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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM OCONEE COUNTY
Court of Common Pleas

J. Cordell Maddox, Jr., Circuit Court Judge

Appellate Case No. 2022-000756

Debi Baker Brookshire,

Appellant,

v.

Community First Bank and
Benjamin Hiott,

Defendants,

Of Which, Community First
Bank is

Respondent.

APPENDIX
VOLUME III of III

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misappropriating funds and manipulating securities, some of which were funneled to a business owned by three (3) members of Defendant CFB's Board of Directors.

Gross negligence is ordinarily a mixed question of law and fact. *Clyburn*, 317 S.C. at 53, 451 S.E.2d at 887. "When the evidence supports but one reasonable inference, it is solely a question of law for [the] court, otherwise it is an issue best resolved by the jury.... In most cases, gross negligence is a factually controlled concept whose determination best rests with the jury." Prakash v. Wal-Mart Store, 410 S.C. 229, 763 S.E.2d 615 (S.C. App., 2015)(citing *Madison ex rel. Bryant v. Babcock Ctr., Inc.*, 371 S.C. 123, 144, 638 S.E.2d 650, 661 (2006)). Given the claims that Plaintiff was induced by an agent of Defendant CFB to enter into a POA and transfer the funds of her trust at BB&T to a trust to be created at Defendant CFB, the complete lack of care exercised by Defendant CFB, and mixed nature of a claim of gross negligence, the Defendant CFB is not entitled to Summary Judgment on Plaintiff's cause of action for Negligence/Gross Negligence.

E. Defendant CFB is not entitled to summary judgment on Plaintiff's cause of action for breach of contract accompanied by a fraudulent act.

Defendant CFB is attempting to parse Plaintiff's complaint by stating that the only "contract" that they can find is the POA between Defendant Hiott and Plaintiff. Plaintiff's Complaint clearly states that Plaintiff had an account at Defendant CFB and the Trust Agreement constitutes a contract between Defendant CFB and Plaintiff. Defendant CFB contends that there is no evidence that Defendant CFB "actively concealed from the Plaintiff the fraudulent and tortious conduct" of Defendant Hiott. This is simply untrue. First, Defendant Hiott's entire scheme was to defraud the Plaintiff. Numerous transactions that were shown to be debited from CLCB's account were in fact debited to Plaintiff's account. Defendant Hiott transferred $85,000 to the Chairman of the Board's account so it would "look like" Mr. McCoy had paid a large fee

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to Defendant CFB, when in fact the money came directly from Plaintiff's account and offset to the Bank.

Once Kathleen McDaniel began attempting to get documents from Defendant CFB and Defendant Hiott, Defendant CFB did nothing to help. After being told that an annuity had been created by the Senior Vice President of the bank and receiving absolutely no response from the chairman of the board or the President, Mrs. McDaniels was assured by Jim Williams, of-counsel for Defendant CFB, that Defendant CFB would provide a copy of Plaintiff's file with the bank to Mrs. McDaniels. She never received these documents or an accounting. Once another set of attorneys got involved, there was more and more stalling by Defendant CFB – more lies about where the money was sent, more phone calls to bank employees going unreturned, more letters to the bank, the President of the bank and the Chairman of the Board with no responses. Finally, Defendant CFB represented to Plaintiff's counsel that four binders were Plaintiff's entire file of the Trust. This in fact is not true, as these binders were missing documents. In fact, Donald Jones testified in his deposition that he heard a conversation between President Shepherd and Jeff Griffith, a Senior Vice President at Defendant CFB, in which Shepherd was telling Griffith as recently as December of 2013 what documents to remove from the binders before turning them over to Plaintiff's counsel. "The fraudulent act may be prior to, contemporaneous with, or subsequent to the breach of contract, but it must be connected with the breach itself and cannot be too remote in either time or character." *Floyd v. Country Squire Mobile Homes, Inc.*, 287 S.C. 51, 53-54, 336 S.E.2d 502, 503-04 (Ct.App.1985). Certainly removing damning evidence from documents provided to counsel of someone with whom you have contracted, in an attempt to evade and obscure discovery of a cause of action qualifies as a fraudulent act not actionable until its discovery.

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Moreover, based on the agency argument above, Defendant Hiott was acting as an agent of Defendant CFB, and the POA does in fact bind Defendant CFB.

F. Defendant CFB is not entitled to summary judgment on Plaintiff's cause of action for an accounting.

Defendant CFB is not entitled to summary judgment on Plaintiff's cause of action for an accounting. As discussed above, Plaintiff contends that a fiduciary duty did exist between her and Defendant CFB, if not through the POA, then through the existence of what Plaintiff believed – based on representations of Bank employees other than Defendant Hiott – to be a trust. Defendant CFB additionally argues that this claim is now moot because all Account statements and supporting documentation have been produced to the Plaintiff. It is important to note that all of the supporting documentation was *not* produced by Defendant CFB. Plaintiff had to subpoena PCS for their file in order to get all pages of the binders previously discussed.

Applying the correct standard for deciding a motion for summary judgment under Rule 56, SCRCP, Plaintiff submits the motion should be denied because there are multiple material issues of genuine facts.

Equitable Tolling

An additional reason for denying Defendant CFB and Defendant Hiott's motions for summary judgment is that Defendants should not be permitted to avail themselves of the statute of limitations where Defendants' own actions equitably tolled the statute of limitations.

South Carolina law provides a number of statutory devices for tolling the statute of limitations. *See, e.g.*, S.C. Code Ann. § 15-3-30 (stating exceptions to the running of the statute of limitations when the defendant is out of the state); § 15-3-40 (providing exceptions for persons under a disability, including being underage or insane); § 15-3-80 (providing exceptions for suits by and against enemy aliens or citizens of countries at war with the United States). In

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addition to these statutory tolling mechanisms, "in order to serve the ends of justice where technical forfeitures would unjustifiably prevent a trial on the merits, the doctrine of equitable tolling may be applied to toll the running of the statute of limitations." *Hooper v. Ebenezer Senior Services and Rehabilitation Center*, 386 S.C. 108, 687 S.E.2d 29 (2009) (citing 54 C.J.S. *Limitations of Actions* § 115 (2005)).

> Equitable tolling is judicially created; it stems from the judiciary's inherent power to formulate rules of procedure where justice demands it. Where a statute sets a limitation period for action, courts have invoked the equitable tolling doctrine to suspend or extend the statutory period to ensure fundamental practicality and fairness.

Hooper, *supra*, at 115, 687 S.E.2d at 32 (internal citations and quotation marks omitted).

The Court in *Hooper* described a number of circumstances in which the doctrine of equitable tolling would apply, including "where the defendant is shown to have actively misled or prevented the plaintiff in some extraordinary way from discovering the facts essential to the filing of a timely lawsuit[.]" *Id.* The Court did not limit application of the doctrine to only those examples set forth in *Hooper*. Instead, the Court explained,

> [t]he equitable power of a court is not bound by cast-iron rules but **exists to do fairness** and is flexible and adaptable to particular exigencies so that **relief will be granted when**, in view of all the circumstances, **to deny it would permit one party to suffer a gross wrong at the hands of the other**. Equitable tolling may be applied where it is justified under all the circumstances.

Hooper, *supra*, at 116 - 117, 687 S.E.2d at 33 (emphasis added; internal citations and quotation marks omitted).

"Under South Carolina law, 'a defendant may be estopped from claiming the statute of limitations as a defense if the delay that otherwise would give operation to the statute had been induced by the defendant's conduct.'" *Black v. Lexington School Dist. 2*, 327 S.C. 55, 488 S.E.2d 327 (1997) (*quoting Wiggins v. Edwards*, 314 S.C. 126, 130, 442 S.E.2d 169, 171 (1994)).

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Here, Defendant CFB argues the Plaintiff should have asked for an accounting, but she has been asking for an accounting for years and the Defendants refuse to provide it. As recently as May 7, 2013, Community First Bank, represented to the Plaintiff that she had $500,000.00 in annuities that never existed. This is precisely the type of conduct that gives rise to equitable tolling: Defendants misappropriated the Plaintiff's money, and then concealed the misappropriation by refusing to provide the Plaintiff and her representatives an accounting and affirmatively representing to her that she had valuable annuities that never existed. Now Defendant CFB claims the statute of limitations bars the Plaintiff's suit because it took her too long to catch onto the theft. Particularly in light of Defendant Hiott's authority under the Power of Attorney, it was imperative that Plaintiff be able to discern, not only that funds had been removed from the account, but specifically what they had been removed for so she could determine whether a cause of action existed or not. In its counterclaims against the Plaintiff, the Defendant Community First Bank essentially admits that Defendant Hiott was deceiving bank customers. See Paragraph 66 of Community First Bank's Answer and Counterclaims ("Upon information and belief, funds in the approximate amount of $788,855.00 ("Funds"), none of which belonged to Plaintiff were deposited in Plaintiff's Account by Defendant Hiott during the time the Account was held at the Bank."). The Bank's statement acknowledges that Hiott was moving money through the Plaintiff's Account in order to avoid detection.

The Defendants' conduct is the very definition of injustice and unfairness. Defendant CFB and its co-defendant should be estopped from claiming the statute of limitations as a bar to the action.

Through the discovery process, the Plaintiff has found the following conduct on the part of Defendant Hiott and Defendant CFB that should give rise to equitable tolling:

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Defendant Hiott, by reason of his managerial position within the bank, could manipulate account balances electronically, and often altered account balances by transferring assets from one customer to another in order to avoid detection and to conceal his fraudulent actions. Plaintiff was a victim of Defendant Hiott's scheme, as set forth more fully herein.

On September 16, 2008, Defendant Hiott, at all times acting within the scope and course of his employment and agency with Defendant Community First Bank, Inc., made two withdrawals, one in the amount of $2,103.36 and the other in the amount of $12,528.79 from the Trust and delivered these sums, via wire transfer to Cargill Meats. **Defendant Hiott attempted to conceal these two transactions** by originally charging the debits to CLCB, Inc., however, it was later discovered that the funds actually were withdrawn from the Trust. CLCB (Coach's Low County Brands) is incorporated in South Carolina and owned and operated by Joseph Crosby, Jr. The Trust received nothing of value in exchange for these withdrawals. (See documents bates labeled Giese-CFB 0172-0173, 0182, 0186, attached hereto as Exhibit PP).

On September 17, 2008, Defendant Hiott, at all times acting within the scope and course of his employment and agency with Defendant Community First Bank, Inc., withdrew $15,000 from the Trust and delivered this sum, via wire transfer to Naturally Fresh, Inc. **Defendant Hiott attempted to conceal this transaction** by originally crediting the debit to CLCB, Inc., however, it was later discovered that the funds actually were withdrawn from the Trust. The Trust received nothing of value in exchange for this withdrawal. (See documents bates labeled Giese-CFB 0172-0173, 0194, attached hereto as Exhibit QQ).

On November 3, 2008, Defendant Hiott, at all times acting within the scope and course of his employment and agency with Defendant Community First Bank, Inc., withdrew $16,560 from the Trust and delivered this sum, via wire transfer to Rock Foods of Mississippi. **Defendant Hiott attempted to conceal this transaction** by originally crediting the debits to CLCB, Inc., however, it was later discovered that the funds actually were withdrawn from the Trust. The Trust received nothing of value in exchange for this withdrawal. (See documents bates labeled Giese-CFB 0234-0235, 0237, attached hereto as Exhibit RR).

On August 23, 2010, Plaintiff, through counsel (Kathleen McDaniels), requested an accounting of the Trust assets from Defendant CFB. On September 7, 2010, Defendant Hiott sent via facsimile to Plaintiff's attorney a purported "accounting." This "accounting" consisted of a generic list of amounts withdrawn from the Trust with no explanation of withdrawals, and with no accounting of the monthly deposits Plaintiff received from Baker & Baker. Defendant Hiott further stated that Ms. Brookshire should have been in possession of the documentation related to the $500,000 "annuity" and that it was concerning to him that she had not provided this information to Ms. McDaniels. Of course, there was no

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documentation relating to any "annuity" because no annuity was ever purchased. (See citations above).

On September 21, 2010, Plaintiff Brookshire's attorney again requested a formal accounting of the Trust assets. Ms. McDaniels never received a formal accounting. (See documents bates labeled Giese-CFB 1244-46, attached hereto as Exhibit K).

Defendant Hiott, acting within the scope and course of his employment with Defendant CFB, closed Plaintiff's Trust between October 1, 2010 and October 19, 2010 without informing the Plaintiff of this action as well as failing to disclose that the Trust had a balance of zero.

On October 19, 2010, Mrs. McDaniels sent a letter to Frederick D. Shepherd, Jr. (President of Defendant CFB) and James E. McCoy (Chairman of the Defendant CFB Board)[5], requesting assistance with Defendant Hiott in obtaining the requested documents, including a full accounting. (See documents bates labeled Giese-CFB 1247-48, attached hereto as Exhibit SS). On October 21, 2010, Defendant Hiott sent Plaintiff's counsel a letter stating that he has set aside money for Plaintiff's 2 children and would be glad to send documentation reflecting the whereabouts of this money. (See documents bates labeled Giese-CFB 1249, attached hereto as Exhibit M). Plaintiff has since learned that these documents do not exist.

On November 18, 2010, Mrs. McDaniels sent another letter to Frederick Shepherd, Jr. and James McCoy regarding Defendant Hiott's October 19, 2010 inadequate response. In this letter, Mrs. McDaniels expressed her concern that "this information should be straightforward for Mr. Hiott or some other employee of Community First Bank to generate and provide to Mrs. Baker-Brookshire. I, therefore, do not understand Mr. Hiott's reluctance to provide the requested information. As I have been unable to obtain the requested information directly from Mr. Hiott, I am again asking that you assist me in obtaining this information for Mrs. Baker-Brookshire." (See documents bates labeled Giese-CFB 1250, attached hereto as Exhibit TT).

On December 1, 2010, Mrs. McDaniels and Mr. Williams, of-counsel for Defendant CFB, spoke on the phone. Mr. Williams advised that he would send a full accounting of the Plaintiff's Trust account. He never did. (See documents bates labeled Giese-CFB 1251, attached hereto as Exhibit N).

[5] Much to Plaintiff's surprise, Chairman McCoy revealed during his deposition that he never received any mail at Defendant CFB. (McCoy Depo. p. 98) Q: "Did you ever get mail at the bank?" A: "No. I never received mail from the bank, no." Q: "As the chairman of the board you never received mail at the bank?" A: "No." (See James McCoy deposition, attached hereto as Exhibit L).

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Moreover, at some point in Mrs. McDaniels' dealings with Defendant CFB, either Defendant Hiott or Mr. Williams told her that the $500,000 miscellaneous debit was used to purchase a Lafayette product single premium annuity. (See McDaniels deposition, p. 56, attached hereto as Exhibit O) This, of course, was false information and a direct effort by Defendant Hiott and Defendant CFB to mislead the Plaintiff.

On February 17, 2011, Mrs. McDaniels sent Mr. Williams a letter requesting that Mrs. Brookshire's account be closed and all of the funds delivered to Plaintiff's attorney. (See document bates labeled Giese-CFB 1254, attached hereto as Exhibit P). Defendant Hiott, at all times acting within the scope and course of his employment and agency with Defendant CFB, re-opened Plaintiff's Trust. Defendant Hiott, using his managerial position in Defendant CFB, transferred $285,233.34 from account number 117001 at Defendant CFB, via journal entry, into the Trust. That same day Mrs. McDaniels closed the account and received a check in the above-referenced amount which allegedly represented all assets of the Trust. On March 11, 2011, Mrs. McDaniels notified counsel for Defendant CFB that she no longer represented the Plaintiff and requested that counsel for Defendant CFB send the documents requested to Plaintiff at her home address. (See document bates labeled Giese-CFB 1255, attached hereto as Exhibit Q). These documents were never sent.

Plaintiff enlisted the help of Tabor Investigative Services to track down the paperwork associated with the $500,000 miscellaneous debit. On November 27, 2012 Tabor Investigative Services phoned Carol Wilson, an employee of Defendant CFB, and requested documents from Plaintiff's Trust account. Mrs. Wilson requested that a signed authorization of Release be faxed to her for her review and that she would contact Tabor when she received the authorization. This authorization was sent the same day and as of today, Tabor Investigative Services has yet to receive a response to this request from Mrs. Wilson. (See documents bates labeled Giese-CFB 1257 – 58, 1405, attached hereto as Exhibit R).

On March 19, 2013, Plaintiff, through current counsel, sent a letter to Defendant Hiott requesting an accounting of the Trust assets and a meeting. Copies of this letter were also sent to Frederick D. Shepherd, Jr., James E. McCoy, and Carol Wilson. (See documents bates labeled Giese-CFB 1259-60, attached hereto as Exhibit S). Sometime between March 19, 2013 and May 7, 2013, Defendant Hiott telephoned counsel and represented that the $500,000 transfer was put into 2 separate annuities for Plaintiff's two children and that the annuities were placed with Nationwide Insurance Agency. Nationwide Insurance has no annuities payable to Plaintiff or her children. This was yet another direct effort by Defendant Hiott and Defendant CFB to mislead the Plaintiff. (See documents bates labeled Giese-CFB 1261-62, attached hereto as Exhibit T).

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On May 7, 2013, Tabor Investigative Services and counsel met with Defendant Hiott. In this meeting Defendant Hiott informed Tabor and counsel that he wrote a check for $500,000 to Mr. Holcombe of Holcombe Insurance Agency in Easley, South Carolina and that Mr. Holcombe used the funds to purchase two annuities in the names of Jordan Taylor Blackwell and Laura Ann Elizabeth Blackwell (Plaintiff's children) from Lafayette Insurance Company. Lafayette Insurance has no annuities payable to the Plaintiff or her Children. Moreover, Defendant Hiott and Defendant CFB failed to provide Plaintiff with a formal accounting of the Trust. (See documents bates labeled Giese-CFB 1261-62, attached hereto as Exhibit T). Additionally, Defendant Hiott said he would not provide any documentation unless she provided the following information: "account of amounts and purpose of Debi's withdrawals from her BB&T account(s); copy of her tax returns since 2009; copy of her DSS reports; and asked her to be drug tested." (See document bates labeled Giese-CFB 1263, attached hereto as Exhibit U).

On June 14, 2013, Plaintiff's counsel sent a letter to Mr. Williams, counsel for Defendant CFB, informing him of the communications between counsel and Defendant Hiott and again requested a formal accounting of the Trust. (See documents bates labeled Giese-CFB 1261-62, attached hereto as Exhibit T).

On July 18, 2013, Mr. Williams wrote to Plaintiff's counsel in which he advised that Defendant Hiott indicated to him that the $500,000 was removed from the Trust, with Plaintiff's consent and knowledge, for an investment with Joseph C. Crosby, Jr., and that the Plaintiff was provided the promissory note signed by Mr. Crosby and that she was in possession of it. (See documents bates labeled Giese-CFB 1365-66, attached hereto as Exhibit __). Plaintiff does not and has never had a promissory note, nor had she ever heard of Mr. Crosby at the time, nor was ever aware of this transaction at the time. Defendant CFB provided some documents related to the Trust but did not provide a formal and complete accounting, or a copy of the alleged promissory note. Mr. Crosby testified that he has never met Plaintiff and he never signed a promissory note with her. (See Joseph Crosby deposition, p. 61, attached hereto as Exhibit V). This is just another example of more false information provided by the Defendants to the Plaintiff in order to delay any lawsuit.

On August 19, 2013, Plaintiff's counsel requested records of all deposits and the source of the deposits into the Trust, all documents related to any and all "miscellaneous debits" and "investment counter withdrawals," and all monthly bank statements from November 1, 2010 through February 22, 2011. (See documents bates labeled Giese-CFB 1371-76, attached hereto as Exhibit W). Having not heard from Defendants, Plaintiff sent a follow up letter on September 17, 2013. (See document bates labeled Giese-CFB 1377, attached hereto as Exhibit X). Again, not hearing anything from Defendants or counsel, Plaintiff sent another follow up letter on October 17, 2013 re-requesting the documents listed in the two previous letters as well as a full accounting an entire copy of the

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Trust file from the date of creation to date of termination. (See documents bates labeled Giese-CFB 1378-84, attached hereto as Exhibit Y).

On December 17, 2013, Defendant CFB provided the Plaintiff with the documents showing the activities in the Trust account. Donald Jones, with Palmetto Consulting, had created these binders detailing the Plaintiff's Trust Account for Defendant CFB. When Mr. Jones turned them over to Mr. Shepherd, Mr. Jones was able to account for all transactions in and out of the Trust. When turning the 4 binders over, Mr. Williams and Mr. Griffith represented to counsel that these were all of the documents associated with the Trust. This was in fact, not the case. Paperwork for over $500,000 was purposefully withheld from the 4 binders provided to the Plaintiff. Mr. Jones testifies "Mr. Shepherd was responsible for what was put in the binders or not. He was asking me for, you know, data to copy to respond to you. I knew he was doing that. And Jeff Griffith was working with him but it appeared to me, from the conversation that was going on right outside my door, that Mr. Shepherd was deciding what to put in the binders and what not to, not Jeff." (See Jones deposition, p. 147-148, attached hereto as Exhibit Z).

The creation of Plaintiff's Trust account itself was a deception on the part of both Defendant Hiott and Defendant CFB. Plaintiff intended to create a trust account in the same nature as her previous account with BB&T. Defendant Hiott and Defendant CFB were aware of the fact that they did not have the authority to create such accounts but concealed that fact from Plaintiff. The discovery that Plaintiff's account was not a trust only occurred upon the commencement of this action. It is noted that both defendants refer to the account as a trust when trying to place additional duties of a trustee on Plaintiff and make it clear that the account was not a trust when it supports their respective positions. (See documents bates labeled Giese-CFB 1356-1370, attached hereto as Exhibit A).

Additionally, Plaintiff subpoenaed Palmetto Consulting's entire file with relations to this investigation. Over 40,000 pages of documents were produced. Within these pages were the above-referenced binders (in scanned format), and supporting paperwork associated with the $500,000 missing transactions were indeed present. These pages were intentionally withheld from the Plaintiff by CFB acting directly through Mr. Shepherd – not Hiott. The transactions revealed within the 40,000 pages produced by PCS, many of which were intentionally withheld by Defendant CFB despite Plaintiff's repeated attempts to obtain this information, include the following:

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- $310,510.75 – juggling.
  - On 12/31/2007, $310,510.75 was transferred from Plaintiff's account into account # 1002901 (Due From Bank – Banker's Bank).
  - On January 7, 2008, $310,510.75 was transferred from account #1052201 (State County Muni Securities – AFS) into Plaintiff's account.
  - On March 31, 2008, $310,510.75 was transferred from account 1029002 into 1052201.
  - Defendant CFB represented in their Reponses to Plaintiff's 1st set of interrogatories that this the withdrawal from Plaintiff's account was a "reverse transaction." According to Jeff Griffith's testimony, this transaction was not a reverse transaction and he "would call it juggling." (Exhibit AA). When posed with the question, "that's not a reverse transaction is it," Don Jones testifies, "It's a juggling—no. He's moving, hiding money from one place to the other, juggling." (Exhibit BB)
  - This transaction was marked as "Tax" on bank statement. Clearly the bank had given Defendant Hiott the ability to manipulate bank statements.
- On 2/29/2008, $8,500 was transferred from Plaintiff's account to Marc Hiott's CFB account.
- On 3/13/2008, $2,224 was transferred from Plaintiff's account to 1222001 (Defendant CFB's Misc. Accounts Receivable). $1,360 of this money was transferred from Defendant CFB's Misc. Accounts Receivable into Ben Wilson's account at Defendant CFB in exchange for some Defendant CFB stock. Ben Wilson is the step-son of Fred

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Shepard, President of CFB. Fred Shepard's wife was also on this account. (Don Jones depo. p. 114-115, attached hereto as Exhibit CC)

- On 8/29/2008, $65,000 was transferred from Plaintiff's account to CLCB CFB account.
- On 9/22/2008, $1,000 was transferred from Plaintiff's to Ben Hiott's account.
- On 10/24/2008, $3,500 was transferred from Plaintiff's to Ben Hiott's account.
- On 11/1/2008, $85,000 was transferred from Plaintiff's account to Jim McCoy's account and was immediately offset to pay a debt owed by Mr. McCoy to Defendant CFB. (See documents PCS 000024-000045, attached hereto as Exhibit EE).
- On 6/5/2009, $25,387.20 was transferred from Plaintiff's account into Defendant CFB's accounts receivable, in which Defendant CFB was able to derive direct benefit and control in exchange for nothing.
- On June 15, 2010, $3,000 was transferred from Plaintiff's to Defendant Hiott's account.

(Emphasis added).

All of these allegations indicate a pattern and practice of intentional concealment and misrepresentation on the part of the Defendants for the purpose of delaying the Plaintiff from discovering that her funds had been misappropriated and to delay her from filing suit. These actions are especially egregious when the Court considers that Defendant Hiott was acting in a position of trust to the Plaintiff on behalf of Defendant CFB. Defendant CFB should not be permitted to profit from, or escape civil liability for, its unethical and in some cases, criminal activity, especially since if it was not for the Plaintiff's continued pressing of her requests for an Accounting, Defendant Hiott would still be an employee of Defendant CFB today. The Plaintiff respectfully asks the Court to not permit Defendant CFB to do so.

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G. Defendant CFB is not entitled to summary judgment on Defendant's counterclaims for Conversion and Unjust Enrichment.

As it has done throughout this entire litigation, Defendant CFB argues strenuously against Plaintiff's position only to turn right around and make the same claims that it just alleged were invalid. Defendant CFB argues in its motion for summary judgment that Plaintiff's causes of action are barred by the statute of limitations, alleging that Plaintiff was responsible for discovering wrongdoing by Defendant CFB's employee and agent. Defendant CFB contends that even if she did not have statements or notice that misappropriations occurred, it was incumbent upon her to take steps to discover. Defendant CFB, with apparent disregard of its own argument of the statute of limitations, now asks this court for summary judgment on counterclaims filed October 9, 2014, when Defendant had complete control and access to the documents necessary to discover any wrongdoing or misappropriations. If any entity should be held responsible for discovery of misappropriated funds, certainly a bank whose president conducts daily reviews of the balance sheets would be such entity. (Shepherd depo, p. 50-51, attached hereto as Exhibit UU)

Further, given the scheme that Defendant Hiott employed from 2004 through 2013 with both Plaintiff's funds as well as bank funds and potentially other customers' funds, at this point in time, Plaintiff alleges that there are questions of fact as to whether any monies moved into and out of Plaintiff's, or any other, account was, in fact, Defendant CFB's funds. Defendant CFB has repeatedly objected to and refused to produce records from any bank or third parties accounts. (See Defendant CFB's responses to Plaintiff's First Request for Production #12, attached hereto as Exhibit VV). While Defendant CFB has alleged that the funds were its own, it has failed to provide more than limited documentation and has not properly responded to discovery (See Defendant CFB's responses to Plaintiff's First Interrogatories #29, hereto attached as Exhibit

KK), creating questions of fact to be resolved by a jury.

Plaintiff would note that Defendant Hiott filed a Rule 12(b)(6) Motion to Dismiss in early in the litigation. Judge McIntosh ruled that the allegations set forth in the Complaint did not establish the affirmative defense of the statute of limitations. In the alternative, the Court found that Defendant Hiott's Motion to Dismiss should be denied because the allegations in the Complaint gave rise to equitable tolling. As a final alternative ground for denying the motion, the Counrt found that the allegations set forth in the Complaint may be governed by S.C. Code Section 15-3-110. (See Judge McIntoch's Order, attached hereto as Exhibit WW).

CONCLUSION

At this stage in the litigation, all the evidence and inferences reasonably to be drawn from the evidence must be construed in the light most favorable to the Plaintiff. When the evidence is so construed, it unquestionably gives rise to equitable tolling. Moreover, to the extent it calls for application of the discovery rule, Defendant CFB and Defendant Hiott's statute of limitations argument unquestionably gives rise to genuine issues of material fact. The Plaintiff respectfully requests that the Defendants' Motion for Summary Judgment be denied in full.

Respectfully submitted,

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EXHIBIT

A

Account Name:
DEBI BAKER BROOKSHIRE

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Trust I.D. Number: [redacted] 1545
BRANCH BANKING & TRUST CO., TRUSTEE
PO BOX 2907 - TRUST TAX DEPT
WILSON, NC 27894-2907

BB&T
FIDUCIARY TAX SERVICES

Date Most Established 5-1-93

GRANTOR TAX INFORMATION LETTER

Grantor:

DEBI BAKER BROOKSHIRE
1707 DEVINE STREET
COLUMBIA, SC 29201

I.D. Number: [redacted]

Tax Year
Beginning 01/01/2006
Ending 12/31/2006

ENTER THE AMOUNTS LISTED BELOW ON YOUR U.S. INCOME TAX RETURN

I N C O M E

OTHER INTEREST INCOME	12,914.
(ENTER THE ABOVE ON SCHEDULE B, PART I, LINE 1)	
DIVIDEND INCOME:	
QUALIFIED	755.
(SEE FORM 1040 INSTRUCTIONS)	
TOTAL FOR YEAR	34,312.
(ENTER THE ABOVE ON SCHEDULE B, PART II, LINE 5)	
SHORT TERM GAINS OR LOSSES:	
PARTNERSHIP, TRUST, AND S CORP GAIN OR LOSS	752.
(ENTER ABOVE ON SCHEDULE D, LINE 5, COLUMN F)	
LONG TERM GAINS OR LOSSES:	
PARTNERSHIP, TRUST, ESTATE, & S CORPORATION GAIN	-148.
(ENTER ABOVE ON SCH. D, PART II, LINE 12, COLUMN F)	
BUSINESS PROPERTY GAIN OR LOSS	
TOTAL FOR YEAR	116,526.
(ENTER ABOVE ON FORM 4797, PART I, COLUMN G)	
UNRECAPTURED SECTION 1250 GAIN (PARTNERSHIPS/S CORPS)	42,313.
(SEE UNRECAPTURED SECTION 1250 WORKSHEET INSTRUCTIONS)	
PARTNERSHIP INCOME FROM ACTIVE/PASSIVE ACTIVITIES	586,941.
(ENTER THE ABOVE ON SCREDULE E, PART II)	

D E D U C T I O N S

INTEREST EXPENSE	1,456.
(ENTER THE ABOVE ON SCHEDULE A, IF APPLICABLE)	
CHARITABLE DEDUCTION	8,156.
(ENTER THE ABOVE ON SCHEDULE A, IF APPLICABLE)	
TRUSTEE FEES	28,303.
(ENTER THE ABOVE ON SCHEDULE A, IF APPLICABLE)	
OTHER DEDUCTIONS SUBJECT TO 2% AGI	256.
(ENTER THE ABOVE ON SCHEDULE A, IF APPLICABLE)	

Report the amounts listed above on your 2006 tax return. These may differ from payments actually received by you. The difference may be caused by the exclusion of tax-exempt income, our agreed plan of remitting, fiduciary deduction, or variance between your taxable year and that of this account. If you have interests in other accounts, appropriate schedules will follow.

cross ref DEBI BAKER BROOKSHIRE 1730001689

3 S

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FedLine for the Web: FedWire Funds: Advice

Page 1 of 1 7

Past Messages

A Past Message List Next ▶

Delivered to FPM: 06/20/2007 15:47:48
IMAD: 20070620 1BQP021C 001130 08201547
OMAD: 20070620 QNGPNP31 053843 08201547
See Audit Log for this Message

Test/Prod: Prod

128924

Export

Basic Information

Sender ABA (3100):	053101121 BRANCH BKG WILSON
Receiver ABA (3400):	053202130 CFB WALHALLA SC
Amount (2000):	1,171,833.58
Type Code (1510):	1000 - Transfer of Funds
Business Function (3600):	CTR - Customer Transfer
Reference Number (3320):	200706200000555S

SSN [redacted]
DOB [redacted]
DOL [redacted]
Id: 9646 Exp

Institution Information

Originator (5000)

ID Code:	D - DDA Account Number
Identifier:	0001689180244
Name:	DEBI BAKER BROOKSHIRE
Address:	[redacted]

Emp Self
Emp
Trust
ph #
ph #
803-799-7440

Beneficiary (4200)

ID Code:	D - DDA Account Number
Identifier:	[redacted]1950
Name:	DEBRA BAKER BROOKSHIRE
Address:	1707 DEVINE ST COLUMBIA SC 29205

Reference for Beneficiary: (4320)

Text:	1730001689

CTR Data

Charges (3700)

Charge Details:	S - Shared

Debi Baker Brookshire Trust
Trustee

May 1, 1993
no checks

Export

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DEPOSIT ACCOUNT COMPLIANCE CHECKLIST (dated 03/13/07)

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ADDITIONAL DISCLOSURES: Debi Baker Brookshire Trust [redacted] 1950

☑ Print & give additional disclosures to customer (Personalprint, documentalprint files). ***Note: remove all items that have "For Bank Use" printed on the bottom e.g. last couple of pages.

CIP (Customer Identification Program)/PATRIOT ACT 128321
Using the "Patriot Act Customer ID Guide" to identify who is your customer, ensure completion on the signature card of the following:

CIP Individual: obtain for all owners of the account
☑ Full Legal Name ☑ TIN ☐ Physical Address ☐ DOB ☑ Driver's License or other document Trustee
☑ State Issued ☐ Number ☑ Issue Date ☐ Expiration Date

☐ CIP information above gathered for namelline 2
☐ CIP information above gathered for namelline 3 & 4
☐ Chex Systems
☐ OFAC and/or other Screening Completed (for individual) (Includes SDN and PLC lists) (e.g., watchdog)
☐ Patriot Act Connection- to verify identification of individuals performed (Optional)
Other potential document: ☐ W-8 BEN (requires branch Mgr approval) ☐ W-9

☐ Consumer Customer BSA Questionnaire
☐ Consumer Customer BSA Risk Assessment

CIP Business: obtain for the business
If a corporation, partnership, LLC, or LLP, obtain: ☐ TIN and ☐ Street Address

If legal entity obtain:
☐ Verification with Secretary of State and verification
Obtain copy of: ☐ Certified articles of incorporation ☐ Govt. issued business license ☐ Partnership agreement ☐ Trust agreement

☐ OFAC and/or other Screening Completed (for business entities) (Includes SDN and PLC lists) (e.g., watchdog)
☐ NOW Eligibility Certification (for non-individual interest-bearing NOW accounts if applicable)

☑ Commercial Customer Questionnaire or ☐ MSB Questionnaire if applicable
☐ Commercial Customer Risk Assessment or ☐ MSB Risk Assessment
Trust Paperwork on file in Vault

BANK SECRECY ACT
☐ Complete an Internal Suspicious Activity Memo if customer declines to provide identification information or provides false information.

REGULATION CC
☐ Case by Case or Exception Hold Notice to/if applicable with branch review and copies and backup documents to central location.

FOR ANY INTEREST BEARING ACCOUNT PRINTED FROM ARTADEPOSIT
☑ Verify the rate printed on the Disclosures is the current rate for that type and term (See bank's current rate sheet to verify)

IF IRA
☐ If account is IRA, original Application Page from Plan & IRA documents stored in branch.

DOCUMENTS FOR OPERATIONS:
☑ Deposit Account Checklist (this document)
☑ Account Agreement (signed signature card)
☑ Terms of Conditions (initialed by customer)
☑ Acknowledgement of Document Receipt (signed by Customer)
☐ Chex Systems Printout DAP RCA
☐ Patriot Act Connection printout if performed
☐ Other forms needed such as W-8BEN, NOW Eligibility Cert.
☐ IRA, you need a separate W-9 (in addition to sign. Card)
☐ If account is CD, Copy of CD (any copy)

DOCUMENTS FOR CUSTOMER
☑ If Consumer: Important Account Information (Truth in Savings)
☑ If Consumer: Your Ability to Withdraw Funds (Reg CC)
☑ If Consumer: Substitute Checks & your Rights (Check 21)
☐ If Consumer: Electronic Funds Transfers (Reg E)
☑ Limits & Fees
☑ 2nd copy of Account Agreement (signature card)
☑ 2nd copy of Terms & conditions
☐ If IRA, Full Plan Agreement but with copy of Application Page
☐ If account is CD, Original CD (fold & put in envelope)
☑ Additional Print Package (from step 1-remove bank use items)

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CUSTOMER ACKNOWLEDGEMENT OF DOCUMENT RECEIPT

Acknowledgement of receipt of the following disclosures:

- ☒ Important Account Information (Truth in Savings)
- ☐ Your Ability to Withdraw Funds (Reg CC-if checking account)
- ☐ Substitute Checks & your Rights (Check 21-if checking or investment account)
- ☐ Electronic Funds Transfers (Reg E-if checking, savings, or investment account)

- ☒ Account terms & conditions
- ☒ Personal Banking Services Brochure
- ☒ Additional Terms and Conditions of your Personal Account
- ☒ Community First Bank Privacy Notice
- ☒ Overdraft Privilege
- ☒ Limits & Fees

Debi Baker Brookshire Trust ⇐ [redacted] 1950 — 6-22-07

Account Number — Account Name — Date

Debi Baker Brookshire Tina Reed

Customer Signature — Bank Employee Signature

Customer Signature

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Debi Baker Brookshire Trust, Debi Baker Brookshire - Trustee

IDENTIFIED COMMERCIAL CUSTOMER DUE DILIGENCE QUESTIONNAIRE

To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record certain information. Your assistance in answering these brief questions is appreciated.

1. Full Legal Name: Debi Baker Brookshire Trust, Debi Baker Brookshire Trustee

2. Taxpayer I.D #: [redacted]

3. Trade Name or DBA: Same

Describe your products and services below:
Trust Acct

4. Business Type (Circle one): Corporation, Sole Proprietorship, LLC, LLP, Other (explain): Trust

Account Info:
Account # [redacted]1950 Account Type Bus. Perf. Inv. Acct
Account # _____ Account Type _____
Account # _____ Account Type _____
Account # _____ Account Type _____

5. Principals or Owners of the Entity: Debi Baker Brookshire

6. Citizenship of principals and/or account signers: US

7. How long have you owned or manage this business? 14 years 2 months ___ Check if Not Applicable

8. What percentage of your gross revenue is derived from money services (for example, check cashing, selling or redeeming travelers checks, money transmission) from page 3? 0

9. List each of your owned business locations below:
1707 Devine St
Columbia SC 29205
Friend of Ben Hotels

[redacted]1950

10. Describe your USA market area and customer base. Check all that apply

☒ Local county residents N/A ☐ Local statewide residents

BSA Appendix B-1

Giese-CFB 1360

☐ Multi-state area residents ☐ USA citizens
☐ International customers, regardless of citizenship. If checked, please describe your primary target market and any other customer groups to whom you market your services:

11. List each agent or franchise that provides services under an agreement with your firm:

12. What types of state business licenses do you hold? Please attach copies of the licenses to this questionnaire.

☐ General business license
☐ Check Cashing business license
☐ Other business license Trust Paperwork
☐ Special purpose business license
☐ Money Transmitter business license

13. What types of banking services do you expect to use at our financial institution on a monthly basis?

☐ Currency deposits or withdrawals	Number new acct Average Amount
☐ Check deposits	Number Average Amount
☐ US currency exchanges	Number Average Amount
☐ International currency exchanges	Number Average Amount
☐ Domestic wire services	Number Average Amount
☐ International wire services	Number Average Amount
☐ Receipt of ACH transactions	Number Average Amount
☐ Origination of ACH transactions	Number Average Amount
☐ Internet banking services	Number Average Amount
☐ Privately-owned ATMs	Number Average Amount
☐ Nondeposit investment transactions	Number Average Amount
☐ Purchase of official checks, travelers checks or other negotiable items	Number Average Amount
☐ Safe deposit box	Box Size Preferred
☐ Safe deposit box access	Weekly ____ Monthly ____ Quarterly or Less ____
☐ Please describe other services not listed here:	

14. Which branches do you intend to use in the conduct of your business?

General North thru Bow Hill

15. Length of Banking Relationship (If existing customer): New

BSA Appendix B-2

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16. Determine whether your Business is a Money Service Business (MSB). Please check all of the services you provide below. Please identify each of the services you provide below and estimate the percentage of MSB services revenue you earn from each of the categories of MSB money services. Attach copies of any brochures, fee schedules or other marketing materials describing your products and services.

PLUS

			Revenue %
a. Domestic currency deals or exchange transactions? *(For example, exchanging smaller bills for $100s or $50s or exchanging $100s for $20s or other smaller bills.)*	Daily limit of $1,000 per customer? ☐ Yes ☐ No, limit of ____ ☒ Don't provide	Acting as an agent of another? ☐ No, acting on own behalf ☐ Yes, acting as an agent of ____	0
b. International currency exchange transactions? *(For example, exchanging US currency for foreign currency, or exchanging foreign currency for US currency.)*	Daily limit of $1,000 per customer? ☐ Yes ☐ No, limit of ____ ☒ Don't provide	Acting as an agent of another? ☐ No, acting on own behalf ☐ Yes, acting as an agent of ____	0
c. Cash checks for individual consumer customers? ☐ US Federal, State or local government checks ☐ Proprietor in-state payroll checks ☐ Any consumer or business third party checks ☐ Other, please specify: ____	Daily limit of $1,000 per customer? ☐ Yes ☐ No, limit of ____ ☒ Don't provide	Acting as an agent of another? ☐ No, acting on own behalf ☐ Yes, acting as an agent of ____	0
d. Issue travelers checks, money orders or other negotiable instruments?	Daily limit of $1,000 per customer? ☐ Yes ☐ No, limit of ____ ☒ Don't provide	Acting as an agent of another? ☐ No, acting on own behalf ☐ Yes, acting as an agent of ____	0
e. Sell or redeem travelers checks, money orders or other negotiable instruments?	Daily limit of $1,000 per customer? ☐ Yes ☐ No, limit of ____ ☒ Don't provide	Acting as an agent of another? ☐ No, acting on own behalf ☐ Yes, acting as an agent of ____	0
f. Issue, sell or redeem stored value? ☐ Prepaid telephone cards ☐ Gift cards, specify brands: ____ ☐ Fuel cards, specify brands: ____ ☐ Other, please specify: ____ ☐ Closed system cards, please specify: ____	Daily limit of $1,000 per customer? ☐ Yes ☐ No, limit of ____ ☒ Don't provide	Acting as an agent of another? ☐ No, acting on own behalf ☐ Yes, acting as an agent of ____ *Closed system cards are stored value cards that can only be used within a confined group of merchants, such as a mall-wide card valid only at the stores located within that particular mall facility.*	0
g. Domestic money transmitter? ☐ Money transmitter services occur when a person engages as a business in the transfer of funds through a financial institution. Generally, the acceptance and transmission of funds as an integral part of a transaction (for example, in connection with a sale of goods or services), will not cause you to be a money transmitter.	[redacted]	Acting as an agent of another? ☐ No, acting on own behalf ☐ Yes, acting as an agent of ____	0
h. International money transmitter? ☐ Money transmitter services occur when a person engages as a business in the transfer of funds through a financial institution. Generally, the acceptance and transmission of funds as an integral part of a transaction (for example, in connection with a sale of goods or services), will not cause you to be a money transmitter.		Acting as an agent of another? ☐ No, acting on own behalf ☐ Yes, acting as an agent of ____	0
		Total MSB Revenue	0

BSA Appendix B-3

Giese-CFB 1362

Business Representative Completing the Questionnaire:

Debi Baker Brookshire — Trustee
Print Name — Title

Debi Baker Brookshire — 6/29/07
Business Representative Signature — Date

Bank Representative Receiving the Questionnaire:

Lisa Reed — CSR
Print Name — Title

BSA Appendix B-4

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Account Agreement

Date: June 22, 2007

Community First Bank, member FDIC
449 Hwy 123 By-Pass
Seneca, SC 29678
(864)886-0205

Rep: LR

Internal Use

DEBI BAKER BROOKSHIRE TRUST
DEBI BAKER BROOKSHIRE TRUSTEE
1707 DEVINE ST
COLUMBIA, SC 29205

IMPORTANT ACCOUNT OPENING INFORMATION: Federal law requires us to obtain sufficient information to verify your identity. You may be asked several questions and to provide one or more forms of identification to fulfill this requirement. In some instances we may use outside sources to confirm the information. The information you provide is protected by our privacy policy and federal law.
Enter Non-Individual Owner information on page 2. There is additional Owner/Signer information space on page 2.

Name	DEBI BAKER BROOKSHIRE TRUSTEE
Relationship to Account (Owner and/or Signer, etc.)	
Address	[redacted]
Mailing Address (if different)	
Home Phone	(803)790-7440
Work Phone	
Mobile Phone	
E-Mail	
Birth Date	[redacted]
SSN/TIN	[redacted]
Gov't Issued Photo ID, Type, Number, State, Issue Date, Exp. Date	DL#: 001839031 St.: SC Issued: 09/06/2006 Exp: 08/04/2011
Other ID (Description, Details)	Issued: Exp:
Employer's Name & Address	
Previous Financial Institution	

Name	
Relationship to Account (Owner and/or Signer, etc.)	
Address	
Mailing Address (if different)	
Home Phone	
Work Phone	
Mobile Phone	
E-Mail	
Birth Date	
SSN/TIN	
Gov't Issued Photo ID, Type, Number, State, Issue Date, Exp. Date	
Other ID (Description, Details)	
Employer's Name & Address	
Previous Financial Institution	

The specified ownership will remain the same for all accounts.

- ☐ Individual
- ☐ Joint with Survivorship (not as tenants in common)
- ☐ Joint with No Survivorship (as tenants in common)
- ☐ Trust-Separate Agreement Dated:
- ☒ Trust Accounts
- ☐ Corporation - For Profit
- ☐ Corporation - Nonprofit
- ☐ Partnership
- ☐ Sole Proprietorship
- ☐ Limited Liability Company

(Check appropriate ownership above.)

- ☐ Revocable Trust.
- ☒ Pay-On-Death (POD)
- ☐ _____

(Check appropriate beneficiary designation above.)

☐ If checked, this is a temporary account agreement.
Number of signatures required for withdrawal: 1

The undersigned authorizes the financial institution to investigate credit and employment history and obtain reports from consumer reporting agency(ies) on them as individuals. Except as otherwise provided by law or other documents, each of the undersigned is authorized to make withdrawals from the account(s), provided the required number of signatures indicated above is satisfied. The undersigned personally and, as, or on behalf of, the account owner(s) agree to the terms of, and acknowledge receipt of copy(ies) of, this document and the following:

- ☒ Terms and Conditions
- ☐ Privacy
- ☐ Electronic Fund Transfers
- ☐ Truth in Savings
- ☐ Substitute Checks
- ☐ Funds Availability
- ☒ Common Features
- ☐

[x] Debi Baker Brookshire
DEBI BAKER BROOKSHIRE TRUSTEE

[x] _____

[x] _____

☐ Authorized Signer (If checked and account is individual and consumer purpose, the [pat of the above signers is an Authorized Signer.)

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(page 1 of 2)

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Name	
Relationship to Applicant (Owner, Joint Owner, etc.)	
Address	
Mailing Address (If different)	
Home Phone	
Work Phone	
Mobile Phone	
E-Mail	
Birth Date	
SS#/TIN	
Govt Issued Photo ID, Type, Number, State, Issue Date, Exp. Date	
Other ID (Description, Details)	
Employer's Name & Address	
Previous Financial Info	

Name	
Relationship to Applicant (Owner, Joint Owner, etc.)	
Address	
Mailing Address (If different)	
Home Phone	
Work Phone	
Mobile Phone	
E-Mail	
Birth Date	
SS#/TIN	
Govt Issued Photo ID, Type, Number, State, Issue Date, Exp. Date	
Other ID (Description, Details)	
Employer's Name & Address	
Previous Financial Info	

(If not a "U.S. Person," certify foreign status separately.)

TIN: [redacted]

☒ Taxpayer I.D. Number (TIN) - The number shown above is my correct taxpayer identification number.

☒ Backup Withholding - I am not subject to backup withholding either because I have not been notified that I am subject to backup withholding as a result of a failure to report all interest or dividends, or the Internal Revenue Service has notified me that I am no longer subject to backup withholding.

☐ Exempt Recipients - I am an exempt recipient under the Internal Revenue Service Regulations.

I certify under penalties of perjury the statements checked in this section and that I am a U.S. person (including a U.S. resident alien).

X Debi Baker Brookshire (Date) 6/29/07

Name	DEBI BAKER BROOKSHIRE TRUST
SS#	[redacted]
Phone	(803)790-7440
Mobile Phone	
E-Mail	
Type of Entity	
State/Country & Date of Organization	
Nature of Business	
Address	[redacted]
Mailing Address (If different)	
Authorization/ Resolution Date	
Previous Financial Inst.	

Business Premium Investment Checking	300702950	1,171,833.58 ☐ Cash ☐ Check ☒ WIRE
		☐ Cash ☐ Check
		☐ Cash ☐ Check

☐ ATM ☐ Debit/Check Cards (No. Requested:)

SEE ADDENDUM

DBB

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Giese-CFB-1365

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TERMS AND CONDITIONS OF YOUR ACCOUNT

AGREEMENT - This document, along with any other documents we give you pertaining to your account(s), is a contract that establishes rules which control your account(s) with us. Please read this carefully. If you sign the signature card or open or continue to have your account with us, you agree to these rules. You will receive a separate schedule of rates, qualifying balances, and fees if they are not included in this document. If you have any questions, please call us.

This agreement is subject to applicable federal laws and the laws of the state of South Carolina (except to the extent that this agreement can and does vary such rules or laws). The body of state and federal law that governs our relationship with you, however, is too large and complex to be reproduced here. The purpose of this document is to:

(1) summarize some laws that apply to common transactions;
(2) establish rules to cover transactions or events which the law does not regulate;
(3) establish rules for certain transactions or events which the law regulates but permits variation by agreement; and
(4) give you disclosures of some of our policies to which you may be entitled or in which you may be interested.

If any provision of this document is found to be unenforceable according to its terms, all remaining provisions will continue in full force and effect. We may permit some variations from our standard agreement, but we must agree to any variation in writing either on the signature card for your account or in some other document.

As used in this document the words "we," "our," and "us" mean the financial institution and the words "you" and "your" mean the account holder(s) and anyone else with the authority to deposit, withdraw, or exercise control over the funds in the account. The headings in this document are for convenience or reference only and will not govern the interpretation of the provisions. Unless it would be inconsistent to do so, words and phrases used in this document should be construed so the singular includes the plural and the plural includes the singular.

LIABILITY - You agree, for yourself (and the person or entity you represent if you sign as a representative of another) to the terms of this account and the schedule of charges. You authorize us to deduct these charges directly from the account balance as accrued. You will pay any additional reasonable charges for services you request which are not covered by this agreement.

Each of you also agrees to be jointly and severally (individually) liable for any account shortage resulting from charges or overdrafts, whether caused by you or another with access to this account. This liability is due immediately, and can be deducted directly from the account balance whenever sufficient funds are available. You have no right to defer payment of this liability, and you are liable regardless of whether you signed the item or benefited from the charge or overdraft. This includes liability for our costs to collect the deficit including, to the extent permitted by law, our reasonable attorneys' fees.

DEPOSITS - We will give only provisional credit until collection is final for any items, other than cash, we accept for deposit (including items drawn "on us"). Actual credit for deposits of, or payable in, foreign currency will be at the exchange rate in effect on final collection in U.S. dollars. We are not responsible for transactions by mail or outside depository until we actually record them. We will treat and record all transactions received after our "daily cutoff time" on a business day we are open, or received on a day we are not open for business, as if initiated on the next following business day that we are open.

WITHDRAWALS - Unless clearly indicated otherwise on the account records, any of you, acting alone, who signs in the space designated for signatures on the signature card may withdraw or transfer all or any part of the account balance at any time. Each of you (until we receive written notice to the contrary) authorizes each other person signing the signature card to indorse any item payable to you or your order for deposit to this account or any other transaction with us. We may charge your account for a check even though payment was made before the date of the check, unless we have received written notice of the postdating in time to have a reasonable opportunity to act. We may refuse any withdrawal or transfer request which you attempt on forms not approved by us, by any method we do not specifically permit, which is greater in number than the frequency permitted, or which is for an amount greater or less than any withdrawal limitations. Even if we honor a nonconforming request, we may upon continued abuse of the stated limitations (if any) as to your act of placing the account. We will use the date the transaction is completed by us (as opposed to the date you initiate it) to apply the frequency limitations. The fact that we may honor withdrawal requests that overdraw the available account balance does not obligate us to do so later. See the funds availability policy disclosure for information about when you can withdraw funds you deposit. For those accounts for which our funds availability policy disclosure does not apply, you can ask us when you make a deposit when those funds will be available for withdrawal.

We may require not less than 7 days' notice in writing before each withdrawal from an interest-bearing account other than a time deposit, or from any other savings account as defined by Regulation D. Withdrawals from a time account prior to maturity or prior to any notice period may be restricted and may be subject to penalty. See your notice of penalty for early withdrawal.

OWNERSHIP OF ACCOUNT AND BENEFICIARY DESIGNATION - These rules apply to the account depending on the form of ownership and beneficiary designation, if any, specified on the account records. We make no representations as to the appropriateness or effect of the ownership and beneficiary designations, except as they determine to whom we pay the account funds. *Individual Account* - is an account in the name of one person. *Joint Account - With Survivorship (And Not As Tenants in Common)* - is an account in the name of two or more persons. Each of you intend that when you die the balance in the account (subject to any previous pledge to which we have agreed) will belong to the survivor(s). If two or more of you survive, you will own the balance in the account as joint tenants with survivorship and not as tenants in common. *Joint Account - No Survivorship (As Tenants in Common)* - is owned by two or more persons, but none of you intend (merely by opening this account) to create any right of survivorship in any other person. We encourage you to agree and tell us in writing of the percentage of the deposit contributed by each of you. This information will not, however, affect the "number of signatures" necessary for withdrawal. *Revocable Trust, or Pay-On-Death Account* - If two or more of you create this type of account, you own the account jointly with survivorship. Beneficiaries cannot withdraw unless: (1) all persons creating the account die, and (2) the beneficiary is then living. If two or more beneficiaries are named and survive the death of all persons creating the account, beneficiaries will own this account in equal shares, without right of survivorship. The person(s) creating either of these account types may: (1) change beneficiaries, (2) change account types, and (3) withdraw all or part of the account funds at any time.

BUSINESS ACCOUNTS - Earnings in the form of interest, dividends, or credits will be paid only on collected funds, unless otherwise provided by law or our policy. We may require the governing body of the legal entity opening the account to give us a separate authorization telling us who is authorized to act on its behalf. We will honor the authorization until we actually receive written notice of a change from the governing body of the legal entity.

Bankers Systems, Inc., St. Cloud, MN Form TC-DC 6/1/2001

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STOP PAYMENTS - A stop-payment order must be given in the manner required by law, must be received in time to give us a reasonable opportunity to act on it, and must precisely identify the number, date and amount of the item, and the payee. We will honor a stop-payment request by the person who signed the particular item, and, by any other person, even though such other person did not sign the item, if such other person has an equal or greater right to withdraw from this account than the person who signed the item in question. A release of the stop-payment request may be made only by the person who initiated the stop-payment order.

TELEPHONE TRANSFERS - A telephone transfer of funds from this account to another account with us, if otherwise arranged for or permitted, may be made by the same persons and under the same conditions generally applicable to withdrawals made in writing. Unless a different limitation is disclosed in writing, we restrict the number of transfers from a savings account to another account or to third parties, to a maximum of six per month (see the number of "preauthorized transfers" during the month). Other account transfer restrictions may be described elsewhere.

AMENDMENTS AND TERMINATION - We may change any term of this agreement. Rules governing changes in interest rates are provided separately. For other changes, we will give you reasonable notice in writing or by any other method permitted by law. We may also close this account at any time upon reasonable notice to you and tender of the account balance personally or by mail. Notice from us to any one of you is notice to all of you.

STATEMENTS - You must examine your statement of account with "reasonable care and promptness." If you discover (or reasonably should have discovered) any unauthorized signatures or alterations, you must promptly notify us of the relevant facts. As between you and us, if you fail to do either of these duties, you will have to bear the entire loss. Your loss could be not only with respect to items on the statement but other items with unauthorized signatures or alterations by the same wrongdoer. We lose these protections if you establish that we failed to exercise ordinary care in paying an item with an unauthorized signature or alteration.

You agree that the time you have to examine your statement and report to us will depend on the circumstances, but will not, in any circumstance, exceed a total of 14 days from when the statement is first sent or made available to you.

You further agree that if you fail to report any unauthorized signatures, alterations, forgeries, or any other errors in your account within 60 days of when we first send or make the statement available, you cannot assert a claim against us on any items in that statement, and as between you and us the loss will be entirely yours. This 60-day limitation is without regard to whether we used ordinary care. The limitation in this paragraph is in addition to that contained in the first paragraph of this section.

ACCOUNT TRANSFER - This account may not be transferred or assigned without our prior written consent.

DIRECT DEPOSITS - If, in connection with a direct deposit plan, we deposit any amount in an account which should have been returned to the Federal Government for any reason, you authorize us to deduct the amount of our liability to the Federal Government from this account or from any other account you have with us, without prior notice and at any time, except as prohibited by law. We may also use any other legal remedy to recover the amount of our liability.

TEMPORARY ACCOUNT AGREEMENT - If this option is selected, this is a temporary account agreement. Each person who signs in the space designated for signatures on the signature card (except as indicated to the contrary) may transact business on this account. However, we may at some time in the future restrict or prohibit further use of this account if you fail to comply with the requirements we have imposed within a reasonable time.

SETOFF - We may (without prior notice and when permitted by law) set off the funds in this account against any due and payable debt you owe us now or in the future, by any of you having the right of withdrawal, to the extent of such persons' or legal entity's right to withdraw. If the debt arises from a note, "any due and payable debt" includes the total amount of which we are entitled to demand payment under the terms of the note at the time we set off, including any balance the due date for which we properly accelerate under the note.

This right of setoff does not apply to this account if: (a) it is an IRA or other tax-deferred retirement account, or (b) the debt is created by a consumer credit transaction under a credit card plan (but this does not affect our rights under any consensual security interest), or (c) the debtor's right of withdrawal only arises in a representative capacity. We will not be liable for the dishonor of any check when the dishonor occurs because we set off a debt against this account. You agree to hold us harmless from any claim arising as a result of our exercise of our right of setoff.

AUTHORIZED SIGNER (Individual Accounts only) - A single individual is the owner. The authorized signer is merely designated to conduct transactions on the owner's behalf. We undertake no obligation to monitor transactions to determine that they are on the owner's behalf.

RESTRICTIVE LEGENDS - We are not required to honor any restrictive legend on checks you write unless we have agreed in writing to the restriction. Examples of restrictive legends are "must be presented within 90 days" or "not valid for more than $1,000.00."

ACH AND WIRE TRANSFERS - This agreement is subject to Article 4A of the Uniform Commercial Code - Fund Transfers as adopted in the state in which you have your account with us. If you originate a fund transfer for which Fedwire is used, and you identify by name and number a beneficiary financial institution, an intermediary financial institution or a beneficiary, we and every receiving or beneficiary financial institution may rely on the identifying number to make payment. We may rely on the number even if it identifies a financial institution, person or account other than the one named. You agree to be bound by automated clearing house association rules. These rules provide, among other things, that payments made to you, or originated by you, are provisional until final settlement is made through a Federal Reserve Bank or payment is otherwise made as provided in Article 4A-403(a) of the Uniform Commercial Code. If we do not receive such, we are entitled to a refund from you in the amount credited to your account and the party originating such payment will not be considered to have paid the amount so credited. If we receive a credit to an account you have with us by wire or ACH, we are not required to give you any notice of the payment order or credit.

Bankers Systems, Inc., St. Cloud, MN Form TC-DC 4/13/2001

Page 2 of 2

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Community First Bank, member FDIC
Seneca, SC 29678

ADDENDUM: This account agreement addendum is incorporated into and made a part of the accompanying account agreement for all purposes.

DEBI BAKER BROOKSHIRE TRUST
DEBI BAKER BROOKSHIRE TRUSTEE

[redacted]

Account Agreement dated: 06/22/07

Additional Terms and Conditions of Your Account:

PAYMENT ORDER OF ITEMS - The law permits us to pay items (such as checks or drafts) drawn on your account in any order. To assist you in handling your account with us, we are providing you with the following information regarding how we process the items that you write. When processing items drawn on your account, our policy is to pay them according to the dollar amount. We pay the smallest items first. The order in which items are paid is important if there is not enough money in your account to pay all the items that are presented. Our payment policy minimizes the number of items that may result in an overdraft or NSF fee. If an item is presented without sufficient funds in your account to pay it, we may, at our discretion, pay the item (creating an overdraft) or return the item (NSF). The amount of the overdraft and NSF fees are disclosed elsewhere. We encourage you to make careful records and practice good account management. This will help you to avoid writing checks or drafts without sufficient funds and incurring the resulting fees.

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Commercial Customer Due Diligence Risk Assessment

Customer: Debi Baker Brookshire Trust; Debi Baker Brookshire Trustee

1. Time owned or managed the business	1 year	≥ 1 yr & < 3 yrs	3 years	
2. Agent of another entity?	No, not for any of their services	Yes, for part of their services	Yes, for all of their services	3
3. USA market area	Multi-state area	Statewide market	Local only	N/A Trust Acct.
4. Customer demographics	International customers in or from high risk areas	International customers not in or from high risk areas	Primarily U.S. citizens	NA Trust Acct
5. Number of owned business locations	> 5	2 to 5	1	
6. Number of bank branches to be used	> 3	2 or 3	1	
7. Business proximity to our bank offices	Out of market	Out of market with seasonal proximity	In our market	3
8. Number of agent or franchise locations operating under agreement with the commercial customer	> 3	1 to 3	0	
9. Number of domestic owned offices or agent offices located in US High Intensity Drug Trafficking area such as Atlanta, Appalachia, and Northern Florida, or High Intensity Money Laundering and related crime areas*	> 3	1 to 3	0	1
10. Any of the business offices located internationally? (Extreme risk if on County of Concern list)	Yes		No	
11. Valid State license(s) that has not expired	Not licensed and not in process	Has the 2 or more licenses required	Has only the 1 license required	1 Trust Paper Work
12. PEP Account (Politically exposed person such as foreign diplomat), alien owned MSB, Foreign Correspondent accounts (extreme risk accounts requiring approval of BSA officer)	Any Account			0
13. List the risk factor of each service used by the Commercial customer in the space provided below. Total the service factors and note the sum in the far right column titled "Risk Rating"	☐ Currency deposits or withdrawals = 1 ☑ Check deposits = 1 ☐ US currency exchanges = 2 ☐ International currency exchanges = 3 ☐ US wire transfers = 2 ☐ International wire transfers = 3 ☐ Receipt of ACH transactions = 1 ☐ Origination of ACH transactions = 2 ☐ Internet banking services = 3 ☐ Privately-owned ATMs = 3 ☐ Nondeposit investment transactions = 2 ☐ Frequent purchase of official checks, travelers checks, or other negotiable instruments = 2 ☐ Safe deposit services with weekly access = 3 ☐ Safe deposit services with monthly access = 2 ☐ Safe deposit services with quarterly or less access = 1 ☐ Other, please describe and rate 1, 2, or 3 appropriately:			1
Low Risk = 25 or less	Moderate Risk = 26 to 43	High Risk = 44 or higher	TOTAL RISK RATING	11

*Chicago, San Francisco, New York, Northern New Jersey, Los Angeles, San Juan, South West Texas, and Arizona

BSA Appendix D-1

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Risk Categories

(4) Extreme Risk (Requires Management Approval) – This could include accounts for politically exposed persons (PEPs such as diplomats from foreign countries); money service businesses owned by aliens; foreign correspondent accounts; etc.) *High Risk Entity – If the customer is high or extreme risk, document your review of the customer's licensing requirements.*

(3) High Risk – Could include accounts such as those for non-resident aliens; accounts with high currency activity or high wire activity (particularly foreign wires); high-risk nature of business such as money service business (MSB), travel agency, pawnbroker or real estate agency; concentration and brokered deposit accounts. *High Risk Entity – If the customer is high or extreme risk, document your review of the customer's licensing requirements.*

(2) Moderate Risk – Could include limited private banking or trust services; established multi-faceted business that also provide limited MSB services; new customer relationships with limited higher risk services (such as wires) or higher risk nature of business (such as cash intensive restaurant, jewelry store, pawnbroker, etc.)

(1) Low Risk – Would include known customers; customers with history of stable account activity such as checking account, CDs, secured loans; few if any higher risk services.

Completed by: Alan Reed Date: 7-25-07

Branch: Seneca North

WS0106

BSA Appendix D-2

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EXHIBIT

B

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In the Matter Of:

Brookshire, Debi Baker v Community First Bank, Inc., et al

James E. McCoy

August 22, 2016

A. William Roberts, Jr. and Associates
We're About Service... Fast, Accurate and Friendly
(800) 743-DEPO
www.scheduledepo.com



A. I do not.

Q. Just curious. I don't either. Let me ask you to focus in on a couple years of your service with the bank, specifically the years 2007 to 2013. Or let's say 2007 to your resignation, which I think --

A. 2014.

Q. 2014, okay. At that time were you chairman of the board of the holding company for those years? Do you remember?

A. I think I was. I don't know if it was that far back, to be honest with you. I don't want to tell you something I'm not sure of.

Q. I understand. MPS; could you tell me about MPS, how was that formed originally?

A. That stands for McCoy, Powell, and Shepherd, and we formed that to buy the golf course when the gentleman who owned it -- his son wasn't -- he didn't feel he was doing a good job with it and he wanted to sell it. And we took a chance and bought it.

Q. Do you know who the name of that guy was?

A. Yeah it was DuPont, the DuPont family.

Q. Oh, one of the DuPonts?

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A. Mm-hmm (affirmatively).
Q. I didn't know they were up this way.
A. Yeah. It was his son actually, Bruno was the one that was running it.
Q. Okay. They were big down in Camden, where I'm from, down that area. I didn't know they came up here.
A. No, they were from overseas. They were from Brussels.
Q. The original DuPonts?
A. No, he went back to Brussels. He came over here from Brussels.
Q. Okay. All right. So you guys formed a -- I think they were two Subchapter S corporations?
A. Mm-hmm (affirmatively).
Q. That were combined -- that were basically one company which was MPS?
A. MPS.
Q. You had basically the golf course, Falcon's Lair, and you had the property surrounding the golf course which was a development company?
A. As I recall, that's correct.
Q. Do you remember what year that was, or around?

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A. I don't, just to be honest with you. I don't. We can look it up if that's important.

Q. What I'm trying to get to is, Mr. Shepherd and Mr. Powell, you said you didn't know Mr. Shepherd prior to the bank being opened?

A. That's correct.

Q. So in between the bank being opened and sometime before, say 2005, you had gotten to know him pretty well?

A. Just through the bank. We never socialized or anything like that, no, sir.

Q. Right, but well enough to go into business with him?

A. Yes.

Q. Okay. So it's you, Mr. Powell, and Mr. Shepherd go into business together and buy the golf course, Falcon's Lair?

A. Correct.

Q. And then also buy the property around the gold course?

A. That was all one package.

Q. Okay. So all this was from the DuPonts, from Bruno DuPont?

A. Right.

Q. All right. So you buy that. Tell me

EXHIBIT

C

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COMMUNITY FIRST BANK

2013/2014 Internal Audit Report

Report to the Audit Committee on Embezzlement and Other Irregular Activities from 2004 to 2014

DRAFT

Palmetto Consulting Services, Inc.

