Athan Fokas publishing malicious rumors/defamatory statement(s) by telling third parties that Athan Fokas was not/is not seeking a mortgage from Phillip and/or Spiros Ferderigos for the proposed project.

mm. Athan Fokas telling third parties that Phillip and/or Spiros Ferderigos refused to give Jacob Ferderigos a mortgage for Jacob Ferderigos' portion of the loan and that Athan Fokas was not seeking a mortgage from Phillip and/or Spiros Ferderigos.

nn. Athan Fokas continuing to contact Jacob, Phillip, and/or Spiros Ferderigos despite threatening his lawsuits and being told by Phillip and Spiros Ferderigos to stop communicating with them. Athan Fokas continued to send obnoxious emails to Jacob, Phillip, and/or Spiros Ferderigos about how profitable the current suites project is and how profitable it would have been had the parties built the proposed project as Athan Fokas had demanded. Athan Fokas continues to harass Jacob, Phillip, and/or Spiros Ferderigos and continues to try to intimidate Jacob, Phillip, and/or Spiros Ferderigos into doing the proposed project, as well as trying to scare Jacob, Phillip, and/or Spiros Ferderigos concerning the high legal costs to defend against his frivolous lawsuits.

oo. Athan Fokas harassing, threatening, and mocking Jacob, Phillip, and/or Spiros Ferderigos by writing to them that "my attorney is working on a flat 20 percent contingency so he is not costing me anything until this case is settled," while threatening to file a multi-million dollar lawsuit against Jacob, Phillip, and/or

Spiros Ferderigos. This written information was sent by Athan Fokas to Jacob, Phillip, and/or Spiros Ferderigos in an attempt to harass and to coerce them to give into Athan Fokas' rejected and non-agreed upon demands by threatening that a lawsuit will cost Jacob, Phillip, and/or Spiros Ferderigos money, but will not cost Athan Fokas anything to proceed with his frivolous lawsuit strategy.

pp. Athan Fokas conducting unauthorized business and/or storing unauthorized inventory within 229 King Street for his own pecuniary gain without the knowledge and/or consent, and to the detriment, of Jacob, Phillip and/or Spiros Ferderigos.

qq. Athan Fokas knowingly and intentionally filing a frivolous defamation lawsuit against Phillip and Spiros Ferderigos knowing that the allegations therein were false.

(127) As a direct and proximate result of Athan Fokas' actions, Spiros Ferderigos has been injured. Accordingly, Spiros Ferderigos is entitled to actual, consequential, and punitive damages as determined by a jury.

FOR A FIFTEENTH AFFIRMATIVE DEFENSE AND BY WAY OF COUNTERCLAIM
(Negligent Misrepresentation)

(128) Spiros Ferderigos repeats and realleges all of the above paragraphs as if set forth verbatim herein.

(129) Athan Fokas made false representations to Spiros Ferderigos as set forth in Paragraph 126 and its subsections (Spiros Ferderigos' violation of duty of care claim).

(130) Athan Fokas had a pecuniary interest in making these representations/statements.

(131) Athan Fokas owed a duty of care to see that Athan Fokas communicated truthful information to Spiros Ferderigos.

(132) Athan Fokas breached that duty by failing to exercise due care.

(133) Spiros Ferderigos justifiably relied on said representations.

(134) Spiros Ferderigos suffered pecuniary loss as a proximate result of his reliance on the representations of Athan Fokas and Athan Fokas acted willfully, wantonly, carelessly, and recklessly, and as a direct and proximate result, Spiros Ferderigos has been injured. Accordingly, Spiros Ferderigos is entitled to actual, consequential, and punitive damages as determined by a jury.

FOR A SIXTEENTH AFFIRMATIVE DEFENSE AND BY WAY OF COUNTERCLAIM

(Fraud, Constructive Fraud)
(Concealment with Duty to Disclose)

(135) Spiros Ferderigos repeats and realleges all of the above paragraphs as if set forth verbatim herein.

(136) Athan Fokas further intentionally and purposely misrepresented facts set forth in Paragraph 126 and its subsections. (Spiros Ferderigos' violation of duty of care claim)

(137) Athan Fokas had a duty to disclose material information to Spiros Ferderigos and Athan Fokas failed to disclose such information.

(138) Prior to and/or during the negotiations with Athan Fokas, Athan Fokas implied and/or expressly represented to Spiros Ferderigos as set forth previously.

(139) Said representations were false.

(140) Said representations were material.

(141) Athan Fokas knew said representations were false when same were made. Alternatively, Athan Fokas knew his representations to Spiros Ferderigos were false and/or Athan Fokas' representations were made with reckless disregard as to their truth or falsity. Athan Fokas' failure to inform Spiros Ferderigos of his true intentions was intentional and/or negligent with reckless disregard to the truth upon which Spiros Ferderigos was relying.

(142) Athan Fokas intended Spiros Ferderigos to rely and act upon said representations. Spiros Ferderigos did not know said representations were false.

(143) Spiros Ferderigos had the right to rely upon, and in fact did rely upon, the truth of said representations. In the event that the element or scienter is not found, alternatively, that Spiros Ferderigos alleges and avers that Athan Fokas committed constructive fraud in that Athan Fokas breached legal, equitable, and fiduciary duty owed to Spiros Ferderigos.

(144) Athan Fokas acted willfully, wantonly, carelessly, and recklessly, and as a direct and proximate result, Spiros Ferderigos has been injured. Accordingly, Spiros Ferderigos is entitled to actual, consequential, and punitive damages as may be determined by a jury.

FOR A SEVENTEENTH AFFIRMATIVE DEFENSE AND BY WAY OF COUNTERCLAIM
(Defamation – Slander)

(145) Spiros Ferderigos repeats and realleges all of the above paragraphs as if set forth verbatim herein.

(146) Athan Fokas published false and defamatory statements to Jacob Ferderigos in writing that Phillip and Spiros Ferderigos "have no business sense and I'm sure we will be butting heads with Greek properties in the future. Very sad!!!" *See Exhibit AA.*

(147) Upon information and belief, Athan Fokas published false and defamatory statements to other third parties that Phillip and/or Spiros Ferderigos are bad business people and/or do not have any business sense.

(148) Athan Fokas published false and defamatory statements to other third parties that Phillip and/or Spiros Ferderigos accused him of setting fire to 229 King Street.

(149) Athan Fokas published false and defamatory statements to other third parties that the proposed project was not moving forward because Phillip and/or Spiros Ferderigos were not doing what they agreed to do.

(150) Upon information and belief, Athan Fokas published false and defamatory statements to other third parties that he was not seeking a mortgage and/or other financial assurances from Phillip and/or Spiros Ferderigos for the proposed project; while at the same time, filing a lawsuit demanding that Phillip and Spiros Ferderigos mortgage and/or provide financial assurances of their interests for Athan Fokas' benefit for the proposed project.

(151) Upon information and belief, Athan Fokas verbally (slander) and in writing/conduct (libel) threatened to publish and/or has published, with premeditation, false malicious rumors and defamatory statements to third parties about Spiros Ferderigos.

(152) Athan Fokas' slander and libel is actionable per se where Athan Fokas has alleged defamatory statements charging Spiros Ferderigos with commission of a crime of moral turpitude and/or unfitness in his business or profession. Athan Fokas has also published slander and libel that is not actionable per se.

(153) Athan Fokas has made false and defamatory statements concerning Spiros Ferderigos.

(154) Athan Fokas has acted with common law malice.

(155) Athan Fokas has made such statements via an unprivileged publication to third parties.

(156) Athan Fokas is at fault in publishing the statements.

(157) Athan Fokas has harmed Spiros Ferderigos via his defamatory statements and caused harm and/or special harm to Spiros Ferderigos caused by the publication.

(158) As a direct and proximate result of Athan Fokas' defamatory statements, which were made with common law actual malice, Spiros Ferderigos has been injured. Accordingly, Spiros Ferderigos is entitled to general damages, special damages, actual damages, consequential damages, and punitive damages as determined by a jury.

FOR AN EIGHTEENTH AFFIRMATIVE DEFENSE AND BY WAY OF COUNTERCLAIM
(Abuse of Process)

(159) Spiros Ferderigos repeats and realleges all of the above paragraphs as if set forth verbatim herein.

(160) Athan Fokas has employed the legal process for some purpose other than that for which it was intended by the law to effect – the improper use of a regularly issued process.

(161) Athan Fokas has commenced an action and caused process to issue without justification and is also misusing or misapplying the legal process for an end other than that which it was designed to accomplish.

(162) Athan Fokas is using the process for improper reasons with (1) an ulterior purpose; and (2) has done willful acts in the use of the process not proper in the regular conduct of the proceeding, to attempt to force Spiros Ferderigos to give Athan Fokas a mortgage and to sign incorrect loan documents by filing what Spiros Ferderigos believes to be frivolous lawsuits (where the exhibits attached to this pleading and the written documents of Athan Fokas himself prove Athan Fokas' lawsuits to be frivolous).

(163) As a direct and proximate result of Athan Fokas' actions, Spiros Ferderigos has been injured. Accordingly, Spiros Ferderigos is entitled to actual, consequential, and punitive damages as determined by a jury.

FOR AN NINETEENTH AFFIRMATIVE DEFENSE AND BY WAY OF COUNTERCLAIM
(Promissory Estoppel)

(164) Spiros Ferderigos incorporates all of the above paragraphs as fully as if reinstated verbatim herein.

(165) Jacob, Phillip, and/or Spiros Ferderigos acted in reasonable reliance on Athan Fokas' representations, promises, and other acts constituting inducements to continue moving forward with exploring the proposed project with Phillip and Spiros Ferderigos not being involved in and/or granting any assurances/encumbrances of any kind whatsoever for a loan. Jacob, Phillip, and/or Spiros Ferderigos continued to expend money towards receiving governmental approval for the new building being explored in reasonable reliance of Athan Fokas' representations, promises, and other acts.

(166) As a direct and proximate result of Athan Fokas' actions and Jacob, Phillip and/or Spiros Ferderigos' reasonable reliance thereon, Jacob, Phillip and/or Spiros Ferderigos suffered damages in an amount to be determined by a jury.

FOR A TWENTIETH DEFENSE AND BY WAY OF COUNTERCLAIM
(Initiation of Frivolous Proceedings, S.C. Code Ann. § 15-36-10)

(167) Spiros Ferderigos repeats and realleges all of the above paragraphs as if set forth verbatim herein.

(168) The Complaint filed in this current action constitutes a frivolous pleading under the South Carolina Frivolous Civil Proceedings Sanction Act, S.C. Code Ann. § 15-36-10 (2005), in the following particulars to wit:

a. A reasonable attorney in the same circumstances would believe that the Plaintiff's claim "was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law"; and

b. A reasonable attorney presented with the same circumstances would believe that the initiation of this civil cause "was intended merely to harass or injure the other party."

c. A reasonable attorney presented with the same circumstances would believe the pleading is frivolous and was brought for a purpose other than proper adjudication of the claim.

d. The pleading makes frivolous arguments not supported by the facts.

(169) Spiros Ferderigos respectfully asks this Honorable Court to sanction the Plaintiff for this frivolous pleading pursuant to S.C. Code Ann. § 15-36-10(G) (2005), and specifically, Spiros Ferderigos prays for the following relief:

a. That the Plaintiff pay reasonable costs and attorney's fees to defend this action and for punitive damages; and

b. That the Plaintiff pay a reasonable fine to the Court.

WHEREFORE, having fully answered Plaintiff's Complaint, Spiros Ferderigos prays that the Court:

a) Dismiss Plaintiff's Complaint with prejudice;

b) That Plaintiff take nothing by reason of his suit;

c) That Spiros Ferderigos recover costs and reasonable attorney's fees in defending this action;

d) That the Plaintiff be sanctioned for the initiation of this frivolous proceeding by being fined by this Honorable Court;

e) Enter judgment for Spiros Ferderigos on his counterclaims and award him damages for his actual, consequential, incidental, and punitive damages, and pre and post judgment interest; and

f) Award such other relief as the Court may deem just and proper.

Respectfully submitted,

M. DAWES COOKE, JR., ESQUIRE
JEREMY E. BOWERS, ESQUIRE
BARNWELL WHALEY PATTERSON & HELMS LLC
Post Office Drawer H
Charleston, South Carolina 29402
PHONE: (843) 577-7700
FACSIMILE: (843) 577-7708
ATTORNEYS FOR THE DEFENDANT/COUNTERCLAIMANT,
SPIROS FERDERIGOS

October 1, 2015
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO. 2015-CP-10-3919
	)	
Plaintiff Fokas,	)	
	)	
Plaintiff,	)	
v.	)	
	)	
Philip Ferderigos, Jacob Ferderigos, and Spiros Ferderigos,	)	
	)	
Defendants.	)	

FILED
2015 OCT -1 PM 4:20
JULIE J. ARMSTRONG
CLERK OF COURT
BY

I hereby certify that this 1st day of October 2015, I forwarded a copy of the foregoing Answer and Counterclaims of the Defendant, Spiros Ferderigos, via U.S. Mail with sufficient postage affixed thereto, properly addressed as follows:

Counsel Served:

Stanley E. Barnett, Esquire
SMITH, BUNDY, BYBEE & BARNETT
Post Office Box 1542
Mt. Pleasant, SC 29465-1542
Attorneys for Plaintiff

John A. Massalon, Esquire
WILLS MASSALON & ALLEN LLC
P.O. Box 859
Charleston, SC 29402

Richard A. Farrier, Esquire
K&L Gates LLP
134 Meeting Street, Suite 200
Charleston, SC 29401

Cheryl Rezeau
Legal Assistant

Charleston, South Carolina

_____, 2015

From: "Joe Tucker" <tuckerala@gmail.com>
Date: July 21, 2015 at 11:59:58 AM EDT
To: "'Jacob Federico'" <Jacobspita@yahoo.com>
Subject: Old Towne Suites 2

Jacob,

As we recently discussed by phone, we have attached an account of all payments for this project.

Let us know if you have other questions.

Regards,

Joe

TUCKER ARCHITECTURAL ASSOCIATES

772 Gypsy Lane, Mt. Pleasant SC 29464

TuckerAIA@Gmail.com

(843) 881 - 6426

payrec715.docx
13K

EXHIBIT
A
809

Old Towne 2

Design prior to first BAR submittal

1,800.00	concept drawings	8/6/12
1,250.00	concept drawings	12/20/12
2,600.00	preliminary design one	4/12/13
2,600.00	preliminary design one	5/1/12
4,000.00	preliminary design two	5/23/13
$12,250.00		

Contract suspended

1,600.00	For additional services for BAR	7/9/13
1,250.00	For additional services for Artist	7/9/13
$ 2,850.00		

Old Towne 2 Revised

Design after second BAR submittal

No charge	Architecture	concept review with owner		
1,400.00	Architecture	concept review with agencies	1,400.00	10/7/13
800.00	Architecture	concept review with BAR	800.00	10/20/13
800.00	Artist	concept review with BAR	800.00	10/20/13
1,800.00	Architecture	preliminary with BAR	1,800.00	12/10/13
2,800.00	Architecture	final review with BAR	2,500.00	2/7/14
4,800.00	Architecture	preliminary drawings	1,300.00	2/14/14
			3,800.00	6/17/14
2,500.00	Engineering	preliminary drawings	5,500.00	6/3/14
2,500.00	Engineering	final drawings		
5,800.00	Architecture	final drawings	3,000.00	11/4/14
			2,800.00	11/4/14
500.00	additional mech engineering		———	6/3/14
$23,700.00			23,700.00	

Home Mail Search News Sports Finance Weather Games Answers Screen Flickr Mobile Try Internet Explorer on Firefox

Search Search Mail Search Web Home Jacob

Compose

Inbox (1)
Drafts
Sent
Spam (6)
Trash
Smart Views
Unread
Starred
People
Social
Travel
Shopping
Finance
Folders
Recent

Fwd: Old Towne

People

Begin forwarded message:

From: "Joe Tucker" <tuckerala@gmail.com>
Date: December 11, 2012, 3:56:47 PM EST
To: "'Athen Fokas'" <Fokasa@bellsouth.net>, "Jacob Federico" <Jacobspita@yahoo.com>
Cc: <tlawahwork@yahoo.com>
Subject: Old Towne

Athen / Jacob

Attached are the drawings which we have prepared for the pricing set. They are about 80% complete. We propose a payment of $2,500.00 which is the next portion of our fee, although this represents a substantial portion of our work. Also we propose $500.00 drafting fee for the structural drawings

We are sending these drawings to Russell Rosen so he can give a proposal for his portion, since structural engineering is outside our contract.

Not included (in the pricing set) are mechanical, plumbing and electrical engineering. We understand that Kevin's subs will do the best they can pricing from our drawings.

We met with the building inspector this morning and did not find any significant issues.

We also spoke with the zoning staff and we will discuss building height, parking requirement, and BAR review at our next meeting

Joe

TUCKER ARCHITECTURAL ASSOCIATES
843.681.6426 phone
843.681.2559 fax
www.tuckerarchitectural.com

8 Attachments View all Download all

A1_1240_SITE.pdf	View	Download
A2_1240_SITE.pdf	View	Download
A3_1240_PLN.pdf	View	Download
A4_1240_PLN.pdf	View	Download
A5_1240_SECT.pdf	View	Download
A6_1240_WSEC.pdf	View	Download
A7_1240_FND.pdf	View	Download
A8_1240_FRM.pdf	View	Download

EXHIBIT
tabbies
B
811

Gmail

Jacob Ferderigos <iakovosstavros@gmail.com>

Fw: iakovosferderigos@gmail.com

6 messages

Athan Fokas <athanfokas@gmail.com> Wed, Dec 19, 2012 at 11:22 PM
To: Jacob Ferderigos <iakovosstavros@gmail.com>

It has come to my attention that there has been some questions about phase two of the Old Towne Suites project. I am going to try my best to enlighten you on the gold mine that has been stumbled upon. Each rental has to be a minimum stay of 3 days with exception to very slow months in which we will take two days. Very slow months seem to be November, December, January, and February.
The Old Towne suites started in late November 2011 and that month they had two rentals for a total income of $1943.00. Of the total our rental service keeps 15% and $81.00 to clean the rooms every time a tenant checks out.
In December 2011 we brought in $3228.44 with two rentals.
In January 2012 we brought in $3685..18 with four rentals.
In February 2012 we brought in $5118.75 with six rentals.
In March 2012 $17436.46
April 2012 $14290.50
May 2012 $15330.02
June 2012 $14172.37
July 2012 $13602.62
August 2012 $12529.98
September 2012 $12500.60
October 2012 $12747.27
November 2012 $13094.76
December 2012 $10571.16
Now we have hit the slow months and we are still seeing over $10000.00 because are properties have been around for a year and through word of mouth and repeat business we should continue to see the numbers grow and the prices of the units to grow. We were getting on average about $399.00 a night but now we are getting over $600.00 a night in busy months.
We have had many bookings for 2013 in which we did not see these bookings booked so far in advance in 2012 because we were brand new.
So far in January 2013 we have pre-booked $4752.94
February 2013 $7067.02
March 2013 $6167.00
April 2013 $13714.04
May 2013 $8032.98
And one booking in June so far for $1996.00.
The demand is definitely there and the bookings will only get better. We tend to only book three day booking and some longer than that but the biggest complaint is that we do not have kitchens for the tenants who want to stay for the weekly rentals.
Phase two is going to have 2 three bed room units with kitchens and 2 two bedroom units with kitchens. One of each on each floor with a rooftop garden above the top floor. An elevator will access all floors including the roof top.
The total cost for the project to build will be somewhere between $800,000.00 and $900,000.00 with spending about 25,000.00 per unit to furnish and make them luxury units. I hope that we can keep this project somewhere around $900,000.00.
I am currently talking to a few banks to see if anyone is interested in giving us a note. The banking industry has changed dramatically in the last couple of years and they will not lend on equity alone. Our equity in Old Towne is somewhere between 5 and 10 million dollars. Many banks these days won't touch anything in the hospitality industry so it is no guaranteed that they will lend us the money. The note on the property should be somewhere in the neighborhood of $4000.00 a month if they let us carry the note for 30 years. If it is a 15 to 20 year note then the payments will be between $6000.00 and $8000.00 a month.
Our current units paid us $117629.84 in 2012. Those are checks given to us after all the expenses tal which you will see in a register in my next emails that I will be forwarding you. Of that money the rente

EXHIBIT
tabbies
812C

has taken out their 15%, around 3% for credit card fees for people booking their rooms with credit cards, cleaning and laundry fees of $81.00 which just went up to $97.00, and other expenses such as coded locks, $100.00 for Spiro parking in a tenants space, and coffee machines.
Weekly booking are extremely lucrative for example in the last month of December 2012 we had two weekly booking for $6626.18 and that was one week worth of business in Unit A and B.
Just think of the value if we could maximize that one week three times which would be around $20000.00 a week.
If phase 2 is successful we have room to put three more three bedroom units above the back parking lot with keeping the parking on the bottom floor.
Hotels downtown can have up to 80% occupancy rate and us being across from Charleston Place has made us a mini hotel with great returns.
In conclusion the reason for us not to wait another six months or a year for this project to start is that we are guaranteed returns and its money lost. If we get into some money later on we can always pay the note off early. I will be responsible for 50% of it and you three the remainder. I do not think this project would be a risk based on our future bookings that have already taken place.
With that said I don't even know if the bank will lend us the money. First Citizens said they are not allowed to touch the hospitality industry. BB&T is 50/50 and will let me know if they are interested in a couple of days.
South Carolina Bank and Trust seems very interested according to their President but will have to see our current income to make sure the numbers work. I'm meeting with Suntrust tomorrow but I think they will be a long shot.
I'm only going to send information to banks that are very interested in doing the deal. I plan to give them Old Towne tax returns, Old Towne Suites income, and our personal financial statements. Phillp asked if he would be personally guaranteeing the loan. Of course every loan out there wants the people taking out the loan to personally guarantee it. The loan is less than 20 percent of our total value and we have the income from our current suites that could easily pay the note so its a no brainer.
Let me know your thoughts.

---

spiros ferderigos <spirosferderigos@gmail.com> Wed, Dec 19, 2012 at 11:49 PM
To: Athan Fokas <athanfokas@gmail.com>
Cc: pferderigos@barnwell-whaley.com, Jacob Ferderigos <lakovosstavros@gmail.com>

Hey Athan,

Thanks for sending the detailed emails. I am sure it will answer a lot of the questions that we have. I will take a look at it in detail as soon as I can and let you know what other questions I have. Of course the issue of what we are currently making on the units and the cost to construct new ones are obvious questions which you appear to go into detail below(given the hour have only quickly glimpsed over your email).

Assuming all that pans out, there will be a continuing issue on how we finance. If the bank is looking for me (and I assume this goes for Phillip as well but I will let him speak for himself) to personally guarantee a loan I am not going to do it. There is to much that can go wrong with a personal gaurantee. I am confident that Phillip, Jacob and I will be able to come up with our end of amount needed and we can move forward without accumulating debt as we did for the first round of units. I completely agree that adding more units above Old Towne is a gold mine and the way to move forward. The question is how do we get there, will it be by personally guarunteeing loans that could be chatostrophic to our individual families or each individual raising the necessary funds and doing it without a million dollars in debt so we can greatly limit liability. I for one already have plenty of money sitting in a bank account for my share of the additional units. I am more than happy to have all of us sit down and discuss in more detail after the holidays. That will give everyone plenty of time to look over what you sent and determine the best way to move forward. Thanks to both you and Jacob for all the heard and great work you guys have been doing on these units.

Spiro
[Quoted text hidden]

Athan Fokas <athanfokas@gmail.com> Thu, Dec 20, 2012 at 6:49 AM
To: spiros ferderigos <spirosferderigos@gmail.com>
Cc: pferderigos@barnwell-whaley.com, Jacob Ferderigos <lakovosstavros@gmail.com>

Personally I don't think it is a risk and if so it is a very low low risk because we show future incomes and the demand is there and we have the current income's third cash flow that could easily pay for it.
With that said, lets start collecting money and see what kind of money we can come up with to get this baby started.

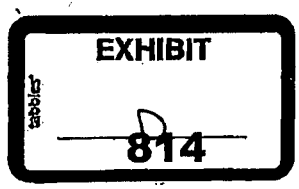
spiros ferderigos <spirosferderigos@gmail.com> Wed, Dec 19, 2012 at 11:49 PM
To: Athan Fokas <athanfokas@gmail.com>
Cc: pferderigos@barnwell-whaley.com, Jacob Ferderigos <lakovosstavros@gmail.com>

Hey Athan,

Thanks for sending the detailed emails. I am sure it will answer a lot of the questions that we have. I will take a look at it in detail as soon as I can and let you know what other questions I have. Of course the issue of what we are currently making on the units and the cost to construct new ones are obvious questions which you appear to go into detail below(given the hour have only quickly glimpsed over your email).

Assuming all that pans out, there will be a continuing issue on how we finance. If the bank is looking for me (and I assume this goes for Phillip as well but I will let him speak for himself) to personally guarantee a loan I am not going to do it. There is to much that can go wrong with a personal gaurantee. I am confident that Phillip, Jacob and I will be able to come up with our end of amount needed and we can move forward without accumulating debt as we did for the first round of units. I completely agree that adding more units above Old Towne is a gold mine and the way to move forward. The question is how do we get there, will it be by personally guaruntееing loans that could be chatostrophic to our individual families or each individual raising the necessary funds and doing it without a million dollars in debt so we can greatly limit liability. I for one already have plenty of money sitting in a bank account for my share of the additional units. I am more than happy to have all of us sit down and discuss in more detail after the holidays. That will give everyone plenty of time to look over what you sent and determine the best way to move forward. Thanks to both you and Jacob for all the heard and great work you guys have been doing on these units.

Spiro
[Quoted text hidden]

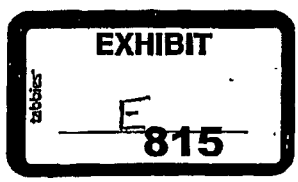


From: Jeffrey W. Odom [mailto:jodom@southcoastbank.com]
Sent: Friday, January 11, 2013 10:08 AM
To: 'ZEUS GRILL & SEAFOOD'
Cc: Tony Daniel
Subject: RE: Old Towne Suites 229 King St.

Athan,
It was a pleasure meeting you yesterday afternoon. I just received your fax so it looks like it went through. I have also received your emails with the attached financial information. Thank you for getting everything to us so quickly. We will get to work and will be in touch shortly.

Thanks,

Jeffrey W. Odom
Vice President / Loan Officer
Southcoast Community Bank
530 Johnnie Dodds Blvd.
Mt. Pleasant, SC 29464
(Office) - 843.216.3087
(Fax) - 843.884.2886
(Cell) - 843.729.8224



Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Re: Suites loan question

8 messages

Spiros Ferderigos <spirosferderigos@gmail.com> Tue, Jun 17, 2014 at 11:59 PM
To: Athan Fokas <fokasa@bellsouth.net>, Jacob Ferderigos <lakovosstavros@gmail.com>
Cc: Phillip Ferderigos <pferderigos@barnwell-whaley.com>

The loan pre-approval that you guys have for the suites...are ya'll going to have to personally guarantee the loan?

Sent from my iPhone

Athan Fokas <fokasa@bellsouth.net> Wed, Jun 18, 2014 at 7:04 AM
To: Spiros Ferderigos <spirosferderigos@gmail.com>
Cc: Jacob Ferderigos <lakovosstavros@gmail.com>, Phillip Ferderigos <pferderigos@barnwell-whaley.com>

We are pre approved, and since we personally asked for the loan yes we are personally guaranteeing it. On another note we are hitting record sales and we are booking many weekday's which we didn't last year and with no cleaning fee we are laughing all the way under our mattresses. We have bookings through March of 2015 so we are in very high demand. After we build these and fill them we will look at building over the parking lot.

Sent from my iPhone.
[Quoted text hidden]

EXHIBIT
tabbies
F
816

SOUTHCOAST COMMUNITY BANK

February 5, 2013

Athanasios Fokas
Iakovos Ferderigos
Old Towne Suites, LLC
229 King Street
Charleston, SC 29401

Dear Messrs. Fokas and Ferderigos:

Southcoast Community Bank (hereinafter referred to as "Bank") is pleased to provide a loan commitment to Old Towne Suites, LLC, Athanasios Fokas, and Iakovos Ferderigos (hereinafter referred to as "Borrower") based on representations contained in the financial statements and other financial information made available to the Bank. Our loan is subject to the following terms and conditions:

Borrower(s): Old Towne Suites, LLC, Athanasios Fokas, and Iakovos Ferderigos JWO 9/24/14

Amount: ~~$1,000,000.00~~ $1,800,000.00 JWO 9/24/14

Purpose: The purpose of the loan is to provide a construction to permanent loan to build 6 rental units above Old Towne Grill & Seafood at 229 King Street, Charleston, SC 29401. The loan will also include the purchase of furnishings for the units.

Terms and Conditions: 12 JWO 9/24/14 monthly payments of interest only followed by 59 consecutive monthly payments of principal, interest, and escrow with one final payment of the remaining principal balance plus any accrued interest. The monthly payments will be based on a 240 month amortization schedule. ~~The interest rate will be based on the current Wall Street Journal Prime Rate plus one percentage point (1.00%) on the day of adjustment and will continue to adjust annually with a minimum floor Rate of 5.00%.~~ The interest rate will be fixed at 5.00% for the life of the loan. JWO 9/24/14

Bank Fees:

1. Non-Refundable Commitment Fee of ½ of 1% of Loan Amount, of which, ½ is due upon the acceptance of this Commitment Letter with the remaining ½ due at Loan Closing. If the loan is not closed, the remaining fee will be due and payable upon receipt of Bank's invoice for same.
2. Underwriting Fee of $500.00
3. Mortgage Satisfaction Fee: $10.00
4. County UCC Satisfaction Fee: $10.00
5. Inspection Fee of $250.00 per visit (commercial structures)

Collateral:

1. First mortgage security interest on 229 King Street, Charleston, SC 29401 and an assignment of rents and leases.
2. All accounts receivables, inventory, and furniture fixtures and equipment now owned or hereinafter acquired.

Property Insurance: During construction, Builder's Risk and General Liability Insurance Policies will be required with Southcoast Community Bank named as mortgagee.

Title Insurance: A standard ALTA title insurance commitment insuring the Bank's first lien position, together with copies of all exceptions to the title will be required. After closing, a title insurance policy is to be issued in accordance with the title insurance commitment in a form and substance satisfactory to the Bank.

EXHIBIT G 847

Escrow: The Bank will require Property Taxes and Hazard /Flood Insurance to be escrowed.

Survey: A current survey prepared and certified by a registered land surveyor showing the location of any and all setbacks, side lines, existing buildings, streets, roads, rights-of-way, easements, encroachments, etc. will be required in the event that the title insurance company takes exception to title for reason of survey. The survey shall include a certification as to the location of the property within any flood hazard area. On Construction Loans, the Foundation Survey will be required before the first draw, and a Final Survey will be required before final disbursement.

Appraisal: The loan is subject to the Bank receiving an appraisal addressed to Southcoast Community Bank in form, content and value acceptable to the Bank. The Bank will order the appraisal from a qualified appraiser acceptable to the Bank. The cost of the appraisal will be the full responsibility of the borrower. The Bank reserves the right to inspect the property prior to closing.

Disclosure of Right to Receive a Copy of an Appraisal: You are hereby notified that you have the right to a copy of the appraisal report used in connection with your application for credit. If you wish to have a copy, please write to the Bank at Southcoast Community Bank, Loan Servicing Department, PO Box 1561, Mt. Pleasant, SC 29465. We must hear from you no later than ninety (90) days after we notify you about the action taken on your credit application or no later than ninety (90) days after you withdraw your application. In your letter, give us the following information: Your name, your loan number (if applicable) and the property address of the appraisal you are requesting. Upon your request, the appraisal report will be sent to your address on file with the Bank.

Waiver of Appraisal Rights: You are hereby notified that a Waiver of Appraisal Rights will be required from you in connection with the above referenced transaction. As part of that transaction, you will be required to execute one or more documents containing the following language:

> The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY.

Environmental: In the event that there is notice of any environmental problems, evidence of the nature of the problem and its remedy will be required and such information may include opinions and certification from appropriate governmental authority, your counsel, and/or environmental specialist acceptable to us. Borrower agrees to complete the Environmental Risk Assessment form included with this commitment. Should the property contain hazardous material of any quantity or material unacceptable to us, the Bank reserves the right to void this commitment or require environmental studies if necessary.

Construction Loans:

The Bank will make Disbursements at regular intervals during the course of construction in accordance with the loan documents. Said disbursements shall be made under the procedures and title safeguards acceptable to the Bank. The Bank reserves the right at all times to retain funds in the undisbursed loan balance sufficient to fully complete the project. The Borrower must submit to the Bank the signed architect's certification for payment (AIA form) for each draw request. The Bank will inspect at each draw request the work completed and will base the draw on such inspection. Your draw request must be made by Tuesday for a Friday Disbursement.

Items required prior to loan closing:

1. Plans and Specification: Complete plans and specifications reflecting the certification of the architect and appropriate engineers are to be submitted to and approved by the Bank, the supervising architect and the Borrower.
2. Resume from the Contractor must be received by the Bank.
3. Copy of signed Contract(s).
4. Cost Estimate Sheet detailing cost for the project in satisfactory form showing that the loan proceeds will be sufficient to complete construction of the project in a timely manner in accordance with approved plans and specifications (may use AIA forms).
5. Assignment of construction contract with builder.
6. All permits and approvals from all government authorities needed to proceed immediately with the commencement of construction are to be submitted to the Bank's Attorney prior to the first draw request.
7. Operating Agreement for Old Towne Suites, LLC must be received by the Bank.
8. Detailed list of furniture, fixtures, and equipment to be purchased via loan proceeds must be received by the Bank.

Items required prior to 1st draw:

1. Current General Liability Insurance Policy (from contractor).

Items required before final draw:

1. Certificate of Completion of Appraised Value from appraiser.
2. Final Survey.
3. Title update.

Change Orders: All requests for changes in the Plans and Specifications, other than minor changes involving no extra cost, must be in writing, signed by Borrower and the architect, and delivered to Lender for its approval. Borrower will not permit the performance of any work pursuant to any change order or modification of the Construction Contract or any subcontract without the written approval of Lender. Borrower will obtain any required permits or authorizations from governmental authorities having jurisdiction before approving or requesting a new change order.

Loan Documentation: The Borrower will enter into any and all documentation necessary to close this transaction in a form and substance acceptable to the Bank.

Closing Cost: All costs incurred in this transaction including, but not limited to, attorney fees will be the responsibility of the Borrower. This would include both the Borrower's and the Bank's closing attorney.

Prepayment: The Borrower shall have the right to prepay the principal and accrued interest in full or in part at anytime without premium or penalty.

Banking Relationship: The Borrower agrees to maintain a depository relationship with the Bank.

Financial Information: Before closing, the Bank must have current financial statements and signed copies of the last two years tax returns on the borrowing entity(s) if applicable, and all guarantors. Borrower and all guarantors agree to provide the Bank with the name of their accountant/tax preparer and by acceptance of this commitment authorize the Bank to request on an annual basis, and their accountant/tax preparer to provide, copies of all tax returns, extensions, and financial statements of the Borrower and guarantors.

Financial Condition: The Borrower and guarantors are at all times to maintain a satisfactory financial condition and are to submit at a minimum, annual financial statements, Tax Returns, and any other documentation as the Bank may request from time to time.

The commitment is for the sole and exclusive benefit of the Borrower and may not be assigned by the Borrower. No third party is intended to be benefited in any respect by this commitment.

This Commitment will also survive the Loan Closing.

We appreciate the opportunity to make this financing available to you. If you are in agreement with the above terms and conditions, please acknowledge by signing the enclosed copy and returning it to Southcoast Community Bank.

September 29, 2014 DWO 9/24/14

This Commitment to lend expires on ~~February 15, 2013~~. If not accepted by then, it becomes null and void. If accepted, closing must occur within 45 days of acceptance. Failure to close within the period set forth herein shall give the Bank the option to void this commitment.