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Palmetto Consulting Services, Inc.
Community Financial Institution Advisors and Consultants

POST OFFICE BOX 21603
COLUMBIA, SC 29221-1603

TELEPHONE (803) 765-0968
FACSIMILE (803) 765-0910

Audit Committee of the Board of Directors
Community First Bank
Seneca, South Carolina

You requested that we report to you regarding the results of our investigation and documentation of embezzlements and other irregularities apparently committed by Benjamin L. Hiott (BLH), former Senior Vice President (SVP) – Finance of Community First Bank (CFB), Seneca, SC. These embezzlements and other irregularities involved misappropriation of funds from CFB through false and irregular general ledger account transactions and apparent irregular transactions occurring in the deposit account of the Debi Baker Berkshire Trust that was controlled by BLH under a general power of attorney. These embezzlements and other irregular transactions primarily were financially beneficial to Joseph C. Kr. and Kristy Crosby (a/k/a the "Coach") and his/their business interests, MPS Golf, Inc. and MPS Development, Inc. During the period of the related embezzlements, MPS Golf, Inc. and MPS Development, Inc. were organized as S Corporations and were both owned one-third each by then CFB Chairman of the Board James E. McCoy, local realtor and CFB loan customer John M. Powell, and CFB CEO and Director Frederick D. Shepherd, Jr.

Our objective in this investigation was to discover and document embezzlement and other false and irregular transactions, report them to management and the Board of Directors, and ultimately produce schedules and supporting documents for claims against CFB's fidelity insurance bond prior to the deadline for filing such claims. As of the date of this report, we have not seen evidence of any personal financial benefit to BLH resulting from his activities described herein.

In 2014, we were asked to assist CFB with producing schedules and supporting documents for a claim against CFB's fidelity insurance bond prior to the deadline for filing the claim with regard to certain embezzlement activities executed by David L. Peters (DLP), former SVP – Credit Administration. Certain aspects of the DLP matter remain the subject of ongoing investigation. The embezzlement activities of DLP were beneficial primarily to certain Bikas family members and their business interests. We are not aware of any evidence of any personal financial benefit to DLP resulting from his activities described herein.

This report is intended solely for the use of the Audit Committee, Board of Directors and management of the Bank, and regulatory authorities as their rules and regulations may require.

Palmetto Consulting Services, Inc.

Columbia, South Carolina
August 17, 2014

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Initial Contact and Discovery of Irregularities

In response to correspondence received from attorneys representing Debi Baker Brookshire regarding her trust account at CFB, (with BLH having power of attorney), President Fred Shepherd (FDS) had CFB SVP – Operations Jeff Griffith begin research and documentation of certain transactions in the account. Griffith became uncomfortable with some of his findings and requested that FDS consider bringing in PCS to assist the bank in assessing the situation.

Refer to the attached memorandum dated September 6, 2013 for details.

When we entered CFB the following week, we advised CEO Shepherd to change appropriate locks and provide proper security over the Bank's records in the headquarters finance area, other record storage areas in other buildings, and our work area. He refused take any such action. At a subsequent CFB Board meeting, we mentioned this problem, and the CEO told the Board that he would be responsible for providing more security. We believe some locks then got changed.

We did not interview SVP BLH. CEO Shepherd reported to us that he had furnished our above-mentioned memorandum dated September 6, 2013 to BLH, placed him on administrative leave with full pay and benefits, and advised him to obtain an attorney to represent him.

Debi Baker Brookshire Trust DDA Account – Loss Claim $780,856

The investigation of the Debi Baker Brookshire Trust DDA account at CFB (acct. 300701950) began by obtaining monthly bank statements for the entire of the account's existence (June 2007 to February 2011) and researching and obtaining any available documents supporting the offsets to all deposits, other credits, checks and other debits. This enabled us to discover many of the irregular deposits to the Brookshire account made by BLH that were included in the insurance claim. In addition, we found what appear to be approximately $1 million of irregular disbursements from the Brookshire account to CFB deposit and loan accounts of, or related to, Joseph C. Crosby, Jr., AKA "the Coach". Also, debit and credit transactions occurred in the Brookshire account whose offsets involved BLH's personal deposit account at CFB and CFB-based personal and/or business accounts of certain of BLH's relatives.

We refer you to the attached bond insurance claim summary form listing embezzlements of CFB funds deposited by BLH into the Brookshire account. In support of this summary, we prepared detailed bond insurance claim documentation that is in the possession of CFB and PCS. PCS also has copies of the Brookshire monthly bank statements and detailed documentation of the transactions in those bank statements.

At the request of CEO Shepherd, we prepared a summary of the Brookshire account activity from its inception in June 2007 until its final closing in February 2011 which was to be used for purposes of CFB legal counsel and to provide information to the Board. The summary page of this endeavor is attached to this report.

Also, see the attached "Schedule of Other Accounts at Community First Bank Encountered/Identified by PCS, Inc. in Connection with Travelers FIB Claim".

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Prior to the transactions involved in closing the Brookshire account in February 2011, the last significant transaction in the Brookshire account consisted of a disbursement of $202,929, made by CFB wire, to Brookshire on August 11, 2010. This wire primarily was funded by a $188,575 embezzlement transaction conducted by BLH from CFB on July 29, 2010 deposited into the Brookshire account.

According to CEO Shepherd, he became aware of Brookshire's dissatisfaction with, and attorney contact regarding, BLH's handling of the Brookshire account at CFB in the latter months of 2010 or early 2011. The CEO informed PCS that he retained the assistance of attorney Jim Williams and directed BLH to work with Williams to resolve Brookshire's concerns.

BLH initially closed the Brookshire account on October [illegible], 2010. There had been only limited activity after the aforementioned $202,929 wire in August 2010.

Apparently to facilitate a settlement with Brookshire, BLH re-opened the Brookshire account on February 22, 2011, funding the account with $285,233 he embezzled from CFB funds. On February 22, 2011, BLH created CFB Official Check No. 70011319 in the amount of $285,333 payable to Brookshire (funded from the Brookshire account containing the embezzled CFB funds) with the remitter line stating "Close Acct Atty [illegible]n McDaniels Req".

BLH closed the Brookshire account for the final time on February 24, 2011. CEO Shepherd reported to PCS that no written settlement agreement with Brookshire was obtained by BLH or CFB in connection with the payment. PCS has not acknowledge whether the CFB Board was timely informed of (1) the existence of the contact or the initial attorney contact with CFB regarding the Brookshire account or (2) FDS' instructions to BLH in response to the contact.

MPS Incorporated – Cost Claim $1,665,308

From becoming aware of, reviewing and attempting to "backtrack" a certain "juggling" entry made by BLH as a part of his concealment scheme, we became aware that other such "juggling" entries had been made to general ledger securities accounts prior to the initial opening of the Brookshire DDA account in June of 2007.

Because our process with regard to the Brookshire account resulted in the identification of embezzlement and other irregular BLH entries involving CFB's investment securities principal and accrued interest receivable general ledger accounts, we obtained and researched the related detailed general ledger (GL) account transaction statements covering the period from January 1, 2004 through December 31, 2008. We reviewed these accounts for unusual entries including entries with no descriptions, unusual or inappropriate descriptions, and those made with paper entry tickets. When the offsets to these entries were researched, we found numerous irregular transactions conducted by BLH during the 2004 to 2008 time period involving accounts of MPS Incorporated. During that time period, MPS Incorporated was comprised of two S Corporations (MPS Golf, Inc. and MPS Development, Inc.) that were owned in equal thirds by James R. McCoy, Sr. (then Chairman of the Board of Directors of both CFB and its parent company), John

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M. Powell (owner of Powell Real Estate in Walhalla, SC), and Frederick D. Shepherd, Jr. (CEO and director of CFB and its parent company).

The nature of the credits to accounts of MPS that were funded by irregular debit entries to CFB's securities GL accounts were predominantly facilitated by "purchases" of CFB official checks by BLH. These official checks were made payable directly to MPS Incorporated or to its various vendors and creditors.

Official checks payable directly to MPS generally were deposited by BLH into the DDA accounts of MPS at Blue Ridge Bank (BRB) and usually cleared or reduced overdrafts.

Official checks made payable to vendors involved parties that appeared to be legitimate because there generally were other payments made at other times to those vendors directly from the MPS accounts maintained at BRB.

Official checks to creditors included numerous checks payable to Peoples National Bank for loan payments on an account or accounts owed personally by McCoy, Powell and Shepherd, and checks payable to Oconee Federal Savings and Loan Association that were applied to a loan personally guaranteed by McCoy, Powell and Shepherd. According to C[illegible] Shepherd, the Peoples note was collateralized solely by Community First Bancorporation common stock owned by Shepherd. The Oconee Federal note was secured by a first real estate mortgage on the Falcon's Lair golf course and adjacent real estate development. The related loan records we obtained from Peoples and Oconee Federal indicate to us that these loans were frequently past due as evidenced by [illegible] charges added to the balances of the loans, and, in the case of the Peoples loan, past due notices mailed from Peoples addressed to the three individuals using CFB's main post office box address. PCS was informed that it was customary for BLH to pick up the mail for this post office box personally.

McCoy, Powell and Shepherd have represented to us that they were not aware of these deposits or payments by BLH. However, documents in our possession indicate that BLH was acting in the role of a financial manager for MPS and that CEO Shepherd and CFB Chairman McCoy had knowledge of that condition. Some of this evidence consists of signature cards and corporate resolutions on file at BRB. In addition, Mr. McCoy indicated at the conclusion of a CFB Board meeting in 2013 that, after he acquired all the ownership of MPS Golf, Inc., he had to let an employee at the golf course go because "she couldn't get the bills paid on time like Ben did."

Mr. McCoy became the sole shareholder of MPS Golf, Inc. by purchasing the shares of Shepherd and Powell as of the end of 2008. It appears that BLH ceased his involvement in the golf course at that point and was removed as authorized on its bank account at BRB shortly thereafter. In February 2009, Powell and Shepherd purchased McCoy's shares in MPS Development, Inc. and each became a 50% each owner of that entity at that time.

Mr. McCoy arranged for us to obtain directly from BRB whatever MPS bank statements, research and other account documents we needed. Those records were very useful to us in tracing the use of the funds obtained from CFB. With the cooperation of the three original MPS

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owners, we were also able to obtain most of the related loan ledgers from Oconee Federal and all the loan ledger and payment records from Peoples National.

We refer you to the attached MPS insurance claim summary schedule and both PCS and CFB possess detailed supporting documentation. On this schedule, we noted the dates and times of the execution of the official check transactions. Most of the checks benefitting the MPS companies were processed by BLH during CFB working days and hours, and all of them involved the use of CFB equipment and supplies. We also have in our possession and have reviewed MPS' operating account and payroll account bank statements from BRB covering the period from January 1, 2002 to October 31, 2013. We found no compensation paid to BLH from the MPS companies' accounts at BRB during the time period of these bank statements. We also reviewed BLH DDA accounts at CFB and saw no evidence of any compensation from MPS being deposited to these accounts.

Joseph C. Crosby, Jr. "the Coach" – Loss Claim - $994,666

We were initially alerted to apparently irregular transactions involving the Coach as a result of our work on the Brookshire account (see the discussion under the caption "Debi Baker Brookshire Trust DDA Account – Loss Claim $76,256" above). We also found some embezzlement transactions by BLH that involved the Coach's CFB DDA accounts as a result of reviewing CFB's aforementioned general ledger securities accounts transaction details, and by reviewing and researching suspicious transactions in the Coach's various CFB DDA accounts. These transactions were executed by BLH using online journal entries (Block 0078) to credit funds into the Coach's CFB DDA accounts while charging the debits into various CFB general ledger accounts as the offsets.

We refer you to the "Coach" loss claim summary schedule attached to this report. PCS and CFB both have the detailed documentation underlying this summary schedule.

BLH Transfer of Securities Shortage to Prepaid FDIC Insurance Premium - $545,023

Having found no further irregular securities account entries related to claimable funds leaving CFB, we reviewed various other general ledger accounts for irregular activity. We found that in 2012, $545,023 had been falsely transferred from a CFB investment securities account by BLH to the Bank's Prepaid FDIC Insurance Assessment general ledger account. This amount was amortized gradually into the FDIC insurance expense general ledger account. Both PCS and CFB have detailed supporting documents for substantiation of this occurrence.

Other Related Deposit, Loan and General Ledger Accounts Considered

We found instances where some shortage amounts were temporarily "parked" by BLH in the fixed asset account for construction in progress, the other asset Bank-Owned Life Insurance account and the Miscellaneous Accounts Receivable account. Because of high transaction

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volumes and large dollar entry amounts typically involved, we reviewed the OREO asset, valuation allowance, and related expense accounts for irregularities related to the BLH activity but found none.

Attached is a listing of other various accounts at CFB that we encountered/identified or considered for review and testing. These accounts were selected based on known relationships with the principals involved, or represent other accounts encountered while working in other accounts involved in the discovery process.

While reviewing activity in the CFB's GL account Miscellaneous Accounts Receivable, we noted that BLH was directly purchasing with CFB funds Community First Bancorporation common stock and re-selling the stock to the Brookshire Trust account, BLH himself, CEO Shepherd and others. While not appearing to involve embezzlement, we believe that this activity was an activity prohibited by banking rules and regulations. We also believe the bank failed to satisfy Internal Revenue Code requirements related to the filing of information returns on Form 1099-B.

Securities Shortage Unaccounted for by Claimable Banking Funds (Approximately $1.6 million)

From performance of our outsourced internal audit procedures, we were aware that, as of October 31, 2012, approximately $5.1 million in securities appearing on the Morgan Keegan bond accounting system could not be found by us on the safekeeping list we independently obtained from the custodian as of that date. Further, BLH could/would not tell us where the securities were located, and stated that he would have to research and get back with us. This never happened despite our repeated attempts at follow-up with BLH.

We followed up in January 2013 with CFB's external CPA audit firm J. W. Hunt and Company as to their findings as of December 31, 2012 and furnished them a copy of the draft of our internal audit report. They reported to us that they had no problems with their safekeeping confirmation procedure. We later learned in 2014 that BLH had manipulated the Morgan Keegan bond accounting records between October 31 and December 31, 2012 to deceive Hunt. Also, our 2012 internal audit report on securities detailing the shortage (and other internal audit reports) was suppressed by BLH from CFB's Audit Committee presentation process.

We informed the CFB Board of Directors in February 2014 that, despite our best efforts, we had been unable to find any further claimable funds leaving the bank. We discussed with them that we believed that a portion of the $1.6 million (total securities differences less the amounts of the Fidelity Insurance Bond claims) was highly likely to include accrued interest on the bogus securities that BLH had placed on the Morgan Keegan bond accounting system. However, we are not able to provide details as to which securities were specifically involved or an exact dollar amount.

We also mentioned the possibility that the additional unlocated amount could be related to falsifying the portrayal of the financial condition or earnings of the bank, including manipulating

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asset quality indicators such as the past due status of loans. This could result in a shortage in the securities accounts without funds leaving CFB or being reimbursable by the bonding company. We also discussed with the Board that we welcomed CFB engaging another firm for a "second opinion" with perhaps different technologies and ideas that could make the discovery of the composition of the remaining shortage possible and determine if a further insurance claim could be made.

As of November 30, 2013, PCS requested and directly received safekeeping confirmation listings from CFB's investment securities custodians Raymond James, Federal Reserve Bank, and Fifth Third Bank. We compared those listings with the securities inventory report from the Morgan Keegan bond accounting system as of that same date to determine which securities on the securities inventory report were bogus so that plans could be made to charge off these items by the end of 2013. CFB's Vice President (VP) Patti Jepsen, as well as J. W. Hunt and Company reconfirmed securities with the custodians as of December 31, 2013 and prepared supporting schedules for the final general ledger entries as of that date to complete the charge off of the bogus securities. We reviewed and concurred with these general ledger entries.

<u>David Peters Embezzlement Scheme Involving CFB Loan Accounts - $1,0[illegible]171</u>

In 2014, we were asked to assist CFB with producing schedules and supporting documents for a claim against CFB's fidelity insurance bond prior to the deadline for filing the claim with regard to certain embezzlement activities executed by David L. Peters (DLP), former SVP – Credit Administration between 2010 and 2014. The investigative aspects regarding this activity were primarily directed and conducted by Richard Burnison, CFB's current Chief Credit Officer. J. W. Hunt and Company, LLP, CFB's independent CPA financial statement auditors, also were involved in the investigation and sent loan audit confirmations directly to all CFB customers assigned to DLP's loan officer number.

Attached is a listing as of our report date of loans and amounts involving embezzlement and other irregularities resulting from the activities of former SVP DLP.

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ATTACHMENTS

COMMUNITY FIRST BANK

2013/2014 Internal Audit Report

Report to the Audit Committee on Embezzlement and Other Irregular Activities from 2004 to 2014

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MEMORANDUM

To: Frederick D. Shepherd, Jr., CEO and President, Community First Bank

From: Donald G. Jones, CPA (Contracted Internal Auditor, Community First Bank)

Date: September 6, 2013

Subject: Irregular transaction conducted by Senior Vice President Benjamin L. Hiott on February 23, 2011 in the amount of $285,233

Background

On the morning of Tuesday, September 3, 2013, I received a call from you requesting my assistance with regard to investigating certain irregular transactions that had been discovered by you and Senior Vice President Jeffrey A. Griffith (Operations) that appeared to have been conducted by SVP Hiott during the period 2007-2011. These irregularities involved transactions affecting Bank general ledger accounts and a customer demand deposit account (previously a money market deposit account restricted to three withdrawals per month) no. 300701950 in the name of "Debi Baker Brookshire Trust, Debi Baker Brookshire Trustee". At your request, I immediately made arrangements to travel to the upstate to meet with you and SVP Griffith at my hotel in Clemson, SC at 7:30 p.m. to review documents assembled by you and SVP Griffith concerning these matters. As a result of this meeting, you requested me to work with SVP Griffith of the Bank's Operations Center in Walhalla to explore this matter further and update you on my findings. This was done on September 4-5, 2013.

This account had been opened on June, 2007, was closed with a zero balance and final statement rendered as of October 29, 2010, was forced to be reopened on February 22, 2011 by SVP Hiott with a $.01 entry, and closed with a closing withdrawal of $.01 by SVP Hiott on February 24, 2011. A final statement was rendered as of February 28, 2011 (Exhibit 1). It should be noted that the account was coded "EXCLUDE – DoNotMailAddr" which appears over the address on Exhibit 1.

I was informed by SVP Griffith that the Bank had no trust agreement in file. However, there was a Power of Attorney naming SVP Hiott as Brookshire's Attorney-in-Fact. The Bank does not have trust powers and this relationship is considered by CEO Shepherd to be a personal one between Hiott and Brookshire with no responsibility on the Bank's part other than the existence of the aforementioned deposit account. From information in my possession, the original General

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Power of Attorney was dated May 25, 2007 and was revoked on April 6, 2011 (revocation document filed with the Beaufort County, SC Register of Deeds on May 17, 2011). (Exhibit 2)

Irregular Transaction on February 23, 2011

Following is a chronology of this transaction with supporting documents attached:

February 22, 2011:

SVP Hiott, using what is referred to as a "Block" entry (an online, routinely-used method of directly making entries to general ledger and customer accounts via the Bank's mainframe accounting system without using manually prepared paper tickets entered through the proof process), made a credit entry for $.01 directly to DDA account number 300701950 described as "force to open account" on the "Block Listing" report under Beth Hiott's assigned block number 0078. (Exhibit 3). DDA account number 300701950 had previously been closed with a zero balance and a last statement rendered on 10/29/10 (Exhibit 1). The debit offset to the credit entry shown on this Block Listing was to general ledger expense account number 4190001 Nofault Adjustments < $25.

February 23, 2011:

SVP Hiott, using a Block entry (Exhibit 4), deposits $285,233.34 to DDA account number 300701950, with a debit entry of $285,250.00 to Bank general ledger account number 1171001 Accrued Interest Receivable – U.S. Agencies Securities (Exhibits 4, 5). This general ledger account is used to post debits for accrued interest earned on Bank-owned investment securities from investment accounting reports and credits for income actually collected on such securities. This account, as well as its reconciling, was at the time of this entry under the direct supervision and control of SVP Hiott. It should have no relationship with any transactions concerning the Debi Brookshire deposit account. The remaining $16.66 credit to balance the entry was posted to general ledger 4190001 Nofault Adjustments < $25 (Exhibit 4). It is described as "credit correction".

February 23, 2011:

SVP Hiott, using Bank check-writing check software and blank check stock, creates Bank official check number 70011319 in the amount of $285,233.34 payable to the order of Debi Baker Brookshire with a remitter description of "close acct atty Kathleen McDaniels Req" (Exhibit 6). As shown on the DDA bank statement for account number 300701950 (Exhibit 1) a "miscellaneous debit" transaction to "purchase" the official check in the amount of $285,233.34 was prepared by SVP Hiott (paper entry ticket consistent with his handwriting and is initialed by him – Exhibit 7). It should be noted that this check was actually paid for by Bank funds and not customer funds since the source of the "deposit" of the same date actually came from a false general ledger entry to one of the Bank's unrelated accrued interest receivable accounts. The

offsetting paper "credit memo" to record the $285,233.34 to official checks outstanding (Exhibit 7) is signed by SVP Hiott. This entire transaction appears to involve false entries being made on the Bank's books in connection with the unauthorized conversion of $285,233.34 of Bank funds to SVP Hiott's personal use to satisfy his personal obligation with regard to the POA account of Debi Baker Brookshire.

February 24, 2011:

SVP Hiott made a debit entry for $.01 directly to DDA account number 300701950 described as "closing withdrawal" (Exhibit 1) on the "Block Listing" report under Ben Hiott's assigned block number 0078 (Exhibit 8). The credit offset to this entry was to general ledger expense account number 4190001 Nofault Adjustments < $25.

OTHER COMMENTS

The transaction detailed above requires further research to determine if the accrued interest receivable account still contains the $285,250 initially entered there by SVP Hiott or if that amount has been subsequently dispersed to other general ledger accounts. Further research will require access to the detailed security, interest accrual and other reports as well as account statements from correspondent institutions to determine whether entries are legitimate or not. Presently, this information is in the custody and control of SVP Hiott.

There are other variance transactions which could be similar to that described above which appear to involve Bank funds being deposited into Brookshire's DDA account and subsequently disbursed outside the Bank. Some of these have been reviewed by me to an inconclusive point because the records needed to move forward remain under the custody and control of SVP Hiott. My current estimate is that the potential total of the irregularities exceeds $800,000.00.

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IRREGULAR GENERAL LEDGER ENTRIES POSTED AND DISBURSEMENTS MADE BY SENIOR VICE PRESIDENT BENJAMIN L. HIOTT
BENEFICIAL TO BENJAMIN L. HIOTT, POA FOR THE DEBI BROOKSHIRE TRUST, DEBI BAKER BROOKSHIRE, TRUSTEE, AND DEBI BAKER BROOKSHIRE
FOR THE YEARS 2008 THROUGH 2011

Tab#	Date	GL Debit (Credit) Amount	GL Account Debited (Credited)	GL Account Name	GL Entry Description	Deposit (Withdrawal) Amount	Deposit Entry Description
1	7/31/2008	$ 15,000.00	1024501	Due from Bank - FHLB	Int FF Sold	$ 15,000.00	Int FF Sold
2	10/8/2008	305,626.36	1029001	Due From Bank - Bankers	Securities Activity	305,626.36	Deposit
3	5/14/2009	10,000.00	1222001	Miscellaneous Accounts Receivable	Stock Transfer DB	10,000.00	Deposit
4	5/26/2009	5,000.00	1222001	Miscellaneous Accounts Receivable	Stock Receivable	5,000.00	Credit
5	6/3/2009	3,500.00	1222001	Miscellaneous Accounts Receivable	Debit	3,500.00	Deposit
6	5/25/2010	(76,289.22)	1051001	US Agencies Securities - HTM	HTM Principal Paydowns	67,920.88	
		(657,655.67)	1051201	US Agencies Securities - AFS	AFS Principal Paydowns		
		801,865.77	1024001	Due From Bank - Federal Reserve	Wire Transfer - Securities Activity		
7	7/29/2010	(11,425.00)	1171001	Accr Int - US Agencies	Int Correction on MBS Paydowns	188,575.00	
		200,000.00	1051201	US Agencies Securities - AFS	Correction on MBS Int and Prin Paydowns		
8	2/28/2011	285,250.00	1171001	Accr Int - US Agencies	Debit	285,233.34	Deposit
		(16.66)	4190001	NoFault Adjustments < $25	Credit Correction		
9	8/26/2008	$ (15,000.00)	1024501	Due from Bank - FHLB	Funds Transfer	$ (15,000.00)	Fund Transfer
10	11/1/2008	(85,000.00)	1171001	Accr Int - US Agencies	Error Correction 11/01	(85,000.00)	Funds Transfer
		$ 780,855.58				$ 780,855.58	

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Debi Baker Brookshire Account 300701950
Summary Classifactions of Deposits and Withdrawals
For the period June 22, 2007 through February 24, 2011

	Regular	Irregular	Unknown	CFB Funds	Total
Deposits and Other Credits	$ 2,811,259.21	$ 465,029.55	$ -	$ 780,855.58	$ 4,057,144.34
Withdrawals and Other Debits (1)	2,231,350.37	1,745,141.50	80,652.47	-	4,057,144.34
Difference	[redacted]	$ (1,280,111.95)	$ (80,652.47)	$ 780,855.58	$ -

Conclusion - $579,908.84 is owed in settlement to Debi Baker Brookshire if the determination of this amount was computed by comparing the total of deposits and other credits either known or appearing to be funds from regular sources belonging to, or appearing to belong to, her with withdrawals and other debits either known or appearing to be paid either directly to her or directly to creditors or others on her behalf.

(1) CFOK stock purchases disbursements and sales proceeds were treated as Regular transactions. We do not have the records necessary to determine whether any remaining stock was carried in Brookshire's name and turned over to her at the time the deposit account was closed. We have no direct knowledge that any stock certificates were ever issued to her.

(2) The theoretical amount of $579,908.84 also does not include the additional interest income that would have been earned in the money market account had the irregular transactions not ocurred.

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Community First Bank
Schedule of Other Accounts at Community First Bank Encountered/Identified by PCS, Inc. in Connection with Travelers FID Claim
Through April 30, 2014

NOTE: Scanned generally means read, checked for unusual items and completeness, but full research of some items may not be complete.

Account Name	Account Number	Dates From	Dates To	Comments
Deposit Accounts at Community First Bank				
Ben Hiott/Vickie Hiott	[redacted]	09/03/99	06/03/03	Scanned
		06/04/03	03/09/09	Reviewed/Tested (missing April 2003 - operations)
		04/03/09	12/03/10	Reviewed/Tested
		12/04/10	01/03/14	Scanned
D. Marc Hiott		08/18/06	09/18/07	Scanned - missing 09/19/07 thru 11/18/09 - operations
		11/19/09	01/18/11	Scanned - missing 01/19/11 thru 06/21/13 - operations
		06/22/13	02/18/14	Scanned
G. Wes Hiott, Jr.		08/13/04	11/25/05 Closed	Scanned
Upstate Real Estate Group, LLC (G. Wes Hiott, Jr.)		Various	Various	Transactions with Brookshire Acct.
G. Wes Hiott		11/16/04	12/24/07	Scanned
		08/25/12	01/24/14	Scanned
Karlee Hiott, Minor by Ben Hiott/Vickie		12/12/00	12/31/05	Scanned - statements rendered quarterly
		08/01/06	12/31/13	Scanned - Missing Q1 2006 - operations.
Karlee Hiott		06/20/11	02/20/14	Scanned
Vickie Hiott		12/31/99	01/27/14	Scanned
Sue C. Hiott/David W. Hiott		06/22/13	01/31/14	Scanned - no activity

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Community First Bank
Schedule of Other Accounts at Community First Bank Encountered/Identified by PCS, Inc. in Connection with Travelers FIB Claim
Through April 30, 2014

NOTE: Scanned generally means read, checked for unusual items and completeness, but full reviewed of scan items may not be complete.

Account Name	Account Number	Dates: From	To	Comments
Sue C. Hiott	[redacted]			Requested; never rec'd from CFB Operations
Hiltop, Inc. d/b/a Palmetto Steel Rule Die (believed to be a business purchased and owned by BLH and brother either G. Wes Hiott or D. Marc Hiott)		02/10/04	12/31/04	Scanned
		12/01/05	01/30/09	Scanned - Brookshire transactions
		03/01/11	03/31/11	Scanned - Brookshire transactions
		06/22/13	01/31/14	Scanned
Frederick D. Shepherd, Jr.		01/03/04	01/02/09	Reviewed/Tested
Frederick D. Shepherd, Jr./Karen E. Shepherd (wife)		06/03/03	10/30/07	Scanned
		06/22/13	02/03/14	Scanned
Frederick D. Shepherd, Jr. (Savings)		11/02/06	12/19/06	Scanned
Frederick D. Shepherd, Jr.		03/21/01	01/31/14	Scanned-appears to be used for pol. Contribs
MPS Development, Inc.		03/11/09	09/30/13	Scanned
Falcons Lair Credit Card Sales		01/30/04	05/30/09	Reviewed/Tested
Debi Baker Brookshire Trust		Jul 2007	Feb 2011	Reviewed/Tested
Joe/Kristina Crosby Rental Account		03/30/01	02/08/09	Reviewed/Tested
		02/09/09	05/17/13	Account closed - Scanned
T-60 Grill		06/01/03	01/30/09	Account closed - Reviewed/Tested
Crosby Education Foundation		06/04/08	12/31/08	Open/Closing dates - Reviewed/Tested
DLC9, LLC		10/05/05	01/30/09	Account closed - Reviewed/Tested
James E. McCoy/Jerry L. Smith		10/17/03	12/12/08	Scanned

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Community First Bank
Schedule of Other Accounts at Community First Bank Encountered/Identified by PCS, Inc. in Connection with Travelers FSI Claim
Through April 30, 2014

NOTE: Scanned generally means read, checked for unusual items and completeness, but full research of some items may not be complete.

Account Name	Account Number	Dates From	Dates To	Comments
Jim McCoy D/B/A McCoy Products	[redacted]	01/01/04	01/30/09	Scanned
Charlotte B. McCoy (wife)		12/31/07	12/31/09	Scanned - statements rendered quarterly.
James E. McCoy/James McCoy, Jr. (son)		12/21/03	12/20/08	Scanned - statements rendered quarterly
Lana McCoy (daughter)/Jim McCoy		01/01/04	12/31/08	Statements rendered quarterly. Scanned
Jim McCoy - Mr. & Mrs.		01/15/04	01/15/09	Scanned
Charlotte B.(wife)/James E. McCoy		01/30/04	12/31/08	Scanned
Loan Accounts at Community First Bank Reviewed				
Frederick D. Shepherd, Jr. (lake lot mortgage loan)				Reviewed/tested loan history report
Benjamin L. Hiott (Mtg. loan - 9 Topsail - Res.) (Auto loan - Jeep) (second mtg. - 9 Topsail)				Reviewed/tested loan history report Reviewed/tested loan history report Reviewed/tested loan history report
Weston Hiott				Reviewed/tested loan history report Reviewed/tested loan history report
G. Wes Hiott				Reviewed/tested loan history report
James E. McCoy (2008 Golf Course mtg.)				Reviewed/tested loan history report
John M. Powell (Unsecured - Charged off 2012)				Reviewed/tested loan history report
Joseph C. Crosby, Jr. (Coach)				Unusual item: payment charged to CFB securities

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Community First Bank
Schedule of Other Accounts at Community First Bank Encountered/Identified by PCS, Inc. in Connection with Travelers RB Claim
Through April 30, 2014

NOTE: Scanned generally means read, checked for unusual items and completeness, but full research of some items may not be complete.

Account Name	Account Number	Dated From	Dated To	Comments
	[redacted]			and Brookshire account funds also involved.
(Line of credit)				
Other General Ledger Accounts				
Miscellaneous Accounts Receivable				Reviewed/tested account activity Also appears to be used for prohibited banking activity-dealing in CFB stock.
OREO Accounts				
Other Real Estate Owned				Reviewed/tested account activity
Valuation Allowance - OREO				Reviewed/tested account activity
Gain on Sales of OREO				Reviewed/tested account activity
OREO - Property Taxes				Reviewed/tested account activity
OREO - Insurance				Reviewed/tested account activity
OREO - Writedown				Reviewed/tested account activity
OREO - Loss on Sales				Reviewed/tested account activity
OREO - Rental Income				Reviewed/tested account activity
OREO - Miscellaneous Expenses				Reviewed/tested account activity
Repossessions				Reviewed/tested account activity
Long-term borrowings - FHLB				Reviewed/tested account activity
Other miscellaneous assets (Now Bank Owned Life Insurance)				Reviewed/tested account activity
Prepaid FDIC assessment				Reviewed/tested account activity (Attempted expensing of some securities shortage)
Construction in process xx (last two digits of account number) is Branch Number				Reviewed/tested account activity - some juggling

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PCS 000018
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Community First Bank
Schedule of Other Accounts at Community First Bank Encountered/Identified by PCS, Inc. in Connection with Transition FIB Claim
Through April 30, 2014

NOTE: Scanned generally means read, checked for unusual items and completeness, but full research of some items may not be complete.

Account Name	Account Number	Dates From	Dates To	Comments
Miscellaneous Accrued Expenses	[redacted]			Scanned period from 1/1/05 through 12/31/05
Due from Bank - Federal Reserve				Reviewed - false entries
Due from Bank - FHLB				Reviewed - false entries
Due from Bank - Bankers Bank				Reviewed - false entries
U.S. Agencies Securities - AFS				Reviewed - false entries
State County Muni Securities - AFS				Reviewed - false entries
Accrued Interest - U.S. Agencies				Reviewed - false entries
Accrued Interest - SCM's				Reviewed - false entries
Default Adjustments < $25				Reviewed - false entries

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Community First Bank

Irregular General Ledger Entries Posted and Disbursements Made by Doctor Vice President Benjamin L. Hicks Controlled as MPS Incorporated, Owned by James B. Utsey, John M. Powell and Frederick D. Shepherd, Jr. [Part of Defalcation Concealed]

For the Years 2004 Through 2013

GL Account Reconciliation															Check Account Reconciliation														
Tab #	Date	DR or (CR) Amount	Account #	Acct Name	Account Number	Check Sheet #	Check Date	Check Time	Post	Check Amount	Payee	Number / Other Info on Check
---	---	---	---	---	---	---	---	---	---	---	---	---
1	2/23/2004	$ 17,503.21		Accr Int - US Agencies		20017028	2/20/2004	8:58:00 AM	1/24/2004	$ 17,503.21	Oconee Federal Savings and Loan	Loan 11545305 MPS Development
2	3/23/2004	$1,452.50		Accr Int - US Agencies		20017201	3/19/2004	7:28:00 PM	1/30/2004	$1,452.50	Oconee County Treasurer	MPS Golf Inc
						20017830	2/9/2004	12:28:00 PM	2/30/2004	5,000.00	MPS Golf, Inc	MPS Golf Inc
3	3/23/2004	15,027.04		Accr Int - US Agencies		20017552	2/27/2004	2:02:00 PM	3/2/2004	15,027.04	Peoples National Bank	MPS Golf Inc 11503202
4	4/15/2004	(10,027.04)		Accr Int - US Agencies					4/15/2004	(10,027.04)		Falcon's Lair Credit Card Sales
4	4/19/2004	(17,503.21)		Accr Int - US Agencies					4/19/2004	(17,503.21)		Falcon's Lair Credit Card Sales
4	4/28/2004	(24,452.50)		Accr Int - US Agencies					4/28/2004	(24,452.50)		Falcon's Lair Credit Card Sales
5	5/2/2004	17,105.32		Accr Int - US Agencies		20018146	3/19/2004	4:22:00 PM	3/24/2004	17,105.32	Oconee Federal Savings and Loan	Loan 11548105
6	6/23/2004	6,000.00		Accr Int - US Agencies		20019471	6/12/2004	8:44:00 AM	6/15/2004	6,000.00	MPS Golf Inc.	MPS Golf Inc.
6	6/23/2004	6,830.30		Accr Int - US Agencies		20019439	6/14/2004	6:11:00 PM	6/17/2004	6,830.30	Peoples National Bank	Loan 11551202
7	7/23/2004	19,000.00		Accr Int - US Agencies		20019800	7/12/2004	12:25:00 PM	7/23/2004	19,000.00	MPS Golf, Inc.	MPS Golf
8	8/23/2004	14,000.00		Accr Int - US Agencies		20020221	8/12/2004	9:51:00 AM	8/20/2004	14,000.00	MPS Golf, Inc.	MPS Golf, Inc.
9	9/23/2004	20,000.00		Accr Int - US Agencies		20020658	9/27/2004	9:19:00 AM	9/28/2004	20,000.00	MPS Golf, Inc.	MPS Golf, Inc.
10	10/23/2004	18,000.00		Accr Int - US Agencies		20021150	10/18/2004	1:22:00 PM	10/25/2004	18,000.00	MPS Golf, Inc.	MPS Golf, Inc.
11	12/31/2004	43,665.13		Accr Int - US Agencies		20021775	11/3/2004	11:21:00 AM	12/2/2004	29,000.00	MPS Golf, Inc.	MPS Golf, Inc.
						20021719	11/22/2004	11:50:00 AM	12/1/2004	7,723.69	The Peoples National Bank	Loan 11501982 Shepherd
						20021718	11/29/2004	11:40:00 AM	12/13/2004	6,030.34	Oconee Federal Savings and Loan	Loan 01-2020436 Nov
						20021717	11/29/2004	11:48:00 AM	12/13/2004	6,908.09	Oconee Federal Savings and Loan	Loan 01-2001698 Dec Payment
12	12/31/2004	(128,453.70)		Accr Int - US Agencies						(128,453.70)	CFO (Does MPS Operating Acct at Does Peoples Bank)	
13	1/28/2005	125,000.00		Accr Int - US Agencies		20022140	1/2/2005	12:57:00 PM	1/4/2005	125,000.00	MPS Golf, Inc.	MPS Golf, Inc.
						20021946	1/13/2005	6:09:00 PM	1/20/2005	25,000.00	MPS Golf, Inc.	MPS Golf, Inc.
14	2/21/2005	25,000.00		Accr Int - US Agencies		20022255	2/2/2005	2:53:00 PM	2/4/2005	25,000.00	MPS Golf, Inc.	Fred Shepherd
15	7/21/2005	15,000.00		Accr Int - US Agencies		20023144	7/20/2005	2:31:00 PM	7/22/2005	15,000.00	MPS Golf, Inc.	MPS Golf, Inc.
16	9/14/2005	7,572.00		Accr Int - US Agencies		20023510	9/8/2005	2:00:00 PM	9/15/2005	7,572.00	USAA Insurance	Worker Comp - WC2005220001
16	9/14/2005	6,353.94		Accr Int - US Agencies		20023479	9/12/2005	4:51:00 PM	9/28/2005	6,353.94	USAA Insurance	MPS Golf Course
16	9/14/2005	50,000.00		Accr Int - US Agencies		20023323	9/9/2005	6:22:00 PM	9/15/2005	50,000.00	MPS Golf Inc	Shareholders
17	10/19/2005	35,000.00		Accr Int - US Agencies		20023607	10/18/2005	10:57:00 AM	10/14/2005	35,000.00	MPS Golf Inc	Shareholders
18	11/19/2005	25,554.19		Accr Int - US Agencies		20024224	11/17/2005	9:07:00 AM	11/21/2005	20,251.45	Peoples National Bank	Loan 11503202
						20027102	11/18/2005	6:07:00 PM	12/2/2005	1,825.04	Oconee Federal Savings and Loan	Acct 03-2001693
						20027103	11/20/2005	6:07:00 PM	12/5/2005	3,517.50	Powell Cochran Hester & Patterson	Falcons Lair - Fall 05
						20027104	11/20/2005	6:07:00 PM	12/5/2005	3,215.00	Davis & Duncan CPA Firm	MPS Golf Course
						20027105	11/20/2005	6:07:00 PM	12/5/2005	1,975.00	Davis & Duncan CPA Firm	MPS Development
18	12/19/2005	50,000.00		Accr Int - US Agencies		20027276	12/12/2005	6:50:00 PM	12/14/2005	50,000.00	MPS Golf Inc	Shareholders MPS Golf
19	2/8/2006	43,453.37		Accr Int - US Agencies		20027555	2/2/2006	9:29:00 AM	2/6/2006	43,453.37	MPS Golf Inc	MPS Golf Shareholders
20	6/12/2006	20,251.45		Accr Int - US Agencies		20028990	3/15/2006	5:41:00 PM	3/21/2006	20,251.45	Peoples National Bank	Loan 11503202

Community First Bank

Irregular General Ledger Entries Posted and Disbursements Made by Senior Vice President Pamela L. Elvis Associated to MPS Improvement, Owned by Irene B. Hardy, John M. Powell and Frederick D. Shepherd, Jr. (List of Interim Payments Omitted)

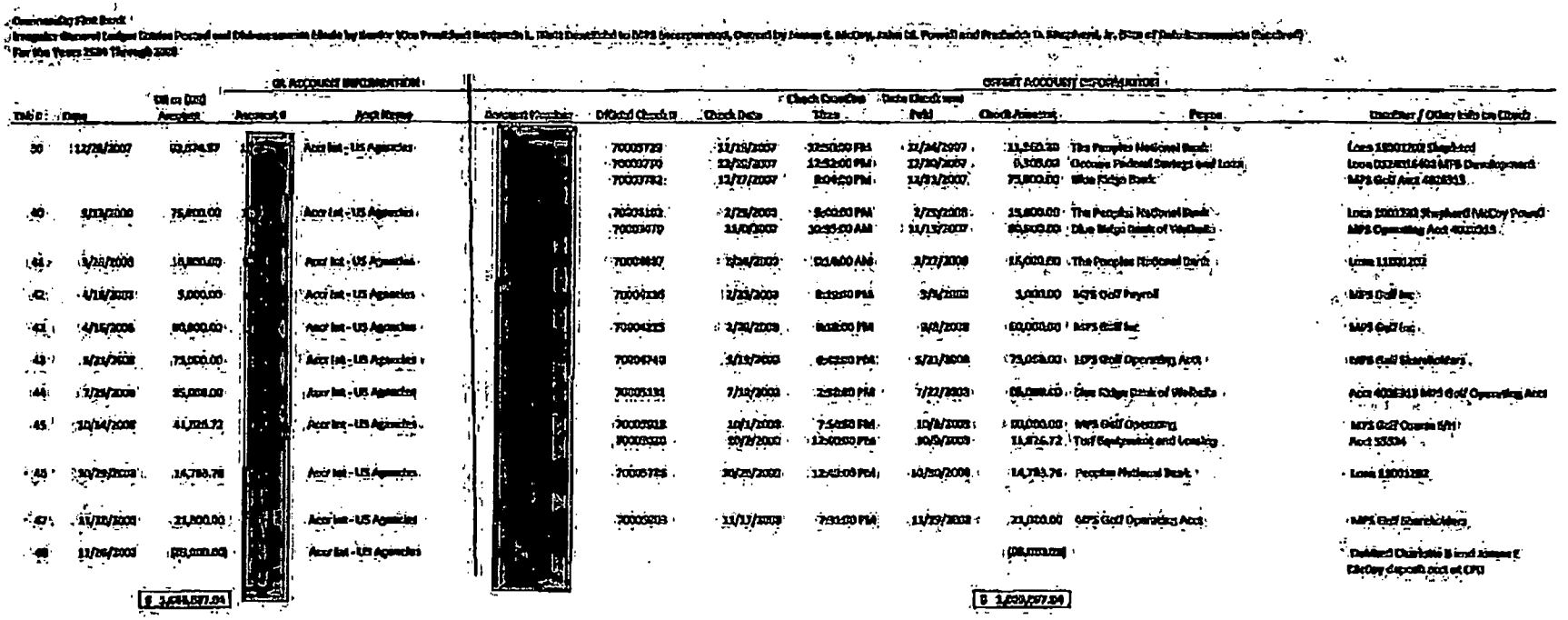
For the Years 2004 Through 2008

Tag #	Date	Bill or JCE Amount	4L ACCOUNT INFORMATION: Account #	Acct Name	OTHER ACCOUNT INFORMATION: Account Number	Check #	Check Date	Check Creation Time	Date Check was Paid	Check Amount	Payee	Memo / Other Info on Check
20	9/17/2005	25,801.93	[redacted]	Acct NA - US Agencies	[redacted]	20000390	9/15/2005	5:44:09 PM	3/22/2006	25,801.93	Oconee County Treasurer	Taxes MPS Golf and Development 040443-053 000364-05-6 042553-05-9-01 58-422 434-29, 31 - 37, 40 - 43 257.32
21	3/3/2006	15,000.00		Acct Int - US Agencies		20000457	4/27/2006	9:50:00 PM	5/1/2006	15,000.00	Blue Ridge Bank of Walhalla	Acct 4000013 - MPS Golf Inc ($20)
22	5/29/2006	50,957.35		Acct Int - US Agencies		20000704	5/17/2006	9:34:00 PM	5/22/2006	15,000.00	MPS Golf Inc.	Shareholders
						70000193	5/11/2006	4:58:00 PM	5/11/2006	6,000.00	Turf Equipment Leasing Company	Lease 1220 MPS Golf Course, Inc.
						70000191	5/11/2006	4:43:00 PM	5/10/2006	23,535.75	Peoples National Bank	Loan 818701002
						70000192	5/12/2006	11:04:59 AM	5/17/2006	6,541.50	Engel Electrical Company	Acct 201305
23	6/27/2006	11,855.78		Acct Int - US Agencies		70000949	6/26/2006	5:28:00 PM	6/27/2006	11,855.70	Peoples National Bank	11001303
24	8/15/2006	12,375.91		Acct Int - US Agencies		70000947	7/17/2006	5:47:00 PM	7/24/2006	12,375.91	The Peoples National Bank	Loan Limited
24	8/25/2006	60,000.00		Acct Int - US Agencies		70000959	8/24/2006	7:28:00 PM	8/28/2006	60,000.00	MPS Golf Inc	Shareholders
25	9/20/2006	60,000.00		Acct Int - US Agencies		70000969	9/19/2006	7:05:00 PM	9/22/2006	60,000.00	MPS Golf Inc	Shareholders
26	10/31/2006	17,610.59		Acct Int - US Agencies		70000773	10/18/2006	8:34:00 AM	10/20/2006	17,610.59	The Peoples National Bank	Loan 11001303
27	11/21/2006	63,858.87		Acct Int - US Agencies		70000971	11/2/2006	8:17:00 AM	11/14/2006	5,858.87	County Cost Quick Stops	Acct 000109 Falcons Lair
						70000967	11/16/2006	5:07:00 PM	11/20/2006	75,000.00	Blue Ridge Bank of Walhalla	Shareholders Acct 4000013
						70000510	11/20/2006	5:12:00 PM	11/20/2006	4,500.00	Blue Ridge Bank of Walhalla	Shareholders Acct 4000013
28	11/28/2006	13,242.03		Acct Int - US Agencies		70000025	11/27/2006	4:37:00 PM	11/21/2006	13,242.03	The Peoples National Bank	Loan 11001202
29	12/21/2006	20,000.00		Acct Int - US Agencies		70000078	12/20/2006	4:28:00 PM	12/22/2006	20,000.00	Blue Ridge Bank of Walhalla	MPS Golf Inc
						70000079	12/20/2006	4:32:00 PM	12/21/2006	50,000.00	Blue Ridge Bank of Walhalla	MPS Golf Payroll
30	1/31/2007	93,829.33		Acct Int - US Agencies		70000292	1/22/2007	12:26:00 PM	1/23/2007	93,829.33	Oconee County Treasurer	MPS Golf Property Tax
31	2/14/2007	13,240.83		Acct Int - US Agencies		70000369	2/14/2007	4:05:00 PM	2/21/2007	13,240.83	Oconee Federal Savings and Loan	Loan 01-240003003
32	2/28/2007	28,028.47		Acct Int - US Agencies		70000391	2/8/2007	2:44:00 PM	2/12/2007	28,028.47	Peoples National Bank	Loan 11001202
33	3/28/2007	111,305.09		Acct Int - US Agencies		70000482	3/5/2007	4:48:00 PM	3/15/2007	6,305.09	Oconee Federal Savings and Loan	Loan 01240003459
						70001825	3/23/2007	10:01:00 AM	3/26/2007	105,000.00	Blue Ridge Bank of Walhalla	MPS - Shareholders
33	5/23/2007	13,000.05		Acct Int - US Agencies		70000831	5/15/2007	5:00:00 PM	5/22/2007	13,000.05	The Peoples National Bank	Loan 21001202
34	5/31/2007	45,000.00		Acct Int - US Agencies		70001007	5/16/2007	8:58:00 AM	5/22/2007	45,000.00	Blue Ridge Bank	MPS Golf Acct 4000013
35	6/13/2007	45,000.00		Acct Int - US Agencies						45,000.00	CFO DDA Acct - Falcons Lair Credit Card Sales	
36	7/20/2007	75,000.00		Acct Int - US Agencies		70002415	7/13/2007	10:23:00 AM	7/17/2007	31,000.00	Blue Ridge Bank of Walhalla	MPS Golf Inc
						70002647	7/19/2007	7:57:00 AM	7/20/2007	44,000.00	Blue Ridge Bank of Walhalla	Acct 4000013 MPS Golf Inc
37	9/17/2007	82,430.72	1	US Agencies Secur - MPS		7000752	9/17/2007	9:02:00 AM	9/21/2007	50,000.00	(Blue Ridge Bank)	
						70000753	9/17/2007	9:52:00 AM	9/21/2007	32,430.72	(Peoples)	
38	10/29/2007	20,000.00	1	Acct Int - US Agencies		70000370	10/5/2007	8:53:00 AM	10/5/2007	20,000.00	MPS Golf Operating Acct	MPS Golf Inc

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Community First Bank

Irrevocable General Ledger Entries Posted and Maintained Made by Sandra Vice President Designee L. Black Domiciled in MPS Incorporated, Owned by James E. McCoy, John M. Powell and Frederick D. Hays Avery, Jr., State of Delaware Incorporate Chartered

For the Years 2004 Through 2008

GL ACCOUNT INFORMATION					OFFSET ACCOUNT INFORMATION							
Tab #	Date	GL as Of Amount	Account #	Acct Name	Account Number	Official Check #	Check Date	Check Time	Date Check was Paid	Check Amount	Payee	Memo / Other Info on Check
39	12/28/2007	60,574.57		Acct list - US Agencies		70000729	12/15/2007	12:50:00 PM	12/26/2007	11,550.00	The Peoples National Bank	Loan 18001200 Shepherd
						70000730	12/22/2007	12:52:00 PM	12/30/2007	6,905.00	Oconee Federal Savings and Loan	Loan 0000016403 MPS Development
						70000732	12/27/2007	8:04:50 PM	12/31/2007	75,800.00	Blue Ridge Bank	MPS Golf Acct 4828913
40	1/23/2008	75,800.00		Acct list - US Agencies		70000103	2/25/2008	9:00:00 PM	2/27/2008	15,800.00	The Peoples National Bank	Loan 18001200 Shepherd McCoy Powell
						70000779	11/09/2007	10:55:00 AM	11/13/2007	60,000.00	Blue Ridge Bank of Walhalla	MPS Operating Acct 4828913
41	2/23/2008	15,800.00		Acct list - US Agencies		70000837	3/26/2008	01:00:00 AM	3/27/2008	15,000.00	The Peoples National Bank	Loan 11000202
42	4/15/2008	5,000.00		Acct list - US Agencies		70000326	2/23/2009	8:15:00 PM	3/4/2008	5,000.00	MPS Golf Payroll	MPS Golf Inc
43	4/15/2008	60,000.00		Acct list - US Agencies		70000225	3/20/2009	8:00:00 PM	3/23/2008	60,000.00	MPS Golf Inc	MPS Golf Inc
44	3/23/2008	75,000.00		Acct list - US Agencies		70000749	3/15/2008	6:45:00 PM	3/21/2008	75,000.00	MPS Golf Operating Acct	MPS Golf Shareholders
45	7/25/2008	85,000.00		Acct list - US Agencies		70000131	7/19/2008	2:50:00 PM	7/22/2008	85,000.00	Blue Ridge Bank of Walhalla	Acct 4828913 MPS Golf Operating Acct
46	10/14/2008	41,026.72		Acct list - US Agencies		70000918	10/1/2008	7:50:00 PM	10/8/2008	30,000.00	MPS Golf Operating	MPS Golf Course S/H
						70000920	10/3/2008	12:00:00 PM	10/9/2008	11,026.72	Turf Equipment and Leasing	Acct 55534
47	10/29/2008	14,793.76		Acct list - US Agencies		70000785	10/29/2008	12:00:00 PM	10/30/2008	14,793.76	Peoples National Bank	Loan 18001202
48	11/10/2008	21,000.00		Acct list - US Agencies		70000933	11/13/2008	7:00:00 PM	11/20/2008	21,000.00	MPS Golf Operating Acct	MPS Golf Shareholders
49	11/26/2008	(28,000.00)		Acct list - US Agencies						(28,000.00)		Debbie Charles & and James E McCoy deposit out of CFU
		$ 1,434,597.04								$ 1,359,597.04		

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IRREGULAR GENERAL LEDGER ENTRIES POSTED AND DISBURSEMENTS MADE BY SENIOR VICE PRESIDENT BENJAMIN L. KNOTT
BENEFICIAL TO CLCB, LLC AND CROSBY EDUCATION FOUNDATION, OWNED/CONTROLLED BY JOSEPH C. CROSBY, JR., A/K/A "COACH" AND KRISTINA B. CROSBY,
AND THE PERSONAL LOAN ACCOUNT OF JOSEPH C. CROSBY, JR.
FOR THE YEAR 2008

Funds Transferred From CFB General Ledger Accounts Into:
Payment Applied to Loan in name of Joseph C. Crosby, Jr. (270751)
and Deposit Accounts of
CLCB, LLC (500601091)
Crosby Education Foundation (Kristina Crosby, Joseph Crosby) (500703160)

Tab #	Date	Deposit Amount	Crosby Acct #	Crosby Acct Name	Account #	Debit Acct Name	Deposit or GL Acct?	Debit or (Credit) Amount
1	5/30/2008	299,990.00		CLCB, LLC		Due From Bank - FHLB	GL	300,000.00
	5/30/2008					Wire Transfer Fees	GL	(10.00)
2	7/7/2008	199,990.00		CLCB, LLC		Due From Bank - FHLB	GL	215,000.00
	7/7/2008	15,000.00		Crosby Education Foundation		Due From Bank - FHLB	GL	-
	7/7/2008					Wire Transfer Fees	GL	(10.00)
3	7/30/2008	165,000.00		CLCB, LLC		Due From Bank - FHLB	GL	165,000.00
4	8/27/2008	180,000.00		CLCB, LLC		US Agencies Securities - AFS	GL	715,275.00
						Accr Int - US Agencies	GL	11,837.22
						Bankers Bank	GL	(547,112.22)
5	9/30/2008	120,000.00		CLCB, LLC		Bankers Bank	GL	351,619.75
	9/30/2008	14,686.31		Loan Account in name of Joe Crosby Jr.		US Agencies Securities - HTM	GL	2.02
	9/30/2008					State County Municipal - AFS	GL	485.69
	9/30/2008					US Agencies Securities - AFS	GL	(137,112.90)
						Accr Int - US Agencies	GL	(72,433.36)
						Accr Int - US Treasury Bills (initial use is for SOMs)	GL	(7,875.09)
		994,666.31	Total Amount					994,666.31 Total Original GL Offsets

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EXHIBIT

D

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In the Matter Of:

Brookshire, Debi Baker v Community First Bank, Inc., et al

Donald G. Jones

August 25, 2016

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do at that point, to investigate it?

A. Well, Mr. Shepherd was totally focused on the Brookshire matter.

Q. Right.

A. And I knew that there were -- there was a problem -- I could tell when I was doing that first day of research, along with Mr. Griffith, I could tell there were problems beyond Brookshire.

Q. Okay. How could you tell that?

A. I looked at -- Mr. Griffith and I together looked at transactions in the investment securities account and we knew that -- you could tell from this $285,000 transaction and some others that the books were being what I call juggled. There was a -- transactions were rolling around to hide what they are.

Q. Okay.

A. On the books.

Q. When you say juggling, that was pretty obvious to you at that point?

A. Yes.

Q. Okay. When you say juggling, just for a lay person again, that would -- explain that to me.

A. Making false entries on the -- in the general ledger accounts to conceal and cover up

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wrongful deeds.

Q. And that was pretty obvious to you?

A. Yes. The way I could tell that was I was track -- backtracking these suspicious transactions, just looking at the dates. I hadn't gotten into detailed research at that point, but I noticed this juggling type activity preceded the Brookshire account even being opened.

Q. When you say preceded it?

A. In date.

Q. In date and other -- clearly if it's prior to her account it's in other accounts; is that what you're saying?

A. Well, it's also -- it was in the investment securities account and it -- these juggling type entries were occurring before the date her account was opened in, what, 2004?

Q. The Brookshire account?

A. When was that?

Q. 2007.

A. 2007, excuse me. Okay. The -- yeah, they were before that. So I knew that there was problems beyond just the Brookshire account, but Mr. Shepherd wanted me to focus on the Brookshire account immediately due to, I guess, inquiry

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EXHIBIT

E

on at that time, you know.

Like I said, we -- I was receiving all my mail at 1707 Devine Street. I received all my statements from BB&T. There wasn't anything missing. I knew what money was to be coming to me. This is, you know, at the time. So I knew that what I had was coming through the mail and I wasn't really missing anything.

There was a couple of times there was something maybe that was -- that we didn't receive that might have gotten lost. But it was just, you know, the Post Office knew about where we were going. I had a note at that home that Mr. Hans Oliver owned. I'd left a note there that, you know, if there's any bills that came in, that, you know, we weren't receiving when we moved, to make sure that they would call us and that we would come get them.

Then the mail was coming through to Irmo. I didn't recall missing anything. I don't ever remember, you know -- everything that I had was coming through BB&T, okay?

Q. Did you review the statements from Community First Bank?

A. What statements?

Q. Is it your testimony you never received statements from Community First Bank?

MR. SCOTT: Object to the form, but go ahead.

BY MR. KNOWLTON:

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A. I didn't receive any statements that I can recall. When you say Community First, only from a credit card. There were no other statements coming in from a trust or anything to that effect. Any monies that I had that I -- that, you know, was being wired through Ben was coming to BB&T. So I had nothing coming in from Community First.

Q. You don't recall ever receiving a bank account statement from Community First Bank with regard to where these assets had been transferred?

MR. SCOTT: Object to the form.

BY MR. KNOWLTON:

A. I don't recall. I really don't recall.

Q. Could you have gotten them and you just don't remember them?

A. No. No. I would have known. I would have known at that time if I had money in my account or I didn't have money in my account or what was in there and, you know -- I mean, I had always checked everything. So, no. But I don't ever -- there were no statements that were coming in from, you know, for the trust from Ben, you know. I mean, I really -- there was none and there wasn't anything lost that I know of.

Q. Just so you'll know, we've got business records that show they were mailed from 2007 until 2010 when they started getting returned.

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MR. KNOWLTON: Okay.

BY MR. KNOWLTON:

Q. Well, let me ask you. You've seen in discovery in this case, statements for a checking account, have you not?

A. If that's what you call it. A checking account or a trust account, but --

Q. All right. Well, let's just call it that account, okay?

A. Okay. An account? Okay.

Q. The account that is in dispute in this case.

A. Yes.

Q. And you've seen the statements in this lawsuit.

A. Yes.

Q. Do you recall receiving those statements between May of 2007 and April of 2010?

A. No.

Q. Are you saying that they weren't delivered or that you don't know one way or the other?

MR. SCOTT: Object to the form.

BY MR. KNOWLTON:

A. I did not receive them. I didn't receive them.

Q. Did you ever call the bank and say, how come I'm not getting statements?

A. I didn't know that I was supposed to receive

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statements. I did not know. All I was receiving was, my money was supposed to be -- Ben and I talked on the phone about how much money I had, where the money was going, you know, just off and on things about -- all the time about what my bank statements with BB&T were saying. There was not anything coming from Community First and there was no reason for those particular statements to have been returned when I was receiving all the other mail. There was not anything, you know -- I mean, I was receiving all my other mail.

Q. Have you ever had an account at a bank where you didn't receive a statement before?

A. No. But the thing is, this was a trust, you know. I know that BB&T Wealth Management sent me a, you know -- basically, it was like a pie that showed where the money was going and what bills were being paid. But I didn't receive anything from Ben Hiott. I really did not, not at all. There was many, many things on there that he was supposed to be paying, but I never saw a statement showing those were paid, never.

Q. You weren't curious why you weren't getting a statement?

MR. SCOTT: Object to the form.

BY MR. KNOWLTON:

Q. Did you ever discuss not receiving a statement

A. Sort of. Is that not the same person as Jim Powell? I don't really -- the names, you know -- there was a Jim Williams. I think there was -- I remember a name something to that effect, but I --

Q. Well, let me ask you this. Do you remember when Mr. Williams provided the statements to Ms. McDaniel?

A. What statements?

Q. For the account.

A. Are you talking about that thing that Ben wrote up that rambled on about some statement?

Q. I'm talking about the account statements.

A. You're talking about the Community First Bank statements --

(Exhibit No. 5, Bank Statement, was marked for identification.)

BY MR. KNOWLTON:

Q. Things that look like Exhibit 5.

A. No. No, no. There was -- I don't remember those statements. I told you, I don't remember those statements at all. The only statements I remember is some ledger that showed three or four pages of stuff.

Q. I can show it to you. There was a list of wire transfers --

A. Yeah. That's all --

Q. -- is kind of what you're talking about.

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Mr. Crosby or Cosby or whatever his name is. I don't know anything about that. And, you know, this is the first I knew that he owned a restaurant. But we did go to a restaurant and I remember there was some water around it, but I don't know whose it was. I didn't even think about it. The food wasn't that good.

Q. When did it first come to your attention that a $500,000 disbursement had been made out of your account?

A. I'm not supposed to talk about the attorneys. But, you know, I mean, I didn't have any statements until they were located through my attorneys. My husband looked at it and he found it. That was the first thing -- it was one of the first statements, I think, that money was taken out within a very short period of time that I had my account with Ben. Some nerve.

(Exhibit No. 28, Statement - 6/29/07, was marked for identification.)

(Exhibit No. 29, Statement - 7/31/07, was marked for identification.

BY MR. KNOWLTON:

Q. Let me ask you to take a look at what's been marked as Exhibits 28 and 29.

A. All right. Which one do you want to talk about?

Q. All right. The first exhibit with CWB 6925 at bottom, that's going to be the very first statement of the

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BY MR. KNOWLTON:

A. I'm just looking at what the statement shows.

Q. Take a look at CFB 6933, the last page of that exhibit.

A. All right.

Q. Did you see that document, that page?

MR. SCOTT: Does she see it now?.

MR. KNOWLTON: Well, no, sir.

BY MR. KNOWLTON:

Q. My question really was, did you see that in 2007?

A. No. I haven't seen this. (Views document). What did you ask me? Have I seen that document? No, I haven't.

Q. All right. Do you have any explanation of why Mr. Hiott would have sent a cashier's check representing funds from this account in the amount of $500,000, indicating it was a Brookshire loan advance to Mr. Crosby in July of 2007?

MR. SCOTT: Object to the form.

BY MR. KNOWLTON:

A. I don't know nothing about Mr. Crosby or the money or giving anybody permission. I don't know anything about that and that's the God's honest truth.

Q. When was the first information that you had that

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this $500,000 disbursement had been made?

A. You already asked me that.

Q. And I don't want you to mention what any attorney told you, but I want the best date you can give me.

A. Well, I haven't had any documents from Community First, so the first time I got to see any documents was at this office. And then my husband and I took the documents and he had looked at that particular document and saw the -- saw the, you know, some of the interest and where the money that was interest being transferred over from BB&T Wealth Management or the interest on it and saw the miscellaneous debit. And next to that miscellaneous debit was written Lafayette, single premium annuity to children, in blue, in blue ink, was written on that paper on the --

Q. You're not referring to Exhibit 29, are you? You're talking about some other document that you saw?

A. I'm saying the document that I saw with -- this, right here, the same exact one that I saw here, had single premium annuity Lafayette trust, or something like that. It was written next -- in blue, next to the $500,000.

Q. Was that something Mr. Hiott wrote?

A. I thought it was Lisa Reed, but I don't know who wrote it. It wasn't my handwriting, it was somebody from the bank. It didn't look like Ben Hiott's handwriting. But it was written on there and that's what it said. That's

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where we were trying to check to find out what type of annuity in Lafayette there was.

So he was lying. It was a lie. Because that's what he was sending me. There was nothing about Crosby. So, see, we're just finding out about Crosby. This was what was written on that document. Do you have it?

Q. When we reconvene, I'll try to look for it.

A. All right. But, again, you don't need to ask me about Crosby because, again, that is -- that's null and void. There's no Crosby.

Q. And I understand your testimony on that.

A. Okay.

Q. But I do need to ask you about everything I can about it.

A. I know. Okay.

MR. KNOWLTON: Why don't we take a break for a moment. It's after 5:30.

(The taking of the deposition adjourned at 5:33 p.m.)

MR. KNOWLTON: Well, I'm trying to --

MR. GIESE: You don't know if it's mailed or not.

MR. KNOWLTON: What's that?

MR. GIESE: You don't know if it was mailed or not. There's no --

MR. KNOWLTON: Yeah, I know. We've got other evidence. --

MR. GIESE: Okay.

MR. KNOWLTON: We have witnesses who are ready to testify about that.

BY MR. KNOWLTON:

Q. But let me just ask you this. And just focus on where these came from. Do you remember where these came from?

A. I remember we got some of them from Kathleen McDaniel, but I can't tell you that they were all of them. I do not know. I might need to ask my husband. He might know a little bit more about that because he's the one that found --

Q. And we talked before about the statements given to Ms. McDaniel --

A. This is the one we found, yeah. This is the one that we saw that my husband found.

Q. You're talking about Exhibit 64?

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some deductions.

I have to know if I possibly can have an extension, be able to know what steps do you take next when you're a trustee, if there was something maybe possibly that you should consider, that this might be a -- that you might to invest in something whether it be in my own business or maybe something so you can get some earned income, or possibly, you know -- and a small -- you know, something that, you know, that would be able to behoove you for having a trust or a trustee and being able to talk to someone about giving you advice in South Carolina or whether you wanted to do something for your donations to the library, to children's books, to -- I mean, just different things about what would be the best way to go about doing things and what would be something that would be most appreciative and something that would be able to help you to be able to, you know, do the right thing and feel good and be able to be recognized.

Q. Did you look at the bank statements each month to see how much money was in the account?

A. All of them except the one -- I didn't get Ben's. I didn't get anything from Community First, only BB&T.

Q. You didn't get any monthly bank statements?

A. Not from Ben. Not from Community First, no.

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Q. Did you not think that was a little odd?

A. You know, I didn't have any -- there was a trust set up with Ben, okay? And possible I should have gotten --

Q. Is that a yes or a no?

A. Okay. No. There was a -- I did receive the pie statement or the pie trust with BB&T Wealth Management, okay? I did receive it with Merrill Lynch or with this or whatever. The point was is that Merrill Lynch doesn't send one out each month or each day, you know. I checked my BB&T. That's where all the money was going. I knew what money was being wired into that account. I knew what balances there were. I knew what bills were supposed to be coming out of there. But, you know, I didn't have a checking account with Ben.

Q. You know what you were supposed to get from BB&T and you got it, is that fair to say?

A. You know, I -- yes.

Q. Okay. And you never got one of those from Community First?

A. No.

Q. Did you consider that odd?

A. That trust account was -- it was -- for some reason, it was just -- I wasn't -- there wasn't any personal bills coming out of there that I later on found out.

Q. How could you manage the trust without knowing

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Q. Did you ever see a bank statement on your account at Community First Bank?

A. Yes.

Q. When?

A. I don't remember. But I did not receive them --

Q. Did you see one in 2007?

A. I think I saw some Power of Attorney papers or saw something where Ben had some communications with Baker & Baker or had some communications with BB&T. I did not see a Community First Bank statement at all. If I did, don't you think I would -- let me tell you something. If I did, first of all, I know how much money came from BB&T to go to Ben. And don't you think a miscellaneous debit for 500,000 within 15 days and that, all of a sudden, my balance is 600 and something thousand? I mean, don't you think that I would have -- especially the first statement, noticed that?

Q. Well, if you had asked to see that bank statement you would have known that, wouldn't you?

MR. GIESE: Objection to the form.

BY MR. HAWKINS:

Q. Ma'am? Can you answer the question?

A. Why didn't y'all get -- why didn't you make sure I got a bank statement? Why? Because somebody was cheating on me, right? They took the money out, miscellaneous debit, and then wrote down Lafayette single life insurance policy,

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or it was something else the whole time along; you know? And I did not get that statement. Why didn't I get it? Because, you know, somebody was doing something wrong, okay? No Jim or Crosby or -- I mean, the thing is that, come on.

Q. Did every checking account you've ever had since you were at some age undefined exactly, but somewhere between 15 and 23, certainly at 23 you knew that banks mailed out statements once a month, correct?

A. Yes.

Q. Pardon?

A. Yes.

Q. All right. And you knew that for the rest of your adult life up until the time you started this account at Community First, correct?

A. Sometimes a bank statement gets lost, okay?

Q. Okay. Sometimes. How often does that happen in a year for you? What's your experience?

A. Community First has lost several of my credit card statements and I've had to call them.

Q. Tell us how many.

A. Three, four, five times.

Q. Okay. Now, let's go to my question because I didn't ask you about a credit card statement --

A. Okay.

Q. -- I asked you about checking accounts.

In the Matter Of:

Brookshire, Debi Baker v Community First Bank, Inc., et al

Ann Gell Hamiter

September 07, 2016

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questions.

THE WITNESS: It wasn't necessarily approved of, it was just she didn't even know about anything he had been doing.

BY MS. BLACK:

Q. Okay. To your knowledge, did she believe that she should have had more money in the account?

MR. WALLER: Object to the form of the questions.

THE WITNESS: Yes.

BY MS. BLACK:

Q. Do you have any knowledge about whether Ms. Brookshire received monthly bank statements from Community First Bank?

A. We did not for a long, long time and then we got a few. I gave Mr. Hiott the P.O. Box number and everything on the phone, and I tell them we needed them back to the beginning, and, you know, of his opening an account for her, and we didn't get them. And then finally he brought -- when he brought the motorhome, he brought paperwork -- the paperwork.

Q. What paperwork did he bring?

A. I cannot remember what all it was;

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EXHIBIT

F

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In the Matter Of:

Brookshire, Debi Baker v Community First Bank, Inc., et al

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questions.

THE WITNESS: It wasn't necessarily approved of, it was just she didn't even know about anything he had been doing.

BY MS. BLACK:

Q. Okay. To your knowledge, did she believe that she should have had more money in the account?

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THE WITNESS: Yes.

BY MS. BLACK:

Q. Do you have any knowledge about whether Ms. Brookshire received monthly bank statements from Community First Bank?

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Q. What paperwork did he bring?

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G

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In the Matter Of:

Brookshire, Debi Baker v Community First Bank, Inc., et al

Carol Wilson

February 25, 2016

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1980 - 2015

Q. In the locked room?
A. Yes.
Q. And is that what you did with Debi Brookshire's statements after May of 2010?
A. That's what we do with every statement flagged as a return.
Q. Is that what you did with Debi Brookshire's statement after May of 2010?
A. If it was marked with an R, that's what we did.
Q. Isn't that what you just testified to?
MS. BLACK: Object to the form.
THE WITNESS: The ones that were flagged as returned were filed in returned mail.
BY MR. SCOTT:
Q. And maybe I'm missing it, when they come -- when they're returned, you flag them as returned; is that what you said?
A. Yes, we flag the system.
Q. And then when they're flagged as returned, do you just keep mailing them out, or do you put them in this box in this locked room?
A. We put them in a secure location that we have boxes of returned mail.
Q. So you don't continue to mail them to

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H

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In the Matter Of:

Brookshire, Debi Baker v Community First Bank, Inc., et al

Donald G. Jones

August 25, 2016

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Q. All right. And he goes on to talk about having given Ben a choice as to what to do, cooperate or not. It says, in the next paragraph: Fred stated also that he advised Ben at yesterday's meeting to call me and talk over the matter.

Had he -- did he ever call you and talk over the matter?

A. No.

Q. And he knew you?

A. Yes.

Q. From working with you?

A. Mm-hmm.

Q. Next sentence: I informed Fred that at of this time I had received no call from Ben. I asked Fred if Ben was still in the Bank. Fred replied that Ben was out picking up the mail and would be back in his office.

So at that point Shepherd has your September 6 document; correct?

A. (Witness moves head up and down.)

Q. And has the paperwork regarding the $285,000 --

A. Yes.

Q. -- that was defalcated from whatever and, yet, he has Ben picking up the mail?

A. Yes.

Q. The next sentence: I was surprised at this and again cautioned Fred about the security of the records under Ben's control.

So at that time, four days after you've written that memo, Ben still has control over everything he had control of prior to September the 6th?

A. Yes.

Q. In other words, the computer system, the journal entries?

A. Yes.

Q. Anybody's bank account?

A. Yes.

Q. And that's four days after they were informed about the -- I'm going to use the word misappropriation if I could, just in -- I'm not sure I'm using defalcation right or whatever that word is. But they knew that.

So several times last week -- the next sentence: Several times last week in the presence of SVP Jeff Griffith, I suggested to Fred that Ben not be present in the Bank after he has been confronted due to security of the records.

And you remember those -- that

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EXHIBIT

I

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MEMORANDUM

From: Donald G. Jones

To: File on Community First Bank on Hiott/Brookshire Matter

Date: September 10, 2013

Time: 11:30 a.m.

Subject: Telephone Conversation with Frederick D. Shepherd, Jr.

I received a telephone call at my office approximately 10:45 a.m. from Fred Shepherd, CEO of Community First Bank from his office in Seneca, SC. In this call, Fred informed me that he met with Ben Hiott at the Bank after working hours yesterday to discuss the state of affairs regarding the Brookshire matter and related irregular transactions conducted by Ben Hiott. Fred stated that he furnished Ben with copies of all documents related to this matter including correspondence from Brookshire's attorney demanding that the Bank furnish documentation to them regarding all deposits to the Brookshire DDA account for which Ben had a POA. Further, Fred gave him a copy of my memorandum dated 9/6/13 regarding the irregular transaction of 2/23/11 which I had investigated at the Bank last week showing a potential $285,250 defalcation by Ben Hiott involving this DDA account and Bank funds.

Fred stated that in the conversation with Ben at yesterday's meeting, Ben had the choice of taking two weeks vacation while the matter was worked on without him, or that he could cooperate with PCS in completing an investigation of the matter at the Bank. Fred stated also that he advised Ben at yesterday's meeting to call me and talk over the matter. I informed Fred that as of this time I had received no call from Ben. I asked Fred if Ben was still in the Bank. Fred replied that Ben was out picking up the mail and would be back in his office. I was surprised at this and again cautioned Fred about the security of the records under Ben's control. (Several times last week in the presence of SVP Jeff Griffith, I suggested to Fred that Ben not be present in the Bank after he has been confronted due to security of the records).

Last week while in the Operations department at the Bank, SVP Griffith, Fred and I had a conversation on Ben's wire transfer, bond transactions and network systems access authorities that Ben had which would need to be terminated immediately when Ben was confronted with the matter. I doubt that this has been done but do not know for sure.

Fred stated that, at the meeting yesterday evening, he advised Ben to retain his own legal counsel and that Ben was told to provide an answer to Fred this morning what his course of action would be. When Fred informed me this morning that Ben was picking up the mail I expressed surprise to Fred that Ben was picking up the mail as usual. Fred said to the effect that right now Ben would have to be handled with care.

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Danl Baker Brookshire acct Transferred BB&T
ort.

1171823.58 6/26/2007

1171823.58 Total Funds

150000.00 Jordan
150000.00 Laura Ann
658894.86 Wires out

202928.72 Wire Trf sent
8/11/2010

wire transfer	date	description	amount	payee	purpose
70000592	31-Mar-08 08:05:28	Community First Wire Transfer [11111]	20000	DEBI BAKER BROOKSHIRE	DEBI BAKER BROOKSHIRE
70000604	15-Jul-08 15:00:50	Community First Wire Transfer [11111]	10000	DEBI BAKER BROOKSHIRE	DEBI BAKER BROOKSHIRE
70000621	28-Jul-08 08:20:50	Community First Wire Transfer [11111]	10000	DEBI BAKER BROOKSHIRE	DEBI BAKER BROOKSHIRE
70000627	31-Jul-08 14:57:23	Community First Wire Transfer [11111]	15000	DEBI BAKER BROOKSHIRE	DEBI BAKER BROOKSHIRE
70000639	20-Aug-08 11:33:20	Community First Wire Transfer [11111]	15000	DEBI BAKER BROOKSHIRE	DEBI BROOKSHIRE
70000675	16-Sep-08 12:19:49	Community First Wire Transfer [11111]	10000	DEBI BAKER BROOKSHIRE	DEBI BAKER BROOKSHIRE
70000699	30-Sep-08 08:52:03	Community First Wire Transfer [11111]	15000	DEBI BAKER BROOKSHIRE	DEBI BAKER BROOKSHIRE
70000891	09-Oct-08 10:08:04	Community First Wire Transfer [11111]	10000	DEBI BAKER BROOKSHIRE	DEBI BAKER BROOKSHIRE
70000929	28-Oct-08 12:14:45	Community First Wire Transfer [11111]	15000	DEBI BAKER BROOKSHIRE	DEBI BROOKSHIRE
70001047	20-Nov-08 12:36:33	Community First Wire Transfer [11111]	10000	DEBI BAKER BROOKSHIRE	DEBI BAKER BROOKSHIRE
70001134	10-Feb-09 13:20:43	Community First Wire Transfer [11111]	7500	DEBI BAKER BROOKSHIRE	DEBI BAKER BROOKSHIRE
70001149	24-Feb-09 14:07:37	Community First Wire Transfer [11111]	7500	DEBI BAKER BROOKSHIRE	DEBI BAKER BROOKSHIRE
70001267	02-Jun-09 15:37:16	Community First Wire Transfer [11111]	3500	DEBI BAKER BROOKSHIRE	DEBI BAKER BROOKSHIRE
70001360	02-Jul-09 14:29:08	Community First Wire Transfer [11111]	2500	DEBI BAKER BROOKSHIRE	DEBI BAKER BROOKSHIRE
70000529	14-Aug-07 11:49:33	Community First Wire Transfer [11111]	10000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70000636	17-Oct-07 17:07:41	Community First Wire Transfer [11111]	15000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70000668	12-May-08 09:15:18	Community First Wire Transfer [11111]	20000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70000864	10-Jun-08 07:45:16	Community First Wire Transfer [11111]	10000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70000933	02-Jul-08 14:59:49	Community First Wire Transfer [11111]	10000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70000941	25-Aug-08 09:45:57	Community First Wire Transfer [11111]	15000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70000960	08-Sep-08 08:59:36	Community First Wire Transfer [11111]	20000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001079	17-Dec-08 10:49:39	Community First Wire Transfer [11111]	15000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001103	14-Jan-09 15:52:29	Community First Wire Transfer [11111]	5000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001105	16-Jan-09 13:01:39	Community First Wire Transfer [11111]	20000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001141	18-Feb-09 16:58:16	Community First Wire Transfer [11111]	20000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001196	30-Mar-09 12:50:39	Community First Wire Transfer [11111]	5000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001197	03-Apr-09 16:00:19	Community First Wire Transfer [11111]	6000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001199	06-Apr-09 16:47:32	Community First Wire Transfer [11111]	20000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001207	14-Apr-09 16:34:49	Community First Wire Transfer [11111]	3500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001219	23-Apr-09 17:13:07	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001224	30-Apr-09 09:23:44	Community First Wire Transfer [11111]	6000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001231	06-May-09 14:12:33	Community First Wire Transfer [11111]	1500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001235	12-May-09 19:23:02	Community First Wire Transfer [11111]	1500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001239	14-May-09 10:39:34	Community First Wire Transfer [11111]	10000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001253	21-May-09 09:14:29	Community First Wire Transfer [11111]	6000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001272	08-Jun-09 10:02:29	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001284	15-Jun-09 08:51:18	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001289	23-Jun-09 15:13:45	Community First Wire Transfer [11111]	3500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001296	29-Jun-09 17:15:57	Community First Wire Transfer [11111]	3000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001305	06-Jul-09 09:19:31	Community First Wire Transfer [11111]	3000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001321	17-Jul-09 13:51:12	Community First Wire Transfer [11111]	6000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001329	23-Jul-09 11:41:14	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001339	30-Jul-09 11:23:34	Community First Wire Transfer [11111]	3000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001344	04-Aug-09 15:18:24	Community First Wire Transfer [11111]	3000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001360	07-Aug-09 13:58:55	Community First Wire Transfer [11111]	2000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001364	17-Aug-09 09:39:48	Community First Wire Transfer [11111]	3000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001367	18-Aug-09 10:05:37	Community First Wire Transfer [11111]	2000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001369	19-Aug-09 11:34:46	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001377	24-Aug-09 10:47:38	Community First Wire Transfer [11111]	1200	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001387	28-Aug-09 13:52:35	Community First Wire Transfer [11111]	1000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001400	01-Sep-09 14:34:39	Community First Wire Transfer [11111]	1000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001444	09-Sep-09 13:18:14	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001409	09-Sep-09 17:27:41	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001423	21-Sep-09 15:29:32	Community First Wire Transfer [11111]	3500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001428	01-Oct-09 14:36:34	Community First Wire Transfer [11111]	1500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001440	02-Oct-09 14:45:13	Community First Wire Transfer [11111]	3000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001446	09-Oct-09 08:57:23	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE

11/10/2014 MON 15:45 FAX 1 843 681 6978 Wade And Associates

Giese-CFB 1242

Sep. 7. 2010 5:08PM COMMUNITY FIRST BANK No. 3730 P. 4

wire transfer	date	description	amount	payee	purpose
70001454	16-Oct-09	Community First Wire Transfer [11111]	2000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001463	23-Oct-09	Community First Wire Transfer [11111]	1500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001465	26-Oct-09	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001471	30-Oct-09	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001477	05-Nov-09	Community First Wire Transfer [11111]	2000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001479	09-Nov-09	Community First Wire Transfer [11111]	3000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001484	13-Nov-09	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001489	17-Nov-09	Community First Wire Transfer [11111]	2000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001497	20-Nov-09	Community First Wire Transfer [11111]	2000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001501	25-Nov-09	Community First Wire Transfer [11111]	4000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001508	01-Dec-09	Community First Wire Transfer [11111]	1500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001516	10-Dec-09	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001518	11-Dec-09	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001526	16-Dec-09	Community First Wire Transfer [11111]	2000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001534	22-Dec-09	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001542	29-Dec-09	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001551	04-Jan-10	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001562	07-Jan-10	Community First Wire Transfer [11111]	4000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001569	14-Jan-10	Community First Wire Transfer [11111]	2000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001573	20-Jan-10	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001579	25-Jan-10	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001582	28-Jan-10	Community First Wire Transfer [11111]	2000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001586	29-Jan-10	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001588	31-Jan-10	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001591	03-Feb-10	Community First Wire Transfer [11111]	3000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001597	09-Feb-10	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001605	12-Feb-10	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001619	18-Feb-10	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001622	23-Feb-10	Community First Wire Transfer [11111]	3000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001637	25-Feb-10	Community First Wire Transfer [11111]	5000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001645	03-Mar-10	Community First Wire Transfer [11111]	4000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001650	05-Mar-10	Community First Wire Transfer [11111]	1500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001658	10-Mar-10	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001659	15-Mar-10	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001675	22-Mar-10	Community First Wire Transfer [11111]	2000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001682	25-Mar-10	Community First Wire Transfer [11111]	2000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001695	29-Mar-10	Community First Wire Transfer [11111]	1500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001699	06-Apr-10	Community First Wire Transfer [11111]	2000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001697	09-Apr-10	Community First Wire Transfer [11111]	2000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001714	14-Apr-10	Community First Wire Transfer [11111]	2000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001719	21-Apr-10	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001724	28-Apr-10	Community First Wire Transfer [11111]	2000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001729	29-Apr-10	Community First Wire Transfer [11111]	2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001736	05-May-10	Community First Wire Transfer [11111]	4000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001738	07-May-10	Community First Wire Transfer [11111]	2000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
70001808	14-Apr-09	Community First Wire Transfer [11111]	1500	DEBI BROOKSHIRE HSA ACCOUNT	DEBI BROOKSHIRE
70001820	14-Aug-07	Community First Wire Transfer [11111]	25000	DEBI BROOKSHIRE PREFERRED LINE OF CRI	DEBI BROOKSHIRE
70001845	18-May-09	Community First Wire Transfer [11111]	500	I DESIGN LLC	DEBI BROOKSHIRE
70001883	19-Jan-09	Community First Wire Transfer [11111]	20000	JIM HUDSON LEXUS	DEBI BROOKSHIRE
70001892	04-Oct-07	Community First Wire Transfer [11111]	35000	JIM HUDSON LUXURY CARS	DEBI BROOKSHIRE
	1-Jul		2000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
	5-Jul		5000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
	13-Jul		2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
	16-Jul		2500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
	22-Jul		7500	DEBI BROOKSHIRE	DEBI BROOKSHIRE
	27-Jul		5000	DEBI BROOKSHIRE	DEBI BROOKSHIRE
Check for deposit (09	27-Jul		90515.86		DEBI BROOKSHIRE

Sep. 7. 2010 5:08PM COMMUNITY FIRST BANK No. 3730 P. 5

Giese CFB 1243

EXHIBIT

K

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TIGHE

Kathleen M. McDaniel - Attorney
803-404-6900
KathleenMcDaniel@callisontighe.com

September 21, 2010

Ben Hiott, Senior Vice President
Community First Bank
3685 Blue Ridge Blvd
Walhalla, SC 29691

Re: Debi Baker-Brookshire financial matters
Our file number: 1345.001

Dear Mr. Hiott,

On August 23, 2010, you and I spoke by telephone regarding the trust account of Debi Baker-Brookshire. During that teleconference, I requested certain items of information and documentation from you, which you stated you would provide to me. Having reviewed some limited information received from you via facsimile on September 7, 2010, and discussed it with Ms. Baker-Brookshire, I have several concerns that I would like for you to address with you.

First of all, I requested that you provide me with a full accounting of Ms. Baker-Brookshire's trust account held at Community First Bank from the date of initial deposit through the current date. You provided me with what appears to be simply a listing of wire transfers out of Ms. Baker-Brookshire's account. There is no detail regarding the institution or account to which the wire was sent or the purpose of the wire. There is also no accounting of interest that the account earned or of any other transfers in or out other than wire transfers. Please provide me with a proper accounting of this account from the time it was created through the current date.

Obtaining this accounting is particularly important to getting a clear picture of the current state of Ms. Baker-Brookshire's finances. It is my understanding that on August 11, 2010, you transferred all of the cash remaining in the trust account, approximately $200,000.00, to Ms. Baker-Brookshire's account at BB&T. I spoke yesterday with Ann Gel Hammiter, Ms. Baker-Brookshire's bookkeeper. Ms. Hammiter informs me that, when she last spoke to you about one month before the wire out to BB&T, you told her that there was approximately $900,000 remaining in the trust account. There appears to be some serious inconsistencies in this information.

As this is an account held by your bank, I do not understand why Ms. Baker-Brookshire was not provided with monthly, quarterly, or at least annual statements of the account. If such

Giese-CFB 1244

statements exist, please make a copy of all and provide them to me. If statements do not exist, please explain to me why regular statements were not provided for this account.

I also inquired whether you have a copy of any trust agreement set up with Ms. Baker-Brookshire as the beneficiary. You stated that you do not have a copy of the trust agreement, but that you are informed that Ms. Baker-Brookshire is not only the beneficiary of the trust but also the trustee. I question whether that is correct and how you would know that if you do not have a copy of the trust agreement. If you do have a copy of the trust agreement, please provide that to me immediately.

Also noted on the report you faxed to me are amounts of $150,000 allocated to each of the two children of whom Ms. Baker-Brookshire has custody. In talking with Ms. Baker-Brookshire, she has no recollection of setting up such trusts. You stated that you have copies of the trust agreements for the children, but you have not provided those to me. Please provide copies of those trust agreements to me immediately so that I can confirm their existence and how they were created.

Ms. Baker-Brookshire informs me that you authorized the purchase of flowers for doctors and hospital staff following the hospitalization of one of the children. She is quite upset about this matter as she believes you did not have authority to authorize such expenditure. She requests that you refund the cost of the flowers, approximately $250.00, with interest from the date of the purchase.

Ann Gel Hammiter informs me that you told her that you have Ms. Baker-Brookshire's power of attorney. Please provide me with a copy of the Power of Attorney immediately as I have no indication from Ms. Baker-Brookshire that you have such authority.

These are very serious matters to which I hope you will turn your attention immediately. I need to obtain the requested information from you as soon as possible so at to assist Ms. Baker-Brookshire in setting her finances in order. Ms. Baker-Brookshire has already informed you that she has given me authority to request for these items from you.

I can be reached via telephone or email at your convenience if you have any questions or need clarification about the items I am requesting.

Sincerely,

Kathleen M. McDaniel

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bcc: Debi Baker-Brookshire

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EXHIBIT

L

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In the Matter Of:

Brookshire, Debi Baker v Community First Bank, Inc., et al

James E. McCoy

August 22, 2016

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is would this be something that Ben got ahold of and we never got the letters? I don't know.

Q. Did you ever get mail at the bank?

A. No. I never received mail from the bank, no.

Q. As the chairman of the board you never received mail at the bank?

A. No.

Q. As addressed to the bank?

A. Why would I?

Q. You're the chairman of the board.

A. I know, but what would I receive?

Q. Where else would we send it?

A. Well, I know they would send it there, but I mean, who would be sending me stuff at the bank?

Q. Well, you're the chairman of the board.

A. What -- ouch. I've got a leg cramp.

Q. Whoops.

MR. PLUMBLEE: Are you okay?

A. I wasn't involved in day-to-day activities, guys. I was just chairman of the board. The daily running of the bank was with Fred Shepherd and his group.

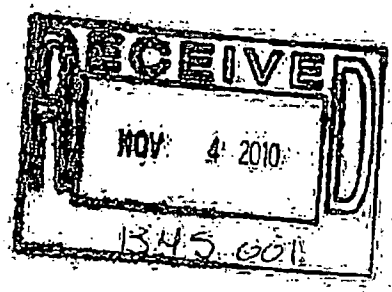
Q. You need to stretch?

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EXHIBIT

M

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October 21, 2010

Callison Tighe & Robinson, LLC
Attn: Ms. Kathleen McDaniel
PO Box 1390
Columbia, SC 29202

Ms. Kathleen McDaniel – Attorney

Debi should be able to provide you with a copy of the power of attorney, she set it up and should have that information. Her account was set up by Debi in 2007 and she should have received a statement monthly on this account. I will be glad to send to you the money I set aside for the children but Debi knows why I put that aside for the children. I will be glad to provide you with any documents Debi cannot but it worries me that your client cannot provide you with documents she executed. I do not believe you have gotten all the information you need from your client. Everything you have asked for your client should be able to provide to you if one is capable of handling one's own affairs.

The report you received shows the money transferred on 06/27/07 and the money that was sent out shows the payee as the beneficiary all were to Debi Brookshire or her interest. There are 2 wires to Jim Hudson for the purchase of vehicles.

If I can help further please call me.

Respectfully,

Ben Hiott

EXHIBIT

N

ELECTRONICALLY FILED - 2016 Dec 09 4:58 PM - OCONEE - COMMON PLEAS - CASE#2014CP3700526

Laura Hood

From:	Laura Hood
Sent:	Monday, December 06, 2010 5:30 PM
To:	Jlwdraw@bellsouth.net
Subject:	Debi Baker-Brookshire

Dear Mr. Williams,

Per our conversation last week on December 1, you were going to send a full accounting of Debi Baker-Brookshire's account with Community First Bank. To date, I have received no documents from you or the Bank. I would appreciate you letting me know that you are receiving my emails and whether or not the documents were sent.

Should you have any questions or comments, please let me know.

I appreciate your attention to this request and look forward to hearing from you soon.

Sincerely,

TIGHE

Laura F. Hood, Legal Assistant to Ian D. McVey and Kathleen M. McDaniel

Callison Tighe & Robinson, LLC
1812 Lincoln Street
P.O. Box 1390
Columbia, SC 29202-1390

P: 803.404.6900 F: 803.404-6901
Email: LauraHood@callisontighe.com

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EXHIBIT

O

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In the Matter Of:

Brookshire, Debi Baker v
Community First Bank, Inc., et al

Kathleen McDaniel

August 02, 2016

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down, that your handwriting is on Defendant's Exhibit Number 8, where you wrote Lafayette Life product, simple premium annuity, that was a $500,000 miscellaneous debit and you wrote down the Lafayette product premium annuity. Could I ask you why did you write that down?

A. Yes, someone told me that that was what it was for.

Q. Someone from the bank?

A. Yes. And I can't remember if it was Mr. Hiott or Mr. Williams, but that was -- when I saw miscellaneous debit of $500,000 I obviously had some questions and said, can you please tell me what that was for and someone, like I said, I can't remember if it was Mr. Williams or Mr. Hiott, that's what I was informed that the debit was for.

Q. Had you at that point ever heard of someone named Joe Crosby?

A. No.

Q. Did his name come up during the conversations that you had with the bank?

A. No.

Q. At any time?

A. No.

Q. So someone from the bank told you,

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EXHIBIT

P

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TIGHE

Kathleen M. McDaniel - Attorney
Ph: 803-404-6900
Fax: 803-404-6901
kathleenmcdaniel@callisontighe.com

February 17, 2011

Via facsimile only (864-882-2705)
James Louis Williams, Esq ("Jim")
Derrick Ritter Williams & Morris PA
107 North Fairplay Street
Seneca, SC 29678

Re: Debi Baker-Brookshire
Our File No.: 1345.001

Dear Mr. Williams:

I am writing to follow up on our telephone conversation this afternoon. Please close Ms. Baker-Brookshire's account with Community First Bank and prepare a check made out to Debi Baker-Brookshire for all funds remaining in the account. I will personally pick up the check when I meet with you on Tuesday, February 22, 2011, and deliver it to Ms. Baker-Brookshire.

Sincerely,
CALLISON-TIGHE & ROBINSON, LLC

Kathleen M. McDaniel

cc: Debi Baker-Brookshire (via U.S Mail)

Giese-CFB 1254

EXHIBIT

Q

Kathleen M. McDaniel - Attorney
Ph: 803-404-6900
Fax: 803-404-6901
kathleenmcdaniel@callisontighe.com

CALLISON TIGHE

March 11, 2011

James Louis Williams, Esq. ("Jim")
Derrick Ritter Williams & Morris PA
107 North Fairplay Street
Seneca, SC 29678

Re: Debi Baker-Brookshire
Our File No.: 1345.001

Dear Mr. Williams:

I am writing to inform you that this law firm no longer represents Ms. Debi Baker-Brookshire in any matters. Mr. Hiott agreed to provide the following documents regarding Ms. Baker-Brookshire's account to me at our meeting on February 22, 2011:

1. Copies of Ms. Baker-Brookshire's monthly account statements for December 2010 through current.

2. Copies of cancelled checks or wire transfer requests for all transfers out of Ms. Baker-Brookshire's account $50,000.00 or greater.

3. Copies of all documentation regarding the purchase and subsequent cashing out of a single-premium annuity purchased by Mr. Hiott for Ms. Baker-Brookshire.

As of today's date, I have not received this information. Please provide this information to directly to Ms. Baker-Brookshire at her home address of 573 Colonial Drive, Hilton Head Island, South Carolina, 29926.

With kind regards, I am

Sincerely,

CALLISON TIGHE & ROBINSON, LLC

Kathleen M. McDaniel

cc: Debi Baker-Brookshire (via U.S Mail)

Glese-CFB 1255

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EXHIBIT

R

ELECTRONICALLY FILED - 2016 Dec 09 4:58 PM - OCONEE - COMMON PLEAS - CASE#2014CP3700526

Tabor Investigative & Consulting Services, LLC

FAX TRANSMITTAL SHEET

DATE: November 27, 2012

TRANSMITTED TO: Community First Bank

ATTENTION: Carol Wilson

FAX NUMBER: 864-638-4604

RE: Authorization To Release Information

TRANSMITTED FROM: Tabor Investigative & Consulting Services, LLC

FAX NUMBER: (803) 783-5962

COMMENTS: As per your request included in this facsimile transmission is the release regarding the account information relating to Debi Baker Brookshire. After your review of this document please let me know what the next step is that needs to be taken in order to meet with you in regard to the $500,000 miscellaneous debit that was made on July 12, 2007.

Total number of pages including this sheet: 2.

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THE GIESE LAW FIRM, LLC
1315 BLANDING STREET
COLUMBIA, SC 29201
803-708-6767

W. BARNEY GIESE, ESQ.
KEITH GIESE, ESQ.
JUSTIN M. KATA, ESQ.
RENAE ALT-SUMMERS, ESQ.

Authorization to Release Information

I hereby authorize the release of any information, (medical, vocational, legal, financial, insurance, etc.), to the office of my attorney, The Giese Law Firm, LLC, which my attorney or his staff may request. A copy of this release shall be as valid as the original.

My records are under the name of Debi Baker Brabham

Debi Baker Brabham
Signature

[redacted]
Social Security Number

Dated: 8/30/2011

Charlotte Giese

CHARLOTTE GIESE
Notary Public, State of South
My Commission Expires

CHARLOTTE GIESE
Notary Public, State of South Carolina
My Commission Expires 1/24/2021

Giese-CFB 1258

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TABOR INVESTIGATIVE & CONSULTING SERVICES, LLC
REPORT FORM

				CASE NUMBER	2011-0067
DATE	November 27, 2012	TIME			
SUBJECT OF INVESTIGATION	Community First Bank-$500,000 Miscellaneous Debit				
INVESTIGATION REQUESTED BY	Debra Ann Baker Brookshire				
CLIENT'S NAME	Same	DOB		SSN	
ADDRESS	573 Colonial Drive				
CITY	Hilton Head	STATE	SC	ZIP CODE	29926
HOME TELEPHONE	843-681-5588	CELLULAR TELEPHONE	843-415-5713		

NARRATIVE:

On November 27, 2012, Carol Wilson, Community First Bank, was telephonically contacted in regard to the $500,000 miscellaneous debit that took place on July 12, 2007. Wilson was advised that Debi Baker-Brookshire had signed an Authorization to Release Records in regard to the account previously maintained by Community First Bank. Wilson requested that the authorization be faxed to her for review and that she would contact after such.

Giese-CFB 1405

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EXHIBIT

S

THE GIESE LAW FIRM, LLC
1315 BLANDING STREET
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803-708-6767

W. BARNEY GIESE, ESQ.
KEITH GIESE, ESQ.
JUSTIN M. KATA, ESQ.
KELLY L. GIESE, ESQ.

March 19, 2013
VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Ben Hiott, Senior Vice President
Community First Bank
3685 Blue Ridge Blvd.
Walhalla, South Carolina 29691

In re: Debi Baker Brookshire
Acct. No: 300701950

Dear Mr. Hiott:

Please be advised that this office has been retained to represent Ms. Debi Baker Brookshire. It has been brought to our attention that there are issues concerning a previous trust account held by Ms. Baker Brookshire at your financial institution and therefore, at this time, Ms. Baker Brookshire respectfully requests a copy of her entire file from the date of creation to the date of termination associated with the above referenced trust account. As stated in the Power of Attorney that was in place when Ms. Baker Brookshire had her trust account with First Community Bank, Ms. Baker Brookshire is entitled to a full accounting whenever a request is made by her or any authorized personal representative. Per your convenience, I have attached a copy of the Power of Attorney, entered into by Ms. Baker Brookshire on May 25, 2007, appointing Ben Hiott as her Agent. It states, "[m]y Agent shall provide an accounting for all funds handled and all acts performed as my Agent, if I so request or if such request is made by any authorized personal representative of fiduciary acting on my behalf."

Specifically, we are requesting all paperwork in relation to any and all "miscellaneous debits" on this trust account. We are aware that previous requests have been made to obtain these documents; the most recent request taking place on November 27, 2012, in which Tabor Investigative & Consulting Services, LLC faxed an "Authorization To Release Information" signed by Ms. Baker Brookshire along with a request for a meeting to discuss the $500, 000 miscellaneous debit that was made on July 12, 2007, attached hereto. Carol Wilson responded that the request had been furnished to the institution's attorney, however she did not know the name of that individual. Ms. Wilson said that she would seek out an answer to the request made by Tabor Investigative & Consulting Services, LLC. As of March 15, 2013, Tabor Investigative & Consulting Services is still waiting for an answer from both Ms. Wilson and Community First's counsel.

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EXHIBIT

T

THE GIESE LAW FIRM, LLC
1315 BLANDING STREET
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803-708-6767

W. BARNEY GIESE, ESQ.
KEITH GIESE, ESQ.
KELLY L. GIESE, ESQ.
JUSTIN M. KATA, ESQ.
RENAE ALT-SUMMERS, ESQ.

June 14, 2013

James Louis Williams, Esq.
Derrick Ritter Williams & Morris PA
107 North Fairplay Street
Seneca, SC 29678

Re: Community First Bank

Dear Mr. Williams:

Please be advised that this office has been retained to represent Ms. Debi Baker Brookshire. Ms. Baker Brookshire previously held a trust account with your client's institution. We have been inquiring into a miscellaneous debit on this former account.

On March 19, 2013, my office sent a letter to Ben Hiott via certified mail return receipt requested which he received on March 21, 2013. In this letter, we requested a full accounting of Ms. Baker Brookshire's trust account, which we have not received. I have attached this letter for your convenience. Subsequently, Mr. Hiott called my office and we discussed what my intentions were with regards to meeting with him in the near future. I informed him that Ms. Baker Brookshire opened her account on June 29, 2007 with an opening balance of $1,172,450.39. Approximately thirteen days after the account had been opened, a miscellaneous debit in the amount of $500, 000 was withdrawn as a counter withdrawal by Ben Hiott, who had Power of Attorney over Ms. Baker Brookshire's trust account at the time. I have attached both the handwritten debit transaction form and the Power of Attorney for your convenience. During our phone call, Mr. Hiott assured me that the $500,000 miscellaneous debit was used to purchase annuities in Jordan and Laura Ann Blackwell's names from Nationwide Insurance Company. I have since checked with Nationwide and they have no records of any annuities in these names.

On May 7, 2013, I, along with Billy Tabor of Tabor Investigative and Consulting Services, met with Ben Hiott at his office. I asked for an explanation and any paperwork connected with the $500,000 miscellaneous debit that was made on July 12, 2007. Mr. Hiott relayed to us that he wrote a check to Mr. Holcombe of Holcombe Insurance Agency in Easley, SC and that Mr. Holcombe in turn purchased two annuities in the names of Jordan Taylor

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Blackwell and Laura Ann Elizabeth Blackwell from Lafayette Life Insurance Company. I asked for a copy of the check and any paperwork that is related to these annuities and have yet to receive any documents.

At this time, we are, once again, requesting a full accounting of Ms. Baker Brookshire's previously held trust account at your client's institution. Please forward me a bill for any reasonable copying charges that this request may incur.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact me.

With warm regards, I am

W. Barney Giese

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EXHIBIT

U

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Information requested:

Account of amounts and purpose of Debi's withdrawls from her BB&T account(s)

Copy of her tax returns since 2009

Copy of her DSS reports

Asked her to be drug tested

Glese-CFB 1263

EXHIBIT

V

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In the Matter Of:

Brookshire, Debi Baker v
Community First Bank, Inc., et al

Joseph Crosby - Videotape

April 29, 2016

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Q Of this alleged loan that Ms. Brookshire allegedly gave you --

A Sure.

Q -- did you ever sign any paperwork involving the loan?

A No.

Q Did you ever see any paperwork involving this alleged loan?

A Just him -- you know, just what we was looking at now, yeah. No. We didn't sign like a, you know, like a note, no. No.

Q So you never signed a note. You never saw paperwork.

Did you ever meet Ms. Brookshire?

A No.

Q Never -- ever speak with her?

A No.

Q All right. Now, you had numerous other loans, and I'm going to go over those --

A Sure.

Q -- at some point.

But of those other loans that you -- that you had through the banks and through whoever, did you ever not sign paperwork for any of those loans?

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM OCONEE COUNTY
Court of Common Pleas

J. Cordell Maddox, Jr., Circuit Court Judge

RECEIVED
JAN 22 2020
SC Court of Appeals

Case No. 2014-CP-37-00526
Appellate Case No. 2019-000614

Debi Baker Brookshire,

Appellant,

v.

Community First Bank and
Benjamin Hiott,

Defendants,

Of Which, Community First
Bank is

Respondent.

RECORD ON APPEAL
Volume III of III

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ATTORNEYS FOR RESPONDENT

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EXHIBIT W

THE GIESE LAW FIRM, LLC
1315 BLANDING STREET
COLUMBIA, SC 29201
803-708-6767

W. BARNEY GIESE, ESQ.
KEITH GIESE, ESQ.
KELLY L. GIESE, ESQ.
JUSTIN M. KATA, ESQ.
RENAE ALT-SUMMERS, ESQ.

ELECTRONICALLY FILED - 2016 Dec 09 4:58 PM - OCONEE - COMMON PLEAS - CASE#2014CP3700526

August 19, 2013
VIA CERTIFIED MAIL RETURN-RECEIPT REQUESTED

James Louis Williams, Esq.
Derrick Ritter Williams & Morris PA
107 North Fairplay Street
Seneca, SC 29678

Re: Debi Baker Brookshire/Community First Bank
Account Number: 3007019550

Dear Mr. Williams:

Thank you for sending us the information regarding Mrs. Brookshire's trust account previously held at your institution. After reviewing the contents and discussing the information with Mrs. Brookshire, Mrs. Brookshire adamantly denies any knowledge or involvement in the $500,000.00 unsecured loan to Joseph C. Crosby, Jr. also known as "Coach."

I understand the bank's position with regards to Mr. Hiott and his employment in regards to the Power of Attorney. As I expressed in my previous letter, my investigator Billy Tabor and I spoke personally with Mr. Hiott on May 7, 2013, and he informed us that the miscellaneous debit of $500,000.00 was used to purchase two annuities for Jordan Taylor Blackwell and Laura Ann Elizabeth Blackwell from Lafayette Life Insurance Company. Mr. Hiott relayed to us that he wrote a check to Mr. Holcombe of Holcombe Insurance Agency in Easley, SC and Mr. Holcombe purchased the annuities. After receiving the $500,000.00 cashier's check to Joseph C. Crosby, Jr., we have determined the statement was false. We now have grave concerns about the money disbursed out of Mrs. Brookshire's trust account with your client.

A further review of the material sent to us has revealed at least $1,089,200.00 in miscellaneous debits, a chart of which we have attached for your convenience. (Chart 1) We are requesting from Community First Bank any and all documents related to these transactions.

Our investigation also revealed at least $600,800.00 in what has been described in Mrs. Brookshire's bank statements as "investment counter withdrawals." We would like an explanation of what an "investment counter withdrawal" entails and would at this time request

any and all documents related to these transactions. We have attached a chart for your convenience. (Chart 2)

We would also like to request any and all records of deposits and the source of the deposits that concern Mrs. Brookshire's trust account. We believe Mrs. Brookshire is entitled to all of the above stated documents as a previous account holder of the bank.

Furthermore, the documents you provided to my office included all of Mrs. Brookshire's bank statements up to November 1, 2010. Mrs. Brookshire's trust account was closed on February 22, 2011 and a check was paid to Mrs. Brookshire in the amount of $285,233.34. At this time we would like to request those missing monthly statements from November 1, 2010 to February 22, 2011. The reason for needing these statements is that as of November 1, 2010, Mrs. Brookshire's trust account had a balance of $0.00. On February 22, 2011, she received a check for $285,233.34. We need to be able to justify where those funds came from.

Please forward me a bill for any reasonable copying charges that this request may incur. Thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact me.

With warm regards, I am

W. Barney Giese

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CHART 1

DATE	DEBIT	AMOUNT
07/12/2007	Miscellaneous Debit	$500,000.00
09/19/2007	Miscellaneous Debit	$10,000.00
09/19/2007	Miscellaneous Debit	$50,000.00
10/31/2007	Miscellaneous Debit	$50,000.00
11/28/2007	Miscellaneous Debit	$200,000.00
12/18/2007	Miscellaneous Debit	$40,000.00
02/07/2008	Miscellaneous Debit	$5,000.00
05/05/2008	Miscellaneous Debit	$150,000.00
10/24/2008	Miscellaneous Debit	$3,500.00
12/05/2008	Miscellaneous Debit	$10,000.00
12/17/2008	Miscellaneous Debit	$16,500.00
12/17/2008	Miscellaneous Debit	$21,500.00
03/30/2009	Miscellaneous Debit	$2,500.00
09/23/2009	Miscellaneous Debit	$5,000.00
12/30/2009	Miscellaneous Debit	$2,000.00
01/06/2010	Miscellaneous Debit	$1,200.00
03/03/2010	Miscellaneous Debit	$4,000.00
03/05/2010	Miscellaneous Debit	$1,500.00
05/17/2010	Miscellaneous Debit	$2,000.00
06/04/2010	Miscellaneous Debit	$12,000.00
06/14/2010	Miscellaneous Debit	$2,500.00
	TOTAL=	$1,089,200.00

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CHART 2

DATE	DEBIT	AMOUNT
11/14/2007	Investment Counter Withdrawal	$15,000.00
01/14/2008	Investment Counter Withdrawal	$20,000.00
01/17/2008	Investment Counter Withdrawal	$5,000.00
03/03/2008	Investment Counter Withdrawal	$8,000.00
03/13/2008	Investment Counter Withdrawal	$16,000.00
03/31/2008	Investment Counter Withdrawal	$20,000.00
04/10/2008	Investment Counter Withdrawal	$15,000.00
04/16/2008	Investment Counter Withdrawal	$57,000.00
06/16/2008	Investment Counter Withdrawal	$10,000.00
06/16/2008	Investment Counter Withdrawal	$35,000.00
06/23/2008	Investment Counter Withdrawal	$3,000.00
07/22/2008	Investment Counter Withdrawal	$12,000.00
07/25/2008	Investment Counter Withdrawal	$4,100.00
08/22/2008	Investment Counter Withdrawal	$5,000.00
09/15/2008	Investment Counter Withdrawal	$3,200.00
09/23/2008	Investment Counter Withdrawal	$10,000.00
10/10/2008	Investment Counter Withdrawal	$20,000.00
10/16/2008	Investment Counter Withdrawal	$3,500.00
10/28/2008	Investment Counter Withdrawal	$15,000.00
11/05/2008	Investment Counter Withdrawal	$3,000.00
11/06/2008	Investment Counter Withdrawal	$3,200.00
11/21/2008	Investment Counter Withdrawal	$10,000.00
12/26/2008	Investment Counter Withdrawal	$40,200.00
01/15/2009	Investment Counter Withdrawal	$7,500.00
01/27/2009	Investment Counter Withdrawal	$3,000.00
01/29/2009	Investment Counter Withdrawal	$2,000.00
02/19/2009	Investment Counter Withdrawal	$10,000.00
02/25/2009	Investment Counter Withdrawal	$7,500.00
04/15/2009	Investment Counter Withdrawal	$5,000.00
05/01/2009	Investment Counter Withdrawal	$5,000.00
05/14/2009	Investment Counter Withdrawal	$10,000.00
05/26/2009	Investment Counter Withdrawal	$5,000.00
06/05/2009	Investment Counter Withdrawal	$5,000.00
06/17/2009	Investment Counter Withdrawal	$2,500.00
06/24/2009	Investment Counter Withdrawal	$3,500.00
06/25/2009	Investment Counter Withdrawal	$2,000.00
06/30/2009	Investment Counter Withdrawal	$3,000.00
07/03/2009	Investment Counter Withdrawal	$2,500.00
07/08/2009	Investment Counter Withdrawal	$3,000.00
07/17/2009	Investment Counter Withdrawal	$4,000.00
07/20/2009	Investment Counter Withdrawal	$5,600.00
07/23/2009	Investment Counter Withdrawal	$2,500.00

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CHART 2

07/30/2009	Investment Counter Withdrawal	$3,000.00
08/05/2009	Investment Counter Withdrawal	$3,000.00
08/10/2009	Investment Counter Withdrawal	$2,000.00
08/17/2009	Investment Counter Withdrawal	$3,000.00
08/18/2009	Investment Counter Withdrawal	$2,000.00
08/25/2009	Investment Counter Withdrawal	$1,200.00
08/31/2009	Investment Counter Withdrawal	$1,000.00
08/31/2009	Investment Counter Withdrawal	$1,600.00
09/01/2009	Investment Counter Withdrawal	$1,000.00
09/04/2009	Investment Counter Withdrawal	$2,500.00
09/09/2009	Investment Counter Withdrawal	$2,500.00
09/09/2009	Investment Counter Withdrawal	$4,000.00
09/22/2009	Investment Counter Withdrawal	$3,500.00
10/02/2009	Investment Counter Withdrawal	$1,500.00
10/02/2009	Investment Counter Withdrawal	$3,200.00
10/05/2009	Investment Counter Withdrawal	$3,000.00
10/09/2009	Investment Counter Withdrawal	$2,500.00
10/15/2009	Investment Counter Withdrawal	$2,000.00
10/22/2009	Investment Counter Withdrawal	$1,500.00
10/26/2009	Investment Counter Withdrawal	$3,500.00
11/02/2009	Investment Counter Withdrawal	$2,500.00
11/06/2009	Investment Counter Withdrawal	$2,000.00
11/09/2009	Investment Counter Withdrawal	$3,000.00
11/16/2009	Investment Counter Withdrawal	$2,500.00
11/18/2009	Investment Counter Withdrawal	$500.00
11/18/2009	Investment Counter Withdrawal	$2,000.00
11/23/2009	Investment Counter Withdrawal	$2,000.00
12/14/2009	Investment Counter Withdrawal	$3,500.00
12/14/2009	Investment Counter Withdrawal	$5,000.00
12/17/2009	Investment Counter Withdrawal	$2,000.00
12/21/2009	Investment Counter Withdrawal	$4,000.00
12/23/2009	Investment Counter Withdrawal	$3,500.00
12/28/2009	Investment Counter Withdrawal	$3,500.00
12/30/2009	Investment Counter Withdrawal	$2,500.00
01/04/2010	Investment Counter Withdrawal	$2,500.00
01/08/2010	Investment Counter Withdrawal	$4,000.00
01/12/2010	Investment Counter Withdrawal	$20,000.00
01/14/2010	Investment Counter Withdrawal	$2,000.00
01/20/2010	Investment Counter Withdrawal	$2,500.00
01/26/2010	Investment Counter Withdrawal	$2,500.00
01/27/2010	Investment Counter Withdrawal	$2,000.00
01/29/2010	Investment Counter Withdrawal	$2,500.00
02/01/2010	Investment Counter Withdrawal	$2,500.00

CHART 2

02/05/2010	Investment Counter Withdrawal	$3,000.00
02/08/2010	Investment Counter Withdrawal	$4,000.00
02/09/2010	Investment Counter Withdrawal	$2,500.00
02/12/2010	Investment Counter Withdrawal	$2,500.00
02/17/2010	Investment Counter Withdrawal	$5,000.00
02/18/2010	Investment Counter Withdrawal	$2,500.00
02/22/2010	Investment Counter Withdrawal	$500.00
02/23/2010	Investment Counter Withdrawal	$3,000.00
02/25/2010	Investment Counter Withdrawal	$500.00
02/26/2010	Investment Counter Withdrawal	$5,000.00
03/12/2010	Investment Counter Withdrawal	$2,500.00
03/16/2010	Investment Counter Withdrawal	$2,500.00
03/17/2010	Investment Counter Withdrawal	$2,000.00
03/23/2010	Investment Counter Withdrawal	$2,000.00
03/25/2010	Investment Counter Withdrawal	$2,000.00
03/30/2010	Investment Counter Withdrawal	$1,500.00
04/05/2010	Investment Counter Withdrawal	$2,000.00
04/13/2010	Investment Counter Withdrawal	$4,000.00
04/14/2010	Investment Counter Withdrawal	$3,500.00
04/16/2010	Investment Counter Withdrawal	$2,000.00
	TOTAL=	$600,800.00

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EXHIBIT

X

THE GIESE LAW FIRM, LLC
1315 BLANDING STREET
COLUMBIA, SC 29201
803-708-6767

W. BARNEY GIESE, ESQ.
KEITH GIESE, ESQ.
KELLY L. GIESE, ESQ.
JUSTIN M. KATA, ESQ.
RENAE ALT-SUMMERS, ESQ.

ELECTRONICALLY FILED - 2016 Dec 09 4:59 PM - OCONEE - COMMON PLEAS - CASE#2014CP3700526

September 17, 2013
VIA CERTIFIED MAIL RETURN-RECEIPT REQUESTED

James Louis Williams, Esq.
Derrick Ritter Williams & Morris PA
107 North Fairplay Street
Seneca, SC 29678

Re: Debi Baker Brookshire/Community First Bank
Account Number: 300701950

Dear Mr. Williams:

I am writing to follow up on my letter dated August 19, 2013 with regards to documents requested by my firm on behalf of Mrs. Brookshire. Once again, we believe that Mrs. Brookshire is entitled to these documents as a former investor of your client, Community First Bank and at this time we would re-request the documents listed in the August 19, 2013 letter. Please let me know if you are willing to comply.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact me.

With warm regards, I am

W. Barney Giese

EXHIBIT

Y

THE GIESE LAW FIRM, LLC
1315 BLANDING STREET
COLUMBIA, SC 29201
803-708-6767

W. BARNEY GIESE, ESQ.
KEITH GIESE, ESQ.
KELLY L. GIESE, ESQ.
JUSTIN M. KATA, ESQ.
RENAE ALT-SUMMERS, ESQ.

ELECTRONICALLY FILED - 2016 Dec 09 4:58 PM - OCONEE - COMMON PLEAS - CASE#2014CP3700526

October 17, 2013
VIA CERTIFIED MAIL RETURN-RECEIPT-REQUESTED

James Louis Williams, Esq.
Derrick Ritter Williams & Morris PA
107 North Fairplay Street
Seneca, SC 29678

Re: Debi Baker Brookshire/Community First Bank
Account Number: 300701950

Dear Mr. Williams:

I am writing to follow up on my letters dated August 19, 2013 and September 17, 2013(attached) with regards to documents requested by my firm on behalf of Mrs. Brookshire. We have yet to hear back from you and your client Community First Bank. Mrs. Brookshire deposited a very substantial sum of money into First Community Bank on June 29, 2007, pursuant to Senior Vice President Ben Hiott's recruitment. We have asked from your client for a full accounting as well as an entire copy of Mrs. Brookshire's file from date of creation to date of termination (see March 19, 2013 letter to Ben Hiott, attached). Once again, we believe that Mrs. Brookshire is entitled to these documents as a depositor in your bank. I fail to understand why these requests remain unanswered.

At this time we would re-request the documents listed in the August 19, 2013 and September 17, 2013 letters as well as a full accounting and an entire copy of Mrs. Brookshire's file from date of creation to date of termination. Please respond within one week of this letter if you are willing to comply.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact me.

With warm regards, I am

W. Barney Giese

Enclosure(s)

cc: Frederick D. Sheperd, Jr., President (via U.S. Mail)
James E. McCoy, Board of Directors, (via U.S. Mail)
Ben Hiott, Senior Vice President, (via U.S. Mail)

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THE GIESE LAW FIRM, LLC
1315 BLANDING STREET
COLUMBIA, SC 29201
803-708-6767

W. BARNEY GIESE, ESQ.
KEITH GIESE, ESQ.
JUSTIN M. KATA, ESQ.
KELLY L. GIESE, ESQ.

March 19, 2013
VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Ben Hiott, Senior Vice President
Community First Bank
3685 Blue Ridge Blvd.
Walhalla, South Carolina 29691

In re: Debi Baker Brookshire
Acct. No: 300701950

Dear Mr. Hiott:

Please be advised that this office has been retained to represent Ms. Debi Baker Brookshire. It has been brought to our attention that there are issues concerning a previous trust account held by Ms. Baker Brookshire at your financial institution and therefore, at this time, Ms. Baker Brookshire respectfully requests a copy of her entire file from the date of creation to the date of termination associated with the above referenced trust account. As stated in the Power of Attorney that was in place when Ms. Baker Brookshire had her trust account with First Community Bank, Ms. Baker Brookshire is entitled to a full accounting whenever a request is made by her or any authorized personal representative. Per your convenience, I have attached a copy of the Power of Attorney, entered into by Ms. Baker Brookshire on May 25, 2007, appointing Ben Hiott as her Agent. It states, "[m]y Agent shall provide an accounting for all funds handled and all acts performed as my Agent, if I so request or if such request is made by any authorized personal representative of fiduciary acting on my behalf."

Specifically, we are requesting all paperwork in relation to any and all "miscellaneous debits" on this trust account. We are aware that previous requests have been made to obtain these documents, the most recent request taking place on November 27, 2012, in which Tabor Investigative & Consulting Services, LLC faxed an "Authorization To Release Information" signed by Ms. Baker Brookshire along with a request for a meeting to discuss the $500, 000 miscellaneous debit that was made on July 12, 2007, attached hereto. Carol Wilson responded that the request had been furnished to the institution's attorney, however she did not know the name of that individual. Ms. Wilson said that she would seek out an answer to the request made by Tabor Investigative & Consulting Services, LLC. As of March 15, 2013, Tabor Investigative & Consulting Services is still waiting for an answer from both Ms. Wilson and Community First's counsel.

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Furthermore, I would like to request a meeting with Community First Bank's counsel and yourself in order to discuss Ms. Debi Baker Brookshire's previous account. Please contact my office at your earliest convenience to schedule a time and place.

Your assistance is greatly appreciated. Please forward me a bill for any reasonable copying charges that this request may incur. Please contact me when these documents are available for pick-up.

With warm personal regards, I am

Sincerely,

W. Barney Giese

Barney Giese

Enclosure(s)

cc: Frederick D. Shepherd, Jr., President (via U.S. Mail)
James E. McCoy, Chairman, Board of Directors (via U.S. Mail)
Carol Wilson (via U.S. Mail)

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ELECTRONICALLY FILED - 2016 Dec 09 4:58 PM - OCONEE - COMMON PLEAS - CASE#2014CP3700526

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W. BARNEY GIESE, ESQ.
KEITH GIESE, ESQ.
KELLY L. GIESE, ESQ.
JUSTIN M. KATA, ESQ.
RENAE ALT-SUMMERS, ESQ.

August 19, 2013

VIA CERTIFIED MAIL RETURN-RECEIPT REQUESTED

James Louis Williams, Esq.
Derrick Ritter Williams & Morris PA
107 North Fairplay Street
Seneca, SC 29678

Re: Debi Baker Brookshire/Community First Bank
Account Number: 300701950

Dear Mr. Williams:

Thank you for sending us the information regarding Mrs. Brookshire's trust account previously held at your institution. After reviewing the contents and discussing the information with Mrs. Brookshire, Mrs. Brookshire adamantly denies any knowledge or involvement in the $500,000.00 unsecured loan to Joseph C. Crosby, Jr. also known as "Coach."

I understand the bank's position with regards to Mr. Hiott and his employment in regards to the Power of Attorney. As I expressed in my previous letter, my investigator Billy Tabor and I spoke personally with Mr. Hiott on May 7, 2013, and he informed us that the miscellaneous debit of $500,000.00 was used to purchase two annuities for Jordan Taylor Blackwell and Laura Ann Elizabeth Blackwell from Lafayette Life Insurance Company. Mr. Hiott relayed to us that he wrote a check to Mr. Holcombe of Holcombe Insurance Agency in Easley, SC and Mr. Holcombe purchased the annuities. After receiving the $500,000.00 cashier's check to Joseph C. Crosby, Jr., his statement was false. We now have grave concerns about the money disbursed out of Mrs. Brookshire's trust account with your client.

A further review of the material sent to us has revealed at least $1,089,200.00 in miscellaneous debits, a chart of which we have attached for your convenience. (Chart 1) We are requesting from Community First Bank any and all documents related to these transactions.

Our investigation also revealed at least $600,800.00 in what has been described in Mrs. Brookshire's bank statements as "investment counter withdrawals." We would first like an explanation of what an "investment counter withdrawal" is and would at this time request any

and all documents related to these transactions. We have attached a chart for your convenience. (Chart 2)

We would also like to request any and all records of deposits and the source of the deposits that concern Mrs. Brookshire's trust account. We believe Mrs. Brookshire is entitled to all of the above stated documents as a previous account holder of the bank.

Furthermore, the documents you provided to my office included all of Mrs. Brookshire's bank statements up to November 1, 2010. Mrs. Brookshire's trust account was closed on February 22, 2011 and a check was paid to Mrs. Brookshire in the amount of $285,233.34. At this time we would like to request those missing monthly statements from November 1, 2010 to February 22, 2011. The reason for needing these statements is that as of November 1, 2010, Mrs. Brookshire's trust account had a balance of $0.00. On February 22, 2011, she received a check for $285,233.34. We need to be able to justify where those funds came from.

Please forward me a bill for any reasonable copying charges that this request may incur. Thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact me.

With warm regards, I am

W. Barney Giese

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THE GIESE LAW FIRM, LLC
1315 BLANDING STREET
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803-708-6767

W. BARNEY GIESE, ESQ.
KEITH GIESE, ESQ.
KELLY L. GIESE, ESQ.
JUSTIN M. KATA, ESQ.
RENAE ALT-SUMMERS, ESQ.

September 17, 2013
VIA CERTIFIED MAIL RETURN-RECEIPT REQUESTED

James Louis Williams, Esq.
Derrick Ritter Williams & Morris PA
107 North Fairplay Street
Seneca, SC 29678

Re: Debi Baker Brookshire/Community First Bank
Account Number: 300701950

Dear Mr. Williams:

I am writing to follow up on my letter dated August 19, 2013 with regards to documents requested by my firm on behalf of Mrs. Brookshire. Once again, we believe that Mrs. Brookshire is entitled to these documents as a former investor of your client, Community First Bank and at this time we would re-request the documents listed in the August 19, 2013 letter. Please let me know if you are willing to comply.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact me.

With warm regards, I am,

W. Barney Giese

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EXHIBIT

Z

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In the Matter Of:

Brookshire, Debi Baker v Community First Bank, Inc., et al

Donald G. Jones

August 25, 2016

A. William Roberts, Jr. and Associates
We're About Service. Fast, Accurate and Friendly
(800) 743-DEPO
www.scheduledepo.com



account.

A. Mm-hmm.

Q. At some point in December of 2013.

A. Mm-hmm.

Q. My office, after numerous attempts to get an accounting, full accounting, was delivered four binders of my client's account and paperwork. Were you involved in making those binders?

A. I believe -- I did not make up those binders, no. I was requested to give them copies of some of my research out of my work and binders, for them to use to do that with.

Q. So you never -- you never had any access to the binders is what you're saying?

A. I did not work on assembling any binders that I know of that you got.

Q. But you certainly would not have taken anything out of a binder?

A. No.

Q. Because you would have nothing to hide?

A. No. Mr. Shepherd -- from what went on in my presence, Mr. Shepherd was responsible for what was put in those binders or not. He was asking me for, you know, data to copy to respond to you. I knew he was doing that. And Jeff Griffith was

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working with him but it appeared to me, from the conversation that was going on right outside my door, that Mr. Shepherd was deciding what to put in the binders and what not to, not Jeff. I never did examine the binders or have anything to do.

Q. You said from the conversations you overheard that -- you just testified that Mr. Shepherd was determining what was to be put in the binders?

A. Yes.

Q. Not Jeff. And that's interesting you would mention that because there were certain transactions that were left out of the binder. Were you aware of that?

A. No.

Q. And, in fact, the transactions that were left out of the binder were the money -- one of them -- were you aware that one of the transactions was the $85,000 that went from my client's account into Mr. McCoy's account?

A. I did not have anything to do with assembling those binders, I did not see what they took in and out. I heard him say, well, put this in, we'll take that out.

Q. And that was Mr. Shepherd saying that?

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EXHIBIT

AA

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STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

COURT OF COMMON PLEAS

DEBI BAKER BROOKSHIRE,

Plaintiff,

VS.

CASE NO. 2014-CP-37-529

COMMUNITY FIRST BANK, INC., and BENJAMIN LEE HIOTT,

Defendants.

DEPOSITION OF:	JEFF GRIFFITH
DATE:	February 24, 2016
TIME:	9:06 AM
LOCATION:	Haynsworth Sinkler Boyd One North Main Street 2nd Floor Greenville, SC
TAKEN BY:	Counsel for the Plaintiff
REPORTED BY:	AMY R. COPE, Court Reporter

A. WILLIAM ROBERTS, JR., & ASSOCIATES
Fast, Accurate & Friendly

Charleston, SC (843) 722-8414	Hilton Head, SC (843) 785-3263	Columbia, SC (803) 731-5224
Greenville, SC (864) 234-7030	Myrtle Beach, SC (843) 839-3376	Charlotte, NC (704) 573-3919

A W R A. WILLIAM ROBERTS, JR. & ASSOCIATES (800) 743-DEPO
scheduledepo.com

interest on excess funds.

Q. Now, you're saying a reverse transaction is a situation where money goes from one account to another account and then back into the original account?

A. No, sir, it could. A reversal is a way to -- it's generally used to correct a mis-post. A reversal is talking about the source account. It originally was posted to this account. If it was in error, one method to correct it is to reverse that transaction from this account and the offset would post it to the account that it should have been posted to. That's generally its use --

Q. Now, if in fact, the money, hypothetically, of my client went into one of the bank's accounts, say the general ledger account, sat there for a while, gaining interest, making money for the bank and then was -- and then was -- my client was then sent back the money days later from a separate bank account, a separate ledger account, or one of your accounts that you have, not the one it originally went into, but a separate one, is that a reverse transaction?

A. -- I wouldn't call it a reversal.

Q. What would you call it, juggling?

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A. Yes, sir, I would call it juggling.
Q. And juggling is lawful or unlawful?
MS. BLACK: Object to the form.
THE WITNESS: My connotation of the term juggling is used when it's done in a lawful act.
BY MR. GIESE:
Q. So, in fact, if my client had $310,000 sent over to one bank account, it sat there a while and then $310,000 came back to her account from a separate bank account, you're saying your definition of that is juggling?
A. No, sir, I didn't say that.
Q. Yes, you did.
A. Well, if there was no valid reason for it, if there was nothing to support it, yes.
Q. Thank you. Let's talk about -- oh, do you -- $50,000, and I don't know if you know this or not, are you aware of the transaction that went from Debi Baker's account into Upstate Realty?
A. I think I've seen a copy of that transaction.
Q. And it was $50,000?
A. I don't recall the amount.
Q. Okay. Was there any connotation on

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In the Matter Of:

Brookshire, Debi Baker v Community First Bank, Inc., et al

Donald G. Jones

August 25, 2016

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35

A. (Witness moves head up and down.)

Q. Okay. Now, it sits there until January 7th of 2008 when $310,000, the exact same amount, comes from Account Number 1052201, which is a state -- the State County Municipal Securities Account. So the amount of money goes into this account with Banker's Bank, eight days later the same amount comes back from a different Community First bank account. This one is the State County Municipal Securities --

A. It was one of the investment securities accounts.

Q. Right. And then three months later, almost four months, on March 31, 2008 that same amount of money goes from the account -- the Banker's Bank account into 1052201 account. So it goes from my client's account to Banker's Bank, and then eight days later a different account, $310,000 goes back into my client's account. Then four months later money goes from Banker's Bank account to the account that my client got paid back from.

A. So is this a net disbursement for your client's account?

Q. No. My question is this. That's not a reverse transaction, is it?

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A. It's a juggling -- no. He's moving, hiding money from one place to the other, juggling.

Q. But clearly Community First Bank got the use of my client's money when he put it into Banker's Bank?

A. Yeah. It would have been in their account.

Q. Yeah. She didn't have it, they had it?

A. But it was put back.

Q. Later?

A. Later, yeah. That's right. I guess you could call it a -- improper transfer.

Q. Thank you. All right. If you could go down to the next one, it says Keith Norton $5,000. Do you have any idea who Keith Norton is?

A. I do not.

Q. Okay. Next one, Marc Hiott, $13,651. Who is Marc Hiott, to your knowledge?

A. Marc Hiott is another one of Ben Hiott's brothers.

Q. Okay. And that total was $3,651?

A. Yeah. Yes.

Q. If you would look at the next one, Sterling Currency Group $570. Do you have any idea what the sterling currency group is?

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EXHIBIT CC

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In the Matter Of:

Brookshire, Debi Baker v Community First Bank, Inc., et al

Donald G. Jones

August 25, 2016

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Hiott her POA, it says he could be paid fees.

Q. And I'm not asking you that.

A. Yeah, that's what I say. Some of this could be fees, some might not.

Q. Yeah. I'm just asking. You found $31,550 of my client's account money went into Ben Hiott -- or went to Ben Hiott over that three-year period.

A. Mm-hmm.

Q. Okay. If you go down to the next line, Ben -- it says Ben L. Hiott, $2500 of my client's money went into -- went to Ben L. Hiott; correct?

A. Personal account, yes.

Q. The next line, Benjamin L. Hiott, $3500 of my client's money went into Benjamin L. Hiott's account; correct?

A. Yes.

Q. The next line, Ben Wilson and Karen E. Shepherd. At this point you believe that $1360 of my client's money went into Ben Wilson and Karen E. Shepherd's account; correct?

A. It did.

Q. And who are Ben Wilson and Karen E. Shepherd?

A. Karen E. Shepherd is Fred Shepherd's

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wife.

Q. And Fred Shepherd is the -- or was the CEO of Community First Bank?

A. That's correct.

Q. Okay. The next -- the next --

A. And Ben Wilson would be Karen Shepherd's son and Fred's stepson.

Q. Right. But they had a joint account?

A. Yes.

Q. Thank you. All right. Next -- the next --

A. Let me say one other thing on this.

Q. Yeah.

A. Subsequent to that -- trying to think of where I have this. I got some information on this that -- that this was supposed to be a purchase of stock. This was related to a purchase of stock. I have some other information on somewhere, I remember -- I can't remember the context it came up in. But I can't say whether it was a valid transaction or not.

Q. Right. But you know for a fact that $1360 of my client's money went into that account. Whether it was for a good purpose or not, it went into that account?

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EXHIBIT

DD

In the Matter Of

Brookshire, Debi Baker v Community First Bank, Inc., et al

Frederick D. Shepherd, Jr. REDACTED

June 27, 2016

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35 YEARS

comes back from a different account of the bank into my client's account, you weren't aware of that?

MR. KNOWLTON: Same objection.

THE WITNESS: No, sir.

BY MR. BARNEY GIESE:

Q. So were you aware that a transaction that occurred on 2/29/08, which was $8,500 that went from my client's account to Mark Hiott's CFB account, was also not included, were you aware that wasn't included?