Again, it is certainly a pleasure to extend this commitment. I look forward to hearing from you soon.

Sincerely,

Robert A. Daniel
Robert A. Daniel, Jr.
Executive Vice President

The terms and conditions of this commitment letter are hereby accepted this 7 day of February, 2013.

Borrower(s):

By: _____
Old Towne Suites, LLC

By: _____
Athanasios Fokas

By: _____
Iakovos Ferderigos

Gmail

spiros ferderigos <spirosferderigos@gmail.com>

Old Towne Suites

2 messages

Zeus Grill and Seafood <zeusseafood@bellsouth.net> Tue, Sep 9, 2014 at 1:45 PM
To: iakovosstavros@gmail.com, spirosferderigos@gmail.com, pferderigos@barnwell-whaley.com

Gentlemen,

I have enclosed info on checks received and booking info for the suites. We are currently up over $10,000.00 for the year and I expect that that number will grow closer to $15,000.00 by the end of the year. We have paid $2574.00 in cleaning fees this year that we won't have next year.

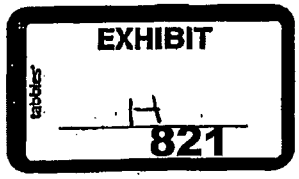
The rental company charges us 15% on our units now but that number goes to 12% once we have then new one's built which will give us a savings of around $4000.00 on our current units.

It looks like our new project of six more units will cost us around two million to build. The bank has agreed to one million so I am going to try to convince them to give us 1.8 million which will cover us for everything except furnishing and kitchen equipment. The reason I'm asking for 1.8 million is that we can justify that amount through the money that we already receive from the suites. Furnishing and kitchen equipment will be roughly $225,000.00. We should get permitting to start building this month and I do have two other bids coming in but I suspect that both will be higher.

Sincerely,

Athan

O T S.xlsx
20K



Friday, September 19, 2014

(843) 813-5612

Good news! We are approved for 1.8 million. 3:22 PM

Spiro Cell

Sweet..good job...can you email us the details of the loan sometime this weekend if you have a chance? That is great news! 3:22 PM

Jacob

That's great news.. 3:22 PM

(843) 813-5612

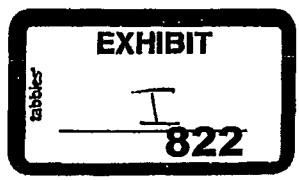
The banker just called me. I won't have the details till next week. 3:24 PM

(843) 813-5612

I'm sure it's 5% for 20 years. 3:24 PM

Spiro Cell

You da man 3:40 PM



Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Fwd: Old Towne suits

3 messages

Athan Fokas <athanfokas@gmail.com> Wed, Sep 24, 2014 at 10:07 AM
To: "lakovosstavros@gmail.com" <lakovosstavros@gmail.com>, Phillip Ferderigos <pferderigos@barnwell-whaley.com>, spiros ferderigos <spirosferderigos@gmail.com>

Well I don't know how I managed to sweet talk our banker into getting rid of the five year balloons and fixing it at 5% for the life of the loan which is unheard of in the current banking industry. Phillip show it to your banker quickly but they want to close this month and I don't see anybody beating this note in a timely manner.

Sent from my iPhone

Begin forwarded message:

> **From:** "Zeus Grill and Seafood" <zeusseafood@bellsouth.net>
> **Date:** September 24, 2014, 9:57:50 AM EDT
> **To:** "'Athan Fokas'" <athanfokas@gmail.com>
> **Subject: FW: Old Towne suits**
>
> > **From:** "Jeffrey W. Odom" <jodom@southcoastbank.com>
> > **Date:** September 24, 2014, 9:02:37 AM EDT
> > **To:** 'Athan Fokas' <fokasa@bellsouth.net>
> > **Subject: RE: Old Towne suits**
> >
> > Athan,
> > Ok. See the changes. We are ok with that. Please also date beside your initials like I have done on this copy.
> >
> > Jeffrey W. Odom NMLS ID #500313
> > Vice President | Commercial Lending
> > Main Branch Manager
> >
> > Southcoast Community Bank
> > NMLS ID# 477257
> > 530 Johnnie Dodds Blvd.
> > Mt. Pleasant, SC 29464
> > (Office) - 843.216.3087
> > (Fax) - 843.884.2886
> > (Cell) - 843.729.8224

doc26026220140924075734.pdf
934K

EXHIBIT
tabbies
J
823

From: Zeus Grill and Seafood [mailto:zeusseafood@bellsouth.net]
Sent: Thursday, September 25, 2014 10:53 AM
To: Jeffrey W. Odom
Subject: FW: Old Towne suits

Hey Jeff,

My cousin noticed that on terms and conditions it says 12 monthly payments of interest only followed by 59 consecutive monthly payments ... Then it says a 240 month amortization schedule. Can it say: 12 monthly payments of interest only followed by 239 consecutive monthly payments... so that it is truly a 20 years note. Just want to make sure that the note continues after 5 years.

Thanks,

Athan

Sent from my iPhone

From: Zeus Grill and Seafood [mailto:zeusseafood@bellsouth.net]
Sent: Thursday, September 25, 2014 11:15 AM
To: Phillip Ferderigos
Subject: FW: Old Towne suits

Well at least I tried.

From: Jeffrey W. Odom [mailto:jodom@southcoastbank.com]
Sent: Thursday, September 25, 2014 11:07 AM
To: 'Zeus Grill and Seafood'
Subject: RE: Old Towne suits

The note will be 12 months of interest only followed by 5 years of principal, interest, and escrow payments and then a balloon maturity, with monthly payments based on a 20 year schedule. That is what you wanted and that is the same thing we are doing on your North Towne deal. That is pretty standard on commercial loans...and I think a 6 year fixed rate (12 months plus the following 60 months) on a construction project with speculative income is a very good deal for you guys. We will revisit the deal at the end of the 5 year period (technically in 6 years) and we can apply for a simple renewal. You wont have to hire a closing attorney and pay all of the closing fees and all of that. The bank will just draw up a simple renewal form which we can sign in my office.

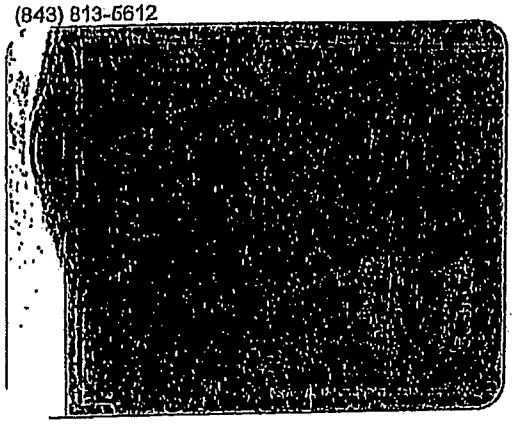
Jeffrey W. Odom NMLS ID #500313

Vice President | Commercial Lending

https://mail.google.com/mail/u/0/?ui=2&ik=0ce9b52fc7&view=pt&q=athan&qs=true&search=query&th=14Ra7fcf3527b7d0&siml=14Ra7fcf3527b7d0&siml=14Ra 4/8

Friday, October 10, 2014

(843) 813-5612



3:54 PM

We got our permit. Can start building immediately

3:54 PM

EXHIBIT

826

Friday, November 21, 2014

Me

Lauren has been in Iowa and I missed a day at work because Nathan was sick. I have a very busy day today so, if the closing is going to happen today, I need to have it as late in the day as possible. If there any issues, let's just kick it the next week. 8:48 AM

(843) 813-5612

They scheduled it for 3:00 today. Will that work? 8:49 AM

Me

Should work for me, ask the lawyer to email me the HUD/ settlement statement and all paperwork beforehand and I can review it and we can go through the closing more quickly. 8:52 AM

(843) 813-5612

Ok 8:53 AM

Spiro Cell

From my end, we need to have the agreement signed and a copy of the closing docs to review beforehand. I want to make sure I know what I am signing 8:53 AM

Spiro Cell

So agreement needs to be done and hud/settlement statement like Phillip said 8:54 AM

Spiro Cell

I will block off 3 pm. Where is the closing? 8:54 AM

(843) 813-5612

Sure. I sent the agreement to my attorney this morning. I did ask a few questions to you by email. The closing is at Amy Haines office in Mt. Pleasant 800 Johnnie Dodds Boulevard. 8:56 AM

Spiro Cell

I am in court until about 2 today so Phillip will need to respond to any questions 8:58 AM

EXHIBIT

L

827

Me

Your questions have been answered. I could tell you went to an attorney, and I'm glad you did. I want everyone to have full disclosure and completely understand what they're agreeing to. Everybody has to pay on time or there will be consequences. 8:59 AM

(843) 813-5612

I have not spoken to an attorney yet but have become familiar with legal documents over the years. 9:00 AM

Me

That's up to you. It's best to have lawyer review it for you to make sure you understand everything, but it's your decision. You are a big boy and you can decide what's best for you. 9:04 AM

(843) 813-5612

As I stated above I didn't receive the agreement until last night and I forwarded to my attorney this morning. I'm not a big boy any more after running the bridge three days a week and working out with an aggressive F3 group three days a week. I'm now a lean boy! 9:12 AM

Spiro Cell

Hey. I don't want my phone going crazy while I am in court. Shoot a text out when you decide if you are good with the agreement or not. Feeling my phone vibrate while I am making arguments is distracting and I have to have my phone in in case my wife has an emergency. Once we get the green light on the agreement and the closing docs are reviewed/accurate (which I don't see a reason why they wouldn't be) then we can move forward this afternoon. If there are any issues with the agreement, ect then we will need to revisit everything g at a later time. 9:12 AM

Spiro Cell

Still don't know why the email didn't go through to you yesterday at 3. I have the email and you got it the second time I sent it when you said you didn't have anything. If you need more time we can postpone today. Not a problem. 9:13 AM

(843) 813-5612

I'm good with 3:00 today. I just got the elevation certificate for the flood policy needed so I don't currently foresee any setbacks. 9:15 AM

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Old Towne Suites

Athan Fokas <fokasa@bellsouth.net> Mon, Nov 24, 2014 at 12:13 PM
To: Phillip Ferderigos <pferderigos@bamwell-whaley.com>
Cc: "<iakovosstavros@gmail.com>" <iakovosstavros@gmail.com>, spiros ferderigos <spirosferderigos@gmail.com>

I do what I will with whatever money I have and you can't dictate otherwise. I told you my intent but six months from now my intent may change. Regardless of that fact the bank wants to close this month If in fact we proceed. I'm not interested in you trying to bully me into signing any type of side agreement that is unnecessary. My attorney, as I said earlier, strongly was against it.

Sent from my iPhone
[Quoted text hidden]

EXHIBIT
tabbies
M

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Old Towne Suites

Phillip Ferderigos <pferderigos@barnwell-whaley.com> Mon, Nov 24, 2014 at 1:00 PM
To: Athan Fokas <fokasa@bellsouth.net>
Cc: iakovosstavros@gmail.com, spiros ferderigos <spirosferderigos@gmail.com>

Athan, once again, you can not even answer a simple question directly.

You are asking me to mortgage my part of Old Towne and you are unwilling to sign an Agreement to say that you will make your payments timely.

I believe you have mortgaged your other properties and now you want to mortgage Old Towne. I am not your piggie bank. I will not mortgage my share of Old Towne for you unless you agree to make your payments timely.

Unless you change your decision, there is no point in moving forward.

Phillip S. Ferderigos, Esq.
Member

288 Meeting St., Ste 200 (29401)
PO Drawer H
Charleston, SC 29402
Phone: (843) 577-7700
Facsimile: (843) 577-7708

Email: pferderigos@barnwell-whaley.com

---Original Message---
From: Athan Fokas [mailto:fokasa@bellsouth.net]
(Quoted text hidden)

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Old Towne Suites

Athan Fokas <fokasa@bellsouth.net> Mon, Nov 24, 2014 at 1:31 PM
To: Phillip Ferderigos <pferderigos@barnwell-whaley.com>
Cc: "<iakovosstavros@gmail.com>" <iakovosstavros@gmail.com>, spiros ferderigos <spirosferderigos@gmail.com>

I am not asking you to do anything. The bank is requiring that all parties sign off on the mortgage. I did secure that you didn't have to personally guarantee the note. Quit trying to put yourself on a pedestal. If you want me to sign a side agreement that guarantees I will pay the note then you will sign one saying that you will come up with the money needed for construction or you shall suffer similar consequences. If you are intelligent you will already know that the money will be there with the original suites income to pay for the loan. Cut your pompous attitude and either get it done or not. We are currently paying for an expensive business risk policy, paid for a flood policy we don't need if not constructing, have been paying two months on a storage container, and prepaid our over $20,000.00 property taxes two months early in order to close. Not to mention we have over $50,000.00 already invested in this deal.

Sent from my iPhone
[Quoted text hidden]

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Old Towne Suites

Phillip Ferderigos <pferderigos@barnwell-whaley.com> Mon, Nov 24, 2014 at 1:43 PM
To: Athan Fokas <fokasa@bellsouth.net>
Cc: iakovosstavros@gmail.com, spiros ferderigos <spirosferderigos@gmail.com>

I do not care what your bank is requiring of you to get your loan...that has nothing to do with me.

I will not sign off on any mortgage of my share unless you sign an agreement that you will make your payments timely. If you are an intelligent person, you will see that I can not and will not agree to mortgage my share of Old Towne if you do not agree to make your payments on time.

Phillip S. Ferderigos, Esq.
Member

288 Meeting St., Ste 200 (29401)
PO Drawer H
Charleston, SC 29402
Phone: (843) 577-7700
Facsimilie: (843) 577-7708

Email: pferderigos@barnwell-whaley.com
---Original Message---
From: Athan Fokas [mailto:fokasa@bellsouth.net]
[Quoted text hidden]

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Old Towne Suites

Athan Fokas <fokasa@bellsouth.net> Mon, Nov 24, 2014 at 1:46 PM
To: Phillip Ferderigos <pferderigos@bamwell-whaley.com>
Cc: "<iakovosstavros@gmail.com>" <iakovosstavros@gmail.com>, spiros ferderigos <spirosferderigos@gmail.com>

Well then it's done. I'll reverse as much as I can and just right it off as a stupid transaction dealing with the Ferderigos Family..

Sent from my iPhone
[Quoted text hidden]

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Old Towne Suites

Athan Fokas <fokasa@bellsouth.net> Wed, Nov 26, 2014 at 11:46 AM
To: Spiros Ferderigos <spirosferderigos@gmail.com>
Cc: Phillip Ferderigos <pferderigos@barnwell-whaley.com>, "<iakovosstavros@gmail.com>" <iakovosstavros@gmail.com>

The irony in all this is that the son's want extra assurances that money will be paid back when the way our fathers always did it is with a hand shake. Ask your dad how many times my father loaned him money. (his grocery store off America St, to buy Old Towne in 72, and to build our first apartment building in Greece) and. there was no paperwork and all was paid back. In this case nobody is loaning anyone money but just a couple of hard headed kids who don't understand how family works. I don't think anybody owes anybody any money do they? I don't think anyone has any history of any money not being paid back do they?
We are all older now and our families have grown and we don't have to spend Thanksgiving together. Actually this entire deal has put such a bad taste that I dislike seeing you guys in public. Except Jacob of course. He is the only innocent one in this. Later on down the line when I'm in the money I may consider loaning Jacob the money and having a 25/75 split on the new building because I know that Jacob will pay me back and I won't need any side agreements trying to take more of his ownership if he doesn't pay. Bottom line is payments come out of profits and I know he is good for it.

Sent from my IPhone

> On Nov 24, 2014, at 2:17 PM, Spiros Ferderigos <spirosferderigos@gmail.com> wrote:
>
[Quoted text hidden]

Resolution of Old Towne Suites, LLC

Whereas Old Towne Suites, LLC, (the "Company") is a limited liability company organized and operating under the laws of the State of South Carolina; and,

Whereas the Articles of Organization and the Operating Agreement are attached hereto; and,

Whereas the undersigned are the only members of the Company;

Now therefore, the undersigned do resolve as follows:

RESOLVED, that the Company, is authorized to borrow the sum of $1,800,000.00 in the form of a construction loan from Southcoast Community Bank (the "Lender") in order to make improvements to the property located at 229 King Street, Charleston, South Carolina and is authorized to pledge assets of the Company as security for the debt through security agreements and financing statements.

RESOLVED, that Athan Fokas a/k/a Athanasios Fokas and Iakavos Ferderigos are authorized to execute the necessary documents on behalf of the Company to obtain the above referenced loan and are directed to do all other things and acts, to execute and deliver all other instruments, documents and certificates, and to pay all costs, fees and expenses as may be, in their judgment, necessary, proper or advisable in order to carry out and comply with the purposes and intent of these resolutions, and that all acts and deeds Athan Fokas and Iakavos Ferderigos that are consistent with the purposes and intent of these resolutions, be and hereby are ratified, approved and adopted as the acts and deeds of the Company.

RESOLVED, that Athan Fokas and Iakavos Ferderigo are authorized to disclose any information and provide any documentation necessary, proper or advisable in order to carry out and comply with the purposes and intent of these resolutions.

RESOLVED, that the Lender shall be entitled to rely upon a certified copy of this Resolution until written notice of rescission thereof has been received, and the receipt of such notice shall not affect any actions taken by the purchaser prior thereto.

I certify that the following signatures represent the true and complete listing of members of the Company, that all representations made herein are true and correct, and that I have read all of the provisions of this Resolution.

Athan Fokas a/k/a Athanasios Fokas date

Iakovos S. Ferderigos date

Phillip S. Ferderigos date

Spiros S. Ferderigos date

EXHIBIT
N
835

0955

PROMISSORY NOTE

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
$1,800,000.00	11-21-2014	12-01-2020	03400007519		34000	***	

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item.
Any item above containing "***" has been omitted due to text length limitations.

Borrower: Old TowneSuites, LLC
229 King Street
Charleston, SC 29401

Lender: SOUTHCOAST COMMUNITY BANK
Commercial Lending
530 Johnnie Dodds
Mt. Pleasant, SC 29464
(843) 884-0504

Principal Amount: $1,800,000.00 **Date of Note:** _____

PROMISE TO PAY. Old TowneSuites, LLC ("Borrower") promises to pay to SOUTHCOAST COMMUNITY BANK ("Lender"), or order, in lawful money of the United States of America, the principal amount of One Million Eight Hundred Thousand & 00/100 Dollars ($1,800,000.00) or so much as may be outstanding, together with interest on the unpaid outstanding principal balance of each advance. Interest shall be calculated from the date of each advance until repayment of each advance.

PAYMENT. Borrower will pay this loan in full immediately upon Lender's demand. If no demand is made, Borrower will pay this loan in accordance with the following payment schedule, which calculates interest on the unpaid principal balances as described in the "INTEREST CALCULATION METHOD" paragraph using the interest rates described in this paragraph: 12 monthly consecutive interest payments, beginning January 1, 2015, with interest calculated on the unpaid principal balances using an interest rate of 5.000% per annum based on a year of 360 days; 59 monthly consecutive principal and interest payments of $11,052.24 each, beginning January 1, 2016, with interest calculated on the unpaid principal balances using an interest rate of 5.000% per annum based on a year of 360 days; and one principal and interest payment of $1,516,249.36 on December 1, 2020, with interest calculated on the unpaid principal balances using an interest rate of 5.000% per annum based on a year of 360 days. This estimated final payment is based on the assumption that all payments will be made exactly as scheduled; the actual final payment will be for all principal and accrued interest not yet paid, together with any other unpaid amounts under this Note. Unless otherwise agreed or required by applicable law, payments will be applied first to any accrued unpaid interest; then to principal; then to any late charges; and then to any unpaid collection costs. Borrower will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing.

INTEREST CALCULATION METHOD. Interest on this Note is computed on a 365/360 basis; that is, by applying the ratio of the interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. All interest payable under this Note is computed using this method.

PREPAYMENT; MINIMUM INTEREST CHARGE. In any event, even upon full prepayment of this Note, Borrower understands that Lender is entitled to a minimum interest charge of $50.00. Other than Borrower's obligation to pay any minimum interest charge, Borrower may pay without penalty all or a portion of the amount owed earlier than it is due. Early payments will not, unless agreed to by Lender in writing, relieve Borrower of Borrower's obligation to continue to make payments under the payment schedule. Rather, early payments will reduce the principal balance due and may result in Borrower's making fewer payments. Borrower agrees not to send Lender payments marked "paid in full", "without recourse", or similar language. If Borrower sends such a payment, Lender may accept it without losing any of Lender's rights under this Note, and Borrower will remain obligated to pay any further amount owed to Lender. All written communications concerning disputed amounts, including any check or other payment instrument that indicates that the payment constitutes "payment in full" of the amount owed or that is tendered with other conditions or limitations or as full satisfaction of a disputed amount must be mailed or delivered to: Southcoast Community Bank, Loan Servicing Department, P.O. Box 1561 Mt. Pleasant, SC 29465.

LATE CHARGE. If a payment is 10 days or more late, Borrower will be charged 5.000% of the unpaid portion of the regularly scheduled payment.

INTEREST AFTER DEFAULT. Upon default, including failure to pay upon final maturity, the interest rate on this Note shall be increased to 18.000% per annum based on a year of 360 days. However, in no event will the interest rate exceed the maximum interest rate limitations under applicable law.

DEFAULT. Each of the following shall constitute an event of default ("Event of Default") under this Note:

Payment Default. Borrower fails to make any payment when due under this Note.

Other Defaults. Borrower fails to comply with or to perform any other term, obligation, covenant or condition contained in this Note or in any of the related documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Borrower.

Default in Favor of Third Parties. Borrower or any Grantor defaults under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of Borrower's property or Borrower's ability to repay this Note or perform Borrower's obligations under this Note or any of the related documents.

Environmental Default. Failure of any party to comply with or perform when due any term, obligation, covenant or condition contained in any environmental agreement executed in connection with any loan.

False Statements. Any warranty, representation or statement made or furnished to Lender by Borrower or on Borrower's behalf under this Note or the related documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

Insolvency. The dissolution or termination of Borrower's existence as a going business, the insolvency of Borrower, the appointment of a receiver for any part of Borrower's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower.

Creditor or Forfeiture Proceedings. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Borrower or by any governmental agency against any collateral securing the loan. This includes a garnishment of any of Borrower's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Borrower as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Borrower gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

Events Affecting Guarantor. Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any guaranty of the Indebtedness evidenced by this Note.

Change in Ownership. Any change in ownership of twenty-five percent (25%) or more of the common stock of Borrower.

Adverse Change. A material adverse change occurs in Borrower's financial condition, or Lender believes the prospect of payment or performance of this Note is impaired.

Insecurity. Lender in good faith believes itself insecure.

Cure Provisions. If any default, other than a default in payment is curable and if Borrower has not been given a notice of a breach of the same provision of this Note within the preceding twelve (12) months, it may be cured if Borrower, after Lender sends written notice to Borrower demanding cure of such default: (1) cures the default within fifteen (15) days; or (2) if the cure requires more than fifteen (15) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

LENDER'S RIGHTS. Upon default, Lender may declare the entire unpaid principal balance under this Note and all accrued unpaid interest immediately due, and then Borrower will pay that amount.

ATTORNEYS' FEES; EXPENSES. Lender may hire or pay someone else to help collect this Note if Borrower does not pay. Borrower will pay Lender that amount. This includes Lender's reasonable attorneys' fees in an amount not less than fifteen percent (15%) of the amount owing on this Note and Lender's legal expenses whether or not there is a lawsuit, including reasonable attorneys' fees and legal expenses for

bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), and appeals. If not prohibited by applicable law, Borrower also will pay any court costs, in addition to all other sums provided by law.

JURY WAIVER. Lender and Borrower hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by either Lender or Borrower against the other.

GOVERNING LAW. This Note will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of South Carolina without regard to its conflicts of law provisions. This Note has been accepted by Lender in the State of South Carolina.

DISHONORED ITEM FEE. Borrower will pay a fee to Lender of $25.00 if Borrower makes a payment on Borrower's loan and the check or preauthorized charge with which Borrower pays is later dishonored.

RIGHT OF SETOFF. To the extent permitted by applicable law, Lender reserves a right of setoff in all Borrower's accounts with Lender (whether checking, savings, or some other account). This includes all accounts Borrower holds jointly with someone else and all accounts Borrower may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Borrower authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the Indebtedness against any and all such accounts, and, at Lender's option, to administratively freeze all such accounts to allow Lender to protect Lender's charge and setoff rights provided in this paragraph.

COLLATERAL. Borrower acknowledges this Note is secured by the following collateral described in the security instruments listed herein:

(A) a Construction Mortgage to Lender on real property located in Charleston County, State of South Carolina.

(B) an Assignment of All Rents to Lender on real property located in Charleston County, State of South Carolina.

(C) inventory, chattel paper, accounts, equipment, general intangibles, fixtures, standing timber and mineral, oil and gas described in a Commercial Security Agreement dated _____.

LINE OF CREDIT. This Note evidences a straight line of credit. Once the total amount of principal has been advanced, Borrower is not entitled to further loan advances. Borrower agrees to be liable for all sums either: (A) advanced in accordance with the instructions of an authorized person or (B) credited to any of Borrower's accounts with Lender. The unpaid principal balance owing on this Note at any time may be evidenced by endorsements on this Note or by Lender's internal records, including daily computer print-outs.

SUCCESSOR INTERESTS. The terms of this Note shall be binding upon Borrower, and upon Borrower's heirs, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

GENERAL PROVISIONS. This Note is payable on demand. The inclusion of specific default provisions or rights of Lender shall not preclude Lender's right to declare payment of this Note on its demand. If any part of this Note cannot be enforced, this fact will not affect the rest of the Note. Lender may delay or forgo enforcing any of its rights or remedies under this Note without losing them. Borrower and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan or release any party or guarantor or collateral; or impair, fail to realize upon or perfect Lender's security interest in the collateral; and take any other action deemed necessary by Lender without the consent of or notice to anyone. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made. The obligations under this Note are joint and several.

PRIOR TO SIGNING THIS NOTE, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. BORROWER AGREES TO THE TERMS OF THE NOTE.

BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS PROMISSORY NOTE.

NOTICE CONCERNING APPRAISAL WAIVER. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. 'THE UNDERSIGNED HEREBY WAIVE(S) AND RELINQUISH(ES) THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY.

BORROWER:

OLD TOWNESUITES, LLC

By: _____
Athanasios Fokas, Manager of Old TowneSuites, LLC

By: _____
Iakovos S Ferderigos, Manager of Old TowneSuites, LLC

LENDER:

SOUTHCOAST COMMUNITY BANK

X _____
Authorized Signer

LaserPro, Ver. 16.4.0.016 Copr. D+H USA Corporation 1997, 2016. All Rights Reserved. - SC C:\PROGRAMDATA\LASERPRO\CFI\LPL\G201.FC TR-1219 PR-13

HYPOTHECATION AGREEMENT

TO: SOUTHCOAST COMMUNITY BANK DATE: November ___, 2014

IN CONSIDERATION of your making, renewing or extending a loan or loans to the Borrower, the undersigned hereby authorizes Old Towne Suites, LLC (herein called the "Borrower") to hypothecate and pledge to Southcoast Community Bank (herein called "the Bank") as collateral for any loans or advances (including all liabilities relating thereto) made by your Bank to the Borrower and for any present or future indebtedness or other obligation of the Borrower to you and for any renewal, extension, or modification of any or all thereof, the following securities, instruments, or other property belonging to the undersigned namely:

The real estate and improvements known as 229 King Street, Charleston, SC 29401 (TMS# 457-08-01-063) more fully described in attached Exhibit A.

The undersigned further agrees that said collateral shall be subject to disposition in accordance with the terms and conditions of the instruments evidencing such indebtedness, obligation, and liabilities. The undersigned also authorizes you in your discretion from time to time to deliver to the Bank said collateral or any proceeds therefrom, the Borrower's receipt being sufficient acquittance to you therefor; and in general, authorize you to deal with said collateral and proceeds in the same way and with the same force and effect as if the Borrower was the absolute owner thereof. It is further agreed that any or all of the foregoing may be without notice to or further consent of the undersigned.

This agreement shall be binding upon the undersigned and its successors and assigns, and shall inure to the benefit of you and your successors and assigns.

IN WITNESS WHEREOF, the undersigned execute this agreement the date and year written above.

IN THE PRESENCE OF:

_____ By:_____
Spiros S. Ferderigos

HYPOTHECATION AGREEMENT

TO: SOUTHCOAST COMMUNITY BANK DATE: November ___, 2014

IN CONSIDERATION of your making, renewing or extending a loan or loans to the Borrower, the undersigned hereby authorizes Old Towne Suites, LLC (herein called the "Borrower") to hypothecate and pledge to Southcoast Community Bank (herein called "the Bank") as collateral for any loans or advances (including all liabilities relating thereto) made by your Bank to the Borrower and for any present or future indebtedness or other obligation of the Borrower to you and for any renewal, extension, or modification of any or all thereof, the following securities, instruments, or other property belonging to the undersigned namely:

The real estate and improvements known as 229 King Street, Charleston, SC 29401 (TMS# 457-08-01-063) more fully described in attached Exhibit A.

The undersigned further agrees that said collateral shall be subject to disposition in accordance with the terms and conditions of the instruments evidencing such indebtedness, obligation, and liabilities. The undersigned also authorizes you in your discretion from time to time to deliver to the Bank said collateral or any proceeds therefrom, the Borrower's receipt being sufficient acquittance to you therefor; and in general, authorize you to deal with said collateral and proceeds in the same way and with the same force and effect as if the Borrower was the absolute owner thereof. It is further agreed that any or all of the foregoing may be without notice to or further consent of the undersigned.

This agreement shall be binding upon the undersigned and its successors and assigns, and shall inure to the benefit of you and your successors and assigns.

IN WITNESS WHEREOF, the undersigned execute this agreement the date and year written above.

IN THE PRESENCE OF:

_____ By:_____
Phillip S. Ferderigos

WHEN RECORDED MAIL TO:

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

0115

ASSIGNMENT OF RENTS

THIS ASSIGNMENT OF RENTS dated November 21, 2014, is made and executed between Athanasios Fokas, whose address is 229 King Street, Charleston, SC 29401; Iakovos S Ferderigos, whose address is 8 River Reach Way, Charleston, SC 29407; Spiros S Ferderigos, whose address is 229 King Street, Charleston, SC 29401 and Phillip S Ferderigos, whose address is 229 King Street, Charleston, SC 29401 (referred to below as "Grantor") and SOUTHCOAST COMMUNITY BANK, whose address is 530 Johnnie Dodds, Mt. Pleasant, SC 29464 (referred to below as "Lender").

ASSIGNMENT. For valuable consideration, Grantor hereby assigns, grants a continuing security interest in, and conveys to Lender all of Grantor's right, title, and interest in and to the Rents from the following described Property located in Charleston County, State of South Carolina:

See Exhibit A, which is attached to this Assignment and made a part of this Assignment as if fully set forth herein.

The Property or its address is commonly known as 229 King Street, Charleston, SC 29401. The Property tax identification number is 457-08-01-063.

THIS ASSIGNMENT IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS AND (2) PERFORMANCE OF ANY AND ALL OBLIGATIONS OF BORROWER AND GRANTOR UNDER THE NOTE, THIS ASSIGNMENT, AND THE RELATED DOCUMENTS. THIS ASSIGNMENT IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

GRANTOR'S WAIVERS. Grantor waives all rights or defenses arising by reason of any "one action" or "anti-deficiency" law, or any other law which may prevent Lender from bringing any action against Grantor, including a claim for deficiency to the extent Lender is otherwise entitled to a claim for deficiency, before or after Lender's commencement or completion of any foreclosure action, either judicially or by exercise of a power of sale.

BORROWER'S WAIVERS AND RESPONSIBILITIES. Lender need not tell Borrower about any action or inaction Lender takes in connection with this Assignment. Borrower assumes the responsibility for being and keeping informed about the Property. Borrower waives any defenses that may arise because of any action or inaction of Lender, including without limitation any failure of Lender to realize upon the Property, or any delay by Lender in realizing upon the Property. Borrower agrees to remain liable under the Note with Lender no matter what action Lender takes or fails to take under this Assignment.

PAYMENT AND PERFORMANCE. Except as otherwise provided in this Assignment or any Related Documents, Grantor shall pay to Lender all amounts secured by this Assignment as they become due, and shall strictly perform all of Grantor's obligations under this Assignment. Unless and until Lender exercises its right to collect the Rents as provided below and so long as there is no default under this Assignment, Grantor may remain in possession and control of and operate and manage the Property and collect the Rents, provided that the granting of the right to collect the Rents shall not constitute Lender's consent to the use of cash collateral in a bankruptcy proceeding.

GRANTOR'S REPRESENTATIONS AND WARRANTIES. Grantor warrants that:

Ownership. Grantor is entitled to receive the Rents free and clear of all rights, loans, liens, encumbrances, and claims except as disclosed to and accepted by Lender in writing.

Right to Assign. Grantor has the full right, power and authority to enter into this Assignment and to assign and convey the Rents to Lender.

No Prior Assignment. Grantor has not previously assigned or conveyed the Rents to any other person by any instrument now in force.

No Further Transfer. Grantor will not sell, assign, encumber, or otherwise dispose of any of Grantor's rights in the Rents except as provided in this Assignment.

LENDER'S RIGHT TO RECEIVE AND COLLECT RENTS. Lender shall have the right at any time, and even though no default shall have occurred under this Assignment, to collect and receive the Rents. For this purpose, Lender is hereby given and granted the following rights, powers and authority:

Notice to Tenants. Lender may send notices to any and all tenants of the Property advising them of this Assignment and directing all Rents to be paid directly to Lender or Lender's agent.

Enter the Property. Lender may enter upon and take possession of the Property; demand, collect and receive from the tenants or from any other persons liable therefor, all of the Rents; institute and carry on all legal proceedings necessary for the protection of the Property, including such proceedings as may be necessary to recover possession of the Property; collect the Rents and remove any tenant or tenants or other persons from the Property.

Maintain the Property. Lender may enter upon the Property to maintain the Property and keep the same in repair; to pay the costs thereof and of all services of all employees, including their equipment, and of all continuing costs and expenses of maintaining the Property in proper repair and condition, and also to pay all taxes, assessments and water utilities, and the premiums on fire and other insurance effected by Lender on the Property.

Compliance with Laws. Lender may do any and all things to execute and comply with the laws of the State of South Carolina and also all other laws, rules, orders, ordinances and requirements of all other governmental agencies affecting the Property.

Lease the Property. Lender may rent or lease the whole or any part of the Property for such term or terms and on such conditions as Lender may deem appropriate.

Employ Agents. Lender may engage such agent or agents as Lender may deem appropriate, either in Lender's name or in Grantor's name, to rent and manage the Property, including the collection and application of Rents.

Other Acts. Lender may do all such other things and acts with respect to the Property as Lender may deem appropriate and may act exclusively and solely in the place and stead of Grantor and to have all of the powers of Grantor for the purposes stated above.

No Requirement to Act. Lender shall not be required to do any of the foregoing acts or things, and the fact that Lender shall have performed one or more of the foregoing acts or things shall not require Lender to do any other specific act or thing.

APPLICATION OF RENTS. All costs and expenses incurred by Lender in connection with the Property shall be for Grantor's account and Lender may pay such costs and expenses from the Rents. Lender, in its sole discretion, shall determine the application of any and all Rents received by it; however, any such Rents received by Lender which are not applied to such costs and expenses shall be applied to the Indebtedness. All expenditures made by Lender under this Assignment and not reimbursed from the Rents shall become a part of the Indebtedness secured by this Assignment, and shall be payable on demand, with interest at the Note rate from date of expenditure until paid.

FULL PERFORMANCE. If Grantor pays all of the Indebtedness when due and otherwise performs all the obligations imposed upon Grantor under this Assignment, the Note, and the Related Documents, Lender shall execute and deliver to Grantor a suitable satisfaction of this Assignment and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Property. Any termination fee required by law shall be paid by Grantor, if permitted by applicable law.