A. No, sir.

Q. All right. Do you know who Mark Hiott is?

A. I believe that's Ben Hiott's brother.

Q. Is he a Realtor?

A. No, he's -- I believe he has a small printing company.

Q. Hilltop?

A. I think that's it.

Q. I get his brothers mixed up. So you're not aware that on 3/13/08 a transaction in the amount of $2,224 went from Debi Baker Brookshire's account to account number 1222001, which is y'all's miscellaneous accounts receivable, y'all being CFB,

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and that that money -- some of that money was then transferred into someone's account named David Wilson?

MR. KNOWLTON: Same objection.

BY MR. BARNEY GIESE:

Q. Were you aware of that -- I'm sorry, Ben Wilson, I apologize, Ben Wilson?

A. No, sir.

Q. Do you know who Ben Wilson is?

A. I'm not sure, but that might be my stepson.

Q. Yes. You didn't know that that was not turned over to us?

A. No.

Q. Any reason why you think that that wasn't turned over to us? Can you think of any reason?

A. No, I don't. How much was the money?

Q. $2,224 went from my client's account into account number 1222001, which is a bank account, one of y'all's bank accounts.

A. I understand.

Q. And then $1,288 approximately of that money went into David Wilson -- I'm sorry, I don't know why I keep saying David, Ben Wilson's account.

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EXHIBIT
EE

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Gary Areheart

From: Knowlton, Bob <bknowlton@hsblawfirm.com>
Sent: Monday, December 15, 2014 6:24 PM
To: Gary Areheart
Subject: RE: $85,000

Gary,

Thanks for your help with this. Bob

Haynsworth Sinkler Boyd, PA
ATTORNEYS AND COUNSELORS AT LAW

Robert Y. Knowlton | Attorney | Haynsworth Sinkler Boyd, P.A.
1201 Main Street, 22nd Floor (29201) | Post Office Box 11889 (29211) | Columbia, South Carolina
Phone: 803.779.3080 | Fax: 803.765.1243 | Direct: 803.540.7843 | Mobile: 803.429.4485
website | bio | vCard | map | email

From: Gary Areheart [mailto:gary-areheart@sc.rr.com]
Sent: Monday, December 15, 2014 6:00 PM
To: Knowlton, Bob
Subject: $85,000

Bob,

Attached are the entries and documents associated with the $85,000 debited from the Brookshire account.

Gary A. Areheart
Palmetto Consulting Services, Inc.
Phone - (803) 788-8963
Fax - (803) 788-9810

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July 18, 2008 – BLH creates Official Check #70005131 in the amount of $85,000.00 payable to Blue Ridge Bank of Walhalla, remitter line Acct [redacted]913 MPS Golf Operating Acct. No account has been debited, nor has a credit been run to recognize the Bank's liability for the check.

July 21, 2008 – Official Check #70005131 is deposited at BRB into account #[redacted]913 MPS Golf Operating Acct.

July 22, 2008 - Original of check is received in cash letter and is paid with offsetting credit to a GL Due from Bank account. No documents attached. Purchase copy of check (Credit Memo) and debit entry to pay for it have still not run.

July 25, 2008 – Purchase copy of check (Credit Memo) is processed, offset by a debit to General Ledger account [redacted]1001 Accrued Interest – US Agencies.

November 25, 2008 – BLH processes on BLOCK: 0078 electronic entries (all effective dated November 1, 2008) to

DR account [redacted]650 of Debbie Brookshire for $85,000.00

CR account [redacted]00037 of Jim McCoy for $85,000.00

DR account [redacted]00037 of Jim McCoy for $85,000.00 and

CR GL acct [redacted]1001 Accrued Interest – US Agencies for $85,000.00

November 26, 2008 – BLH processes paper tickets to DR account [redacted]00037 of Jim McCoy for $85,000.00 and CR GL acct [redacted]1001 Accrued Interest – US Agencies for $85,000.00 (this was done, apparently, to make it appear that Official Check #70005131 was paid for by Jim McCoy). However, in reality the net effect of these transactions is to use $85,000.00 of Brookshire's money to purchase Official Check #70005131 (via GL account [redacted]1001 Accrued Interest – US Agencies).

December 30, 20087 – BLH debits the Falcon's Lair Credit Card Sales account #[redacted]2568 and credits Jim McCoy's account #[redacted]00037 each for $85,000.00, zeroing out the effect on McCoy's account #[redacted]00037. The source of this $85,000.00 was a Community First Bank loan proceeds check (McCoy $2,000,000 loan) that was deposited to the Falcon's Lair Credit Card Sales account on December 17, 2008.

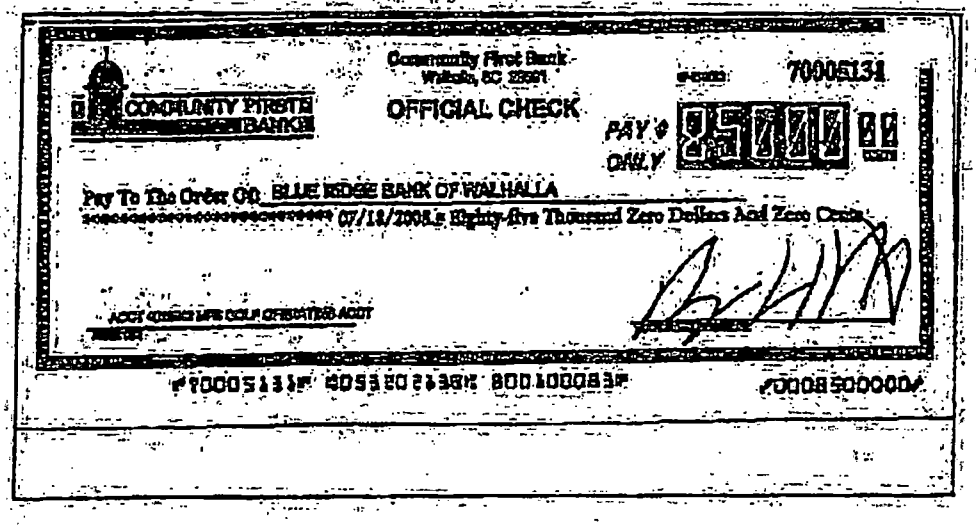
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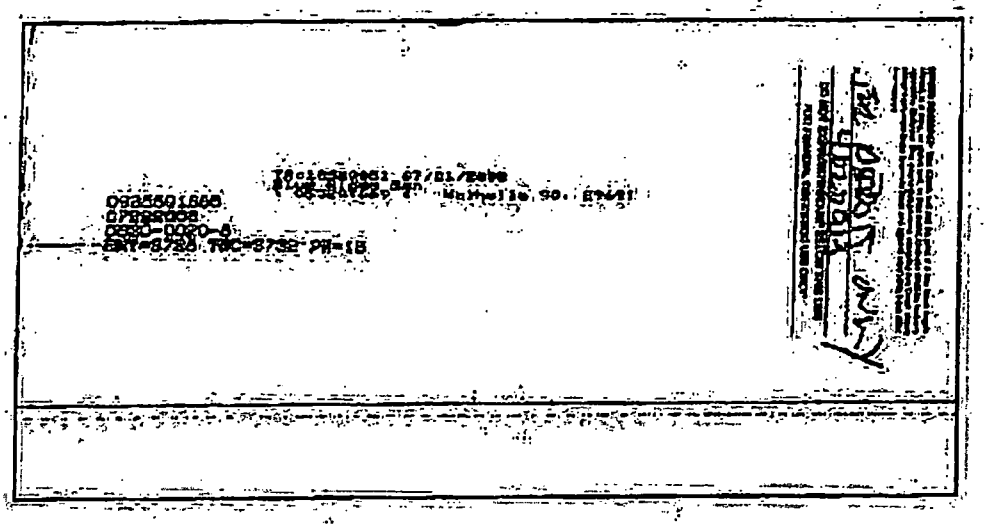
Research Item Print 11/25/08 12:25 Page: 1

Processing Date: July 02, 2008

Sequence: 980000028430
Orig. Sequence: 100000008766480
Postat: 3
ECR: D

Serial: 70005131
Routing: 053202130
Account: 6031000833
Transcode: 68
Amount: $ 85,000.00

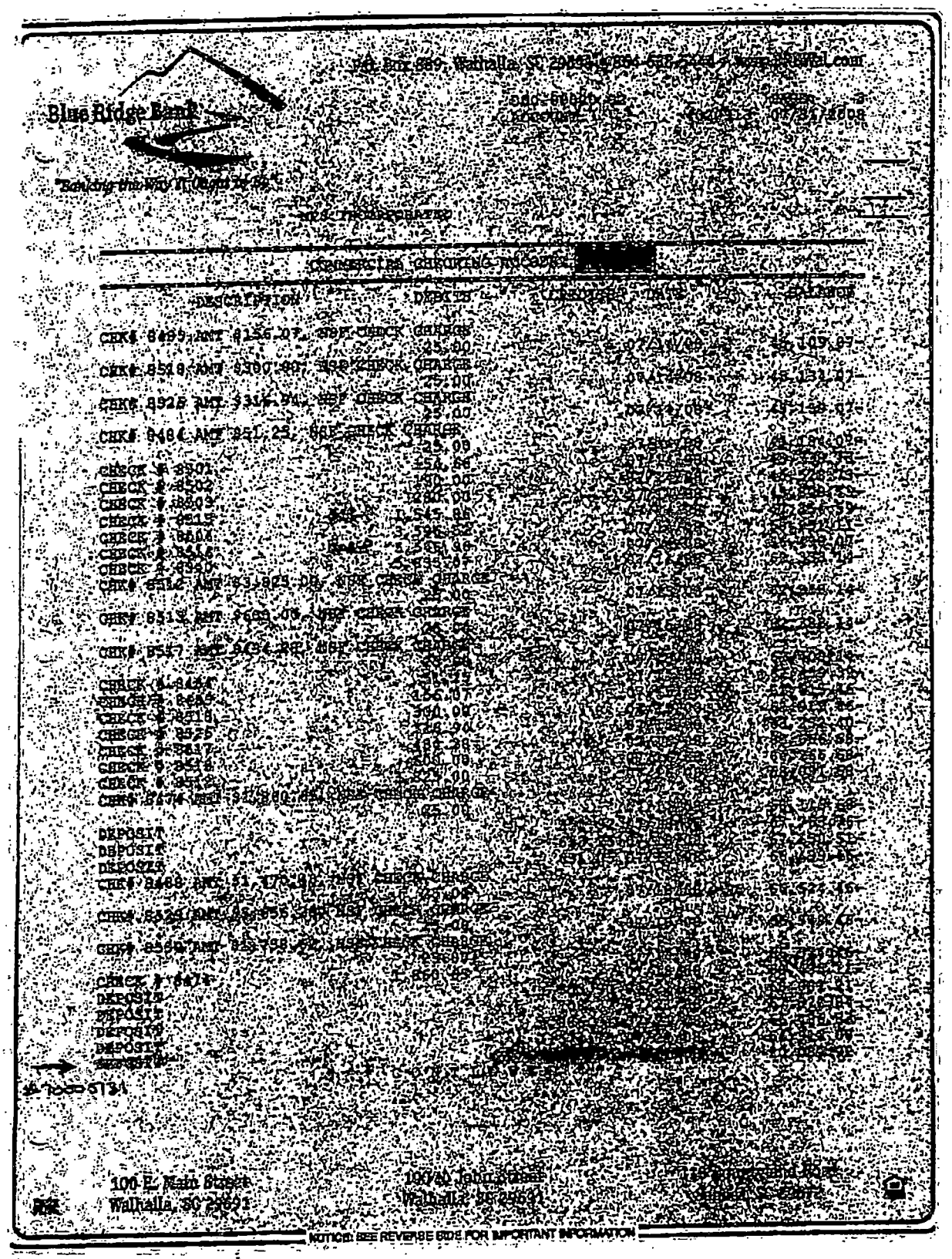


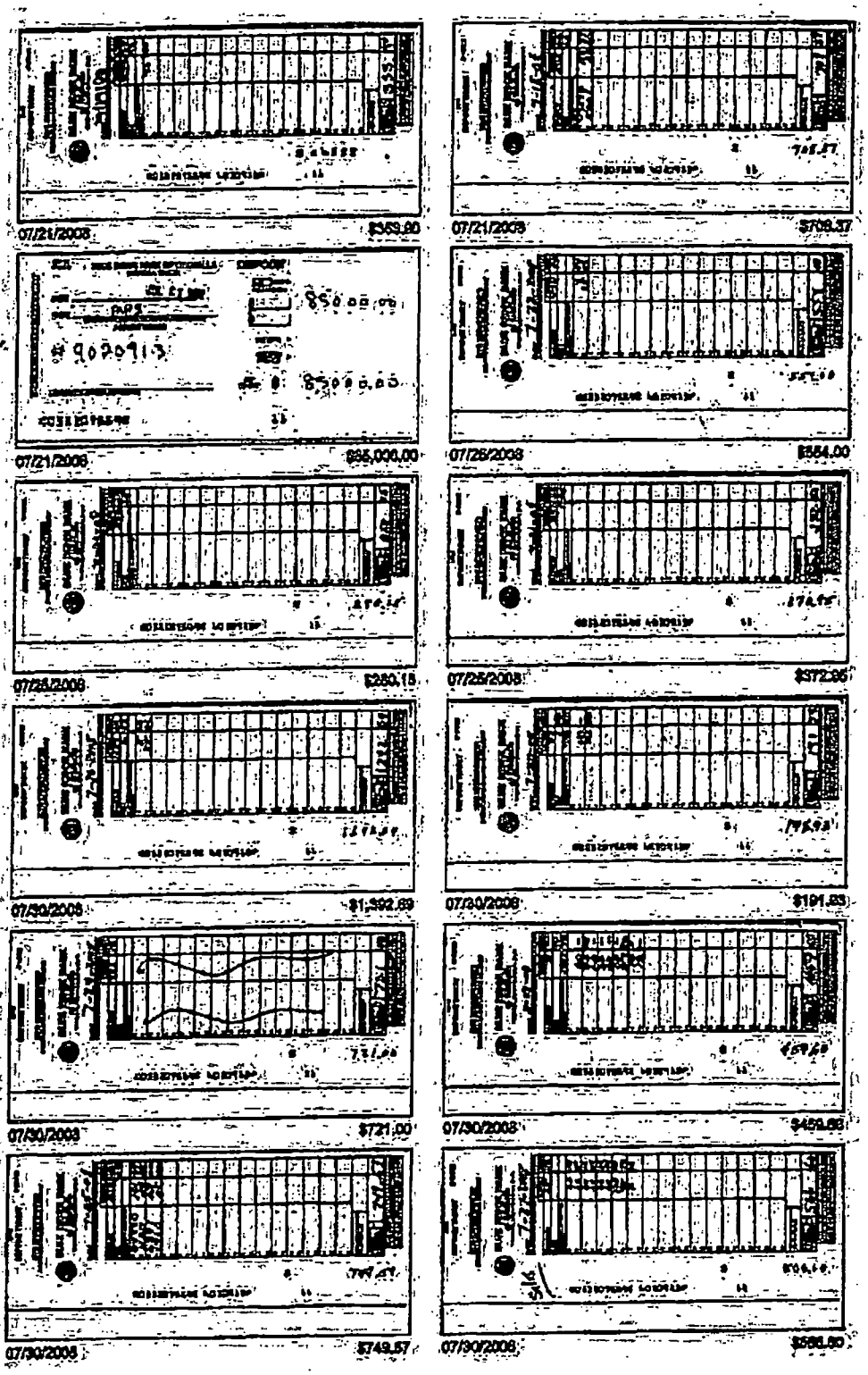


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BLUE RIDGE BANK OF WALHALLA
WALHALLA, SC 29691

DEPOSIT

DATE JUL 21 2008

NAME MPS

ACCOUNT NUMBER [redacted]

$85000.00

NET DEPOSIT $ 85000.00

⑆053207669⑆ 11

$85,000.00

07/21/2008

Community First Bank
Walhalla, SC 29691

COMMUNITY FIRST® BANK

OFFICIAL CHECK

70005131

PAY $ 85000.00 ONLY

Pay To The Order Of BLUE RIDGE BANK OF WALHALLA 07/18/2008 ** Eighty-five Thousand Zero Dollars And Zero Cents

ACCT [redacted] MPS GOLF OPERATING ACCT

⑈70005131⑈ ⑆053202150⑆ 800100083⑈

$85,000.00

07/21/2008

GRB Records

E 48

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Research Item Print 11/26/08 11:38 Page: 1

Processing Date: July 25, 2008

Sequence: 97071004640
Orig. Sequence: 71000004640-003
Pocket: 2
Desk: C

Serial: 70005131
Routing: 053202130
Account: 800100083
Transcode: 13
Amount: $ 25,000.00

Community First Bank
OFFICIAL CHECK

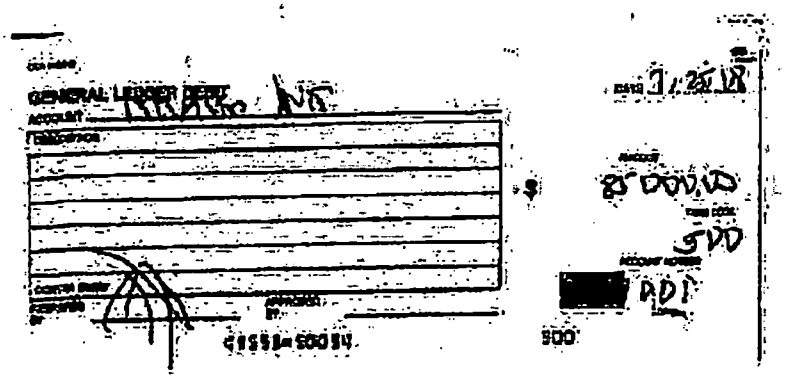
CREDIT MEMO

Item Number	70005131		Amt:	$ 25,000.00	Fee:	0	0.00
Date:	07/25/2008	Time:	14:08	Loc:	07	Chan:	01-BRANCH
Payee:	[redacted]			Payee:	[redacted]		

⑈70005131⑈ ⑆053202130⑆ 800100083⑈ 210

07/25/2008 710000046405 >[illegible]

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Acct. Int - U.S. Agencies

ELECTRONICALLY FILED - 2016 Dec 09 4:58 PM - OCONEE - COMMON PLEAS - CASE#2014CP3700526

000 00007 03 PAGE: 1
ACCOUNT: 3007019509 11/28/2008
DOCUMENTS: 9

DEBI BAKER BROOKSHIRE TRUST
DEBI BAKER BROOKSHIRE TRUSTEE
[redacted] 30-0
8

AS PART OF THE ECONOMIC STABILIZATION BILL, A TEMPORARY INCREASE IN FDIC INSURACE COVERAGE IS EFFECTIVE IMMEDIATELY. COVERAGE RAISES TO $250,000 PER DEPOSITOR THROUGH DECEMBER 31, 2009

PERFORMANCE INVESTMT ACCOUNT [redacted]

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
BALANCE LAST STATEMENT			10/31/08	284,407.05
DS TRF	85,000.00		11/01/08	199,407.05
CELLANBOUS DEBIT	27,708.15		11/03/08	171,698.90
INVESTMENT COUNTER WITHDRAWAL	16,560.00		11/03/08	155,138.90
INVESTMENT COUNTER WITHDRAWAL	167.98		11/05/08	154,970.92
INVESTMENT COUNTER WITHDRAWAL	3,000.00		11/05/08	151,970.92
INVESTMENT COUNTER WITHDRAWAL	46.99		11/06/08	151,923.93
INVESTMENT COUNTER WITHDRAWAL	3,200.00		11/06/08	148,723.93
BAKERANDBAKER BAKER DEPOSIT		5,433.76	11/14/08	154,157.69
		1,600.00	11/17/08	155,757.69
INVESTMENT COUNTER WITHDRAWAL	10,000.00		11/21/08	145,757.69
INVESTMENT COUNTER WITHDRAWAL	27,573.00		11/21/08	118,184.69
INTEREST		331.28	11/28/08	118,515.97
BALANCE THIS STATEMENT			11/28/08	118,515.97
TOTAL CREDITS (3)	7,365.04	AVG AVAILABLE BALANCE		145,722.70
TOTAL DEBITS (9)	173,256.12	AVERAGE BALANCE		145,779.84

C O N T I N U E D

DEBI BAKER BROOKSHIRE TRUST

PERFORMANCE INVESTMT ACCOUNT 300701950

- - - - - - - - - - I N T E R E S T - - - - - - - - - -

AVERAGE LEDGER BALANCE:	145,779.84	INTEREST EARNED:	331.28
AVERAGE AVAILABLE BALANCE:	145,722.70	DAYS IN PERIOD:	28
INTEREST PAID THIS PERIOD:	331.28	ANNUAL PERCENTAGE YIELD EARNED:	3.00%
INTEREST PAID 2008:	4,927.86		

- - - ITEMIZATION OF NSF PAID AND RETURNED ITEM FEES - - -

	THIS PERIOD	YEAR TO DATE
NSF PAID ITEM FEE:	.00	.00
NSF RETURNED ITEM FEE:	.00	.00
OVERDRAFT FEES:	.00	.00

ELECTRONICALLY FILED - 2016 Dec 09 4:58 PM - OCONEE - COMMON PLEAS - CASE#2014CP3700526

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PCS 000034

TEST = 000
REPORT: IRS ...0-EST 10.06.0
SYSTEM: 11/25/2008 18:56

COMMUNITY: 1 BANK
IVEU ENT: 0STEM
BLOCK LAYOUT:
BLOCK: 0078

PAGE 122
RUN DATE 25/2008
PROCESSED THRU: 11/25/2008

SEQUENCE	R/T-NUMBER	ACCOUNT-NUMBER	DATE	AMOUNT	CHECK-#	T/C	ENT	D E S C R I P T I O N
56.00*	0532-0213	1051301		491,279.51		500	05	VALUATION HTG BACK
57.00*	0532-0213	1040001		491,279.51C		400	06	VALUATION HTG BK
58.00*	0532-0213	10312501		1,365,174.66		500	05	VALUATION SCH
59.00*	0532-0213	2606001		1,365,174.66C		400	06	VALUATION SCH
60.00*	0532-0213	2606001		890,356.98		500	05	ENTRY FOR NOV
61.00*	0532-0213	1224201		890,356.98C		400	06	ENTRY FOR NOV
62.00*	0532-0213	000100406		40,031.00C		012	02	INSURANCE
63.00*	0532-0213	4064001		5,350.00		500	05	INSURANCE
64.00*	0532-0213	4064002		5,002.00		500	05	INSURANCE
65.00*	0532-0213	4064003		4,610.00		500	05	INSURANCE
66.00*	0532-0213	4064004		3,050.00		500	05	INSURANCE
67.00*	0532-0213	4064005		2,871.00		500	05	INSURANCE
68.00*	0532-0213	4064006		4,047.00		500	05	INSURANCE
69.00*	0532-0213	4064007		2,976.00		500	05	INSURANCE
70.00*	0532-0213	4064008		2,916.00		500	05	INSURANCE
71.00*	0532-0213	4064037		392.00		500	05	INSURANCE
72.00*	0532-0213	4064098		2,352.00		500	05	INSURANCE
73.00*	0532-0213	4064099		3,521.00		500	05	INSURANCE
74.00*	0532-0213	1047001		2,066,000.00		500	05	INCREASE IT SOLD
75.00*	0532-0213	1039001		2,066,000.00C		400	06	INCREASE IT SOLD
76.00*	0532-0213	3007801050	11/01/00	85,000.00		053	01	FUNDS TRF
77.00*	0532-0213	300200037	11/01/08	85,000.00C		012	02	FUNDS TRF
78.00*	0532-0213	1111001	11/01/08	45,000.00C		400	06	ERROR CORRECTION 11/01
79.00*	0532-0213	300200037	11/01/08	85,000.00		053	01	PRINT
80.00*	0532-0213	1051001		55,933.45C		400	06	FHLB OH PAYDOWNS
81.00*	0532-0213	1051201		268,933.00C		400	06	FHLB OH PAYDOWNS
82.00*	0532-0213	1171001		90,185.40C		400	06	INT ON PAYDOWNS
83.00*	0532-0213	1039001		417,011.93		500	05	SECURITIES ACTIVITY
84.00*	* AVAILABLE SLOT	* THRU SEQUENCE:	500.00					

Dali Bradshaw
Sec Mgr
Wells Fargo

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000 00002 03 PAGE: 1
ACCOUNT: 300200037 11/28/2008
DOCUMENTS: 2

CHARLOTTE B MCCOY
JAMES E MCCOY
[redacted]

30-0

AS PART OF THE ECONOMIC STABILIZATION BILL, A TEMPORARY INCREASE IN FDIC INSURACE COVERAGE IS EFFECTIVE IMMEDIATELY. COVERAGE RAISES TO $250,000 PER DEPOSITOR THROUGH DECEMBER 31,2009

PERFORMANCE INVESTMT ACCOUNT [redacted]

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
BALANCE LAST STATEMENT			10/31/08	49,888.92
EDS TRF		85,000.00	11/01/08	134,888.92
EBIT	85,000.00		11/01/08	49,888.92
DEPOSIT		37,000.00	11/26/08	86,888.92
MISCELLANEOUS DEBIT	85,000.00		11/26/08	1,888.92
INTEREST		59.15	11/28/08	1,948.07
BALANCE THIS STATEMENT			11/28/08	1,948.07
TOTAL CREDITS (3)	122,059.15	AVG AVAILABLE BALANCE		44,746.06
TOTAL DEBITS (2)	170,000.00	AVERAGE BALANCE		44,746.06

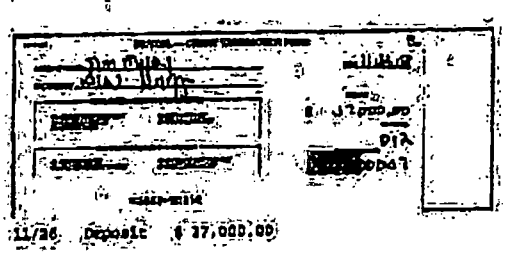
INTEREST

AVERAGE LEDGER BALANCE:	44,746.06	INTEREST EARNED:	59.15
AVERAGE AVAILABLE BALANCE:	44,746.06	DAYS IN PERIOD:	28
INTEREST PAID THIS PERIOD:	59.15	ANNUAL PERCENTAGE YIELD EARNED:	1.748
INTEREST PAID 2008:	862.51		

ITEMIZATION OF NSF PAID AND RETURNED ITEM FEES

	THIS PERIOD	YEAR TO DATE
NSF PAID ITEM FEE:	.00	.00
NSF RETURNED ITEM FEE:	.00	.00
OVERDRAFT FEES:	.00	.00

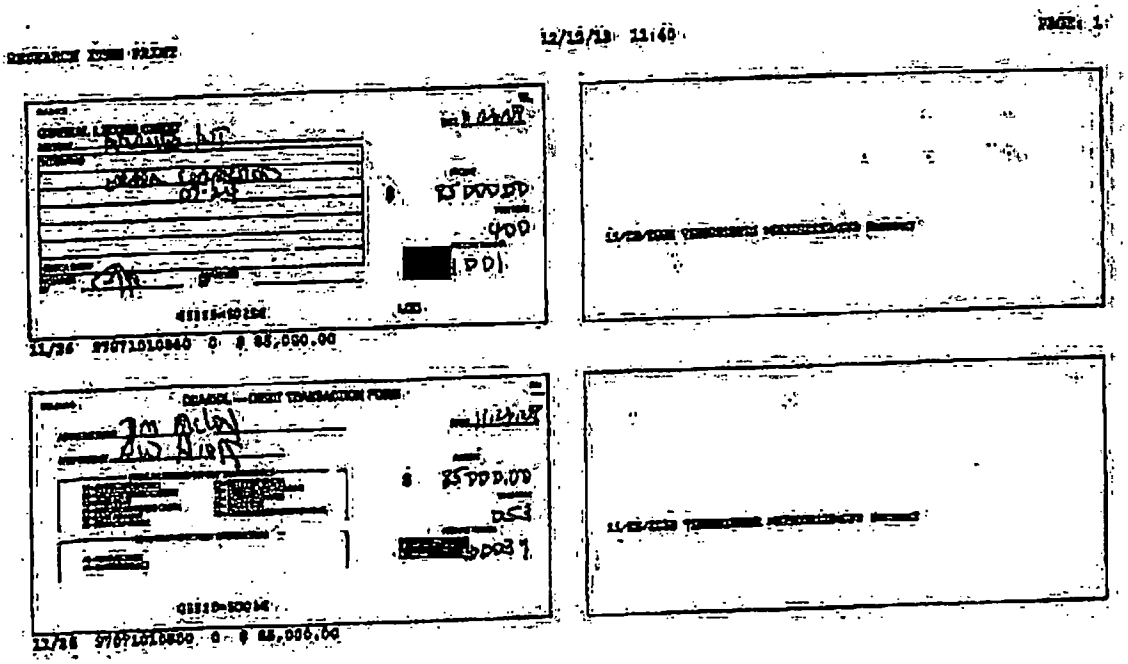
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CONFIDENTIAL

PCS 000036

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CONFIDENTIAL PCS 000037

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000 00002 03 PAGE 1
ACCOUNT: 300200037 12/31/2008
DOCUMENTS: 3

CHARLOTTE B MCCOY 30-0
JAMES E MCCOY 3
[redacted] 0

AS PART OF THE ECONOMIC STABILIZATION BILL, A TEMPORARY INCREASE IN FDIC INSURACE COVERAGE IS EFFECTIVE IMMEDIATELY. COVERAGE RAISES TO $250,000 PER DEPOSITOR THROUGH DECEMBER 31,2009

PERFORMANCE INVESTMT ACCOUNT [redacted]

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
BALANCE LAST STATEMENT			11/28/08	1,948.07
DEPOSIT		140.00	12/18/08	2,088.07
DEPOSIT From Credit Card Acct 5502125608		85,000.00	12/30/08	87,088.07
DEPOSIT		140.00	12/31/08	87,228.07
INTEREST		4.77	12/31/08	87,232.84
BALANCE THIS STATEMENT			12/31/08	87,232.84

TOTAL CREDITS	(4)	85,284.77	AVG AVAILABLE BALANCE	7,154.73
TOTAL DEBITS	(0)	.00	AVERAGE BALANCE	7,163.22

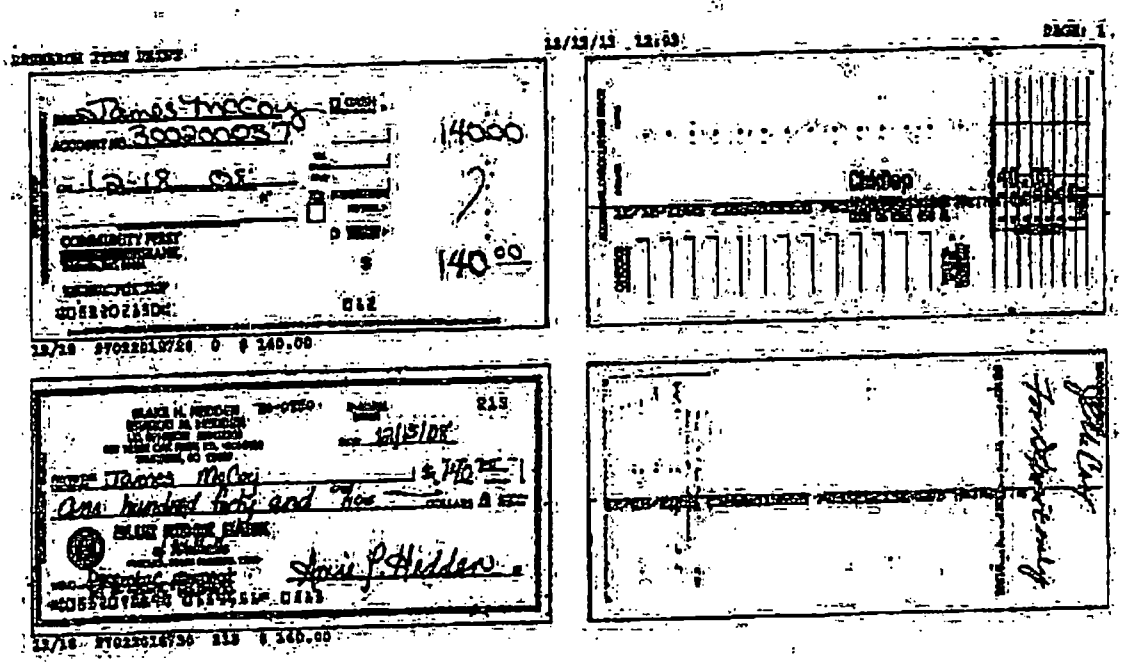
INTEREST

AVERAGE LEDGER BALANCE:	7,163.22	INTEREST EARNED:	4.77
AVERAGE AVAILABLE BALANCE:	7,154.73	DAYS IN PERIOD:	33
INTEREST PAID THIS PERIOD:	4.77	ANNUAL PERCENTAGE YIELD EARNED:	.76
INTEREST PAID 2008:	867.28		

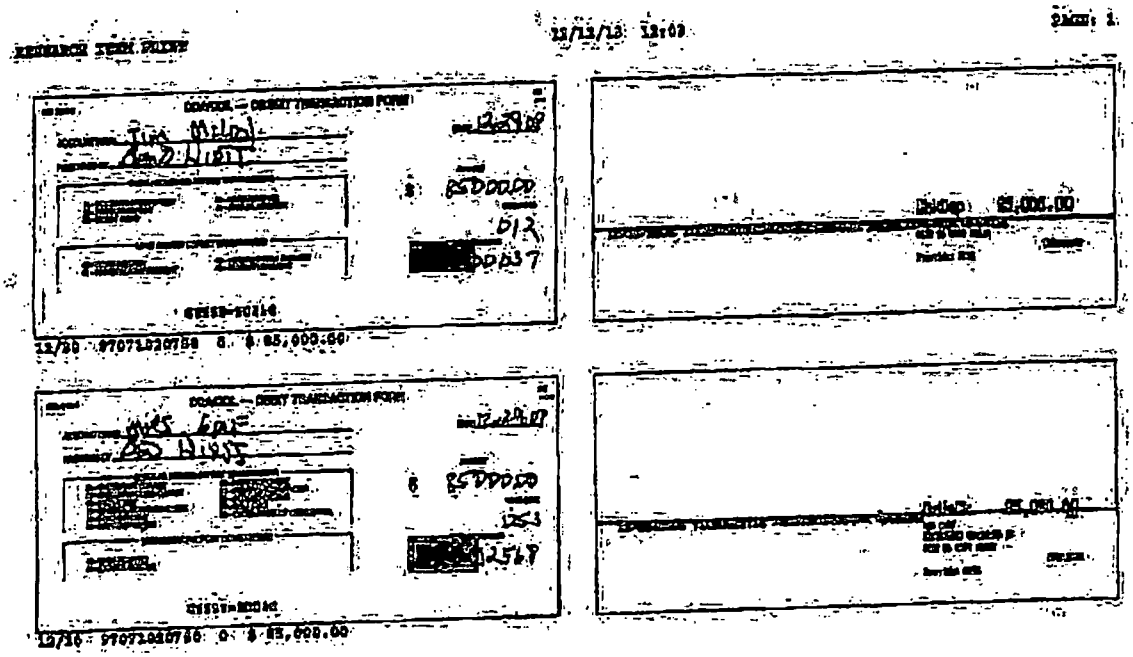
ITEMIZATION OF NSF PAID AND RETURNED ITEM FEES

	THIS PERIOD	YEAR TO DATE
NSF PAID ITEM FEE:	.00	.00
NSF RETURNED ITEM FEE:	.00	.00
OVERDRAFT FEES:	.00	.00

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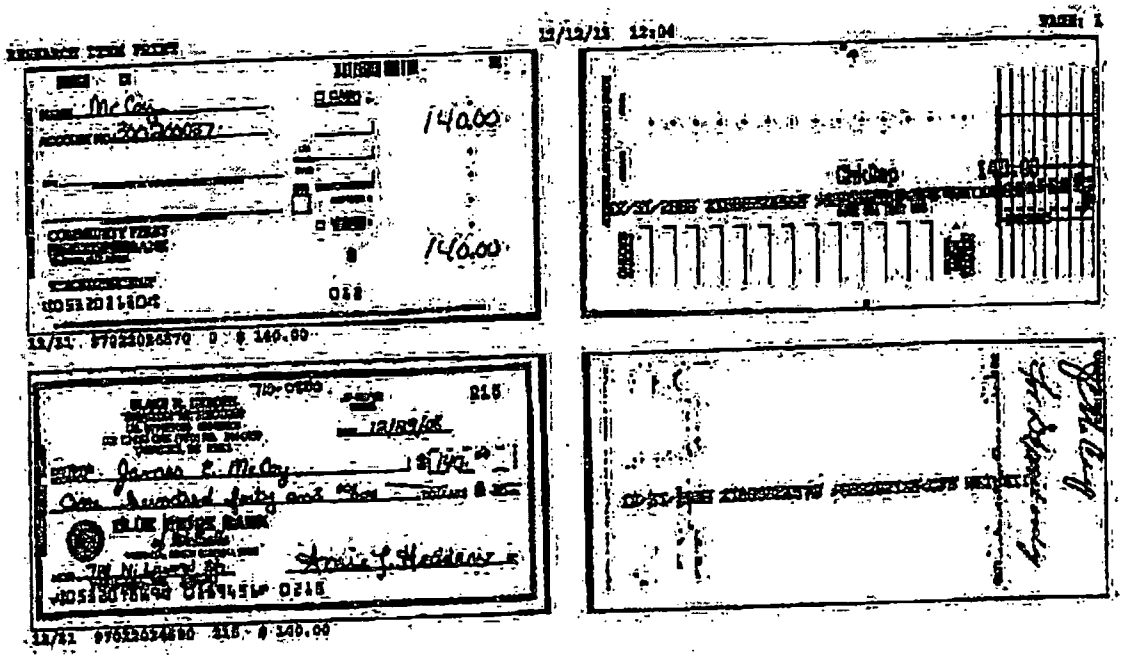
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000 00002 01 PAGE: 1
ACCOUNT: 500212568 12/31/2008
DOCUMENTS: 14

FALCON'S LAIR
CREDIT CARD SALES
[redacted] 30-0
13

AS PART OF THE ECONOMIC STABILIZATION BILL, A TEMPORARY INCREASE IN FDIC INSURACE COVERAGE IS EFFECTIVE IMMEDIATELY. COVERAGE RAISES TO $250,000 PER DEPOSITOR THROUGH DECEMBER 31,2009

BUSINESS CHKNG ACCOUNT [redacted]

		LAST STATEMENT 11/28/08	3,494.36
AVG AVAILABLE BALANCE	82,677.10	31 CREDITS	1,924,962.25
AVERAGE BALANCE	90,875.98	17 DEBITS	1,924,554.27
		THIS STATEMENT 12/31/08	3,902.35

DEPOSITS

REF #	DATE	AMOUNT	REF #	DATE	AMOUNT	REF #	DATE	AMOUNT
	12/17	1915,653.37						

Slip - check total

OTHER CREDITS

DESCRIPTION	DATE	AMOUNT
AMERICAN EXPRESS SETTLEMENT	12/01	21.28
AMERICAN EXPRESS SETTLEMENT	12/01	108.36
NPC MERCH DEP	12/01	380.10
NPC MERCH DEP	12/01	380.97
NPC MERCH DEP	12/01	2,280.57
AMERICAN EXPRESS SETTLEMENT	12/02	361.69
NPC MERCH DEP	12/03	29.50
AMERICAN EXPRESS SETTLEMENT	12/04	28.06
NPC MERCH DEP	12/04	104.50
NPC MERCH DEP	12/05	448.81
AMERICAN EXPRESS SETTLEMENT	12/08	42.57
NPC MERCH DEP	12/08	184.00
NPC MERCH DEP	12/09	87.00
AMERICAN EXPRESS SETTLEMENT	12/11	21.28

* * * C O N T I N U E D * * *

CONFIDENTIAL PCS 000042

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FALCON'S LAIR

BUSINESS CHKNG ACCOUNT 500212568

OTHER CREDITS

DESCRIPTION	DATE	AMOUNT
NPC MERCH DEP	12/11	34.00
NPC MERCH DEP	12/15	1,079.01
NPC MERCH DEP	12/16	146.85
NPC MERCH DEP	12/18	68.00
NPC MERCH DEP	12/19	358.00
NPC MERCH DEP	12/22	21.28
AMERICAN EXPRESS SETTLEMENT	12/22	287.60
NPC MERCH DEP	12/22	503.50
NPC MERCH DEP	12/23	157.00
NPC MERCH DEP	12/24	70.50
NPC MERCH DEP	12/26	176.00
NPC MERCH DEP	12/29	120.00
NPC MERCH DEP	12/29	1,186.46
NPC MERCH DEP	12/30	23.75
NPC MERCH DEP	12/30	72.56
AMERICAN EXPRESS SETTLEMENT	12/31	525.69
NPC MERCH DEP		

OTHER DEBITS

DESCRIPTION	DATE	AMOUNT	
CCP PREM-CCP	12/01	1,682.93	
NPC 3897 MERCH FEES	12/02	336.15	
MISCELLANEOUS DEBIT	12/15	4,000.00	Sec.O
DC ONE TIME PAY JDC DIRECT	12/16	1,183.80	
MISCELLANEOUS DEBIT	12/17	4,511.33	
FUNDS TRANSFER	12/17	1,642,609.05	
MISCELLANEOUS DEBIT	12/18	1,241.05	
MISCELLANEOUS DEBIT	12/18	1,795.80	
MISCELLANEOUS DEBIT	12/18	2,533.40	
MISCELLANEOUS DEBIT	12/18	6,643.34	BLB-P
MISCELLANEOUS DEBIT	12/18	12,375.11	BLB-O
MISCELLANEOUS DEBIT	12/18	27,085.15	BLB-O
MISCELLANEOUS DEBIT	12/23	1,600.00	
MISCELLANEOUS DEBIT	12/30	33,222.24	
MISCELLANEOUS DEBIT	12/30	85,000.00	
MISCELLANEOUS DEBIT	12/30	98,729.97	
MISCELLANEOUS DEBIT	12/31	4.95	
AMERICAN EXPRESS COLLECTION			

ITEMIZATION OF NSF PAID AND RETURNED ITEM FEES

	THIS PERIOD	YEAR TO DATE
NSF PAID ITEM FEE:	.00	.00
NSF RETURNED ITEM FEE:	.00	.00
OVERDRAFT FEES:	.00	.00

* * * C O N T I N U E D * * *

FALCON'S LAIR

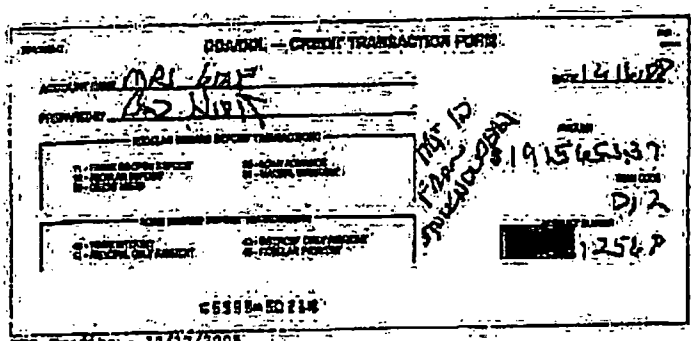
BUSINESS CHKNG ACCOUNT 500212568

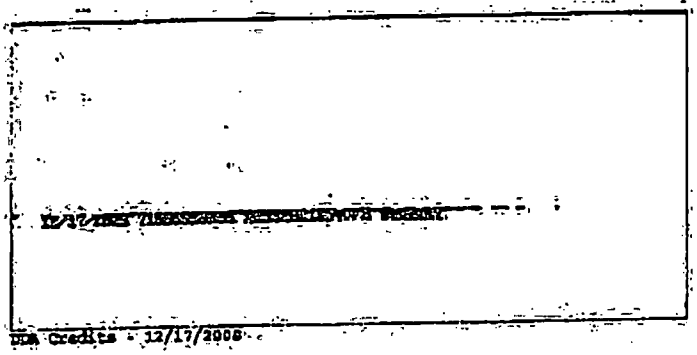
DAILY BALANCE

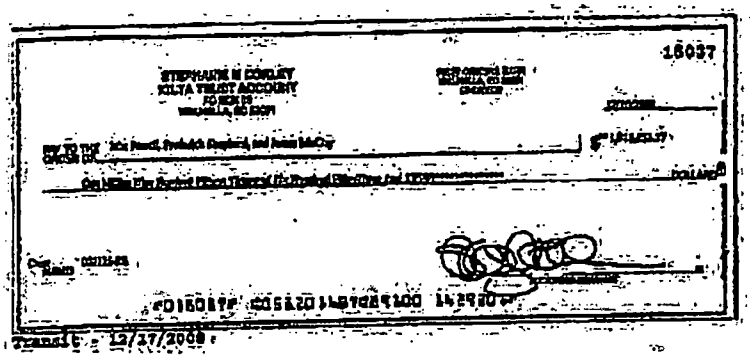
DATE	BALANCE	DATE	BALANCE	DATE	BALANCE
12/01	4,982.71	12/11	5,987.97	12/23	218,684.55
12/02	5,008.25	12/15	3,066.98	12/24	218,755.05
12/03	5,037.75	12/16	2,030.03	12/26	218,931.05
12/04	5,170.31	12/17	270,563.02	12/29	220,237.51
12/05	5,619.12	12/18	218,957.17	12/30	3,381.61
12/08	5,845.69	12/19	219,315.17	12/31	3,902.35
12/09	5,932.69	12/22	220,127.55		

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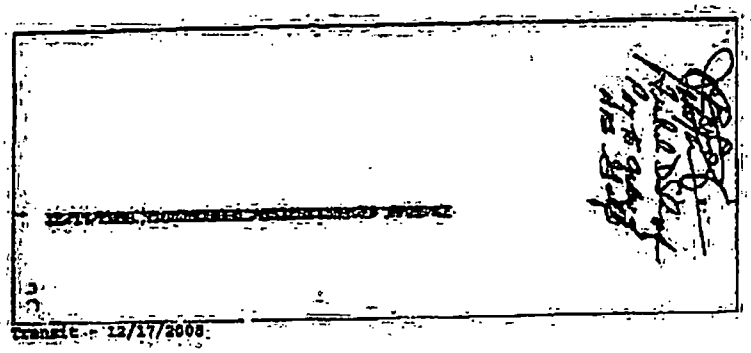


EXHIBIT FF

TRANSFER ONLINE, INC

513 SE SALMON STREET
PORTLAND, OR 97214
503.227.8950 503.227.6874
INFO@TRANSFERONLINE.COM WWW.TRANSFERONLINE.COM

TRANSACTION INVOICE

Billed To:
Community First Bancorporation
bhiott@c1stbank.com

Invoice Number: 184-425
Invoice Date: 08-05-2011
Transaction ID: 156-936
Transaction Date: 08-05-2011
Effective Date: 08-05-2011
Transaction Type: Transfer
Performed By: Carolyn Hall
Mail Carrier: Fedex

Transferred For Community First Bancorporation ID: 673

Canceled Common:

Certificate ID	Certificate	Name	Restriction	Shares
731-627	CFB 2814	Debi Baker Brookshire		508
831-811	CFB 3643	Debi Baker Brookshire		534
849-271	CFB 4390	Debi Baker Brookshire		5,300
653-937	CFB 6190	Debi Baker Brookshire		1,000
653-938	CFB 6191	Debi Baker Brookshire		139
672-430	CFB 6238	Debi Baker Brookshire		48
680-258	CFB 6243	Debi Baker Brookshire		621
683-560	CFB 6248	Debi Baker Brookshire		2,013
690-747	CFB 6253	Debi Baker Brookshire		2,121
693-110	CFB 6257	Debi Baker Brookshire		3,350
695-721	CFB 6965	Debi Baker Brookshire		403
704-116	CFB 7032	Debi Baker Brookshire		71
712-445	CFB 7042	Debi Baker Brookshire		410

Total Common Canceled: 16,518

Issued Common:

Certificate ID	Certificate	Name	Restriction	Shares
854-668	CFB 4400	Hilltop, Inc.		16,518

Total Common Issued: 16,518

Please Return This Portion With Payment

Invoice Amount: $20.00
Invoice Total: $20.00
Amount Paid: $0.00
Balance Due: $20.00 Payable Upon Receipt

Invoice Number: 184-425
Invoice Date: 08-05-2011
Transaction ID: 156-936
Canceled: 13
Issued: 1

184-425

** A 1% service charge per month will be applied to all outstanding invoices over 30 days **

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EXHIBIT GG

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In the Matter Of:

Brookshire, Debi Baker v Community First Bank, Inc., et al

Donald G. Jones

August 25, 2016

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35

You were concerned with Ben Hiott purchasing shares of stock -- Community First Bank stock with Community First Bank funds and then selling them to other people?

A. Yes.

Q. Tell me about that.

A. Well, in other words, he would use funds of Community First Bank to purchase stock from people. I have, like, an analysis of all this stuff of what went on in there. And then he would sell the stock to other people on occasion and then money could come in against it and -- in other words, it was sort of like running a brokerage book.

Q. Yeah. You mentioned something about that earlier.

A. The bank did not have investment brokerage powers. In other words, my concern was the -- is the bank in violation of banking laws and regulations to even be running -- running an account or a trading service on your own stock. I never did get a legal opinion on it or anything like that, but I was concerned about whether that was an authorized activity for the bank.

Q. And you made that aware -- you made that concern -- you made the bank aware of that concern

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EXHIBIT

HH

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Brookshire Expert Report
Kenneth Richey

I have been retained by counsel for the Plaintiff in the matter of Debi Baker Brookshire v. Community First Bank, Inc. and Benjamin Lee Hiott to provide an opinion on the issues stated in the Complaint.

In preparing my opinion, I have reviewed the following documents:

- Complaint
- Community First Bank 2013/2014 Internal Audit Report
- Community First Bank Consultation Report – Kraft CPAs.
- List of Transactions (21 pages)
- Redacted Minutes Community First Board of Directors
- General Power of Attorney
- Consent Confidentiality and Protective Order
- Frederick D. Shepherd, Jr. Deposition (electronic).

I am being paid $300.00 per hour for time spent reviewing, preparing and writing my opinions and $350 per hour for depositions and testimony.

My opinions are as follow:

1 - The *General Power of Attorney* created a conflict of interest for Community First Bank. Mr. Hiott's employment with as Senior Vice President and Chief Financial Officer of Community First Bank, would know that accepting this authority would cast both him and the Bank into a tenable position which it did. As a senior bank official, Hiott should have never represented both Community First Bank and Brookshire.

2 - Upon learning of the existence of this *General Power of Attorney*, the bank should have acted immediately to correct the Bank/Brookshire relationship created by the *General Power of Attorney* and her significant depository relationship. The Bank did not take corrective action and failed in their fiduciary responsibility to their Depositor/Customer.

3 - The July 12, 2007 Cashier's Check or Official Check for $500,000 and subsequent $300,000 transfer were not transactions that are not authorized in the *General Power of Attorney*. Since the Bank did not act to terminate the *General Power of Attorney*, it allowed such unauthorized and illegal activity to continue to occur and are now responsible for all of the Brookshire funds given to Joseph Crosby, Jr and others through the fraudulent Hiott transactions.

4 - The October 31, 2007 withdrawal of $50,000 transferred to Upstate Real Estate was not justifiable nor was it authorized by the *General Power of Attorney* and should have never been condoned by the Bank. These funds were moved via wire transfer. Proper controls would have had another officer of the Bank to approve the wire transfer since Hiott authorized the withdrawal from the Brookshire account. Hiott probably acted both sides of the transaction which indicates the Bank did not have proper controls in place to prevent fraudulent activity.

Giese-CFB 1815

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5 – The November 9, 2007 $2500 transfer from Brookshire to Hiott's own account at the Bank is indicative of why the Bank should never allow one of its staff to represent the Bank's customer and the Bank in depository transfers. This lack of dual control is a major cause the fraudulent activity continued undiscovered. A transfer from a customer's account to an employee's account should have caused a "routine" review of this transaction and the problem could have been discovered early.

6 – The November 14, 2007 electronic transfer from Brookshire to Hilltop, Inc. is another example of poor controls in the Bank. Hiott's electronic journal capability should have been reviewed and by another Officer of the Bank every day. Had this been done, the improprieties would have been discovered early and the fraudulent activity stopped. The Bank was negligent for its lack of controls to protect both themselves and their customers.

7 – On December 31, 2007 Hiott withdrew $310,510.75 from Brookshire. Community First Bank required several months to provide documentation on this transaction. This transaction indicates that Hiott knew how to manipulate the internal banking system to the extent that he could conceal a transaction of this magnitude.

8 – Federal and State Regulations require appropriate approvals and authorizations to provide Trust services. Since Hiott was conducting stock transactions on behalf of Brookshire and the Bank he was essentially representing both the Bank and Brookshire which created a conflict of interest. Senior Officers of the Bank and Internal Auditors failed to monitor Hiott.

9 – Since a depository account was used to house Brookshire funds, monthly Bank statements should have been provided as required by Federal and State Regulation. Repeated requests for bank account statements with little or no results implied the Bank knew suspicious activity had taken place. The customer's bank statement is essential to maintaining the standard policy of dual control on all customer accounts. Failure to provide bank statements is a violation of State and Federal Regulation.

Giese-CFB 1816

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KENNETH L. RICHEY
Banking Consultant
Amherst Banking Consultants

WORK Experience:

April 2012 – Amherst Banking Consultants offering both deposit and loan operations consulting to southeastern banks.

June 2004 – March 2012 Responsible for implementing the latest banking systems including Synovus' first end to end image check processing system resulting in 60% expense reduction for back room operations. I was promoted to Synovus Financial Corp, 40 Bank holding company, where I lead the implementation of Treasury/Cash Management Services to Synovus' 40 affiliate banks in five southeastern states. Responsibilities included product development, training and corporate sales for all of Synovus Treasury Management functions.

I was promoted to Enterprise Deposit Officer while continuing to serve as an Executive Officer for NBSC and Synovus Director of Treasury Management Services. We created the unique Synovus Shared Certificates of Deposits, IRAs and Money Market Accounts that attracted $2 Billion in deposits for Synovus Banks within two years while providing its customers with up to $7.5 million in FDIC Insurance through our then 30 banking affiliates. Customers received a single consolidated bank statement and only one IRS-1099 INT.

I also served on the Fifth District Federal Reserve Operations Advisory Committee and The South Carolina Bankers Association Operations Advisory Committee for approximately 20 years each. I retired in October 2011 after 44 years in banking.

July 1997 – June 2004 Executive Vice President, The National Bank of South Carolina - Responsible for Operations & Technology Division in support of statewide banking operations. During this period, I led the development of a comprehensive Corporate Cash Management System which was highly successful that was later implemented by Synovus Financial Corp.

December 1996 – June 1997 Senior Vice President, NBSC - Responsible for Proof, Check Processing, Deposit Operations, General

EXPERIENCE (Continued)

Services, Computer Operations, and Central Loan Operations for statewide banking operations.

Giese-CFB 1817

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October 1995 - December 1996	Senior Vice President, Transaction Services - Transition Planning and Execution, NationsBank. Responsible for managing Operations consolidations, mergers/acquisitions, and major nationwide operations and technology projects for Bank Operations. This included merging NationsBank with Boatmen's Bank-$44Billion, Bank South-$20Billion, four NC/SC Operations Centers, Charter Bank, Blue Bonnet Bank. During this period my Team lead the development and implementation of our nationwide Interstate Banking same day deposit processing for deposits accepted in any branch throughout the franchise. This Team also upgraded 56 IBM 3890 Check Sorters to the new IBM XPE system to handle check processing for our national franchise.
January 1994 - September 1995	Senior Vice President, Transaction Processing Utility, NationsBank Services - South Carolina. Responsibilities included management of Proof, Check Processing, Transportation, Training, Quality, Account Services, Quality Control and Corporate Cash Vaults. While managing SC Operations (April 1994 - June 1995), led three-man design team that developed NationsBank's single interstate check processing capture system with common float values. The solution was implemented in support of a preemptive posture for NationsBank and fully implemented during the agency phase of interstate consolidation. This solution supported same-day posting of deposits to the customers' account regardless of where it was received in the banking center network. This operational solution paved the way for the collapsing of bank charters for NC, SC, MD, VA, DC, GA, and Fl, and TX into one national bank. Led operation consolidation team for Bank South acquisition (October 1995 - June 1996) which included renovation of both operations facilities while continuing daily processing.

EXPERIENCE (Continued)

Recruited permanent transition (M&A) team of operations specialists (February 1996 - December 1996) to manage transition and major projects (i.e., upgrade 52 IBM B+ sorter to XPE level $32MM).

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Led Boatmen's ($42Billion) operations transition team with permanent transition group. The consolidation plan reduced proof sites from 56 to 11; reduced capture sites from 14 to 4; and Account Services operations to only four sites, a $30MM recurring expense reduction.

May 1992 - December 1993 — Senior Vice President, NationsBank Services. Responsible for Item Processing Utility for Fifth Federal Reserve District, including District of Columbia, Maryland, Virginia, North Carolina, and South Carolina. Implemented a standard Item Processing operating platform, ideal staffing standards and standard performance measures.

August 1991 - April 1992 — Managed C&S/Sovran Operations and Technology during merger and consolidation of C&S Sovran and NCNB SC collapsing five different buildings into one facility and resizing the workforce with the reduction of over 200 FTE's.

January 1990 – August 1991 — Executive Vice President, South Carolina Operations and Technology, C&S/Sovran Corporation. Areas of responsibility included 122-branch network – banking center operations; compliance; technology systems and computer operations; Consumer Bank Operations, Corporate Bank Operations, Electronic Banking, Commercial Loan Operations, Item Processing, Bank Operating Policy and Procedures Manuals, and Quality by Design quality program, Disaster Recovery and Business Continuity plans.

Chairperson of the C&S/Sovran Operations and Technology Management Team.

EXPERIENCE (Continued)

April 1986 - December 1989 — Senior Vice President, C&S Corporation-Georgia. Responsibilities included all back room operations; branch operations, Commercial Loan operations, as well as operating policy, procedures, and deposit compliance for South Carolina.

October 1985 - March 1986 — Senior Vice President for System Operations Administration, C&S of South Carolina, with a staff of approximately 510. Areas of responsibility included Item Processing, Consumer Bookkeeping, Corporate Bank Operations, Mail Distribution and Customer Service. Responsibilities included Bank's operating policy and procedures; branch operations; banking center operations and

Giese-CFB 1819

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compliance; deposit and loan application software; Quality by Design quality program.

1989 - Appointed Chairman, Deposit Users Committee for C&S CORP.

1988 - Member, Operations and Technology Steering Committee for C&S CORP.

September 1978 - September 1985 Vice President, Manager of Corporate Services, Wholesale Division, C&S National Bank of South Carolina. Responsible for developing and implementing a full array of cash management products and services handling all non-credit corporate sales and service. With state and national sales responsibility, the Bank became recognized as a state and regional leader and provider of high quality corporate financial services. Also, designed and implemented automated officer call tracking program for corporate lenders and business development officers.

1973 - April 1977 Senior City Operations Officer for Citizens and Southern National Bank of South Carolina with responsibility for proof, bookkeeping, customer service, warehouse services, bank maintenance, branch operations, floating utility staff and the consolidated city-level budget.

EXPERIENCE (Continued)

Project Coordinator for consolidating statewide proof, bookkeeping and customer service functions from 10 remote locations into one consolidated operation in Columbia, South Carolina.

Led a three-man team that designed and installed the new C&S Demand Deposit Accounting system including a new automated decisions on overdraft accounts, plus CIF interfaces to support comprehensive CIF, and on-line teller support. Responsible for all deposit application software systems and project management after consolidation.

Project Manager for statewide Financial Wizard ATM network, responsible for design, implementation and subsequent management of daily operations and control procedures.

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May - August 1977	Acting Chief Executive Officer of Hilton Head National Bank for Comptroller of Currency when the Bank was assumed by the Sixth District Comptroller. Managed Bank until a sales contract was finalized and the Bank's Board of Directors decided to sale versus raising new required capital.
1967 - 1972	Computer Operations Manager for Citizens and Southern National Bank of South Carolina and C&S Systems, Inc., in various positions, from computer operator and balancing supervisor and then to manager of bank check and computer processing. Responsibilities included processing coordination, software maintenance and support. Installed new Demand Deposit, Corporate Trust, Savings, and Installment Loan Accounting Systems.
1972	Electronic Data Systems as Bank Services Manager for C&S Bank and its correspondent Banks. Also served as Training officer for banking systems for EDS personnel.
1963 – 1967	U.S. Navy, Naval Security Group, Category III Top Secret Intelligence security clearance.

EDUCATION

1993 - 1995	Leadership Challenge, NationsBank
1988	Quality by Design, Larry Miller & Associates
1987	Interaction Management
1982	Graduate School of Cash and Treasury Management, Duke University
1980	Managing the Work Force - IBM courses
1978	School of Cash Management, AMA
1975 - 1977	Graduate School for Bank Administration, University of Wisconsin, Madison, Wisconsin
1967 - 1969	University of South Carolina, Business Administration Columbia, South Carolina
1960 - 1962	Furman University, Physics, Greenville, South Carolina
1956 - 1960	Greenwood High School, Greenwood, SC

RELATED PROFESSIONAL EXPERIENCE

Bank voting representative for National Automated Clearinghouse Association
Member, Federal Reserve Bank Operations Advisory Committee, Fifth District
Board of Directors, South Carolina Automated Clearing House Association
Member, Past Chairman, South Carolina Bankers Association, Operations Committee
Instructor, Cannon Bank Operations School, Notre Dame
Instructor, Cannon Bank Operations School, University of North Carolina-Charlotte
Instructor, Illinois Independent Bankers Association
Instructor, SCBA School of Banking, University of South Carolina
Instructor, AIB, Bank Operations and Introduction to Data Processing
Past President, Central South Carolina Chapter BAI
Speaker, BAI National Compliance Conference
Speaker, National and regional Cash Management Conferences

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Member, Corporate Cash Management Association

COMMUNITY SERVICE

2012 – 2016	ARP Synod Investment Committee
2013 – 2016	Treasurer First Presbyterian Church
2005 – 2016	Executive Committee & Board Columbia YMCA
2000 - 2005	President, Board of Directors, Columbia YMCA
1998 - 2000	Vice President, Board of Directors, Columbia YMCA, Chairman, Development Committee of New Branches
1987 – 1998	President, Board of Directions, Columbia YMCA
1988 – 1989	Chairman, Staff Policy Committee, Board of Deacons Northside Baptist Church
1983	Fund Raising Chairman, Congressional Medal of Honor Society of United States of America
1974 – 1987	Chairman, Governor's Carolighting Committee
1973	Distinguished President, Optimist International
1972 – 1983	Board of Directors, Babcock Center
1980 – 1984	Chairman, Training Committee, Midland's United Way
1980 - 1984	Treasurer, South Carolina Democratic Party
1982	Committee Chairman, Governor Richard Riley's Second Inauguration

Expert Witness - Only Deposition and Report

March 2015 - Deposition
Nelson Mullins Riley & Scarborough
Columbia, SC 29201
Mozingo & Wallace Architects, L. L. C., Plaintiff v.
HCSB Financial Corporation and Horry County State Bank,
Billy McGee and Tara Sullivan

November 29, 2012 - Deposition
Womble Carlyle Sandridge & Rice, LLP
550 S. Main Street, Suite 400 (29601)
P.O. Box 10208
Greenville, SC 29603
Clay Custer,
Catherine Wren
Marymeade Apartments, LLC v.
TD Bank, NA successor by merger to Carolina First Bank

March 2012 - Expert Report
David H. Koysza | Wyche
44 East Camperdown Way
Greenville, SC 29601-3512
Superior Metals Trading Pty. Ltd. v.
Thompson's Garage & Used Auto Parts et al.

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March 2011 - Expert Report
Sam Altman
Dorfner Altman & Wilborn
Charleston, SC 29403
E.Vernon McCurry, as Personal Representative of the Estate of James Thomas McCurry, Plaintiff v.
First Financial Holdings
d/b/a First Federal Savings and Loan, Charleston, SC

February 2011 - Expert Report
Ellis Painter Ratterree & Adams
Megan Manley for McManamy
United Community Banks v.
Douglas P. McManamy and Law Office of Douglas P. McManamy, P.C.

July 2005 - Deposition
Michael G. Stavale, Esq.
Stavale & Gemmete, P.L.L.C.
Gross Pointe, MI

Raymond E. Owens, Jr.
Christopher Lam
Kennedy Covington
Charlotte, NC

Earnings Performance Group, Inc. v.
Profit Technologies Corporation and Thomas Donovan

EXHIBIT

II

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MINUTES

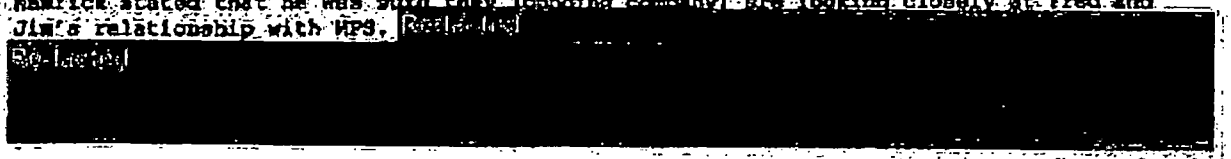
OF

THE EXECUTIVE SESSION OF THE BOARD OF DIRECTORS MEETING OF COMMUNITY FIRST BANK WAS HELD AT THE SENECA NORTH OFFICE ON THE 30TH DAY OF APRIL 2014. ALL DIRECTORS WERE PRESENT. JIM MCOY OF THE BANK'S HOLDING COMPANY AND JOHNNY CREECH OF JW HUNT & CO ATTENDED AS WELL.

Fred Shepherd called the Executive session to order at approximately 2:30 PM.



John Hamrick asked about our status with the bonding company claim and was there a time limit for their response. Mr. Shepherd responded that we have provided the information to the bonding company for the claim but there was no time limit for their response. Mr. Hamrick stated that he was sure they (bonding company) are looking closely at Fred and Jim's relationship with MPS. Redacted



Gary Thrift noted that when we first discovered the loss there was disagreement with how far Palmetto Consulting should go after determining what went to MPS Golf. Fred Shepherd stated that he thought that Ben Hiott did not put the MPS Deposits into the bank. John Hamrick asked why he (Mr. Hamrick) as a board member should care what MPS Golf did with the money. Mr. Hamrick continued that as a board member responsibility, we find out where the money went, anything beyond that is your problem (to Mr. Shepherd). Redacted

[redacted]

Bill Brown stated that he believed that both Ben Blott [redacted] would likely say that Fred Shepherd told them to do it. Fred Shepherd responded that the bonding company will be checking him (Mr. Shepherd) out.

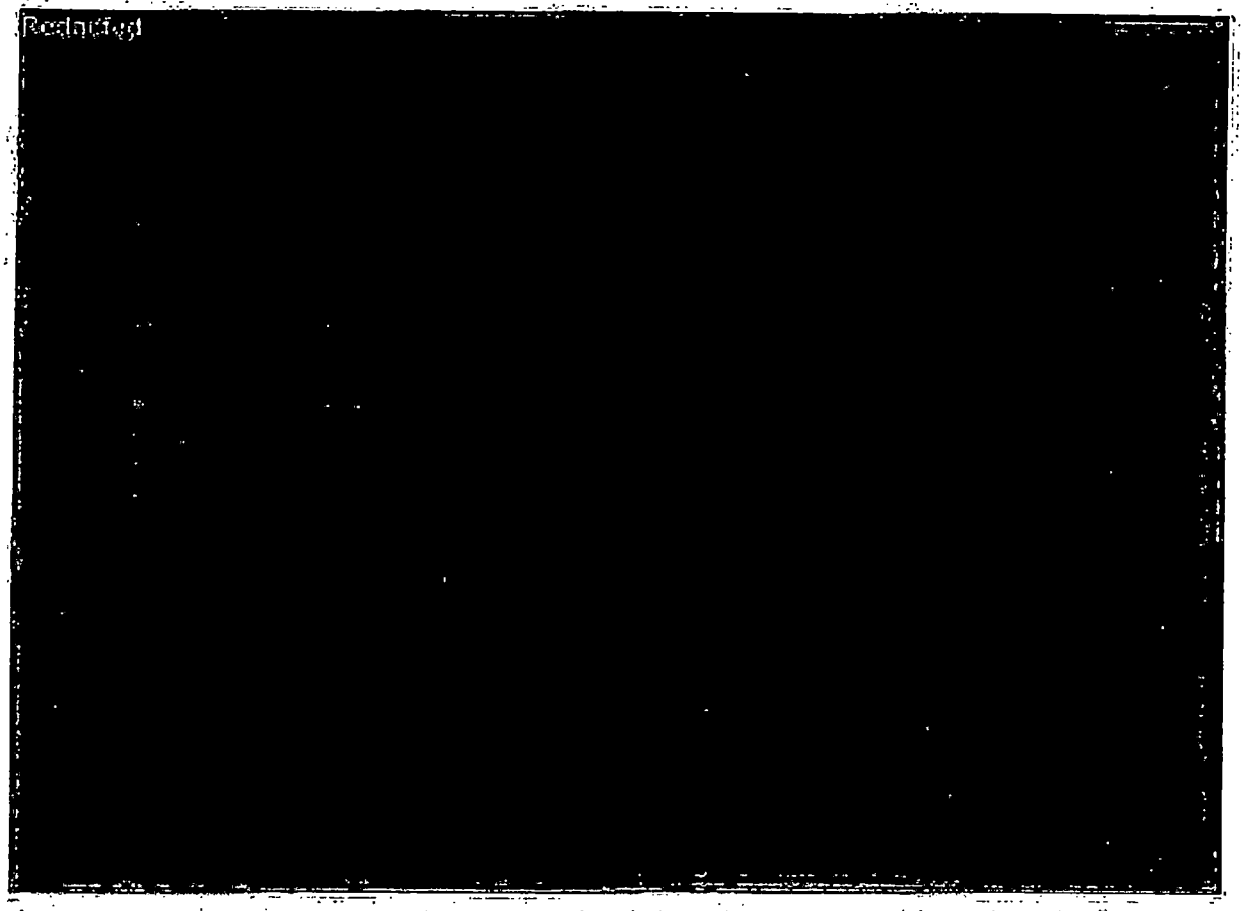
[redacted]

Bill Brown asked what affect a $3.4 million claim payment would have on our income. Fred Shepherd responded that it would not change our income because the claim amount is presently in accounts receivable. [redacted]

[redacted]

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Fred Shepherd presented the agreement with KraftCPA's to complete a 2nd opinion on the misappropriation research of Palmetto Consulting and review of internal controls for review & approval. Gary Thrift motioned and Charles Winchester seconded. All directors voted in favor.



John Hamrick stated that he had never saw one single report that indicated missing securities. Fred Shepherd stated that he (Mr. Shepherd) should have had a tighter rope on Mr. Hiott. Don Jones and Ben Hiott had a relationship and he (Mr. Shepherd) thinks that Ben talked Mr. Jones into a little bit of acquiescence.

Gary Thrift stated that we must make sure that the auditors talk with the audit committee. Fred Shepherd responded that our policy states that the auditors are to present their reports to the audit committee.

Gary Thrift, Chairman of the Board
Or
Fredrick D. Shepherd, President

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In the Matter Of:

Brookshire, Debi Baker v Community First Bank, Inc., et al

Donald G. Jones

August 25, 2016

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I'll read you part --

A. I'm certainly sure that by November of '13 I was going to every board meeting.

Q. And that's because of the ongoing investigation that was going on?

A. Right. The board wanted an update on...

Q. Everything?

A. Everything that had happened or that we found.

Q. All right. If you look down past the dark section, the redacted section, it's the -- it's the first paragraph that starts after that: Fred Shepherd stated that he had asked Don Jones to identify some actions that the bank could implement to demonstrate that management has responded and incorporated procedures to prevent frauds such as this from re-occurring. Mr. Jones had recommended the following actions: One, remove the CFO's ability to originate Official Checks. CFO could still sign checks but separate origination provided a form of dual control.

Do you remember making that suggestion?

A. Probably not in those exact words, but I made a -- the suggestion I made was that -- I'd have to look back at my suggestions to tell you for sure.

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These are not all of the suggestions. He did not present a number of my suggestions.

Q. He didn't present it to the board?

A. No.

Q. Okay. Let me -- let me go over them one at a time real quickly here. What -- remove the CFO's ability to originate Official Checks. CFO could still sign checks but separate origination provided a form of dual control.

Are you saying prior to this there was no dual control?

A. Right.

Q. Explain that for me, for a lay person.

A. He could solely at his computer, at his desk, he could solely create official checks, make the entries for the official checks, transfer -- he could make journal entries on his own. By that, I mean, he could debit customers' accounts and then offset on general ledger accounts. All these techniques that he was using for the -- these transactions and to juggle the books and that sort of thing where he could do all that from his office. He had access to virtually everything.

Q. And -- and when you're talking about he could do all this from his office, that's without

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anybody else having to sign off on it? Is that what the dual control -- or non dual control means?

A. Yes.

Q. He could do it on his own?

A. Yes.

Q. Such as in Ms. Brookshire's case the $500,000 -- and I don't know if it's the certified check or cashier's check or bank check that was written to Coach Joe Crosby?

A. Mm-hmm.

Q. This $500,000, he could do that without anybody else looking at the $500,000 check?

A. Yes.

Q. He could create it, sign it and send it and give it on his own?

A. Yes.

Q. And that was the procedure in that bank at that time?

A. Yes.

Q. In fact, anybody could have done that if they had access like Mr. Hiott did?

A. If they had the access. Probably most people at the bank could not do that, but he could.

Q. And, in fact, he did on numerous occasions?

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EXHIBIT KK

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

IN THE COURT OF COMMON PLEAS

Debi Baker Brookshire,

Plaintiff,

v.

Community First Bank, Inc. and Benjamin Lee Hiott,

Defendants.

Civil Action No. 2014-CP-37-526

DEFENDANT COMMUNITY FIRST BANK'S ANSWERS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES

TO: DEBI BAKER BROOKSHIRE AND HER ATTORNEY W. BARNEY GIESE:

Pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, Defendant Community First Bank, Inc. ("Community First Bank") answers Plaintiff's First Set of Interrogatories as follows:

INTERROGATORIES

1. Give the names and addresses of persons known to the parties 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:

Benjamin L. Hiott
c/o Daryl Hawkins, Esq.

Marc Hiott
Current address unknown

Debi Baker Brookshire
c/o Barney Giese, Esq.

Dan Brookshire

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Current address unknown

Frederick D. Shepherd, Jr.
c/o Robert Knowlton, Esq.

Jeffrey A. Griffith
c/o Robert Knowlton, Esq.

Joseph Crosby
Current Address Unknown

Kristina Crosby
Current Address Unknown

A representative of Joseph Crosby's accountant (identity unknown)

Kathleen McDaniel, Esq.
Callison Tighe & Robinson, LLC
P.O. Box 1390
Columbia, SC 29202

James L. Williams, Esq.
Derrick Ritter Williams & Morris, PA
P.O. Box 795
Seneca, SC 29679

Representatives of the Hobbs Group Advisors, LLC
1704 Laurel Street
Columbia, SC 29201

Representatives of Baker & Baker Real Estate Developers, LLC
1400 Pickens Street, 5th Floor
Columbia, SC 29201

Donald G. Jones
Gary A. Areheart
Palmetto Consulting Services, Inc.
7812 Winnsboro Road
Columbia, SC 29203

Representatives of BB&T
Individuals and addresses unknown

Representatives of Tabor Investigative Services
Address unknown

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

ANSWER: Pursuant to Rule 33(c), SCRCP, see the documents produced by the parties in this case.

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:

Travelers Casualty and Surety Company of America
One Tower Square
Hartford, Connecticut

Financial Institution Professional Liability Coverage; $3 million limit, subject to policy limits, and other policy provisions.

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

ANSWER: Donald Jones and Gary Areheart (see answer to interrogatory 1, *supra*). Community First Bank reserves the right to supplement this response.

5. For each person known to the parties 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: Plaintiff has knowledge of her power of attorney executed in favor of Defendant Hiott, her account at Community First Bank, and actions taken by Defendant Hiott pursuant to the power of attorney. Defendant Hiott has knowledge of the power of attorney Plaintiff executed in his favor and his actions on behalf of

Plaintiff vis-à-vis her account at Community First Bank. Mr. Shepherd and Mr. Griffith are knowledgeable about Defendant Hiott's employment and duties at Community First Bank and the investigation undertaken by Community First Bank into his activities as related to Plaintiff's account. Mr. Marc Hiott, Mr. Brookshire, Mr. Crosby, and Mrs. Crosby are, upon information and belief, knowledgeable about transfers of funds made from Plaintiff's account at Community First Bank to accounts owned by them or by businesses with which they were affiliated. Mr. Crosby's accountant would be knowledgeable about how such transfers of funds from Plaintiff's account at Community First Bank to accounts held by Mr. Crosby or one of his businesses were treated by Mr. Crosby for accounting purposes. Ms. McDaniel and Mr. Williams are, upon information and belief, knowledgeable about Plaintiff's inquiries of Community First Bank regarding her account. Representatives of the Hobbs Group would be knowledgeable about Plaintiff's finances and tax matters. Representatives of Baker & Baker would be knowledgeable about instructions given to that entity for payments made by Baker & Baker to Plaintiff's account at Community First Bank. Representatives of BB&T would be knowledgeable about Plaintiff's prior account at that institution. Representatives of Tabor Investigative Services would be knowledgeable about the investigation undertaken by them of relevant matters pursuant to engagement by Plaintiff or her representatives. Mr. Jones and Mr. Archeart are knowledgeable about their forensic accounting engagement at Community First Bank, which involved a review of Plaintiff's account and documents regarding transfers to and from Plaintiff's account at Community First Bank.

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6. If the defendant is improperly identified, give the proper identification and state whether counsel will accept service of an amended summons and pleading reflecting the correct information.

ANSWER: **Community First Bank is properly identified.**

7. Provide the name, address and telephone number of the person or entity who owns/holds title or has previously owned or held title to Community First Bank Account 122200l.

ANSWER: **This number is assigned to Community First Bank's general ledger for miscellaneous accounts receivable.**

8. List every individual who owns stock or is a shareholder in Community First Bank, Inc. For each person listed, state the number of shares owned; in addition, state the number of total shares of outstanding stock in Community First Bank, Inc. If Community First Bank, Inc. has issued more than one class or type of stock, provide the information requested above with respect to each different class of type of stock, and the total number of shares for each different class or type of stock. Identify whether Plaintiff and/or Defendant Hiott owns or has owned any shares of Defendant's stock, and if so, the number of shares owned by Plaintiff and/or Defendant Hiott and whether any stock certificates were issued for these shares.

ANSWER: **Community First Bank objects to responding to this interrogatory on the grounds that it seeks information that is not relevant to the case and is not narrowly tailored to lead to the discovery of admissible evidence, it seeks confidential information, and it would be unduly burdensome to respond to taking into account the needs and issues in this case. Subject to and notwithstanding these objections, Community First Bank agrees to produce documents regarding record**

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ownership of shares of Community First Bancshares held by Defendant Hiott and Plaintiff pursuant to Rule 33(c), SCRCP. Those documents do not reflect whether they owned a beneficial interest in other shares held in "street name."

9. State if the Defendant has adopted policies and procedures for monitoring activity in customers' accounts for the purpose of detecting or preventing fraud or unauthorized account activity, including unauthorized withdrawals or transfers.

(a) If the Defendant has adopted policies and procedures described above, state whether these policies and procedures have been reduced to writing.

(b) If the Defendant has adopted policies and procedures described above, set forth in detail those policies and procedures, or in lieu of providing such a description, produce a copy of all policies and procedures adopted for the purpose of monitoring account activity and detecting or preventing fraud or unauthorized account activity, including unauthorized withdrawals or transfers.

ANSWER: Community First Bank objects to this interrogatory on the grounds that it is vague, ambiguous, and overly broad. This Defendant further objects to the extent it implies that the Bank had a duty to discern whether a person with signature authority for a demand deposit account had any other or further authority with regard to a particular withdrawal or transfer from the account. This Defendant also objects on the grounds that it seeks information that is not relevant to the case and is not narrowly tailored to lead to the discovery of admissible evidence, it seeks confidential information, and it would be unduly burdensome to respond to taking into account the needs and issues in this case.

10. Provide the name, address and telephone number of the person or entity that provided the funds (approximately $280,000) that were deposited into the Plaintiff's account at Community First Bank, Inc. on or about February 22, 2011.

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ANSWER: **Based on the evidence currently available to Community First Bank, it appears that Defendant Hiott misappropriated funds in the amount of $285,233.34 that belonged to Community First Bank and deposited them into Plaintiff's account on February 23, 2011.**

11. Identify Senior Vice President Benjamin L. Hiott's direct supervisor at Community First Bank, Inc. during the time Defendant Hiott was employed there.

ANSWER: **Frederick D. Shepherd, Jr.**

12. Set forth Benjamin L. Hiott's date of employment with Community First Bank, Inc., the position or positions he held, his annual salary and all other payments, stock options, and other benefits provided to him by Community First Bank, Inc. during his employment, and state the date of Benjamin L. Hiott's termination of employment from Community First Bank, Inc.

ANSWER: **Defendant Hiott began employment with Community First Bank on August 31, 1999. He was placed on administrative leave in or about early September 2013, and he resigned effective January 31, 2014. In further response, Community First Bank refers to Hiott's personnel file pursuant to Rule 33(c), relevant portions of which will be produced pursuant to Community First Bank's response to request for production number 13 at a mutually convenient time and place subsequent to the entry of an appropriate protective order.**

13. Describe in detail the reason or reasons for Benjamin L. Hiott's termination of employment from Community First Bank, Inc. Identify by name and job title each person who made the decision to terminate Benjamin L. Hiott's employment.

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ANSWER: **Defendant Hiott was placed on administrative leave in or about early September 2013, and he resigned from employment effective January 31, 2014.**

14. Identify by account number and by account holder's name every account into which Plaintiff's money was deposited or transferred between the dates of June 26, 2007 and February 22, 2011. Separately state the amount of the transfer and the purpose of the transfer.

ANSWER: **Community First Bank refers to the documents related to Plaintiff's account pursuant to Rule 33(c), SCRCP. Community First Bank currently lacks information sufficient to state the purpose of the transfers from Plaintiff's account.**

15. State whether Falcon's Lair currently maintains or ever maintained an account at Community First Bank, Inc. If so, state whether any funds were ever transferred directly or indirectly from Plaintiff's account at Community First Bank, Inc. to Falcon's Lair's account, and if so, the amount(s) of any transfers and the date(s) of each transfer.

ANSWER: **Community First Bank is not aware of any transfer of funds from Plaintiff's account to Falcon's Lair. Community First Bank objects to responding further to this interrogatory on the grounds that it seeks information that is confidential and it seeks information that is not relevant to the issues in this case and is not likely to lead to the discovery of admissible evidence.**

16. State whether Falcon's Lair ever obtained a loan from Community First Bank, Inc. If so, state the amount of the loan, the date of the loan, and the unpaid balance of the loan. Further state whether any funds were ever transferred from the Plaintiff's account at Community First Bank, Inc. to Falcon's Lair's loan account, and if so, the amount(s) of any transfers and the date(s) of each transfer.

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ANSWER: **Community First Bank is not aware of any transfer of funds from Plaintiff's account to pay a loan obligation of Falcon's Lair. Community First Bank objects to responding further to this interrogatory on the grounds that it seeks information that is confidential and it seeks information that is not relevant to the issues in this case and is not likely to lead to the discovery of admissible evidence.**

17. State whether Community First Bank, Inc. has adopted any policies or procedures for monitoring account activity involving transfers of large amounts of money (i.e. transfers involving $50,000 or more). If so, describe in detail these policies and procedures or in the alternative, produce a copy of all written policies and procedures described above.

ANSWER: **Community First Bank objects to responding to this request on the grounds that it seeks confidential information. Without waiving its objections, this Defendant agrees to produce relevant policies upon the entry of an appropriate protective order.**

18. State whether Joseph C. Crosby, Jr. and/or his wife, Kristina Crosby currently maintains or ever maintained an account at Community First Bank, Inc. If so, state whether any funds were ever transferred directly or indirectly from Plaintiff's account at Community First Bank, Inc. to Joseph C. Crosby, Jr. and/or Kristina Crosby's account, and if so, the amount(s) of any transfers and the date(s) of each transfer.

ANSWER: **Yes, Joseph C. Crosby, Jr. and/or Kristina Crosby have maintained accounts at Community First Bank. See records of Plaintiff's account transactions for the requested details pursuant to Rule 33(c), SCRCP.**

19. State whether Joseph C. Crosby, Jr. and/or Kristina Crosby ever obtained any loans from Community First Bank, Inc. If so, state the amount of the loan, the date of the loan,

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and the unpaid balance of the loan. Further state whether any funds were ever transferred from the Plaintiff's account at Community First Bank, Inc. to Joseph C. Crosby, Jr. and/or Kristina Crosby's loan account, and if so, the amount(s) of any transfers and the date(s) of each transfer.

ANSWER: Yes, Joseph C. Crosby, Jr. and/or Kristina Crosby have obtained loans from Community First Bank. See records of Plaintiff's account transactions for the requested details pursuant to Rule 33(c), SCRCP.

20. State whether CLCB, LLC currently maintains or ever maintained an account at Community First Bank, Inc. If so, state whether any funds were ever transferred directly or indirectly from Plaintiff's account at Community First Bank, Inc. to CLCB, LLC's account, and if so, the amount(s) of any transfers and the date(s) of each transfer.

ANSWER: Yes, CLCB, LLC has maintained an account at Community First Bank. See records of Plaintiff's account transactions for the requested details pursuant to Rule 33(c), SCRCP.

21. State whether CLCB, LLC ever obtained any loans from Community First Bank, Inc. If so, state the amount of the loan, the date of the loan, who opened the loan on behalf of the LLC, and the unpaid balance of the loan. Further state whether any funds were ever transferred from the Plaintiff's account at Community First Bank, Inc. to CLCB, LLC's loan account, and if so, the amount(s) of any transfers and the date(s) of each transfer.

ANSWER: This Defendant agrees to make a reasonably diligent inquiry and, if it concludes that any funds were transferred from Plaintiff's account to payment of a loan from the Bank to CLCB, LLC, it will make relevant, non-privileged documents available at a mutually convenient time and place.

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22. Identify all emails, letters, notes of conversation, or other documents reflecting or relating to any communication within Community First Bank, Inc. regarding Plaintiff and/or Plaintiff's Account.

ANSWER: **Community First Bank objects to this interrogatory on the grounds that this request is overly broad and not sufficiently tailored to lead to the discovery of admissible evidence. Pursuant to Rule 33(c), SCRCP, Community First Bank agrees to conduct a reasonably diligent search for responsive documents as maintained in the ordinary course of Community First Bank's business and will produce responsive and non-privileged documents at a mutually convenient time and place.**

23. For the following dates and amounts, withdrawn from Plaintiff's Account at Community First Bank, Inc., identify how these funds were spent. Identify the type of transfer, the account benefitting from the transfer, the name of the account holder who benefitted from the transfer, and the reason for the transfer.

12/31/2007: $310,510.75

02/29/2008: $8,500.00

02/29/2008: $4.00

03/13/2008: $2,224.00

08/29/2008: $65,000.00

09/22/2008: $1,000.00

10/24/2008: $3,500.00

11/01/2008: $85,000.00

06/05/2009: $25,387.20

06/15/2010 $3,000.00

Further, explain why documents relating to these transactions were not turned over with any of the multiple requests Plaintiff made for complete paperwork of the Account.

ANSWER: Pursuant to Rule 33(c), SCRCP, Community First Bank agrees to produce non-privileged documents related to these transactions at a mutually convenient time and place. The December 31, 2007 transfer of $310,510.75 was reversed on January 7, 2008. Community First Bank objects to responding further to this interrogatory and objects to it the extent it suggests it owed a duty to produce certain of the documents produced in this case at an earlier time.

24. Define a "journal transfer." Identify by name and job title every employee authorized to make journal transfers, how a journal transfer is prepared, and what, if any, oversight is in place for these types of transfers.

ANSWER: A journal transfer is a general accounting term used to describe certain accounting adjustments made in the Bank's accounting system. They can be made electronically or initiated by document request. Approximately ten people have authority to make journal transfers, and the oversight is the general bank supervision over employees and bank practices.

25. State whether MPS Development, Inc. currently maintains or ever maintained an account at Community First Bank, Inc. If so, state whether any funds were ever transferred directly or indirectly from Plaintiff's account at Community First Bank, Inc. to MPS Development, Inc.'s account, and if so, the amount(s) of any transfers and the date(s) of each transfer.

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ANSWER: **Community First Bank is not aware of any transfer of funds from Plaintiff's account to MPS Development, Inc. Community First Bank objects to responding further to this interrogatory on the grounds that it seeks information that is confidential and it seeks information that is not relevant to the issues in this case and is not likely to lead to the discovery of admissible evidence.**

26. State whether MPS Development, Inc. ever obtained a loan from Community First Bank, Inc. If so, state the amount of the loan, the date of the loan, and the unpaid balance of the loan. Further state whether any funds were ever transferred from the Plaintiff's account at Community First Bank, Inc. to MPS Development, Inc.'s loan account, and if so, the amount(s) of any transfers and the date(s) of each transfer.

ANSWER: **Community First Bank is not aware of any transfer of funds from Plaintiff's account to pay a loan obligation of MPS Development, Inc. Community First Bank objects to responding further to this interrogatory on the grounds that it seeks information that is confidential and it seeks information that is not relevant to the issues in this case and is not likely to lead to the discovery of admissible evidence.**

27. State whether MPS Golf Course, Inc. currently maintains or ever maintained an account at Community First Bank, Inc. If so, state whether any funds were ever transferred directly or indirectly from Plaintiff's account at Community First Bank, Inc. to MPS Golf Course, Inc.'s account, and if so, the amount(s) of any transfers and the date(s) of each transfer.

ANSWER: **Community First Bank is not aware of any transfer of funds from Plaintiff's account to MPS Golf Course, Inc. Community First Bank objects to responding further to this interrogatory on the grounds that it seeks information**

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that is confidential and it seeks information that is not relevant to the issues in this case and is not likely to lead to the discovery of admissible evidence.

28. State whether MPS Golf Course, Inc. ever obtained a loan from Community First Bank, Inc. If so, state the amount of the loan, the date of the loan, and the unpaid balance of the loan. Further state whether any funds were ever transferred from the Plaintiff's account at Community First Bank, Inc. to MPS Golf Course, Inc.'s loan account, and if so, the amount(s) of any transfers and the date(s) of each transfer.

ANSWER: Community First Bank is not aware of any transfer of funds from Plaintiff's account to pay a loan obligation of MPS Golf Course, Inc. Community First Bank objects to responding further to this interrogatory on the grounds that it seeks information that is confidential and it seeks information that is not relevant to the issues in this case and is not likely to lead to the discovery of admissible evidence.

29. In Defendant's first Counterclaim against the Plaintiff, Defendant states in Paragraph 66, that "funds in the approximate amount of $788,855.00 ("Funds"), none of which belonged to Plaintiff, were deposited in Plaintiff's Account by Defendant Hiott during the time the Account was held at the Bank." Describe in detail every fact upon which Defendant relies to support this allegation, specifically, the name of account holder(s), the address(es) associated with the account(s), and whether Defendant Community First Bank has contacted the account holder(s) in regards to this allegation; further, identify the employee or employees who discovered this information, the date of such discovery, and the process by which it was discovered.

ANSWER: Pursuant to Rule 33(c), SCRCP, this Defendant agrees to produce relevant and non-privileged documents at a mutually convenient time and place.

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30. Identify any transfers from Plaintiff's Account into accounts owned or co-owned, either currently or previously, by any member of the Community First Bank, Inc. Board of Directors, past or present, including any corporations, limited liability companies, and/or partnerships in which a member or members of the Community First Bank, Inc. Board of Directors are or were associated. This request includes the date of transfer, purpose of transfer, bank employee committing the transfer, and the name on the account benefitting from the transfer.

ANSWER: Pursuant to Rule 33(c), SCRCP, documents will be produced at a mutually convenient time and place with respect to a November 1, 2008 transfer of $85,000 into an account co-owned by James McCoy.

31. Identify any transfers from Plaintiff's Account into accounts owned or co-owned, either currently or previously, by any employee of Community First Bank, Inc., past or present. This request includes the date of transfer, purpose of transfer, bank employee committing the transfer, and the name on the account benefitting from the transfer.

ANSWER: See records of Plaintiff's account transactions for the requested details pursuant to Rule 33(c), SCRCP.

32. Identify where the $500,000 Cashier's Check issued by Community First Bank, Inc. on or about July 12, 2007 was negotiated and whether or not it was deposited into an Account at Community First Bank, Inc. If so, identify the Account benefitting from the $500,000 check and the Account holder.

ANSWER: See records of Plaintiff's account transactions for the requested details pursuant to Rule 33(c), SCRCP, which will be produced at a mutually convenient time and place.

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33. State in what capacity William Steele is employed or has been previously employed with Community First Bank, Inc. If he is no longer working with Community First Bank, Inc., state the date of his termination and the reason for his termination.

ANSWER: **William Steele was previously employed by Community First Bank as a branch manager and loan officer. He resigned on or about January 26, 2010.**

34. Identify where the $200,000 Cashier's Check issued by Community First Bank, Inc. on or about November 28, 2007 was negotiated and whether or not it was deposited into an Account at Community First Bank, Inc. If so, identify the Account benefitting from the $200,000 check and the name of the Account holder.

ANSWER: **See records of Plaintiff's account transactions for the requested details pursuant to Rule 33(c), SCRCP, which will be produced at a mutually convenient time and place.**

35. State whether Hilltop, Inc. currently maintains or ever maintained an account at Community First Bank, Inc. If so, state whether any funds were ever transferred directly or indirectly from Plaintiffs account at Community First Bank, Inc. to Hilltop, Inc.'s account, and if so, the amount(s) of any transfers and the date(s) of each transfer.

ANSWER: **Yes, Hilltop, Inc. has maintained an account at Community First Bank. See records of Plaintiff's account transactions for the requested details pursuant to Rule 33(c), SCRCP, which will be produced at a mutually convenient time and place.**

36. State whether Hilltop, Inc. ever obtained any loans from Community First Bank, Inc. If so, state the amount of the loan, the date of the loan, and the unpaid balance of the loan. Further state whether any funds were ever transferred from the Plaintiff's account at Community

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First Bank, Inc. to Hilltop, Inc.'s loan account, and if so, the amount(s) of any transfers and the date(s) of each transfer.

ANSWER: Community First Bank is not aware of any transfer of funds from Plaintiff's account to pay a loan obligation of Hilltop, Inc. Community First Bank objects to responding further to this interrogatory on the grounds that it seeks information that is confidential and it seeks information that is not relevant to the issues in this case and is not likely to lead to the discovery of admissible evidence.

37. State whether Upstate Real Estate currently maintains or ever maintained an account at Community First Bank, Inc. If so, state whether any funds were ever transferred directly or indirectly from Plaintiff's account at Community First Bank, Inc. to Upstate Real Estate's account, and if so, the amount(s) of any transfers and the date(s) of each transfer.

ANSWER: Yes, Upstate Real Estate has maintained an account at Community First Bank. See records of Plaintiff's account transactions for the requested details pursuant to Rule 33(c), SCRCP, which will be produced at a mutually convenient time and place.

38. State whether Upstate Real Estate ever obtained any loans from Community First Bank, Inc. If so, state the amount of the loan, the date of the loan, and the unpaid balance of the loan. Further state whether any funds were ever transferred from the Plaintiff's account at Community First Bank, Inc. to Upstate Real Estate's loan account, and if so, the amount(s) of any transfers and the date(s) of each transfer.

ANSWER: Community First Bank is not aware of any transfer of funds from Plaintiff's account to pay a loan obligation of Upstate Real Estate. Community First Bank objects to responding further to this interrogatory on the grounds that it seeks

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information that is confidential and it seeks information that is not relevant to the issues in this case and is not likely to lead to the discovery of admissible evidence.

39. Describe in detail all results of any forensic accounting done of the Plaintiff's Account and/or any other account at Community First Bank, Inc.

ANSWER: Community First Bank objects to this interrogatory on the grounds that it is overbroad, seeks information irrelevant to the claims and defenses in this case, and is not narrowly tailored to seek discovery of admissible evidence, specifically in the request for the results of forensic accounting done for "any other account" at Community First Bank. Subject to and notwithstanding this objection, Palmetto Consulting Services, Inc. conducted a forensic accounting, which included a review of Plaintiff's account by researching Plaintiff's account statements and documents relating to transactions in Plaintiff's account.

40. Define "investment counter withdrawal" and "miscellaneous debit." Describe any monthly limits or restrictions on these types of transactions for trust accounts.

ANSWER: Community First Bank objects to this interrogatory to the extent that it implies or states that Plaintiff's account was a trust account where Community First Bank served as trustee. Plaintiff's account was a deposit account held by Debi Baker Brookshire as trustee for the Debi Baker Brookshire Trust. An "investment counter withdrawal" is an in-person withdrawal by a person with signatory authority on a money market demand deposit account. There are no monthly restrictions or limits on "investment counter withdrawals" for the type of account held by Plaintiff. A "miscellaneous debit" is a category for non-check transactions

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that do not fit into any other category, and there are no monthly restrictions or limits on "miscellaneous debits" for the type of account held by Plaintiff.

41. Describe any and all procedures in place at Defendant Community First Bank, Inc. for closing an account.

ANSWER: No specific written procedures were in place with regard to closing accounts at times relevant to this case. Community First Bank objects to producing any policies or procedures adopted after plaintiff's account was closed. Community First Bank further objects to producing any bank policies until an appropriate protective order is entered in this matter.

42. Identify every account number, account holder name and address on the account for all accounts that Defendant Benjamin Lee Hiott either transferred or misappropriated funds without the consent or knowledge of the account holders and whether or not Defendant Community First Bank has notified these account holders of Defendant Hiott's activities.

ANSWER: Community First Bank objects to this interrogatory on the grounds that it is overly broad, seeks irrelevant information, and is not narrowly tailored to seek discovery of relevant, admissible information. Subject to and notwithstanding this objection, Community First Bank is unaware of any other customers of Community First Bank who have made claims similar to the claims made by Plaintiff.

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HAYNSWORTH SINKLER BOYD, P.A.

By: _____

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Attorneys for Defendant Community First Bank, Inc.

December 15, 2014
Columbia, South Carolina

Dm: 3877158 v.1

STATE OF SOUTH CAROLINA COUNTY OF OCONEE Debi Baker Brookshire, Plaintiff, v. Community First Bank, Inc. and Benjamin Lee Hiott, Defendants.	IN THE COURT OF COMMON PLEAS Civil Action No. 2014-CP-37-0526 **CERTIFICATE OF SERVICE**

I, the undersigned employee of Haynsworth Sinkler Boyd, P.A., do hereby certify that I have this 15th day of December 2014, caused the foregoing documents to be served via U.S. Mail, postage-prepaid on plaintiff's counsel of record at the address shown below:

Documents to be Served:

1. Defendant Community First Bank, Inc.'s Answers to Debi Baker Brookshire's First Set of Interrogatories; and

2. Defendant Community First Bank, Inc.'s Responses to Debi Baker Brookshire's First Requests for Production of Documents.

W. Barney Giese, Esq.
The Giese Law Firm
1315 Blanding Street
Columbia, SC 29201
Attorneys for Plaintiff

Beth Valdes

Dm: 3915981 v.1

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In the Matter Of:

Brookshire, Debi Baker v Community First Bank, Inc., et al

Frederick D. Shepherd, Jr. REDACTED

June 27, 2016

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it's a credit to us, but there would be a $500,000, something offsetting to balance the bank to check to make sure that it happened, yes, sir.

Q. But this man, Mr. Hiott, you've testified earlier had no authority to lend money to people, is that correct?

A. That's correct.

Q. Okay. And on this check that he wrote and signed, he calls it in the, for section, it says, Brookshire loan, that you've testified that he had no right to lend money from the bank?

A. That's correct.

Q. All right. That in and of itself wouldn't have drawn someone's attention?

A. I'm not sure where you're speaking of that -- I don't -- can you show me the check and I can answer you. I don't know if I --

Q. We'll have to pull it up. We'll move on --

A. It probably says something on the bottom, that's a description of something that the check is intended to be. It doesn't have anything to do with --

Q. Whether or not it balanced?

A. No. No.

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Q. But I'm saying so --
A. Probably says remitter.
Q. I don't recall, but Mr. Hiott had the ability --
A. That's probably where the money came from.
Q. Mr. Hiott had the ability to write a check for that amount of money with no one -- other than making sure that it balanced in the books, no oversight, no one going, oh, yeah, Ben, you can do that, as long as it balanced, no one called him and said, what did you do this for?
A. I don't believe anybody did that, no, sir.
Q. That's because of the position he was in?
A. He was in a senior position, correct.
Q. And you were supervising him?
A. That's correct.
Q. And you never looked to see what that $500,000 check was for?
A. I did not look to see what that $500,000 check was for.
Q. That's a lot of money?
A. That's a lot of money, but in the

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banking business we do a lot of checks. And our checks and balances are how we follow things. And it's designed to -- if there wasn't an entry offsetting it, then I would have seen the next morning that there was an entry that didn't balance and I would have probably gone to him -- I would have seen that it didn't balance, understand?

Q. Sure.

A. All right. And I would have said what the hell is this or something like that. But it balanced, so I didn't do that.

Q. And in summary, okay, on a regular basis; whether it's a daily basis, weekly basis, monthly basis, what would you do in your role as his supervisor or his boss to monitor and evaluate what he was doing in making sure he was properly performing the duties of his job?

A. I think I've answered you already on that question.

Q. And that's why I said in summary, if you could tell me one more time.

A. I reviewed the bank's financial reports daily, which he was a participant in preparing or having prepared or his area of responsibility was included in the bank's total picture, financial

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picture. I looked at the bank's what we call daily statement, which was the position of the bank every day. And if there was anything out of the ordinary or if I needed an answer from his area, I would contact him. If it was somebody else, I would contact them.

And I believe that he would review them as well and I believe that operations would review them as well and financial. And I believe the branches would review theirs as well, so a lot of people reviewed the financials every day.

Q. Okay. Did you ever -- what's the right word -- did you ever issue an evaluation of his work that you had to do yearly evaluations for people?

A. Yes.

Q. Who was Mr. Peters in the loan department?

A. He was the administrator of the loan department, David Peters.

Q. And did he answer to you also?

A. Yes.

Q. Okay. And there was some issues with the loan department at some point?

A. In the latter part of '13, correct.

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EXHIBIT MM

In the Matter Of

Brookshire, Debi Baker v. Community First Bank, Inc., et al

Donald G. Jones

August 25, 2016

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up to the audit committee that there was a discrepancy?

A. The report that I wrote that I'm referring to here.

Q. Right.

A. Never went to the audit committee. And no audit committee meeting was ever called for that year at all. That was Hiott's responsibility to coordinate setting up the meeting --

Q. Right.

A. -- and responding to the reports and that sort of thing.

Q. In the -- and, again, the report that you're talking about is in that 35,000 pages. I think I've seen -- I know I've seen it, but it's a report discussing the $5.6 million that's missing.

A. There is a report like that, I'm not sure if that was in the investigation stuff. It may have been.

Q. I don't have a copy of it, but I know what you're talking about.

A. Yeah.

Q. If you would look to the next paragraph: Gary Thrift asked Don Jones how long it would have been before he took other action. Don Jones

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EXHIBIT
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STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

COURT OF COMMON PLEAS

DEBI BAKER BROOKSHIRE,

Plaintiff,

vs:

CASE NO: 2014-CP-37-529

COMMUNITY FIRST BANK, INC., and BENJAMIN LEE HIOTT,

Defendants.

DEPOSITION OF: JOHN HAMRICK

DATE: February 25, 2016

TIME: 12:02 PM

LOCATION: Haynsworth Sinkler Boyd
One North Main Street
2nd Floor
Greenville, SC

TAKEN BY: Counsel for the Plaintiff

REPORTED BY: AMY R. COPE,
Court Reporter

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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full accounting of her account?
A. No.
Q. So you didn't know that she had requested a full accounting as long back as -- gosh, I might have written it down, August 23rd of 2010?
MS. BLACK: Object to the form.
THE WITNESS: (Shakes head side to side).
BY MR. GIESE:
Q. You had no idea that she had requested an accounting --
A. Never heard the name.
Q. And that she did it again on 9/22/2010?
A. No knowledge.
Q. And do you understand that she then followed up numerous times trying to get a full accounting?
MS. BLACK: Object to the form.
THE WITNESS: Prior to that date, nothing.
BY MR. GIESE:
Q. So the first information you had that Ms. Brookshire had a problem with her account was mid July of 2013?

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A. I'm not sure of that date, but there were four other board members there.
Q. What's a quorum, five?
A. You know, I don't know how many board members were there -- I mean, I don't know how many board members at that time. And to be frank with you, I don't know -- I said four other, we ordered spaghetti for ten and I think four showed up or five. It was an impromptu --
Q. Been there, done that.
A. -- let's get together and see what's going on. I do remember what we ate.
Q. Now, Mr. Hamrick, do you have a deposit account there, are you a depositor there?
A. I sure do.
Q. A shareholder too, I'm guessing?
A. I am.
Q. As a depositor, if you wanted to see a full accounting of your account and you asked the bank that you wanted a full accounting of your account, how long would it take before you got mad that they hadn't given you the full accounting?
MS. BLACK: Object to the form.
THE WITNESS: I don't know, two weeks, three, depending on how big the account was and,

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what I wanted to find out.
BY MR. GIESE:
Q. But needless to say, you would expect one?
MS. BLACK: Object to the form.
THE WITNESS: Certainly.
BY MR. GIESE:
Q. Okay. So you could understand someone's concern if they didn't get one?
MS. BLACK: Object to the form.
THE WITNESS: Right.
BY MR. GIESE:
Q. And do you understand that Ms. Brookshire still has not received a full accounting?
MS. BLACK: Object to the form.
THE WITNESS: I do not know that.
BY MR. GIESE:
Q. But you're on the Board of Directors, right?
A. Yes, sir. And we're not involved in the day-to-day operation.
Q. So you did not meet with Don Jones and -- do you know Don Jones?
A. I do.

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Q. Okay. He's with Palmetto?
A. I think that's the name of his company.
Q. Did you ever meet with him about this issue?
A. After the fact, after Fred told us. He came to our Board meetings and we met several times on this.
Q. And so in mid July of 2013 is when you first found out about it. When was the next time you had any contact with anybody about that case?
A. I don't know.
Q. You --
A. I know it was an ongoing matter, but I don't -- I couldn't tell you if it was two months or five months later.
Q. Was it in a board meeting or was it someone talking to you?
A. It was in a board meeting or one of our board meetings.
Q. And how often did you have board meetings?
A. Once a month, sometimes twice depending on the amount of business we have to discuss.
Q. So you found out -- the next time you had contact with it was in a board meeting. Do you

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In the Matter Of:

Brookshire, Debi Baker v Community First Bank, Inc., et al

Frederick D. Shepherd, Jr. REDACTED

June 27, 2016

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that's written?

A. Oh, it's written, it says it is.

Q. You just don't know if you saw it or not?

A. I don't believe I saw it.

Q. Because a Power of Attorney -- if you're talking about a Power of Attorney, which we'll talk about in a minute -- is a Power of Attorney being held by a senior vice president of a bank for a depositor unusual?

A. Yes.

Q. That would have piqued your interest?

A. I would have liked for him or her to get -- to discuss this situation, but I'm sure it's done -- I'm sure other institutions and other people do it, especially for family or close relatives or close relationships. A Power of Attorney is not a trust --

Q. I understand that.

A. -- it's a Power of Attorney to administer an account or administer funds or whatever the Power of Attorney gives them.

Q. But that would have piqued your interests, correct?

A. Piqued my interest?

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000 00007 03
ACCOUNT: 300701950 PAGE: 1
DOCUMENTS: 12 09/30/2008

DEBI BAKER BROOKSHIRE TRUST
DEBI BAKER BROOKSHIRE TRUSTEE
1707 DEVINE ST

COLUMBIA SC 29205

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PERFORMANCE INVESTMT ACCOUNT 300701950

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
BALANCE LAST STATEMENT			08/29/08	69,888.09
INVESTMENT COUNTER WITHDRAWAL	8,052.25		09/08/08	61,835.84
FUNDS TRANSFER	10,000.00		09/08/08	51,835.84
DEPOSIT # 127		69,120.00	09/12/08	120,955.84
INVESTMENT COUNTER WITHDRAWAL	3,200.00		09/15/08	117,755.84
WIRE TRANSFER	2,103.36		09/16/08	115,652.48
WIRE TRANSFER	12,528.79		09/16/08	103,123.69
FUNDS TRANSFER	10,000.00		09/16/08	93,123.69
DEPOSIT		5,433.76	09/17/08	98,557.45
FUNDS TRANSFER	15,000.00		09/17/08	83,557.45
INVESTMENT COUNTER WITHDRAWAL	1,000.00		09/22/08	82,557.45
INVESTMENT COUNTER WITHDRAWAL	1,532.10		09/22/08	81,025.35
INVESTMENT COUNTER WITHDRAWAL	5,426.23		09/22/08	75,599.12
MISCELLANEOUS DEBIT	10,000.00		09/23/08	65,599.12
MISCELLANEOUS DEBIT	445.00		09/29/08	65,154.12
FUNDS TRANSFER	30,195.00		09/30/08	34,959.12
INTEREST	15,000.00		09/30/08	19,959.12
BALANCE THIS STATEMENT		147.87	09/30/08	20,106.99
			09/30/08	20,106.99

C O N T I N U E D

Glese-CFB 0172

DEBI BAKER BROOKSHIRE TRUST

PERFORMANCE INVESTMT ACCOUNT 300701950

TOTAL CREDITS	(3)	74,701.63	AVG AVAILABLE BALANCE	67,793.24
TOTAL DEBITS	(14)	124,482.73	AVERAGE BALANCE	74,443.04

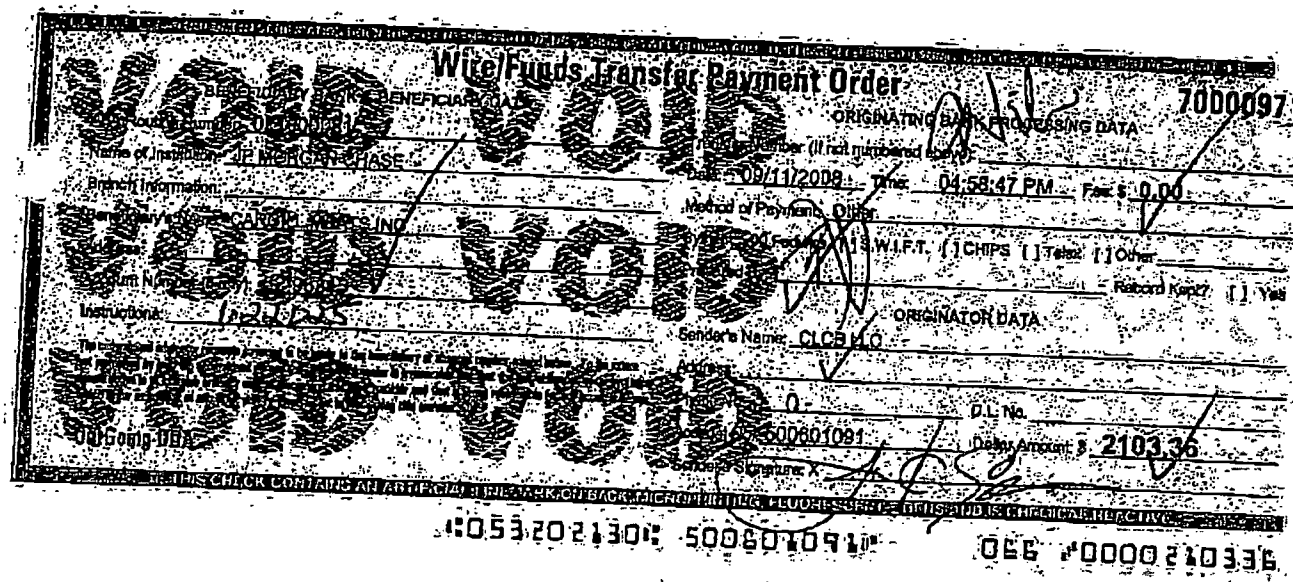
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AVERAGE LEDGER BALANCE:	74,443.04	INTEREST EARNED:	147.87
AVERAGE AVAILABLE BALANCE:	67,793.24	DAYS IN PERIOD:	32.
INTEREST PAID THIS PERIOD:	147.87	ANNUAL PERCENTAGE YIELD EARNED:	2.52%
INTEREST PAID 2008:	4,007.69		

= = = ITEMIZATION OF NSF PAID AND RETURNED ITEM FEES = = =

	THIS PERIOD	YEAR TO DATE
NSF PAID ITEM FEE:	.00	.00
NSF RETURNED ITEM FEE:	.00	.00
OVERDRAFT FEES:	.00	.00

ELECTRONICALLY FILED - 2016 Dec 09 4:58 PM - OCONEE - COMMON PLEAS - CASE#2014CP3700526



Wire Funds Transfer Payment Order

70000971

ORIGINATING BANK PROCESSING DATA

Date: 09/11/2008 Time: 04:58:47 PM Fee $: 0.00

Method of Payment: Other

Type of Funds: [ ] S.W.I.F.T. [ ] CHIPS [ ] Telex [ ] Other

Record Kept? [ ] Yes

ORIGINATOR DATA

Sender's Name: CLCB LLC

Address:

0

D.L. No.

Delay Amount: $ 2103.36

Sender's Signature: X

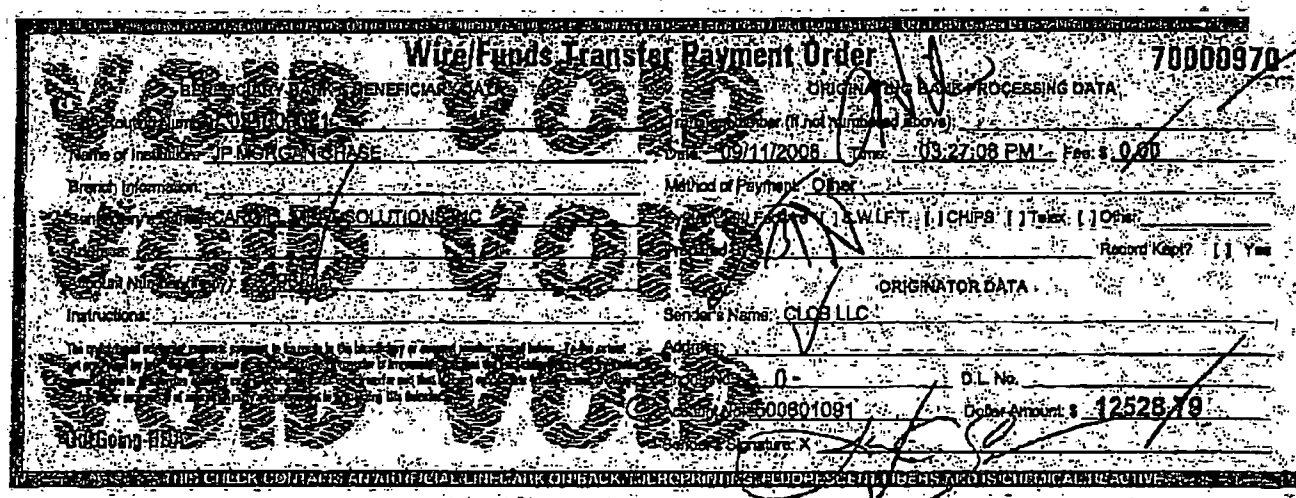
THIS CHECK CONTAINS AN ARTIFICIAL WATERMARK ON BACK. HIGH RESOLUTION, FLUORESCENT FIBERS AND ULTRAVIOLET SENSITIVE INK.

:053202130: 500801091 066 '00002103 36

Actually debited to 300701950 on 9-14-08 Block 0078

ELECTRONICALLY FILED - 2016 Dec 09 4:58 PM - OCONEE - COMMON PLEAS - CASE#2014CP3700526

Giese-CFB 0182



Wire Funds Transfer Payment Order 70000970

BENEFICIARY BANK / BENEFICIARY DATA

Name of Institution: JP MORGAN CHASE

Branch Information:

Beneficiary Name: CARVER TITLE SOLUTIONS INC

Instructions:

ORIGINATING BANK / PROCESSING DATA

Date: 09/11/2008 Time: 03:27:08 PM Fee: $ 0.00

Method of Payment: Other

[ ] FEDWIRE [ ] S.W.I.F.T. [ ] CHIPS [ ] Telex [ ] Other:

Record Kept? [ ] Yes

ORIGINATOR DATA

Sender's Name: CLCB LLC

Address:

D.L. No.

Account No.: 500801091

Dollar Amount: $ 12528.79

Authorized Signature: X

THIS CHECK CONTAINS AN ARTIFICIAL WATERMARK ON BACK. DO NOT ACCEPT WITHOUT WATERMARK. ARTIFICIAL WATERMARK ACTIVE

⑆053202130⑆ 500601091⑈ 068 ⑆0012528⑆79⑈

① Acct of CLCB, LLC indicated, but

Actually debited to 500701950 on 9-16-2008 Block 0075

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EXHIBIT QQ

ELECTRONICALLY FILED - 2016-Dec-09 4:58 PM - OCONEE - COMMON PLEAS - CASE#2014CP3700526

000 00007 03
ACCOUNT: 300701950 PAGE: 1
DOCUMENTS: 12 09/30/2008

DEBI BAKER BROOKSHIRE TRUST
DEBI BAKER BROOKSHIRE TRUSTEE
1707 DEVINE ST

COLUMBIA SC 29205

30-0
2
10

PLEASE VISIT OUR NEW OFFICE NOW OPEN AT 2007 EAST GREENVILLE ST.
ANDERSON, SC. (ACROSS FROM ANMED HEALTH CAMPUS ON HIGHWAY 81)
PHONE (864)224-0178.

PERFORMANCE INVESTMT ACCOUNT 300701950

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
BALANCE LAST STATEMENT				
INVESTMENT COUNTER WITHDRAWAL			08/29/08	69,888.09
FUNDS TRANSFER	8,052.25			
DEPOSIT # 127	10,000.00		09/08/08	61,835.84
INVESTMENT COUNTER WITHDRAWAL			09/08/08	51,835.84
WIRE TRANSFER	3,200.00	69,120.00	09/12/08	120,955.84
WIRE TRANSFER	2,103.36		09/15/08	117,755.84
FUNDS TRANSFER	12,528.79		09/16/08	115,652.48
DEPOSIT	10,000.00		09/16/08	103,123.69
FUNDS TRANSFER			09/16/08	93,123.69
FUNDS TRANSFER	15,000.00	5,433.76	09/17/08	98,557.45
INVESTMENT COUNTER WITHDRAWAL	1,000.00		09/17/08	83,557.45
INVESTMENT COUNTER WITHDRAWAL	1,532.10		09/22/08	82,557.45
INVESTMENT COUNTER WITHDRAWAL	5,426.23		09/22/08	81,025.35
MISCELLANEOUS DEBIT	10,000.00		09/22/08	75,599.12
MISCELLANEOUS DEBIT	445.00		09/23/08	65,599.12
FUNDS TRANSFER	30,195.00		09/29/08	65,154.12
INTEREST	15,000.00		09/30/08	34,959.12
BALANCE THIS STATEMENT			09/30/08	19,959.12
		147.87	09/30/08	20,106.99
			09/30/08	20,106.99

C O N T I N U E D

Giese-CFB 0172

DEBI BAKER BROOKSHIRE TRUST

PERFORMANCE INVESTMT ACCOUNT 300701950

TOTAL CREDITS	(3)	74,701.63	AVG AVAILABLE BALANCE	67,793.24
TOTAL DEBITS	(14)	124,482.73	AVERAGE BALANCE	74,443.04

INTEREST

AVERAGE LEDGER BALANCE:	74,443.04	INTEREST EARNED:	147.87
AVERAGE AVAILABLE BALANCE:	67,793.24	DAYS IN PERIOD:	32
INTEREST PAID THIS PERIOD:	147.87	ANNUAL PERCENTAGE YIELD EARNED:	2.528
INTEREST PAID 2008:	4,007.69		

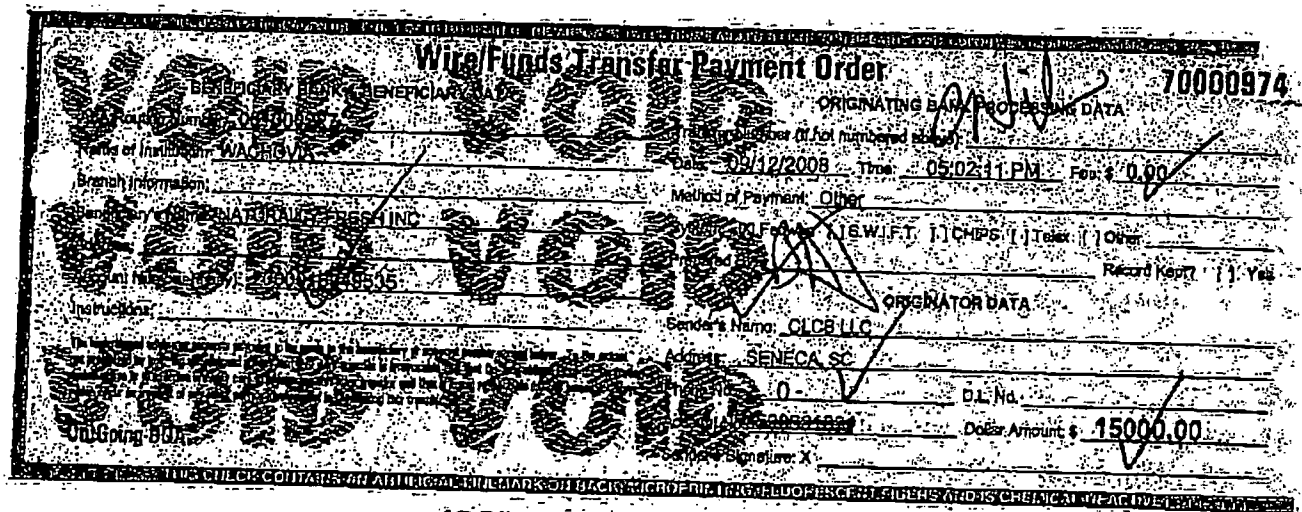
ITEMIZATION OF NSF PAID AND RETURNED ITEM FEES

	THIS PERIOD	YEAR TO DATE
NSF PAID ITEM FEE:	.00	.00
NSF RETURNED ITEM FEE:	.00	.00
OVERDRAFT FEES:	.00	.00

Giese CFB 0173

ELECTRONICALLY FILED: 2016 Dec 09 4:58 PM - OCONEE - COMMON PLEAS - CASE#2014CP3700526

ELECTRONICALLY FILED - 2016 Dec 09 4:58 PM - OCONEE - COMMON PLEAS - CASE#2014CP3700526



Wire Funds Transfer Payment Order

70000974

ORIGINATING BANK PROCESSING DATA

Date: 09/12/2008 Time: 05:02:11 PM Fee: $ 0.00

Method of Payment: Other

Payment Format: [X] S.W.I.F.T. [ ] CHIPS [ ] Telex [ ] Other

Record Kept? [ ] Yes

ORIGINATOR DATA

Sender's Name: CLCB LLC

Address: SENECA, SC

D.L. No.

Dollar Amount: $ 15000.00

Confirm Signature: X

VOID

VOID

VOID

Ongoing BOK

THIS CHECK CONTAINS AN ARTIFICIAL WATERMARK ON BACK - HOLD AT ANGLE TO VIEW

:053202130: 500601091" 066 "0001500000:

Actually charged to
300701950
Deb: Brookshire

EXHIBIT

RR

ELECTRONICALLY FILED - 2016 Dec 09 4:58 PM - OCONEE - COMMON PLEAS - CASE#2014CP3700526

000 00007 03 PAGE: 1
ACCOUNT: 300701950 11/28/2008
DOCUMENTS: 9

DEBI BAKER BROOKSHIRE TRUST
DEBI BAKER BROOKSHIRE TRUSTEE
1707 DEVINE ST 30-0
1
COLUMBIA SC 29205 8

AS PART OF THE ECONOMIC STABILIZATION BILL, A TEMPORARY INCREASE IN FDIC INSURACE COVERAGE IS EFFECTIVE IMMEDIATELY. COVERAGE RAISES TO $250,000 PER DEPOSITOR THROUGH DECEMBER 31,2009

PERFORMANCE INVESTMT ACCOUNT 300701950

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
BALANCE LAST STATEMENT			10/31/08	284,407.05
DS TRF	85,000.00		11/01/08	199,407.05
CELLANEOUS DEBIT	27,708.15		11/03/08	171,698.90
VESTMENT COUNTER WITHDRAWAL	16,560.00		11/03/08	155,138.90
INVESTMENT COUNTER WITHDRAWAL	167.98		11/05/08	154,970.92
INVESTMENT COUNTER WITHDRAWAL	3,000.00		11/05/08	151,970.92
INVESTMENT COUNTER WITHDRAWAL	46.99		11/06/08	151,923.93
	3,200.00		11/06/08	148,723.93
BAKERANDBAKER BAKER DEPOSIT		5,433.76	11/14/08	154,157.69
INVESTMENT COUNTER WITHDRAWAL		1,600.00	11/17/08	155,757.69
INVESTMENT COUNTER WITHDRAWAL	10,000.00		11/21/08	145,757.69
	27,573.00		11/21/08	118,184.69
INTEREST		331.28	11/28/08	118,515.97
BALANCE THIS STATEMENT			11/28/08	118,515.97

TOTAL CREDITS	(3)	7,365.04	AVG AVAILABLE BALANCE	145,722.70
TOTAL DEBITS	(9)	173,256.12	AVERAGE BALANCE	145,779.84

* * * C O N T I N U E D * * *

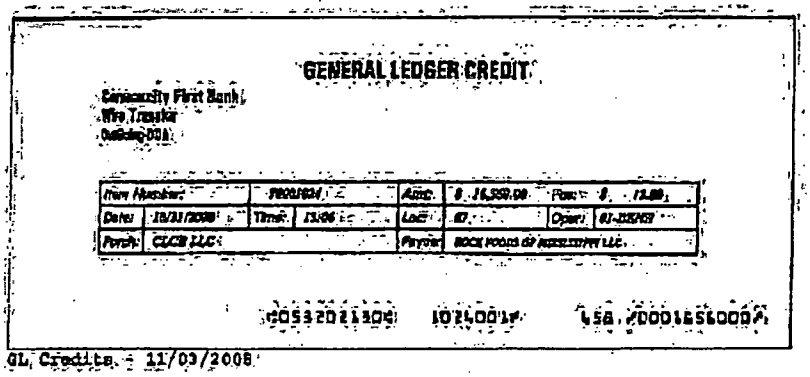
Glese-CFB 0234

UEBI BAKER BROOKSHIRE TRUST

PERFORMANCE INVESTMT ACCOUNT 300701950

- - - -

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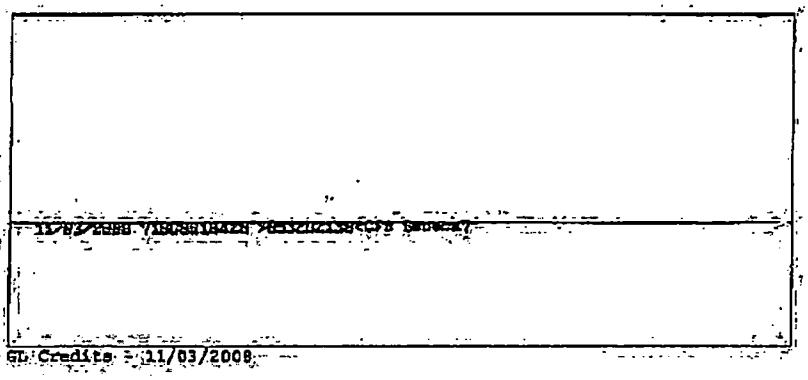
GENERAL LEDGER CREDIT

Community First Bank
Wire Transfer
Outgoing-0011

Item Number:	[illegible]		Amt:	$ 16,559.00	Fee:	$ 15.00	
Date:	10/31/2008	Time:	15:06	Loc:	07	Oper:	01-[illegible]
From:	CLCB LLC			Payee:	ROCK HOUSE GP ACQUISITION LLC		

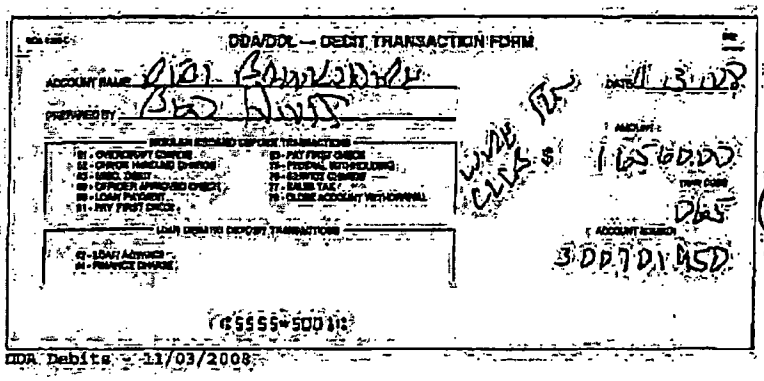
[illegible]

GL Credits - 11/03/2008



[illegible]

GL Credits - 11/03/2008

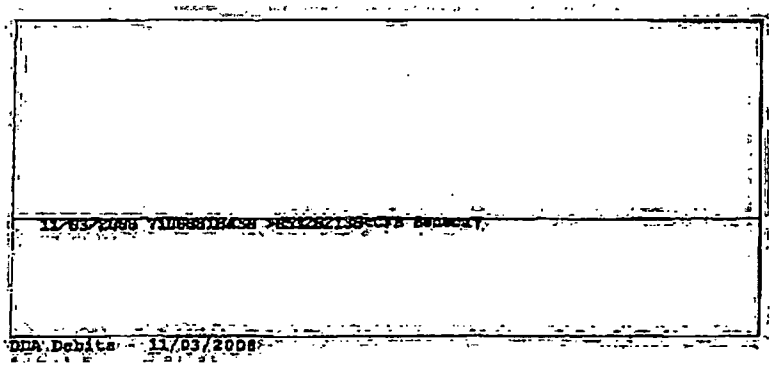


DDA/DDL — CREDIT TRANSACTION FORM

ACCOUNT NAME: [illegible]
PREPARED BY: [illegible]
DATE: [illegible]
AMOUNT: $ [illegible]
TRAN CODE: [illegible]
ACCOUNT NUMBER: [illegible]

[illegible]

DDA Debits - 11/03/2008



[illegible]

DDA Debits - 11/03/2008

Giese-CFB 0237

EXHIBIT SS

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Kathleen M. McDaniel - Attorney
803-404-6900
KathleenMcDaniel@callisontighe.com

October 19, 2010

Frederick D. Shepherd, Jr.
President, Community First Bancorporation
449 Highway 123 Bypass
Seneca, South Carolina 29678

James E. McCoy
Chairman, Board of Directors
Community First Bank
449 Highway 123 Bypass
Seneca, South Carolina 29678

Re: Debi Baker-Brookshire financial matters
Our file number: 1345.001

Dear Mr. Shepherd and Chairman McCoy:

This firm represents Debi Baker-Brookshire in certain matters concerning her personal finances. One of those matters is an account that Ms. Baker-Brookshire had at your bank for several years and her unfruitful attempts to obtain information regarding that account.

In June of 2007, Ms. Baker-Brookshire deposited over $1 million into a trust account at Community First Bank. It was Ms. Baker-Brookshire's understanding and desire that Ben Hiott, Senior Vice President at the Walhalla branch, would provide her with guidance and assistance in handling her personal finances through management of this account. Unfortunately, Mr. Hiott has failed to provide Ms. Baker-Brookshire with important information when requested, which failure has caused Ms. Baker-Brookshire to be unable to assess the true status of her personal finances. I, therefore, am writing to you to request your assistance in obtaining this information from Community First Bank.

On August 23, 2010, I spoke with Mr. Hiott on the telephone and requested that he send me a full and complete accounting of Ms. Baker-Brookshire's account. Ms. Baker-Brookshire had made multiple requests previously for the same information but no information had been forthcoming. In response our telephone conversation, Mr. Hiott faxed to me a copy of what appears to be a computer-generated report of wire transfers out of Ms. Baker-Brookshire's account. I have enclosed a copy of the information provided by Mr. Hiott.

This information is not a full and complete accounting of the over $1 million that was deposited into the account. Therefore, on September 21, 2010, I sent a letter to Mr. Hiott

Glese-CFB 1247

EXHIBIT

TT

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Kathleen M. McDaniel - Attorney
803-404-6900
KathleenMcDaniel@callisontighe.com

November 18, 2010

Frederick D. Shepherd, Jr.
President, Community First Bancorporation
449 Highway 123 Bypass
Seneca, South Carolina 29678

James E. McCoy
Chairman, Board of Directors
Community First Bank
449 Highway 123 Bypass
Seneca, South Carolina 29678

Re: Debi Baker-Brookshire financial matters
Our file number: 1345.001

Dear Mr. Shepherd and Chairman McCoy:

Following my letter to you dated October 19, 2010, regarding the financial affairs of Mrs. Debi Baker-Brookshire, I received the enclosed letter from Ben Hiott. Unfortunately, Mr. Hiott's response to my requests for information have so far been inadequate.

After I received Mr. Hiott's response, I conferred with my client, and she as well as her personal bookkeeper have confirmed that they have not received monthly account statements for Mrs. Baker-Brookshire's accounts at Community First Bank in quite some time if ever. Furthermore, this information should be straightforward for Mr. Hiott or some other employee of Community First Bank to generate and provide to Mrs. Baker-Brookshire. I, therefore, do not understand Mr. Hiott's reluctance to provide the requested information.

As I have been unable to obtain the requested information directly from Mr. Hiott, I am again asking that you assist me in obtaining this information for Mrs. Baker-Brookshire.

Thank you for your assistance with this matter.

With kind regards, I am

Sincerely,

for Kathleen M. McDaniel

Encl.

cc: Debi Baker-Brookshire
Ben Hiott

Glese-CFB 1250

EXHIBIT
UU

In the Matter Of:

Brookshire, Debi Baker v
Community First Bank, Inc., et al

Frederick D. Shepherd, Jr. REDACTED
June 27, 2016

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35 YEARS

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banking business we do a lot of checks. And our checks and balances are how we follow things. And it's designed to -- if there wasn't an entry offsetting it, then I would have seen the next morning that there was an entry that didn't balance and I would have probably gone to him -- I would have seen that it didn't balance, understand?

Q. Sure.

A. All right. And I would have said what the hell is this or something like that. But it balanced, so I didn't do that.

Q. And in summary, okay, on a regular basis, whether it's a daily basis, weekly basis, monthly basis, what would you do in your role as his supervisor or his boss to monitor and evaluate what he was doing in making sure he was properly performing the duties of his job?