LENDER'S EXPENDITURES. If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Assignment or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Assignment or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Rents or the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the Indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Assignment also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

DEFAULT. Each of the following, at Lender's option, shall constitute an Event of Default under this Assignment:

Payment Default. Borrower fails to make any payment when due under the Indebtedness.

Other Defaults. Borrower or Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Assignment or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Borrower or Grantor.

Default on Other Payments. Failure of Grantor within the time required by this Assignment to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

Default in Favor of Third Parties. Borrower, any guarantor or Grantor defaults under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of Borrower's, any guarantor's or Grantor's property or ability to perform their respective obligations under this Assignment or any of the Related Documents.

Environmental Default. Failure of any party to comply with or perform when due any term, obligation, covenant or condition contained in any environmental agreement executed in connection with the Property.

False Statements. Any warranty, representation or statement made or furnished to Lender by Borrower or Grantor or on Borrower's or Grantor's behalf under this Assignment or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

Defective Collateralization. This Assignment or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

Death or Insolvency. The dissolution of Grantor's (regardless of whether election to continue is made), any member withdraws from the limited liability company, or any other termination of Borrower's or Grantor's existence as a going business or the death of any member, the insolvency of Borrower or Grantor, the appointment of a receiver for any part of Borrower's or Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower or Grantor.

Creditor or Forfeiture Proceedings. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Borrower or Grantor or by any governmental agency against the Rents or any property securing the Indebtedness. This includes a garnishment of any of Borrower's or Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Borrower or Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Borrower or Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

Property Damage or Loss. The Property is lost, stolen, substantially damaged, sold, or borrowed against.

Events Affecting Guarantor. Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness.

Adverse Change. A material adverse change occurs in Grantor's financial condition, or Lender believes the prospect of payment or performance of the Indebtedness is impaired.

Insecurity. Lender in good faith believes itself insecure.

Cure Provisions. If any default, other than a default in payment is curable and if Grantor has not been given a notice of a breach of the same provision of this Assignment within the preceding twelve (12) months, it may be cured if Grantor, after Lender sends written notice to Borrower demanding cure of such default: (1) cures the default within fifteen (15) days; or (2) if the cure requires more than fifteen (15) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

RIGHTS AND REMEDIES ON DEFAULT. Upon the occurrence of any Event of Default and at any time thereafter, Lender may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

Accelerate Indebtedness. Lender shall have the right at its option without notice to Borrower or Grantor to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that Borrower would be required to pay.

Collect Rents. Lender shall have the right, without notice to Borrower or Grantor, to take possession of the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender shall have all the rights provided for in the Lender's Right to Receive and Collect Rents Section, above. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

Appoint Receiver. Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

Other Remedies. Lender shall have all other rights and remedies provided in this Assignment or the Note or by law.

Election of Remedies. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Assignment, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies.

Attorneys' Fees; Expenses. If Lender institutes any suit or action to enforce any of the terms of this Assignment, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's reasonable attorneys' fees in an amount not less than fifteen percent (15%) of the amount owing on the Indebtedness and Lender's legal expenses whether or not there is a lawsuit, including reasonable attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees, title insurance, and fees for the Trustee, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Assignment:

Amendments. This Assignment, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Assignment. No alteration of or amendment to this Assignment shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Caption Headings. Caption headings in this Assignment are for convenience purposes only and are not to be used to interpret or define the provisions of this Assignment.

Governing Law. This Assignment will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of South Carolina without regard to its conflicts of law provisions. This Assignment has been accepted by Lender in the State of South Carolina.

Joint and Several Liability. All obligations of Borrower and Grantor under this Assignment shall be joint and several, and all references to Grantor shall mean each and every Grantor, and all references to Borrower shall mean each and every Borrower. This means that each Grantor signing below is responsible for all obligations in this Assignment.

Merger. There shall be no merger of the interest or estate created by this assignment with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

Interpretation. (1) In all cases where there is more than one Borrower or Grantor, then all words used in this Assignment in the singular shall be deemed to have been used in the plural where the context and construction so require. (2) If more than one person signs this Assignment as "Grantor," the obligations of each Grantor are joint and several. This means that if Lender brings a lawsuit, Lender may sue any one or more of the Grantors. If Borrower and Grantor are not the same person, Lender need not sue Borrower first, and that Borrower need not be joined in any lawsuit. (3) The names given to paragraphs or sections in this Assignment are for convenience purposes only. They are not to be used to interpret or define the provisions of this Assignment.

No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Assignment unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Assignment shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Assignment. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Assignment, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

Notices. Any notice required to be given under this Assignment shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Assignment. Any party may change its address for notices under this Assignment by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

Powers of Attorney. The various agencies and powers of attorney conveyed on Lender under this Assignment are granted for purposes of security and may not be revoked by Grantor until such time as the same are renounced by Lender.

Severability. If a court of competent jurisdiction finds any provision of this Assignment to be illegal, invalid, or unenforceable as to any person or circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other person or circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Assignment. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Assignment shall not affect the legality, validity or enforceability of any other provision of this Assignment.

Successors and Assigns. Subject to any limitations stated in this Assignment on transfer of Grantor's interest, this Assignment shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Assignment and the Indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Assignment or liability under the Indebtedness.

Time is of the Essence. Time is of the essence in the performance of this Assignment.

Waive Jury. All parties to this Assignment hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

Waiver of Homestead Exemption. Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of South Carolina as to all Indebtedness secured by this Assignment.

Waiver of Right of Redemption. NOTWITHSTANDING ANY OF THE PROVISIONS TO THE CONTRARY CONTAINED IN THIS ASSIGNMENT, GRANTOR HEREBY WAIVES ANY AND ALL RIGHTS OF REDEMPTION FROM SALE UNDER ANY ORDER OR JUDGMENT OF FORECLOSURE ON GRANTOR'S BEHALF AND ON BEHALF OF EACH AND EVERY PERSON, EXCEPT JUDGMENT CREDITORS OF GRANTOR, ACQUIRING ANY INTEREST IN OR TITLE TO THE PROPERTY SUBSEQUENT TO THE DATE OF THIS ASSIGNMENT.

DEFINITIONS. The following capitalized words and terms shall have the following meanings when used in this Assignment. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Assignment shall have the meanings attributed to such terms in the Uniform Commercial Code:

Assignment. The word "Assignment" means this ASSIGNMENT OF RENTS, as this ASSIGNMENT OF RENTS may be amended or modified from time to time, together with all exhibits and schedules attached to this ASSIGNMENT OF RENTS from time to time.

Borrower. The word "Borrower" means Old Towne Suites, LLC.

Default. The word "Default" means the Default set forth in this Assignment in the section titled "Default".

Event of Default. The words "Event of Default" mean any of the events of default set forth in this Assignment in the default section of this Assignment.

Grantor. The word "Grantor" means Athanasios Fokas, Iakovos S Ferderigos, Spiros S Ferderigos and Phillip S Ferderigos.

Guarantor. The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the Indebtedness.

Guaranty. The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

Indebtedness. The word "Indebtedness" means all principal, earned interest, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Lender to enforce Grantor's obligations under this Assignment, together with interest on such amounts as provided in this Assignment.

Lender. The word "Lender" means SOUTHCOAST COMMUNITY BANK, its successors and assigns.

Note. The word "Note" means the promissory note dated November 21, 2014, in the original principal amount of $1,800,000.00 from Borrower to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement.

Property. The word "Property" means all of Grantor's right, title and interest in and to all the Property as described in the "Assignment" section of this Assignment.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

Rents. The word "Rents" means all of Grantor's present and future rights, title and interest in, to and under any and all present and future leases, including, without limitation, all rents, revenue, income, issues, royalties, bonuses, accounts receivable, cash or security deposits, advance rentals, profits and proceeds from the Property, and other payments and benefits derived or to be derived from such leases of every kind and nature, whether due now or later, including without limitation Grantor's right to enforce such leases and to receive and collect payment and proceeds thereunder.

THE UNDERSIGNED ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS ASSIGNMENT. THIS DOCUMENT IS EXECUTED ON NOVEMBER 21, 2014.

GRANTOR:

X _____
Athanasios Fokas

X _____
Iakovos S Ferderigos

X _____
Spiros S Ferderigos

X _____
Phillip S Ferderigos

Signed, acknowledged and delivered in the presence of:

X _____
Witness

X _____
Witness

INDIVIDUAL ACKNOWLEDGMENT

STATE OF _____)
) SS
COUNTY OF _____)

PERSONALLY appeared before me and made oath that he or she saw the within-named Grantor(s) sign, seal, and, as his or her act and deed, deliver the within-written Assignment for the uses and purposes therein mentioned, and that he or she with the other witness subscribed above witnessed the execution thereof.

_____
(Witness)

SWORN to before me this _____

day of _____, A.D. 20_____.

_____ (Seal)
Notary Public

My Commission expires: _____

LaserPro, Ver. 14.4.0.024 Copr. D+H USA Corporation 1997, 2014. All Rights Reserved. - SC C:\PROSUITE\CFI\LPL\G14.FC TR-7619 PR-13

OMB NO. 2502-0265

A. U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT **SETTLEMENT STATEMENT**	B. TYPE OF LOAN: 1. ☐ FHA 2. ☐ FmHA 3. ☒ CONV. UNINS. 4. ☐ VA 5. ☐ CONV. INS. 6. FILE NUMBER: 14.140OLDTOWNE 7. LOAN NUMBER: 03400007519 8. MORTGAGE INS CASE NUMBER:

C. NOTE: *This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(POC)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.*

1.0 3/98 (14.140OLDTOWNE.PFD/14.140OLDTOWNE/30)

D. NAME AND ADDRESS OF BORROWER:	E. NAME AND ADDRESS OF SELLER:	F. NAME AND ADDRESS OF LENDER:
Old Towne Suites, LLC 229 King Street Charleston, SC 29401		SouthCoast Community Bank P.O. Box 1561 Mount Pleasant, SC 29465

G. PROPERTY LOCATION:	H. SETTLEMENT AGENT: 27-4025801 Haines Law Firm, LLC PLACE OF SETTLEMENT 800 Johnnie Dodds Blvd. Mount Pleasant, South Carolina 29464	I. SETTLEMENT DATE:
229 King Street Charleston, SC 29401 Charleston County, South Carolina		November 21, 2014

J. SUMMARY OF BORROWER'S TRANSACTION		K. SUMMARY OF SELLER'S TRANSACTION	
100. GROSS AMOUNT DUE FROM BORROWER:		**400. GROSS AMOUNT DUE TO SELLER:**	
101. Contract Sales Price		401. Contract Sales Price	
102. Personal Property		402. Personal Property	
103. Settlement Charges to Borrower (Line 1400)	21,848.17	403.	
104.		404.	
105.		405.	
Adjustments For Items Paid By Seller In advance		*Adjustments For Items Paid By Seller In advance*	
106. Homeowners Assoc to		406. Homeowners Assoc to	
107. County Taxes to		407. County Taxes to	
108. Assessments to		408. Assessments to	
109.		409.	
110.		410.	
111.		411.	
112.		412.	
120. GROSS AMOUNT DUE FROM BORROWER	21,848.17	*420. GROSS AMOUNT DUE TO SELLER*	
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:		**500. REDUCTIONS IN AMOUNT DUE TO SELLER:**	
201. Deposit or earnest money		501. Excess Deposit (See Instructions)	
202. Principal Amount of New Loan(s)	[1,800,000.00]	502. Settlement Charges to Seller (Line 1400)	
203. Existing loan(s) taken subject to		503. Existing loan(s) taken subject to	
204.		504. Payoff of first Mortgage	
205.		505. Payoff of second Mortgage	
206.		506.	
207. Construction Draw	171,848.17	507.	
208.		508.	
209.		509.	
Adjustments For Items Unpaid By Seller		*Adjustments For Items Unpaid By Seller*	
210. Homeowners Assoc to		510. Homeowners Assoc to	
211. County Taxes to		511. County Taxes to	
212. Assessments to		512. Assessments to	
213.		513.	
214.		514.	
215.		515.	
216.		516.	
217.		517.	
218.		518.	
219.		519.	
220. TOTAL PAID BY/FOR BORROWER	171,848.17	*520. TOTAL REDUCTION AMOUNT DUE SELLER*	
300. CASH AT SETTLEMENT FROM/TO BORROWER:		**600. CASH AT SETTLEMENT TO/FROM SELLER:**	
301. Gross Amount Due From Borrower (Line 120)	21,848.17	601. Gross Amount Due To Seller (Line 420)	
302. Less Amount Paid By/For Borrower (Line 220)	(171,848.17)	602. Less Reductions Due Seller (Line 520)	( )
303. CASH (FROM) (X TO) BORROWER	150,000.00	*603. CASH (TO) (FROM) SELLER*	0.00

L. SETTLEMENT CHARGES			PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
700. TOTAL COMMISSION Based on Price	$	@ %		
Division of Commission (line 700) as Follows:				
701. $ to				
702. $ to				
703. Commission Paid at Settlement				
704. to				
800. ITEMS PAYABLE IN CONNECTION WITH LOAN				
801. Loan Origination Fee % to				
802. Loan Discount % to				
803. Appraisal Fee to SouthCoast Community Bank			2,800.00	
804. Credit Report to				
805. Flood Hazard Determination Fee to SouthCoast Community Bank			13.50	
806. Mtg/Asmt of Rents Sat Fee to SouthCoast Community Bank			10.00	
807. Underwriting Fee to SouthCoast Community Bank			500.00	
808. Commitment Fee to SouthCoast Community Bank		POC: $2500.00b	9,000.00	
809. Secretary of State UCC Sat Fee to SouthCoast Community Bank			32.00	
810. County UCC Sat. Fee to SouthCoast Community Bank			8.00	
811.				
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE				
901. Interest From 11/21/14 to 12/01/14 @ $ 23.834700/day (10 days %)			238.35	
902. Mortgage Insurance Premium for months to				
903. Hazard Insurance Premium for 1.0 years to				
904.				
905.				
1000. RESERVES DEPOSITED WITH LENDER				
1001. Hazard Insurance	2.000 months @ $ 517.33 per month		1,034.66	
1002. Mortgage Insurance	months @ $ per month			
1003. Homeowners Assoc	months @ $ per month			
1004. County Taxes	2.000 months @ $ 1,735.00 per month		3,470.00	
1005. Assessments	months @ $ per month			
1006.	months @ $ per month			
1007. Flood Insurance	2.000 months @ $ 186.33 per month		372.66	
1008.	months @ $ per month			
1100. TITLE CHARGES				
1101. Settlement or Closing Fee	to			
1102. Abstract or Title Search	to Deborah Z. Ferris		305.00	
1103. Title Examination	to			
1104. Title Insurance Binder	to The Haines Law Firm, LLC		100.00	
1105. Document Preparation	to			
1106. Misc Fax/Copy/Courier Charges	to The Haines Law Firm, LLC		35.00	
1107. Attorney's Fees	to The Haines Law Firm, LLC		350.00	
(includes above item numbers:		)		
1108. Title Insurance	to First American Title Insurance Company		3,510.00	
(includes above item numbers:		)		
1109. Lender's Coverage	$ 1,800,000.00	3,510.00		
1110. Owner's Coverage	$			
1111. Insured Closing Letter Fee	to First American Title Insurance Company		20.00	
1112.				
1113.				
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES				
1201. Recording Fees: Deed $	; Mortgage $ 14.00;	Releases $	14.00	
1202. City/County Tax/Stamps: Deed	; Mortgage			
1203. State Tax/Stamps:	; Mortgage			
1204. Record UCCs	to Charleston County Register of Deeds	$8 each X 3	24.00	
1205. Record Assignment of Rents	to Charleston County Register of Deeds		11.00	
1300. ADDITIONAL SETTLEMENT CHARGES				
1301. Survey	to			
1302. Pest Inspection	to			
1303. Overnight Delivery Pkg/Payoff	Haines FE Account			
1304.				
1305.				
1400. TOTAL SETTLEMENT CHARGES (Enter on Lines 103, Section J and 502, Section K)			21,848.17	

By signing page 1 of this statement, the signatories acknowledge receipt of a completed copy of page 2 of this two page statement.

Certified to be a true copy.

Haines Law Firm, LLC
Settlement Agent

(14.140OLDTOWNE / 14.140OLDTOWNE / 38)

ACKNOWLEDGMENT OF RECEIPT OF SETTLEMENT STATEMENT

Borrower:	Old Towne Suites, LLC
Lender:	SouthCoast Community Bank
Settlement Agent:	Haines Law Firm, LLC (843)884-1593
Place of Settlement:	800 Johnnie Dodds Blvd. Mount Pleasant, South Carolina 29464
Settlement Date:	November 21, 2014
Property Location:	229 King Street Charleston, SC 29401 Charleston County, South Carolina

---

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

Old Towne Suites, LLC

_____

By: Athanasios Fokas

_____

By: Iakovos S. Ferderigos

_____

By: Phillip S. Ferderigos

_____

By: Spiros S. Ferderigos

To the best of my knowledge, the HUD-1 Settlement Statement which I have prepared is a true and accurate account of the funds which were received and have been or will be disbursed by the undersigned as part of the settlement of this transaction.

_____

Haines Law Firm, LLC
Settlement Agent

WARNING: It is a crime to knowingly make false statements to the United States on this or any similar form. Penalties upon conviction can include a fine and imprisonment. For details see: Title 18 U.S. Code Section 1001 and Section 1010.

WHEN RECORDED MAIL TO:

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

0745

CONSTRUCTION MORTGAGE

MAXIMUM LIEN. The amount of indebtedness secured by this Mortgage, including the outstanding amount of the Note and all future advances shall at no time exceed the principal amount of $2,700,000.00, plus interest, reasonable attorneys' fees, court costs and the expenses to preserve and protect the Property. Interest under the Note will be deferred, accrued or capitalized, but Lender shall not be required to defer, accrue or capitalize any interest except as provided in the Note.

THIS MORTGAGE dated _____, is made and executed between Athanasios Fokas, whose address is 229 King Street, Charleston, SC 29401; Iakovos S Ferderigos, whose address is 8 River Reach Way, Charleston, SC 29407; Spiros S Ferderigos, whose address is 229 King Street, Charleston, SC 29401 and Phillip S Ferderigos, whose address is 229 King Street, Charleston, SC 29401 (referred to below as "Grantor") and SOUTHCOAST COMMUNITY BANK, whose address is 530 Johnnie Dodds, Mt. Pleasant, SC 29464 (referred to below as "Lender").

GRANT OF MORTGAGE. For valuable consideration, Grantor mortgages, grants, and conveys to Lender all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in Charleston County, State of South Carolina:

See Exhibit A, which is attached to this Mortgage and made a part of this Mortgage as if fully set forth herein.

The Real Property or its address is commonly known as 229 King Street, Charleston, SC 29401. The Real Property tax identification number is 457-08-01-063.

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

FUTURE ADVANCES. In addition to the Note, this Mortgage secures all future advances made by Lender to Borrower whether or not the advances are made pursuant to a commitment. Specifically, without limitation, this Mortgage secures, in addition to the amounts specified in the Note, all future amounts Lender in its discretion may loan to Borrower, together with all interest thereon; however, in no event shall such future advances (excluding interest) exceed in the aggregate $2,700,000.00. This Mortgage shall remain an open mortgage of record to secure future advances in accordance with Section 29-3-50, as amended, Code of Laws of South Carolina (1976) even in the event all sums secured by this Mortgage may be fully paid at any one time; however, upon request of Grantor, Lender will cause this Mortgage to be released and cancelled of record upon full payment of all indebtedness then owing, and upon such cancellation of this Mortgage of record, this Mortgage shall become null and void. Such release shall be without charge to Grantor; however, Grantor shall pay all costs of recordation, if any, and all documentary stamps due on the Note evidencing future advances secured by this Mortgage.

THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THIS MORTGAGE. THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS ALSO GIVEN TO SECURE ANY AND ALL OF BORROWER'S OBLIGATIONS UNDER THAT CERTAIN CONSTRUCTION LOAN AGREEMENT BETWEEN BORROWER AND LENDER OF EVEN DATE HEREWITH. ANY EVENT OF DEFAULT UNDER THE CONSTRUCTION LOAN AGREEMENT, OR ANY OF THE RELATED DOCUMENTS REFERRED TO THEREIN, SHALL ALSO BE AN EVENT OF DEFAULT UNDER THIS MORTGAGE. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

GRANTOR'S WAIVERS. Grantor waives all rights or defenses arising by reason of any "one action" or "anti-deficiency" law, or any other law which may prevent Lender from bringing any action against Grantor, including a claim for deficiency to the extent Lender is otherwise entitled to a claim for deficiency, before or after Lender's commencement or completion of any foreclosure action, either judicially or by exercise of a power of sale.

GRANTOR'S REPRESENTATIONS AND WARRANTIES. Grantor warrants that: (a) this Mortgage is executed at Borrower's request and not at the request of Lender; (b) Grantor has the full power, right, and authority to enter into this Mortgage and to hypothecate the Property; (c) the provisions of this Mortgage do not conflict with, or result in a default under any agreement or other instrument binding upon Grantor and do not result in a violation of any law, regulation, court decree or order applicable to Grantor; (d) Grantor has established adequate means of obtaining from Borrower on a continuing basis information about Borrower's financial condition; and (e) Lender has made no representation to Grantor about Borrower (including without limitation the creditworthiness of Borrower).

PAYMENT AND PERFORMANCE. Except as otherwise provided in this Mortgage, Borrower shall pay to Lender all Indebtedness secured by this Mortgage as it becomes due, and Borrower and Grantor shall strictly perform all Borrower's and Grantor's obligations under this Mortgage.

CONSTRUCTION MORTGAGE. This Mortgage is a "construction mortgage" for the purposes of Sections 9-334 and 2A-309 of the Uniform Commercial Code, as those sections have been adopted by the State of South Carolina.

POSSESSION AND MAINTENANCE OF THE PROPERTY. Borrower and Grantor agree that Borrower's and Grantor's possession and use of the Property shall be governed by the following provisions:

Possession and Use. Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property.

Duty to Maintain. Grantor shall maintain the Property in tenantable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

Compliance With Environmental Laws. Grantor represents and warrants to Lender that: (1) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has

been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify, defend, and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify and defend, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

Nuisance, Waste. Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products without Lender's prior written consent.

Removal of Improvements. Grantor shall not demolish or remove any Improvements from the Real Property without Lender's prior written consent. As a condition to the removal of any Improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such Improvements with Improvements of at least equal value.

Lender's Right to Enter. Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Mortgage.

Compliance with Governmental Requirements. Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

Duty to Protect. Grantor agrees neither to abandon or leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

CONSTRUCTION LOAN. If some or all of the proceeds of the loan creating the Indebtedness are to be used to construct or complete construction of any Improvements on the Property, the Improvements shall be completed no later than the maturity date of the Note (or such earlier date as Lender may reasonably establish) and Grantor shall pay in full all costs and expenses in connection with the work. Lender will disburse loan proceeds under such terms and conditions as Lender may deem reasonably necessary to insure that the interest created by this Mortgage shall have priority over all possible liens, including those of material suppliers and workmen. Lender may require, among other things, that disbursement requests be supported by receipted bills, expense affidavits, waivers of liens, construction progress reports, and such other documentation as Lender may reasonably request.

DUE ON SALE - CONSENT BY LENDER. Lender may, at Lender's option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property. If any Grantor is a corporation, partnership or limited liability company, transfer also includes any change in ownership of more than twenty-five percent (25%) of the voting stock, partnership interests or limited liability company interests, as the case may be, of such Grantor. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by South Carolina law.

TAXES AND LIENS. The following provisions relating to the taxes and liens on the Property are part of this Mortgage:

Payment. Grantor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of any liens having priority over or equal to the interest of Lender under this Mortgage, except for those liens specifically agreed to in writing by Lender, and except for the lien of taxes and assessments not due as further specified in the Right to Contest paragraph.

Right to Contest. Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and reasonable attorneys' fees, or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

Evidence of Payment. Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

Notice of Construction. Grantor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property, if any mechanic's lien, materialmen's lien, or other lien could be asserted on account of the work, services, or materials and the cost exceeds $10,000.00. Grantor will upon request of Lender furnish to Lender advance assurances satisfactory to Lender that Grantor can and will pay the cost of such improvements.

PROPERTY DAMAGE INSURANCE. The following provisions relating to insuring the Property are a part of this Mortgage:

Maintenance of Insurance. Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Lender being named as additional insureds in such liability insurance policies. Additionally, Grantor shall maintain such other insurance, including but not limited to hazard, business interruption and boiler insurance as Lender may require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. The Real Property is or will be located in an area designated by the Administrator of the Federal Emergency Management Agency as a special flood hazard area. Grantor agrees to obtain and maintain Federal Flood Insurance, if available, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

Application of Proceeds. Grantor shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds $5,000.00. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether

or not Lender's security is impaired, Lender may, at Lender's election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Mortgage. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

TAX AND INSURANCE RESERVES. Subject to any limitations and consistent with any requirements set by applicable law, Lender may require Grantor to maintain with Lender reserves for payment of annual taxes, assessments, and insurance premiums, which reserves shall be created by an initial deposit and subsequent monthly payments, or payments at such other interval as payments under the Note may be due, of a sum estimated by Lender to be sufficient to pay the total annual taxes, assessments, and insurance premiums Lender reasonably anticipates to be paid from these reserves. The reserve funds shall be held by Lender as a general deposit from Grantor, which Lender may satisfy by payment of the taxes, assessments, and insurance premiums required to be paid by Grantor as they become due. Lender shall have the right to draw upon the reserve funds to pay such items, and Lender shall not be required to determine the validity or accuracy of any item before paying it. Nothing in the Mortgage shall be construed as requiring Lender to advance other monies for such purposes, and Lender shall not incur any liability for anything it may do or omit to do with respect to the reserve account. Subject to any limitations set by applicable law, if the reserve funds disclose a shortage or deficiency, Grantor shall pay such shortage or deficiency as required by Lender. All amounts in the reserve account are hereby pledged to further secure the Indebtedness, and Lender is hereby authorized to withdraw and apply such amounts on the Indebtedness upon the occurrence of an Event of Default. Lender shall not be required to pay any interest or earnings on the reserve funds unless required by law or agreed to by Lender in writing. Lender does not hold the reserve funds in trust for Grantor, and Lender is not Grantor's agent for payment of the taxes and assessments required to be paid by Grantor.

LENDER'S EXPENDITURES. If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Mortgage or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Mortgage or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the Indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Mortgage also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

WARRANTY; DEFENSE OF TITLE. The following provisions relating to ownership of the Property are a part of this Mortgage:

Title. Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Mortgage, and (b) Grantor has the full right, power, and authority to execute and deliver this Mortgage to Lender.

Defense of Title. Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Lender under this Mortgage, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

Compliance With Laws. Grantor warrants that the Property and Grantor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

Survival of Representations and Warranties. All representations, warranties, and agreements made by Grantor in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as Borrower's Indebtedness shall be paid in full.

CONDEMNATION. The following provisions relating to condemnation proceedings are a part of this Mortgage:

Proceedings. If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments and documentation as may be requested by Lender from time to time to permit such participation.

Application of Net Proceeds. If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the Indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Lender in connection with the condemnation.

IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES. The following provisions relating to governmental taxes, fees and charges are a part of this Mortgage:

Current Taxes, Fees and Charges. Upon request by Lender, Grantor shall execute such documents in addition to this Mortgage and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

Taxes. The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (2) a specific tax on Borrower which Borrower is authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (3) a tax on this type of Mortgage chargeable against the Lender or the holder of the Note; and (4) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Borrower.

Subsequent Taxes. If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (1) pays the tax before it becomes delinquent, or (2) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

SECURITY AGREEMENT; FINANCING STATEMENTS. The following provisions relating to this Mortgage as a security agreement are a part of this Mortgage:

Security Agreement. This instrument shall constitute a Security Agreement to the extent any of the Property constitutes fixtures, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

Security Interest. Upon request by Lender, Grantor shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall not remove, sever or detach the Personal Property from the Property. Upon default, Grantor shall assemble any Personal Property not affixed to the Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender to the extent permitted by applicable law.

Addresses. The mailing addresses of Grantor (debtor) and Lender (secured party) from which information concerning the security interest granted by this Mortgage may be obtained (each as required by the Uniform Commercial Code) are as stated on the first page of this Mortgage.

FURTHER ASSURANCES; ATTORNEY-IN-FACT. The following provisions relating to further assurances and attorney-in-fact are a part of this Mortgage:

Further Assurances. At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Borrower's and Grantor's obligations under the Note, this Mortgage, and the Related Documents, and (2) the liens and security interests created by this Mortgage as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Lender agrees to the contrary in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

Attorney-in-Fact. If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

FULL PERFORMANCE. If Borrower and Grantor pay all the Indebtedness, including without limitation all future advances, when due, and Grantor otherwise performs all the obligations imposed upon Grantor under this Mortgage, Lender shall execute and deliver to Grantor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Grantor will pay, if permitted by applicable law, any reasonable termination fee as determined by Lender from time to time.

EVENTS OF DEFAULT. Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

Payment Default. Borrower fails to make any payment when due under the Indebtedness.

Default on Other Payments. Failure of Grantor within the time required by this Mortgage to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

Environmental Default. Failure of any party to comply with or perform when due any term, obligation, covenant or condition contained in any environmental agreement executed in connection with the Property.

Other Defaults. Borrower or Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Borrower or Grantor.

Default in Favor of Third Parties. Should Borrower or any Grantor default under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of Borrower's or any Grantor's property or Borrower's ability to repay the Indebtedness or Borrower's or Grantor's ability to perform their respective obligations under this Mortgage or any of the Related Documents.

False Statements. Any warranty, representation or statement made or furnished to Lender by Borrower or Grantor or on Borrower's or Grantor's behalf under this Mortgage or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

Defective Collateralization. This Mortgage or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

Death or Insolvency. The dissolution of Grantor's (regardless of whether election to continue is made), any member withdraws from the limited liability company, or any other termination of Borrower's or Grantor's existence as a going business or the death of any member, the insolvency of Borrower or Grantor, the appointment of a receiver for any part of Borrower's or Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower or Grantor.

Creditor or Forfeiture Proceedings. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Borrower or Grantor or by any governmental agency against any property securing the Indebtedness. This includes a garnishment of any of Borrower's or Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Borrower or Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Borrower or Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

Breach of Other Agreement. Any breach by Borrower or Grantor under the terms of any other agreement between Borrower or Grantor and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Borrower or Grantor to Lender, whether existing now or later.

Events Affecting Guarantor. Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness.

Adverse Change. A material adverse change occurs in Grantor's financial condition, or Lender believes the prospect of payment or performance of the Indebtedness is impaired.

Insecurity. Lender in good faith believes itself insecure.

Right to Cure. If any default, other than a default in payment is curable and if Grantor has not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured if Grantor, after Lender sends written notice to Borrower demanding cure of such default: (1) cures the default within fifteen (15) days; or (2) if the cure requires more than fifteen (15) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

RIGHTS AND REMEDIES ON DEFAULT. Upon the occurrence of an Event of Default and at any time thereafter, Lender, at Lender's option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

Accelerate Indebtedness. Lender shall have the right at its option without notice to Borrower or Grantor to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that Borrower would be required to pay.

UCC Remedies. With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

Collect Rents. Lender shall have the right, without notice to Borrower or Grantor, to take possession of the Property and, as mortgagee-in-possession, collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

Appoint Receiver. Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

Judicial Foreclosure. Lender may obtain a judicial decree foreclosing Grantor's interest in all or any part of the Property.

Nonjudicial Sale. If permitted by applicable law, Lender may foreclose Grantor's interest in all or in any part of the Personal Property or the Real Property by non-judicial sale.

Deficiency Judgment. If permitted by applicable law, Lender may obtain a judgment for any deficiency remaining in the Indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this section.

Tenancy at Sufferance. If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Borrower or Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (1) pay a reasonable rental for the use of the Property, or (2) vacate the Property immediately upon the demand of Lender.

Other Remedies. Lender shall have all other rights and remedies provided in this Mortgage or the Note or available at law or in equity.

Sale of the Property. To the extent permitted by applicable law, Borrower and Grantor hereby waive any and all right to have the Property marshalled. In exercising its rights and remedies, Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property.

Notice of Sale. Lender shall give Grantor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition. Any sale of the Personal Property may be made in conjunction with any sale of the Real Property.

Election of Remedies. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Mortgage, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies. Nothing under this Mortgage or otherwise shall be construed so as to limit or restrict the rights and remedies available to Lender following an Event of Default, or in any way to limit or restrict the rights and ability of Lender to proceed directly against Grantor and/or Borrower and/or against any other co-maker, guarantor, surety or endorser and/or to proceed against any other collateral directly or indirectly securing the Indebtedness.

Attorneys' Fees; Expenses. If Lender institutes any suit or action to enforce any of the terms of this Mortgage, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's reasonable attorneys' fees in an amount not less than fifteen percent (15%) of the amount owing on the Indebtedness and Lender's legal expenses whether or not there is a lawsuit, including reasonable attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees and title insurance, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

NOTICES. Any notice required to be given under this Mortgage, including without limitation any notice of default and any notice of sale shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Mortgage. All copies of notices of foreclosure from the holder of any lien which has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Mortgage:

Amendments. This Mortgage, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Mortgage. No alteration of or amendment to this Mortgage shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Annual Reports. If the Property is used for purposes other than Grantor's residence, Grantor shall furnish to Lender, upon request, a certified statement of net operating income received from the Property during Grantor's previous fiscal year in such form and detail as Lender shall require. "Net operating income" shall mean all cash receipts from the Property less all cash expenditures made in connection with the operation of the Property.

Caption Headings. Caption headings in this Mortgage are for convenience purposes only and are not to be used to interpret or define the provisions of this Mortgage.

Governing Law. This Mortgage will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of South Carolina without regard to its conflicts of law provisions. This Mortgage has been accepted by Lender in the State of South Carolina.

Joint and Several Liability. All obligations of Borrower and Grantor under this Mortgage shall be joint and several, and all references to Grantor shall mean each and every Grantor, and all references to Borrower shall mean each and every Borrower. This means that each Grantor signing below is responsible for all obligations in this Mortgage.

No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Mortgage unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Mortgage shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Mortgage. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

Severability. If a court of competent jurisdiction finds any provision of this Mortgage to be illegal, invalid, or unenforceable as to any person or circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other person or circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Mortgage. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Mortgage shall not affect the legality, validity or enforceability of any other provision of this Mortgage.

Merger. There shall be no merger of the interest or estate created by this Mortgage with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

Successors and Assigns. Subject to any limitations stated in this Mortgage on transfer of Grantor's interest, this Mortgage shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Mortgage and the Indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Mortgage or liability under the Indebtedness.

Time is of the Essence. Time is of the essence in the performance of this Mortgage.

Waive Jury. All parties to this Mortgage hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

Waiver of Homestead Exemption. Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of South Carolina as to all Indebtedness secured by this Mortgage.

DEFINITIONS. The following capitalized words and terms shall have the following meanings when used in this Mortgage. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code:

Borrower. The word "Borrower" means Old Towne Suites, LLC and includes all co-signers and co-makers signing the Note and all their successors and assigns.

Default. The word "Default" means the Default set forth in this Mortgage in the section titled "Default".

Environmental Laws. The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

Event of Default. The words "Event of Default" mean any of the events of default set forth in this Mortgage in the events of default section of this Mortgage.

Grantor. The word "Grantor" means Athanasios Fokas, Iakovos S Ferderigos, Spiros S Ferderigos and Phillip S Ferderigos.

Guarantor. The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the Indebtedness.

Guaranty. The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

Hazardous Substances. The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

Improvements. The word "Improvements" means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

Indebtedness. The word "Indebtedness" means all principal, earned interest, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Lender to enforce Grantor's obligations under this Mortgage, together with interest on such amounts as provided in this Mortgage. Specifically, without limitation, Indebtedness includes the future advances set forth in the Future Advances provision of this Mortgage, together with all interest thereon.