A. I think I've answered you already on that question.

Q. And that's why I said in summary, if you could tell me one more time.

A. I reviewed the bank's financial reports daily, which he was a participant in preparing or having prepared or his area of responsibility was included in the bank's total picture, financial

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picture. I looked at the bank's what we call daily statement, which was the position of the bank every day. And if there was anything out of the ordinary or if I needed an answer from his area, I would contact him. If it was somebody else, I would contact them.

And I believe that he would review them as well and I believe that operations would review them as well and financial. And I believe the branches would review theirs as well, so a lot of people reviewed the financials every day.

Q. Okay. Did you ever -- what's the right word -- did you ever issue an evaluation of his work that you had to do yearly evaluations for people?

A. Yes.

Q. Who was Mr. Peters in the loan department?

A. He was the administrator of the loan department, David Peters.

Q. And did he answer to you also?

A. Yes.

Q. Okay. And there was some issues with the loan department at some point?

A. In the latter part of '13, correct.

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EXHIBIT VV

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STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

IN THE COURT OF COMMON PLEAS

Debi Baker Brookshire,

Plaintiff,

v.

Community First Bank, Inc. and Benjamin Lee Hiott,

Defendants.

Civil Action No. 2014-CP-37-526

DEFENDANT COMMUNITY FIRST BANK, INC.'S RESPONSES TO PLAINTIFF'S FIRST REQUESTS FOR PRODUCTION

TO: DEBI BAKER BROOKSHIRE AND HER ATTORNEY W. BARNEY GIESE:

Pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, Defendant Community First Bank, Inc. ("Community First Bank") answers Plaintiff's First Requests for Production as follows:

REQUESTS FOR PRODUCTION

1. All documents or tangible items identified in Defendant Community First Bank's Answers to Plaintiff's Interrogatories.

RESPONSE: **Responsive, non-privileged documents will be made available for inspection and copying at a mutually convenient time and place. Some responsive documents will be produced upon the entry of a protective order, as detailed in Community First Bank's answers to Plaintiff's interrogatories.**

2. Any and all documents related to Debi Baker Brookshire's Trust account, account number 300701950.

RESPONSE: **Community First Bank objects to this request to the extent it implies or states that Plaintiff's account at Community First Bank was a trust account with the Bank serving as trustee. Plaintiff's account at Community First**

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Bank was a deposit account held in the name of Debi Baker Brookshire as Trustee for the Debi Baker Brookshire Trust. Community First Bank further objects to the request on the grounds that it is overly broad, vague, and ambiguous in that it seeks "[a]ny and all documents related to" Plaintiff's account. Subject to and notwithstanding this objection, responsive, non-privileged account documents will be made available for inspection and copying at a mutually convenient time and place.

3. Community First Bank, Inc. stock certificates issued to Debi Baker Brookshire that prove Ms. Brookshire's ownership of such stock.

RESPONSE: **This Defendant objects to this request on the grounds that it is vague and ambiguous in that it refers to stock certificates that "prove" Plaintiff's ownership of stock. Without waiving its objection, the Bank agrees to produce documents pertaining to Plaintiff's record ownership of shares of Community First Bancshares for inspection and copying at a mutually convenient time and place. Those documents do not reflect whether Plaintiff owned a beneficial interest in other shares held in "street name."**

4. Any and all documents that relate to or support any affirmative defense or averment in Defendant Community First Bank, Inc.'s Answer and Counterclaim.

RESPONSE: **Responsive, non-privileged documents will be made available for inspection and copying at a mutually convenient time and place.**

5. Any and all documents concerning any statement made by Defendants or their agents, servants, employees or former employees concerning the subject matter of this action.

ELECTRONICALLY FILED - 2016 Dec 09 4:58 PM - OCONEE - COMMON PLEAS - CASE#2014CP3700526

RESPONSE: **This Defendant objects to this interrogatory on the grounds that it is vague, ambiguous, and overly broad. Without waiving its objections, this Defendant agrees to produce relevant and non-privileged documents at a mutually convenient time and place.**

6. Copies of all insurance policies, including but not limited to bonds, fidelity insurance, commercial general liability insurance, excess or umbrella insurance, or any other policy which might potentially provide coverage for acts alleged in the Complaint.

RESPONSE: **This Defendant agrees to produce the subject insurance policy at a mutually convenient time and place.**

7. All letters, correspondence, emails or any other form of communication between or among any employees or former employees of Defendant Community First Bank, Inc. wherein the subject of the communication is Plaintiff and/or her account. This request includes management, supervisory positions, board members and any other person authorized to act on behalf of Defendant Community First Bank, Inc.

RESPONSE: **Community First Bank will make a reasonably diligent search for responsive documents as maintained in the ordinary course of Community First Bank's business and will produce responsive and non-privileged documents for inspection and copying at a mutually convenient time and place.**

8. Produce all forensic accountings or audits conducted on Plaintiff's account from June 22, 2007 to present. If Plaintiff's account was not individually audited, provide a complete copy of all forensic accountings or audits which involved a review of Plaintiff's account.

RESPONSE: **This Defendant agrees to produce responsive, non-privileged documents regarding Plaintiff's account for inspection and copying at a mutually**

convenient time and place. This Defendant objects to further response on the grounds that the request is overly broad, vague, ambiguous, and seeks documents that are confidential and privileged.

9. All policies and procedures for monitoring activity in customers' accounts for the purpose of detecting or preventing fraud or unauthorized account activity, including unauthorized withdrawals or transfers.

RESPONSE: Community First Bank objects to this request on the grounds that it seeks confidential and proprietary business information. Subject to and notwithstanding this objection, Community First Bank will make relevant, non-privileged documents available for inspection and copying at a mutually convenient time and place to the extent such documents exist.

10. All written policy and procedure manuals defining or in any way relating to "journal transfers," "investments counter withdrawals," and "miscellaneous debits."

RESPONSE: Community First Bank objects to this request on the grounds that it seeks confidential and proprietary business information. Subject to and notwithstanding this objection, Community First Bank will make relevant, non-privileged documents available for inspection and copying at a mutually convenient time and place to the extent such documents exist.

11. If Defendant has retained or in the future does retain an expert on any matter in this case, produce any reports generated by the expert or a summary of any opinions to be offered by the expert.

RESPONSE: Community First Bank will produce copies of these documents should they be generated in the future.

ELECTRONICALLY FILED 2016 Dec 09 4:58 PM - OCONEE - COMMON PLEAS - CASE#2014CP3700526

12. All documents generated or produced in connection with Community First Bank Account 1222001.

RESPONSE: **Community First Bank objects to this request on the grounds that it is overbroad, seeks documents irrelevant to the claims and defenses in this case, and is not sufficiently tailored to seek discovery of relevant or admissible evidence. This account number refers to a miscellaneous accounts receivable accounting line on Community First Bank's general ledger and is not a customer account nor a deposit account. Subject to and notwithstanding these objections, see Plaintiff's account documents for relevant information about interactions between Plaintiff's account and Community First Bank Account 1222001, which will be made available for inspection and copying at a mutually convenient time and place.**

13. Produce a copy of Defendant Benjamin Lee Hiott's personnel file.

RESPONSE: **Community First Bank objects to this request on the grounds that it seeks confidential information. Subject to and notwithstanding this objection, relevant portions of Mr. Hiott's personnel file will be made available for inspection and copying upon the entry of a protective order.**

14. Any and all documents generated or produced in connection with any loans made by Defendant Community First Bank, Inc. to the following individuals or entities:

(a) Joseph C. Crosby, Jr.

(b) Kristina Crosby

(c) CLCB, LLC

(d) Falcon's Lair

(e) MPS Development, Inc.

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(f) MPS Golf Course, Inc.

(g) Benjamin Lee Hiott

(h) Marc Hiott

(i) Hilltop, Inc.

(j) Upstate Real Estate

RESPONSE: **Community First Bank objects to the production of loan files (if any) for third party customers on the grounds that such information is confidential, irrelevant to the claims and defenses asserted in this case, and the request is not sufficiently tailored to lead to the discovery of admissible evidence.**

HAYNSWORTH SINKLER BOYD, P.A.

By: _____

Robert Y. Knowlton, SC Bar No. 3589
Elizabeth H. Black, SC Bar No. 76067
1201 Main Street – 22nd Floor
PO Box 11889 (29211-1889)
Columbia, SC 29201
(803) 779-3080 Tel
(803) 765-1243 Fax
rknowlton@hsblawfirm.com
eblack@hsblawfirm.com
Attorneys for Defendant Community First Bank, Inc.

December 15, 2014
Columbia, South Carolina

Dm: 3901994 v.1

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STATE OF SOUTH CAROLINA COUNTY OF OCONEE	IN THE COURT OF COMMON PLEAS
Debi Baker Brookshire, Plaintiff, v. Community First Bank, Inc. and Benjamin Lee Hiott, Defendants.	Civil Action No. 2014-CP-37-0526 **CERTIFICATE OF SERVICE**

I, the undersigned employee of Haynsworth Sinkler Boyd, P.A., do hereby certify that I have this 15th day of December 2014, caused the foregoing documents to be served via U.S. Mail, postage-prepaid on plaintiff's counsel of record at the address shown below:

Documents to be Served:

1. Defendant Community First Bank, Inc.'s Answers to Debi Baker Brookshire's First Set of Interrogatories; and

2. Defendant Community First Bank, Inc.'s Responses to Debi Baker Brookshire's First Requests for Production of Documents.

W. Barney Giese, Esq.
The Giese Law Firm
1315 Blanding Street
Columbia, SC 29201
Attorneys for Plaintiff

Beth Valdes

Dm: 3915981 v.1

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EXHIBIT WW

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STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
COUNTY OF OCONEE	)	Case No. 2014-CP-37-526
	)	
Debi Baker Brookshire,	)	
	)	
Plaintiff,	)	**ORDER**
	)	
v.	)	
	)	
Community First Bank, Inc. and Benjamin Lee Hiott,	)	
	)	
Defendants.	)	

This matter is before the Court upon motion by Defendant Ben Hiott to dismiss the Complaint against him pursuant to Rules 12(b)(6) and 12(c) of the South Carolina Rules of Civil Procedure. The Court heard arguments of counsel for Defendant Hiott and Plaintiff Debi Brookshire in Oconee County Court of Common Pleas on January 26, 2015. Also present at the hearing was Attorney Robert Knowlton, representing Defendant Community First Bank, Inc. Prior to the hearing, the attorneys for Defendant Hiott and Plaintiff Brookshire submitted to the Court written memoranda of law setting forth their respective positions on the Motion to Dismiss. After carefully considering the written memoranda and the arguments of counsel, and for the reasons set forth below, Defendant Hiott's Motion to Dismiss is denied.

Rule 12(b)(6) and 12(c) Standards

In considering a motion to dismiss under Rule 12(b)(6), SCRCP, this Court must base its ruling solely on allegations set forth in the complaint. If the facts and inferences drawn from the facts alleged in the complaint, viewed in the light most favorable to the plaintiff, would entitle the plaintiff to relief on any theory, then the grant of a motion to dismiss for failure to state a claim is improper. Furthermore, the complaint should not be dismissed merely because the Court

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doubts the plaintiff will prevail in the action. *Spence v. Spence*, 368 S.C. 106, 628 S.E.2d 869, 874 (2006); *see also, Baird v. Charleston County*, 333 S.C. 519, 511 S.E.2d 69 (1999).

A motion under Rule 12(c), SCRCP, is judged by essentially the same standard.

> Any party may move for a judgment on the pleadings under Rule 12(c), SCRCP. When considering such motion, the court must regard all properly pleaded factual allegations as admitted. On review of the motion, the court may not consider matters outside the pleadings.
>
> A judgment on the pleadings against the plaintiff is not proper if there is an issue of fact raised by the complaint which, if resolved in favor of the plaintiff, would entitle him to judgment. When a fact is well pleaded, any inference of law or conclusions of fact that may properly arise therefrom are to be regarded as embraced in the averment. Moreover, a complaint is sufficient if it states any cause of action or it appears that the plaintiff is entitled to any relief whatsoever. Our courts have held that pleadings in a case should be construed liberally so that substantial justice is done between the parties. Furthermore, a judgment on the pleadings is considered to be a drastic procedure by our courts.

Falk v. Sadler, 341 S.C. 281, 286-87, 533 S.E.2d 350, 353 (Ct. App. 2000) (internal citations omitted).

Defendant Hiott's Motion to Dismiss is based on his argument that the allegations of the complaint establish as a matter of law that the statute of limitations has lapsed on all of the Plaintiff's putative claims. Under South Carolina law, the statute of limitations is an affirmative defense. *See* Rule 8(c), SCRCP; *Hedgepath v. American Tel. & Tel. Co.*, 348 S.C. 340, 559 S.E.2d 327 (Ct. App. 2001) (the statute of limitations is an affirmative defense). An affirmative defense "ordinarily may not be asserted in a motion to dismiss under Rule 12(b)(6) unless the allegations of the complaint demonstrate the existence of the affirmative defense." *Spence, supra*, at 123, 628 S.E.2d at 878. "[B]ecause the factual analysis of a Rule 12(b)(6) motion is confined to the four corners of the complaint, an affirmative defense usually must be pled in an

answer and either resolved in later motions such as summary judgment or directed verdict or at trial." *Id.*

In deciding this motion, the Court must necessarily construe the allegations in the complaint in the light most favorable to the Plaintiff. *See Spence*, *Baird*, and *Falk*, *supra*. Applying the standards for determining a motion to dismiss based on Rules 12(b)(6) and 12(c), SCRCP, the Court – without reaching any conclusion as to the veracity of any of the allegations – finds that the Complaint has alleged facts sufficient to state a basis for relief. The allegations set forth in the Complaint do not establish the affirmative defense of the statute of limitations. Based on the stringent standard for deciding motions to dismiss brought pursuant to Rules 12(b)(6) and Rule 12(c), SCRCP, the Court at this time must deny Defendant Hiott's motion to dismiss.

Equitable Tolling

In the alternative, the Court finds that Defendant Hiott's Motion to Dismiss should be denied because the allegations in the Complaint, construed in the light most favorable to the Plaintiff, give rise to application of the doctrine of equitable tolling. Equitable tolling is a judicially created doctrine or concept. *Hooper v. Ebenezer Senior Services and Rehabilitation Center*, 386 S.C. 108, 687 S.E.2d 29 (2009). The doctrine of equitable tolling "stems from the judiciary's inherent power to formulate rules of procedure where justice demands it. Where a statute sets a limitation period for action, courts have invoked the equitable tolling doctrine to suspend or extend the statutory period to ensure fundamental practicality and fairness." *Id.* at 115, 687 S.E.2d at 32 (internal citations and quotation marks omitted). Equitable tolling is judicial recognition that "a defendant may be estopped from claiming the statute of limitations as a defense if the delay that otherwise would give operation to the statute had been induced by the

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defendant's conduct." *Black v. Lexington School Dist. 2*, 327 S.C. 55, 61, 488 S.E.2d 327, 330 (1997). The South Carolina Supreme Court recognized in *Hooper, supra*, that there is no bright-line test for determining application of equitable tolling. The rule "exists to do fairness and is flexible and adaptable to particular exigencies so that relief will be granted when, in view of all the circumstances, to deny it would permit one party to suffer a gross wrong at the hands of the other." *Id.* at 116, 687 S.E.2d at 33.

In her Complaint, the Plaintiff alleges Defendant Hiott engaged in a course of conduct whereby Hiott manipulated funds in the Plaintiff's trust account and took steps to avoid detection and to conceal the financial transactions involving the Plaintiff's account funds. She further alleges Hiott misrepresented to her the amount of money in her account, misrepresented to her how funds in her account had been spent, and refused to provide her with an accounting when she asked for one. *See* Complaint, ¶¶ 15, 45, 46, 51, 83, 93, 94, 95, 135, 136, and 137.

As an alternative reason for denying Defendant Hiott's Motion to Dismiss, and assuming the truth of the allegations in the Complaint, the Court finds Plaintiff has made sufficient assertions of fact to give rise to equitable tolling of the statute of limitations.

S.C. Code Section 15-3-110

Plaintiff argued in her memorandum in opposition and at the hearing on the Motion to Dismiss that South Carolina Code Section 15-3-110 applies to some or all of the claims alleged in her Complaint. Section 15-3-110 provides that "[l]imitations are not applicable to bills, notes or other evidence of debt issued by moneyed corporations. This chapter shall not affect actions to enforce the payment of bills, notes or other evidences of debt issued by moneyed corporations or issued or put in circulation as money." S.C. Code §15-3-110. The Section does not define "moneyed corporation." Neither party could cite a case that has ever applied Section 15-3-110;

but Plaintiff cited Miriam-Webster Dictionary which defines "moneyed corporation" as "a corporation authorized to engage in the investment of moneyed capital." Defendant Hiott failed to provide any contrary definition, but instead offered public policy arguments why the statute should not apply to the Plaintiff's claims. This Court is bound to apply the law as determined by the legislature. Giving the words in Section 15-3-110 their common meaning, the Court is not convinced at this stage of the litigation that the statute cannot apply. As an alternative grounds for denying Defendant Hiott's Motion to Dismiss, the Court finds that the allegations set forth in the Complaint may be governed by Section 15-3-110.

CONCLUSION

For the reasons set forth above, Defendant Hiott's Motion to Dismiss pursuant to Rules 12(b)(6) and 12 (c), SCRCP, is hereby denied.

IT IS SO ORDERED, this 20 day of February, 2015.

R. Lawton McIntosh
Circuit Court Judge

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STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

IN THE COURT OF COMMON PLEAS

Debi Baker Brookshire,

Plaintiff,

v.

Community First Bank, Inc. and Benjamin Lee Hiott,

Defendants.

Case No. 2014-CP-37-526

DEFENDANT COMMUNITY FIRST BANK, INC.'S REPLY MEMORANDUM IN FURTHER SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT

Defendant Community First Bank, Inc. ("Community First") herein replies in further support of its Motion for Summary Judgment ("Motion") and in specific response to Plaintiff Debi Baker Brookshire's ("Plaintiff") Memorandum in Opposition filed on December 9, 2016. Plaintiff utterly fails to respond to critical and dispositive grounds for summary judgment raised by Community First. Plaintiff further repeatedly misrepresents key facts and fails to cite to any evidence in the record for numerous points. Ultimately, Plaintiff's efforts to show that there is a genuine issue of material fact to preclude summary judgment fail. Community First is entitled to summary judgment as a matter of law.

I. Plaintiff completely fails to respond to several of Community First's grounds for summary judgment.

Two of Community First's overarching grounds for summary judgment on all claims are (1) the statutory immunity granted to Community First as a third party relying on a power of attorney (Motion pp. 4-6; Mem. in Support pp. 17-18) and (2) the statute of repose under the

South Carolina Uniform Commercial Code ("UCC") that completely bars a customer's claim against a bank for an unauthorized disbursement (Motion pp. 9-10; Mem. in Support pp. 21-24). Plaintiff's 40-page memorandum in opposition does not discuss these two foundational issues. Consequently, Plaintiff does not and cannot point to any evidence in this matter to preclude summary judgment to Community First on all claims.

II. Plaintiff's strenuous and tortuous efforts to categorize her account at Community First as a "trust account" fail.

There is no documentary or testamentary evidence to support Plaintiff's claim that the account she held at Community First ending in 1950 (the "Account") was a trust account, yet Plaintiff persists in this baseless claim. Ultimately, this is a case that boils down to what the contracts *actually say* that govern the relationships between Plaintiff and Hiott (the May 25, 2007 power of attorney (the "POA"), Ex. 9)[1] and between Plaintiff and Community First (the June 2007 account agreement (the "Account Agreement"), Ex. 24 at Ex. 7 thereto). As a matter of public policy and law, Plaintiff is charged with knowledge of and is bound by the terms of her written contracts. *Burwell v. S.C. Nat'l Bank*, 288 S.C. 34, 39, 340 S.E.2d 786, 789 (1986) ("One cannot complain of fraud and misrepresentation in the contents of a document if the truth could have been ascertained by reading it."); *Regions Bank v. Schmauch*, 354 S.C. 648, 663-64, 582 S.E.2d 432, 440 (Ct. App. 2003). Here, those terms are the unambiguous terms of the POA and Account Agreement. *See* Mem. in Support pp. 17-18; Ex. 9; Ex. 24 at Ex. 7 thereto. In addition, under the UCC, Plaintiff has a duty to obtain and review her Account statements – in essence she is charged with knowledge of the contents of her statements. *See* Mem. in Support pp. 21-24.

[1] All references to numbered exhibits 1-56 are to the exhibits attached to Community First's memorandum in support filed on December 9, 2016. Exhibits beginning at number 57 are attached hereto.

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The Account Agreement clearly and unambiguously states that the Account description is "Business Premium Investment Checking" and the owner/signer of the Account is "Debi Baker Brookshire Trustee." Ex. 24, at Ex. 7 thereto.[2] Plaintiff contorts the plain language of the Account Agreement to argue that the typed words "Trust Accounts" somehow morphs the disclosed "Business Premium Investment Checking" Account into a trust account with Community First serving as trustee (Mem. in Opp. pp. 17-18), yet completely fails to mention that the typed words "Trust Accounts" appears under the heading "Ownership of Account." Ex. 24 at Ex. 7 thereto. The plain language of the Account Agreement and other Account opening documentation (Plaintiff's Exhibit A) is exactly what Community First has always maintained: this was a checking account opened in the name of and owned by a trust. *See* Exhibit 57, pp. 50-51, 60-65, 67-71 (Wilson Dep. Excerpts); Exhibit 58, pp. 18-19 (Griffith Dep. Excerpts). Plaintiff's monthly Account statements that Community First sent to her as a matter of course show that Community First's records reflected that Plaintiff herself was serving as trustee of the trust—not Community First. *See* Exs. 3, 4, 5, 6 to Ex. 24.

Contract language matters and controls this case. The POA states that Hiott is Plaintiff's attorney in fact. Ex. 9. Community First is not mentioned or even impliedly referenced in the POA, nor is Hiott's profession as a banker. Ex. 9. Plaintiff cannot create a trust account (or a genuine issue of material fact that she created a trust account) by assuming she had one. Plaintiff's assumption is wholly inconsistent with the actual agreements, the monthly Account statements, and the *voluminous* other documents showing that Hiott was acting as her attorney in

[2] Plaintiff claims that Exhibit A to her Memorandum in Opposition is the "deposit agreement." Mem. in Opp. p. 17. This is partially false. Pages 9-13 of Plaintiff's Exhibit A constitute the "deposit agreement" (what Community First refers to as the Account Agreement). Ex. 24 ¶ 36 and Ex. 7 thereto. The other documents in Plaintiff's Exhibit A are fairly described as Account opening paperwork, but this paperwork is internal to the bank, and it is incorrect and inaccurate to describe it all together as the deposit agreement or Account Agreement.

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fact under the POA in disbursing Plaintiff's money from the Account (along with keeping her children, storing her motor home, negotiating her lease, and personally keeping $500,000 worth of Plaintiff's jewelry and silver—hardly actions undertaken by someone acting as a banker). Not one document and not one piece of record evidence demonstrate that Community First was acting as a trustee for Plaintiff.[3] In fact, Plaintiff's own expert testified that Plaintiff did not have a "trust account at Community First with the bank serving as a trustee," nor is Plaintiff's own expert "aware of any agreement where [Community First] undertook any trustee duties for [Plaintiff.]" Exhibit 60, pp. 116-17 (Richey Dep. Excerpts).

III. Hiott was *Plaintiff's* agent with regard to the disbursements from the Account.

Whether a given relationship gives rise to certain duties and the contours of those legal duties are questions of law for the court to decide. *Roe v. Bibby*, 410 S.C. 287, 293, 763 S.E.2d 645, 648 (Ct. App. 2014). As the POA and the Account Agreement are contracts, the court's role is to interpret these unambiguous contracts using the language found in the four corners of the respective documents to determine the duties owed to and by the parties to those contracts. *See Hawkins v. Greenwood Development Corp.*, 328 S.C. 585, 594, 493 S.E.2d 875, 879 (Ct. App. 1997).[4] In the POA, Plaintiff granted Hiott individually the authority to "[c]onduct any

[3] Indeed, it is clear that after terminating BB&T as trustee in May 2007, Plaintiff was not looking for a trustee relationship. She was upset with the actions of BB&T as trustee for the approximately two years they served as her trustee. *See* Mem. in Support pp. 4, 38. In 2007, she asked Ron Craven—a grocery store merchandiser—to handle her finances before calling Hiott out of the blue to see if he would "protect [her] interests." Mem. in Support pp. 6-7. She, of course, signed the POA granting Hiott sweeping authority to handle all manner of her affairs. Ex. 9. After Plaintiff began winding down Hiott's responsibilities in the spring of 2010, she asked another friend and retired administrative aide, Ann Gell Hamiter, to assume her bill paying duties, but did nothing more than give Ms. Hamiter signature authority on multiple accounts at BB&T. Mem. in Support pp. 10-11; Exhibit 59, pp. 8, 30-31, 33 (Hamiter Dep. Excerpts).

[4] In contrast to the representations in Plaintiff's memorandum (Mem. in Opp. p. 26), Plaintiff's expert conceded in his deposition that he cannot name a regulation, statute, industry

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business with any banking or financial institution," including "making deposits and withdrawals." Ex. 9. Under this grant of authority, Community First had no right to control Hiott's decisions about how to spend Plaintiff's funds. Plaintiff voluntarily and openly ceded that control to Hiott—and Hiott alone—on May 25, 2007. The Account Agreement unambiguously sets forth the terms governing the relationship between Plaintiff and Community First. There is absolutely no language in the Account Agreement that indicates that Community First is serving as a trustee for Plaintiff or that Community First is exerting any sort of control over the propriety of disbursements from the Account. Ex. 24 at Ex. 7 thereto.

Indeed, under the plain language of the POA, Hiott could have walked into any bank in town, opened an account with Plaintiff's funds, and spent every penny of Plaintiff's money on her utility bills, her car payments, her charitable contributions, and her childcare bills. He could have sent money to her accounts at BB&T. He could have written checks to Dan Brookshire, Joseph Crosby, and Terry Russell. He could have paid her taxes, purchased stock, invested in local businesses, or purchased Christmas presents for the children in Plaintiff's custody. The POA authorized all of this and more. Hiott could have opened up a money market checking account (like the Account) at any bank in town using the POA and made personal appearances at the teller window to effect investment counter withdrawals in order to keep the number of checks written on the account below the legal maximum. *See* Ex. 57, pp. 74-75, 95-96. Community First and Hiott's employment there is of no causal significance because the POA granted Hiott the authority to make every withdrawal from Plaintiff's account—no matter where it was held. Plaintiff's generalized agency argument that omits any discussion of the POA and Account Agreement is unavailing and inapplicable on the facts of this case.

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standard, or Community First policy that prohibits a bank officer from serving as a power of attorney for a bank customer. Ex. 60, pp. 38, 53-54, 81-83.

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IV. S.C. Code Ann. § 15-3-110 does not apply.

Under South Carolina law, statutes of limitations do not apply to actions to "enforce the payment of bills, notes or other evidences of debt issued by moneyed corporations or issued or put in circulation as money." S.C. Code Ann. § 15-3-110 (2005). Although it does not appear that South Carolina courts have construed this particular statute, several other states have enacted similar statutes. *See* N.D. Cent. Code Ann. § 28-01-35 (West); S.D. Codified Laws § 15-2-18; Mo. Ann. Stat. § 516.310 (West); Miss. Code. Ann. § 15-1-79 (West). Both historical banking practice and cases from other jurisdictions with these statutes demonstrate that this statute is antiquated and applies only to bank-specific bills, notes, or actual tangible instruments intended to function as currency, which are no longer circulated and of which there is no evidence of use by Community First here.

In *Butts v. Vicksburg & Meridian R.R. Co.*, 63 Miss. 462 (Miss. 1886), the appellants argued that notes issued by a railroad company were substantially the same as bank notes and that it was well settled that statutes of limitation did not apply to bank notes. Accordingly, appellants argued that the statute of limitations did not apply to the railroad-issued notes at issue in that case. The Supreme Court of Mississippi held that the statutory exception to the statute of limitations did not apply because the railroad-issued notes had ceased to circulate as currency and had ceased to be taken in and reissued by banks. *Id.* at 465. In the opinion, the court explained the reasoning behind excepting bank notes from the statute of limitations:

> While the general rule is that statutes of limitation do not apply to bank bills, because they are by the consent of mankind and course of business *considered as money*, and that their date is no evidence of the time when they were issued, as they are being continually returned and reissued by the banks, yet if such bills have ceased to circulate as currency and have ceased to be taken in and reissued by the banks, they no longer have that distinctive character from other contracts which excepts them from the operation of the statutes of limitation.

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Id. (emphasis added; internal citations omitted). In *Quattrochi v. Farmer's & Merchants' Bank*, 89 Mo. App. 500 (Mo. Ct. App. 1901), the court held that an action against a bank to recover the difference between a balance shown and the balance that was actually due was not within the purview of Missouri's statute excepting actions to enforce bills, notes, and other evidences of debt from the general statute of limitations. *Id.* at 508. Specifically, the court reasoned that "[t]he entry of a deposit in a pass book, to the credit of the depositor, is in the nature of a receipt, and is prima facie evidence that the bank has received the amount from the depositor and entered it as a credit, but it is not a contract to pay money." *Id.* Thus, under *Butts* and *Quattrochi*, the statute only applies in situations where a bank or other moneyed corporation is circulating its own bills, notes, or evidences of debt intended to function as circulated money.

Plaintiff here is not seeking to enforce any bill, note, or evidence of indebtedness *issued* by Community First that would be *considered as money*. *See Butts*, 63 Miss. at 465. Further, these limited cases all arose in a pre-New Deal economic era where companies, including banks, would circulate their own bills and currency. *See* Jessica Lautin, B.J. Ellis, *When Banks Were Able to Print Their Own Money, Literally*, Bloomberg View (Oct. 19, 2012), attached hereto as Exhibit 61; Franklin Noll, *Forgotten Currency*, 99 Financial History: The Magazine of the Museum of American Finance (2011), attached hereto as Exhibit 62. Here, however, Community First is not issuing any specialized currency. As such, the statute has no application to the instant situation.

Further, applying this statute to the modern practice of banking would upend the UCC and decades of established case law. The UCC represents a specific balancing of modern commercial practice and a careful allocation of rights and responsibilities among the parties to commerce. Article 4 of the UCC, which the legislature comprehensively updated in 2008,

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specifically addresses the timeframe that a bank customer has to challenge disbursements from his or her account—limiting the maximum timeframe to one year. S.C. Code Ann. § 36-4-406 (2003 & Supp. 2015) as applicable; *see also Sabatino v. Atl. Sav. Bank, F.S.B.*, 314 S.C. 402, 403, 444 S.E.2d 537, 538 (Ct. App. 1994). The statute of repose contained in the UCC, as a more recent and specific statute, prevails over the older and more general provisions of S.C. Code Ann. § 15-3-110. *See Stone v. State (City of Orangeburg)*, 313 S.C. 533, 535, 443 S.E.2d 544, 545 (1994).

V. Plaintiff has not cited any evidence to show her entitlement to equitable relief from the statute of limitations.

Plaintiff was "violently upset" in August 2010 when she believed Hiott "was stealing her money." Ex. 34, pp. 38, 49-50. She waited approximately four years to file her lawsuit. Plaintiff received a set of Account statements showing the disbursements from her Account no later than April 2011, including the $500,000 disbursement in July 2007 about which she claims so much outrage and testified that there was nothing Hiott could have spent such funds on in July 2007 that would have been appropriate or authorized by her. Ex. 1, pp. 271, 394-98. She waited well over three years to file her lawsuit. The law simply does not allow a plaintiff to sleep on his or her rights in this way. As previously briefed by Community First, Plaintiff has cited no facts or evidence to validly invoke equitable relief from the statute of limitations. Mem. in Support pp. 31-37. Not having complete or accurate information is no excuse under the law. *Gibson v. Bank of Am., N.A*, 383 S.C. 399, 409-10, 680 S.E.2d 778, 783-84 (Ct. App. 2009) (holding that receipt of bank statements in June 2000 that disclosed account balances placed the account holder "on notice that she had some type of claim for any perceived discrepancy, even if she did not know the precise details behind the discrepancy" and barred lawsuit against bank brought in September 2003); *Republic Contracting Corp. v. S.C. Dep't of Highways & Pub. Transp.*, 322 S.C. 197, 211,

503 S.E.2d 761, 768-69 (Ct. App. 1998) (emphasizing that the party claiming equitable estoppel must link any sort of misinformation with lulling the plaintiff into a sense of security such that the plaintiff was actually prevented from filing suit prior to the expiration of the statute of limitations).

VI. Plaintiff misrepresents or cites no supporting evidence for multiple important points.[5]

At several places in her memorandum, Plaintiff claims with no support that Hiott "lured" Plaintiff to Community First. This is false. Plaintiff herself testified that she sought out Hiott, received his telephone number from some mutual friends, and thereafter contacted him about handling her affairs. Ex 1, pp. 30-31.

Plaintiff also claims that Ms. Hamiter's deposition testimony provides support that Plaintiff did not receive original statements as a matter of regular course while the Account was open, and the original statements in Plaintiff's possession were returned by Hiott in the summer of 2010 along with the motor home. Mem. in Opp. p. 4. Ms. Hamiter's testimony provides no such support. Ms. Hamiter testified that although Hiott brought "paperwork" with him, she could not remember what it was, that perhaps there were some bank statements there, but that she had no memory of seeing any Community First bank statements. Hamiter Dep. pp. 54-55.[6] In any event, Hiott returned the motor home to Plaintiff in the early summer of 2010 (Ex. 1, pp. 119-120), well over four years before Plaintiff filed her lawsuit.

---

[5] Plaintiff also cites to the allegations of her Complaint in claiming that genuine issues of material fact exist. Mem. in Opp. p. 26. She must provide actual *evidence* – not simple allegations – to avoid summary judgment. *Thomas v. Waters*, 315 S.C. 524, 526, 445 S.E.2d 659, 661 (Ct. App. 1994) ("[T]he non-moving party may not rest on the mere allegations or denial of pleadings, but must set forth or point to specific facts showing there is a genuine issue of material fact.").

[6] Plaintiff herself has been exhaustively asked about her receipt of the original Account statements, but has never herself advanced any claim that Hiott returned original statements to her in the RV. Ex. 31.

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Plaintiff, again without citing any evidence and in apparent ignorance of Ms. Wilson's undisputed affidavit (Ex. 24, ¶¶ 5, 6, 10, 11, 15), claims that Hiott could have somehow accessed the original monthly account statements under the custody and control of the operations department. Mem. in Opp. p. 4. All evidence in the record regarding the mailing of the Account statements is that Hiott did not actually access and did not have the opportunity to access the monthly Account statements. Ex. 24, ¶¶ 5, 6, 10, 11, 15. Similarly, Plaintiff argues that Hiott manipulated dates and amounts of transfers as reflected in the Account statements, yet cites no evidence for this claim. Mem. in Opp. pp. 4, 26. Indeed, all of the extensive documentary evidence in this matter shows the backup documentation and authenticity of each disbursement from the Account. Ex. 18.

Conclusion

For the reasons stated in Community First's Motion for Summary Judgment, Memorandum in Support, this Reply Memorandum, the exhibits to these pleadings, and any other materials or argument that Community First may present to the court, Community First's motion for summary judgment should be granted in full.

[signature block on following page]

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Respectfully submitted,

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EXHIBIT 57

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF OCONEE

DEBI BAKER BROOKSHIRE,

Plaintiff,

vs. CASE NO. 2014-CP-37-529

COMMUNITY FIRST BANK, INC., and
BENJAMIN LEE HIOTT,

Defendants.

DEPOSITION OF: CAROL WILSON

DATE: February 25, 2016

TIME: 9:16 AM

LOCATION: Haynsworth Sinkler Boyd
One North Main Street
2nd Floor
Greenville, SC

TAKEN BY: Counsel for the Plaintiff

REPORTED BY: AMY R. COPE,
Court Reporter

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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Q. But my question was much more general than that. In the normal course of business, when would you do a normal risk assessment? When should you do a risk assessment?

A. Normally at account opening.

Q. The same day?

A. It could have been a day later.

Q. Normally within 24 hours or one business day?

A. It could be.

Q. Two business days?

A. Normally within a couple of days.

Q. Normally within a couple of days. And that would be two business days; is that correct?

A. Should be.

Q. And this one at least, if this paperwork is to be believed, was a checking account even though it says it's a trust account, right?

MS. BLACK: Object to the form.

BY MR. SCOTT:

Q. I mean, isn't that what you testified to?

A. This is a checking account.

Q. That indicates it was a trust account?

MS. BLACK: Object to the form.

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THE WITNESS: It is not a trust account.

BY MR. SCOTT:

Q. But it indicates that it is a trust account, correct?

A. The box marked --

Q. We've been through this.

A. -- I know, the box marked says checking account -- trust account --

Q. Trust account --

A. -- but it's not.

Q. -- but in your testimony it's a checking account. And the risk assessment, which is normally done within two business days, on a 1.2 -- almost say $1.2 million wire transfer, was not done, at least according to the paperwork, for 33 days; would you agree?

A. That's the date on her paperwork.

Q. Do you have any reason to question that date?

A. I don't know -- I don't know when she completed it. All I have to go on is her date.

Q. So do you have any reason to question her date?

A. Yes.

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page 59, line 18.)

THE WITNESS: I don't see documentation that someone else could have completed, but that doesn't mean that someone did not pick up midway or could have made notes.

BY MR. SCOTT:

Q. Okay. And on page 1362, which is about the fifth or sixth page maybe, other than that one I think -- I'll represent to you that other than that one page, I think the rest of them are consecutively paginated. You got 1362?

A. I do.

Q. Up at the top of that page, what's that word written under the preprinted stuff? There's about three preprinted lines and then a word written, what's that word?

A. Trust.

Q. What does that mean?

A. I have no idea. I didn't write it, so I don't know.

Q. What would -- I mean, but you've seen these things before, right, isn't that your job, at least part of your job?

A. I see accounts opened, checking accounts opened for a trust, but not a trust

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account.

Q. So have you ever seen under -- this is a preprinted form, right?

A. It is.

Q. And somebody went into that preprinted form and they created a new category on the page that we've been talking so much about, that says: Trust accounts. And on page -- and three pages before that on 1362, underneath preprinted number 16; underneath that, they wrote the word: Trust. Would you agree with that?

A. Yes, the word trust is written.

Q. But you don't know what it means?

A. No.

Q. And you don't know who wrote it?

A. No.

Q. But in the normal course of business, this would have been provided to your customer; is that correct? That piece of paper right there, would that have been provided to your customer?

A. No.

Q. It would not have, this is an internal document?

A. Yes.

Q. What do you use it for?

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A. On 1360 it says: Identified commercial customer due diligence, that is the second page -- let's see, that 1362 is the third page of that. That is an internal document.

Q. All right. And what is it used for? What does it say it's used for at the very top?

A. Because it's a customer -- commercial customer due diligence, it's used to identify specific -- or to answer specific questions pertaining to a commercial account.

Q. Well, if you read that description, it says: You give it to the government to help them -- does it not say -- let's do it this way, this is a little easier. How about read -- the document is titled, would you agree with me, identified commercial customer due diligence questionnaire; is that what it's called?

A. It is.

Q. And how about read for me the sentence underneath that that starts with: To help?

A. To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record certain information. Your assistance in answering these

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brief questions is appreciated.

Q. So does the bank -- my interpretation of that is that you compile this information and you give it to the Federal Government; is that your understanding of this document?

MS. BLACK: Object to the form.

BY MR. SCOTT:

Q. Is that not what it says?

MS. BLACK: Object to the form.

THE WITNESS: No.

BY MR. SCOTT:

Q. Okay. Well, what do you use it for?

A. This is used to collect information.

Q. For whose purpose?

A. For internal purposes.

Q. Whose internal purposes?

A. The bank's purposes.

Q. What do you use it for? What internal purpose do you use it for?

A. To assess the risk associated with this type of account.

Q. So the part about helping the government fight terrorism and funding and money laundering, that's not what it's used for; is that your testimony?

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MS. BLACK: Object to the form.

BY MR. SCOTT:

Q. Is that your testimony?

A. The form states to help the government, not give to the government.

Q. If you look at the -- underneath the -- where it says there's 1, 2, 3, and there's one that's not numbered and it says describe the products and services below; do you see that?

A. I do.

Q. And it's handwritten in that, what does it say?

A. Trust account.

Q. It says: Trust A-C-C-T, right?

A. Yes.

Q. But that would be shorthand for account?

A. Yes.

Q. So that's yet another instance where it's identified as a trust account; would you agree with that?

A. No.

Q. You would not agree with that?

A. No.

Q. Even though it says trust account,

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that's not what it means?

MS. BLACK: Object to the form.

THE WITNESS: I don't know what she meant because --

BY MR. SCOTT:

Q. Who was she?

A. The person who would have opened this account.

Q. How do you know it was a woman?

A. Because we've not had a male CSR.

Q. That's a good answer. Up under number 4, it says: Business type, circle one. And then it gives you 1, 2, 3, 4 options, corporation, sole proprietorship, LLC, LLP, and it says other. And what does that say?

A. It states trust. But if you go one line down below, account type, business performance investment account, that's what she opened. That's what the person opening this account opened.

Q. Okay. But whoever opened it represented to them that it was a trust account; didn't they?

MS. BLACK: Object to the form.

THE WITNESS: Repeat your question.

BY MR. SCOTT:

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Q. Okay.
A. But that's my opinion.
Q. But I asked you before about whether or not you remember having any communication with Ben Hiott subsequent to June or July of 2007, specific to the Debi Brookshire account. Do you remember me asking you that question?
A. Not specifically, but you've asked me a lot of questions.
Q. Do you remember after June or July of '07 ever having any communication with Ben Hiott about Debi Brookshire's account?
A. After or before? The first time I thought you said before.
Q. If I did, I misspoke, I mean after.
A. If I did, I don't remember. I could have because like I say, I touch accounts every day. I get messages every day from someone in the bank to look at an account, question an account.
Q. But your testimony is that from its inception this was a checking account?
A. True.
Q. And that every time this says, trust account, it doesn't really mean trust account, it really means checking account?

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MS. BLACK: Object to the form.

THE WITNESS: This is a checking account that was opened at our bank, a money market checking account.

BY MR. SCOTT:

Q. That the documents identify -- and we've gone through it five times -- that the documents identify throughout as a trust account --

MS. BLACK: Object to the form.

BY MR. SCOTT:

Q. -- would you agree with that?

MS. BLACK: Object to the form.

THE WITNESS: No, I don't agree with that.

BY MR. SCOTT:

Q. You don't agree that this document says it's a trust account?

MS. BLACK: Object to the form.

THE WITNESS: Trust is written and it's manually typed in, but it is not a trust account.

BY MR. SCOTT:

Q. Okay. Let's go through it. On the first page 1357, does it not say -- tell me if I'm wrong, but does it not say in the margin handwritten by somebody, trust? Do you see that

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word, trust?

A. Because the checking account was named --

Q. I'm just asking you to tell me if this is what the document says. Maybe I can't read; does that say trust?

A. The word, trust, is written behind her name.

Q. All right. On the next page, 1358, over in the -- at the top, does it say: Debi Baker Brookshire trust; is that what it says?

A. It does.

Q. And then over to the right of the CIP individual, does it say: Trustee?

A. It does.

Q. And halfway down the page, does it say: Trust paperwork on file in vault?

A. It does.

Q. And then on the next page, 1359, does it say: Debi Baker Brookshire trust?

A. It does.

Q. On the next page, 1360, does it say: Describe your product and services, trust account -- or actually does it say: Trust ACCT?

A. It does.

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Q. And the ACCT, is your -- what you understand to mean account?

A. Short for account.

Q. Okay. Does it say on the next page, 1361, underneath number 12: Trust paperwork?

A. It does.

Q. On the next page, 1362, underneath number 16, does it say: Trust?

A. It does.

Q. On the next page, does it say -- 1363, does it say: Debi Baker Brookshire title trustee?

A. It does.

Q. On the next page, 1634, mistakenly numbered, under ownership of account, where it says: The specified ownership will remain the same for all accounts. Is it -- is the box that is checked, typed in and not preprinted, does that say: Trust accounts?

A. It does.

Q. On the next to the last page, 1369 -- I don't think we've talked about that one -- does it say over to the right, handwritten by someone in the margin, we don't know who it could be, it might be Lisa Reed or some bum off the street --

MS. BLACK: Object to the form.

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BY MR. SCOTT:

Q. -- USA market area, does it to the right of that in the margin say: Trust account?

A. It does.

Q. Under customer demographics over to the right of that, does it say: Trust account?

A. It does.

Q. Number 11, valid state license that has not expired, does it say to the right of that: Trust paperwork?

A. It does.

Q. And I haven't been keeping count, but at least 10 or 15 times throughout this document it says, trust, right?

A. It does, it says --

Q. But this is and always has been -- your testimony is this is and always has been a checking account?

A. Yes.

Q. Very good. You don't have any specific recollection of talking to Ben Hiott about changing the character or the identification of this account from this inception; is that your testimony?

A. It is.

Q. It is?

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Ben Hiott wrote to you at 11:32, Tuesday, April 20th of 2010?

A. Will you change account 300701950, Debi Baker Brookshire, to an interest-bearing checking account of some sort. I guess the best is the 49-plus performance checking, she will be using this account more like a checking account in the future and I don't want her to show up over the three transactions.

Q. Do you have any idea what he means in that -- in those two sentences?

A. Yes, I do.

Q. Tell me what it means.

A. This account, if you look back on 1360, where it has business performance investment account, that's the way this account was originally set up on the system.

Money market accounts are regulated by the FDIC to allow only three transactions per month. And he had sent me a request to change this to a non-money market account, so that she would not be charged -- service charged and go over the three transactions per month.

Q. So did you change the account?

A. Without my research and documentation,

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I probably did. I told him I would, so I'm sure I changed it from a money market account to a normal checking account.

Q. But I thought you -- we just spent like an hour going over that it was a checking account to begin with?

A. A money market is a checking account.

Q. And what's the difference in a -- so what change did you effect here?

A. Moving from a money market account to a different product, checking account, keeps the three transactions -- with a money market you're limited to three transactions per month.

Q. And why is that?

A. Because that's federal regulation.

Q. And was this ever -- how would the Federal Government know that it was a money market account?

A. Because this account is put on the system as a money market account.

Q. When did you tell Ms. Brookshire that it was being changed from a money market account to a -- what did you call it that it was changed to, a regular checking account --

A. It looks like what he asked it to be

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a letter is mailed to the customer.

Q. And in this case the customer would be?

A. In this case it would be Debi Baker Brookshire.

Q. And do you know if that report was ever mailed to her?

A. I would have to look to see. It depends on if her transactions were truly three that she would have required a letter.

Q. And that brings up another question, what is -- how do you define transaction?

A. Three transactions related to this, if you have a money market account, you write a check to your mortgage, one to your house insurance, one for your car payment; that's your limit of three checks per month.

You can walk into the bank and withdraw out of this account as many times as you want, but if you're going to write a check outside of the bank, you're limited to three.

Q. So transaction wouldn't really mean what I would think of as a transaction, it means checks; is that correct?

MS. BLACK: Object to the form.

BY MR. SCOTT:

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Q. Isn't that kind of what you said?
A. What I consider a true transaction, that could be a debit, your insurance company could debit your house insurance; that is a transaction, that is one of the three. So you're limited to that.
Q. So would it be three withdrawals?
A. No, because the withdrawal could be over-the-counter.
Q. So I could walk in the bank any time if I had one of these money market accounts, I could walk in the bank literally every day that the bank is open and draw out money and that wouldn't count as a transaction? That wouldn't count against my three?
A. It wouldn't count against your three Reg D transactions.
Q. But if I had a debit, if my mortgage was automatically debited, that would count as a transaction?
A. Yes, that would --
Q. And if I wrote --
A. -- be one of your three.
Q. And I apologize for talking over you. If I wrote a check to my mortgage company, that

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EXHIBIT 58

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF OCONEE

DEBI BAKER BROOKSHIRE,

Plaintiff,

vs. CASE NO. 2014-CP-37-529

COMMUNITY FIRST BANK, INC., and
BENJAMIN LEE HIOTT,

Defendants.

DEPOSITION OF: JEFF GRIFFITH

DATE: February 24, 2016

TIME: 9:06 AM

LOCATION: Haynsworth Sinkler Boyd
One North Main Street
2nd Floor
Greenville, SC

TAKEN BY: Counsel for the Plaintiff

REPORTED BY: AMY R. COPE,
Court Reporter

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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and it had that it was a trust, that it was a trust account, in the box where it says: Other is checked, and it says trust, would that set off an alarm with you?

A. No, we have many trusts -- a checking account held by a trust. We don't offer trust services.

Q. Right, because you're not certified for that, correct?

A. No, I don't think so.

Q. So when you say you don't have a trust department, there's no department that looks at a trust and says we are going to invest in this and we're going to invest in that?

A. No.

Q. Okay. It's strictly a trust account --

A. A checking account.

Q. -- a checking account from some trust?

A. Or it could a CD or it could be a savings account.

Q. How many would you say there are in your bank at this point?

A. I wouldn't speculate, I don't know.

Q. All right. So in this case, I don't know if you're aware of this or not, but there

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was -- the application for the account involved in this case had on it, written on it: Trust paperwork on file in a vault.

What would that mean to you?

A. Most documents were sent centrally to bookkeeping, but certain documents were maintained at the branch level in their vault. Documents like IRAs, Power of Attorneys, and trust agreements, because the CSR needed those documents as they administered the accounts.

Q. So if that's written in -- on a application in hand, that would not be unusual?

A. Not at the time. Now, at present, we have all documents sent. But during those times, as I said, some documents were maintained in the -- at the individual branch level.

Q. When did it start that it was going to one central location?

A. I don't have that date off the top of my head.

Q. All right. In 2007 to 2011, you did not have --

A. It had been a constant evolution to get everything to bookkeeping.

Q. Back in 2007 to 2011, how many branches

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EXHIBIT 59

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF OCONEE

DEBI BAKER BROOKSHIRE,

Plaintiff,

vs. CIVIL ACTION NO. 2014-CP-37-526

COMMUNITY FIRST BANK, INC.,
BENJAMIN LEE HIOTT,

Defendants.

DEPOSITION OF: ANN GELL HAMITER

DATE: September 7, 2016

TIME: 10:00 A.M.

LOCATION: Haynsworth Sinkler Boyd
1201 Main Street, 22nd Floor
Columbia, South Carolina

TAKEN BY: Counsel for the Defendant

REPORTED BY: DEBRINA L. JONES, Court Reporter

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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would be tried.

Q. Yes ma'am.

A. What you do for them whatever.

Q. Yes, ma'am. What do you do for a living?

A. I'm retired.

Q. Okay. What have you retired from doing?

A. I was an administrative and research aid at the South Carolina Senate.

Q. And when did you retire from the state senate?

A. '91.

Q. Okay. And how long had you worked at the senate?

A. 20 years.

Q. Okay.

Q. Okay. Can you give me, briefly, your educational background starting with high school forward?

A. I gradated from high school at Dreher. I attended Carolina -- USC, and I got about pretty close to three years at Carolina.

Q. Okay. Do you have a bachelors degree?

A. No.

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A. It would not have been before that.

Q. Okay.

A. And Debi was really bad, and the documents that I gave to -- I took a box of documents to her brother at the time, and I returned all of her documents. I came across that one in the attic and I gave it to John, because I couldn't get her and he said he would give it to her.

Debi would sit on the floor, or on the bed more often than not -- excuse me -- and she would take boxes of those documents after I had organized everything out and lay them out on the bed and let the children jump on them and get them all messed up. But she would sit there sometimes, five six hours and she'd be looking at one of the documents and writing something on the documents. What was going on in her head, I can't tell you. But to Debi that right there probably meant something. I don't think that, you know, that I would have ever signed something with Baker and Baker on it without knowing what it was that I was talking about.

Q. But to your knowledge did Ms. Brookshire ever sign the power of attorney giving

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you power attorney?

A. Not to my knowledge, no.

Q. Did you have any discussions with her about why she did not sign the power of attorney?

A. No, not really. It was given to her. I didn't want it, and I kind of made that clear. I would still take the children if it were necessary.

Q. Why did you not want the power of attorney?

A. Because I had seen several things. Well, first of all you go back and she had the two guys, who I liked, they were good enough guys, but she was allowing things to happen that I didn't like.

My son kept the children for her once or twice, and she accused him of mistreating McCall because he had to stop the car and threaten McCall because she was slapping him from behind and he couldn't drive and she had said that Brandon had stole from her and even had that picture and everything. But yet, she was letting Brandon handle the children all of the time.

She would talk bad about Ken, and then she had two ladies come clean up her house and she accused them of stealing, and it just seemed to be

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the children". And I said, "well, it's up to you".

I felt like she ought to give the children back to their momma when their momma got out of jail.

(DFT. EXH. 3, BB&T Proof of Signature, was marked for identification.)

Q. Ms. Hamiter, I'm handing you what's been marked as Exhibit 3 to your deposition.

Q. First of all, is that you signature?

A. It is.

Q. And Ms. Brookshire's signature?

A. It looks like it.

Q. Okay. And I'll tell we got this from a subpoena to BB&T, and this purports to be a BB&T signature for an account there.

A. Yeah.

Q. Do you recall that you were on -- that Ms. Brookshire put you on her BB&T accounts?

A. Right. Right.

Q. Okay. And this would be the paperwork that would accomplish that?

A. I would assume so. Yeah.

Q. Okay.

A. I told you I wrote checks for her so...

Q. Yes, ma'am.

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EXHIBIT 60

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF OCONEE

DEBI BAKER BROOKSHIRE,

Plaintiff,

vs. CASE NO. 2014-CP-37-526

COMMUNITY FIRST BANK, INC.
AND BENJAMIN LEE HIOTT,

Defendants.

DEPOSITION OF: KENNETH RICHEY

DATE: August 4, 2016

TIME: 9:35 a.m.

LOCATION: Law Offices of
Haynsworth Sinkler Boyd
1201 Main Street, 22nd Floor
Columbia, South Carolina

TAKEN BY: Counsel for the Defendants

REPORTED BY: ANGELA D. ZUVER,
Court Reporter

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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Q. Did you review any correspondence between Ms. Brookshire and Mr. Hiott?
A. No, ma'am.
Q. Did you review any bank statements for Ms. Brookshire's account with Community First?
A. None were provided.
Q. Did you review any Community First policies and procedures?
A. No, ma'am.
Q. Did you review a Community First employee handbook?
A. No, ma'am.
Q. Did you review any item from Ben Hiott's personnel file?
A. No.
Q. Did you review any trust documentation?
A. No, ma'am.
Q. Have you spoken with or interviewed Ms. Brookshire?
A. No, ma'am.
Q. Have you spoken with or interviewed Dan Brookshire, her husband?
A. No, ma'am.
Q. Have you spoken with or interviewed Ben Hiott?

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First Bank.

Q. In what capacity -- why is it a conflict of interest for Mr. Hiott to hold power of attorney for Ms. Brookshire and also hold employment at Community First Bank?

A. It creates a conflict of interest. He can't act for both parties in an appropriate manner.

Q. What is the source of your opinion that this was inappropriate? Is there a regulation or a statute or an industry standard you can point me to?

A. Banks develop policy and procedures, preferably in writing, and accepting a power of attorney requires a bank attorney approval or a senior operations person. Typically it is not done. If it is determined that a branch manager or someone like that has taken one, action is taken to correct that situation.

Q. Okay. Have you reviewed any of the policies and procedures employee manuals for Community First Bank?

A. No.

Q. Do you have any knowledge as to what their -- the bank's actual policies were regarding

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a power of attorney or fiduciary appointment?

A. Just that I haven't reviewed any -- excuse me. Since I haven't reviewed any I can't answer that.

Q. Has anybody told you what they allegedly say?

A. I haven't had any discussions.

Q. I believe you said that it's typically not done in the industry. Are you aware of any regulation or statute or any published guidance discouraging or speaking to that issue?

A. In policy and procedure manuals they require that to be referred, as I told you before. And the second point of that is if you need something of that nature you should be at the trust department and not at the bank.

Q. You would agree with me, would you not, that a bank's policies and procedures and manuals exists for the protection of the bank?

MR. SCOTT: Object to the form.

THE WITNESS: No.

BY MS. BLACK:

Q. Tell me why you disagree with that.

A. The object of a good policy is to protect the bank and its customer.

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it could be corrected.
BY MS. BLACK:
Q. Okay. What are those?
A. Well, you can close the account or terminate the power of attorney.
Q. In what authority would the bank be able to terminate the power of attorney?
A. The bank wouldn't, but the bank can close the account.
Q. When do you understand -- who at the bank should have done this? Whatever corrective action you say should have been taken, who at the bank should have done that?
A. I believe he reported to the CEO.
Q. When do you understand that the CEO of the bank learned of the power of attorney?
A. I can't answer that.
Q. The correction of closing the account held at the bank, what is your authority that this is the proper way to handle this situation?
A. 45 years of banking.
Q. Can you point me to any statute or regulation that directs this course of action?
A. I can't cite the regulation, but we did get a write-up one time by the FDIC for having such

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a relationship and we put it in our policies and procedures that all of them had to be reviewed by counsel a long time ago.

Q. So the bank policy in that instance became if a situation arises it has to be reviewed by the bank's counsel?

A. Yes.

Q. And that was the policy that your bank employed?

A. Yes, ma'am.

Q. And bank policies, whether it's -- you know, no matter what bank it is, you would agree with me that those policies get reviewed by auditors and regulators from time to time, correct?

A. Yes, ma'am.

Q. And that the appropriateness or ways to make policies and procedures better, all of those sorts of things, are recommendations? All that is made by auditors and regulators throughout that process, correct?

A. Typically.

Q. Is there any published industry standard that you can point me to that discusses what to do if a bank officer holds a power of attorney for a bank customer?

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A. Possibly is, but I can't cite it to you.

Q. The last sentence of -- I guess the second sentence of your second opinion reads, the bank did not take corrective action and failed in their fiduciary responsibility to their depositor, slash, customer. Is the depositor, slash, customer that you're referring to Ms. Brookshire?

A. Yes.

Q. And you say that the bank had a fiduciary duty to Ms. Brookshire?

A. Uh-huh.

Q. Tell me why the bank had a fiduciary responsibility to Ms. Brookshire.

A. You basically have that on any depository relationship.

Q. And what is -- is there a regulation or a case or statute or industry standard you can point me to discussing that?

A. Yeah. If you -- probably with this bank, if you take the signature card, that's a contract and that contract will state things that the bank is going to do and the things that they expect the customer to do.

Q. But those would be contractual duties,

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trust services.

What specific regulations are you aware of regarding the provision of trust services?

A. I don't understand the question.

Q. Well, okay. Thank you. I'll see what I can do to clean it up a little bit.

You say that federal and state regulations require appropriate approvals and authorizations to provide trust services, and my question is: What specific regulations are you aware of? Can you give me a cite or a code section or where do we go to find these?

A. It's in all of -- the FDIC has regulation under OCC. They share those regulations today in many parts and there's a section in there concerning trust powers which states that you must apply -- make application to and be approve before you can offer trust services, and which trust services must be identified in there as well.

Q. Is it your understanding that Ms. Brookshire had a trust account at Community First with the bank serving as a trustee?

A. No.

Q. And you're not aware of any agreement where the bank undertook any trustee duties for

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Ms. Brookshire, correct?

A. Correct.

Q. And Community First does not have a trust department? Is that your understanding?

A. According to the testimony of the CEO, they don't.

Q. And do you have any reason to doubt that?

A. No.

Q. So the second sentence in number eight says, since Hiott was conducting stock transactions on behalf of Brookshire and the bank he was essentially representing both the bank and Brookshire which created a conflict of interest. What is your understanding of what Mr. Hiott was doing to conduct stock transactions?

A. In the documentation there's transactions that say there was a buying and selling of bank stock between Brookshire and this account and the bank.

Q. And what is your understanding of Mr. Hiott's role? What specifically was he doing in the buying and selling of stock?

A. I don't know.

Q. Have you seen any reference to or are

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EXHIBIT 61

WORLD

When Banks Were Able to Print Their Own Money, Literally

OCT 19, 2012 1:36 PM EDT

Oct. 19 (Bloomberg) -- In 2012, it isn't unusual to go days without using actual money: Lunch goes on the debit card, a clothing purchase goes on the credit card and in some cities even parking meters take plastic. As the Internet and instruments of credit continue to transform our relationship with money, it is worth reflecting on the forms that money has taken in the past.

Before the institution of federally backed paper currency in 1862, the government didn't see issuing paper money as its responsibility. Although it coined gold and silver, there was never enough in circulation to provide an effective medium of exchange. Because the Constitution prohibited states from printing money, banks became the primary suppliers of paper money in the U.S.

From 1791 to 1811, and then again from 1817 to 1836, the First Bank of the United States and the Second Bank of the United States brought a degree of order to this system, both regulating the issue of bank notes and issuing their own trusted notes. But when Andrew Jackson failed to renew the second bank's charter in 1836, private bank notes proliferated unchecked. By the 1850s, U.S. banks had issued more than 10,000 kinds of bank notes, varying in size, denomination, design and value. (Many of them are now on display at the Museum of the City of New York.)

BANK NOTES

There were significant problems with this system, in which money often wasn't worth the paper it was printed on. In theory, a bank note derived its value from its ability to be redeemed for gold or silver at the issuing bank, but what banks could live up to that promise? Those that were poorly capitalized went to great lengths to ensure that their notes weren't redeemed. For example, the Union Bank of Tennessee issued notes only redeemable in New Orleans. In the small town of Versailles, Kentucky, an agent who came to redeem notes at the local bank was hanged in effigy by local citizens. Banks also suspended redemptions during financial panics, and when a bank failed, its notes became worthless.

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When banks couldn't provide an adequate supply of money, other institutions stepped in. In particular, there was demand for small-denomination bank notes and coins. (In 1840, per-capita annual income in the U.S. was about $65, so a $1 bank note was a lot of money.) Hotels, restaurants and bars that didn't have enough coins and bank notes to make change issued their own money in small denominations. A note issued by one hotel promised "to pay on demand twenty five cents in current funds when presented in sums of $1 & upwards."

A note worth 25 cents in the hotel lobby would have changed hands at a steep discount just a few blocks away. Meanwhile, small towns issued bank notes of a few cents to support local commerce. In Virginia, people were reduced to cutting apart large bank notes and circulating them in pieces.

In this unpredictable environment, spending a dollar required some serious thinking. A wallet might have three, five or a dozen different bank notes -- a bull's head staring back at you from a Bull's Head Bank note, or a Marine Bank bill illustrated with ships -- not to mention foreign coins from around the world and personal checks, which also circulated as money. Most bank notes traded at a discount based on the reputation of the bank and how far the note was from where it originated.

A shop owner had even more variables to consider. When a consumer opened his wallet to pay, the proprietor turned to his local edition of "Bicknell's Counterfeit Detector and Bank Note Reporter," or to "Van Court's Counterfeit Detector and Bank Note List."

COUNTERFEIT GUIDES

These guides not only identified counterfeits, they also reported the prices of bank notes on the local market. (As professional note brokers traded and speculated, prices rose and fell.) Thumbing through a counterfeit detector, the store owner would try to assess the value of the bank notes at hand. He took a hard look at the person handing over the bills, judging value based on the person's race, class, dress, comportment and reputation.

Counterfeiters exploited this feature of the system, and passed themselves in addition to their notes, dressing and acting as proper ladies and gentlemen. And with so many bank notes from so many banks, counterfeiters flourished. Some simply invented whole banks. Others erased the name of a failed bank and replaced it with that of a reputable one.

Of course, as 19th-century observers frequently noted, a poorly capitalized bank that printed notes it couldn't redeem was, in the end, little different from a counterfeiting operation.

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(Jessica Lautin is the Andrew W. Mellon postdoctoral curatorial fellow at the Museum of the City of New York. B.J. Lillis is a curatorial intern at the museum. The exhibit "Capital of Capital: New York's Banks and the Creation of a Global Economy" will be running at the museum through Oct. 21. The opinions expressed are those of the authors.)

Read more Echoes columns online.

To contact the writers of this article: Jessica Lautin at jlautin@mcny.org; B.J. Lillis at blillis@mcny.org

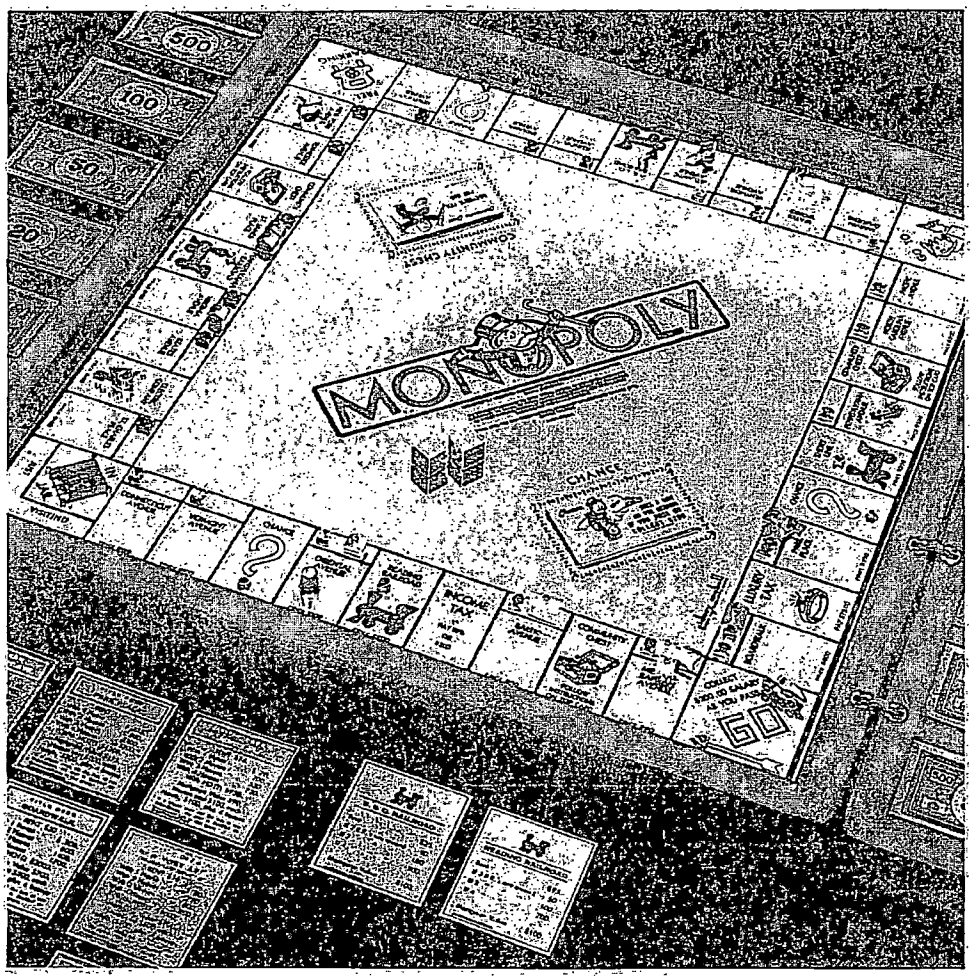
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Federal Reserve Bank Notes

Forgotten Currency

By Franklin Noll

We are all familiar with Federal Reserve notes. We use them every day, and the United States Bureau of Engraving and Printing (BEP) prints billions of them every year. The production of Federal Reserve notes has been going on continually since 1914 when the Federal Reserve System first went into operation following its establishment in December 1913. Yet, in the first half of the 20th century, the Federal Reserve System also periodically issued a second form of currency—Federal Reserve *bank* notes.