Lender. The word "Lender" means SOUTHCOAST COMMUNITY BANK, its successors and assigns.

Mortgage. The word "Mortgage" means this Mortgage between Grantor and Lender.

Note. The word "Note" means the promissory note dated November 21, 2014, in the original principal amount of **$1,800,000.00** from Borrower to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. The maturity date of this Mortgage is December 1, 2020.

Personal Property. The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or affixed to the Real Property; together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

Property. The word "Property" means collectively the Real Property and the Personal Property.

Real Property. The words "Real Property" mean the real property, interests and rights, as further described in this Mortgage.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

Rents. The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

EACH GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND EACH GRANTOR AGREES TO ITS TERMS.

GRANTOR:

X_____
Athanasios Fokas

X_____
Iakovos S Ferderigos

X_____
Spiros S Ferderigos

X_____
Phillip S Ferderigos

Signed, acknowledged and delivered in the presence of:

X_____
Witness

X_____
Witness

INDIVIDUAL ACKNOWLEDGMENT

STATE OF _____)
) SS
COUNTY OF _____)

PERSONALLY appeared before me and made oath that he or she saw the within-named Grantor(s) sign, seal, and, as his or her act and deed, deliver the within-written Mortgage for the uses and purposes therein mentioned, and that he or she with the other witness subscribed above witnessed the execution thereof.

_____
(Witness)

SWORN to before me this _____

day of _____, A.D. 20_____

_____ (Seal)
Notary Public

My Commission expires: _____

LaserPro, Ver. 14.4.0.024 Copr. D+H USA Corporation 1997, 2014. All Rights Reserved. - SC C:\PROSUITE\CFI\LPL\G03.FC TR-7519 PR-13

0035

AGREEMENT TO PROVIDE INSURANCE

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
$1,800,000.00	11-21-2014	12-01-2020	03400007519		34000		

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item.
Any item above containing "****" has been omitted due to text length limitations.

Borrower: Old Towne Suites, LLC
229 King Street
Charleston, SC 29401

Lender: SOUTHCOAST COMMUNITY BANK
Commercial Lending
530 Johnnie Dodds
Mt. Pleasant, SC 29464
(843) 884-0504

Grantor: Athanasios Fokas, Iakovos S Ferderigos, Spiros S Ferderigos and Phillip S Ferderigos
229 King Street
Charleston, SC 29401

INSURANCE REQUIREMENTS. Grantor, Athanasios Fokas, Iakovos S Ferderigos, Spiros S Ferderigos and Phillip S Ferderigos ("Grantor"), understands that insurance coverage is required in connection with the extending of a loan or the providing of other financial accommodations to Old Towne Suites, LLC ("Borrower") by Lender. These requirements are set forth in the security documents for the loan. The following minimum insurance coverages must be provided on the following described collateral (the "Collateral"):

Collateral: 229 King Street, Charleston, SC 29401.
Type: Fire and extended coverage.
Amount: Loan Amount.
Basis: Replacement value.
Endorsements: Standard mortgagee's clause with stipulation that coverage will not be cancelled or diminished without a minimum of 30 days prior written notice to Lender, and without disclaimer of the insurer's liability for failure to give such notice.
Deductibles: $1,000.00.
Latest Delivery Date: By the loan closing date.

INSURANCE COMPANY. Grantor may obtain insurance from any insurance company Grantor may choose that is reasonably acceptable to Lender. Grantor understands that credit may not be denied solely because insurance was not purchased through Lender.

FLOOD INSURANCE. Flood insurance for the Collateral securing this loan is described as follows:

Real Estate at 229 King Street, Charleston, SC 29401.
The Collateral securing this loan is or will be located in an area designated by the Administrator of the Federal Emergency Management Agency as a special flood hazard area. Grantor agrees to obtain and maintain Federal Flood Insurance, if available, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan. Flood insurance may be purchased under the National Flood Insurance Program or from private insurers.

INSURANCE MAILING ADDRESS. All documents and other materials relating to insurance for this loan should be mailed, delivered or directed to the following address:

Southcoast Community Bank
P.O. Box 1561
Mt. Pleasant, SC 29465

FAILURE TO PROVIDE INSURANCE. Grantor agrees to deliver to Lender, on the latest delivery date stated above, evidence of the required insurance as provided above, with an effective date of November 21, 2014, or earlier. Grantor acknowledges and agrees that if Grantor fails to provide any required insurance or fails to continue such insurance in force, Lender may do so at Grantor's expense as provided in the applicable security document. The cost of any such insurance, at the option of Lender, shall be added to the indebtedness as provided in the security document. GRANTOR ACKNOWLEDGES THAT IF LENDER SO PURCHASES ANY SUCH INSURANCE, THE INSURANCE WILL PROVIDE LIMITED PROTECTION AGAINST PHYSICAL DAMAGE TO THE COLLATERAL, UP TO AN AMOUNT EQUAL TO THE LESSER OF (1) THE UNPAID BALANCE OF THE DEBT, EXCLUDING ANY UNEARNED FINANCE CHARGES, OR (2) THE VALUE OF THE COLLATERAL; HOWEVER, GRANTOR'S EQUITY IN THE COLLATERAL MAY NOT BE INSURED. IN ADDITION, THE INSURANCE MAY NOT PROVIDE ANY PUBLIC LIABILITY OR PROPERTY DAMAGE INDEMNIFICATION AND MAY NOT MEET THE REQUIREMENTS OF ANY FINANCIAL RESPONSIBILITY LAWS.

AUTHORIZATION. For purposes of insurance coverage on the Collateral, Grantor authorizes Lender to provide to any person (including any insurance agent or company) all information Lender deems appropriate, whether regarding the Collateral, the loan or other financial accommodations, or both.

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS AGREEMENT TO PROVIDE INSURANCE AND AGREES TO ITS TERMS. THIS AGREEMENT IS DATED NOVEMBER 21, 2014.

GRANTOR:

X _____ X _____
Athanasios Fokas Iakovos S Ferderigos

X _____ X _____
Spiros S Ferderigos Phillip S Ferderigos

FOR LENDER USE ONLY
INSURANCE VERIFICATION

DATE: _____ PHONE _____

AGENT'S NAME: _____
AGENCY: _____
ADDRESS: _____
INSURANCE COMPANY: _____
POLICY NUMBER: _____
EFFECTIVE DATES: _____
COMMENTS: _____

LaserPro, Ver. 14.4.0.024 Copr. D+H USA Corporation 1997, 2014. All Rights Reserved. - BO C:\PROSLIT\CFI\LPL\I10.FC TR-7518 PR-13

0825

NOTICE OF INSURANCE REQUIREMENTS

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
	11-21-2014		03400007519		34000	****	

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item.
Any item above containing "****" has been omitted due to text length limitations.

Borrower: Old Towne Suites, LLC
229 King Street
Charleston, SC 29401

Lender: SOUTHCOAST COMMUNITY BANK
Commercial Lending
530 Johnnie Dodds
Mt. Pleasant, SC 29464
(843) 884-0504

Grantor: Athanasios Fokas, Iakovos S Ferderigos, Spiros S Ferderigos and Phillip S Ferderigos
229 King Street
Charleston, SC 29401

TO: ATTN: Insurance Agent

DATE: November 21, 2014

RE: Policy Number(s):
Insurance Companies/Company:

Dear Insurance Agent:

Old Towne Suites, LLC ("Borrower"), is obtaining a loan from SOUTHCOAST COMMUNITY BANK. Please send appropriate evidence of insurance to SOUTHCOAST COMMUNITY BANK, together with the requested endorsements, on the following property, which Grantor, Athanasios Fokas, Iakovos S Ferderigos, Spiros S Ferderigos and Phillip S Ferderigos ("Grantor") is giving as security for the loan.

Collateral: 229 King Street, Charleston, SC 29401.
Type: Fire and extended coverage.
Amount: Loan Amount.
Basis: Replacement value.
Endorsements: Standard mortgagee's clause with stipulation that coverage will not be cancelled or diminished without a minimum of 30 days prior written notice to Lender, and without disclaimer of the insurer's liability for failure to give such notice.
Deductibles: $1,000.00.
Latest Delivery Date: By the loan closing date.

FLOOD INSURANCE. Collateral securing this loan is or will be located in an area designated by the Administrator of the Federal Emergency Management Agency as a special flood hazard area. Grantor must obtain and maintain Federal Flood Insurance, if available, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

GRANTOR:

X _____
Athanasios Fokas

X _____
Iakovos S Ferderigos

X _____
Spiros S Ferderigos

X _____
Phillip S Ferderigos

RETURN TO:

Southcoast Community Bank
P.O. Box 1561
Mt. Pleasant, SC 29465

LaserPro, Ver. 14.4.0.024 Copr. D+H USA Corporation 1997, 2014. All Rights Reserved. - SC
CWPROSLR1E\CFI\LPL\N1.FC TR-7519 PR-13

[redacted]

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)
Cindy Gleaton (843) 216-3016

B. E-MAIL CONTACT AT FILER (optional)

C. SEND ACKNOWLEDGMENT TO: (Name and Address)

SOUTHCOAST COMMUNITY BANK
530 Johnnie Dodds
Mt. Pleasant, SC 29464

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); If any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here ☐ and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

1a. ORGANIZATION'S NAME					
OR 1b. INDIVIDUAL'S SURNAME: Fokas	FIRST PERSONAL NAME: Athanasios	ADDITIONAL NAME(S)/INITIAL(S)			SUFFIX
1c. MAILING ADDRESS: 229 King Street	CITY: Charleston	STATE: SC	POSTAL CODE: 29401		COUNTRY: USA

2. DEBTOR'S NAME: Provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); If any part of the Individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here ☐ and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

2a. ORGANIZATION'S NAME					
OR 2b. INDIVIDUAL'S SURNAME: Ferderigos	FIRST PERSONAL NAME: Iakovos	ADDITIONAL NAME(S)/INITIAL(S): S			SUFFIX
2c. MAILING ADDRESS: 229 King Street	CITY: Charleston	STATE: SC	POSTAL CODE: 29401		COUNTRY: USA

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY): Provide only one Secured Party name (3a or 3b)

3a. ORGANIZATION'S NAME: SOUTHCOAST COMMUNITY BANK					
OR 3b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)			SUFFIX
3c. MAILING ADDRESS: 530 Johnnie Dodds	CITY: Mt. Pleasant	STATE: SC	POSTAL CODE: 29464		COUNTRY: USA

4. COLLATERAL: This financing statement covers the following collateral:

Debtor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in Charleston County, State of South Carolina: See Exhibit A, which is attached to this UCC Financing Statement and made a part of this UCC Financing Statement as if fully set forth herein.

5. Check only if applicable and check only one box: Collateral is ☐ held in a Trust (see UCC1Ad, item 17 and Instructions) ☐ being administered by a Decedent's Personal Representative

6a. Check only if applicable and check only one box:
☐ Public-Finance Transaction ☐ Manufactured-Home Transaction ☐ A Debtor is a Transmitting Utility

6b. Check only if applicable and check only one box:
☐ Agricultural Lien ☐ Non-UCC Filing

7. ALTERNATIVE DESIGNATION (if applicable): ☐ Lessee/Lessor ☐ Consignee/Consignor ☐ Seller/Buyer ☐ Bailee/Bailor ☐ Licensee/Licensor

8. OPTIONAL FILER REFERENCE DATA:

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS

9. NAME OF FIRST DEBTOR: Same as line 1a or 1b on Financing Statement if line 1b was left blank because Individual Debtor name did not fit, check here ☐

9a. ORGANIZATION'S NAME

OR

9b. INDIVIDUAL'S SURNAME: Fokas

FIRST PERSONAL NAME: Athanasios

ADDITIONAL NAME(S)/INITIAL(S) | SUFFIX

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

10. DEBTOR'S NAME: Provide (10a or 10b) only one additional Debtor name or Debtor name that did not fit in line 1b or 2b of the Financing Statement (Form UCC1) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name) and enter the mailing address in line 10c

10a. ORGANIZATION'S NAME

OR

10b. INDIVIDUAL'S SURNAME: Ferderigos

INDIVIDUAL'S FIRST PERSONAL NAME: Spiros

INDIVIDUAL'S ADDITIONAL NAME(S)/INITIAL(S): S | SUFFIX

10c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
229 King Street	Charleston	SC	29401	USA

11. ☐ ADDITIONAL SECURED PARTY'S NAME or ☐ ASSIGNOR SECURED PARTY'S NAME: Provide only one name (11a or 11b)

11a. ORGANIZATION'S NAME

OR

11b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

11c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

12. ADDITIONAL SPACE FOR ITEM 4 (Collateral):

13. ☒ This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS (if applicable)

14. This FINANCING STATEMENT: ☐ covers timber to be cut ☐ covers as-extracted collateral ☐ is filed as a fixture filing

15. Name and address of a RECORD OWNER of real estate described in item 16 (if Debtor does not have a record interest):

16. Description of real estate: Exhibit A.

17. MISCELLANEOUS:

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS

9. NAME OF FIRST DEBTOR: Same as line 1a or 1b on Financing Statement; if line 1b was left blank because individual Debtor name did not fit, check here ☐

9a. ORGANIZATION'S NAME

OR

9b. INDIVIDUAL'S SURNAME: Fokas

FIRST PERSONAL NAME: Athanasios

ADDITIONAL NAME(S)/INITIAL(S) | SUFFIX

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

10. DEBTOR'S NAME: Provide (10a or 10b) only one additional Debtor name or Debtor name that did not fit in line 1b or 2b of the Financing Statement (Form UCC1) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name) and enter the mailing address in line 10c

10a. ORGANIZATION'S NAME

OR

10b. INDIVIDUAL'S SURNAME: Ferderigos

INDIVIDUAL'S FIRST PERSONAL NAME: Phillip

INDIVIDUAL'S ADDITIONAL NAME(S)/INITIAL(S): S | SUFFIX

10c. MAILING ADDRESS: 229 King Street | CITY: Charleston | STATE: SC | POSTAL CODE: 29401 | COUNTRY: USA

11. ☐ ADDITIONAL SECURED PARTY'S NAME or ☐ ASSIGNOR SECURED PARTY'S NAME: Provide only one name (11a or 11b)

11a. ORGANIZATION'S NAME

OR

11b. INDIVIDUAL'S SURNAME | FIRST PERSONAL NAME | ADDITIONAL NAME(S)/INITIAL(S) | SUFFIX

11c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

12. ADDITIONAL SPACE FOR ITEM 4 (Collateral):

13. ☒ This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS (if applicable)

14. This FINANCING STATEMENT:
☐ covers timber to be cut ☐ covers as-extracted collateral ☐ is filed as a fixture filing

15. Name and address of a RECORD OWNER of real estate described in item 16 (if Debtor does not have a record interest):

16. Description of real estate:

17. MISCELLANEOUS:

0245

CONSTRUCTION LOAN AGREEMENT

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
$1,800,000.00	11-21-2014	12-01-2020	03400007519		34000	***	

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item.
Any item above containing "***" has been omitted due to text length limitations.

Borrower: Old Towne Suites, LLC
229 King Street
Charleston, SC 29401

Lender: SOUTHCOAST COMMUNITY BANK
Commercial Lending
530 Johnnie Dodds
Mt. Pleasant, SC 29464
(843) 884-0504

THIS CONSTRUCTION LOAN AGREEMENT dated November 21, 2014, is made and executed between Old Towne Suites, LLC ("Borrower") and SOUTHCOAST COMMUNITY BANK ("Lender") on the following terms and conditions. Borrower has applied to Lender for one or more loans for purposes of constructing the Improvements on the Real Property described below. Lender is willing to lend the loan amount to Borrower solely under the terms and conditions specified in this Agreement and in the Related Documents, to each of which Borrower agrees. Borrower understands and agrees that: (A) in granting, renewing, or extending any Loan, Lender is relying upon Borrower's representations, warranties, and agreements as set forth in this Agreement; and (B) all such Loans shall be and remain subject to the terms and conditions of this Agreement.

TERM. This Agreement shall be effective as of November 21, 2014, and shall continue in full force and effect until such time as all of Borrower's Loans in favor of Lender have been paid in full, including principal, interest, costs, expenses, attorneys' fees, and other fees and charges, or until December 1, 2020.

LOAN. The Loan shall be in an amount not to exceed the principal sum of U.S. $1,800,000.00 and shall bear interest on so much of the principal sum as shall be advanced pursuant to the terms of this Agreement and the Related Documents. The Loan shall bear interest on each Advance from the date of the Advance in accordance with the terms of the Note. Borrower shall use the Loan Funds solely for the following specific purposes: for construction purposes only as described in plans and specifications submitted. The Loan amount shall be subject at all times to all maximum limits and conditions set forth in this Agreement or in any of the Related Documents, including without limitation, any limits relating to loan to value ratios and acquisition and Project costs.

PROJECT DESCRIPTION. The word "Project" as used in this Agreement means the construction and completion of all Improvements contemplated by this Agreement, including without limitation the erection of the building or structure on the Real Property identified to this Agreement by Borrower and Lender, installation of equipment and fixtures, landscaping, and all other work necessary to make the Project usable and complete for the intended purposes.

The word "Property" as used in this Agreement means the Real Property together with all Improvements, all equipment, fixtures, and other articles of personal property now or subsequently attached or affixed to the Real Property, together with all accessions, parts, and additions to; all replacements of, and all substitutions for any of such property, and all proceeds (including insurance proceeds and refunds of premiums) from any sale or other disposition of such property. The real estate described below constitutes the Real Property as used in this Agreement.

The real estate or its address is commonly known as:
Real Property located at 229 King Street, Charleston, SC 29401.

FEES AND EXPENSES. Whether or not the Project shall be consummated, Borrower shall assume and pay upon demand all out-of-pocket expenses incurred by Lender in connection with the preparation of loan documents and the making of the Loan, including without limitation the following: (A) all closing costs, loan fees, and disbursements; (B) all expenses of Lender's legal counsel; and (C) all title examination fees, title insurance premiums, appraisal fees, survey costs, required fees, and filing and recording fees.

NO CONSTRUCTION PRIOR TO RECORDING OF SECURITY DOCUMENT. Borrower will not permit any work or materials to be furnished in connection with the Project until (A) Borrower has signed the Related Documents; (B) Lender's mortgage or deed of trust and other Security Interests in the Property have been duly recorded and perfected; (C) Lender has been provided evidence, satisfactory to Lender, that Borrower has obtained all insurance required under this Agreement or any Related Documents and that Lender's liens on the Property and Improvements are valid perfected first liens, subject only to such exceptions, if any, acceptable to Lender.

REPRESENTATIONS AND WARRANTIES. Borrower represents and warrants to Lender, as of the date of this Agreement, as of the date of each disbursement of loan proceeds, as of the date of any renewal, extension or modification of any Loan, and at all times any Indebtedness exists:

Organization. Borrower is a limited liability company which is, and at all times shall be, duly organized, validly existing, and in good standing under and by virtue of the laws of the State of South Carolina. Borrower is duly authorized to transact business in all other states in which Borrower is doing business, having obtained all necessary filings, governmental licenses and approvals for each state in which Borrower is doing business. Specifically, Borrower is, and at all times shall be, duly qualified as a foreign limited liability company in all states in which the failure to so qualify would have a material adverse effect on its business or financial condition. Borrower has the full power and authority to own its properties and to transact the business in which it is presently engaged or presently proposes to engage. Borrower maintains an office at 229 King Street, Charleston, SC 29401. Unless Borrower has designated otherwise in writing, the principal office is the office at which Borrower keeps its books and records including its records concerning the Collateral. Borrower will notify Lender prior to any change in the location of Borrower's state of organization or any change in Borrower's name. Borrower shall do all things necessary to preserve and to keep in full force and effect its existence, rights and privileges, and shall comply with all regulations, rules, ordinances, statutes, orders and decrees of any governmental or quasi-governmental authority or court applicable to Borrower and Borrower's business activities.

Assumed Business Names. Borrower has filed or recorded all documents or filings required by law relating to all assumed business names used by Borrower. Excluding the name of Borrower, the following is a complete list of all assumed business names under which Borrower does business: None.

Authorization. Borrower's execution, delivery, and performance of this Agreement and all the Related Documents have been duly authorized by all necessary action by Borrower and do not conflict with, result in a violation of, or constitute a default under (1) any provision of (a) Borrower's articles of organization or membership agreements, or (b) any agreement or other instrument binding upon Borrower or (2) any law, governmental regulation, court decree, or order applicable to Borrower or to Borrower's properties.

Financial Information. Each of Borrower's financial statements supplied to Lender truly and completely disclosed Borrower's financial condition as of the date of the statement, and there has been no material adverse change in Borrower's financial condition subsequent to the date of the most recent financial statement supplied to Lender. Borrower has no material contingent obligations except as disclosed in such financial statements.

Legal Effect. This Agreement constitutes, and any instrument or agreement Borrower is required to give under this Agreement when delivered will constitute legal, valid, and binding obligations of Borrower enforceable against Borrower in accordance with their respective terms.

Properties. Except as contemplated by this Agreement or as previously disclosed in Borrower's financial statements or in writing to Lender and as accepted by Lender, and except for property tax liens for taxes not presently due and payable, Borrower owns and has good title to all of Borrower's properties free and clear of all Security Interests, and has not executed any security documents or financing statements relating to such properties. All of Borrower's properties are titled in Borrower's legal name, and Borrower has not used or filed a financing statement under any other name for at least the last five (5) years.

Hazardous Substances. Except as disclosed to and acknowledged by Lender in writing, Borrower represents and warrants that: (1) During the period of Borrower's ownership of the Collateral, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from any of the Collateral. (2) Borrower has no knowledge of, or reason to believe that there has been (a) any breach or violation of any Environmental Laws; (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Collateral by any prior owners or occupants of any of the Collateral; or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters. (3) Neither Borrower nor any tenant, contractor, agent or other authorized user of any of the Collateral shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from any of the Collateral; and any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations, and

ordinances, including without limitation all Environmental Laws. Borrower authorizes Lender and its agents to enter upon the Collateral to make such inspections and tests as Lender may deem appropriate to determine compliance of the Collateral with this section of the Agreement. Any inspections or tests made by Lender shall be at Borrower's expense and for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Borrower or to any other person. The representations and warranties contained herein are based on Borrower's due diligence in investigating the Collateral for hazardous waste and Hazardous Substances. Borrower hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Borrower becomes liable for cleanup or other costs under any such laws, and (2) agrees to indemnify, defend, and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Agreement or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release of a hazardous waste or substance on the Collateral. The provisions of this section of the Agreement, including the obligation to indemnify and defend, shall survive the payment of the Indebtedness and the termination, expiration or satisfaction of this Agreement and shall not be affected by Lender's acquisition of any interest in any of the Collateral, whether by foreclosure or otherwise.

Litigation and Claims. No litigation, claim, investigation, administrative proceeding or similar action (including those for unpaid taxes) against Borrower is pending or threatened, and no other event has occurred which may materially adversely affect Borrower's financial condition or properties, other than litigation, claims, or other events, if any, that have been disclosed to and acknowledged by Lender in writing.

Taxes. To the best of Borrower's knowledge, all of Borrower's tax returns and reports that are or were required to be filed, have been filed, and all taxes, assessments and other governmental charges have been paid in full, except those presently being or to be contested by Borrower in good faith in the ordinary course of business and for which adequate reserves have been provided.

Lien Priority. Unless otherwise previously disclosed to Lender in writing, Borrower has not entered into or granted any Security Agreements, or permitted the filing or attachment of any Security Interests on or affecting any of the Collateral directly or indirectly securing repayment of Borrower's Loan and Note, that would be prior or that may in any way be superior to Lender's Security Interests and rights in and to such Collateral.

Binding Effect. This Agreement, the Note, all Security Agreements (if any), and all Related Documents are binding upon the signers thereof, as well as upon their successors, representatives and assigns, and are legally enforceable in accordance with their respective terms.

Title to Property. Borrower has, or on the date of first disbursement of Loan proceeds will have, good and marketable title to the Collateral free and clear of all defects, liens, and encumbrances, excepting only liens for taxes, assessments, or governmental charges or levies not yet delinquent or payable without penalty or interest, and such liens and encumbrances as may be approved in writing by the Lender. The Collateral is contiguous to publicly dedicated streets, roads, or highways providing access to the Collateral.

Project Costs. The Project costs are true and accurate estimates of the costs necessary to complete the Improvements in a good and workmanlike manner according to the Plans and Specifications presented by Borrower to Lender, and Borrower shall take all steps necessary to prevent the actual cost of the Improvements from exceeding the Project costs.

Utility Services. All utility services appropriate to the use of the Project after completion of construction are available at the boundaries of the Collateral.

Assessment of Property. The Collateral is and will continue to be assessed and taxed as an independent parcel by all governmental authorities.

Compliance with Governing Authorities. Borrower has examined and is familiar with all the easements, covenants, conditions, restrictions, reservations, building laws, regulations, zoning ordinances, and federal, state, and local requirements affecting the Project. The Project will at all times and in all respects conform to and comply with the requirements of such easements, covenants, conditions, restrictions, reservations, building laws, regulations, zoning ordinances, and federal, state, and local requirements.

Survival of Representations and Warranties. Borrower understands and agrees that in making the Loan, Lender is relying on all representations, warranties, and covenants made by Borrower in this Agreement or in any certificate or other instrument delivered by Borrower to Lender under this Agreement or the Related Documents. Borrower further agrees that regardless of any investigation made by Lender, all such representations, warranties and covenants will survive the making of the Loan and delivery to Lender of the Related Documents, shall be continuing in nature, and shall remain in full force and effect until such time as Borrower's Indebtedness shall be paid in full, or until this Agreement shall be terminated in the manner provided above, whichever is the last to occur.

CONDITIONS PRECEDENT TO EACH ADVANCE. Lender's obligation to make the initial Advance and each subsequent Advance under this Agreement shall be subject to the fulfillment to Lender's satisfaction of all of the conditions set forth in this Agreement and in the Related Documents.

Approval of Contractors, Subcontractors, and Materialmen. Lender shall have approved a list of all contractors employed in connection with the construction of the Improvements, showing the name, address, and telephone number of each contractor, a general description of the nature of the work to be done, the labor and materials to be supplied, the names of materialmen, if known, and the approximate dollar value of the labor, work, or materials with respect to each contractor or materialman. Lender shall have the right to communicate with any person to verify the facts disclosed by the list or by any application for any Advance, or for any other purpose.

Plans, Specifications, and Permits. Lender shall have received and accepted a complete set of written Plans and Specifications setting forth all Improvements for the Project, and Borrower shall have furnished to Lender copies of all permits and requisite approvals of any governmental body necessary for the construction and use of the Project.

Architect's and Construction Contracts. Borrower shall have furnished in form and substance satisfactory to Lender an executed copy of the Architect's Contract and an executed copy of the Construction Contract.

Related and Support Documents. Borrower shall provide to Lender in form satisfactory to Lender the following support documents for the Loan: Architect's Certificate and Completion Guaranty.

Budget and Schedule of Estimated Advances. Lender shall have approved detailed budget and cash flow projections of total Project costs and a schedule of the estimated amount and time of disbursements of each Advance.

Borrower's Authorization. Borrower shall have provided in form and substance satisfactory to Lender properly certified resolutions, duly authorizing the consummation of the Project and duly authorizing the execution and delivery of this Agreement, the Note and the Related Documents. In addition, Borrower shall have provided such other resolutions, authorizations, documents and instruments as Lender or its counsel, in their sole discretion, may require.

Bond. If requested by Lender, Borrower shall have furnished a performance and payment bond in an amount equal to 100% of the amount of the Construction Contract, as well as a materialmen's and mechanics' payment bond, with such riders and supplements as Lender may require, each in form and substance satisfactory to Lender, naming the General Contractor as principal and Lender as an additional obligee.

Appraisal. If required by Lender, an appraisal shall be prepared for the Property, at Borrower's expense, which in form and substance shall be satisfactory to Lender, in Lender's sole discretion, including applicable regulatory requirements.

Plans and Specifications. If requested by Lender, Borrower shall have assigned to Lender on Lender's forms the Plans and Specifications for the Project.

Environmental Report. If requested by Lender, Borrower shall have furnished to Lender, at Borrower's expense, an environmental report and certificate on the Property in form and substance satisfactory to Lender, prepared by an engineer or other expert satisfactory to Lender stating that the Property complies with all applicable provisions and requirements of the "Hazardous Substances" paragraph set forth in this Agreement.

Soil Report. If requested by Lender, Borrower shall have furnished to Lender, at Borrower's expenses, a soil report for the Property in form and substance satisfactory to Lender, prepared by a registered engineer satisfactory to Lender stating that the Property is free from soil or other geological conditions that would preclude its use or development as contemplated without extra expense for precautionary, corrective or remedial measures.

Survey. If requested by Lender, Borrower shall have furnished to Lender a survey of recent date, prepared and certified by a qualified surveyor and providing that the Improvements, if constructed in accordance with the Plans and Specifications, shall lie wholly within the boundaries of the Collateral without encroachment or violation of any zoning ordinances, building codes or regulations, or setback requirements, together with such other information as Lender in its sole discretion may require.

Zoning. Borrower shall have furnished evidence satisfactory to Lender that the Collateral is duly and validly zoned for the construction, maintenance, and operation of the Project.

Title Insurance. Borrower shall have provided to Lender an ALTA Lender's extended coverage policy of title insurance with such endorsements as Lender may require, issued by a title insurance company acceptable to Lender and in a form, amount, and content satisfactory to Lender, insuring or agreeing to insure that Lender's security agreement or other security document on the Property is or will be upon recordation a valid first lien on the Property free and clear of all defects, liens, encumbrances, and exceptions except those as specifically accepted by Lender in writing. If requested by Lender, Borrower shall provide to Lender, at Borrower's expense, a foundation endorsement to the title policy upon the completion of each foundation for the Improvements, showing no encroachments, and upon completion an endorsement which insures the lien-free completion of the Improvements.

Insurance. Unless waived by Lender in writing, Borrower shall have delivered to Lender the following insurance policies or evidence thereof: (a) an all risks course of construction insurance policy (builder's risk), with extended coverage covering the Improvements issued in an amount and by a company acceptable to Lender, containing a loss payable or other endorsement satisfactory to Lender insuring Lender as mortgagee, together with such other endorsements as may be required by Lender, including stipulations that coverages will not be cancelled or diminished without at least thirty (30) days prior written notice to Lender; (b) owners and General Contractor general liability insurance, public liability and workmen's compensation insurance; (c) flood insurance if required by Lender or applicable law; and (d) all other insurance required by this Agreement or by the Related Documents.

Workers' Compensation Coverage. Provide to Lender proof of the General Contractor's compliance with all applicable workers' compensation laws and regulations with regard to all work performed on the Project.

Payment of Fees and Expenses. Borrower shall have paid to Lender all fees, charges, and other expenses which are then due and payable as specified in this Agreement or any Related Document.

Satisfactory Construction. All work usually done at the stage of construction for which disbursement is requested shall have been done in a good and workmanlike manner and all materials and fixtures usually furnished and installed at that stage of construction shall have been furnished and installed, all in compliance with the Plans and Specifications. Borrower shall also have furnished to Lender such proofs as Lender may require to establish the progress of the work, compliance with applicable laws, freedom of the Property from liens, and the basis for the requested disbursement.

Certification. Borrower shall have furnished to Lender a certification by an engineer, architect, or other qualified inspector acceptable to Lender that the construction of the Improvements has complied and will continue to comply with all applicable statutes, ordinances, codes, regulations, and similar requirements.

Lien Waivers. Borrower shall have obtained and attached to each application for an Advance, including the Advance to cover final payment to the General Contractor, executed acknowledgments of payments of all sums due and releases of mechanic's and materialmen's liens; satisfactory to Lender, from any party having lien rights, which acknowledgments of payment and releases of liens shall cover all work, labor, equipment, materials done, supplied, performed, or furnished prior to such application for an Advance.

No Event of Default. There shall not exist at the time of any Advance a condition which would constitute an Event of Default under this Agreement or under any Related Document.

DISBURSEMENT OF LOAN FUNDS. The following provisions relate to the disbursement of funds from the Loan Fund.

Application for Advances. Each application shall be stated on a standard AIA payment request form or other form approved by Lender, executed by Borrower, and supported by such evidence as Lender shall reasonably require. Borrower shall apply only for disbursement with respect to work actually done by the General Contractor and for materials and equipment actually incorporated into the Project. Each application for an Advance shall be deemed a certification of Borrower that as of the date of such application, all representations and warranties contained in the Agreement are true and correct, and that Borrower is in compliance with all of the provisions of this Agreement.

Payments. At the sole option of Lender, Advances may be paid in the joint names of Borrower and the General Contractor, subcontractor(s), or supplier(s) in payment of sums due under the Construction Contract. At its sole option, Lender may directly pay the General Contractor and any subcontractors or other parties the sums due under the Construction Contract. Borrower appoints Lender as its attorney-in-fact to make such payments. This power shall be deemed coupled with an interest, shall be irrevocable, and shall survive an Event of Default under this Agreement.

Projected Cost Overruns. If Lender at any time determines in its sole discretion that the amount in the Loan Fund is insufficient, or will be insufficient, to complete fully and to pay for the Project, then within ten (10) days after receipt of a written request from Lender, Borrower shall deposit in the Loan Fund an amount equal to the deficiency as determined by Lender. The judgment and determination of Lender under this section shall be final and conclusive. Any such amounts deposited by Borrower shall be disbursed prior to any Loan proceeds.

Final Payment to General Contractor. Upon completion of the Project and fulfillment of the Construction Contract to the satisfaction of Lender and provided sufficient Loan Funds are available, Lender shall make an Advance to cover the final payment due to the General Contractor upon delivery to Lender of endorsements to the ALTA title insurance policy following the posting of the completion notice, as provided under applicable law. Construction shall not be deemed complete for purposes of final disbursement unless and until Lender shall have received all of the following:

(1) Evidence satisfactory to Lender that all work under the Construction Contract requiring inspection by any governmental authority with jurisdiction has been duly inspected and approved by such authority, that a certificate of occupancy has been issued, and that all parties performing work have been paid, or will be paid, for such work;

(2) A certification by an engineer, architect, or other qualified inspector acceptable to Lender that the Improvements have been completed substantially in accordance with the Plans and Specifications and the Construction Contract, that direct connection has been made to all utilities set forth in the Plans and Specifications, and that the Project is ready for occupancy; and

(3) Acceptance of the completed Improvements by Lender and Borrower.

Construction Default. If Borrower fails in any respect to comply with the provisions of this Agreement or if construction ceases before completion regardless of the reason, Lender, at its option, may refuse to make further Advances, may accelerate the indebtedness under the terms of the Note, and without thereby impairing any of its rights, powers, or privileges, may enter into possession of the construction site and perform or cause to be performed any and all work and labor necessary to complete the Improvements, substantially in accordance with the Plans and Specifications.

Damage or Destruction. If any of the Collateral or Improvements is damaged or destroyed by casualty of any nature, within sixty (60) days thereafter Borrower shall restore the Collateral and Improvements to the condition in which they were before such damage or destruction with funds other than those in the Loan Fund. Lender shall not be obligated to make disbursements under this Agreement until such restoration has been accomplished.

Adequate Security. When any event occurs that Lender determines may endanger completion of the Project or the fulfillment of any condition or covenant in this Agreement, Lender may require Borrower to furnish, within ten (10) days after delivery of a written request, adequate security to eliminate, reduce, or indemnify Lender against, such danger. In addition, upon such occurrence, Lender in its sole discretion may advance funds or agree to undertake to advance funds to any party to eliminate, reduce, or indemnify Lender against, such danger or to complete the Project. All sums paid by Lender pursuant to such agreements or undertakings shall be for Borrower's account and shall be without prejudice to Borrower's rights, if any, to receive such funds from the party to whom paid. All sums expended by Lender in the exercise of its option to complete the Project or protect Lender's interests shall be payable to Lender on demand together with interest from the date of the Advance at the rate applicable to the Loan. In addition, any Advance of funds under this Agreement, including without limitation direct disbursements to the General Contractor or other parties in payment of sums due under the Construction Contract, shall be deemed to have been expended by or on behalf of Borrower and to have been secured by Lender's Mortgage, if any, on the Collateral.

CESSATION OF ADVANCES. If Lender has made any commitment to make any Loan to Borrower, whether under this Agreement or under any other agreement, Lender shall have no obligation to make Loan Advances or to disburse Loan proceeds if: (A) Borrower or any Guarantor is in default under the terms of this Agreement or any of the Related Documents or any other agreement that Borrower or any Guarantor has with Lender; (B) Borrower or any Guarantor dies, becomes incompetent or becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged a bankrupt; (C) there occurs a material adverse change in Borrower's financial condition, in the financial condition of any Guarantor, or in the value of any Collateral securing any Loan; or (D) any Guarantor seeks, claims or otherwise attempts to limit, modify or revoke such Guarantor's guaranty of the Loan or any other loan with Lender; or (E) Lender in good faith deems itself insecure, even though no Event of Default shall have occurred.

LIMITATION OF RESPONSIBILITY. The making of any Advance by Lender shall not constitute or be interpreted as either (A) an approval or acceptance by Lender of the work done through the date of the Advance, or (B) a representation or indemnity by Lender to any party against any deficiency or defect in the work or against any breach of any contract. Inspections and approvals of the Plans and Specifications, the Improvements, the workmanship and materials used in the Improvements, and the exercise of any other right of inspection, approval, or inquiry

granted to Lender in this Agreement are acknowledged to be solely for the protection of Lender's interests, and under no circumstances shall they be construed to impose any responsibility or liability of any nature whatsoever on Lender to any party. Neither Borrower nor any contractor, subcontractor, materialman, laborer, or any other person shall rely, or have any right to rely, upon Lender's determination of the appropriateness of any Advance. No disbursement or approval by Lender shall constitute a representation by Lender as to the nature of the Project, its construction, or its intended use for Borrower or for any other person, nor shall it constitute an indemnity by Lender to Borrower or to any other person against any deficiency or defects in the Project or against any breach of any contract.

AFFIRMATIVE COVENANTS. Borrower covenants and agrees with Lender that, so long as this Agreement remains in effect, Borrower will:

Notices of Claims and Litigation. Promptly inform Lender in writing of (1) all material adverse changes in Borrower's financial condition, and (2) all existing and all threatened litigation, claims, investigations, administrative proceedings or similar actions affecting Borrower or any Guarantor which could materially affect the financial condition of Borrower or the financial condition of any Guarantor.

Financial Records. Maintain its books and records in accordance with GAAP, applied on a consistent basis, and permit Lender to examine and audit Borrower's books and records at all reasonable times.

Financial Statements. Furnish Lender with the following:

Annual Statements. As soon as available, but in no event later than 45 days after the end of each fiscal year, Borrower's balance sheet and income statement for the year ended, reviewed by a certified public accountant satisfactory to Lender.

Tax Returns. As soon as available, but in no event later than 45 days after the applicable filing date for the tax reporting period ended, Borrower's Federal and other governmental tax returns, prepared by a tax professional satisfactory to Lender.

All financial reports required to be provided under this Agreement shall be prepared in accordance with GAAP, applied on a consistent basis, and certified by Borrower as being true and correct.

Additional Information. Furnish such additional information and statements, lists of assets and liabilities, agings of receivables and payables, inventory schedules, budgets, forecasts, tax returns, and other reports with respect to Borrower's financial condition and business operations as Lender may request from time to time.

Other Agreements. Comply with all terms and conditions of all other agreements, whether now or hereafter existing, between Borrower and any other party and notify Lender immediately in writing of any default in connection with any other such agreements.

Insurance. Maintain fire and other risk insurance, hail, federal crop insurance, public liability insurance, and such other insurance as Lender may require with respect to Borrower's properties and operations, in form, amounts, coverages and with insurance companies acceptable to Lender. Borrower, upon request of Lender, will deliver to Lender from time to time the policies or certificates of insurance in form satisfactory to Lender, including stipulations that coverages will not be cancelled or diminished without at least thirty (30) days prior written notice to Lender. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Borrower or any other person. In connection with all policies covering assets in which Lender holds or is offered a security interest for the Loans, Borrower will provide Lender with such lender's loss payable or other endorsements as Lender may require.

Insurance Reports. Furnish to Lender, upon request of Lender, reports on each existing insurance policy showing such information as Lender may reasonably request, including without limitation the following: (1) the name of the insurer; (2) the risks insured; (3) the amount of the policy; (4) the properties insured; (5) the then current property values on the basis of which insurance has been obtained, and the manner of determining those values; and (6) the expiration date of the policy. In addition, upon request of Lender (however not more often than annually), Borrower will have an independent appraiser satisfactory to Lender determine, as applicable, the actual cash value or replacement cost of any Collateral. The cost of such appraisal shall be paid by Borrower.

Guaranties. Prior to disbursement of any Loan proceeds, furnish executed guaranties of the Loans in favor of Lender, executed by the guarantors named below, on Lender's forms, and in the amounts and under the conditions set forth in those guaranties.

Names of Guarantors	Amounts
Athanasios Fokas	Unlimited
Iakovos S Ferderigos	Unlimited

Loan Fees, Charges and Expenses. In addition to all other agreed upon fees, charges, and expenses, pay the following: Commercial Construction Loan Inspection Fee of $250.00 per visit. Whether or not the Project is completed, Borrower also shall pay upon demand all out-of-pocket expenses incurred by Lender in connection with the preparation of loan documents and the making of the Loan, including, without limitation, all closing costs, fees, and disbursements, all expenses of Lender's legal counsel, and all title examination fees, title insurance premiums, appraisal fees, survey costs, required fees, and filing and recording fees.

Loan Proceeds. Use all Loan proceeds solely for the following specific purposes: for construction purposes only as described in plans and specifications submitted.

Taxes, Charges and Liens. Pay and discharge when due all of its indebtedness and obligations, including without limitation all assessments, taxes, governmental charges, levies and liens, of every kind and nature, imposed upon Borrower or its properties, income, or profits, prior to the date on which penalties would attach, and all lawful claims that, if unpaid, might become a lien or charge upon any of Borrower's properties, income, or profits. Provided however, Borrower will not be required to pay and discharge any such assessment, tax, charge, levy, lien or claim so long as (1) the legality of the same shall be contested in good faith by appropriate proceedings, and (2) Borrower shall have established on Borrower's books adequate reserves with respect to such contested assessment, tax, charge, levy, lien, or claim in accordance with GAAP.

Performance. Perform and comply, in a timely manner, with all terms, conditions, and provisions set forth in this Agreement, in the Related Documents, and in all other instruments and agreements between Borrower and Lender. Borrower shall notify Lender immediately in writing of any default in connection with any agreement.

Inspection. Permit employees or agents of Lender at any reasonable time to inspect any and all Collateral for the Loan or Loans and Borrower's other properties and to examine or audit Borrower's books, accounts, and records and to make copies and memoranda of Borrower's books, accounts, and records. If Borrower now or at any time hereafter maintains any records (including without limitation computer generated records and computer software programs for the generation of such records) in the possession of a third party, Borrower, upon request of Lender, shall notify such party to permit Lender free access to such records at all reasonable times and to provide Lender with copies of any records it may request, all at Borrower's expense.

Compliance Certificates. Unless waived in writing by Lender, provide Lender at least annually, with a certificate executed by Borrower's chief financial officer, or other officer or person acceptable to Lender, certifying that the representations and warranties set forth in this Agreement are true and correct as of the date of the certificate and further certifying that, as of the date of the certificate, no Event of Default exists under this Agreement.

Construction of the Project. Commence construction of the Project no later than November 21, 2014, and cause the Improvements to be constructed and equipped in a diligent and orderly manner and in strict accordance with the Plans and Specifications approved by Lender, the Construction Contract, and all applicable laws, ordinances, codes, regulations, and rights of adjoining or concurrent property owners. Borrower agrees to complete the Project for purposes of final payment to the General Contractor on or before November 21, 2015, regardless of the reason for any delay.

Defects. Upon demand of Lender, promptly correct any defect in the Improvements or any departure from the Plans and Specifications not approved by Lender in writing before further work shall be done upon the portion of the Improvements affected.

Project Claims and Litigation. Promptly inform Lender of (1) all material adverse changes in the financial condition of the General Contractor; (2) any litigation and claims, actual or threatened, affecting the Project or the General Contractor, which could materially affect the successful completion of the Project or the ability of the General Contractor to complete the Project as agreed; and (3) any condition or event which constitutes a breach or default under any of the Related Documents or any contract related to the Project.

Payment of Claims and Removal of Liens. (1) Cause all claims for labor done and materials and services furnished in connection with the Improvements to be fully paid and discharged in a timely manner, (2) diligently file or procure the filing of a valid notice of completion of the Improvements, or such comparable document as may be permitted under applicable lien laws, (3) diligently file or procure the filing of a notice of cessation, or such comparable document as may be permitted under applicable lien laws, upon the happening of cessation of labor on the Improvements for a continuous period of thirty (30) days or more, and (4) take all reasonable steps necessary to remove all claims of liens against the Collateral, the Improvements or any part of the Collateral or Improvements, or any rights or interests appurtenant to the Collateral or Improvements. Upon Lender's request, Borrower shall make such demands or claims upon or against laborers, materialmen, subcontractors, or other persons who have furnished or claim to have furnished labor, services, or materials in connection with the Improvements, which demands or claims shall under the laws of the State of South Carolina require diligent assertions of lien

claims upon penalty of loss or waiver thereof. Borrower shall, within ten (10) days after the filing of any claim of lien that is disputed or contested by Borrower, provide Lender with a surety bond issued by a surety acceptable to Lender sufficient to release the claim of lien or deposit with Lender an amount satisfactory to Lender for the possibility that the contest will be unsuccessful. If Borrower fails to remove any lien on the Collateral or Improvements or provide a bond or deposit pursuant to this provision, Lender may pay such lien, or may contest the validity of the lien, and Borrower shall pay all costs and expenses of such contest, including Lender's reasonable attorneys' fees.

Taxes and Claims. Pay and discharge when due all of Borrower's indebtedness, obligations, and claims that, if unpaid, might become a lien or charge upon the Collateral or Improvements; provided, however, that Borrower shall not be required to pay and discharge any such indebtedness, obligation, or claim so long as (1) its legality shall be contested in good faith by appropriate proceedings, (2) the indebtedness, obligation, or claim does not become a lien or charge upon the Collateral or Improvements, and (3) Borrower shall have established on its books adequate reserves with respect to the amount contested in accordance with GAAP. If the indebtedness, obligation, or claim does become a lien or charge upon the Collateral or Improvements, Borrower shall remove the lien or charge as provided in the preceding paragraph.

Environmental Studies. Promptly conduct and complete, at Borrower's expense, all such investigations, studies, samplings and testings as may be requested by Lender or any governmental authority relative to any substance, or any waste or by-product of any substance defined as toxic or a hazardous substance under applicable federal, state, or local law, rule, regulation, order or directive, at or affecting any property or any facility owned, leased or used by Borrower.

Additional Assurances. Make, execute and deliver to Lender such promissory notes, mortgages, deeds of trust, security agreements, assignments, financing statements, instruments, documents and other agreements as Lender or its attorneys may reasonably request to evidence and secure the Loans and to perfect all Security Interests in the Collateral and Improvements.

LENDER'S EXPENDITURES. If any action or proceeding is commenced that would materially affect Lender's interest in the Collateral or if Borrower fails to comply with any provision of this Agreement or any Related Documents, including but not limited to Borrower's failure to discharge or pay when due any amounts Borrower is required to discharge or pay under this Agreement or any Related Documents, Lender on Borrower's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on any Collateral and paying all costs for insuring, maintaining and preserving any Collateral. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Borrower. All such expenses will become a part of the Indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity.

NEGATIVE COVENANTS. Borrower covenants and agrees with Lender that while this Agreement is in effect, Borrower shall not, without the prior written consent of Lender:

Indebtedness and Liens. (1) Except for trade debt incurred in the normal course of business and indebtedness to Lender contemplated by this Agreement, create, incur or assume indebtedness for borrowed money, including capital leases, (2) sell, transfer, mortgage, assign, pledge, lease, grant a security interest in, or encumber any of Borrower's assets (except as allowed as Permitted Liens), or (3) sell with recourse any of Borrower's accounts, except to Lender.

Continuity of Operations. (1) Engage in any business activities substantially different than those in which Borrower is presently engaged, (2) cease operations, liquidate, merge, transfer, acquire or consolidate with any other entity, change its name, dissolve or transfer or sell Collateral out of the ordinary course of business, or (3) make any distribution with respect to any capital account, whether by reduction of capital or otherwise.

Loans, Acquisitions and Guaranties. (1) Loan, invest in or advance money or assets to any other person, enterprise or entity, (2) purchase, create or acquire any interest in any other enterprise or entity, or (3) incur any obligation as surety or guarantor other than in the ordinary course of business.

Modification of Contract. Make or permit to be made any modification of the Construction Contract.

Liens. Create or allow to be created any lien or charge upon the Collateral or the Improvements.

Agreements. Enter into any agreement containing any provisions which would be violated or breached by the performance of Borrower's obligations under this Agreement or in connection herewith.

GENERAL PROJECT PROVISIONS. The following provisions relate to the construction and completion of the Project:

Change Orders. All requests for changes in the Plans and Specifications, other than minor changes involving no extra cost, must be in writing, signed by Borrower and the architect, and delivered to Lender for its approval. Borrower will not permit the performance of any work pursuant to any change order or modification of the Construction Contract or any subcontract without the written approval of Lender. Borrower will obtain any required permits or authorizations from governmental authorities having jurisdiction before approving or requesting a new change order.

Purchase of Materials; Conditional Sales Contracts. No materials, equipment, fixtures, or articles of personal property placed in or incorporated into the Project shall be purchased or installed under any Security Agreement or other agreement whereby the seller reserves or purports to reserve title or the right of removal or repossession, or the right to consider such items as personal property after their incorporation into the Project, unless otherwise authorized by Lender in writing.

Lender's Right of Entry and Inspection. Lender and its agents shall have at all times the right of entry and free access to the Property and the right to inspect all work done, labor performed, and materials furnished with respect to the Project. Lender shall have unrestricted access to and the right to copy all records, accounting books, contracts, subcontracts, bills, statements, vouchers, and supporting documents of Borrower relating in any way to the Project.

Lender's Right to Stop Work. If Lender in good faith determines that any work or materials do not conform to the approved Plans and Specifications or sound building practices, or otherwise depart from any of the requirements of this Agreement, Lender may require the work to be stopped and withhold disbursements until the matter is corrected. In such event, Borrower will promptly correct the work to Lender's satisfaction. No such action by Lender will affect Borrower's obligation to complete the Improvements on or before the Completion Date. Lender is under no duty to supervise or inspect the construction or examine any books and records. Any inspection or examination by Lender is for the sole purpose of protecting Lender's security and preserving Lender's rights under this Agreement. No default of Borrower will be waived by any inspection by Lender. In no event will any inspection by Lender be a representation that there has been or will be compliance with the Plans and Specifications or that the construction is free from defective materials or workmanship.

Indemnity. Borrower shall indemnify, defend, and hold Lender harmless from any and all claims asserted against Lender or the Property by any person, entity, or governmental body, or arising out of or in connection with the Property, Improvements, or Project. Lender shall be entitled to appear in any proceedings to defend itself against such claims, and all costs and expenses reasonable attorneys' fees incurred by Lender in connection with such defense shall be paid by Borrower to Lender. Lender shall, in its sole discretion, be entitled to settle or compromise any asserted claims against it, and such settlement shall be binding upon Borrower for purposes of this Indemnification. All amounts paid by Lender under this paragraph shall be secured by Lender's security agreement or Mortgage, if any, on the Property, shall be deemed an additional principal Advance under the Loan, payable upon demand, and shall bear interest at the rate applicable to the Loan.

Publicity. Lender may display a sign at the construction site informing the public that Lender is the construction lender for the Project. Lender may obtain other publicity in connection with the Project through press releases and participation in ground-breaking and opening ceremonies and similar events.

Actions. Lender shall have the right to commence, appear in, or defend any action or proceeding purporting to affect the rights, duties, or liabilities of the parties to this Agreement, or the disbursement of funds from the Loan Fund. In connection with this right, Lender may incur and pay reasonable costs, expenses and reasonable attorneys' fees. Borrower covenants to pay to Lender on demand all such expenses, together with interest from the date Lender incurs the expense at the rate specified in the Note, and Lender is authorized to disburse funds from the Loan Fund for such purposes.

RIGHT OF SETOFF. To the extent permitted by applicable law, Lender reserves a right of setoff in all Borrower's accounts with Lender (whether checking, savings, or some other account). This includes all accounts Borrower holds jointly with someone else and all accounts Borrower may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Borrower authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the Indebtedness against any and all such accounts, and, at Lender's option, to administratively freeze all such accounts to allow Lender to protect Lender's charge and setoff rights provided in this paragraph.

DEFAULT. Each of the following shall constitute an Event of Default under this Agreement:

Payment Default. Borrower fails to make any payment when due under the Loan.

Other Defaults. Borrower fails to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Borrower.

Environmental Default. Failure of any party to comply with or perform when due any term, obligation, covenant or condition contained in any environmental agreement executed in connection with any Loan.

Default in Favor of Third Parties. Borrower or any Grantor defaults under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of Borrower's or any Grantor's property or Borrower's or any Grantor's ability to repay the Loans or perform their respective obligations under this Agreement or any of the Related Documents.

False Statements. Any warranty, representation or statement made or furnished to Lender by Borrower or on Borrower's behalf under this Agreement or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

Death or Insolvency. The dissolution of Borrower (regardless of whether election to continue is made), any member withdraws from Borrower, or any other termination of Borrower's existence as a going business or the death of any member, the insolvency of Borrower, the appointment of a receiver for any part of Borrower's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower.

Defective Collateralization. This Agreement or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

Creditor or Forfeiture Proceedings. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Borrower or by any governmental agency against any collateral securing the Loan. This includes a garnishment of any of Borrower's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Borrower as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Borrower gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

Breach of Construction Contract. The Improvements are not constructed in accordance with the Plans and Specifications or in accordance with the terms of the Construction Contract.

Cessation of Construction. Prior to the completion of construction of the Improvements and equipping of the Project, the construction of the Improvements or the equipping of the Project is abandoned or work thereon ceases for a period of more than ten (10) days for any reason, or the Improvements are not completed for purposes of final payment to the General Contractor prior to November 21, 2015, regardless of the reason for the delay.

Transfer of Property. Sale, transfer, hypothecation, assignment, or conveyance of the Property or the Improvements or any portion thereof or interest therein by Borrower or any Borrower without Lender's prior written consent.

Condemnation. All or any material portion of the Collateral is condemned, seized, or appropriated without compensation, and Borrower does not within thirty (30) days after such condemnation, seizure, or appropriation, initiate and diligently prosecute appropriate action to contest in good faith the validity of such condemnation, seizure, or appropriation.

Events Affecting Guarantor. Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness.

Adverse Change. A material adverse change occurs in Borrower's financial condition, or Lender believes the prospect of payment or performance of the Loan is impaired.

Insecurity. Lender in good faith believes itself insecure.

Right to Cure. If any default, other than a default on Indebtedness, is curable and if Borrower or Grantor, as the case may be, has not been given a notice of a similar default within the preceding twelve (12) months, it may be cured if Borrower or Grantor, as the case may be, after Lender sends written notice to Borrower or Grantor, as the case may be, demanding cure of such default: (1) cure the default within fifteen (15) days; or (2) if the cure requires more than fifteen (15) days, immediately initiate steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continue and complete all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

EFFECT OF AN EVENT OF DEFAULT; REMEDIES. Upon the occurrence of any Event of Default and at any time thereafter, Lender may, at its option, but without any obligation to do so, and in addition to any other right Lender without notice to Borrower may have, do any one or more of the following without notice to Borrower: (a) Cancel this Agreement; (b) Institute appropriate proceedings to enforce the performance of this Agreement; (c) Withhold further disbursement of Loan Funds; (d) Expend funds necessary to remedy the default; (e) Take possession of the Property and continue construction of the Project; (f) Accelerate maturity of the Note and/or Indebtedness and demand payment of all sums due under the Note and/or Indebtedness; (g) Bring an action on the Note and/or Indebtedness; (h) Foreclose Lender's security agreement or Mortgage, if any, on the Property in any manner available under law; and (i) Exercise any other right or remedy which it has under the Note or Related Documents, or which is otherwise available at law or in equity or by statute.

COMPLETION OF IMPROVEMENTS BY LENDER. If Lender takes possession of the Collateral, it may take any and all actions necessary in its judgment to complete construction of the Improvements, including but not limited to making changes in the Plans and Specifications, work, or materials and entering into, modifying or terminating any contractual arrangements, subject to Lender's right at any time to discontinue any work without liability. If Lender elects to complete the Improvements, it will not assume any liability to Borrower or to any other person for completing the Improvements or for the manner or quality of construction of the Improvements, and Borrower expressly waives any such liability. Borrower irrevocably appoints Lender as its attorney-in-fact, with full power of substitution, to complete the Improvements, at Lender's option, either in Borrower's name or in its own name. In any event, all sums expended by Lender in completing the construction of the Improvements will be considered to have been disbursed to Borrower and will be secured by the Collateral for the Loan. Any such sums that cause the principal amount of the Loan to exceed the face amount of the Note will be considered to be an additional Loan to Borrower, bearing interest at the Note rate and being secured by the Collateral. For these purposes, Borrower assigns to Lender all of its right, title and interest in and to the Project Documents; however Lender will not have any obligation under the Project Documents unless Lender expressly hereafter agrees to assume such obligations in writing. Lender will have the right to exercise any rights of Borrower under the Project Documents upon the occurrence of an Event of Default. Except as may be prohibited by applicable law, all of Lender's rights and remedies, whether evidenced by this Agreement or by any other writing, shall be cumulative and may be exercised singularly or concurrently.

ADDITIONAL DOCUMENTS. Borrower shall provide Lender with the following additional documents:

Articles of Organization and Company Resolutions. Borrower has provided or will provide Lender with a certified copy of Borrower's Articles of Organization, together with a certified copy of resolutions properly adopted by the members of the company, under which the members authorized one or more designated members or employees to execute this Agreement, the Note and any and all Security Agreements directly or indirectly securing repayment of the same, and to consummate the borrowings and other transactions as contemplated under this Agreement, and to consent to the remedies following any default by Borrower as provided in this Agreement and in any Security Agreements.

Opinion of Counsel. When required by Lender, Borrower has provided, or will provide Lender with an opinion of Borrower's counsel certifying to and that: (1) Borrower's Note, any Security Agreements and this Agreement constitute valid and binding obligations on Borrower's part that are enforceable in accordance with their respective terms; (2) Borrower is validly existing and in good standing; (3) Borrower has authority to enter into this Agreement and to consummate the transactions contemplated under this Agreement; and (4) such other matters as may have been requested by Lender or by Lender's counsel.

FIRST DRAW REQUIREMENTS. The following items are required prior to the first construction draw (1) Current General Liability Insurance policy, (2) Builder's Risk Insurance policy on the subject property, (3) Foundation Survey, (4) Soil Treatment Certification, (5) Flood Insurance policy and Elevation Certificate; (6) Permanent Steet Address. Forward these documents to our office as soon as they are available to facilitate the processing and disbursement of the first draw. Contact Linette R. Mower at (843) 216-3051 or lmower@southcoastbank.com with any questions concerning the construction process.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Agreement:

Amendments. This Agreement, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Attorneys' Fees; Expenses. Borrower agrees to pay upon demand all of Lender's costs and expenses, including Lender's reasonable attorneys' fees and Lender's legal expenses, incurred in connection with the enforcement of this Agreement. Lender may hire or pay someone else to help enforce this Agreement, and Borrower shall pay the costs and expenses of such enforcement. Costs and expenses include Lender's reasonable attorneys' fees and legal expenses whether or not there is a lawsuit, including reasonable attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Borrower also shall pay all court costs and such additional fees as may be directed by the court.

Authority to File Notices. Borrower appoints and designates Lender as its attorney-in-fact to file for the record any notice that Lender deems necessary to protect its interest under this Agreement. This power shall be deemed coupled with an interest and shall be irrevocable while any sum or performance remains due and owing under any of the Related Documents.

Caption Headings. Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.

Governing Law. This Agreement will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of South Carolina without regard to its conflicts of law provisions. This Agreement has been accepted by Lender in the State of South Carolina.

Indemnification of Lender. Borrower agrees to indemnify, to defend and to save and hold Lender harmless from any and all claims, suits, obligations, damages, losses, costs and expenses (including, without limitation, Lender's reasonable attorneys' fees, as well as Lender's architect's and engineering fees), demands, liabilities, penalties, fines and forfeitures of any nature whatsoever that may be asserted against or incurred by Lender, its officers, directors, employees, and agents arising out of, relating to, or in any manner occasioned by this Agreement and the exercise of the rights and remedies granted Lender under this. The foregoing indemnity provisions shall survive the cancellation of this Agreement as to all matters arising or accruing prior to such cancellation and the foregoing indemnity shall survive in the event that Lender elects to exercise any of the remedies as provided under this Agreement following default hereunder.

Consent to Loan Participation. Borrower agrees and consents to Lender's sale or transfer, whether now or later, of one or more participation interests in the Loan to one or more purchasers, whether related or unrelated to Lender. Lender may provide, without any limitation whatsoever, to any one or more purchasers, or potential purchasers, any information or knowledge Lender may have about Borrower or about any other matter relating to the Loan, and Borrower hereby waives any rights to privacy Borrower may have with respect to such matters. Borrower additionally waives any and all notices of sale of participation interests, as well as all notices of any repurchase of such participation interests. Borrower also agrees that the purchasers of any such participation interests will be considered as the absolute owners of such interests in the Loan and will have all the rights granted under the participation agreement or agreements governing the sale of such participation interests. Borrower further waives all rights of offset or counterclaim that it may have now or later against Lender or against any purchaser of such a participation interest and unconditionally agrees that either Lender or such purchaser may enforce Borrower's obligation under the Loan irrespective of the failure or insolvency of any holder of any interest in the Loan. Borrower further agrees that the purchaser of any such participation interests may enforce its interests irrespective of any personal claims or defenses that Borrower may have against Lender.

No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Agreement shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by Lender, nor any course of dealing between Lender and Borrower, or between Lender and any Grantor, shall constitute a waiver of any of Lender's rights or of any of Borrower's or any Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

Severability. If a court of competent jurisdiction finds any provision of this Agreement to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Agreement. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Agreement shall not affect the legality, validity or enforceability of any other provision of this Agreement.

Successors and Assigns. All covenants and agreements by or on behalf of Borrower contained in this Agreement or any Related Documents shall bind Borrower's successors and assigns and shall inure to the benefit of Lender and its successors and assigns. Borrower shall not, however, have the right to assign Borrower's rights under this Agreement or any interest therein, without the prior written consent of Lender.

Survival of Representations and Warranties. Borrower understands and agrees that in making the Loan, Lender is relying on all representations, warranties, and covenants made by Borrower in this Agreement or in any certificate or other instrument delivered by Borrower to Lender under this Agreement or the Related Documents. Borrower further agrees that regardless of any investigation made by Lender, all such representations, warranties and covenants will survive the making of the Loan and delivery to Lender of the Related Documents, shall be continuing in nature, and shall remain in full force and effect until such time as Borrower's indebtedness shall be paid in full, or until this Agreement shall be terminated in the manner provided above, whichever is the last to occur.

Time is of the Essence. Time is of the essence in the performance of this Agreement.

Waive Jury. All parties to this Agreement hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

DEFINITIONS. The following capitalized words and terms shall have the following meanings when used in this Agreement. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the Uniform Commercial Code. Accounting words and terms not otherwise defined in this Agreement shall have the meanings assigned to them in accordance with generally accepted accounting principles as in effect on the date of this Agreement:

Advance. The word "Advance" means a disbursement of Loan funds made, or to be made, to Borrower or on Borrower's behalf on a line of credit or multiple advance basis under the terms and conditions of this Agreement.

Agreement. The word "Agreement" means this Construction Loan Agreement, as this Construction Loan Agreement may be amended or modified from time to time, together with all exhibits and schedules attached to this Construction Loan Agreement from time to time.

Architect's Contract. The words "Architect's Contract" mean the architect's contract between Borrower and Tucker & Associates, the architect for the Project.

Borrower. The word "Borrower" means Old Towne Suites, LLC and includes all co-signers and co-makers signing the Note and all their successors and assigns.

Collateral. The word "Collateral" means all property and assets granted as collateral security for a Loan, whether real or personal property, whether granted directly or indirectly, whether granted now or in the future, and whether granted in the form of a security interest, mortgage, collateral mortgage, deed of trust, assignment, pledge, crop pledge, chattel mortgage, collateral chattel mortgage, chattel trust, factor's lien, equipment trust, conditional sale, trust receipt, lien, charge, lien or title retention contract, lease or consignment intended as a security device, or any other security or lien interest whatsoever, whether created by law, contract, or otherwise.

Completion Date. The words "Completion Date" mean November 21, 2015.

Construction Contract. The words "Construction Contract" mean the contract between Borrower and Kevin W Carroll, the general contractor for the Project, and any subcontracts with subcontractors, materialmen, laborers, or any other person or entity for performance of work on the Project or the delivery of materials to the Project.

Contractor. The word "Contractor" means Kevin W Carroll, the general contractor for the Project.

Environmental Laws. The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

Event of Default. The words "Event of Default" mean any of the events of default set forth in this Agreement in the default section of this

Agreement.

GAAP. The word "GAAP" means generally accepted accounting principles.

Grantor. The word "Grantor" means each and all of the persons or entities granting a Security Interest in any Collateral for the Loan, including without limitation all Borrowers granting such a Security Interest.

Guarantor. The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the Loan and any guarantor under a completion guaranty agreement.

Guaranty. The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

Hazardous Substances. The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

Improvements. The word "Improvements" means all existing and future buildings, structures, facilities, fixtures, additions, and similar construction on the Collateral.

Indebtedness. The word "Indebtedness" means the Indebtedness evidenced by the Note or Related Documents, including all principal and interest together with all other indebtedness and costs and expenses for which Borrower is responsible under this Agreement or under any of the Related Documents.

Lender. The word "Lender" means SOUTHCOAST COMMUNITY BANK, its successors and assigns.

Loan. The word "Loan" means the loan or loans made to Borrower under this Agreement and the Related Documents as described .

Loan Fund. The words "Loan Fund" mean the undisbursed proceeds of the Loan under this Agreement together with any equity funds or other deposits required from Borrower under this Agreement.

Note. The word "Note" means the promissory note dated November 21, 2014, in the original principal amount of $1,600,000.00 from Borrower to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement.

Permitted Liens. The words "Permitted Liens" mean (1) liens and security interests securing Indebtedness owed by Borrower to Lender; (2) liens for taxes, assessments, or similar charges either not yet due or being contested in good faith; (3) liens of materialmen, mechanics, warehousemen, or carriers, or other like liens arising in the ordinary course of business and securing obligations which are not yet delinquent; (4) purchase money liens or purchase money security interests upon or in any property acquired or held by Borrower in the ordinary course of business to secure Indebtedness outstanding on the date of this Agreement or permitted to be incurred under the paragraph of this Agreement titled "Indebtedness and Liens"; (5) liens and security interests which, as of the date of this Agreement, have been disclosed to and approved by the Lender in writing; and (6) those liens and security interests which in the aggregate constitute an immaterial and insignificant monetary amount with respect to the net value of Borrower's assets.

Plans and Specifications. The words "Plans and Specifications" mean the plans and specifications for the Project which have been submitted to and initialed by Lender, together with such changes and additions as may be approved by Lender in writing.

Project. The word "Project" means the construction project as described in the "Project Description" section of this Agreement.

Project Documents. The words "Project Documents" mean the Plans and Specifications, all studies, data and drawings relating to the Project, whether prepared by or for Borrower, the Construction Contract, the Architect's Contract, and all other contracts and agreements relating to the Project or the construction of the Improvements.

Property. The word "Property" means the property as described in the "Project Description" section of this Agreement.

Real Property. The words "Real Property" mean the real property, interests and rights, as further described in the "Project Description" section of this Agreement.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Loan.

Security Agreement. The words "Security Agreement" mean and include without limitation any agreements, promises, covenants, arrangements, understandings or other agreements, whether created by law, contract, or otherwise, evidencing, governing, representing, or creating a Security Interest.

Security Interest. The words "Security Interest" mean, without limitation, any and all types of collateral security, present and future, whether in the form of a lien, charge, encumbrance, mortgage, deed of trust, security deed, assignment, pledge, crop pledge, chattel mortgage, collateral chattel mortgage, chattel trust, factor's lien, equipment trust, conditional sale, trust receipt, lien or title retention contract, lease or consignment intended as a security device, or any other security or lien interest whatsoever whether created by law, contract, or otherwise.

BORROWER ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS CONSTRUCTION LOAN AGREEMENT AND BORROWER AGREES TO ITS TERMS. THIS CONSTRUCTION LOAN AGREEMENT IS DATED NOVEMBER 21, 2014.

BORROWER:

OLD TOWNE SUITES, LLC

By: _____
Athanasios Fokas, Authorized Member of Old Towne Suites, LLC

By: _____
Iakovos S Ferderigos, Authorized Member of Old Towne Suites, LLC

LENDER:

SOUTHCOAST COMMUNITY BANK

By: _____
Authorized Signer

LaserPro, Ver. 14.4.0.024 Copr. D+H USA Corporation 1997, 2014. All Rights Reserved. - MO C:\APPS\CFI\LPL\G14.FC TR-3018 PR-13

0455

GUARANTY OF COMPLETION AND PERFORMANCE

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
$1,800,000.00	11-21-2014	12-01-2020	03400007519		34000	****	

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item.
Any item above containing "****" has been omitted due to text length limitations.

Guarantor: Old Towne Suites, LLC
229 King Street
Charleston, SC 29401

Lender: SOUTHCOAST COMMUNITY BANK
Commercial Lending
530 Johnnie Dodds
Mt. Pleasant, SC 29464
(843) 884-0504

THIS GUARANTY OF COMPLETION AND PERFORMANCE ("Guaranty") is made as of November 21, 2014, by Old Towne Suites, LLC ("Guarantor") to and for the benefit of SOUTHCOAST COMMUNITY BANK ("Lender").

THE LOAN. Guarantor proposes to borrow from Lender the principal amount of One Million Eight Hundred Thousand & 00/100 Dollars ($1,800,000.00) pursuant to the terms and conditions of the Construction Loan Agreement. As a condition and inducement to making the Loan, Guarantor has requested that Guarantor duly execute and deliver this Guaranty guaranteeing the lien-free completion of the construction of the Project and the performance of other covenants, which are all considered by Lender to be material regarding Lender's decision to make the Loan.

GUARANTY. Guarantor hereby unconditionally and absolutely warrants and guarantees to Lender that: (a) construction of the Project shall be commenced and shall be substantially completed within the time limits set forth in the Construction Loan Agreement; (b) the Project shall be constructed and completed in accordance with the Loan Documents and the Plans and Specifications, without substantial deviation therefrom unless approved by Lender in writing; (c) except for Lender's security agreements, the Project will be constructed and completed free and clear of all liens and encumbrances, including without limitation all mechanics' liens, materialmen's liens, and equitable liens; and (d) all costs of constructing the Project will be paid when due, and no stop notices shall be served on Lender.

OBLIGATIONS OF GUARANTOR UPON EVENT OF DEFAULT. Should an Event of Default (as defined in any Construction Loan Agreement) occur or if the Project shall not be constructed and completed as provided above, Guarantor shall: (a) diligently proceed to cure such default and procure completion of the Project at Guarantor's sole cost and expense; (b) fully pay and discharge all claims for labor performed and material and services furnished in connection with the construction of the Project; and (c) pay such amounts as may be necessary to release and discharge all claims of stop notices, mechanics' liens, materialmen's liens, and equitable liens, if any, that may come into existence in connection with the construction of the Project.