Federal Reserve bank notes were authorized by the Federal Reserve Act of December 23, 1913. While the Federal Reserve notes we see every day are the responsibility of the Federal Reserve System as a whole, Federal Reserve bank notes were established as obligations solely of the Federal Reserve bank that issued them. Upon depositing bonds with the Treasurer of the United States, a Federal Reserve bank could issue its own notes as long as it followed the same rules that applied to national banks. While this did not happen very often or to any great extent, issuances of Federal Reserve bank notes are interesting because they always occurred during currency crises.

The National Bank Note Crisis

One of the reasons for the creation of the Federal Reserve System was to eliminate the system of national bank notes and to replace it with a centrally controlled system of Federal Reserve notes. However, with the start of Federal Reserve operations, the dispersion of Federal Reserve notes across the country would take some time, and no one knew how quickly national banks would go out of the currency business and stop issuing their own notes. There was a real possibility that national bank notes might be withdrawn from circulation faster than the new Federal Reserve notes could be issued to the public. This could cause sudden drops in the number of bank notes in different parts of the country, resulting in regional scarcities of currency. To counteract such a crisis, the local Federal Reserve bank was authorized to step in and issue its own currency on a temporary basis to make up the deficiency.

To meet the expected need, in 1915, the BEP printed 3.2 million notes in denominations of $5, $10, and $20 in anticipation of the Federal Reserve System's final start-up. But, as it turned out, few national banks retired their currency as quickly as feared and there was little demand for Federal Reserve bank notes. The crisis never materialized. Consequently, production of Series 1915 Federal Reserve bank notes fell to 264,000 notes by the middle of 1918. However, by this time the United States was facing a new crisis, World War I.

The Silver Certificate Crisis

The United States entered the war in April 1917. A year later, in April 1918, it agreed to sell silver bullion to the British. The US Treasury had lots of silver in the form of $1 coins and silver ingots that it held as security against the silver certificates it issued. (The Treasury ended the issuance of silver certificates in 1963.) The problem was that for each $1 in silver sold to Britain, $1 in silver certificates had to be withdrawn from the money supply. To make up the loss in circulation, Federal Reserve bank notes were issued as an emergency replacement, and the volume of Federal Reserve bank notes in circulation swelled from about $9 million in the summer of 1918 to a little over $261 million a year later.

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To meet this new demand for notes, the BEP had to increase production in fiscal year 1919 by almost a 1,000-fold, from 264,000 to 227 million notes. Besides the manifold problems stemming from such a massive increase in production, the Bureau also had to face the problem of a linen shortage caused by the war. As a result, the notes were printed on 100% cotton paper, making them more fragile and harder to work with. Series 1918 notes were produced in $1, $2, $5, $10, $20 and $50 denominations until 1922. By that time, the Treasury had replaced the missing silver, and silver certificates were reissued as the Federal Reserve bank notes were retired.

THE BANKING CRISIS OF 1933

The next use of Federal Reserve bank notes as an emergency currency occurred in early March 1933 when President Franklin D. Roosevelt closed all the banks for three days to stop a banking panic during the Great Depression. The Treasury feared that once the banks reopened there would be a mad dash by depositors for cash. To counter this threat, Federal Reserve banks were authorized for a limited time to issue their own notes as they saw fit.

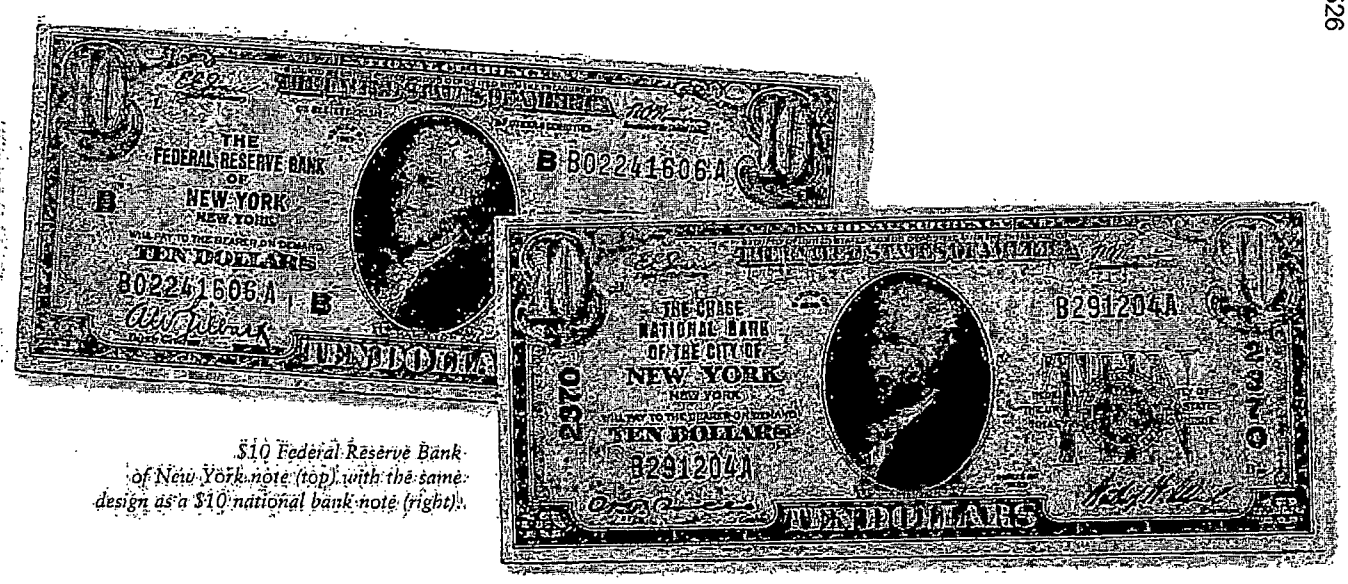
The BEP was given an initial order for $2 billion, or over 186 million notes. The problem was that the notes were to be provided immediately and the Bureau did not have the necessary plates, paper or even employees to do the job. The plate and paper problems were overcome by utilizing the existing stock of national bank note blanks. It was planned that these would be overprinted by a single logotype plate for each Federal Reserve bank, blacking-out certain features while adding others. The necessary labor was organized by calling upon the wives and husbands of current employees and all former employees. Within weeks, the Bureau was ready to go into production.

On March 9, 1933, the new Federal Reserve bank notes were officially authorized, and within 24 hours the first shipment of currency was ready. The feared run on the banks for currency never materialized, and many of the notes shipped by the Bureau were not issued. Beginning in 1934, those notes that had been actually issued were retired as the banking industry and the economy recovered. This was also the last year that the BEP ever printed Federal Reserve bank notes.

The existing stock of Federal Reserve bank notes left over from the 1933–1934 printing, $660 million worth, was issued during World War II (1941–1945), much of it in December 1942 when the Treasury was suffering a cash crunch. These notes began to be retired as the end of the war approached, and, in the summer of 1945, Congress amended the Federal Reserve Act to end the use of Federal Reserve bank notes. There really was not a need for them anymore. The Federal Reserve System had become very adept at using just Federal Reserve notes in controlling the money supply and no other currency was needed.

Though Federal Reserve bank notes had a short history, they made a big impact, serving as an emergency currency or, at worst, as insurance against a currency crisis. In all, the BEP produced over 641 million notes valued at over $1.7 billion. In circulation from basically 1915 to 1945, these notes marked the transition from a United States economy using a number of different currencies (national bank notes, silver certificates, gold certificates and United States notes) to one that just uses one form of currency—the familiar Federal Reserve note.

Dr. Franklin Noll is president of Noll Historical Consulting, LLC, and historical consultant to the Bureau of Engraving and Printing, running its history program and conducting research on the history of the BEP, US currency, Treasury securities and the public debt.



Collection of Mark D. Tomasko

$10 Federal Reserve Bank of New York note (top) with the same design as a $10 national bank note (right).

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STATE OF SOUTH CAROLINA COUNTY OF OCONEE	)	IN THE COURT OF COMMON PLEAS
Debi Baker Brookshire, Plaintiff, v. Community First Bank, Inc. and Benjamin Lee Hiott, Defendants.	)	Civil Action No.: 2014-CP-37-0526 **CERTIFICATE OF SERVICE**

I, the undersigned shareholder of Haynsworth Sinkler Boyd, P.A., do hereby certify that on the 13th day of December 2016, I instructed my paralegal, Beth Valdes, to serve a copy of Defendant Community First Bank, Inc.'s Reply Memorandum in Further Support of Its Motion for Summary Judgment and the six exhibits attached thereto on the Court and all counsel via email. Ms. Valdes did so by virtue of the attached email. In addition, hard copies of the Reply Memorandum and all exhibits were submitted to the Court and all counsel by hand delivery at the hearing held in this matter on December 13, 2016.

Elizabeth H. Black

October 11, 2017

DM: 5149125 v.1

Black, Elizabeth

From: Valdes, Beth
Sent: Tuesday, December 13, 2016 8:57 AM
To: cmaddoxj@sccourts.org
Cc: cmaddoxlc@sccourts.org; barneygiese@gmail.com; dscott@jrslawsc.com; dgh@dghlaw.net; klg@thegieselawfirm.com; Knowlton, Bob; Black, Elizabeth
Subject: Brookshire v. Community First Bank and Benjamin Lee Hiott (2014-CP-37-0526); Reply Brief
Attachments: Community First Bank, Inc.'s Reply Brief.pdf

Dear Judge Maddox,

Please find attached an electronic courtesy copy of Defendant Community First Bank, Inc.'s Reply Brief in the above-referenced matter. Hard copies will be made available at the hearing today at 11:00 a.m.

Sincerely,

Beth Valdes.

Haynsworth Sinkler Boyd, P.A.
ATTORNEYS AND COUNSELORS AT LAW

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STATE OF SOUTH CAROLINA)	COURT OF COMMON PLEAS
)	
COUNTY OF OCONEE)	Case No.: 2014-CP-37-526
Debi Baker Brookshire,)	
)	
Plaintiff,)	
)	
v.)	**PLAINTIFF'S MOTION TO ALTER OR AMEND THE JUDGMENT PURSUANT TO RULE 59(e), SCRCP AND SUPPORTING MEMORANDUM**
)	
Community First Bank, Inc. and)	
Benjamin Lee Hiott,)	
)	
)	
Defendants.)	
)	

Plaintiff, by and though her undersigned counsel, submits this Motion, pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, to Alter or Amend the Judgment filed with the Clerk of Court on September 26, 2017. For the reasons set forth below, Plaintiff submits the judgment should be amended to address all the issues raised by the Plaintiff and to deny the Defendant Community First Bank, Inc. (hereinafter, "the Bank"), summary judgment on Plaintiff's claims against the Bank and to deny the Bank summary judgment on its counterclaims against the Plaintiff.

PROCEDURAL HISTORY

The Plaintiff filed a Summons and Complaint on September 8, 2014 alleging six (6) causes of action against the Defendants, including Breach of Fiduciary Duty, Conversion, Negligent Supervision, Negligence/Gross Negligence, Breach of Contract Accompanied by Fraudulent Act, and Accounting. Defendant CFB timely filed an Answer and Counterclaim against Plaintiff alleging two (2) causes of action for Conversion and Unjust Enrichment. Plaintiff filed a timely reply to the counterclaims, wherein she raised, among other things, the statute of limitations as a defense to the Bank's counterclaims.

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Defendant Hiott filed a motion to dismiss pursuant to Rule 12, SCRCP on October 30, 2014. By Form 4 Order filed February 2, 2015 and formal Order filed February 25, 2015, the Court denied Hiott's motion to dismiss. On October 13, 2016 and October 19, 2016 respectively, defendants each filed motions for summary judgment. A hearing was held December 13, 2016, where the matter was taken under advisement. This motion is in response to the Order filed September 26, 2017.

THE ORDER IS INCONSISTENT IN ITS APPLICATION OF THE STATUTE OF LIMITATIONS

The Court granted the Bank's Motion for Summary Judgment on Plaintiff's claims based in part on the Court's determination that the statute of limitations had expired on Plaintiff's claims. In its Memorandum in Support of Summary Judgment, the Bank explained that "[o]n eight occasions from July 2008 until February 2011, it is undisputed that Hiott deposited a total of $880,855.58 of funds belonging to Community First into the [Plaintiff's] account." See page 14 of the Bank's Memorandum in Support of Summary Judgment. Thus, based on the Bank's own argument, the last date any Bank funds were deposited into the Plaintiff's account was February 2011. Plaintiff filed her complaint on September 8, 2014. The Bank answered and alleged counterclaims against the Plaintiff on October 9, 2014 – substantially more than three years after the last alleged money transfer (a transfer made by the Bank's Vice President, Hiott). In her answer to the Bank's counterclaims, Plaintiff raised the statute of limitations as a defense. In her Memorandum Opposing Summary Judgment, Plaintiff again raised the Statute of Limitations as a bar to the Bank's counterclaims. See Plaintiff's Memorandum in Opposition to Summary Judgment, page 39. In the Court's Order granting the Bank summary judgment against the Plaintiff in the amount of $780,855.58, the Court addresses the Plaintiff's Statute of Limitations argument in a single sentence: "Further, there is no genuine issue of material fact that the statute of

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limitations does not bar Community First's counterclaim." Page 3, Order Granting Summary Judgment.

As an initial matter, there is no discussion or explanation in the Order of the discrepancy in the amount the Bank requested in its counterclaim ($880,855.58) and the amount awarded in the Order ($780,855.58). Plaintiff respectfully asks the Court to reconsider its determination that the Bank is entitled to Summary Judgment where the Bank has failed to raise any argument as to why the Statute of Limitations should be tolled against the Bank and where no basis for tolling exists. Plaintiff submits that the Order is inconsistent in its application of the Statute of Limitations.

On the one hand, the Order strictly construes the Statute of Limitations against the Plaintiff, who had incomplete access to information concerning her account, and in the same Order rewards the Bank, an entity with complete and unfettered access to all information concerning the account, for not asserting timely its counterclaims. The Order contains no explanation for this inconsistency. Plaintiff submits that if her claims are barred by the Statute of Limitations, the Bank's counterclaims are likewise barred – the Bank's claims were raised even after the Plaintiff's.

In granting the Bank Summary Judgment on its counterclaims, the Order concludes the Bank is entitled to Summary Judgment "for the reasons outlined in Community First's motion and memoranda," Order, page 3, ¶12. However, the Bank's Memorandum in Support of Summary Judgment contains only a single conclusory paragraph on the subject of its counterclaims. See page 43 of the Bank's Memorandum in Support of Summary Judgment. Its Memorandum does not explain how the Bank arrived at this number, $880,855.58 according to its memo but $780,855.58 in the Order it submitted to the Court. Nor does the memo attempt to articulate why the Statute of Limitations does not bar its claims. The Plaintiff's account was closed in October 2010 – **four years** before the Bank asserted its counterclaims. Plaintiff submits under these facts that the Bank

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is not entitled to Summary Judgment on the counterclaims where these claims were raised four years after the account was closed and after the Bank new or should have known of Hiott's scheme to defraud the Bank's customers. Plaintiff respectfully asks the Court to alter its Order and to deny the Bank's request for Summary Judgment on its counterclaims.

PLAINTIFF'S CLAIMS

1. Power of Attorney

The Order finds that there is no material question of fact the Power of Attorney ("POA") absolves the Bank of any liability at all regarding Plaintiff's account and the Bank is entitled to judgment as a matter of law for the reasons stated in the Bank's Memorandum in Support of Summary Judgment. Plaintiff respectfully alleges that questions of fact do in fact exist and the Bank is not entitled to judgment as a matter of law.

The Order incorporates, by reference, the Bank's Memorandum in Support of Its Motion for Summary Judgment ("Bank Memo"). To the extent that the Order relies on the Bank Memo with regards to this issue, Plaintiff respectfully contends that the legal reasoning outlined in the Bank Memo is incorrect. The Bank relies on a very small portion of Plaintiff's approximately 14 hours of deposition testimony where Plaintiff testified that she contended that disbursements of $500,000 and $200,000 would be inappropriate and *unauthorized* for Defendant Hiott to make. Bank Memo. Ex. 1, p. 271. (Emphasis added.) Plaintiff does not now, and has never, contended that Defendant Hiott did not have broad powers over her finances as granted by the POA. The Bank Memo cites §62-5-501 (F)(2) (2009) as authority as to why the Bank, as a third-party to the POA, had no duty to investigate whether the attorney-in-fact was acting within his power[1], however Plaintiff's claims allege conduct

[1] The statute allows a third-party to honor a "valid" POA. While Plaintiff has not alleged that the POA is not valid, there is no evidence the Bank conducted any inquiry into the validity of the POA other than it being presented by its trusted employee. In order for a POA to be "valid," it must be executed in the required manner and must be

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on behalf of the Bank outside of the actual transactions themselves. While Defendant Hiott was given broad authority to conduct business on Plaintiff's behalf, he did so at the Bank, utilizing systems and practices that were contrary to accepted banking practice. Plaintiff's Memo. Exhibit GG and Exhibit HH. In fact, the existence of the POA, coupled with Plaintiff's account at the institution where Hiott worked, was against the Bank's own policy. The systems and practices at the Bank allowed Hiott to execute his scheme both with Plaintiff's funds and with the Bank's funds as well. Defendant Hiott was authorized to conduct business on Plaintiff's behalf, however, the business that he conducted "on her behalf" was also while he was a senior employee of the Bank and he conducted this "business" in areas of the banking world where he was not authorized to act. For example, while the POA allowed Hiott to purchase and sell stock on Plaintiff's behalf, he was not authorized to do so by his employer, the Bank. In essence the Bank was aiding Hiott in carrying out his scheme and the Bank's conduct goes beyond a third-party honoring or not honoring the POA as contemplated by §62-5-501 (F)(2) (2009).

Plaintiff's claims and some causes of action go beyond the actual transfer of funds themselves as well. Plaintiff alleges causes of action for Breach of Contract Accompanied by Fraudulent Act, Negligent Supervision, Negligence/Gross Negligence and Accounting. To the extent that the Order relies on the Bank's Memo for legal reasoning as to why the Bank is entitled to Summary Judgment, Plaintiff contends that the legal reasoning set forth in the Bank's Memo is incorrect for the reasons outlined below.

To the extent that the Order relies on the Bank's Memo with regards to Plaintiff's cause of action for conversion, the Bank's Memo is incomplete. The Bank's Memo contends that "there can be no conversion of money unless there is an obligation on the defendant to deliver a specific

recorded as required by S.C. Code §30-5-30. There is no indication on the document itself that it was ever recorded anywhere.

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identifiable fund to the plaintiff." *Richardson's Restaurants, Inc. v. Nat'l Bank of S.C.*, 304 S.C. 289, 294, 403 S.E.2d 669, 672 (Ct. App. 1991). In the case at hand, however the alleged conversion concerns both funds as well as stock shares. Unbeknownst to Plaintiff, Defendant Hiott had purchased shares of Community First Bank stock in her name, as he was authorized to do by the POA, but against proper banking practice. Plaintiff's Memo Ex. GG and HH. In February of 2011, the Plaintiff's account was closed. At the time it was closed, Plaintiff was not aware that her funds had been used to purchase 16,519 shares of Bank stock. The Bank's Proxy Mailing Address for Plaintiff was 449 ByPass 123, Seneca, SC 29678, which happens to be the address of a branch location of the Bank. Plaintiff did not know or have reason to know of her ownership of these shares of stock. Nothing on any of the statements produced by the Bank in support of its summary judgment motion would have alerted Plaintiff to her ownership of any stock. CFB Memo Ex. 36. Subsequent to the account being closed and the POA revoked, the 16,518 shares of Bank stock were transferred from Plaintiff to a third-party[2]. Plaintiff has contended that the retention and ultimate transfer of these shares of stock, in addition to other fund transfers, represent a cause of action for conversion against the Bank. The Bank's Memo, and as a consequence, the Order, is silent as to reasoning why the Bank is entitled to Summary Judgment with respect to the shares of stock. Plaintiff would respectfully request a specific ruling on this critical issue.

To the extent the Order relies on the Bank's Memo to grant the Bank summary judgment on Plaintiff's cause of action for Negligent Supervision, Plaintiff contends that the legal reasoning outlined in the Bank's Memo is contrary to the facts and circumstances of the case at hand. The Bank's Memo relays the duties of an employer to exercise reasonable care to control an employee when

[2] The party that ultimately received the Bank shares was Hilltop, Inc., a corporation owned by Defendant Hiott's brother.

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acting outside the scope of employment to prevent the employee from intentionally harming others on if:

a) [the employee]
   i. is upon the premises of the [employer] or upon which the [employee] is privileged to enter only as his [employee], or
   ii. is using a chattel of the [employer], and
b) [the employer]
   i. knows or has reason to know that he has the ability to control his [employee], and
   ii. knows or should know of the necessity and opportunity for exercising such control.

Degenhart v. Knights of Columbus, 309 S.C. 114, 116, 420 S.E.2d 495, 496 (1992). While Defendant Hiott was operating under a POA, he was doing so using the Bank's equipment and systems, on the Bank's property, and in a manner only available to him as a Senior VP of Defendant CFB. Further, the unquestioned evidence is that Defendant Hiott was conducting his scheme in a similar manner using **CFB** funds and funds of MPS Incorporated[3] as early as 2004. The question of whether the Bank should have known about Defendant Hiott's conduct in 2004 and continuing through 2013 is one properly determined by a jury. A question of fact exists as to whether the Bank knew or should have known about Defendant Hiott's conduct. Plaintiff respectfully requests the Court amend its order to accurately reflect the facts presented.

To the extent the Order relies on the Bank's Memo with regards to Plaintiff's cause of action for Breach of Contract Accompanied by Fraudulent Act, Plaintiff contends the legal reasoning outlined in the Bank Memo is likewise contrary to the facts and circumstances of the case. The Bank's Memo assumes, incorrectly, that the contract Plaintiff in question is the POA, and any and all

[3] MPS Incorporated is a company owned by three members. Two of those members, James McCoy and Frederick D. Shepard, Jr. were the Chairman of the Board of Directors for the Bank and its holding company and the Bank's President, and Hiott's direct supervisor, respectively. They would, or should have, been on notice of misappropriations of funds by Hiott either by reason of their positions with the Bank or by reason of their ownership of MPS Incorporated.

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reasoning relied upon by the Court in incorporating the Bank's Memo into its Order is therefore also making an incorrect assumption. Plaintiff only entered into one (1) contract **solely** with the Bank: the "Account Agreement" as identified by Defendant at CFB Memo, Ex. 7 to Ex. 24. In a footnote to the Bank's Memo, the only mention of any potential breach of the Account Agreement by the Bank is that "Community First has not breached the Account agreement." CFB Memo, 42 at footnote 32.

Inherent in each and every contract is a duty of good faith and fair dealing between the parties. On December 17, 2013, some ten (10) months prior to the filing of this action, the Bank, at Plaintiff's request, provided her with what the Bank represented to be a complete record of documents showing the activities of the account. Those documents were initially compiled by Donald Jones, an outside auditor working for the Bank, and transferred by Mr. Jones to Fred Shepard, the Bank's President. Mr. Jones overheard Fred Shepard and Jeff Griffith, another Bank employee, discussing removing records of transactions totaling over $500,000 from the "complete" set compiled by Mr. Jones. Plaintiff's Memo, Exhibit Z. The incomplete and edited set was then produced on December 17, 2013 and held out as a complete set. These actions are the fraudulent act that Plaintiff contends the Bank committed. These actions took place less than one (1) year prior to the filing of this action and thus would require a separate analysis as to the application of the Statute of Limitations as a bar to this claim. Further, the Plaintiff respectfully requests the Court amend its Order to reflect accurately the contract to which the Bank was a party.

APPLICATION OF S.C. CODE SECTION 15-3-110

Plaintiff respectfully asks the Court to reconsider, alter and amend its determination that S.C Code Ann. § 15-3-110 does not apply to this matter. Code Section 15-3-110 provides that "[l]imitations are not applicable to bills, notes or other evidence of debt issued by moneyed corporations. This chapter shall not affect actions to enforce the payment of bills, notes or **other**

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evidences of debt issued by moneyed corporations or issued or put in circulation as money." (Emphasis added). No South Carolina case has ever applied this statute, however, the dictionary definition of a "moneyed corporation" is "a corporation authorized to engage in the investment of moneyed capital." Merriam-Webster Dictionary.[4] Community First Bank would fall within this dictionary definition of "moneyed corporation."

When the Plaintiff deposited funds with Community First, she became a creditor of the Bank and the Bank became indebted to her in the amount of the funds deposited. The Bank acknowledges as much in its Memorandum when it asserts that "the normal relationship between a bank and its customer is one of creditor-debtor and not fiduciary in nature." See page 37, Bank's Memorandum in Support of Summary Judgment. Giving the words of Section 15-3-110 their plain and ordinary meaning, the three-year statute of limitations applicable to most causes of action does not apply here because the more specific statute of limitations contained in § 15-3-110 applies. South Carolina law is clear that

> [W]here there is one **statute** addressing an issue in **general** terms and another **statute** dealing with the identical issue in a more **specific** and definite manner, the more **specific statute** will be considered an exception to, or a qualifier of, the **general statute** and given such effect. **Specific statutes** are not to be considered repealed by a later **general statute** unless there is a direct reference to the earlier **statute** or the intent of the legislature to do so is explicitly implied.

Denman v. City of Columbia, 387 S.C. 131, 138, 691 S.E.2d 465, 468–69 (2010) (Emphasis in original; internal citations omitted).

The Court's September 26 Order explains that § 15-3-110 does not apply "for the reasons outlined in Community First's Reply Memorandum". See September 26, 2017 Order, page 2, ¶ 4.

[4] http://www.merriam-webster.com/dictionary/moneyed%20corporation

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However, Community First's Reply Memorandum is not filed with the Oconee County Clerk of Court's Office and therefore the memorandum is not part of the record in this case.

> The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk.

Rule 5(e), SCRCP. As of the date this Motion is filed, the Bank's "Reply Memorandum" is not on file with the Oconee County Clerk of Court. Accordingly, neither the unfiled memorandum nor anything argued therein should be considered by the Court since it is not in the record. See, e.g., Loyd's Inc. by Richardson Const. Co. of Columbia, S.C. v. Good, 306 S.C. 450, 453, 412 S.E.2d 441, 443 (Ct. App. 1991) (Rule 56(c), SCRCP, "requires summary judgment motions and, inferentially, supporting materials to be on file when they are to be relied upon at a summary judgment motion hearing. To be on file, we hold they ordinarily must have been filed.").

To the extent the Order relies upon unfiled documents and materials for support, Plaintiff respectfully asks the Court to amend the Order to remove references to unfiled materials, and to reconsider its ruling that the limitations period set forth in § 15-3-110 does not apply to the actions alleged in the Complaint.

CONCLUSION

Plaintiff respectfully asks the Court to reconsider its September 26 Order and to deny in full the Bank's Motion for Summary Judgment. To the extent the Order relies on the Bank's Memo as support, the Memo is inaccurate and certainly does not present the evidence and inferences reasonably to be drawn therefrom in the light most favorable to the Plaintiff – the standard to be applied in deciding a motion for summary judgment. In addition, the Order does not specifically address the application of Section 15-3-110, an issue consistently raised by the Plaintiff since the earliest stages of the case. In the alternative, and assuming the Court does not agree that 15-3-110

controls the Plaintiff's claims, Plaintiff submits and respectfully requests the Court apply the same statute of limitations that the Bank insists requires summary dismissal of the Plaintiff's claims to the Bank's counterclaims. There can be no serious contention that the Bank knew or should have known less about the peculiar goings on with its deposit accounts, and particularly with the Plaintiff's account, than the Plaintiff. It is not disputed that the Bank, through Fred Shepard, Jeff Griffith, and Ben Hiott actively concealed the truth about the Plaintiff's account from her for years.

Respectfully submitted,

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STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF
COUNTY OF OCONEE)	COMMON PLEAS
)	2014-CP-37-00526
DEBI BAKER BROOKSHIRE,)	
PLAINTIFF)	
vs.)	TRANSCRIPT OF RECORD
)	
COMMUNITY FIRST BANK,)	
INC.)	
DEFENDANT)	

DECEMBER 13, 2016
ANDERSON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE J. CORDELL MADDOX

A P P E A R A N C E S:

WARREN BLAIR GIESE, ESQUIRE
M. DAVID SCOTT, ESQUIRE
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ATTORNEY FOR MR. HIATT

VIVIAN CROSS,
CIRCUIT COURT REPORTER

I N D E X

MOTIONS 3

*** * * DECEMBER 13, 2016 * * ***

THE COURT: Okay. Look, y'all have given me a good foot of documentation here on these things and I realize we've got at least two summary judgments, so whoever wants to start first can start because obviously a lot of this -- now, we got some of this overnighted yesterday and I haven't read it. So I probably won't until y'all finish, but I'll be happy to hear from you. Yes, sir.

MR. KNOWLTON: Robert Knowlton, and with me is Elizabeth Black, and together we represent Community First Bank, the defendant in this case. And I do apologize for the heft of --

THE COURT: No, I'm just teasing.

MR. KNOWLTON: But the plaintiff in this case has challenged 115 disbursements from an account over a period of four years. And we wanted to make sure, when we bring this motion for summary judgment, that we have a full record that will support it.

THE COURT: Yeah.

MR. KNOWLTON: It necessarily involved a lot of documentation. But I do believe that we can boil things down to a few fairly discrete issues to simplify the ruling in this case.

This case involves the exercise of a power of attorney granted by Mrs. Brookshire, the plaintiff in this case, to Benjamin Hiatt. A copy of that power of attorney, Your Honor, is in our material at Defendant's Exhibit 4 -- I'm sorry -- that's not -- it's Exhibit 9.

THE COURT: Okay. That's the power of attorney?

MR. KNOWLTON: That's the power of attorney.

THE COURT: All right.

MR. KNOWLTON: He -- a month later, he opened an account at Community First Bank.

THE COURT: Let me ask you this -- how is Mr. Hiatt related to Mrs. Brookshire?

MR. KNOWLTON: They're friends.

THE COURT: Just friends. Okay.

MR. KNOWLTON: Right.

THE COURT: So, no family?

MR. KNOWLTON: No family connection.

THE COURT: Okay.

MR. KNOWLTON: The tolling -- this account was closed originally in October of 2010 and reopened. A disbursement was made and closed again in February of 2011 -- over three and a half years after that this lawsuit was brought. Among the issues we raised are the absolution of the bank from liability due to the

power of attorney by statute and time bar claims.

Let me first review some of the undisputed facts. First, pre Community First Bank, before this power of attorney, Mrs. Brookshire had a trust agreement at BB&T. We have attached a copy of that trust agreement as Exhibit 2 to our materials, the Defendant's Exhibit 2.

And in that trust agreement, it's an irrevocable management trust agreement. And this woman testified that she was familiar with the trust agreement. She was familiar with powers of attorney and she knew different types of power of attorneys, general and limited and durable and not. And she had had experience with trust agreements. This is the one that was in force immediately before she engaged Mr. Hiatt.

And in this trust agreement, the bank is named -- BB&T is named as the trustee. In this trust agreement, there's a description of what property will be the subject of the trust. In that trust agreement is a description of the powers and the duties of BB&T as trustee.

It is also undisputed that Mrs. Brookshire had a dispute with BB&T. She wanted to buy a $250,000 motor home. They strongly advised her against doing that given the level of funds that she had in her account

and just the nature of spending that sort of money. So in their role as trustee, they wrote several letters to her strongly advising her not to do that.

She also had a dispute with other services performed by BB&T. And if you look at the BB&T statements -- and we've attached one at Exhibit 5 at Bates number CFB 347 to 348. It reflects in the account statement from BB&T, that BB&T is the trustee. And it reflects the thousands of dollars in trustee fees she was paying every month. It looks like for something like that month that I'm referring -- I think it was like $2,500.

THE COURT: Okay.

MR. KNOWLTON: And as a result of those disputes that she had with BB&T, she terminated that trust agreement. And a copy of the revocation is attached as Defendant's Exhibit 8. And that revocation was on May 23rd of 2007. On the same day at BB&T, she signed a power of attorney that we have attached as Exhibit 9 granting a -- it's a general and broad power of attorney granting Benjamin Hiatt very broad powers to manage her financial affairs.

Before that, during her -- the end of her dispute with BB&T, she had asked Ron Craven and his wife if they would be agreeable to take over her

financial affairs. They said no, but they reminded her of their mutual friend Ben Hiatt, why don't you try him. They gave her Hiatt's number. She solicited him and asked him if he would be willing to handle her financial affairs.

The POA, as recited within the agreement itself on the last page, reflects that it was signed in the offices of BB&T. The address in that agreement is -- of Mr. Hiatt is his home address. Mr. Hiatt was an employee of Community First Bank, but that agreement does not mention the bank at all. It was not executed at the Community First Bank, it was executed at BB&T.

THE COURT: Okay.

MR. KNOWLTON: And in that agreement, it unambiguously grants Mr. Hiatt, among other things, the power to open a bank account at any financial institution and to handle all financial affairs involving that account including deposits and disbursements.

THE COURT: So this is as broad as it can be?

MR. KNOWLTON: This is as broad as it can be.

THE COURT: All right.

MR. KNOWLTON: And there's no -- it's clear and unambiguous, and it gives him authority to basically handle all her financial affairs and it's intentionally

broad as -- as most general powers of attorneys are.

A month after that, the account was opened at Community First Bank. It shows -- once again, the separation between here's my POA to you instead of Mr. Craven, it was to Mr. Hiatt, and the account was at a Community First Bank.

We have attached a copy of the account agreement, Exhibit 24 is the affidavits of Carol Wilson. And Exhibit 7 to her affidavit, I believe it's the last five pages of that Exhibit 24, is the account agreement. And the account agreement is in the name of Debi Baker Brookshire trust and Debi Baker Brookshire is named as the trustee. The bank is not listed as the trustee.

And if you look at the signature line is Debi Baker Brookshire trustee. There is an account description with the type of account at CFB 2358, a page also bearing her signature, recites that the type of account is a business premium investment checking account. So -- and if you look at the account terms and agreement, there is no undertaking by the bank to serve as trustee. It is a checking account in the name of her trust with her serving as trustee.

The account agreement also contains some language that's important in this case at page 2360 of

that, next to the last page of that exhibit under the -- under the heading statement, Mrs. Brookshire agreed that she must examine the statements with reasonable care and promptness. And she authorized -- I am going to paraphrase some here --

THE COURT: Sure.

MR. KNOWLTON: -- regarding any unauthorized signatures, she undertook the duty to report it to the bank. It goes on to say that you agree that the time you have to examine your statement and report to us will depend on the circumstances, but will not in any circumstance exceed a total of 14 days from when the statement is first sent or made available to you. And further agrees that if you have failed to report any unauthorized signatures or other error in your account within 60 days of when they first send the statement, you cannot assert a claim against us on any items in that statement and the loss will be entirely yours.

As we have said in our brief, UCC has a statute of repose under -- under 36-4-406. And within the UCC also you have the ability to modify that. The UCC sets an outer limit of a year. The UCC also allows you to modify that to 60 days, and other cases have said that's fine. That's what this account agreement does.

We have also attached a couple of exhibits at 12

and 13 where Mr. Hiatt signed letters to third parties signed as power of attorney. Once again, the bank has never mentioned Ms. Brookshire signed that same document she knows he is exercising the power of attorney.

THE COURT: Okay.

MR. KNOWLTON: She admits that she knows that he was exercising his power of attorney. She acknowledges her signature on the power of attorney. She allowed him and understood that he was dealing with multiple third parties in the capacity that she gave him. She dealt with her family business, her siblings, her parents had been involved with Baker & Baker Real Estate, and he dealt with all matters of third parties within that capacity.

He paid her bills. And among other things, she -- he sent -- she had other accounts at BB&T. And at her request, he would frequently send her, you know, transfer money into that account, well over a million dollars of undisputed disbursements were made from this account to that account. She repeatedly asked for that.

THE COURT: Okay.

MR. KNOWLTON: She also had Mr. Hiatt handle the taxes, insurance matters, he signed residential leases

for her. He paid her telephone bills, utility bills, car payment, storage unit fees, attorney and accountant's fees, insurance bills, medical bills, traffic tickets, child care bills and charitable contributions.

He also handled very personal things. This -- this woman and her husband had custody of two children who were the parent -- the parents were in Alabama and she took custody of these children. And Mr. Hiatt would take care -- you know help take care of those children. In fact, he kept those children over one Christmas holiday at his home. He bought them gifts and had them in his home for the Christmas holiday. And she couldn't remember if it was one Christmas or two Christmases, but it was a very personal relationship. And she knew him before all of this from college years.

THE COURT: From college? I mean they had been friends that long?

MR. KNOWLTON: Right. They didn't maintain -- they didn't -- may not even college, but since the '80s.

THE COURT: Okay.

MR. KNOWLTON: And they had seen each other and socialized in bars where he lived at one time. So --

and the Cravens were mutual friends, so -- but it was a friendship relationship. She also gave him -- and she was living in Columbia at the time -- but she gave Mr. Hiatt her $250,000 motor home to store and maintain for over a year.

And in addition -- and to me this is one of the stranger things for a woman to do, but she gave him a box of her jewelry and silver worth over half a million dollars for him personally to take care of for an extended multi year period. And in short, he handled all aspects of her financial affairs and personal matters and things of a very personal nature that have no relationship to a regular banking situation.

Another exhibit to Ms. Wilson's affidavit is Exhibit 6, and that is an example of one of the statements that was sent to this plaintiff, one of the monthly account statements. And this one in particular is important. It's one of the very first ones. But one thing it shows is it's addressed to Debi Baker Brookshire Trust, Debi Baker Brookshire Trustee. So it reflects that she is the trustee. The bank is not a trustee. It also reflects that there are no trustee fees being charged unlike the thousands of dollars she was getting charged every month by BB&T, she's getting charged no trustee's fees. She's getting treated as a

regular checking account.

This one in particular -- in this case, she's -- she's -- took from -- from the outset that she -- the position that she had never received statements. And I think she still maintains that position. And I thought -- we all thought that's odd. This account was opened for four years and nobody ever heard that complaint, and we drilled all the way to the granular level. We started with requests to admit, and they didn't admit it. We went all the way to the granular level to the person who is still there and handling back room operations at this bank, Carol Wilson overseas it.

And her affidavit details the fact that the undisputed evidence in this case is that the bank mailed these every month -- and a compilation of a reprint of the statements is attached as Exhibit 36 -- until they were started getting returned in the first of 2010, because she had moved at that point and I guess her forwarding address expired. But from the opening of the account in June of 2007 until the beginning of 2010, the undisputed evidence is that the account statements were sent every month.

Oddly enough in this lawsuit, we were still scratching our head about how can she say she never got

the statements, she produced several original statements and this is one of them. And we had Ms. Wilson come down here and say, you know, take a look at this. And she explained in her affidavit, yes, that is -- that is the original statement paper. That is -- the reprints are never put on letterhead. You can print it on regular copy paper. In all aspects of the details -- I won't bore you with right now -- but there is no way that this could -- this was the original statement and it was produced by the plaintiff in discovery.

THE COURT: Who is the statement being made to?

MR. KNOWLTON: To Mrs. Brookshire.

THE COURT: Was -- Mrs. Brookshire or Mr. Hiatt?

MR. KNOWLTON: To Mrs. Brookshire at her address.

THE COURT: Okay.

MR. KNOWLTON: And so plaintiff actually has produced three originals and I think a xeroxed copy of another original statement in this lawsuit. This one in particular reflects a $500,000 disbursement two weeks -- roughly two weeks after this account was opened. And I'll get back to that later. But that's one of the key disbursements in dispute in this lawsuit.

Now, let me -- let me first back up and talk

about one of the grounds of our motion is that the bank is absolved from liability by the terms of the power of attorney. That's clearly set forth in our motion and we have addressed it in our memo, and it is completely ignored by the plaintiff in its memorandum in opposition. We think for that reason alone, all claims against the bank should be dismissed.

I have handed up several cases, Your Honor. One of those cases is Watson. And in Watson it also involves a power of attorney. And it says, you know, the power of attorney is construed in the four corners of the document. And if it is clear and unambiguous, it must be enforced according to its terms.

This power of attorney unambiguously and clearly gave Mr. Hiatt authority to make disbursements from this account. Third parties, as power of attorneys, are designed to do -- and they used it frequently -- but as they are designed to be used, it wouldn't work if you had to say what are you spending that money for every time somebody exercised it. You have the statutory right to rely on the authority granted by the power of attorney. Just like a bank has -- if you have a joint checking account with your spouse, the bank doesn't have to look and say, wait a minute, you went to -- you went to the liquor store or bought something

that the other owner of the account thought was inappropriate, and, you know, wants the bank to repay you. The bank has no duty to go behind the authority to make disbursements from the account -- to ask why are you spending the money.

The statutes we set forth in the brief at 62-5-501 grant a third party, including banks, of course, because they have to rely on them all of time. They grant them absolute -- absolution from liability in reliance on the power of attorney.

We've also raised several time bar arguments. The first one we raise -- or really two that we've raised -- deal with the statute of repose found under section 36-4-406, and as allowed by statute, we're also allowed to produce that one year period to 60 days. So that brings in the agreement language itself.

THE COURT: Okay.

MR. KNOWLTON: And, Your Honor, we have handed up -- the Saventino case addresses that. And we -- we've cited some other out of state authority as well that makes it clear that this is not a statute of limitations, this is a statute of repose. And when you have a statute of repose, equitable tolling does not apply.

And in the -- and so after these statements were

sent, 60 days after they were sent each -- any disbursement regarding that statement expires if they haven't complained to the bank. Period. And that applies -- this isn't a commutative thing. This is every month, the bank sends a statement.

One of the other cases we handed up was Gibson. And in the language in Gibson makes a lot of sense to me, but it basically says that when a bank sends you a statement, that is in essence the bank saying this is what we owe you and nothing more. This is what you have in the bank and nothing more. And if you dispute that, you have to tell the bank. And you have to come in and dispute it. And if you don't, you are forever barred from bringing that claim after the statutory or agreed upon length of time.

There is no dispute in this case that Mrs. Brookshire never complained about anything in her account until at best late 2010. So virtually every one of the disbursements at issue in this case are time barred as a result of that. They did not address this argument in their memorandum in opposition, but we think as a matter of law that the claims are time barred due to their failure to report.

When they -- when they did first ask for documentation, they were -- they were never specific in

their complaints, so we think all of their claims are time barred as a result of the operation of this statute and the agreement language.

We have also raised the general -- as an alternative, we have raised a general statute of limitations found under section 15-3-530 subsection 5, which is a three year limitations period. And that again would run from each statement.

And there -- one of the arguments they make in opposition is essentially that we didn't get the statements. And that fails for multiple reasons. One, it's not true. She's produced statements in this lawsuit. She got them. And we've also attached the testimony -- drilling down we went and took the plaintiff's counsel's investigator's deposition. And he said, yeah, I got the statements from the plaintiff. We've -- we've drilled all the way down, where did these things come from. He said I got them from the plaintiff. So they did get the statements.

And two of the statements involved here were -- one was the $500,000 disbursement to Coach that I will talk about a little more lately, and one reflected a $200,000 disbursement to Coach. That's $700,000 worth of disbursements right there. As set for in Ms. Wilson's affidavit, the statements were sent. It is

undisputed that the statements were sent.

As a matter of public policy in law, you are obligated as a customer to obtain your statements. The UCC is not going to let you get away with saying, oh, I didn't get a statement, so it doesn't matter. As a matter of law and public policy, if you don't get a statement, you have to go to the bank and get it yourself.

And their own expert acknowledges if you haven't gotten a statement, you need to go by the bank within at least 90 days and demand it. And we've attached his testimony as Exhibit 53, pages 132 to 33. So, essentially a customer is charged with knowledge of the contents of the statement.

And there are some pretty harsh cases out there where there is actual evidence of the statements being intercepted or stolen, and the courts have said too bad. You got to go to the bank and get them. You can't just sit back and, you know, these deadlines are running, and you're charged with notice of the statement. And if you don't get it, you are still barred. So whether she got them or not doesn't matter. She had a duty to go insist on it. Whether -- and if she didn't get them, her own expert has conceited that she had a duty to do that. Here they've also

complained about -- raised issues of equitable estoppel. They essentially say Mr. Hiatt started lying about whether -- what he had done with some of this money beginning in -- some time in I think late 2010.

We -- we have -- and I've got a little demonstrative summary, but, Your Honor, we have -- we have -- and I've handed up a small version of this. Again the POA was executed in May of 2007. The account opened in June. Two of these disbursements, the five hundred and two hundred that went to Mr. Crosby were reflected in statements -- original statements that they actually produced in July and November of 2007.

THE COURT: All right. Who is Crosby?

MR. KNOWLTON: Crosby is --

THE COURT: The $500,000 and $200,000?

MR. KNOWLTON: Right.

THE COURT: Okay.

MR. KNOWLTON: And, Your Honor, there's actually in total over a million went to him. And we have got -- there was another -- the other -- there was another big one of $150,000, and then multiple other ones went to him totaling about another may be two hundred.

The last disbursement that went to him -- and this is part of Exhibit 42, a summary exhibit, was in

November -- I'm sorry -- was in 2008, the very last disbursement to Crosby.

THE COURT: Okay.

MR. KNOWLTON: And as we explained in our memo, Mr. Crosby is called Coach at some times, because he used to be a football coach at I think Savannah State. A real charming guy. We took his deposition in this case.

In 2007 and 2008, he was on fire. He was -- he had -- he had previously owned a restaurant. He had come up with some spices and he had contracts to sell those spices. It was Coach's Lowcountry Boil. And he had large contracts with the military, with major grocery stores. He was on national TV on the QVC or one of those shopping networks. Multiple banks were loaning him money. And in this case, the first check that went out is payable to Joseph Crosby. And on the remittitur line it says "loan".

THE COURT: Loan?

MR. KNOWLTON: Loan.

THE COURT: But there's no note or anything?

MR. KNOWLTON: There's no note that we've ever found. He testified, you know, we asked him what were these disbursements to you about. He said, well, I understood that this woman was loaning me money. His

business blew up when the financial crisis came in 2009. Although he had these contracts lined up, he was trying to arrange another round of finance -- financing to pay for that growth, and then his real estate value went way down. He couldn't get the loan. He couldn't fulfill the contracts, and so then he lost his contracts and his business failed. So, you know, several banks -- and, you know, this money was unable to be repaid. But on the face of it that's -- it was a loan to Crosby.

And she has said in this case, I don't know who that guy is. And I don't agree that Mr. Hiatt -- she contends that was inappropriate for him to make a loan to Mr. Hiatt.

THE COURT: She didn't know who he was, but Mr. Hiatt knew who he was?

MR. KNOWLTON: Correct.

THE COURT: Okay.

MR. KNOWLTON: That's her testimony. And although it sounded like he went -- she went to his restaurant for lunch with Mr. Hiatt one day -- but in any event, let's just assume for purposes of this motion she didn't know the guy. She testified though that -- let me get -- so the -- the last disbursement to Mr. Crosby was in December of 2008. And the UCC is very clear,

the notes and the case law. And one of the reasons for this short time bar is that if you think a disbursement to somebody or somebody is forging your endorsements, they need to stop it so it doesn't happen again. And she testified that when she saw the statement reflecting that $500,000 disbursement, it doesn't say who it's to, it just says the $500,000. She said she immediately knew that was -- in her mind, that was inappropriate. She -- you know, you don't just -- her balance wasn't but -- I think a -- it was a little over a million, but it wasn't two million.

And, you know, she's thinking maybe this guy is paying my grocery bills and all these other bills, but she said he did not have authority to do -- send $500,000 to anybody. And -- and remember, Your Honor, that -- by law and public policy, you are on notice of the contents of your statement.

And by her own testimony, when she immediately -- when she saw this statement, she immediately knew that in her mind that was inappropriate, and she could have stopped all the other disbursements to Mr. Crosby.

THE COURT: Did she do anything?

MR. KNOWLTON: She didn't do anything.

THE COURT: All right. Is she competent? There

-- I mean, obviously, I'm just seeing this today, but I'm wondering -- sort of a base question, why would she give Mr. Hiatt a power of attorney? Was there something going on with her or -- I mean tell me why.

MR. KNOWLTON: The -- Your Honor, the facts in this case are odd. She is -- she came from a wealthy family. She's never -- there's been no allegation that she's incompetent to handle her affairs. She's never been proceeding along those lines if that's what you're suggesting. But she just didn't want to be bothered with that sort of thing, and was used to her -- you know, she was in the interior decorating world, and actually worked as an interior decorator with the family of the Baker & Baker for a while. She owned her own business. But I think she was just sort enjoying, you know, I guess a lot of people have people -- accountants or CPAs or somebody to help them with --

THE COURT: Or drivers.

MR. KNOWLTON: Or drivers.

THE COURT: I gotcha.

MR. KNOWLTON: You know the type.

THE COURT: Yeah, I know.

MR. KNOWLTON: But that's what she did. And she obviously wanted to go in another direction than a bank trustee by asking the Cravens and then she asked Mr.

Hiatt. When she got mad at Mr. Hiatt, she later asked a woman name Anngell Hamiter --

COURT REPORTER: I'm sorry. The name again.

MR. KNOWLTON: Ann -- one word -- Gell -- G-e-l-l-Hamiter, H-a-m-i-t-e-r.

THE COURT: All right. But when -- when she noticed in 2007, in July or November, that Mr. Hiatt had written $700,000 out to a guy who was selling spices and ribs and that kind of thing, is there any evidence that she contacted Mr. Hiatt and said, what's this about and where is the promissory note?

MR. KNOWLTON: Let -- let me clarify, I -- I may have been mis -- when she first -- she claims she first saw the statements when they were delivered to her in 2011. She claims until 2011, she didn't know about these disbursements at all.

THE COURT: Even though y'all are saying you sent them monthly to her, not him?

MR. KNOWLTON: Right. And the bank records go all the way back -- and we've got the undisputed evidence is in Carol Wilson's affidavit.

THE COURT: Well, let me ask you just --

MR. KNOWLTON: And she produced -- this particular -- these two particular statements, she produced the originally of them in this lawsuit.

THE COURT: Well -- and I don't know who represents who here, but is it possible that Mr. Hiatt was getting her mail? I mean, look, let's face it, there's $700,000 written out by someone that you allegedly trust -- by a person who is competent, you would think that if they were competent that in July or November, if they were getting their mail -- and again, this doesn't go to you. I'm just asking -- you guys have been in this case. I have been in it for 15 minutes, but there's something wrong. I mean, I'm no rocket scientist, but somebody was hiding something. So is there anybody here that represents Mr. Hiatt?

MR. HAWKINS: I am.

THE COURT: Well, how perfect. What does he say about that? Did he get --

MR. HAWKINS: There's -- there's a long story on that. Briefly, I can do it --

THE COURT: Yeah, briefly.

MR. HAWKINS: Mr. Hiatt, during his employment with the bank, did take money from the bank. And he had just completed a jail sentence for some of that activity. It does not involve Ms. Brookshire or the facts of this case.

THE COURT: Yeah.

MR. HAWKINS: The defendant -- the plaintiff.

THE COURT: Yet.

MR. HAWKINS: In their memorandum -- well, they refer to it as a scheme. And what I would say is that if Mr. Hiatt had a scheme, his scheme was to take money from the bank and give it to his friends -- or his employer. The thing that he went to prison for is -- the chairman of the board of the bank, and the president of the bank, had a real estate development along with a third person that was -- development of a golf course -- I think it's called Falcon Lair. You might have seen it or maybe even played there --

THE COURT: I played -- my golf yeah --

MR. HAWKINS: Well, they owned it. It got in money trouble. They asked him to look at it because of his knowledge of financial matters and so forth, and he did. And they had bills that they didn't make enough money to pay, and he used bank money to pay. He paid $2 or $3 million dollars. I know it was over -- well over a million. I believe it's in the range of $2 to $3 million dollars over a period of years that were debts of that financial entity -- or, you know, the couple of companies -- the typical golf course development, you've got the course and the operations and the clubhouse --

THE COURT: Yes.

MR. HAWKINS: And separate from that, you're selling lots, so you have a real estate aspect to it. So that happened here.

There was a federal investigation. Mr. Hiatt pled guilty. He did not receive one penny of anything for his involvement in any of that. He never got to play free golf at the golf course. He didn't get free drinks. He didn't get anything. But he worked a lot there and he transferred a lot of money there, the defendant -- the plaintiff -- I'm sorry. I do almost all plaintiff's work, Your Honor, so I'm -- I always want to call the other party the defendant.

THE COURT: Yeah. Yeah.

MR. HAWKINS: Out of habit. But the plaintiffs in this case claim that to be a scheme, and that whatever went on with Ms. Brookshire is part of this master scheme that Mr. Hiatt had to make other people wealthy. He received zero. He didn't get anything.

THE COURT: Well --

MR. HAWKINS: So -- so he served time for that.

THE COURT: Would you sort of admit -- and again, I'm not making a great logical leap in assuming that if he had control of $700,000 of her money and it's gone, and there's -- it's in the ether or in some spices or ribs somewhere, that kind of falls in line with what he

was doing at the bank?

MR. HAWKINS: I don't think so at all, Your Honor. It's not even -- I mean those are direct checks that went from this account to Lewis Crosby or his company.

THE COURT: And have y'all deposed Mr. Crosby?

MR. HAWKINS: They have. I was not -- I was not present for that. My client is broke.

THE COURT: Yeah.

MR. HAWKINS: And I haven't been paid in forever, and we stopped going to depositions and buying transcripts from depositions, which is another issue I'll bring up in another light at a later time.

THE COURT: Well, was there any evidence that Mr. Crosby -- what did Mr. Crosby say this five -- I mean I'm just fixated on the $700,000. Did he say, hey, look, I wrote -- Mr. Hiatt wrote me a check for $500,000, and I wrote him back a check for $450,000? I mean, that's what I normally see in criminal court up here. That -- that kind of scheme.

MR. KNOWLTON: He testified he understood it to be a loan.

THE COURT: And it was never paid back?

MR. KNOWLTON: His business failed so he couldn't pay back any of his loans.

MR. GIESE: Your Honor, this loan -- alleged loan

that there was no paperwork signed, nothing was done other than giving him a certified check basically, a cashier's check for $500,000, that he then did not put into his business account that he had at the bank, which was CLCB, he put it into he and his wife's personal account. The money then was transferred to different places, a little bit of it went into the CLCB account. The rest was for personal expenses.

MR. HAWKINS: Your Honor, just on that point to finish something off on that.

THE COURT: Yeah.

MR. HAWKINS: Our -- our strong contention in this case is that were we -- were this lawsuit had been filed when it should have been, within three years of July, August of 2007 when these things happened, we could have gone to this gentleman and we could have subpoenaed all of his bank records, and we could have gone to his office and we could have gotten all of his financial records out of his file, and we could have had that discovery in this case to show more specifically what happened to all of this money.

If Mr. Hiatt were testifying, he would say he thought -- he considered them all loans. They were loans made at the same time when other financial institutions also considered Crosby to be a good -- a

good risk, and they were loaning him money and nobody suspected he was going under. But -- but because they waited seven years to file this lawsuit, all of that information is gone. And that will come around to the statute of limitations argument and why we have statutes so that people can reasonably defend themselves, but --

THE COURT: Yeah. And I didn't mean to interrupt you, it is just -- it is -- I -- when y'all started, again, I -- this is the first time I have heard of this case, it -- it just seems there's something here that is kind of unsaid.

MR. HAWKINS: On one point that you had asked that started this.

THE COURT: There's a crook in the pile somewhere.

MR. HAWKINS: You asked what happened to her bank statements and did she get them or somebody intercepted them.

THE COURT: And?

MR. HAWKINS: There is no evidence in this case that anybody got the bank statements that were intended for Mrs. Brookshire except Mrs. Brookshire's claim that she never, ever received a bank statement from the day the account was opened until sometime after she hired a lawyer to help her with all this after the accounts

were closed -- or these accounts.

THE COURT: Well, and let's quit dancing on the head of a needle, what's wrong with her? I mean, why would she do this? Is there some reason that she couldn't manage -- I mean, which is a substantial amount of money -- I mean, y'all I understand. I'm just asking, as a laymen, why would she do this? Does anybody know? Do y'all know? Was it love? Was it -- was it --

MR. GIESE: Your Honor, she trusted Ben Hiatt, who is a senior vice president at Community First Bank to do her bidding. That's -- that's the problem.

THE COURT: Okay. Go ahead. I didn't mean to interrupt you, but that's just $700,000, I -- I would have noticed that in my bank account. I'd be in prison if I wrote a check for that much.

MR. KNOWLTON: Well, I'm -- I'm right with you. And I had the same curiosity, what is going on here. But she should have -- the history of when she was born evolved with the business, with having family business bookkeepers, help with the finances, or her husband helped with them.

And then the bank, she didn't like that. So then she goes and asked the Cravens and then him, and then -- now she's instead of a power of attorney, she

gave this woman, Anngell Hamiter, she just gave her signature authority on her account, and paid her -- I've forgotten what it was -- 50 bucks an hour to do the same thing Mr. Hiatt was doing. So she is in the habit of hiring people to hire -- I imagine Donald Trump probably hires somebody. But the point is some people hire people to handle their finance. But this is peculiar. And Your Honor the --

THE COURT: Yeah. This is real peculiar. I mean, you have to admit, a woman who is competent -- I mean I guess the best reason is exactly what y'all probably all agree is that she trusted this guy, right? She banked with him. He was nice to her. They had known each other for a long time. She probably said, you know, this is a lot of money, I don't know what to do. And maybe there was a response, well, I can help you. I mean I'm looking at the kernel of how all this started. And that doesn't affect where -- why we're here today. I'm just trying to figure it out. It is of some interest to me.

MR. KNOWLTON: She -- she sought him out -- you know, as a -- it wasn't the first guy she sought out to replace the bank to say I want somebody to handle my financial affairs. First the Cravens -- and Mr. Craven was the guy who used to stock grocery shelves. He

wasn't a banker. She wasn't looking for a banker. And Anngell Hamiter is a retired secretary. She was looking for somebody who could just do the routine handling of her financial affairs. But to do that instead of being -- all right, I want to sign all of the checks though -- she just gives this power of attorney, and she knows that for the four years this account is opened, that she is disbursing money out of this account.

THE COURT: Okay.

MR. KNOWLTON: And, Your Honor, your point about, hey, you all, you know, somebody should be looking at this thing, well the law and public policy require you to. She can say all day long she didn't get the statements, but as her own expert concedes, you've got a duty to go get them.

THE COURT: Well, if you don't get them, don't you call the bank and say, hey, what's going on with my $700,000?

MR. KNOWLTON: Exactly.

THE COURT: And where is my bank statement?

MR. KNOWLTON: And under -- under the UCC and under the account agreement, she's got the duty to do that. And -- and some of the cases are pretty strong.

THE COURT: I know. I know.

MR. KNOWLTON: You know, some of them -- one person I think even died --

THE COURT: Well, I've had cases like this for more and less money, and I've always been a little bit amazed at the obligation the law puts on you to know what is going on with your money. I understand why, but quite frankly, I don't live up to that. I don't look at my statement every month, but I don't have, you know, $800,000 in a checking account.

MR. KNOWLTON: Maybe a lot of people don't. But to make the banking system work, you know, the legislature has said this is the way you have got these statutory duties.

THE COURT: All right. So y'all's position is basically the statute of repose expired prior to the lawsuit being filed?

MR. KNOWLTON: Long, long before. And -- and the general statute of limitations.

THE COURT: Okay.

MR. KNOWLTON: And there -- under the general statute of limitation, there is equitable tolling. That's an alternative argument.

THE COURT: Right.

MR. KNOWLTON: That statute -- and that's what I'm going to point to. There are a couple of other things.

First of all, the UCC still applies. You know, you're still on notice in the contents of your statement. So you can't wait three years. If you look at Gibson, that's essentially -- you are still on notice of the contents of your statement. So for your July of 2007 statement, even if you go to the three year statute, you're over in 2010.

Now, there's several things that happened here well more than three years before this lawsuit was filed -- and that -- and equitable tolling is an objective test. And she -- in -- when the account was first closed in August of 2010, she was given $200,000 -- $202,000 and said that's all the money you have left.

THE COURT: She -- she closed her account in 2010, which would have been within the three years and -- within the time of statute of repose and limitations?

MR. KNOWLTON: Well, not the statute of repose. The statute of repose -- well, that would be on a month to month basis --

THE COURT: Well, right. Right. I'm assuming the last statement she got, it may have been within that.

MR. KNOWLTON: Yeah.

THE COURT: So she was put on notice at that time, you have 200 X thousand dollars in this account?

MR. KNOWLTON: And she -- and her -- the testimony was that she was violently upset and believed she should have more money.

THE COURT: All right. Yeah. Okay.

MR. KNOWLTON: And this -- this went on for a while, and then she got -- through her lawyer's requests, they reprinted all of the estate -- account statements that had been generated to that date. I think they went through November of 2010, and delivered to her lawyer at the time. Again, that's more than three years before the lawsuit. So she has the statements in her lawyer's possession.

She acknowledges -- and then something odd happened. The account was reopened and $285,000 was misappropriated by Mr. Hiatt from the bank, put into this account, and disbursed to Plaintiff and the account was closed again.

THE COURT: Really?

MR. KNOWLTON: Really. Which is I think that was part of his indictment.

THE COURT: All right. So -- so the account is closed. They gave her 200 X thousand dollars. Then at some point later, it looks like a month --

MR. KNOWLTON: A few months later.

THE COURT: A few months later.

MR. KNOWLTON: Maybe six months later.

THE COURT: She goes back and puts the $285,000, which she received previously from the bank, into a new account?

MR. KNOWLTON: No -- well, she was saying, you know, I think I have got more money, I think I have got more money --

THE COURT: Right.

MR. KNOWLTON: And then Hiatt issues a check to her that -- first he steals the money from the bank.

THE COURT: Right. But let me -- no, what I'm saying is, that when she closed that account and she was given $200,000 -- let's just say that -- and she says I think I have more money, at some point later, she reopens an account -- does she replace that money -- her own money into that account?

MR. KNOWLTON: No. Mr. Hiatt --

MR. SCOTT: He reopened it.

THE COURT: Huh?

MR. SCOTT: He reopened it. Hiatt did.

MR. KNOWLTON: Yeah, Mr. Hiatt reopened the account by making an one penny deposit, and then misappropriated two eighty-five from the bank --

THE COURT: So the $200,000 she received before didn't go back into that account?

MR. KNOWLTON: No, she has the account, several accounts at BB&T, as he had wiring money to her BB&T account all along.

THE COURT: So, he opens the account with a penny, does he do that at her direction or does he do that to try to cover his tracks?

MR. KNOWLTON: I think it was to cover his tracks. He misappropriated $285,000 to try to keep this woman happy.

THE COURT: Yeah.

MR. KNOWLTON: And then gets a check for the balance again and closes the account again basically the same day in February of 2011. And once again says, that's it. Three and a half years later is when the lawsuit was brought.

And she acknowledges that she --- by at least April of 2011, she had the full package of account statements that had been reprinted.

THE COURT: Okay.

MR. KNOWLTON: And by her own testimony that we cited in the record, the moment she read that first statement, she says I know that's not appropriate, and I would have challenged it the minute I saw that. That's her testimony that we have attached in the record. So it is undisputed that that statement puts

her on actual notice of what she contends is an impropriety and unauthorized disbursement. And that -- that is -- since that is undisputed, I think it -- nevertheless that would be our objective evidence that you should have -- be on notice of the claim.

Now, Your Honor, we -- you've been patient with me, I don't -- we've got a number of things we have briefed while they didn't -- failed to meet the elements of each claim --

THE COURT: Right.

MR. KNOWLTON: But I would like to take a little bit of time to talk about the damages issues in this case that we have briefed this as well. First of all, a total of $4 million went into and out of this account over the four years that it was opened.

Now -- and -- and I'm sure they will correct me if I'm wrong, but my understanding is that there is no dispute in this lawsuit about over $1.8 million dollars. In other words, a lot of that -- at least a million of it is money that went into her account at BB&T.

THE COURT: So she opened this account with $4,057,000?

MR. KNOWLTON: No, Your Honor. She opened it with $1.17 million. And her Baker & Baker -- her family

business, she owned like 10 percent of it. And they would sell off a K-mart or something, she would get about $5,000 a month, plus distributions when they would sell an asset. So most of that money came from Baker & Baker.

THE COURT: I got you.

MR. KNOWLTON: And some of this money represents money in and out. I'll go down the list.

THE COURT: I got it. I got it.

MR. KNOWLTON: This includes everything, but everything that went in totals $4 million dollars. Everything went out, so there's nothing left. But they don't dispute $1.8 million.

In addition, there are some transactions referrals -- or they want to call it juggling for some reason, but for several instances -- two of them are the most significant amounts of money, if you look at the account statement it reflects something like that, you know, $200,000 withdrawn from the account. A few days later, the exact same amount was deposited back into the account. The bottom line is, why Mr. Hiatt did it, we don't know, but there's no loss. There is no damage with regard to that amount. Because as the statements reflect, the money went back into it.

Now, there are also other than what they have

acknowledged that they don't dispute, there is $182,000 that was wired to her BB&T accounts -- the undisputed evidence is that money went into her account.

Now, she waited so long to bring this lawsuit, BB&T -- she didn't keep her BB&T records either. And we subpoenaed BB&T and they didn't have things back far enough. So they said, well, anything we don't have the BB&T records for, we're not going to admit. But the only evidence from our bank records is that another $182,000 was wired to her BB&T account, so we don't think -- we were trying to whittle this thing down.

We started off with like 300 transactions. We're down to 115. They started off contending ever bit of this was owed back. So we don't think that should be part of this lawsuit.

If we have to try it, it's probably going to need a special term of court because of the number of transactions, but that's why this is important too if the whole thing doesn't go away, that we deal with some of these items.

Now, for some reason, we have got direct evidence and went through trying to figure out what somebody else did with their checking account seven years later has been no simple task. But we demonstrated that on the disputed list. She paid

amounts for car payments, payments for a credit card she had at Community First. Insurance -- no, paid her insurance bills. Paid a guy named Logan Voxx, who is -- what she -- you know, one of her childcare people. She had two guys that -- I won't get into details of that either, but it was still -- she acknowledged most of those disbursements to him, for some reason not these.

THE COURT: Well, I don't want you to get into the details, but did she have children?

MR. KNOWLTON: She -- these are the children that she had the custody of.

THE COURT: Okay.

MR. KNOWLTON: Mr. Hiatt also kept, on occasion, including over the holidays -- over the Christmas holidays on one occasion.

THE COURT: Okay.

MR. KNOWLTON: And helped arranged for -- with the Cravens and other people for weekend care. Now, there is -- the undisputed evidence is also that Mr. Hiatt misappropriated $880,000 from the bank and deposited it into this account. Mrs. Brookshire testified that she acknowledged she had no right to those funds. That was -- those --

THE COURT: Sure.

MR. KNOWLTON: Those deposits were inappropriate. And the backup that we have attached to our exhibit shows that Mr. Hiatt had -- had made false entries to offset those based on purchase of Federal securities as an asset. And, you know, how accountants have to have something on each side of the ledger, it was a fraudulent entry and made that number -- that amount of total deposits into her account. That is the subject of our offset and counterclaim. And we contend the evidence is undisputed that that amount should at least be offset against any amount that she is due.