NATURE OF GUARANTY. This Guaranty is an original and independent obligation of Guarantor, separate and distinct from Guarantor's obligations to Lender under the Loan Documents. The obligations of Guarantor to Lender under this Guaranty are direct and primary, regardless of the validity or enforceability of the Loan Documents. This Guaranty is for the benefit of Lender, and is not for the benefit of any third party. This Guaranty shall continue until (A) the Project has been completed, free and clear of all liens and encumbrances as provided above, and (B) all obligations of Guarantor to Lender under this Guaranty have been performed in full.

GUARANTOR'S AUTHORIZATION TO LENDER. Guarantor authorizes Lender, without notice or demand and without lessening Guarantor's liability under this Guaranty, from time to time: (a) to make or approve changes to the Plans and Specifications; (b) to make modifications to the Construction Loan Agreement and the other Loan Documents; (c) to make one or more additional secured or unsecured loans to Guarantor; (d) to repeatedly alter, compromise, renew, extend, accelerate, or otherwise change the time for payment or other terms of the Loan or any part of the Loan, including increases and decreases of the rate of interest on the Loan; extensions may be repeated and may be for longer than the original loan term; (e) to take and hold security for the payment of the Loan or this Guaranty, and exchange, enforce, waive, and release any such security, with or without the substitution of new collateral; (f) to release, substitute, agree not to sue, or deal with any one or more of Guarantor's sureties, endorsers, or other guarantors on any terms or in any manner Lender may choose; (g) to determine how, when, and what application of payments and credits shall be made on the Loan; (h) to apply such security and direct the order or manner of sale thereof, including without limitation, any nonjudicial sale permitted by the terms of the controlling security agreement or deed of trust, as Lender in Lender's discretion may determine; (i) to sell, transfer, assign or grant participations in all or any part of the Loan; and (j) to assign or transfer this Guaranty in whole or in part.

GUARANTOR'S REPRESENTATIONS AND WARRANTIES. Guarantor represents and warrants to Lender that: (a) no representations or agreements of any kind have been made to Guarantor which would limit or qualify in any way the terms of this Guaranty; (b) this Guaranty is executed at Guarantor's request and not at the request of Lender to induce Lender to disburse the Loan to Guarantor pursuant to the terms of the Loan Documents and that Lender would not make and disburse the Loan to Guarantor pursuant to the Loan Documents were it not for the execution and delivery of this Guaranty; (c) Guarantor has not and will not, without the prior written consent of Lender, sell, lease, assign, encumber, hypothecate, transfer, or otherwise dispose of all or substantially all of Guarantor's assets, or any interest therein; (d) neither the execution nor the delivery of this Guaranty nor compliance with the terms hereof will conflict with or result in the breach of any law or statute, will constitute a breach or default under any agreement or instrument to which Guarantor may be a party, or will result in the creation or imposition of any charge or lien upon any property or assets of Guarantor; (e) Lender has made no representation to Guarantor as to the creditworthiness of Guarantor; (f) the most recent financial statements of Guarantor heretofore delivered to Lender are true and correct in all material respects and fairly present the financial condition of Guarantor as of the respective dates thereof, and no material adverse change has occurred in the financial condition of Guarantor since the date of the most recent financial statements; and (g) Guarantor has established adequate means of obtaining from Guarantor on a continuing basis information regarding Guarantor's financial condition. Guarantor agrees to keep adequately informed from such means of any facts, events, or circumstances which might in any way affect Guarantor's risks under this Guaranty, and Guarantor further agrees that, absent a request for information, Lender shall have no obligation to disclose to Guarantor any information or documents acquired by Lender in the course of its relationship with Guarantor.

GUARANTOR'S WAIVERS. Except as prohibited by applicable law, Guarantor waives any right to require Lender: (A) to make any presentment, protest, demand, or notice of any kind, including notice of any nonpayment of the Loan or of any nonpayment related to any security agreement, or notice of any action or nonaction on the part of Guarantor, Lender, any surety, endorser, or other guarantor in connection with the Loan or in connection with the creation of new or additional loans or obligations; (B) to resort for payment or to proceed directly or at once against any person, including Guarantor or any other guarantor; (C) to proceed directly against or exhaust any collateral held by

from Guarantor, any other guarantor, or any other person (D) to give notice of the terms, time, and place of any public or private sale of personal property security held by Lender from Guarantor or to comply with any other applicable provisions of the Uniform Commercial Code; (E) to pursue any other remedy within Lender's power; or (f) to commit any act or omission of any kind, or at any time, with respect to any matter whatsoever.

Guarantor also waives any and all rights or defenses arising by reason of: (A) any "one action" or "anti-deficiency" law or any other law which may prevent Lender from bringing any action, including a claim for deficiency, against Guarantor, before or after Lender's commencement or completion of any foreclosure action, either judicially or by exercise of a power of sale; (B) any election of remedies by Lender which destroys or otherwise adversely affects Guarantor's subrogation rights or Guarantor's rights to proceed against Guarantor for reimbursement, including without limitation, any loss of rights Guarantor may suffer by reason of any law limiting, qualifying, or discharging any Loan Indebtedness; (C) any disability or other defense of Guarantor, of any other guarantor, or of any other person, or by reason of the cessation of Guarantor's liability from any cause whatsoever, other than payment in full in legal tender, of any Loan Indebtedness; (D) any failure or invalidity of, or any defect in, the Construction Loan Agreement or any other Loan Document; (E) any right to claim discharge of any Loan Indebtedness on the basis of unjustified impairment of any collateral for any Loan Indebtedness; or (F) any statute of limitations, if at any time any action or suit brought by Lender against Guarantor is commenced there is outstanding Loan Indebtedness of Guarantor to Lender which is not barred by any applicable statute of limitations. If payment is made by Guarantor, whether voluntarily or otherwise, or by any third party, on any Loan and thereafter Lender is forced to remit the amount of that payment to Guarantor's trustee in bankruptcy or to any similar person under any federal or state bankruptcy law or law for the relief of debtors, the Loan shall be considered unpaid for the purpose of enforcement of this Guaranty.

Guarantor further waives and agrees not to assert or claim at any time any deductions to the amount guaranteed under this Guaranty for any claim of setoff, counterclaim, counter demand, recoupment, or similar right, whether such claim, demand, or right may be asserted by the Guarantor, the Guarantor, or both.

GUARANTOR'S UNDERSTANDING WITH RESPECT TO WAIVERS. Guarantor warrants and agrees that each of the waivers set forth above is made with Guarantor's full knowledge of Guarantor's significance and consequences and that, under the circumstances, the waivers are reasonable and not contrary to public policy or law. If any such waiver is determined to be contrary to any applicable law or public policy, such waiver shall be effective only to the extent permitted by law.

RIGHT OF SETOFF. To the extent permitted by applicable law, Lender reserves a right of setoff in all Guarantor's accounts with Lender (whether checking, savings, or some other account). This includes all accounts Guarantor holds jointly with someone else and all accounts Guarantor may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Guarantor authorizes Lender, to the extent permitted by applicable law, to hold these funds if there is a default, and Lender may apply the funds in these accounts to pay what Guarantor owes under the terms of this Guaranty.

RIGHTS AND REMEDIES. If Guarantor shall fail to perform promptly as provided in this Guaranty, Lender shall have the following rights and remedies:

Perform Work. Lender, at its option, but without any obligation to do so, may proceed to perform on behalf of Guarantor any and all work on the Project and to pay any costs incurred in connection with the work. Guarantor, upon Lender's demand, shall promptly pay to Lender all such sums expended together with interest thereon at the interest rate set forth in the Note.

Cure Defaults. Lender, at its option, but without any obligation to do so, may cure any defaults, including without limitation, paying any unpaid bills and liens, including without limitation those for construction, labor, and materials. Guarantor, upon Lender's demand, shall promptly pay to Lender all such sums expended together with interest thereon at the interest rate set forth in the Note.

Specific Performance. From time to time and without first requiring performance on the part of Guarantor and without being required to exhaust any security held by Lender for the Loan, to require Guarantor specifically to perform Guarantor's obligations under this Guaranty, by action at law or in equity or both, and further, to collect in any such action, compensation for all loss, cost, damage, injury and expense sustained or incurred by Lender as a direct or indirect consequence of Guarantor's failure to perform, with interest thereon at the interest rate set forth in the Note.

Other Rights and Remedies. In addition, Lender shall have and may exercise any or all of the rights and remedies it may have available at law, in equity, or otherwise.

SUBORDINATION OF GUARANTOR'S DEBTS TO GUARANTOR. Guarantor agrees that the Loan, whether now existing or hereafter created, shall be superior to any claim that Guarantor may now have or hereafter acquire against Guarantor, whether or not Guarantor becomes insolvent. Guarantor hereby expressly subordinates any claim Guarantor may have against Guarantor, upon any account whatsoever, to any claim that Lender may now or hereafter have against Guarantor. In the event of insolvency and consequent liquidation of the assets of Guarantor, through bankruptcy, by an assignment for the benefit of creditors, by voluntary liquidation, or otherwise, the assets of Guarantor applicable to the payment of the claims of both Lender and Guarantor shall be paid to Lender and shall be first applied by Lender to the Loan. Guarantor does hereby assign to Lender all claims which it may have or acquire against Guarantor or against any assignee or trustee in bankruptcy of Guarantor; provided however, that such assignment shall be effective only for the purpose of assuring to Lender full payment in legal tender of the Loan. If Lender so requests, any notes or credit agreements now or hereafter evidencing any debts or obligations of Guarantor to Guarantor shall be marked with a legend that the same are subject to this Guaranty and shall be delivered to Lender. Guarantor agrees, and Lender is hereby authorized, in the name of Guarantor, from time to time to file financing statements and continuation statements and to execute documents and to take such other actions as Lender deems necessary or appropriate to perfect, preserve and enforce its rights under this Guaranty.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Guaranty:

Amendments. This Guaranty, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Guaranty. No alteration of or amendment to this Guaranty shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Attorneys' Fees; Expenses. Guarantor agrees to pay upon demand all of Lender's costs and expenses, including Lender's reasonable attorneys' fees and Lender's legal expenses, incurred in connection with the enforcement of this Guaranty. Lender may hire or pay someone else to help enforce this Guaranty, and Guarantor shall pay the costs and expenses of such enforcement. Costs and expenses include Lender's reasonable attorneys' fees and legal expenses whether or not there is a lawsuit, including reasonable attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Guarantor also shall pay all court costs and such additional fees as may be directed by the court.

Caption Headings. Caption headings in this Guaranty are for convenience purposes only and are not to be used to interpret or define the provisions of this Guaranty.

Governing Law. This Guaranty will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the

laws of the State of South Carolina without regard to its conflicts of law provisions.

No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Guaranty unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Guaranty shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Guaranty. No prior waiver by Lender, nor any course of dealing between Lender and Guarantor, shall constitute a waiver of any of Lender's rights or of any of Guarantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Guaranty, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

Notices. Any notice required to be given under this Guaranty shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Guaranty. Any party may change its address for notices under this Guaranty by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Guarantor agrees to keep Lender informed at all times of Guarantor's current address. Unless otherwise provided or required by law, if there is more than one Guarantor, any notice given by Lender to any Guarantor is deemed to be notice given to all Guarantors.

Interpretation. In all cases where there is more than one Guarantor, then all words used in this Guaranty in the singular shall be deemed to have been used in the plural where the context and construction so require; and where there is more than one Guarantor named in this Guaranty or when this Guaranty is executed by more than one , the words "Guarantor" shall mean all and any one or more of them. Reference to the phrase "Guarantor" includes the heirs, successors, assigns, and transferees of each of them.

Severability. If a court of competent jurisdiction finds any provision of this Guaranty to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Guaranty. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Guaranty shall not affect the legality, validity or enforceability of any other provision of this Guaranty.

Successors and Assigns. Subject to any limitations stated in this Guaranty on transfer of Guarantor's interest, this Guaranty shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Collateral becomes vested in a person other than Guarantor, Lender, without notice to Guarantor, may deal with Guarantor's successors with reference to this Guaranty and the Loan by way of forbearance or extension without releasing Guarantor from the obligations of this Guaranty or liability under the Loan.

DEFINITIONS. The following capitalized words and terms shall have the following meanings when used in this Guaranty. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Guaranty shall have the meanings attributed to such terms in the Uniform Commercial Code:

Borrower. The word "Borrower" means Old Towne Suites, LLC and includes all co-signers and co-makers signing the Note and all their successors and assigns.

Collateral. The word "Collateral" means all of Guarantor's right, title and interest in and to all the Collateral as described in the Collateral Description section of this Guaranty.

Guarantor. The word "Guarantor" means everyone signing this Guaranty, including without limitation Old Towne Suites, LLC, and in each case, any signer's successors and assigns.

Guaranty. The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

Lender. The word "Lender" means SOUTHCOAST COMMUNITY BANK, its successors and assigns.

Loan. The word "Loan" means the loan made to Guarantor under the Construction Loan Agreement and the Loan Documents as described below.

Note. The word "Note" means the Note dated November 21, 2014 and executed by Old Towne Suites, LLC in the principal amount of $1,800,000.00, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the note or credit agreement.

Plans and Specifications. The words "Plans and Specifications" mean the plans and specifications for the Project which have been submitted to and initialed by Lender, together with such changes and additions as may be approved by Lender in writing.

Project. The word "Project" means the construction, renovation, or other work on the Improvements as set forth in the Plans and Specifications.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Loan.

EACH UNDERSIGNED GUARANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS GUARANTY AND AGREES TO ITS TERMS. IN ADDITION, EACH GUARANTOR UNDERSTANDS THAT THIS GUARANTY IS EFFECTIVE UPON GUARANTOR'S EXECUTION AND DELIVERY OF THIS GUARANTY TO LENDER. NO FORMAL ACCEPTANCE BY LENDER IS NECESSARY TO MAKE THIS GUARANTY EFFECTIVE. THIS GUARANTY IS DATED NOVEMBER 21, 2014.

NOTICE CONCERNING APPRAISAL WAIVER. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. THE UNDERSIGNED HEREBY WAIVE(S) AND RELINQUISH(ES) THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY.

GUARANTOR:

OLD TOWNE SUITES, LLC

By: _____
Athanasios Fokas, Authorized Member of Old Towne Suites, LLC

By: _____
Iakovos S Forderigos, Authorized Member of Old Towne Suites, LLC

LENDER:

SOUTHCOAST COMMUNITY BANK

X _____
Authorized Signer

LaserPro, Ver. 14.4.0.024 Copr. D+H USA Corporation 1997, 2014. All Rights Reserved. - SC C:\PROSUITE\CFN\LPL\G15.FC TR-7519 PR-13

0235

COMMERCIAL SECURITY AGREEMENT

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
$1,800,000.00	11-21-2014	12-01-2020	03400007519		34000	***	

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item.
Any item above containing "***" has been omitted due to text length limitations.

Grantor: Old Towne Suites, LLC
229 King Street
Charleston, SC 29401

Lender: SOUTHCOAST COMMUNITY BANK
Commercial Lending
530 Johnnie Dodds
Mt. Pleasant, SC 29464
(843) 884-0504

THIS COMMERCIAL SECURITY AGREEMENT dated November 21, 2014, is made and executed between Old Towne Suites, LLC ("Grantor") and SOUTHCOAST COMMUNITY BANK ("Lender").

GRANT OF SECURITY INTEREST. For valuable consideration, Grantor grants to Lender a security interest in the Collateral to secure the Indebtedness and agrees that Lender shall have the rights stated in this Agreement with respect to the Collateral, in addition to all other rights which Lender may have by law.

COLLATERAL DESCRIPTION. The word "Collateral" as used in this Agreement means the following described property, whether now owned or hereafter acquired, whether now existing or hereafter arising, and wherever located, in which Grantor is giving to Lender a security interest for the payment of the Indebtedness and performance of all other obligations under the Note and this Agreement:

All inventory, equipment, accounts (including but not limited to all health-care-insurance receivables), chattel paper, instruments (including but not limited to all promissory notes), letter-of-credit rights, letters of credit, documents, deposit accounts, investment property, money, other rights to payment and performance, and general intangibles (including but not limited to all software and all payment intangibles); all oil, gas and other minerals before extraction; all oil, gas, other minerals and accounts constituting as-extracted collateral; all fixtures; all timber to be cut; all attachments, accessions, accessories, fittings, increases, tools, parts, repairs, supplies, and commingled goods relating to the foregoing property, and all additions, replacements of and substitutions for all or any part of the foregoing property; all insurance refunds relating to the foregoing property; all good will relating to the foregoing property; all records and data and embedded software relating to the foregoing property, and all equipment, inventory and software to utilize, create, maintain and process any such records and data on electronic media; and all supporting obligations relating to the foregoing property; all whether now existing or hereafter arising, whether now owned or hereafter acquired or whether now or hereafter subject to any rights in the foregoing property; and all products and proceeds (including but not limited to all insurance payments) of or relating to the foregoing property.

In addition, the word "Collateral" also includes all the following, whether now owned or hereafter acquired, whether now existing or hereafter arising, and wherever located:

(A) All accessions, attachments, accessories, tools, parts, supplies, replacements of and additions to any of the collateral described herein, whether added now or later.

(B) All products and produce of any of the property described in this Collateral section.

(C) All accounts, general intangibles, instruments, rents, monies, payments, and all other rights, arising out of a sale, lease, consignment or other disposition of any of the property described in this Collateral section.

(D) All proceeds (including insurance proceeds) from the sale, destruction, loss, or other disposition of any of the property described in this Collateral section, and sums due from a third party who has damaged or destroyed the Collateral or from that party's insurer, whether due to judgment, settlement or other process.

(E) All records and data relating to any of the property described in this Collateral section, whether in the form of a writing, photograph, microfilm, microfiche, or electronic media, together with all of Grantor's right, title, and interest in and to all computer software required to utilize, create, maintain, and process any such records or data on electronic media.

RIGHT OF SETOFF. To the extent permitted by applicable law, Lender reserves a right of setoff in all Grantor's accounts with Lender (whether checking, savings, or some other account). This includes all accounts Grantor holds jointly with someone else and all accounts Grantor may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Grantor authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the Indebtedness against any and all such accounts, and, at Lender's option, to administratively freeze all such accounts to allow Lender to protect Lender's charge and setoff rights provided in this paragraph.

GRANTOR'S REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE COLLATERAL. With respect to the Collateral, Grantor represents and promises to Lender that:

Perfection of Security Interest. Grantor agrees to take whatever actions are requested by Lender to perfect and continue Lender's security interest in the Collateral. Upon request of Lender, Grantor will deliver to Lender any and all of the documents evidencing or constituting the Collateral, and Grantor will note Lender's interest upon any and all chattel paper and instruments if not delivered to Lender for possession by Lender.

Notices to Lender. Grantor will promptly notify Lender in writing at Lender's address shown above (or such other addresses as Lender may designate from time to time) prior to any (1) change in Grantor's name; (2) change in Grantor's assumed business name(s); (3) change in the management or in the members or managers of the limited liability company Grantor; (4) change in the authorized signer(s); (5) change in Grantor's principal office address; (6) change in Grantor's state of organization; (7) conversion of Grantor to a new or different type of business entity; or (8) change in any other aspect of Grantor that directly or indirectly relates to any agreements between Grantor and Lender. No change in Grantor's name or state of organization will take effect until after Lender has received notice.

No Violation. The execution and delivery of this Agreement will not violate any law or agreement governing Grantor or to which Grantor is a party, and its membership agreement does not prohibit any term or condition of this Agreement.

Enforceability of Collateral. To the extent the Collateral consists of accounts, chattel paper, or general intangibles, as defined by the Uniform Commercial Code, the Collateral is enforceable in accordance with its terms, is genuine, and fully complies with all applicable laws and regulations concerning form, content and manner of preparation and execution, and all persons appearing to be obligated on the Collateral have authority and capacity to contract and are in fact obligated as they appear to be on the Collateral. At the time any account becomes subject to a security interest in favor of Lender, the account shall be a good and valid account representing an undisputed, bona fide indebtedness incurred by the account debtor, for merchandise held subject to delivery instructions or previously shipped or delivered pursuant to a contract of sale, or for services previously performed by Grantor with or for the account debtor. So long as this Agreement remains in effect, Grantor shall not, without Lender's prior written consent, compromise, settle, adjust, or extend payment under or with regard to any such Accounts. There shall be no setoffs or counterclaims against any of the Collateral, and no agreement shall have been made under which any deductions or discounts may be claimed concerning the Collateral except those disclosed to Lender in writing.

Location of the Collateral. Except in the ordinary course of Grantor's business, Grantor agrees to keep the Collateral (or to the extent the Collateral consists of intangible property such as accounts or general intangibles, the records concerning the Collateral) at Grantor's address shown above or at such other locations as are acceptable to Lender. Upon Lender's request, Grantor will deliver to Lender in form satisfactory to Lender a schedule of real properties and Collateral locations relating to Grantor's operations, including without limitation the following: (1) all real property Grantor owns or is purchasing; (2) all real property Grantor is renting or leasing; (3) all storage facilities Grantor owns, rents, leases, or uses; and (4) all other properties where Collateral is or may be located.

Removal of the Collateral. Except in the ordinary course of Grantor's business, including the sales of inventory, Grantor shall not remove the Collateral from its existing location without Lender's prior written consent. To the extent that the Collateral consists of vehicles, or other titled property, Grantor shall not take or permit any action which would require application for certificates of title for the vehicles outside the State of South Carolina, without Lender's prior written consent. Grantor shall, whenever requested, advise Lender of the exact location of the Collateral.

Transactions Involving Collateral. Except for inventory sold or accounts collected in the ordinary course of Grantor's business, or as

otherwise provided for in this Agreement, Grantor shall not sell, offer to sell, or otherwise transfer or dispose of the Collateral. While Grantor is not in default under this Agreement, Grantor may sell inventory, but only in the ordinary course of its business and only to buyers who qualify as a buyer in the ordinary course of business. A sale in the ordinary course of Grantor's business does not include a transfer in partial or total satisfaction of a debt or any bulk sale. Grantor shall not pledge, mortgage, encumber or otherwise permit the Collateral to be subject to any lien, security interest, encumbrance, or charge, other than the security interest provided for in this Agreement, without the prior written consent of Lender. This includes security interests even if junior in right to the security interests granted under this Agreement. Unless waived by Lender, all proceeds from any disposition of the Collateral (for whatever reason) shall be held in trust for Lender and shall not be commingled with any other funds; provided however, this requirement shall not constitute consent by Lender to any sale or other disposition. Upon receipt, Grantor shall immediately deliver any such proceeds to Lender.

Title. Grantor represents and warrants to Lender that Grantor holds good and marketable title to the Collateral, free and clear of all liens and encumbrances except for the lien of this Agreement. No financing statement covering any of the Collateral is on file in any public office other than those which reflect the security interest created by this Agreement or to which Lender has specifically consented. Grantor shall defend Lender's rights in the Collateral against the claims and demands of all other persons.

Repairs and Maintenance. Grantor agrees to keep and maintain, and to cause others to keep and maintain, the Collateral in good order, repair and condition at all times while this Agreement remains in effect. Grantor further agrees to pay when due all claims for work done on, or services rendered or material furnished in connection with the Collateral so that no lien or encumbrance may ever attach to or be filed against the Collateral.

Inspection of Collateral. Lender and Lender's designated representatives and agents shall have the right at all reasonable times to examine and inspect the Collateral wherever located.

Taxes, Assessments and Liens. Grantor will pay when due all taxes, assessments and liens upon the Collateral, its use or operation, upon this Agreement, upon any promissory note or notes evidencing the Indebtedness, or upon any of the other Related Documents. Grantor may withhold any such payment or may elect to contest any lien if Grantor is in good faith conducting an appropriate proceeding to contest the obligation to pay and so long as Lender's interest in the Collateral is not jeopardized in Lender's sole opinion. If the Collateral is subjected to a lien which is not discharged within fifteen (15) days, Grantor shall deposit with Lender cash, a sufficient corporate surety bond or other security satisfactory to Lender in an amount adequate to provide for the discharge of the lien plus any interest, costs, reasonable attorneys' fees or other charges that could accrue as a result of foreclosure or sale of the Collateral. In any contest Grantor shall defend itself and Lender and shall satisfy any final adverse judgment before enforcement against the Collateral. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings. Grantor further agrees to furnish Lender with evidence that such taxes, assessments, and governmental and other charges have been paid in full and in a timely manner. Grantor may withhold any such payment or may elect to contest any lien if Grantor is in good faith conducting an appropriate proceeding to contest the obligation to pay and so long as Lender's interest in the Collateral is not jeopardized.

Compliance with Governmental Requirements. Grantor shall comply promptly with all laws, ordinances, rules and regulations of all governmental authorities, including without limitation all environmental laws, ordinances, rules and regulations, now or hereafter in effect, applicable to the ownership, production, disposition, or use of the Collateral, including all laws or regulations relating to the undue erosion of highly-erodible land or relating to the conversion of wetlands for the production of an agricultural product or commodity. Grantor may contest in good faith any such law, ordinance or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Lender's interest in the Collateral, in Lender's opinion, is not jeopardized.

Hazardous Substances. Grantor represents and warrants that the Collateral never has been, and never will be so long as this Agreement remains a lien on the Collateral, used in violation of any Environmental Laws or for the generation, manufacture, storage, transportation, treatment, disposal, release or threatened release of any Hazardous Substance. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Collateral for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any Environmental Laws, and (2) agrees to indemnify, defend, and hold harmless Lender against any and all claims and losses resulting from a breach of this provision of this Agreement. This obligation to indemnify and defend shall survive the payment of the Indebtedness and the satisfaction of this Agreement.

Maintenance of Casualty Insurance. Grantor shall procure and maintain all risks insurance, including without limitation fire, theft and liability coverage together with such other insurance as Lender may require with respect to the Collateral, in form, amounts, coverages and basis reasonably acceptable to Lender and issued by a company or companies reasonably acceptable to Lender. Grantor, upon request of Lender, will deliver to Lender from time to time the policies or certificates of insurance in form satisfactory to Lender, including stipulations that coverages will not be cancelled or diminished without at least thirty (30) days' prior written notice to Lender and not including any disclaimer of the insurer's liability for failure to give such a notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. In connection with all policies covering assets in which Lender holds or is offered a security interest, Grantor will provide Lender with such loss payable or other endorsements as Lender may require. If Grantor at any time fails to obtain or maintain any insurance as required under this Agreement, Lender may (but shall not be obligated to) obtain such insurance as Lender deems appropriate, including if Lender so chooses "single interest insurance," which will cover only Lender's interest in the Collateral.

Application of Insurance Proceeds. Grantor shall promptly notify Lender of any loss or damage to the Collateral if the estimated cost of repair or replacement exceeds $5,000.00, whether or not such casualty or loss is covered by insurance. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. All proceeds of any insurance on the Collateral, including accrued proceeds thereon, shall be held by Lender as part of the Collateral. If Lender consents to repair or replacement of the damaged or destroyed Collateral, Lender shall, upon satisfactory proof of expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration. If Lender does not consent to repair or replacement of the Collateral, Lender shall retain a sufficient amount of the proceeds to pay all of the Indebtedness, and shall pay the balance to Grantor. Any proceeds which have not been disbursed within six (6) months after their receipt and which Grantor has not committed to the repair or restoration of the Collateral shall be used to prepay the Indebtedness.

Insurance Reserves. Lender may require Grantor to maintain with Lender reserves for payment of insurance premiums, which reserves shall be created by monthly payments from Grantor of a sum estimated by Lender to be sufficient to produce, at least fifteen (15) days before the premium due date, amounts at least equal to the insurance premiums to be paid. If fifteen (15) days before payment is due, the reserve funds are insufficient, Grantor shall upon demand pay any deficiency to Lender. The reserve funds shall be held by Lender as a general deposit and shall constitute a non-interest-bearing account which Lender may satisfy by payment of the insurance premiums required to be paid by Grantor as they become due. Lender does not hold the reserve funds in trust for Grantor, and Lender is not the agent of Grantor for payment of the insurance premiums required to be paid by Grantor. The responsibility for the payment of premiums shall remain Grantor's sole responsibility.

Insurance Reports. Grantor, upon request of Lender, shall furnish to Lender reports on each existing policy of insurance showing such information as Lender may reasonably request including the following: (1) the name of the insurer; (2) the risks insured; (3) the amount of the policy; (4) the property insured; (5) the then current value on the basis of which insurance has been obtained and the manner of determining that value; and (6) the expiration date of the policy. In addition, Grantor shall upon request by Lender (however not more often than annually) have an independent appraiser satisfactory to Lender determine, as applicable, the cash value or replacement cost of the Collateral.

Financing Statements. Grantor authorizes Lender to file a UCC financing statement, or alternatively, a copy of this Agreement to perfect Lender's security interest. At Lender's request, Grantor additionally agrees to sign all other documents that are necessary to perfect, protect, and continue Lender's security interest in the Property. This includes making sure Lender is shown as the first and only security interest holder on the title covering the Property. Grantor will pay all filing fees, title transfer fees, and other fees and costs involved unless prohibited by law or unless Lender is required by law to pay such fees and costs. Grantor irrevocably appoints Lender to execute documents necessary to transfer title if there is a default. Lender may file a copy of this Agreement as a financing statement. Grantor will promptly notify Lender of any change to Grantor's name or the name of any individual Grantor, any individual who is a partner for a Grantor, and any individual who is a trustee or settlor or trustor for a Grantor under this Agreement. Grantor will also promptly notify Lender of any change to the name that appears on the most recently issued, unexpired driver's license or state-issued identification card, any expiration of the most recently issued driver's license or state-issued identification card for Grantor or any individual for whom Grantor is required to provide notice regarding name changes.

GRANTOR'S RIGHT TO POSSESSION AND TO COLLECT ACCOUNTS. Until default and except as otherwise provided below with respect to accounts, Grantor may have possession of the tangible personal property and beneficial use of all the Collateral and may use it in any lawful manner not inconsistent with this Agreement or the Related Documents, provided that Grantor's right to possession and beneficial use shall not apply to any Collateral where possession of the Collateral by Lender is required by law to perfect Lender's security interest in such Collateral. Until otherwise notified by Lender, Grantor may collect any of the Collateral consisting of accounts. At any time and even though no Event of Default exists, Lender may exercise its rights to collect the accounts and to notify account debtors to make payments directly to Lender for

application to the Indebtedness. If Lender at any time has possession of any Collateral, whether before or after an Event of Default, Lender shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral if Lender takes such action for that purpose as Grantor shall request or as Lender, in Lender's sole discretion, shall deem appropriate under the circumstances, but failure to honor any request by Grantor shall not of itself be deemed to be a failure to exercise reasonable care. Lender shall not be required to take any steps necessary to preserve any rights in the Collateral against prior parties, nor to protect, preserve or maintain any security interest given to secure the Indebtedness.

LENDER'S EXPENDITURES. If any action or proceeding is commenced that would materially affect Lender's interest in the Collateral or if Grantor fails to comply with any provision of this Agreement or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Agreement or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Collateral and paying all costs for insuring, maintaining and preserving the Collateral. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the Indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Agreement also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

DEFAULT. Each of the following shall constitute an Event of Default under this Agreement:

Payment Default. Grantor fails to make any payment when due under the Indebtedness.

Environmental Default. Failure of any party to comply with or perform when due any term, obligation, covenant or condition contained in any environmental agreement executed in connection with any Indebtedness.

Other Defaults. Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

Default in Favor of Third Parties. Any guarantor or Grantor defaults under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of any guarantor's or Grantor's property or ability to perform their respective obligations under this Agreement or any of the Related Documents.

False Statements. Any warranty, representation or statement made or furnished to Lender by Grantor or on Grantor's behalf under this Agreement or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

Defective Collateralization. This Agreement or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

Insolvency. The dissolution of Grantor (regardless of whether election to continue is made), any member withdraws from the limited liability company, or any other termination of Grantor's existence as a going business or the death of any member, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

Creditor or Forfeiture Proceedings. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against any collateral securing the Indebtedness. This includes a garnishment of any of Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

Events Affecting Guarantor. Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or Guarantor dies or becomes incompetent or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness.

Adverse Change. A material adverse change occurs in Grantor's financial condition, or Lender believes the prospect of payment or performance of the Indebtedness is impaired.

Insecurity. Lender in good faith believes itself insecure.

Cure Provisions. If any default, other than a default in payment is curable and if Grantor has not been given a notice of a breach of the same provision of this Agreement within the preceding twelve (12) months, it may be cured if Grantor, after Lender sends written notice to Grantor demanding cure of such default: (1) cures the default within fifteen (15) days; or (2) if the cure requires more than fifteen (15) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

RIGHTS AND REMEDIES ON DEFAULT. If an Event of Default occurs under this Agreement, at any time thereafter, Lender shall have all the rights of a secured party under the South Carolina Uniform Commercial Code. In addition and without limitation, Lender may exercise any one or more of the following rights and remedies:

Accelerate Indebtedness. Lender may declare the entire Indebtedness, including any prepayment penalty which Grantor would be required to pay, immediately due and payable, without notice of any kind to Grantor.

Assemble Collateral. Lender may require Grantor to deliver to Lender all or any portion of the Collateral and any and all certificates of title and other documents relating to the Collateral. Lender may require Grantor to assemble the Collateral and make it available to Lender at a place to be designated by Lender. Lender also shall have full power to enter upon the property of Grantor to take possession of and remove the Collateral. If the Collateral contains other goods not covered by this Agreement at the time of repossession, Grantor agrees Lender may take such other goods, provided that Lender makes reasonable efforts to return them to Grantor after repossession.

Sell the Collateral. Lender shall have full power to sell, lease, transfer, or otherwise deal with the Collateral or proceeds thereof in Lender's own name or that of Grantor. Lender may sell the Collateral at public auction or private sale. Unless the Collateral threatens to decline speedily in value or is of a type customarily sold on a recognized market, Lender will give Grantor, and other persons as required by law, reasonable notice of the time and place of any public sale, or the time after which any private sale or any other disposition of the Collateral is to be made. However, no notice need be provided to any person who, after Event of Default occurs, enters into and authenticates an agreement waiving that person's right to notification of sale. The requirements of reasonable notice shall be met if such notice is given at least ten (10) days before the time of the sale or disposition. All expenses relating to the disposition of the Collateral, including without limitation the expenses of retaking, holding, insuring, preparing for sale and selling the Collateral, shall become a part of the Indebtedness secured by this Agreement and shall be payable on demand, with interest at the Note rate from date of expenditure until repaid.

Appoint Receiver. Lender shall have the right to have a receiver appointed to take possession of all or any part of the Collateral, with the power to protect and preserve the Collateral, to operate the Collateral preceding foreclosure or sale, and to collect the rents from the Collateral and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Collateral exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

Collect Revenues, Apply Accounts. Lender, either itself or through a receiver, may collect the payments, rents, income, and revenues from the Collateral. Lender may at any time in Lender's discretion transfer any Collateral into Lender's own name or that of Lender's nominee and receive the payments, rents, income, and revenues therefrom and hold the same as security for the Indebtedness or apply it to payment of the Indebtedness in such order of preference as Lender may determine. Insofar as the Collateral consists of accounts, general intangibles, insurance policies, instruments, chattel paper, choses in action, or similar property, Lender may demand, collect, receipt for, settle, compromise, adjust, sue for, foreclose, or realize on the Collateral as Lender may determine, whether or not Indebtedness or Collateral is then due. For these purposes, Lender may, on behalf of and in the name of Grantor, receive, open and dispose of mail addressed to Grantor; change any address to which mail and payments are to be sent; and endorse notes, checks, drafts, money orders, documents of title, instruments and items pertaining to payment, shipment, or storage of any Collateral. To facilitate collection, Lender may notify account debtors and obligors on any Collateral to make payments directly to Lender.

Obtain Deficiency. If Lender chooses to sell any or all of the Collateral, Lender may obtain a judgment against Grantor for any deficiency remaining on the Indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this Agreement. Grantor shall be liable for a deficiency even if the transaction described in this subsection is a sale of accounts or chattel paper.

Other Rights and Remedies. Lender shall have all the rights and remedies of a secured creditor under the provisions of the Uniform Commercial Code, as may be amended from time to time. In addition, Lender shall have and may exercise any or all other rights and remedies it may have available at law, in equity, or otherwise.

Election of Remedies. Except as may be prohibited by applicable law, all of Lender's rights and remedies, whether evidenced by this Agreement, the Related Documents, or by any other writing, shall be cumulative and may be exercised singularly or concurrently. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Agreement, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Agreement:

Amendments. This Agreement, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Attorneys' Fees; Expenses. Grantor agrees to pay upon demand all of Lender's costs and expenses, including Lender's reasonable attorneys' fees and Lender's legal expenses, incurred in connection with the enforcement of this Agreement. Lender may hire or pay someone else to help enforce this Agreement, and Grantor shall pay the costs and expenses of such enforcement. Costs and expenses include Lender's reasonable attorneys' fees and legal expenses whether or not there is a lawsuit, including reasonable attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Grantor also shall pay all court costs and such additional fees as may be directed by the court. This Agreement also secures all of these amounts.

Caption Headings. Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.

Governing Law. This Agreement will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of South Carolina without regard to its conflicts of law provisions. This Agreement has been accepted by Lender in the State of South Carolina.

No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Agreement shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

Notices. Any notice required to be given under this Agreement shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Agreement. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

Power of Attorney. Grantor hereby appoints Lender as Grantor's irrevocable attorney-in-fact for the purpose of executing any documents necessary to perfect, amend, or to continue the security interest granted in this Agreement or to demand termination of filings of other secured parties. Lender may at any time, and without further authorization from Grantor, file a carbon, photographic or other reproduction of any financing statement or of this Agreement for use as a financing statement. Grantor will reimburse Lender for all expenses for the perfection and the continuation of the perfection of Lender's security interest in the Collateral.

Severability. If a court of competent jurisdiction finds any provision of this Agreement to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Agreement. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Agreement shall not affect the legality, validity or enforceability of any other provision of this Agreement.

Successors and Assigns. Subject to any limitations stated in this Agreement on transfer of Grantor's interest, this Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Collateral becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Agreement and the Indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Agreement or liability under the Indebtedness.

Survival of Representations and Warranties. All representations, warranties, and agreements made by Grantor in this Agreement shall survive the execution and delivery of this Agreement, shall be continuing in nature, and shall remain in full force and effect until such time as Grantor's Indebtedness shall be paid in full.

Time is of the Essence. Time is of the essence in the performance of this Agreement.

Waive Jury. All parties to this Agreement hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

DEFINITIONS. The following capitalized words and terms shall have the following meanings when used in this Agreement. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the Uniform Commercial Code:

Agreement. The word "Agreement" means this Commercial Security Agreement, as this Commercial Security Agreement may be amended or modified from time to time, together with all exhibits and schedules attached to this Commercial Security Agreement from time to time.

Borrower. The word "Borrower" means Old Towne Suites, LLC and includes all co-signers and co-makers signing the Note and all their successors and assigns.

Collateral. The word "Collateral" means all of Grantor's right, title and interest in and to all the Collateral as described in the Collateral Description section of this Agreement.

Default. The word "Default" means the Default set forth in this Agreement in the section titled "Default".

Environmental Laws. The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

Event of Default. The words "Event of Default" mean any of the events of default set forth in this Agreement in the default section of this Agreement.

Grantor. The word "Grantor" means Old Towne Suites, LLC.

Guarantor. The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the Indebtedness.

Guaranty. The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

Hazardous Substances. The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

Indebtedness. The word "Indebtedness" means the Indebtedness evidenced by the Note or Related Documents, including all principal and interest together with all other indebtedness and costs and expenses for which Grantor is responsible under this Agreement or under any of the Related Documents.

Lender. The word "Lender" means SOUTHCOAST COMMUNITY BANK, its successors and assigns.

Note. The word "Note" means the Note dated November 21, 2014 and executed by Old Towne Suites, LLC in the principal amount of $1,800,000.00, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the note or credit agreement.

Property. The word "Property" means all of Grantor's right, title and interest in and to all the Property as described in the "Collateral Description" section of this Agreement.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

GRANTOR HAS READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS COMMERCIAL SECURITY AGREEMENT AND AGREES TO ITS TERMS. THIS AGREEMENT IS DATED NOVEMBER 21, 2014.

GRANTOR:

OLD TOWNE SUITES, LLC

By: _____
Athanasios Fokas, Authorized Member of Old Towne Suites, LLC

By: _____
Iakovos S Ferdarigos, Authorized Member of Old Towne Suites, LLC

Laserpro, Ver. 14.4.0.010 Copr. D+H USA Corporation 1997, 2014. All Rights Reserved. - CO M:\CFI\LPL\G201.FC TR-7119 PR-13

WHEN RECORDED MAIL TO:

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

0460

HAZARDOUS SUBSTANCES CERTIFICATE AND INDEMNITY AGREEMENT

THIS HAZARDOUS SUBSTANCES AGREEMENT dated November 21, 2014, is made and executed among Old Towne Suites, LLC, whose address is 229 King Street, Charleston, SC 29401 (sometimes referred to below as "Borrower" and sometimes as "Indemnitor"); Athanasios Fokas, whose address is 229 King Street, Charleston, SC 29401 and Iakovos S Ferderigos, whose address is 229 King Street, Charleston, SC 29401 (sometimes referred to below as "Guarantor" and sometimes as "Indemnitor"); and SOUTHCOAST COMMUNITY BANK, Commercial Lending, 530 Johnnie Dodds, Mt. Pleasant, SC 29464 (referred to below as "Lender"). For good and valuable consideration and to induce Lender to make a loan to Borrower, each party executing this Agreement hereby represents and agrees with Lender as follows:

PROPERTY DESCRIPTION. The word "Property" as used in this Agreement means the following Real Property located in Charleston County, State of South Carolina:

See Exhibit A, which is attached to this Agreement and made a part of this Agreement as if fully set forth herein.

The Real Property or its address is commonly known as 229 King Street, Charleston, SC 29401. The Real Property tax identification number is 457-08-01-063.

REPRESENTATIONS. The following representations are made to Lender, subject to disclosures made and accepted by Lender in writing:

Use of Property. After due inquiry and investigation, Indemnitor has no knowledge, or reason to believe, that there has been any use, generation, manufacture, storage, treatment, refinement, transportation, disposal, release, or threatened release of any Hazardous Substances by any person on, under, or about the Property.

Hazardous Substances. After due inquiry and investigation, Indemnitor has no knowledge, or reason to believe, that the Property, whenever and whether owned by previous Occupants, has ever contained asbestos, PCBs, lead paints or other Hazardous Substances, whether used in construction or stored on the Property.

No Notices. Indemnitor has received no summons, citation, directive, letter or other communication, written or oral, from any agency or department of any county or state or the U.S. Government concerning any intentional or unintentional action or omission on, under, or about the Property which has resulted in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of Hazardous Substances into any waters, ambient air or onto any lands or where damage may have resulted to the lands, waters, fish, shellfish, wildlife, biota, air or other natural resources.

AFFIRMATIVE COVENANTS. Indemnitor covenants with Lender as follows:

Use of Property. Indemnitor will not use and does not intend to use the Property to generate, manufacture, refine, transport, treat, store, handle or dispose of any Hazardous Substances, PCBs, lead paint or asbestos.

Compliance with Environmental Laws. Indemnitor shall cause the Property and the operations conducted on it to comply with any and all Environmental Laws and orders of any governmental authorities having jurisdiction under any Environmental Laws and shall obtain, keep in effect and comply with all governmental permits and authorizations required by Environmental Laws with respect to such Property or operations. Indemnitor shall furnish Lender with copies of all such permits and authorizations and any amendments or renewals of them and shall notify Lender of any expiration or revocation of such permits or authorizations.

Preventive, Investigatory and Remedial Action. Indemnitor shall exercise extreme care in handling Hazardous Substances if Indemnitor uses or encounters any. Indemnitor, at Indemnitor's expense, shall undertake any and all preventive, investigatory or remedial action (including emergency response, removal, containment and other remedial action) (a) required by any applicable Environmental Laws or orders by any governmental authority having jurisdiction under Environmental Laws, or (b) necessary to prevent or minimize property damage (including damage to Occupant's own property), personal injury or damage to the environment, or the threat of any such damage or injury, by releases of or exposure to Hazardous Substances in connection with the Property or operations of any Occupant on the Property. In the

event Indemnitor fails to perform any of Indemnitor's obligations under this section of the Agreement, Lender may (but shall not be required to) perform such obligations at Indemnitor's expense. All such costs and expenses incurred by Lender under this section and otherwise under this Agreement shall be reimbursed by Indemnitor to Lender upon demand with interest at the Note default rate, or in the absence of a default rate, at the Note interest rate. Lender and Indemnitor intend that Lender shall have full recourse to Indemnitor for any sum at any time due to Lender under this Agreement. In performing any such obligations of Indemnitor, Lender shall at all times be deemed to be the agent of Indemnitor and shall not by reason of such performance be deemed to be assuming any responsibility of Indemnitor under any Environmental Law or to any third party. Indemnitor hereby irrevocably appoints Lender as Indemnitor's attorney-in-fact with full power to perform such of Indemnitor's obligations under this section of the Agreement as Lender deems necessary and appropriate.

Notices. Indemnitor shall immediately notify Lender upon becoming aware of any of the following:

(1) Any spill, release or disposal of a Hazardous Substance on any of the Property, or in connection with any of its operations if such spill, release or disposal must be reported to any governmental authority under applicable Environmental Laws.

(2) Any contamination, or imminent threat of contamination, of the Property by Hazardous Substances, or any violation of Environmental Laws in connection with the Property or the operations conducted on the Property.

(3) Any order, notice of violation, fine or penalty or other similar action by any governmental authority relating to Hazardous Substances or Environmental Laws and the Property or the operations conducted on the Property.

(4) Any judicial or administrative investigation or proceeding relating to Hazardous Substances or Environmental Laws and to the Property or the operations conducted on the Property.

(5) Any matters relating to Hazardous Substances or Environmental Laws that would give a reasonably prudent Lender cause to be concerned that the value of Lender's security interest in the Property may be reduced or threatened or that may impair, or threaten to impair, Indemnitor's ability to perform any of its obligations under this Agreement when such performance is due.

Access to Records. Indemnitor shall deliver to Lender, at Lender's request, copies of any and all documents in Indemnitor's possession or to which it has access relating to Hazardous Substances or Environmental Laws and the Property and the operations conducted on the Property, including without limitation results of laboratory analyses, site assessments or studies, environmental audit reports and other consultants' studies and reports.

Inspections. Lender reserves the right to inspect and investigate the Property and operations on it at any time and from time to time, and Indemnitor shall cooperate fully with Lender in such inspection and investigations. If Lender at any time has reason to believe that Indemnitor or any Occupants of the Property are not complying with all applicable Environmental Laws or with the requirements of this Agreement or that a material spill, release or disposal of Hazardous Substances has occurred on or under the Property, Lender may require Indemnitor to furnish Lender at Indemnitor's expense an environmental audit or a site assessment with respect to the matters of concern to Lender. Such audit or assessment shall be performed by a qualified consultant approved by Lender. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to any Indemnitor or to any other person.

INDEMNITOR'S WAIVER AND INDEMNIFICATION. Indemnitor hereby agrees to and shall indemnify, defend, and hold harmless Lender and Lender's officers, directors, employees and agents, and Lender's successors and assigns and their officers, directors, employees and agents from and against any and all claims, demands, losses, liabilities, costs, fines, penalties and expenses (including without limitation attorneys' fees at trial and on any appeal or petition for review, consultants' fees, remedial action costs, natural resource damages and diminution in value) incurred by such person (a) arising out of or relating to any investigatory or remedial action involving the Property, the operations conducted on the Property, or any other operations of Indemnitor or any Occupant and required by Environmental Laws or by orders of any governmental authority having jurisdiction under any Environmental Laws; including without limitation any natural resource damages, or (b) arising out of or related to any noncompliance with or violation of Environmental Laws or any applicable permits or approvals, or (c) on account of injury to Lender or any person whatsoever or damage to any property arising out of, in connection with, or in any way relating to (i) the breach of any covenant, representation or warranty contained in this Agreement, (ii) the violation of any Environmental Laws, permits, authorizations or approvals, (iii) the use, treatment, storage, generation, manufacture, transport, release, spill, disposal or other handling of Hazardous Substances on the Property, or (iv) the contamination of any of the Property by, or the presence, release or threatened release of, Hazardous Substances by any means whatsoever (explicitly including without limitation any presently existing contamination of the Property, whether or not previously disclosed to Lender), or (d) pursuant to this Agreement. Indemnitor's obligations under this section shall survive the termination of this Agreement and as set forth below in the Survival section. In addition to this indemnity, Indemnitor hereby releases and waives all present and future claims against Lender for indemnity or contribution in the event Indemnitor becomes liable for cleanup or other costs under any Environmental Laws.

PAYMENT; FULL RECOURSE TO INDEMNITOR. Indemnitor intends that Lender shall have full recourse to Indemnitor for Indemnitor's obligations under this Agreement as they become due to Lender. Such liabilities, losses, claims, damages and expenses shall be reimbursable to Lender as Lender's obligations to make payments with respect thereto are incurred, without any requirement of waiting for the ultimate outcome of any litigation, claim or other proceeding, and Indemnitor shall pay such liability, losses, claims, damages and expenses to Lender as so incurred within thirty (30) days after written notice from Lender. Lender's notice shall contain a brief itemization of the amounts incurred to the date of such notice. In addition to any remedy available for failure to pay periodically such amounts, such amounts shall thereafter bear interest at the Note default rate, or in the absence of a default rate, at the Note interest rate.

SURVIVAL. The covenants contained in this Agreement shall survive (A) the repayment of the Indebtedness, (B) any foreclosure, whether judicial or nonjudicial, of the Property, and (C) any delivery of a deed in lieu of foreclosure to Lender or any successor of Lender. The covenants contained in this Agreement shall be for the benefit of Lender and any successor to Lender, as holder of any security interest in the Property or the Indebtedness secured thereby, or as owner of the Property following foreclosure or the delivery of a deed in lieu of foreclosure.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Agreement:

Amendments. This Agreement, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Attorneys' Fees; Expenses. If Lender institutes any suit or action to enforce any of the terms of this Agreement, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time

for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's reasonable attorneys' fees in an amount not less than fifteen percent (15%) of the amount owing on the Indebtedness and Lender's legal expenses whether or not there is a lawsuit, including reasonable attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees and title insurance, to the extent permitted by applicable law. Indemnitor also will pay any court costs, in addition to all other sums provided by law.

Caption Headings. Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.

Governing Law. This Agreement will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of South Carolina without regard to its conflicts of law provisions. This Agreement has been accepted by Lender in the State of South Carolina.

Joint and Several Liability. All obligations of Indemnitor under this Agreement shall be joint and several, and all references to Indemnitor shall mean each and every Indemnitor. This means that each Indemnitor signing below is responsible for all obligations in this Agreement.

No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Agreement shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by Lender, nor any course of dealing between Lender and Indemnitor, shall constitute a waiver of any of Lender's rights or of any of Indemnitor's obligations as to any future transactions. Whenever the consent of Lender is required under this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender. Indemnitor hereby waives notice of acceptance of this Agreement by Lender.

Notices. Any notice required to be given under this Agreement shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Agreement. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Indemnitor agrees to keep Lender informed at all times of Indemnitor's current address. Unless otherwise provided or required by law, if there is more than one Indemnitor, any notice given by Lender to any Indemnitor is deemed to be notice given to all Indemnitors.

Severability. If a court of competent jurisdiction finds any provision of this Agreement to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Agreement. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Agreement shall not affect the legality, validity or enforceability of any other provision of this Agreement.

Successors and Assigns. Subject to any limitations stated in this Agreement on transfer of Indemnitor's interest, this Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Indemnitor, Lender, without notice to Indemnitor, may deal with Indemnitor's successors with reference to this Agreement and the Indebtedness by way of forbearance or extension without releasing Indemnitor from the obligations of this Agreement or liability under the Indebtedness.

Time is of the Essence. Time is of the essence in the performance of this Agreement.

Waive Jury. All parties to this Agreement hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

DEFINITIONS. The following capitalized words and terms shall have the following meanings when used in this Agreement. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the Uniform Commercial Code:

Agreement. The word "Agreement" means this Hazardous Substances Agreement, as this Hazardous Substances Agreement may be amended or modified from time to time, together with all exhibits and schedules attached to this Hazardous Substances Agreement from time to time.

Environmental Laws. The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

Hazardous Substances. The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

Indebtedness. The word "Indebtedness" means all principal, earned interest, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Indemnitor's obligations or expenses incurred by Lender to enforce Indemnitor's obligations under this Agreement, together with interest on such amounts as provided in this Agreement.

Lender. The word "Lender" means SOUTHCOAST COMMUNITY BANK, its successors and assigns.

Note. The word "Note" means the Note dated November 21, 2014 and executed by Old Towne Suites, LLC in the principal amount of $1,800,000.00, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the note or credit agreement.

Occupant. The word "Occupant" means individually and collectively all persons or entities occupying or utilizing the Property, whether as owner, tenant, operator or other occupant.

Property. The word "Property" means all of Indemnitor's right, title and interest in and to all the Property as described in the "Property Description" section of this Agreement.

Real Property. The words "Real Property" mean the real property, interests and rights, as further described in this Agreement.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

EACH PARTY TO THIS AGREEMENT ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS AGREEMENT, AND EACH AGREES TO ITS TERMS. NO FORMAL ACCEPTANCE BY LENDER IS NECESSARY TO MAKE THIS AGREEMENT EFFECTIVE. THIS AGREEMENT IS DATED NOVEMBER 21, 2014.

BORROWER:

OLD TOWNE SUITES, LLC

By: _____
Athanasios Fokas, Authorized Member of Old Towne Suites, LLC

By: _____
Iakovos S Ferderigos, Authorized Member of Old Towne Suites, LLC

Signed, acknowledged and delivered in the presence of:

X _____
Witness

X _____
Witness

GUARANTOR:

X _____
Athanasios Fokas, Individually

X _____
Iakovos S Ferderigos, Individually

Signed, acknowledged and delivered in the presence of:

X _____
Witness

X _____
Witness

LENDER:

SOUTHCOAST COMMUNITY BANK

X _____
Authorized Signer

Signed, acknowledged and delivered in the presence of:

X _____
Witness

X _____
Witness

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF _____)
) SS
COUNTY OF _____)

PERSONALLY appeared before me and made oath that he or she saw the within-named Grantor(s) sign, seal, and, as his or her act and deed, deliver the within-written Agreement for the uses and purposes therein mentioned, and that he or she with the other witness subscribed above witnessed the execution thereof.

_____
(Witness)

SWORN to before me this _____

day of _____, A.D. 20_____.

_____(Seal)
Notary Public

My Commission expires: _____

INDIVIDUAL ACKNOWLEDGMENT

STATE OF _____)
) SS
COUNTY OF _____)

PERSONALLY appeared before me and made oath that he or she saw the within-named Grantor(s) sign, seal, and, as his or her act and deed, deliver the within-written Agreement for the uses and purposes therein mentioned, and that he or she with the other witness subscribed above witnessed the execution thereof.

_____
(Witness)

SWORN to before me this _____

day of _____, A.D. 20_____.

_____(Seal)
Notary Public

My Commission expires: _____

LENDER ACKNOWLEDGMENT

STATE OF _____)
) SS
COUNTY OF _____)

PERSONALLY appeared before me and made oath that he or she saw the within-named authorized agent for SOUTHCOAST COMMUNITY BANK , sign, seal, and, as his or her act and deed, deliver the within-written Agreement for the uses and purposes therein mentioned, and that he or she with the other witness subscribed above witnessed the execution thereof.

_____
(Witness)

SWORN to before me this _____

day of _____, A.D. 20_____.

_____(Seal)
Notary Public

My Commission expires:_____

LaserPro, Ver. 14.4.0.024 Copr. D+H USA Corporation 1997, 2014. All Rights Reserved. - SC C:\PROSUITE\CFI\LPL\G210.FC TR-7519 PR-13

TAX RECORD

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
$1,800,000.00	11-21-2014	12-01-2020	03400007519		34000	***	

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item.
Any item above containing "***" has been omitted due to text length limitations.

Borrower: Old Towne Suites, LLC
229 King Street
Charleston, SC 29401

Lender: SOUTHCOAST COMMUNITY BANK
Commercial Lending
530 Johnnie Dodds
Mt. Pleasant, SC 29464
(843) 884-0504

Loan #: _____
Taxes Listed in the name of: _____
Borrower's Name(s): _____
Property Address: _____
Mailing Address: _____

TAXING AUTHORITY

County: _____ Next Due Date: _____ Date Paid Through: _____
Amount Due: $_____ Amount of Taxes for Following Year: $_____

Taxes are Payable:
( ) Annually ( ) Semi-Annually ( ) Quarterly

Taxes for the Current Year are based on:
( ) Acreage ( ) Vacant Lot ( ) Partial Construction ( ) Complete Construction

TAX DESCRIPTION

Parcel ID / TMS #: _____ Township: _____
Lot: _____ Block: _____ Subdivision: _____

SPECIAL ASSESSMENTS - NO ESCROW TO BE SET UP FOR PAYMENT OF ASSESSMENTS WITHOUT PRIOR APPROVAL OF LENDER

Public Service District: _____ Amount: _____
Sewer: _____ Amount: _____
Street Paving: _____ Amount: _____
Other Assessment: _____ Amount: _____

Assessments due: ( ) Annually ( ) Semi-Annually ( ) Quarterly

This Information is Certified By: _____
Signature of Closing Attorney: _____
Date Loan Closed: _____

INSTRUCTION FOR COMPLETION OF TAX RECORD

1. Tax Description must be exactly as shown on tax records
2. Assessments should be shown only if to be paid from escrow.
3. City taxing authority to be shown only if city taxes are to be paid.
4. Tax bills are obtained from information on this form. All information must be completed in full.

LaserPro, Ver. 14.4.0.014 Copr. D+H USA Corporation 1997, 2014. All Rights Reserved. - SC C:\PROGRAM FILES (X86)\LP\CFI\TAXREC.FC TR-3511 PR-13

0035

AGREEMENT TO PROVIDE INSURANCE

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
$1,800,000.00	11-21-2014	12-01-2020	03400007519		34000	***	

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item.
Any item above containing "***" has been omitted due to text-length limitations.

Grantor: Old Towne Suites, LLC
229 King Street
Charleston, SC 29401

Lender: SOUTHCOAST COMMUNITY BANK
Commercial Lending
530 Johnnie Dodds
Mt. Pleasant, SC 29464
(843)-884-0504

INSURANCE REQUIREMENTS. Grantor, Old Towne Suites, LLC ("Grantor"), understands that insurance coverage is required in connection with the extending of a loan or the providing of other financial accommodations to Grantor by Lender. These requirements are set forth in the security documents for the loan. The following minimum insurance coverages must be provided on the following described collateral (the "Collateral"):

Collateral: All Inventory, Equipment, Fixtures, Timber and Minerals, Oil and Gas.
Type: All risks, including fire, theft and liability.
Amount: Full Insurable Value.
Basis: Replacement value.
Endorsements: Lender loss payable clause with stipulation that coverage will not be cancelled or diminished without a minimum of 30 days prior written notice to Lender.
Deductibles: $1,000.00.
Latest Delivery Date: By the loan closing date.

INSURANCE COMPANY. Grantor may obtain insurance from any insurance company Grantor may choose that is reasonably acceptable to Lender. Grantor understands that credit may not be denied solely because insurance was not purchased through Lender.

FAILURE TO PROVIDE INSURANCE. Grantor agrees to deliver to Lender, on the latest delivery date stated above, proof of the required insurance as provided above, with an effective date of November 21, 2014, or earlier. Grantor acknowledges and agrees that if Grantor fails to provide any required insurance or fails to continue such insurance in force, Lender may do so at Grantor's expense as provided in the applicable security document. The cost of any such insurance, at the option of Lender, shall be added to the Indebtedness as provided in the security document. GRANTOR ACKNOWLEDGES THAT IF LENDER SO PURCHASES ANY SUCH INSURANCE, THE INSURANCE WILL PROVIDE LIMITED PROTECTION AGAINST PHYSICAL DAMAGE TO THE COLLATERAL, UP TO AN AMOUNT EQUAL TO THE LESSER OF (1) THE UNPAID BALANCE OF THE DEBT, EXCLUDING ANY UNEARNED FINANCE CHARGES, OR (2) THE VALUE OF THE COLLATERAL; HOWEVER, GRANTOR'S EQUITY IN THE COLLATERAL MAY NOT BE INSURED. IN ADDITION, THE INSURANCE MAY NOT PROVIDE ANY PUBLIC LIABILITY OR PROPERTY DAMAGE INDEMNIFICATION AND MAY NOT MEET THE REQUIREMENTS OF ANY FINANCIAL RESPONSIBILITY LAWS.

AUTHORIZATION. For purposes of insurance coverage on the Collateral, Grantor authorizes Lender to provide to any person (including any insurance agent or company) all information Lender deems appropriate, whether regarding the Collateral, the loan or other financial accommodations, or both.

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS AGREEMENT TO PROVIDE INSURANCE AND AGREES TO ITS TERMS. THIS AGREEMENT IS DATED NOVEMBER 21, 2014.

GRANTOR:

OLD TOWNE SUITES, LLC

By: _____
Athanasios Fokas, Authorized Member of Old Towne Suites, LLC

By: _____
Iakovos S Ferderigos, Authorized Member of Old Towne Suites, LLC

FOR LENDER USE ONLY
INSURANCE VERIFICATION

DATE: _____ PHONE _____

AGENT'S NAME: _____
AGENCY: _____
ADDRESS: _____
INSURANCE COMPANY: _____
POLICY NUMBER: _____
EFFECTIVE DATES: _____
COMMENTS: _____

LaserPro, Ver. 14.4.0.024 Copr. D+H USA Corporation 1997, 2014. All Rights Reserved. - CO C:\PRO3\TIL\CFI.LVI0.FC TR-7519 PR-12

0825

NOTICE OF INSURANCE REQUIREMENTS

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
	11-21-2014		03400007519		34000	****	

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item.
Any item above containing "****" has been omitted due to text length limitations.

Grantor: Old Towne Suites, LLC
229 King Street
Charleston, SC 29401

Lender: SOUTHCOAST COMMUNITY BANK
Commercial Lending
530 Johnnie Dodds
Mt. Pleasant, SC 29464
(843) 884-0504

TO: ATTN: Insurance Agent

DATE: November 21, 2014

RE: Policy Number(s):
Insurance Companies/Company:

Dear Insurance Agent:

Grantor, Old Towne Suites, LLC ("Grantor") is obtaining a loan from SOUTHCOAST COMMUNITY BANK. Please send appropriate evidence of insurance to SOUTHCOAST COMMUNITY BANK, together with the requested endorsements, on the following property, which Grantor is giving as security for the loan.

Collateral: All Inventory, Equipment, Fixtures, Timber and Minerals, Oil and Gas.
Type: All risks, including fire, theft and liability.
Amount: Full Insurable Value.
Basis: Replacement value.
Endorsements: Lender loss payable clause with stipulation that coverage will not be cancelled or diminished without a minimum of 30 days prior written notice to Lender.
Deductibles: $1,000.00.
Latest Delivery Date: By the loan closing date.

GRANTOR:

OLD TOWNE SUITES, LLC

By: _____
Athanasios Fokas, Authorized Member of Old Towne Suites, LLC

By: _____
Iakovos S Ferderigos, Authorized Member of Old Towne Suites, LLC

RETURN TO:

Commercial Lending
530 Johnnie Dodds
Mt. Pleasant, SC 29464

LaserPro, Ver. 14.40.021 Copr. D+H USA Corporation 1997, 2014. All Rights Reserved. - SC
CFIPROSUITECFALPLI01.FC TR-7819 PR-13

[redacted]

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)
Cindy Gleaton (843) 216-3016

B. E-MAIL CONTACT AT FILER (optional)

C. SEND ACKNOWLEDGMENT TO: (Name and Address)

SOUTHCOAST COMMUNITY BANK
530 Johnnie Dodds
Mt. Pleasant, SC 29464

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here ☐ and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

1a. ORGANIZATION'S NAME: Old Towne Suites, LLC.					
OR 1b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX		
1c. MAILING ADDRESS: 229 King Street	CITY: Charleston	STATE: SC	POSTAL CODE: 29401	COUNTRY	

2. DEBTOR'S NAME: Provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here ☐ and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

2a. ORGANIZATION'S NAME					
OR 2b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX		
2c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY	

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY): Provide only one Secured Party name (3a or 3b)

3a. ORGANIZATION'S NAME: SOUTHCOAST COMMUNITY BANK					
OR 3b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX		
3c. MAILING ADDRESS: 530 Johnnie Dodds	CITY: Mt. Pleasant	STATE: SC	POSTAL CODE: 29464	COUNTRY: USA	

4. COLLATERAL: This financing statement covers the following collateral:

All inventory, equipment, accounts (including but not limited to all health-care-insurance receivables), chattel paper, instruments (including but not limited to all promissory notes), letter-of-credit rights, letters of credit, documents, deposit accounts, investment property, money, other rights to payment and performance, and general intangibles (including but not limited to all software and all payment intangibles); all oil, gas and other minerals before extraction; all oil, gas, other minerals and accounts constituting as-extracted collateral; all fixtures; all timber to be cut; all attachments, accessions, accessories, fittings, increases, tools, parts, repairs, supplies, and commingled goods relating to the foregoing property, and all additions, replacements of and substitutions for all or any part of the foregoing property; all insurance refunds relating to the foregoing property; all good will relating to the foregoing property; all records and data and embedded software relating to the foregoing property, and all equipment, inventory and software to utilize, create, maintain and process any such records and data on electronic media; and all supporting obligations relating to the foregoing property; all whether now existing or hereafter arising, whether now owned or hereafter acquired or whether now or hereafter subject to any rights in the foregoing property; and all products and proceeds (including but not limited to all insurance payments) of or relating to the foregoing property.

5. Check only if applicable and check only one box: Collateral is ☐ held in a Trust (see UCC1Ad, Item 17 and Instructions) ☐ being administered by a Decedent's Personal Representative

6a. Check only if applicable and check only one box:
☐ Public-Finance Transaction ☐ Manufactured-Home Transaction ☐ A Debtor is a Transmitting Utility

6b. Check only if applicable and check only one box:
☐ Agricultural Lien ☐ Non-UCC Filing

7. ALTERNATIVE DESIGNATION (if applicable): ☐ Lessee/Lessor ☐ Consignee/Consignor ☐ Seller/Buyer ☐ Bailee/Bailor ☐ Licensee/Licensor

8. OPTIONAL FILER REFERENCE DATA:

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS

9. NAME OF FIRST DEBTOR: Same as line 1a or 1b on Financing Statement; if line 1b was left blank because individual Debtor name did not fit, check here ☐

9a. ORGANIZATION'S NAME
Old Towne Suites, LLC

OR

9b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S) | SUFFIX

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

10. DEBTOR'S NAME: Provide (10a or 10b) only one additional Debtor name or Debtor name that did not fit in line 1b or 2b of the Financing Statement (Form UCC1) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name) and enter the mailing address in line 10c

10a. ORGANIZATION'S NAME

OR

10b. INDIVIDUAL'S SURNAME

INDIVIDUAL'S FIRST PERSONAL NAME

INDIVIDUAL'S ADDITIONAL NAME(S)/INITIAL(S) | SUFFIX

10c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

11. ☐ ADDITIONAL SECURED PARTY'S NAME or ☐ ASSIGNOR SECURED PARTY'S NAME: Provide only one name (11a or 11b)

11a. ORGANIZATION'S NAME

OR

11b. INDIVIDUAL'S SURNAME | FIRST PERSONAL NAME | ADDITIONAL NAME(S)/INITIAL(S) | SUFFIX

11c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

12. ADDITIONAL SPACE FOR ITEM 4 (Collateral):

13. [X] This FINANCING STATEMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS (if applicable)

14. This FINANCING STATEMENT:
[X] covers timber to be cut [X] covers as-extracted collateral [X] is filed as a fixture filing

15. Name and address of a RECORD OWNER of real estate described in item 16 (if Debtor does not have a record interest):

16. Description of real estate:

17. MISCELLANEOUS:

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

RE: Old Town

Amy Haines <amy.haineslawfirm@gmail.com> Fri, Nov 21, 2014 at 2:10 PM
To: Phillip Ferderigos <pferderigos@barnwell-whaley.com>, Spiros Ferderigos <spirosferderigos@gmail.com>
Cc: Athan Fokas <fokasa@bellsouth.net>, Athan Fokas <athanfokas@gmail.com>, Iakovosstavros@gmail.com

Nothing in the documents I have makes you personally liable for the debt. The note is in the llc's name. Only the LLC assets and the property by virtue of the mortgage are at risk, assuming the llc corporate veil could not be pierced for some reason.

That said, I understand you do not agree to the LLC being the borrower or I would assume the guarantor.

Other than the resolution and the settlement statement, Southcoast generates the documents sent, so Southcoast will need to be the one to work with on this.

Thanks,

Amy

HAINES LAW FIRM

800 Johnnie Dodds Blvd.

Mt. Pleasant, SC 29464

Phone: (843) 884-1593 x203

Fax: (843) 284-0417

Please be aware that funds brought to a real estate closing in excess of $1000 should be in the form of a wire. If you cannot wire funds, please contact us in advance so alternate arrangements can be made. PLEASE CALL TO CONFIRM WIRING INSTRUCTIONS WITH OUR OFFICE BEFORE WIRING.

CONFIDENTIALITY NOTICE: This e-mail and any files attached to it are confidential and may contain information which is privileged or otherwise exempt from disclosure. They are intended solely for the use of the individual or entity to whom this e-mail is addressed. If you are not one of the named recipients or otherwise have reason to believe that you have received this message in error, please immediately notify the sender and delete this message from your computer. Any other use, retention, dissemination, forwarding [illegible] this e-mail is strictly prohibited.

IRS CIRCULAR 230 NOTICE: Internal Revenue Service regulations generally provide that, for the purpose of avoiding penalties, a taxpayer may rely only on formal written advice meeting specific requirements. Any tax advice in this attachment to this message, does not meet those requirements. Accordingly, any such tax advice was not intended

EXHIBIT

tabbies

O

889

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

RE: Old Town

Athan Fokas <fokasa@bellsouth.net>. Fri, Nov 21, 2014 at 3:07 PM
To: Phillip Ferderigos <pferderigos@barnwell-whaley.com>
Cc: Spiros Ferderigos <spirosferderigos@gmail.com>, Athan Fokas <athanfokas@gmail.com>, "<lakovosstavros@gmail.com>" <lakovosstavros@gmail.com>

The bottom line is that the Old Towne Suites LLC on the note, that only Jacob and I are signing on as members, has nothing to do with the payment of the loan. If payments aren't paid then the bank goes after the building regardless if the Old Towne Suites LLC is on the note. Maybe a hard headed Greek wouldn't get that but it's common sense otherwise.
And if you are requiring me to sign a document saying that I will give up interest if payments are not made, common sense says that all parties should do the same.
Maybe we can talk about the specifics over Thanksgiving while playing a game of chess. Ha! Ha!

Sent from my iPhone

On Nov 21, 2014, at 2:48 PM, Phillip Ferderigos <pferderigos@barnwell-whaley.com> wrote:

> This is not humorous to me. I take this very seriously. I wish you would to...
>
> Phillip S. Ferderigos, Esq.
>
> Member
>
> <image001.jpg>
>
> [Quoted text hidden]
> [Quoted text hidden]

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

RE: Old Town

Phillip Ferderigos <pferderigos@barnwell-whaley.com> Fri, Nov 21, 2014 at 1:54 PM
To: Amy Haines <amy.haineslawfirm@gmail.com>
Cc: Teri Baker <teri.haineslawfirm@gmail.com>, Athan Fokas <fokasa@bellsouth.net>, Athan Fokas <athanfokas@gmail.com>, iakovosstavros@gmail.com, Spiros Ferderigos <spirosferderigos@gmail.com>

I have been in a meeting, after looking at all of the email from everyone, it is clear that the bank has not been advised how to do the particulars correctly and this can not be rushed. Closing is off for today. If the docs can be fixed and all side agreements agreed to, then we can re-visit at that time.

Please call if you would like to discuss. Thanks, Phillip.

Phillip S. Ferderigos, Esq.

Member

BARNWELL WHALEY | 75 YEARS
PATTERSON & HELMS LLC
Attorneys for Business & Individuals since 1935

288 Meeting St., Ste 200 (29401)

PO Drawer H

Charleston, SC 29402

Phone: (843) 577-7700

Facsimile: (843) 577-7708

Email: pferderigos@barnwell-whaley.com

EXHIBIT
P
891

Gmail by Google

. spiros ferderigos <spirosferderigos@gmail.com>

Current Suites report

Athan Fokas <athanfokas@gmail.com> Fri, Nov 21, 2014 at 5:57 PM
To: Athan Fokas <fokasa@bellsouth.net>
Cc: Phillip Ferderigos <pferderigos@barnwell-whaley.com>, Spiros Ferderigos <spirosferderigos@gmail.com>, "<iakovosstavros@gmail.com>" <iakovosstavros@gmail.com>

I did some checking since Spiro said the suites are not doing that good in December. Quite the contrary December is a last minute booking month and this year so far we have booked 21 days of units compared to 22 days of units booked total last year. We still have 41 days of unbooked booked units so I project that we will definitely exceed last years December numbers. In August we were up 43% over last year, September 18% over last year, October was even bringing in $13441.00, and November is up 11% over last year. We have already had some crazy expensive bookings for next year that peak at $624.60 per night and one family booked 15 days straight in May for a whopping $7580.00 reservation. All in all we are continuing great growth and demand as we have repeat's and word of mouth spreads.
I think it's best to think of the big picture of this new project which will put us in a boutique hotel category and forget about stupid details that carry no wait in the big picture. Comments like when I asked what side agreement and Phillip responds "it's going to cost you big if you don't pay" is just ego's blowing smoke. You guys recommended that I show it to my attorney and you didn't like his response. At first he told me "I would never tell my clients to ever sign anything like this". I convinced him it's ok because I love the chance to own more percentage if possible. Do you imagine the imbalance of power that I would have owning more than 50%? I could make every decision and not tell any of you what I did. Not really an ideal situation for a family that started out 50/50. It's ego's trying to get an upper hand on the other. Currently we all need loans to get this deal done. On April 1, I'm getting paid 3.5 million for a transaction I created long ago in which I have less then $800,000.00 invested in. I then plan to pay off my debt in full.
In the end the building is what the bank wants and none of these side agreements really matter. I suggest you forget your agreement and I will forget mine and we move forward on a very profitable venture and get it done the way the bank allows. I am the one who has the most to loose but I don't think with my equity in three restaurant buildings and two houses in Ion that I am going to let any equity just slip away.

Sent from my iPhone

EXHIBIT
tabbies
Q
892

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Current Suites report

Phillip Ferderigos <pferderigos@barnwell-whaley.com> Fri, Nov 21, 2014 at 6:52 PM
To: Athan Fokas <athanfokas@gmail.com>,
Cc: Athan Fokas <fokasa@bellsouth.net>, Spiros Ferderigos <spirosferderigos@gmail.com>, Iakovosstavros@gmail.com

Your quote of what I said is not accurate, but that's besides the point... here's a thought that we could kick around... Not an offer...If you're coming into all this money, why don't we just move forward in April and we don't even need this loan at all...at that point, it will just be Jacob that needs to get a loan, and then I'm sure that you will agree to mortgage Oldtown so he can get it...these are just thoughts, thinking out loud...

Sent from my iPhone

On Nov 21, 2014, at 5:57 PM, Athan Fokas <athanfokas@gmail.com> wrote:

> I did some checking since Spiro said the suites are not doing that good in December. Quite the contrary December is a last minute booking month and this year so far we have booked 21 days of units compared to 22 days of units booked total last year. We still have 41 days of unbooked booked units so I project that we will definitely exceed last years December numbers. In August we were up 43% over last year, September 18% over last year, October was even bringing in $13441.00, and November is up 11% over last year. We have already had some crazy expensive bookings for next year that peak at $624.60 per night and one family booked 15 days straight in May for a whopping $7580.00 reservation. All in all we are continuing great growth and demand as we have repeat's and word of mouth spreads.
> I think it's best to think of the big picture of this new project which will put us in a boutique hotel category and forget about stupid details that carry no wait in the big picture. Comments like when I asked what side agreement and Phillip responds "it's going to cost you big if you don't pay" is just ego's blowing smoke. You guys recommended that I show it to my attorney and you didn't like his response. At first he told me "I would never tell my clients to ever sign anything like this". I convinced him it's ok because I love the chance to own more percentage if possible. Do you imagine the imbalance of power that I would have owning more than 50%? I could make every decision and not tell any of you what I did. Not really an ideal situation for a family that started out 50/50. It's ego's trying to get an upper hand on the other. Currently we all need loans to get this deal done. On April 1, I'm getting paid 3.5 million for a transaction I created long ago in which I have less then $800,000.00 invested in. I then plan to pay off my debt in full.
> In the end the building is what the bank wants and none of these side agreements really matter. I suggest you forget your agreement and I will forget mine and we move forward on a very profitable venture and get it done the way the bank allows. I am the one who has the most to loose but I don't think with my equity in three restaurant buildings and two houses in Jon that I am going to let any equity just slip away.
>
> Sent from my iPhone

EXHIBIT
R

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Current Suites report

Spiros Ferderigos <spirosferderigos@gmail.com> Fri, Nov 21, 2014 at 7:02 PM
To: Athan Fokas <athanfokas@gmail.com>
Cc: Phillip Ferderigos <pferderigos@barnwell-whaley.com>, Athan Fokas <fokasa@bellsouth.net>, "<lakovosstavros@gmail.com>" <lakovosstavros@gmail.com>

Just fund your percentage. You aren't giving anything other than collateralizing your interest in old Towne for Jacob which doesn't cost anything. Only loan hanging out there would be Jacobs for 350. Much better than a 2 million dollar loan. Sounds like a win for everyone. You would not be on any loan at all. Just paying your percentage. I think we should explore this before moving forward on a huge loan.

Sent from my iPhone

On Nov 21, 2014, at 6:57 PM, Athan Fokas <athanfokas@gmail.com> wrote:

> I'm not interested on funding anything more than my percentage as I have big plans for the rest. The bank will not just hang around for 8 months.
>
> Sent from my iPhone

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Current Suites report

Phillip Ferderigos <pferderigos@bamwell-whaley.com> Fri, Nov 21, 2014 at 7:03 PM
To: Spiros Ferderigos <spirosferderigos@gmail.com>
Cc: Athan Fokas <athanfokas@gmail.com>, Athan Fokas <fokasa@bellsouth.net>, lakovosstavros@gmail.com

I agree, this is certainly something we should explore...

Sent from my iPhone

On Nov 21, 2014, at 7:02 PM, Spiros Ferderigos <spirosferderigos@gmail.com> wrote:

> Just fund your percentage. You aren't giving anything other than collateralizing your interest in old Towne for Jacob which doesn't cost anything. Only loan hanging out there would be Jacobs for 350. Much better than a 2 million dollar loan. Sounds like a win for everyone. You would not be on any loan at all. Just paying your percentage. I think we should explore this before moving forward on a huge loan.
>
> Sent from my iPhone

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Current Suites report

Spiros Ferderigos <spirosferderigos@gmail.com>
To: Phillip Ferderigos <pferderigos@barnwell-whaley.com>
Cc: Athan Fokas <athanfokas@gmail.com>, Athan Fokas <fokasa@bellsouth.net>, "<lakovosstavros@gmail.com>" <lakovosstavros@gmail.com>

Fri, Nov 21, 2014 at

It just protects everyone's property interest in 229 king if we have a 350 k loan instead of 1.8 million loan. Why risk that huge loan if we don't have to?

Sent from my iPhone

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Current Suites report

Philip Ferderigos <pferderigos@barnwell-whaley.com> Fri, N
To: Spiros Ferderigos <spirosferderigos@gmail.com>
Cc: Athan Fokas <athanfokas@gmail.com>, Athan Fokas <fokasa@bellsouth.net>, lakovosstavros@gmail.com

Spiro, you are making a lot of sense, Athen, what do you think?

Current Suites report

spiros ferderigos <spirosferderigos@gmail.com>

Phillip Ferderigos <pferderigos@barnwell-whaley.com>
To: Athan Fokas <fokasa@bellsouth.net>
Cc: Spiros Ferderigos <spirosferderigos@gmail.com>, iakovosstavros@gmail.com

Fri, Nov 21, 2014 at 8:25 PM

Not much I can say to that, I am honored to be in the presence of such wealthy royalty... Once you're done drinking and you sober up, If you want to talk like an adult, then maybe we can chat tomorrow... Have a fun time tonight...

Sent from my iPhone

On Nov 21, 2014, at 7:24 PM, Athan Fokas <fokasa@bellsouth.net> wrote:

> I'm at a swanky dinner now and half drunk but by then I will be n the money and not interested in an ventures but my own. I'm also working on a deal where I get 25% of $100,000,000.00 for just being an expert consultant. I hang out with the ultra wealthy now and play their games.
>
> Sent from my iPhone
>
> On Nov 21, 2014, at 7:19 PM, Phillip Ferderigos <pferderigos@barnwell-whaley.com> wrote:
>
> > Spiro, you are making a lot of sense, Athan, what do you think?
> >
> > Sent from my iPhone

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Old Towne Suites

Athan Fokas <fokasa@bellsouth.net> Mon, Nov 24, 2014 at 1:55 PM
To: Phillip Ferderigos <pferderigos@barnwell-whaley.com>
Cc: "<lakovosstavros@gmail.com>" <lakovosstavros@gmail.com>, spiros ferderigos <spirosferderigos@gmail.com>

Oh it has been a pleasure to say the least. I'm also done with paying your half of the food you so dearly like to eat at Old Towne weekly on my dime. If you don't pay your portion to me then Jacob will have to. All management will be put on notice.

Sent from my iPhone
[Quoted text hidden]

EXHIBIT
S
899

(843) 813-5612

I can't wait to spread the word that the suites multimillion dollar project couldn't get done cause Phillip can't eat for free. I'm sure everyone will find it hilarious. I'm probably doing you a favor. Smaller waist line. I bet your kids will be real proud of you in the future too. Your dad was right for calling you palabo Phillpa. 4:52 PM

Tuesday, December 16, 2014

(843) 813-5612

As I was running this morning I came up with a proposal. I will agree to let you eat for free if you are out of the note and you put your 350 g's in escrow. This is because you will sign off on the mortgage without needing to. And this will take place as long as my portion of the mortgage is not paid off. If we go the other rout where we split everything 50/50 on the loan then you are signing for your own 16% interest and therefore we are even. 7:18 AM

Wednesday, December 17, 2014

(843) 813-5612

I just spoke to your dad and he doesn't think everyone should eat at Old Towne for free either. 1:45 PM



Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Old Towne Suites

Athan Fokas <fokasa@bellsouth.net> Mon, Nov 24, 2014 at 11:55 AM
To: Phillip Ferderigos <pferderigos@bamwell-whaley.com>
Cc: "<lakovosstavros@gmail.com>" <lakovosstavros@gmail.com>, spiros ferderigos <spirosferderigos@gmail.com>

My intent is always to pay off debt as I have extra funds available. I am interested in doing this deal now and will not do it later. When I do have my money in April I may decide to buy another building downtown but will make that decision then.

Sent from my iPhone
[Quoted text hidden]

EXHIBIT
tabbies
U
901

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Old Towne Suites

Athan Fokas <fokasa@bellsouth.net> Mon, Nov 24, 2014 at 1:46 PM
To: Phillip Ferderigos <pferderigos@barnwell-whaley.com>
Cc: "<lakovosstavros@gmail.com>" <lakovosstavros@gmail.com>, spiros ferderigos <spirosferderigos@gmail.com>

Well then it's done. I'll reverse as much as I can and just right it off as a stupid transaction dealing with the Ferderigos Family..

Sent from my iPhone
[Quoted text hidden]

(843) 813-5612

I realize that I don't have authorize to close by myself. And I don't think I ever gave that impression and everyone has been in the loop from the beginning. Jacob know's of every expenditure and he wrote most of the checks to the contractor, architects, and engineers. Once again selective amnesia and your texts to me say two different things. I would rather leave it in your hands now and keep me in the loop if and when you all are ready. We do have expenses incurred that need to be paid and we will pay they as money becomes available. 8:28 AM

(843) 813-5612

Spiro there is no bullying going on here. Just giving information of actual expenses. If you read that text above where you were cursing and told me "DO YOU UNDERSTAND" that might come across as threatening me which is defiantly un- businesslike. 8:39 AM

Spiro Cell

I was threatening you....that I don't do business with bullies. You couldn't just let it go. 8:47 AM

(843) 813-5612

Label as you like but everything we have done till now was agreed upon. It's in your court now. I could care less. My Zeus deal is bringing in plenty to keep my family happy. 8:50 AM

Spiro Cell

Good. I'm glad your deals are working out for you. 8:52 AM

EXHIBIT

✓

903

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Re: Final email from me regarding the closing.

Athan Fokas <fokasa@bellsouth.net> Fri, Nov 21, 2014 at 3:31 PM
To: spiros ferderigos <spirosferderigos@gmail.com>
Cc: Athan Fokas <athanfokas@gmail.com>, Jacob Ferderigos <lakovosstavros@gmail.com>, Phillip Ferderigos <pferderigos@barnwell-whaley.com>

That was funny! I just found out last night what you guys wanted me to sign and my attorney instructed me what to do and you saw his letter. I like how you portray Phillip as Mother Theresa. Think about the big picture talk to the bank yourselves and get things done if you like. I have no problem signing the agreement but of course, as any business partner should, would like assurances that every party puts in what they are supposed to. If you are sending an email and asking for no reply, then I suggested that no content is put in there. Bullying is a word you like to use but the bottom line is to be fair to all parties involved and the fact that you and Phillip are not personally guaranteeing anything puts you way ahead of the rest of us in this deal.

Sent from my iPhone
[Quoted text hidden]

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Current Suites report

Athan Fokas <athanfokas@gmail.com> Fri, Nov 21, 2014 at 5:57 PM
To: Athan Fokas <fokasa@bellsouth.net>
Cc: Phillip Ferderigos <pferderigos@barnwell-whaley.com>, Spiros Ferderigos <spirosferderigos@gmail.com>, "<iakovosstavros@gmail.com>" <iakovosstavros@gmail.com>

I did some checking since Spiro said the suites are not doing that good in December. Quite the contrary December is a last minute booking month and this year so far we have booked 21 days of units compared-to 22 days of units booked total last year. We still have 41 days of unbooked booked units so I project that we will definitely exceed last years December numbers. In August we were up 43% over last year, September 18% over last year, October was even bringing in $13441.00, and November is up 11% over last year. We have already had some crazy expensive bookings for next year that peak at $624.60 per night and one family booked 15 days straight in May for a whopping $7580.00 reservation. All in all we are continuing great growth and demand as we have repeat's and word of mouth spreads.

I think it's best to think of the big picture of this new project which will put us in a boutique hotel category and forget about stupid details that carry no wait in the big picture. Comments like when I asked what side agreement and Phillip responds "It's going to cost you big if you don't pay" is just ego's blowing smoke. You guys recommended that I show it to my attorney and you didn't like his response. At first he told me "I would never tell my clients to ever sign anything like this". I convinced him it's ok because I love the chance to own more percentage if possible. Do you imagine the imbalance of power that I would have owning more than 50%? I could make every decision and not tell any of you what I did. Not really an ideal situation for a family that started out 50/50. It's ego's trying to get an upper hand on the other. Currently we all need loans to get this deal done. On April 1, I'm getting paid 3.5 million for a transaction I created long ago in which I have less then $800,000.00 invested in. I then plan to pay off my debt in full.

In the end the building is what the bank wants and none of these side agreements really matter. I suggest you forget your agreement and I will forget mine and we move forward on a very profitable venture and get it done the way the bank allows. I am the one who has the most to loose but I don't think with my equity in three restaurant buildings and two houses in Ion that I am going to let any equity just slip away.

Sent from my iPhone

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Old Towne Suites

Athan Fokas <fokasa@bellsouth.net> Mon, Nov 24, 2014 at 10:18 AM
To: "lakovosstavros@gmail.com" <lakovosstavros@gmail.com>, spiros ferderigos <spirosferderigos@gmail.com>, Phillip Ferderigos <pferderigos@barnwell-whaley.com>

I'm wondering if there is a next Ferderigos plan of action. Are ya'll contacting the bank, my attorney, and the closing attorney or are we just forgetting about it?

Sent from my iPhone

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Old Towne Suites

Athan Fokas <fokasa@bellsouth.net> Mon, Nov 24, 2014 at 1:31 PM
To: Phillip Ferderigos <pferderigos@bamwell-whaley.com>
Cc: "<iakovosstavros@gmail.com>" <iakovosstavros@gmail.com>, spiros ferderigos <spirosferderigos@gmail.com>

I am not asking you to do anything. The bank is requiring that all parties sign off on the mortgage. I did secure that you didn't have to personally guarantee the note. Quit trying to put yourself on a pedestal. If you want me to sign a side agreement that guarantees I will pay the note then you will sign one saying that you will come up with the money needed for construction or you shall suffer similar consequences. If you are intelligent you will already know that the money will be there with the original suites income to pay for the loan. Cut your pompous attitude and either get it done or not. We are currently paying for an expensive business risk policy, paid for a flood policy we don't need if not constructing, have been paying two months on a storage container, and prepaid our over $20,000.00 property taxes two months early in order to close. Not to mention we have over $50,000.00 already invested in this deal.

Sent from my iPhone
[Quoted text hidden]

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Old Towne Suites

Athan Fokas <fokasa@bellsouth.net> Mon, Nov 24, 2014 at 1:46 PM
To: Phillip Ferderigos <pferderigos@barnwell-whaley.com>
Cc: "<iakovosstavros@gmail.com>" <iakovosstavros@gmail.com>, spiros ferderigos <spirosferderigos@gmail.com>

Well then it's done. I'll reverse as much as I can and just right it off as a stupid transaction dealing with the Ferderigos Family..

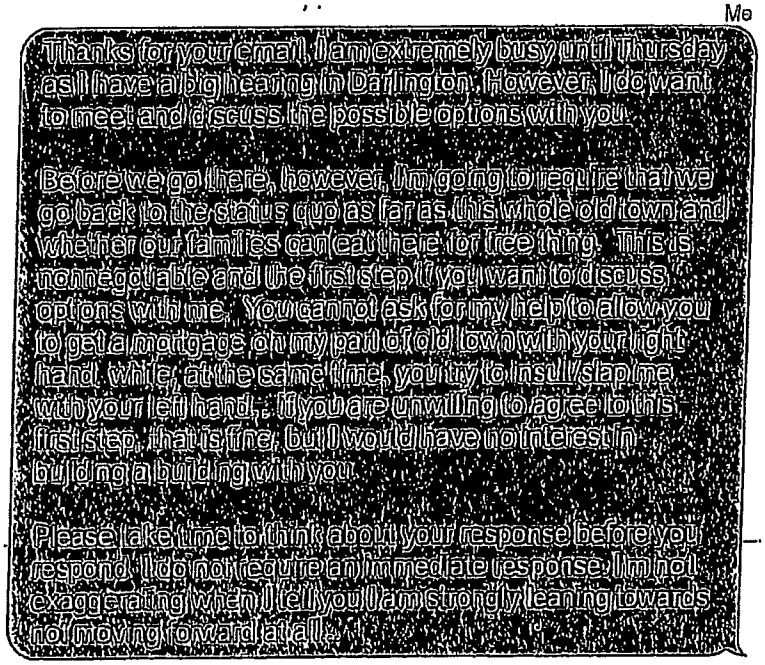
Sent from my IPhone
[Quoted text hidden]

Monday, December 15, 2014

(843) 813-5612

Cousins, we have recurring expenses that are cutting into all of our bottom lines monthly that we either need to stop spending or come to some kind of mutual agreement. A sit down sometime this week would be much appreciated. We can't continue to spend money on a business risk policy, flood policy, and storage unit if all are not necessary. 10:27 AM

Me



1:22 PM

(843) 813-5612

We can discuss all options when we meet and hopefully come to a mutual agreement. 1:22 PM

Gmail by Google

spiros ferderigos <spirosferderigos@gmail.com>

Old Towne Suites

Athan Fokas <fokasa@bellsouth.net> Wed, Nov 26, 2014 at 11:46 AM
To: Spiros Ferderigos <spirosferderigos@gmail.com>
Cc: Phillip Ferderigos <pferderigos@barnwell-whaley.com>, "<iakovosstavros@gmail.com>" <iakovosstavros@gmail.com>

The irony in all this is that the son's want extra assurances that money will be paid back when the way our fathers always did it is with a hand shake. Ask your dad how many times my father loaned him money (his grocery store off America St, to buy Old Towne in 72, and to build our first apartment building in Greece) and there was no paperwork and all was paid back. In this case nobody is loaning anyone money but just a couple of hard headed kids who don't understand how family works. I don't think anybody owes anybody any money do they? I don't think anyone has any history of any money not being paid back do they?
We are all older now and our families have grown and we don't have to spend Thanksgiving together. Actually this entire deal has put such a bad taste that I dislike seeing you guys in public. Except Jacob of course. He is the only innocent one in this. Later on down the line when I'm in the money I may consider loaning Jacob the money and having a 25/75 split on the new building because I know that Jacob will pay me back and I won't need any side agreements trying to take more of his ownership if he doesn't pay. Bottom line is payments come out of profits and I know he is good for it.

Sent from my IPhone

> On Nov 24, 2014, at 2:17 PM, Spiros Ferderigos <spirosferderigos@gmail.com> wrote:
>
[Quoted text hidden]

EXHIBIT
tabbies
W
010

Friday, April 24, 2015

Athan Fokas

My attorney asked me to find out how much the project would have increased if it was started in a month and after a week and a half of crunching numbers this is what Kevin sent me:

Keep in mind I have good me tuning to do when you says its a go. But looks like 12.5% will be difference. This number does not include windows over allowance. The allowance was 55k and we still need to determine if glass is fire rated or if sprinklers can cover. The quote I got on fire rated was 145k so add 90k for worse case. But that is not extra due to delay. It has always been an allowance item. 10:22 AM



So 1,946,250.00 plus windows over allowance and then any / all owner items.

Athan Fokas



We figured out a way to keep you out the law suit. 1:48 PM

Friday, April 24, 2015

Athan Fokas

My attorney asked me to find out how much the project would have increased if it was started in a month and after a week and a half of crunching numbers this is what Kevin sent me:

Keep in mind I have good me tuning to do when you says its a go. But looks like 12.5% will be difference. This number does not include windows over allowance. The allowance was 55k and we still need to determine if glass is fire rated or if sprinklers can cover. The quote I got on fire rated was 145k so add 90k for worse case. But that is not extra due to delay. It has always been an allowance item. 10:22 AM

So 1,946,250.00 plus windows over allowance and then any / all owner items.

Athan Fokas

We figured out a way to keep you out the law suit. 1:48 PM

Monday, April 27, 2015

Athan Fokas

I've already applied that beer check on the owe sheet for the stuff Maki and I brought back after family cup. 6:34 PM

Jacob Ferderigos

Ok, let's get it cleared up and not leave it for long periods of time. Maybe every time we exchange the books. 6:37 PM

Athan Fokas

I was going to wait after We do the food booths for the hospitals the week after Greek fest cause then we are done till September. 6:38 PM

Jacob Ferderigos

Ok 6:46 PM

Tuesday, April 28, 2015

Athan Fokas

I bought a case of hummus but only needed two tubs so I left the other two at old Towne and put on owe sheet. I also brought in 12 large throw away pans and lids for the rep deliveries I booked through Old Towne today. That's four this week that booked through Zeus. 7:55 AM

Athan Fokas

Go ahead and transfer 57000 miles out of the credit card. 8:37 AM

EXHIBIT

tabbies

X

912

Standard Agreement
Between Owner and Contractor
A 107

For CONSTRUCTION PROJECTS OF LIMITED SCOPE where
the Basis of Payment is a STIPULATED SUM

This document includes General Conditions, A201-L, and should not be used with other general conditions.

AGREEMENT

made as of the 15th day of October in the year of Two Thousand and Fourteen.

BETWEEN the Owner: Athan Fokas, Iakovos Ferderigos
Old Town Suites
229 king street
Charleston, sc. 29401

and the Contractor: Kevin W. Carroll 1079 Harts Bluff Rd. Wadmalaw Island SC 29487

The Project is: Old Town Suites
229 King Street
Charleston, SC 29401

The Architect is: Joe Tucker
Tucker & associates
772 Gypsy Lane
Mount Pleasant, SC 29464

The Owner and Contractor agree as set forth below.

TORGO SOFTWARE www.TorgoSoftware.com ©1996-2013 ALL RIGHTS RESERVED

EXHIBIT
913

ARTICLE 1

THE WORK OF THIS CONTRACT

1.1 The Contractor shall execute the entire Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others, or as follows.

Scope of Work: Erection of 3 story hotel suites as per drawings provided by Tucker and asscolates.Project to be completed with interior items consistant with existing suites., subsitutions allowed per agreement with owner.Work Not included: Engineering,Architectural services, utilities, impact fees and/ or cost to supply. Builders Risk coverage, furnishings, Appliances, Fire protection services. Any and all Fire Protection, monitoring,alarms, sprinkler systems or life safety items. Contractor to work closely with architect, engineer,
Owner to provide proper size water and sewer service as required to perform project. Including any and all impact fees and any associated cost with service.Owner / Contractor agree to an allowance on windows and window installation of $55000.00 any and all cost accoslated with window package,delivery and installation above allowance to be additional cost. Owner / Contractor agree that any substitution of material or labor within industry standards are allowed without written notice as long as the finished product is consistant with existing suites and allowed by code. Contractor may confir with architect and engineers for changes to ensure substitution is acceptable by the codes. Owner may request changes /aditional items to be added to contract with verbal communication, approved via email.

ARTICLE 2

DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

2.1 The date of commencement is the date from which the Contract Time of Paragraph 2.2 is measured, and shall be the date of this Agreement, as first written above, unless a different date is state below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

11-3-2014

2.2 The Contractor shall achieve Substantial Completion of the entire Work no later than

Completion: 12-31-2015

Bonus for early completion: ZERO (no compensation for early delivery)

The completion date is subject to adjustments of this Contract Time as provided in the Contract Documents.

Penalty: ZERO (owner and contractor agree to no penalties for delayed completion)

ARTICLE 3

CONTRACT SUM

3.1 Subject to additions and deductions as provided in the Contract Documents, the Owner shall pay the Contractor in current funds for the Contractor's performance of the Contract Sum of One Million, Seven Hundred Twenty Eight Thousand, Nine Hundred & no/100 Dollars ($ 1,728,900.00).

3.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

Contract is fixed price agreement. (with exclusions) Any
And all work required to meet any government, fire marshall, building official and or owner not shown in plans will be considered an additional item. If additional item is required, a meeting with contractor / owner shall be called to find agreed solution and cost to perform needed work. additional items can be agreed by verbal communication and confirmed via email.

3.3 Unit prices, if any, are as follows:

None

ARTICLE 4

PROGRESS PAYMENTS AND PAYMENT SCHEDULE

4.1 Based upon Applications for Payment submitted to the Owner, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents:

Mobilization Fee of $ 150,000.00 (one hundred fifty thousand dollars and zero cents)
Draw request will be made on or before Mondays for payment to be made on or before the following Monday. If payment is to be with-held or partially paid, owner is to notify contractor by the prior friday.

4.2 Documentation Required For Payment:

Written draw request in form of invoice due. (weekly billing as requested)

4.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

None (contractor and owner agree there will be no late fee or interest on delayed payment)
If payment is with-held contractor or owner may stop work untill resolved.

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

ARTICLE 5

FINAL PAYMENT

5.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when the Work has been completed and the Contract fully performed, subject to the provisions listed under OTHER CONDITIONS OR PROVISIONS on page 6.

ARTICLE 6

ENUMERATION OF CONTRACT DOCUMENTS

6.1 The Contract Documents consist of this Agreement, Conditions of the Contract, Drawings, Addenda issued prior to the execution of this Agreement, and other documents listed here. Except for Modifications issued after execution of this Agreement, the documents are as follows:

6.1.1 The Agreement is this executed Abbreviated Agreement Between Owner and Contractor, A107-L.

6.1.2 The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated , and are as follows:

Document	Pages	Title
NONE	None	None

6.1.3 The Specifications are those contained in the Project Manual dated as in Subparagraph 6.1.2 and are as follows:

Section	Pages	Title
None	None	None

6.1.4 The Drawings are as follows, and are dated July 21, 2014 unless a different date is shown below:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Pages	Title
N/A	54	229 KING STREET

6.1.5 The Addenda, if any, are as follows:

Number	Pages	Title
NONE	None	None

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 6.

6.1.6 Other documents, if any, forming part of the Contract Documents are as follows:

None

ARTICLE 7

LICENSES AND INSURANCE REQUIREMENTS

7.1 Licenses, permits and bonds to be supplied and paid by as follows:

Contractor to acquire and pay for permits related to the work to be performed.

7.2 Insurance Requirements:

Contractor to Supply: Certificate of Insurance.

ARTICLE 8

GENERAL PROVISIONS

Contractor is to include all labor and approved materials, appliances and services of every kind necessary for proper execution of work. Contractor shall re-execute any work that fails to conform to the requirements of the contract. Contractor will remove all of his construction debris from the site and leave premises in broom-clean condition. All work shall be completed in a workmanship like manner and in compliance with all codes and other applicable laws. To the extent required by law, all work shall be performed by individuals duly licensed and authorized by law to perform said work. Contractor has the right to let other contracts in connection with the work contracted for. Contractor shall adequately protect the work, adjacent property and the public and shall be responsible for any damage or injury due to his act or neglect. Change Orders shall be in writing and signed by both parties to this Agreement.

To the fullest extent permitted by law, the Contractor shall hold harmless and indemnify the Owner and their Agent(s) from and against any and all claims, damages, losses, expenses and fees arising out of or resulting from performance of the Contractor's Work, including hazardous materials, Worker's Compensation claims and subrogation.

OTHER CONDITIONS OR PROVISIONS

Not responsible for delays caused by the site developer. The contract start date will be modified as stated herein. Start date will be 30 days after site developer has delivered the project site ready for foundation excavation.

Warranty: one year labor on all trades, any and all material or manufacturer warranties to convey

See attachment(s): ☐ Yes ☒ No

General Conditions A201-L Included: ☐ Yes ☒ No

This Agreement entered into as of the day and year first written above.

OWNER	CONTRACTOR
Signature	Signature
Athan Fokas, Iakovos ferderigos	kevin w carroll
Name and title	Name and title

August 21, 2015

Stan Barnett
Smith, Bundy, Byebee & Barnett, P.C.
1037 Chuck Dawley Boulevard
Suite 100, Building F
Mount Pleasant, SC 29464

Dear Mr. Barnett,

My name is Dr. Fanouris Ferderigos and I am the uncle of the Plaintiff and Defendants in case number 15-CP-10-3891 that you have filed in Charleston County, South Carolina. Your lawsuit alleges that my sister, Irene Fokas (which is Plaintiff Athan Fokas' mother), confronted Athan Fokas about "(a) Hiring someone to set fire to the second floor of the building at 229 King Street for the purpose of collecting insurance proceeds. (b) Falsely claiming in an insurance claim that he had been injured working in the restaurant business operated on the first floor of said building when he had, in fact, been injured in ways not related to the business, all for the purpose of collecting insurance proceeds." Your lawsuit alleges that Irene Fokas confronted Athan Fokas about these allegations, and Irene Fokas informed Athan Fokas that my brother, Stavros Ferderigos (which is Defendants' father), told her about the allegations stated above and set forth in your Complaint. Your lawsuit further alleges Irene Fokas informed Athan Fokas that Stavros Ferderigos identified Defendants (Phillip and Spiros Ferderigos) as the source of those statements.

This letter is to make you aware that on August 18, 2015 my sister, Irene Fokas, adamantly denied to me in person that Stavros Ferderigos ever told her anything about the allegations set forth above from your Complaint and that she has never even discussed with Stavros Ferderigos the topics of Athan Fokas being involved, directly or indirectly, with the fire at 229 King Street and/or anything to do with any of Athan Fokas' insurance claims. Irene Fokas further told me that she would testify under oath that she never was told about these allegations by Stavros Ferderigos in any way whatsoever.

With Kindest Regards, I am

Dr. Fanouris Ferderigos

Cc: Dawes M. Cook (288 Meeting Street, Suite 200, Charleston, SC 29401)

Richard Farrier (134 Meeting Street, Charleston, SC 29401)

EXHIBIT
Z
919

Gmail

Jacob Ferderigos <iakovosstavros@gmail.com>

Fwd: Flood Policy - Cancellation

1 message

Iakovos Ferderigos <iakovosstavros@gmail.com> Sun, Jan 11, 2015 at 7:28 PM
To: Spiros Ferderigos <spirosferderigos@gmail.com>, Phillip Ferderigos <pferderigos@barnwell-whaley.com>

Sent from my iPhone

Begin forwarded message:

From: Athan Fokas <fokasa@bellsouth.net>
Date: December 17, 2014 at 9:48:07 AM EST
To: "iakovosstavros@gmail.com" <iakovosstavros@gmail.com>
Subject: Fwd: Flood Policy - Cancellation

I cancelled the flood insurance below so we can get our money back. The storage unit date was just missed so we are paid thru Jan 12. I don't think we are going to recover any money from Kevin because he is going to say that was work to get us here. We still owe the structural engineer $3000.00 and we owe the bank for the appraisal which is about $2000.00. Your brother's have no business sense and I'm sure we will be butting heads with Greek properties in the future. Very sad!!!

Sent from my iPhone

EXHIBIT
AA
920

BARNWELL WHALEY PATTERSON & HELMS LLC
75 YEARS 1938-2013
Attorneys for businesses & professionals since 1938

Jeremy E. Bowers, Associate
jbowers@barnwell-whaley.com

October 1, 2015
VIA HAND DELIVERY

5033.001
Charleston County Clerk of Court
100 Broad Street, Suite #106
Charleston, South Carolina 29401-2258

RE: Fokas v. Ferderigos, et al.
Case No.: 2015-CP-10-3891

Dear Madam Clerk:

Enclosed please find the original and one (1) copy of the Answer and Counterclaims of the Defendant, Spiros Ferderigos, in the above-referenced matter. Please file the original and return the filed stamped copy to me via our courier.

By copy of this letter, I am informing counsel for the Plaintiff of this communication with the Court and serving him with a copy of the Answer and Counterclaims. If you have any questions, please do not hesitate to contact me at (843) 577-7700. Again, thank you for your cooperation in this matter. With kind regards, I am

Sincerely,

Jeremy E. Bowers

Encl.
cc w/encl.: Stanley E. Barnett, Esquire (via U.S. Mail and e-mail)
Richard A. Farrier, Jr., Esquire (via U.S. Mail and e-mail)

M. Dawes Cooke, Jr.
B.C. Killough*
Randell C. Stoney, Jr.
Phillip S. Ferderigos
K. Michael Barfield
David S. Cox

William C. Helms, III'

* Registered patent attorney
' Retired

Ernest B. Lipscomb, III*
J. Gail Rahn
Todd M. Musheff
John A. Jones
Lucinda D. Gardner
John W. Fletcher

Alissa D. Fleming
Barbara J. Wagner, Ph.D.
Jeremy E. Bowers
D. Summers Clarke, II
Jeffrey M. Bogdan
Bradley B. Banias