Then we get back to Crosby again. And there -- there are a lot of other transactions here, but I'm just pointing out to the court if you just take the Crosby account numbers out of there -- and I think you must because they are on the actual statements that she produced, the first 500 and 200, and you're on notice that this -- the disbursements of this account may be inappropriate, and then you have the 150, and then the balance of $350,000 -- you have the 500, 200 and a total of 350 more thousand. When you take just those transactions out, she's $300,000 in the hole. And so I don't think it makes any sense to have a multi week trial about something when these undisputed transactions put her in the negative to start with.

THE COURT: Would she be in the negative if you take the $800,000 -- is the $880,000 out? In other words that's not her money, that was stolen, and I'll have to look at that. To be honest with you, I'm just going to have to look at that. I understand what you're saying. I just want to make sure.

MR. KNOWLTON: I've included $880,000 here. And she acknowledges, you know, that was inappropriate. And the undisputed evidence is that from -- there's a forensic investigator -- when this thing came up, and it really came up, Mrs. Brookshire -- when -- when the bank looked at what -- you know, what she was complaining about things, and looked at it and said where did this $285,000 come from? And that lead to the discovery of the other fraud.

And the bank focused -- I mean -- this guy used to be a -- used to work for a bank auditor. In fact, the bank's auditor. And so he knew how to conceal things from the bank. But in any event he -- there were multiple prongs to what he had done, no other customers are involved. You know, no other customer has lost money or is a claim against the bank.

But with regard to this, you know the investigator was looking at all right how much -- you know, what -- what all did Mr. Hiatt do and where all

did it go. This is one aspect -- in order to look at what came out this account -- because they can't really know what Mrs. Brookshire might think -- seven years later what she might think is appropriate.

THE COURT: Okay.

MR. KNOWLTON: Your Honor, I've got some more issues on this, but it may make more sense to --

THE COURT: Yeah. Let me hear -- what's -- here's the deal, what is y'all's position on the statute of limitation and repose, because that is the threshold issue.

MR. SCOTT: A couple of things, Your Honor, 36-4-406, as I read it, applies to -- the title of it is a customer's duty to discover and report unauthorized signature or alteration. If you read 406, it's talking about when somebody forges your check or it's talking about when you wrote a check for $1,000, and whoever the payee is changes it from $1,000 to $10,000, whatever it might be. And that's 36-4-406. The cases that interpret 4-406 all -- I say all, I have not read all of them, but the ones I've read all deal with forgeries and alterations of instruments.

This -- our -- our contention here is that 4-406 has nothing to do with this dispute because we're not not talking about a forgery or an altercation. There's

no question but that she executed a POA. There's no question but that Hiatt had -- as long as he operated within the confines of the POA, that he had the authority to withdraw money from -- from her account. So, based on that, we take the position that none of the statutes of limitation or repose or 406 apply. I think that's a plain, fair reading of the statute and I think --

THE COURT: All right. Let me ask you this: Why did she -- why did she wait so long? I mean, what caused her -- at some point here, again -- and I'm -- everybody says she's competent, she realized that she had been cleaned out by a bad guy at the bank; why didn't she immediately do something?

MR. SCOTT: She did, Your Honor. Her testimony in her deposition, and I think this creates -- this creates a question of fact with material fact dispute, that she never received any bank statements from CFB. She said she never received any.

Ms. Carol Wilson, who they rely on -- who is an employee of the bank who they rely on to establish that she did in fact get statements at least until they -- one was returned where after which they admit they never sent her another statement after the first one was returned. But she relies on basically the bank's

own internal mechanisms for delivery of bank statements. She had to get them because we had this process that never failed and always worked. But Mrs. Brookshire has consistently denied getting bank statements. She did receive bank statements later on.

And I'll tell you my understanding of that -- and these are the bank statements that was produced by us or somebody on -- on her side of the ledger to them, she had loaned Hiatt her RV. Apparently he wrecked it or didn't do what he was supposed to do with it or something like that, he brings her RV back to her -- I want to say late in 2010.

When he brings the RV back, there are a couple of boxes in that RV, maybe three boxes in that RV, and those boxes were filed with documents. She starts the process of going through those documents. In -- and this is not an issue or a situation, I should say, where she just sat around and did nothing. She was -- she was proactive. Maybe she was not as proactive as she could have been or as she should have been, but she was proactive.

Her testimony at her deposition was that she was constantly asking Hiatt what was going on with her -- what was going on in her -- with her account, and he was basically stringing her along and giving -- giving

her answers that she -- they weren't necessarily satisfactory to her.

But in 2010, he brings the RV back. She -- she now has assess to these documents. She hires a lawyer, which is what somebody would do -- I would submit which is what somebody would do if they thought somebody was stealing from them. She hired a lawyer Kathleen McDaniel from a reputable firm in Columbia. Ms. McDaniel -- and that was on -- as the best I can tell 8/11 of 2010.

Ms. McDaniel then sets upon the course that we've been embarked on for the last three years of trying to find out how much money went out and how much money came out, where it all went. She began writing letters and making phone calls in late -- in late August of 2010.

She initially asked for a full accounting and she never got one. We asked for a full accounting I believe in 2013, we -- at this point, we still have not received an accounting that shows -- and even if you look at the statement that Mr. Knowlton was talking about, the statement does show $500,000 -- a $500,000 debit, but just looking at that statement you have no idea what it is. I mean it could have been -- it could have been a loan to Coach; it could have been a gift to

Coach; it could have been a deposit in some other depository bank. It just says "debit". That's all it says "debit" --

THE COURT: But there was no lawsuit filed then?

MR. SCOTT: There was no lawsuit filed then. But all it says is miscellaneous debit. That's all it said. I mean we take the position that -- that the quote/unquote loan to Coach is not a loan. Mr. Knowlton said something -- and I wanted to start off with this, but you asked me about the statute of limitations -- but he said that Mr. Hiatt had previously worked for a forensic accountant and he had that background of knowing how to pull all this stuff off. Well, he had that background when they hired him. That was information that -- I don't know if it was known to them when they hired him, but it was available to them. And had they wanted to find out and had they wanted to vet him, they could have found that before they set him up as a Senior Vice President and put him in position to do all this stuff.

I'm not going to stand and say my client is, you know, completely absolved because there is a POA. And the POA is -- is a very broad POA. What -- what I do disagree with that has been represented this morning -- this afternoon maybe -- about the POA is it did not

give him the authority to make gifts unless it was to -- unless the beneficiary of that gift was somebody she had a habit of giving gifts to. And I don't have the POA here in front of me, but it was limited on gifts by -- by writing Coach Crosby -- Cosby a check for $500,000, and by not taking a note and by not setting up any type of interest rate, and by not setting forth any type of a repayment plan or schedule or anything else -- like everybody in this room has taken out a loan know, that's what you got to do when you take out a loan. They didn't do any of that stuff. And this is a banker making this loan. That -- that wasn't a loan, that was a gift. And the POA did not give him the authority to make that gift I submit, Your Honor.

As to their general statute of limitations argument, if you'll agree with me in that the -- 4-406 does not -- does not control the statute of limitations in this -- in this circumstance, Your Honor. There is a myriad of cases about equitable tolling and we are -- I don't want use the L word, but fortunately for the plaintiff lawyers, South Carolina courts seem to be in tolling statute of limitations under circumstances that that I submit we have in this case.

An inducement -- this is Hedgepath vs. American

Telephone & Telegraph Company. It's a 2001, 559 SE 2nd 337, an inducement for delay may consist of either an express representation that the claim will be settled without litigation or other conduct that suggest the lawsuit is not necessary. The application of the equitable estoppel does not require an intentional misrepresentation, but is sufficient if the plaintiff reasonably relied upon the words and conduct of the defendant in allowing the limitation period to expire. Where the defendant's actions lull the plaintiff into is quote/unquote false sense of security -- I'm sorry -- whether the defendant's action lull them into a false sense of security is usually a question of fact. However, summary judgment is proper when there is no evidence of conduct on the defendant's part warning them to stop. So there has got to be no evidence that CFB or -- forget about Hiatt for a minute, but the bank, there's got to be no evidence that the bank did anything to lull her into a false sense of security.

Kathleen McDaniel, the lawyer from Callas & Tides (ph), started asking questions about this $500,000, she was initially told not only by Ben Hiatt, but by -- by representatives of the bank, including Jim Williams -- including Jim Williams, who is a lawyer,

that this $500,000 was used buying an annuity for these two children we've been talking about. They bought two, $250,000 notes --

THE COURT: What year was that?

MR. SCOTT: It would have been 2010, I believe -- 2010, maybe 2011, but that annuities were bought. And they even gave them the name of an annuity company, Lafeyette. And checked it out. There were no annuities with Lafayette.

They went back and asked again, we can't find any Lafayette annuity. I think Mrs. Brookshire testified she didn't know what an annuity was, but that -- that's never here nor there.

Then they give her the name of a separate -- a second annuity issuance, they check with them. There's no annuity with their company. They didn't -- they then changed their story, the bank and Hiatt, and they say, well, it wasn't an annuity, it was a loan to Coach. The loan to Coach story came along probably around 2013, July of 2013 is when the story was changed -- remember we bought annuities with it, but we loaned it to Coach.

And -- and it was represented to -- to Mrs. Brookshire, and her representatives, that there was a note. There was a promissory note executed by -- by

Crosby, which he flatly disputed in his deposition testimony, and that a copy of that promissory note was delivered to her. Just like the bank statements were delivered to her, this promissory does not exist, Your Honor. But -- the people at the bank -- insiders at the bank, higher ups at the bank apart from Ben Hiatt, had a course of conduct of telling her what they -- basically what they needed to tell her to throw her off the trail if you will, Your Honor.

I -- I think that is some evidence of some conduct on the -- on behalf of CFB and their agents that is lulling her into a false sense of security such that whether or not -- whether or not equitable tolling applies here should be up to a jury. It should not be decided as a matter of law.

THE COURT: So the threshold issue I've got to determine is whether or not the statute of limitations and statutes of repose apply?

MR. SCOTT: I think that's the first thing, Your Honor, yes, sir.

THE COURT: Okay.

MR. KNOWLTON: Your Honor, one other threshold issue I think is if you exercise this, pursuant to the power of attorney, there is no liability period.

THE COURT: Well -- and I agree with you, the

problem is you have got a crook exercising it, who is working for the bank. That -- that throws a little bit of a wrench into my thought process. You have got a guy who's basically stealing money from her. Listen -- I mean, I know none of y'all can prove it, but for crying out loud, $4 million goes in and $4 million goes out, and she has got nothing. And oh by the way, he did a little federal time for doing it to other people, it's not a great leap to figure that you know he -- he -- the bad actor here is him. And, again, I'm not -- I'm just saying that I understand -- I understand your position.

MR. KNOWLTON: Well, let me -- let me --

THE COURT: What I'm looking at is the summary judgment issue. I'm trying to find -- I'm trying to decide if there is a factual issue obviously, so --

MR. KNOWLTON: And I can get some of this down I think to -- where I think it all kind of comes together. Under -- under the law, we've cited SCN vs. Berwell and other cases, you are charged with knowledge of the contents of your agreements, your contracts.

Under the UCC, and pursuant to public policy and law, you are charged with knowledge of the contents of your statements, your account statements. Here the four corners of the POA give no duties to the bank.

The bank is not serving as a power of attorney.

Two, the -- under the account agreement, the four corners of that are clear and unambiguous, she's serving as her own trustee. This is a checking account and you're charged with knowledge of when these statements come out. And she has already said as soon as she saw that statement, she knew in her mind that was inappropriate, and you're charged with knowledge of that. And she says, again, she was violently upset as early as 2010. We have other testimony -- I didn't put it on my little chart, but in 2008 she starts suspecting he was lying to her.

THE COURT: And I guess I am wondering why she waited.

MR. GIESE: Your Honor, may I?

THE COURT: Sure.

MR. GIESE: Thank you. Your Honor, Mr. Knowlton makes a point about 2010 is when she became aware -- or she was aware that some of this money might have been misspent, and what he doesn't tell you, and it is in our brief, is that at that time she hired Kathy McDaniel, who was a lawyer in Columbia, who then immediately -- or fairly quickly sent a letter to first -- I mean to the Community First Bank specifically requesting a full accounting.

Now, that full accounting becomes important later on because they don't send her a full accounting. They send her a copy -- and I believe it's Defendant's Exhibit No. 36 of -- and that shows you what they sent. And all it says is this lady's debits and deposits. It does not say where the money went.

So, Kathy McDaniel, in her testimony, says look, this is not enough. This is not a full accounting. I need a full accounting to know where the money went. That was in 2010. It took until December 17th of 2013 -- and, Your Honor, it's in our brief, I believe at least eight different requests for a full accounting to get the paperwork to see where the $4 million went. It took them until December 17th of 2013 to give us a quote/unquote full accounting.

Your Honor, that was not a full accounting. It was $500,000 that they did not give us, we did get paperwork on. We did not know exactly where that $500,000 went. And, Your Honor, we believe that our breach of contract of fraudulent act, the fraud occurred at the beginning of it, during the deposits in the account, and then ended on December of 2013. I say "ended", the fraud continued because they didn't send us everything.

They go -- I believe in their -- in their brief

they say, well, you know, we don't have to turn everything over to you pre -- because of the discovery rules. Your Honor, they are her records. She is entitled to those records and they didn't turn them over. And just so happens the stuff that they didn't turn over was an $85,000 deposit that left my client's account and went into the Chairman of the Board's account and never came back.

THE COURT: I mean -- say that again? The Chairman of the Board of the bank?

MR. GIESE: Of the holding company at the bank, a Mr. McCoy, $85,000 of my client's money got transferred into his account, and it was immediately offset -- it was an offset into a bank account. That money never came back. And -- and just coincidentally that's one of the pieces of paper that they don't give us.

A lot of money -- and I forget the amount of money -- a couple thousand dollars went into the president of the bank, Mr. Sheppard's son account and wife's account. That was not turned over to us. A $310,000 deposit from my client's account transferred into one of the bank's accounts that sat there, didn't quite make it either. So Your Honor it is our position they never gave us a full accounting.

You ask why it took so long, we had nothing --

we had nothing to -- to file on. July of 2013 is the first time we find out -- or Mrs. Brookshire finds out that the $500,000 is not in an annuity. It was a loan, I'm sorry, we only lied to you three times -- four times.

And, Your Honor, it was no loan. Under the POA -- again, we didn't know that at the time. At the time that it was a loan, under the POA, he had -- you know, you don't have a cause of action.

THE COURT: Why -- why did it take so long for them to get a full accounting? If they said they askeded -- they asked, not askeded -- asked eight times and it took three years, what was going on with the bank? Was it internal.?

MR. KNOWLTON: Your Honor, I didn't live through it, but they --

THE COURT: I imagine it was quite a time to live through at that bank, I mean, you know, really.

MR. KNOWLTON: And, you know, the president is no longer there. Mr. Hiatt is no longer there, so there's been turnover.

THE COURT: Right.

MR. KNOWLTON: But this was the thing, the -- Mr. Geise in his letter dated August 19, 2013, asked for documents related to probably 100 different

transactions. Remember, at this point, they had already given them a reprint of all the account statements. And she has already said as soon as she saw it, she knew that she thought that was inappropriate. That was in -- the lawyer got it in 2010, she said she didn't get it until early 2011, three and a half years after that is when they filed suit. She's already on notice of a problem, and you don't get full discovery on things before the statute of limitations has run. She's already under an objective test, she's already under the knowledge and notice that she -- she may have a claim.

Now -- and it is -- and this is a checking account, so it's not like, you know, there was an on-going forensic analysis and they asked about specific transactions, an employee at the bank testified he spent a whole lot of time pulling each, you know, bit of paper at the bank dealing with each of these transactions, and they were produced.

Now, the ones he was just talking about weren't on that list. And, you know, what -- I don't know -- you are not entitled to a full accounting -- whatever that means -- for a checking account other than getting your statements. You can ask for specific items or whatever, but there -- that's what they, you know,

somebody spent a whole lot of time digging up the paperwork for these items.

The $310,000 was the -- the reversal that went right back into the account a few days later. So, you know, there's -- again why that happened, I don't -- nobody really knows, all we can see is the electronic trail. There's not any paper work that goes with that, it's just electronic book entry, but there is no documentary evidence other than that.

MR. GIESE: Your Honor, as to -- I'm sorry.

THE COURT: No, go ahead.

MR. GIESE: As to the $310,000, yeah, it went into an account. It stayed in that account. It was returned from a separate account, which is the juggling. And it was returned not the next day, which a reversed transaction would be, but some ten days later.

Now, as to the what was turned over, not turned over, Your Honor, there is direct testimony from Don Jones, the man that he has been talking very highly about, who says that he created what was going to be turned over to my office, which was all of the paperwork from her accountant, all of it.

He says that he is seating -- he's sitting inside an office, and hears the president of the bank,

the CEO, Sheppard discussing with an internal auditor what they were going to put in and what they were going to take out of that binder -- of those binders. So not only -- not only did he knowingly take them out, he instructed someone to take them out. And that -- that is the testimony from their -- their own auditor is that it didn't -- you know, they decided not to put the chairman of the board's in there.

Your Honor, the other thing too about it, when I was first hired -- and I forget when it was, but -- exactly -- but all Ms. Brookshire hired me to do was find the $500,000 annuity. The $500,000 annuity, she figured at that point, if she -- that -- that would be even, and that's what we tried to do, and all they did was lie to us. I actually went and sat down with Ben Hiatt at the bank in his bank office on the second floor -- I passed it on the way coming in here -- and he looked at me and said that $500,000 transaction -- I have an investigator with me -- that $500,000 transaction was for an annuity. And he gave me the name of the guy he gave the $500,000 check to, a guy named Holcomb -- Mr. Holcomb, whose sells insurance here.

And, in fact, we went back and checked. And at that point, there is no Mr. Holcomb. He didn't receive

a $500,000 check. That's the first time we had an idea there wasn't an annuity. I asked the lawyer from the bank, please give me -- in writing, give me a full accounting, I'm starting to worry about all the money now. And it took them five months from that day to turn over -- not a full accounting, but some of the accounting. If that's not a delay, I don't know what is, Your Honor.

THE COURT: Okay.

MR. HAWKINS: Your Honor, when we can, I want to argue my motion.

THE COURT: Argue yours -- I get it. I'm going to have to read through it. I -- I see what's going on here. I mean, I'm -- and I have got to read all of this, so go ahead and knock it out.

MR. HAWKINS: Thank you, Your Honor. I do have -- we have a little different perspective than the bank on a number of issues. And the first thing that I would say is that as -- as Mr. Hiatt's attorney, I don't concede or agree that he misappropriated anybody's monies anywhere along the trail in any part of this case.

He had pled guilty in a federal action for a federal prosecution regarding a totally unrelated matter. It didn't have anything to do with this.

And -- and he has not admitted to doing anything wrong in this case. Again, one of the reasons why we have statutes of limitations so that the facts and the information don't get stale and no longer easily obtainable by a person who defends themselves when they have been sued. If we were have had discovery back in the day, when we believed we should have had it, I think Mr. Hiatt would be able to show that every -- he can account for all of the money, why it went from wherever it went from to wherever it went to, and that Mrs. Brookshire was aware of all those transactions and she authorized these loans.

When they say there is no note, where is the note, gosh, how can there not be a note. Well, let's stop for a minute. When a loan is made, there is a lender. There is a source of the funds. And when a note is created, who gets that note? Does the middle man get the note? Does the borrower get the note -- the original note I'm talking about -- no. The lender gets the original note. And that would be the testimony in this case. That's when the first loan was made to Mr. Crosby, the note which would have had 20 percent interest, is what we would hear if we had a chance to defend it back in the day -- when it was a more reasonable time to do it, that it went to Ms.

Brookshire.

Now, just like she claimed she never ever in her life ever got a bank statement -- until she hired lawyers and three years later they got them -- or whatever all her story is about that, she denies that she has the note -- or any of the notes for the loan.

Well, she's the one -- our contention is -- she's the one that got them. Now, Crosby would have had copies. Crosby went out of business. Crosby's building that had his filing cabinets in it was foreclosed on and he left everything he had there. It is all gone. He doesn't know -- he doesn't have a clue where his business records are.

So our contention is the utter unfairness of this is that in January -- I'm sorry -- in June or so, of 2007, Mrs. Brookshire's money was sitting in a bank account. And Mr. Hiatt, who was just trying to do a favor for a friend, has gone out and tried to invest her money in a way to get a bigger return than what she was getting at BB&T, which she was unhappy with what BB&T was doing. So she searched around and found him and asked him would he do it.

He didn't ask her if he could be a power of attorney. He didn't ask her if he could invest her money. He didn't ask her if he could have all this.

She came to him and said, will you do it. And so he did.

And when you look through all of these records -- if you look at all of these transactions, he did a tremendous amount of work on her behalf. Monthly phone calls, weekly phone calls, phone calls from bankers, phone calls from auto people selling cars, people all over the place trying to do business with her. And her saying, well, call him. Call him. Whatever it is along the way.

He is literally paying her car payment. He's paying her utility bill. He's paying all kinds of stuff for her. So, you know, he is painted as a very bad guy, and I don't think that there is evidence that he's a very bad guy as to what he did with her.

THE COURT: What about the CFB funds that he took from the bank and put in her account?

MR. HAWKINS: Well, I don't know -- I understand mathematically that this occurred, but I don't have any knowledge of the factual background behind it. What I understand is not really refutable. And if the Plaintiffs -- so far as I know -- nowhere in their memorandum, no where at any time in the case have they made any argument that this money didn't come out of somebody's account, other than hers at the bank, and

was transferred into her account.

So, in other words, this $4 million we're talking about includes $880,000 that went in there that she didn't put in there. She is not the source of those funds, but she had the benefit of the funds at time. And it didn't all come in at one time is my -- is my belief and understanding as well.

So what I want to go back to is the first focus and talk about as -- as you sift through all of this, you might decide for one reason or another, there is some cause of action that you believe survives because of whenever it may have arisen, but these payments that took place in 2007, this $500,000, the $200,000, I think the bulk of this $353,000, those numbers are all way before -- I mean, the statute of limitations have run way before any kind of claims about tolling argument.

All their equitable tolling arguments start in 2011 and '12, and '13. According to them, all I have to do is sue a bank and go back 20 years and write a letter to the president saying I want a full accounting of my account for everything that ever happened here for 20 years. And until you give me a full accounting, no causes of action are running against me. I get to wait until you give the accounting and then I can go

back as far as I want to, that's never been the law, and it's not the law now.

There are sound public policy reasons for why people are supposed to look at their bank statement. And if they don't, where should the risk of laws falls -- and common sense says it should fall on the person who doesn't look at their bank statements.

The first thing that I would look at in this case is that it's just a reasonable person thing to do. If you have a bank account, you should look at the bank statement. I'm supported in that by their expert witness who said if you -- if you don't get your bank statements in 90 days, you don't get -- you know, you opened an account, you got over $1 million in it, you didn't get a bank statement for the first month. Well, maybe you wonder about that. You're not too worried. You have got Mr. Hiatt over there, you're not too worried.

The second month goes by, you still don't get one. Well, you should be thinking a little harder now about what's going on here. When 90 days has passed, and you haven't gotten any of those bank statements that should have come out during that time, you -- you now have a responsibility to look into that and go find out where it is, where is my statement, what's going

on. I need it. All right. So that's just sort of a common sense thing, and it's their expert witness on bank accounts saying that's what ought to happen.

The second thing that says people -- you know, we should look as a -- as a society, as a court, looking at this case and say when does the statute of limitations begin to run on that first $500,000 that left her account, and in her testimony, very strenuously unauthorized to leave her account.

The second thing that comes up is the terms and conditions of her bank account with CFB. The written terms and conditions require that she look at her statement within 14 days, and says that she will look at it with reasonable promptness and no more -- no less than 14 days after -- after it has come. So there's a written agreement out here saying that you know you're supposed to get a statement, she admits that. She said she had bank statements back in the 1970s. She understands how bank accounts work. She knows she should have been getting statements.

But she's got a written contract where the bank is telling its depositors if there is a problem in your account, you have got 14 days to find it and come tell us about it. And there is a certain standard of care that applies at that point, Your Honor, which is why

the 14 days means something.

Later in the same contract, this was -- I believe it's Exhibit A to the original motion for summary judgment by the defense, but we can certainly pull out the terms and conditions of this statement. It then says at 60 days, if you haven't told us within 60 days, then now the burden is really on -- on the somebody else about a forgery or any kind of funny business with your money.

So my point -- what I'm talking about now is where in the world is there a duty or a responsibility for a potential plaintiff ought to have looked at their bank statement, all the law on equitable tolling and all the law on the statute of limitation begins to run, says that an ordinary person of reasonable intelligence, there's supposed to exercise due diligence and reasonable inquiries into their affairs to discover whether they have been hurt, not hurt, what's going on with you in your life. You can't sit around and do nothing for years and years and years, and wake up one day and decide to be diligent. All of our cases say otherwise.

So, I'm going through the three reasons why somebody should be looking at the bank statement within the first month, two, or three months. And the third

one is the UCC, which Mr. Knowlton has already argued to the court as to why that ought to be. But my point of that is, Your Honor, to say that when the statement came out in July of 2007, showing a $500,000 debt, there's a point on a timeline where the plaintiff in this case had a responsibility to find that statement, look at it, and realize that a half a million dollars of her money was gone, and she didn't know where it went and she had not authorized it. Now, whether that's 14 days after the statement came out or 90 days after the statement, as her expert witness says you ought to be doing, you can give it six months. By the time she gets around to hiring a lawyer, the statute of limitation on this $500,000 payment is gone, gone, gone. It's ancient history. It's over with.

All this stuff about Mr. Giese going to talk to Ben Hiatt in 2013, oh, he told me that he lied to me. What does that have to do with the statute of limitations on this $500,000? You can't revive the statute by saying six years later, I hired a lawyer to look into it, to investigate it. And his investigation led him to talk to this guy who then told us a fib about where the $500,000 was.

I'm going to add something to that. The only thing they've ever said that they heard about the

$500,000 is that it went into an annuity. They have never said it was an annuity for Ms. Brookshire. As if the money isn't really gone, I went out and put it in some sort of an investment for you, Mrs. Brookshire, so that you could have the benefit of this $500,000. They don't even almost argue that.

They admit that the first information they ever had about an annuity is it was two children that aren't even her children. These two kids, as I understand it -- she had married Mr. Brookshire at some point in history. Mr. Brookshire had relatives in another state, I believe, Tennessee, but I might be proven otherwise. They got into trouble with the law and the parents went to prison. So they had to do something with their children. So, they got a hold of Mr. Brookshire, and said would you take our kids, and they did.

And so they brought those children in, and I presume at some point in history they got a custody order that allowed them to have custody of the two children. And I'm sure they loved the children as did my client, Mr. Hiatt, who kept them for Christmas and other things, and loved them, and wanted to do nice things for them, took them perhaps in periods of time when she wasn't capable of looking out for them or

whatever those situations may have been.

But the point of it is to say this $500,000 in an annuity, that doesn't lull somebody into not filing a lawsuit. The money is not in her name, it's in somebody else's name. So how does that say, well, don't sue me because the money is still out here. It wasn't in her account. It wasn't anywhere where she could get her hands on it based on what the plaintiff claims they were told.

So if you take that, and we say she should have looked and she should have known and she should have found out at this time period that this $500,000 is wrongfully gone from her account, that statute of limitations is gone before they ever -- before she even talks to Kathleen McDaniel or anybody else to try to come be her lawyer and investigate.

The second point of this is all the law and statutes of limitation says the statute does not begin to run when you hire a lawyer. It's irrelevant. When you hire a lawyer means nothing. It doesn't begin to the run after you have done a full investigation. I heard Mr. Geise say that over and over and over in his argument. We didn't have a full accounting. We didn't have a full accounting. We didn't have a full accounting -- that doesn't mean anything. Not having a

full accounting does not toll the statute of limitations.

Asking for an accounting does not toll the statute of limitations. You have got to be given something that makes you believe you don't need to file a lawsuit. You've got to be given some kind of information that says, don't sue me, I'm going to make it right. There's a lot of money missing, but I'm going to make it right. I know that I owe you that $500,000, and I promise you I'm going to pay you so do not sue me, and there is no evidence of any of that in this case, none. The only thing they have is that well after the statute would have run on all of these major things, they then started trying to investigate.

There's other evidence in the record that the bank has attached, and we have relied on as well in what we have submitted, that says in 2010 the plaintiff in this case was telling other people that she didn't believe Mr. Hiatt. She thought he was being untruthful to her as to how much money was in her account, and she thought that he was doing -- doing things that were inappropriate. And there's testimony to that, that testimony is in this record.

Well, if that's the case, then the statute of limitations is running on her when she's telling these

people that this guy out here is doing something wrong with my money, and he's lied to me about how much money I have. Now, that doesn't mean that she has to know that I'm going to sue him for $4 million or $500. It means I believe he's stolen from me, or given money to somebody else, and I'm going to sue him about it. And then in the ensuing time, you can discover more facts, but you don't get to wait years upon years upon years to file your lawsuit.

If we take -- when she made those statements, then that statute of limitations expired in 2013. And yet still the lawsuit isn't filed until September of 2014. So Mrs. Brookshire not only wants a special rule for her, she wants one that allows her to be intentionally ignorant of whatever the facts are, and that the statute never begins to run on her until in fact, her lawyers have performed a full and complete investigation and retained expert witnesses to be able to testify about why it is that somebody did her wrong. None of which is the current law of South Carolina, it would require you to reverse those decisions of the Supreme Court that say hiring a lawyer doesn't mean anything, commencing an investigation doesn't mean anything. And they have not put in front of you any evidence that would save them on the statute.

The argument that they have made time and again -- it's throughout their brief -- is that at some point in time they are told that there's $500,000 in an annuity somewhere. If you accepted that, for whatever reason, to say it tolls the statute of limitations, Your Honor, it would only toll the statute as to a $500,000 payment that took place in June or July of 2007, and it wouldn't affect these other matters that are all in controversy with this case.

Let's see what other things I've got. I didn't get served on me all of these nice stacks of bound up documents --

THE COURT: You can have mine if you want them just to help you out.

MR. HAWKINS: But I do object to their documents unless they serve me with a nice bound copy like they gave to everybody, if they got a bound one anywhere, but --

THE COURT: Oh, I hope they send you one. I hope they do.

MR. HAWKINS: There you go. I think you should not accept their evidence as something for you to review until they have done what the rules says -- which they should have served it earlier, but I'm not complaining about that. You know, this is a long

argument, I doubt you'll issue a decision this week, so --

THE COURT: You're correct about that.

MR. HAWKINS: So I'm asking those documents to be served on me.

MR. KNOWLTON: You are talking about the plaintiff?

MR. HAWKINS: The plaintiff, correct. I have the Defendant's Exhibits. They did give me a set of paper copies of their defendant -- I'm sorry, I apologize -- of their exhibits.

I guess just a couple of clean-up items from my perspective. As I hear arguments, there's a lot of claim that Mr. Hiatt is supposed to be in -- what they describe it, it's like he's her business manager and her accountant and somebody whose supposed to take 100 percent care of her financial affairs. They talk about, well, if he did a loan, well then he should have kept copies of the note and all this other bunch of stuff. All he had was a power of attorney.

And there has not even been testimony from Mrs. Brookshire that she expected him to manage all of her business affairs, make the decisions, and keep all the bookkeeping records that would go with that. And so I believe those arguments should not be accepted as some

duty or responsibility that Mr. Hiatt ever had. All he agreed to do was what the power of attorney said he can do, and it didn't require him to make any form of accounting to her ever. It's not part of the power of attorney.

She is trustee of this account, and I think that's real critical for the court to consider. Whether or not the bank had a trust Department, whether the bank considered this particular account to be a trust account is irrelevant when we look to the fact that she called it a trust account. She created that account, and she named herself as the trustee. And so if somebody has responsibilities and obligations to look at that bank statements, and analyze those statements and see where that money went; and if you can't tell where the money went, to make reasonable inquires to determine where it went, it has to be the trustee of the account.

There's not one word in the power of attorney that says Mr. Hiatt has that job, because she made herself the trustee. And the trustee has to have that responsibility which I suppose adds to another reason of why she should promptly be looking at the checking account statements to see what's going on in them because that's her job. That is the trustees' job of

any account.

And -- and in this case, they want to put that burden on somebody else and say not Ms. Brookshire, not the trustee, just forget that she's the trustee. Let's pretend she's not the trustee. They can't do that.

The evidence, when you look into it about what her statements were in this 2010 period, right around the time I guess -- or prior to it, when she hired a Kathleen McDaniel, the lawyer with Callas & Tides to begin an investigation, include that she was violently upset with Hiatt, that -- that he was lying to her. I mean those are strong terms to me that say, look, the statute has got to be running when you're claiming that the person that you now say you relied on for everything forever was lying to you, and you knew that and you believed that in 2010. The statute has to be running when you're concerned about where your money is and you're telling everybody else that he is lying to you about it, and you are quote/unquote in somebody else's words, who observed her at the time, violently upset.

There's -- there's been no reasonable evidence in this record to indicate that, in fact, Mrs. Brookshire never received any of her bank statements. The opposite is true. We know she received some

because they were produced, and Mr. Tabor said that she gave them to him. He was her investigator, one of the people she hired to do some of it -- for the value of that to say that she's fibbing about a whole lot of this, so there's evidence of it that she is. She said she never got a statement, yet Mr. Tabor says, well, she gave them to me. She gave me these and I ended up producing them or allow -- helping them to be produced in this lawsuit. And those are the very statements that deal with these giant payments that went out.

When the plaintiff argues that -- when he -- their lawyer saw this $500,000 miscellaneous statement, that it didn't tell them anything. It just calls it a miscellaneous debit, so that makes it worse not better that it's called a miscellaneous debit. You know, she knows she never agreed for anybody to get $500,000. So whenever anybody saw that statement, and saw that statement -- and in my mind, the fact that it doesn't tell you where it went increases -- should increase ones concerned and worried about what happened to it. You know, if the evidence she got at that time said this was a $500,0000 loan at 20 percent interest, it has got to be repaid within three years -- or things of that nature, you might be less concerned and you would want to talk about it and know it. All she knew is

it's gone. My money is gone, half a million dollars is gone.

And the -- the notion that this $4 million went it and it came out, and she didn't get anything, that's a long ways from being accurate as well. Because she got all kinds of things. You know, she got rent payments. She got cars. She got things that were, in fact, purchased with all of that, and she had a substantial amount of assets at the -- at the time that that all ended. And she got the $285,000 no matter where it came from.

You know, there's an issue about -- I don't see it on here right now, but I know it's in there somewhere in one of these -- I guess it's in this one maybe -- the bank account funds that were given to her at the very end when the check was written and sent to Kathleen McDaniel's office, she certainly got that money. And that's not peanuts, $285,000.

In any event, I guess my final comments in there would be that asking for things like an accounting do not toll the statute of limitations, and there's no case in South Carolina that says it does, nor am I aware of any cases anywhere. And I -- we deal with statute of limitations questions too much. I wish I had fewer cases coming to me where somebody had a

problem with the statute, that -- I thank you for your attention, Your Honor.

THE COURT: No, no problem. Well, y'all are going to have to give me some time to read through all of this. I see what -- I mean I get it.

MR. GIESE: Your Honor, if I could just say one last thing?

THE COURT: Yeah. July.

MR. GIESE: I just have to respond for just a second to Mr. Hawkins, who I respect. He claims that Mr. Hiatt got both nothing out of these different transactions, to put in his pocket. And that might be true, but he certainly put it into his families' pockets.

The one last thing -- and I misspoke earlier and I wanted to clear this up -- when we're talking about the -- the fraud that we believe the bank committed against Mrs. Brookshire, the actual bit of fraud happened in this case -- in our opinion happened in August of the year of 2011, she closes her account in February of 2011. She terminates her POA with Mr. Hiatt in -- in April of 2011.

And then in August of 2011, some four months after the POA has been terminated, he sells or actually transfers 16,000 shares of stock in Community First

Bank that only he could transfer, as he did at the bank, he was able to transfer stock and deal with that stock, and that was in his position at the bank. He transferred 16,000 shares of her stock at the time worth about $75,000, and transferred it into his brother -- his brother's business -- I forget the name of the business -- it was Hill Top, Incorporated in this area, so that was the actual last bit of fraud that the bank committed, we believe, and Mr. Hiatt committed against our client which we now believe is -- is very relevant in the case.

And the last, you know, Mr. Hawkins keeps talking about this loan and the 20 percent, and all that, and you know unfortunately, he not at Coach's deposition. Coach was very specific, there was no loan. And, in fact, if you look at some of his -- his testimony, he basically says there is no paperwork and it was no -- it was no note. He never signed a note. So, I don't know where Mr. Hawkins is getting Mrs. Brookshire should have the note. She's the lender. There was no note. We didn't find that out until three years after we were told there was a loan and a note.

THE COURT: Okay.

MR. HAWKINS: Just a comment there that I'm sure is a mistake, Mr. Giese didn't mean to say that he said

there was no loan. Coach -- he said he did think it was loan, in my belief, but that he did not have a note.

MR. GIESE: Correct.

THE COURT: Right. There is no note?

MR. GIESE: Yes.

MR. HAWKINS: Correct.

THE COURT: Okay. I assume all these people are still alive and floating around, right?

MR. HAWKINS: But the stock is not in the complaint. I do not believe there is any allegation related to the stock.

MR. GIESE: Your Honor, because we didn't find that out until the discovery process when we were -- 40,000 pages were turned over to us by PCS, which is the people that did their audit, and we found it in that several months after we filed the suit.

MR. HAWKINS: Well, they might want to amend, but it's not in the Complaint that we're here on today.

MR. KNOWLTON: Well it's not in complaint, and it's also -- transfer online, if you get -- most stocks certificates these days are street name, electronic, book form.

THE COURT: Right.

MR. KNOWLTON: But if you have a stock certificate

that's issued in the name of Bob Knowlton, and you want to sell it to Elizabeth Black, you have got to get a transfer agent to say here's the stock certificate, let's surrender that and issue a new one to Elizabeth Black. And anybody can do that. You don't have to be a banker to do that. You don't have -- Mr. Hiatt --

THE COURT: Sure.

MR. KNOWLTON: And the paperwork for that does not mention the bank. It is Mr. Hiatt doing it and the POA give him authority to deal with it.

Your Honor, one quick point that I think goes to one of the questions you had, and that deals with the application of the UCC. And one of the comments made was maybe this only implies to forgeries. 36-4-406 says it applies to unauthorized signatures. And an unauthorized signature -- and this is on page 18, and footnote 19 of our original memo, and that defines that an unauthorized signature is one made without actual, implied or apparent authority and includes a forgery.

COURT REPORTER: Includes a what?

MR. KNOWLTON: Includes a forgery. So if it includes a forgery, but it includes any matter of unauthorized signatures -- which was brought here -- and so if there's any way in which you contend that he lacked authority to make a disbursement reflected on

any of these statements, your time runs with this account agreement, 60 days, the outside limit on the UCC.

THE COURT: Now, just as a closing, how close are y'all to being able to try this assuming I don't kick either one -- I mean, you said you might need a day certain?

MR. KNOWLTON: Well, Your Honor, discovery is over.

THE COURT: Okay.

MR. KNOWLTON: And we have a scheduling order in the case, I don't think it is subject to trial until January or sometime -- and -- but I do think it's probably worth a pretrial, you know, whatever ruling you decide --

THE COURT: Yeah.

MR. KNOWLTON: We have to figure out --

THE COURT: Yeah, and I'll let you know.

MR. KNOWLTON: If this whole thing went forward, I don't think we could fit it into a week. Mrs. Brookshire's deposition alone took two days, so it's -- if we have to deal with all 115 transactions, I'm afraid we would need a special term because I don't -- I'm not sure we can get this done in a week. You can see from the volume of the documents.

THE COURT: Okay. All right. Give me a little bit to check over this. And you're right, don't expect it next week. Okay. Thanks. I appreciate it.

MR. HAWKINS: Thank you.

MR. GIESE: Thank you.

MR. KNOWLTON: Thank you.

(Whereupon, the hearing was adjourned.)

CERTIFICATE OF REPORTER

I, SHARON D. JONES, CERTIFIED COURT REPORTER, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE FAMILY COURT FOR CHARLESTON COUNTY ON THE 9TH OF MARCH, 2017.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL NOR INTEREST TO ANY PARTY HERETO.

6/28/2019

Sharon D. Jones

SHARON D. JONES,
CERTIFIED COURT REPORTER
COMMISSION EXPIRES 9.22.2024

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF OCONEE	)	2014-CP-37-00526
	)	
DEBI BAKER BROOKSHIRE, PLAINTIFF,	)	
vs.	)	TRANSCRIPT OF RECORD
COMMUNITY FIRST BANK AND BENJAMIN HIOTT, DEFENDANTS.	)	ORIGINAL

December 6, 2017
Walhalla, South Carolina

B E F O R E:

THE HONORABLE J. CORDELL MADDOX, JR., JUDGE.

A P P E A R A N C E S:

M. DAVID SCOTT, ESQ.
Attorney for the Plaintiff

ROBERT Y. KNOWLTON, ESQ.
Attorney for Defendant Community First Bank

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(There were no witnesses called.)

E X H I B I T S

NO.	DESCRIPTION	ID.	EVD.
	(Court's Exhibits)		
C-1	Selected Damages Issues	29	29

All Exhibits were retained by the Clerk of Court for Oconee County.

PROCEEDINGS

THE COURT: One of the reasons I want to keep this on the record today is -- and I've said before y'all got here, I -- I'm a little embarrassed about this. There are three cases that I know of that spanned the early leaving of a law clerk, and a period of time without one, and then a new law clerk, who is just getting his air under his wings. And this is one of them. And that's why it took so long.

And after reading through everything, I wanted to give y'all an opportunity to make a good record and, also, quite frankly, I mean, let's face it, most 59(e) motions -- when I graduated -- when we graduated from law school, there wasn't even such a thing as a 59(e). That always sort of -- I was practicing in the time when the case came out that, basically, required you to file a 59(e) motion or you hadn't preserved your appeal rights on certain issues. And that always terrified me. And most of them are just that.

But, quite frankly, this one is one that, again, I heard back in 2016. There was some inexplicable reason for waiting around, sitting around undealt with. It's my fault. I'll take the blame for it. But it may be one that I need to alter.

So I'm perfectly willing for y'all to let me -- just let me have it. Tell me where I'm wrong.

MR. SCOTT: Your Honor, if it please the Court --

THE COURT: I've got no problem with it.

Yes, sir.

MR. SCOTT: If it please the Court, Your Honor.

David Scott on behalf of Plaintiff. I'm here with Barney Giese and Jonathan Waller.

THE COURT: How long did it take y'all to get up here?

MR. SCOTT: It took me about two hours and 45 minutes from Columbia.

And I apologize that I -- I'm the reason that we couldn't do it tomorrow --

THE COURT: No, no --

MR. SCOTT: -- because I've got a hearing scheduled in Lexington that's been scheduled --

THE COURT: Court fell apart yesterday. We tried -- picked the jury Monday, tried it, got a jury verdict by lunch Tuesday. And so we were through. I was just trying to condense it, but we worked it out.

So, like I said, I didn't want to put this off because I do have some concerns about it.

So, yes, sir.

MR. SCOTT: And, Judge, I'd start off with what I started off with in the memo. And I -- I'm not going to read the -- reread the memo. But I think there's a --

there's a flaw in the order in that there's a statute of limitations with -- the Plaintiff's whole case was thrown out based in a large part on --

THE COURT: On the statute --

MR. SCOTT: -- the lapsing of the statute of limitations.

Our client, Ms. Brookshire, was a customer of the bank. She did have a POA executed -- a power of attorney executed in favor of a bank employee, Ben Hiott, that I would submit, even with that power of attorney, she was operating with less than full information.

The bank, on the other hand, was the depository. They had the money. They had her money. Their counterclaims are based on, as they put it -- I don't want to say something that's wrong. They say on eight different occasions from July 2008 until February of 2011, it is undisputed that Ben Hiott, the co-defendant -- the bank's co-defendant here and their vice president and the guy who had the POA, deposited a total of $880,855.58 of funds belonging to Community First into the account. The account they're talking about is Ms. Brookshire's account.

THE COURT: So the last date could have been February of '11?

MR. SCOTT: The last possible date could have been February of 2011.

And the bank has not raised -- to my knowledge anyway, the bank hasn't raised any tolling argument, any equitable tolling, any reason that -- any reason for tolling the statute of limitations as to the bank's counterclaims. The -- the account was, actually, closed by -- by Ms. Brookshire by her attorney on October of 20 -- in October of 2010.

So before this last February deposit was put in there, her account had been closed for three months. Ben Hiott on his own accord, I suppose, but, certainly, acting through mechanisms made available to him through the bank and not through the power of attorney that Ms. Brookshire had executed in his favor reopened that account in February of 2011, and deposited some money in it, and then withdrew that money, I think, the next day -- the same day or the next day. But the last possible date would be February of 2011.

Ms. Brookshire revoked the power of attorney on April the 6th of 2011. My client filed her action in September of 2014. The bank asserted its counterclaims and its responsive pleading -- and I think these probably would have been compulsory counterclaims. But they asserted those counterclaims in a filing -- in an answer that was filed on October the 9th of 2014. That's four years after the account was closed. That's four years, less three

months. So what -- what is that? 45 months after the last February 2011 alleged transfer into the account that had already been closed three months prior.

I know of -- I know of no -- I know of no law that would -- that would allow the bank to claim that one statute of limitations applies to Ms. Brookshire's claim, particularly in light of the fact that she's one person with limited information and the bank is a sophisticated entity. I mean, the whole purpose of a bank is to keep track of -- is to keep track of money. That's why we have banks. And if Ms. Brookshire was on notice, then the bank necessarily had to be on notice.

Something about -- there -- there seems to be a -- I mean, an allegation of contention that we have that the Plaintiff has conceded that the bank didn't know until 2013. And they take that from Page 3 of our memorandum opposing their memorandum for summary judgment.

And it does say, Defendant CFB, Community First Bank, did not discover the misappropriations committed by senior vice president Hiott until the Brookshire investigation in 2013. But that's a subjective test. That's when they subjectively discovered it. And they didn't discover it until it was brought to their attention, ironically enough, by Ms. Brookshire's counsel.

But the -- but the discovery rules are not subjective

as they -- as they ably argue in their -- in their summary judgment motion and memo. It is an objective test. And that test is when they knew or in the exercise of due diligence they should have known. And I submit that they should have known at the very latest in February of 2011.

And kind of the first order of business is that I would implore Your Honor to alter, or amend, reconsider the order, which seems to apply two different standards for the statute of limitations. And I think if -- and I'm going to get -- I'm going to get to the -- why -- why I think you ought to reverse it to summary judgment as to Ms. Brookshire's claims, but, at least, as to the bank's counterclaims, they have to be barred by the statute of limitations.

I mean, there's -- there's no argument that a statute of limitations longer than three years applies. And there's no -- there's no dispute of fact that it was more than three years from the time the last alleged transfer was made until they -- they alleged their counterclaim.

THE COURT: Okay. Well, and I'd like to hear -- let me tell you the two things that bother me. Number one is the statute of limitations application with a knew or should have known standard. And, also, the amounts were different. And -- and I, for the life of me, can't figure out why one's 780 and one's 880. And I didn't catch that.

I mean, that, again, is my fault.

But that's not something I would really -- but -- address why wouldn't the statute of limitations apply both ways and both of you guys just be out of luck?

MR. KNOWLTON: Thank you --

THE COURT: And, again, thank y'all for coming up, too. Because I know it's a haul.

MR. KNOWLTON: We're happy to do it and appreciate you hearing us today.

THE COURT: I mean, the statute of limitations issue is one that really -- because it either -- after -- I mean, and, again, I'm not -- I'll take the heat for it.

But if it does apply to bar their claims, why wouldn't it, also, bar yours? Or if it didn't bar -- bar, then why wouldn't I just lift that summary judgment, change that one, and let you guys argue to a jury? Because it's -- I mean, that's where I -- just so you know where I'm thinking. I'm trying to be fair about it.

MR. KNOWLTON: Right. I see the facial appeal.

Well, let me -- let me refresh Your Honor a little bit about --

THE COURT: Okay.

MR. KNOWLTON: -- why we were granted summary judgment on the Plaintiff's claims. First of all, we had undisputed evidence that in 2010, the Plaintiff said I

think Ben Hiott has stolen my money when the account was closed. It was closed again in 2011. And she said, I think something's wrong here. I think I'm -- I think Mr. Hiott has stolen my money.

So she was on absolute notice that she had a problem. And she didn't file suit for another three and a half years in 2014. So that's --

THE COURT: All right. Now, let me stop you. And I don't want to stop you too much because I -- I don't want to be butting in, too.

But why wouldn't that, also, put the bank on notice that, oh, this is a lot of money and --

MR. KNOWLTON: And -- and let me -- well, let me finish with --

THE COURT: Yeah. Go ahead.

MR. KNOWLTON: -- with Ms. Hiott first -- I mean Ms. Brookshire first.

THE COURT: Okay.

MR. KNOWLTON: So that's -- that's the general statute of limitations, three year statute of limitations. There is, also, a UCC statute of limitations that we -- that we briefed and you ruled upon. And in that -- under that statute, a customer is given the duty to read statements, and if there's something inappropriate in the statements to report it within one -- one year. And that

is a statute of repose. And that's a -- that doesn't impose a duty on the bank. It imposes a duty on the customer to review those statements.

And the testimony was undisputed. Ms. Brookshire was confronted with some of the these statements. For example, a very -- in the first few months, there was a $500,000 disbursement to Crosby [phonetic], and a $200,000 disbursement shortly thereafter to Crosby.

And when we showed them to her -- and she, actually, produced the original statements in discovery. And she said, Had I read those, I would have known immediately that that was inappropriate. And -- and so we think the -- the -- it's -- it's a one-sided thing, the UCC. You've got a duty to read the statements. And she didn't do it. The statute of repose bars those claims.

And so -- so that's one thing is that that only applies one way to the customer, not to the bank.

THE COURT: Okay.

MR. KNOWLTON: And -- and, now, let me talk about notice of the problem, the evidence I just recited to you is undisputed that Ms. Brookshire knew or believed that she had money stolen from her. What -- the bank didn't understand what had gone on in her account.

You know, some of these monies were made to pay her bills, went directly to her, and the third -- you know,

the bank didn't have knowledge of who those people were and whether it was appropriate or not. And then still --

THE COURT: And they were written under a power of attorney --

MR. KNOWLTON: They were written under a power of attorney.

And what -- when they began investigating Ms. Brookshire's claims -- and this is undisputed, too, is that they found out that Mr. Hiott had stolen money from the bank and deposited it into this account. That went on for -- and so that's a discovery rule. We just didn't know. We have internal auditors and external auditors, as well as our regulators who review our books and records every year. Nobody caught it, despite best efforts.

And when it came up -- when it was discovered in 2013 -- and as they said in their brief, that is when we discovered it. And that is the undisputed evidence that's in the record is that that's when we found out about it. They filed the suit in 2014. And we counterclaimed for that money.

THE COURT: Well, what -- what physically happened in 2010 when she came to the bank and said, hey, I think somebody -- I mean, look, this is -- this case is confused by the fact that you've got a woman who, obviously, is not -- who has -- who has given her trust to somebody she

shouldn't have. And I think everybody can agree that she has been cheated out of her money.

But I'm wondering, in 2010, what physically happened at the bank when she came and said, I think somebody stole my money. And I realize she had an obligation here. I mean, she's not faultless. Let's put it that way.

MR. KNOWLTON: Can I hand up a -- a document --

THE COURT: Sure.

MR. KNOWLTON: -- that may help some?

And this is a -- an excerpt of some of the exhibits we've already given you.

THE COURT: Okay. Yeah. I appreciate that.

MR. KNOWLTON: Now, in -- in 2010, Ms. Brookshire, first of all, had been given -- a big package of all of her statements was given to her -- to her lawyer. But she came to Mr. Hiott and said, Close my account.

And a -- first of all, you'll -- you'll see in the summer of 2010 on July 29th, Mr. Hiott misappropriated $188,000 and deposited it into her account. And then a couple of weeks later on August 11th, he dispersed $202,928 to her. And then shortly after, he closed the account. And -- and we've, also, got, you know, documents in the evidence -- in the record that says she had thought -- that was represented to her that's all your money.

Later on, after she continued to complain to Mr. Hiott, Mr. Hiott reopened the account, stole $285,000 and some odd dollars and put it into the account, gave it to her the same day, and then closed the account again.

THE COURT: Where'd he get the 285?

MR. KNOWLTON: He -- he stole it from the bank.

THE COURT: Stole it from the bank.

MR. KNOWLTON: What he did -- and he was -- he was somebody trained who was trained as an auditor and --

THE COURT: Yeah.

MR. KNOWLTON: -- he knew how to disguise things. And he -- what he did is offset it with a fake purchase of federal securities. And it took this internal auditor -- with a heads up from Ms. Brookshire, something's wrong here. And when he looked into it, it took him about a year to complete the investigation. And when he figured it out, he said, you know, this -- this is what happened.

And I've, also, included in this little package the testimony from Don Jones, who is this forensic accountant who looked at it. It says, you know, attached is -- and this is Exhibit 49 is his little testimony. But it confirms that the last document, which was Exhibit 50 to summary judgment, these are the misappropriated funds.

And, again, Mr. Hiott was terminated and prosecuted for this and went to prison for this.

THE COURT: Right.

MR. KNOWLTON: These are the funds that were misappropriated into -- and put into this account. He, also, stole other money that was not put into her account.

Now -- and, again, so the bank just had no knowledge that this had happened, obviously, and, obviously, wished it had learned earlier that this fraudulent concealment -- she, obviously, had her statements and, you know, hey, where'd I get $285,000 from.

But the bank had no idea that had happened. And the bank doesn't have this sort of countervailing duty to go through every statement and figure out whether some deposit was inappropriate. You just can't tell that from the paper like you can if it's your personal statement getting $285,000, manna from heaven like that.

Now -- and let me -- let me briefly explain the difference in the 780 and the 880.

THE COURT: Right.

MR. KNOWLTON: We -- we had asked for an offset or counterclaim. And it's -- and it's a little bit confusing. But Ms. Brookshire was saying every dollar that went into my account was improperly dispersed. Well, we said, well, we -- $880,000 was put into your account that was stolen. So at -- at a minimum, we need an offset for that because that wasn't your money. And a hundred of

that went back to the bank.

THE COURT: Okay.

MR. KNOWLTON: And you'll see the last two entries that are highlighted on this last page.

THE COURT: Yeah.

MR. KNOWLTON: Well, they're not highlighted. Right at -- right at the bottom, you'll see two credits, one for 15 and one for 85,000.

THE COURT: Right.

MR. KNOWLTON: That leaves you with the number that was the subject of the judgment of the counter claim, the 780,000. But that's that $100,000 discrepancy. The records got all of that in there. And, you know, we'll be happy to take 880, if that's what they prefer.

But, no, Your Honor, that's the proper amount for the counterclaim. It would not have been the proper amount for the offset. Because the -- the money that came in, some of it went back. But we just wanted to make sure --

THE COURT: I think -- I mean, I think -- okay. That answers my question. I know it may not answer y'all's. But that -- that gives me an answer to the different amount. Okay.

MR. KNOWLTON: And, Your Honor, you know, also, this same exhibit shows that just those last two -- there -- there was a pattern of when this money would get low in

this account, Mr. Hiott would steal money and put it in there. And these last two entries, the 200 -- I'm sorry, the 188,000 and some odd dollars and the $285,000, that's two thirds of the -- of the 780 that was the subject of the counterclaim that went directly to her in checks within two weeks of the money being stolen and put into her account. It was then dispersed directly to her or put into her account at a different bank.

THE COURT: Have y'all figured out amongst you how much she lost, I mean, because of this co-mingling? I'm just kind of curious.

I mean, the money that was put in and put out as different funds -- this Hiott guy is, obviously, the bad seed here. I'm just trying to figure out how much of her money was written to the ether and gone.

MR. KNOWLTON: Well, there -- there were disputes on that.

THE COURT: Yeah.

MR. KNOWLTON: It depends on what you characterize as money that was inappropriately spent. Now, a whole lot of money -- probably a hundred -- a million seven, I think, was undisputed. And a lot of that on top of that was -- about $350,000 -- I had a little summary of some of that to kind of take you through, you know. $350,000 or so was all -- you know, they went back and changed the entry --

THE COURT: Right.

MR. KNOWLTON: -- reduced it. Some of it went to pay her bills, it was undisputed.

THE COURT: Right.

MR. KNOWLTON: Some of it -- they didn't like all the documentation. But the undisputed evidence is it went to her account. And I can hand up what we handed up as a summary -- exhibit at summary judgment, Your Honor, that kind of --

THE COURT: I've got that. No, I've got that back -- well, you know what, yeah, actually, do make that a part of the record just so y'all are all protected. And I think that was entered last time.

MR. KNOWLTON: It was. And I had it on a poster, Your Honor, and I didn't...

THE COURT: Okay. Sorry about that.

I mean, how much do y'all think she lost?

MR. SCOTT: Somewhere in the neighborhood of a little bit less than 2 million bucks, Your Honor, about $1,900,000 is the difference between how much she put in and the -- how much she got out either through him paying her taxes, through him paying bills, or through his writing her a check, about $1.9 million. Now --

THE COURT: And Hiott went to jail and he's -- is he still in jail --

MR. SCOTT: I think he's out now. But I'm sure he's government proof. And they've argued successfully, at this point, that everything he did at the bank was made possible through this power of attorney. Now, we -- we don't concede that.

THE COURT: Right.

MR. SCOTT: We think that they still -- they had an independent duty to kind of keep a -- keep a watch on him. He wasn't doing this to just her. He was doing this to other bank customers. We've asked for -- we've got other account numbers that we know this kind of hanky panky was going on with.

We've asked in discovery, but they've not --

THE COURT: Well, that's other peoples accounts --

MR. SCOTT: Exactly. So there's an arguable -- you know, there's an --

THE COURT: Y'all agree that this guy did this to other people?

MR. KNOWLTON: No, we don't, Your Honor.

THE COURT: Oh, you don't?

MR. KNOWLTON: This is the only customer who's -- who's made a claim. He stole money from the bank.

THE COURT: But were there other people -- other third parties that he acted as power of attorney? I mean, do y'all know?

MR. KNOWLTON: No --

THE COURT: Okay.

MR. KNOWLTON: -- he did not. Well, there's -- that has not surfaced if he did.

But this is the only customer who's brought a claim. There may be some other litigation. But it isn't -- it's not by a customer who lost any money. This is the only customer I'm aware of who lost money as a result of Mr. Hiott's conduct.

THE COURT: Okay. I'm sorry. I didn't mean to interrupt you.

MR. SCOTT: No. That's all right, Your Honor.

The -- the point I was going to make is that a power of attorney may have enabled him to bilk her of the money that he bilked her from -- of. But the power of attorney didn't let him take the bank's money and do with it what he wants -- what he wanted to do with it, whether it was deposit it in her account or deposit it in some other account holders account.

And -- and that's what they're -- I mean, they seem to be admitting that Hiott is the -- kind of the bad guy here. But they want my lady to suffer the consequences for it. Not to mention that the -- that the conduct that they're complaining about happened four years before they -- they brought a counter claim.

Now, they may have not known it until 2013. But they should have known it no later than February of 2011 when the account was, finally, and for once and forever closed at -- at the -- at the request of her attorney. At the time, Kathleen McDaniel was her attorney.

And if Your Honor will humor me.

THE COURT: Sure.

MR. SCOTT: The $500,000 that Mr. Knowlton talked about, which was one of the first things that came out -- and there was -- there was some representations made that it was a -- that it was a loan to a guy named Crosby. It was $500,000.

THE COURT: Yeah. On July 10th, 2007.

MR. SCOTT: And there were allegations that -- or Hiott said that there was a -- that Crosby issued a note payable to her -- payable to Brookshire. And when Crosby took his -- when we took Crosby's deposition or Mr. Giese took Crosby's deposition, he said he never signed a note.

I bring that up because in Kathleen -- Kathleen McDaniel was trying to get to the bottom of this before we got involved. And in 2013, which would have been within the statute, in her deposition testimony, she testified that either Ben Hiott or -- or an attorney for the bank named James Williams told her that that $500,000 that is now being represented as a loan to Crosby, but that Crosby

denied ever executing a note on, that they represented to her that that half million dollars was -- was used to buy annuities for her children.

And the -- and the reason I think that is of -- of crucial importance is because this is summary judgment. They moved for summary judgment. So -- so the evidence and all inferences to be drawn therefrom are to be construed in the light most favorable to my lady.

So if you take Kathleen McDaniel's testimony, which nobody's disputed that I know of, either Hiott or the -- or the lawyer for the bank represented to her that this half million was used to buy annuities. In the light most favorable to her, Williams said since -- that's one of the two constructions of Kathleen McDaniel's testimony.

So it -- as late as 2013, bank officers, other than Ben Hiott, are representing to -- to the attorney for Debra Brookshire that this half million dollars was not loaned out to Crosby like the claim -- like the claim they're -- they're clinging to now, but that it was spent for her -- the benefit of her children.

I think that is enough to -- to trigger equitable estoppel because they're making representations to her that this money's still out there for your benefit or, at least, for the benefit of your children, so.

THE COURT: What ever happened to that money?

MR. SCOTT: It's gone, just like all of it is. It's --

THE COURT: I mean, the way I'm looking at this thing, it looks like it was $500,000 to Crosby. And then in November of 2007, there was another 200,000 to him, and then additionally in 2008. So he -- they -- he's a million and 53.

Am I reading that right?

MR. KNOWLTON: I think that's right, Your Honor.

And Mr. Crosby said he understood it was a loan for his business. And he lost it and -- the business lost it, so. He had some spice company he was trying to build and -- back in the day, he was -- actually, he was on TV and, you know, had -- there was a lot of buzz about his industry. When the financial crisis hit, he lost everything.

THE COURT: Well, now, you're going to have to remember this was 2007 to 2008 when everything was going to hell in a hand basket. I just wondered who he was. He seemed to have convinced somebody he -- wow.

MR. KNOWLTON: And, Your Honor, on the 500,000, that was -- Ms. Brookshire said that wasn't anything he could have done that was appropriate with 500,000. He didn't -- you know, it was, apparently, unknown to her whatever he did. And whatever he did was inappropriate.

And, again, this was 2010. And she had the complete belief that her money had been misappropriated. The bank had no way to figure out what had happened. You just -- all they had were the bank statements. And Mr. Hiott was the one that had done it. They were relaying what he had said. They just didn't know.

But she was, certainly, on notice. And under the UCC, the clock is running. And under the statute of limitations, she's, obviously, under notice that she thinks her money has been -- has been taken inappropriately.

THE COURT: Well, what about the statute of repose issue under the UCC? Because that -- that's something that, quite frankly, you know, everybody hates the UCC, but, I mean, you know. We had to learn it at one point in your life.

MR. SCOTT: And, Your Honor, I would submit that whole UCC argument stands or falls on how you -- how you -- how this account is -- is classified. Because the UCC applies to a checking account. But represent -- again, representations were made to Debi Brookshire that this was a trust account.

Now, the bank says they could not have made that representation because they did not have a trust department. But the fact that they didn't have a trust

department doesn't stop them from representing to her that this was a trust account.

And it was Carol Wilson's deposition -- and we went through it at length. But there was about a 12-page agreement -- account agreement. And I think on every page of those 12 pages somewhere it said, trust or trust account. So it was represented to her that it was a trust account.

Now, they're saying we're not in the trust business. They may well not be in the trust business. I think they're telling the truth when they say they're not in the trust business. But that's not what they told Debi Brookshire. And the paperwork that they gave her -- the account paperwork that they gave her -- and it's in -- it's in our exhibits says, trust account. And the UCC doesn't apply to trust accounts.

THE COURT: What about that?

MR. KNOWLTON: Well, Your Honor, these aren't -- he keeps raising issues that aren't in the Rule 59 motion.

THE COURT: I know, but I -- and I understand. I mean, look, I want to make sure I get this, at least, as close to right as I can.

MR. KNOWLTON: But going -- going back to that issue that we fully briefed and that you've ruled on it. You look at the account agreement, it's a checking account.

It's a checking account in the name of a trust with Brookshire as the trustee for Debi Baker Brookshire trust.

So -- but if you read the account agreement, it's a checking account. And there are a lot of trusts that don't -- have a checking account. I'm a trustee for a -- a trust that has -- I've got a checking account --

THE COURT: Okay. So you're saying it was a checking account for an ongoing trust.

MR. KNOWLTON: It's in the name of a trust. It was opened as -- in her name as trustee --

THE COURT: I got you.

MR. KNOWLTON: -- on behalf of a trust and the Debi Baker Brookshire trust. And she, you know, got the statements. It's [inaudible] whether she got them or not. And we've included the account agreement with Exhibit -- part of Exhibit 24, which is Exhibit 7 to the affidavit of Carol Wilson.

And Carol Wilson explains how, you know, this is a checking agreement. There are -- no trust fees were ever charged. The bank doesn't even have trust powers. It's not a -- they don't have a trust department. It is not a trust account.

In fact, the other -- some other evidence we have in the file is that she used to have a trust account with BB&T. And she didn't like them telling her to do -- what

to do with her money. That's when she contacted Mr. Hiott and just gave him a POA. And she avoided the trustee fees.

And, you know, one of the things she was buying was a $250,000 motor home. And the trustees were flipping out about that saying, don't -- you know, we strongly urge you not to do that and that's bad and -- and she, finally, said, all right, I'm out of here. I'm going to give Mr. -- Mr. Hiott a POA and put this -- and they put all this money into a checking account that he operated on with no trustee's fee. But it's not a trust agreement. It was -- Debi Baker was the -- listed as the trustee. And all this is in the -- in the record. But it's an account agreement for a checking account.

THE COURT: Okay. And, again, for the purposes of today, can y'all make a copy of that and send that to me, just e-mail it to me?

I mean, obviously, that's important. If it's a trust agreement, the UCC doesn't apply. If it's a banking account for an ongoing trust, then I think the UCC does apply. And -- and I just don't have it. And, to be honest with you, I don't have the ability to get to it because of computer issues. But just --

MR. KNOWLTON: I can hand one up for you to look at now or --

THE COURT: No. Just send it to me. I'm going to take -- I mean, I've got all my notes back there. I mean, part of the problem here, look, is this seems inherently unfair what's happened that -- I mean, the way I ruled. I was doing my best to rule under the law.

The more I look at it, this woman was taken advantage of by an employee of the bank. I mean, it -- there's just -- I'm -- that's what bothered me. That's what bothered me. Maybe I'm getting soft, I mean, you know. Maybe I'm returning to human. But, I mean, it bothered me that the way I applied the statute of limitations, basically, allowed the bank to continue on -- the UCC and the statute of limitations issue causes Ms. Brookshire to, basically, have no recourse at all except against Mr. Hiott, who I think everybody admits who's at fault here.

Like I said, I want to make sure I got this one right because it sat forever. And it really still bothers me how long it sat. And that's not y'all's fault. That's mine.

Anything else you need to jog my memory -- I mean, I remember this one because this is one of those judge heart [phonetic] nonjury days. I'm going to look back through everything.

I'm going to make this a Court's Exhibit.

(WHEREUPON, Court's Exhibit No. 1 was marked for identification and admitted into evidence.)

THE COURT: I'm going to look back through everything. But, I mean, y'all's -- both of your memos were good. Y'all are both -- y'all are all lawyers that I trust and respect. And however I rule, obviously, if your clients get mad at you, I'll be happy to call them personally and tell them that y'all were -- you know, if I was in the same boat, I'd hire you.

I just want to make sure I'm right on this one. It was a lot of money. The facts as they're set up -- the result appears to me, quite frankly, to injure the least able to handle the punishment. That didn't -- I'm trying to say it the right way without saying too much. But I don't think I can -- I mean, just because banks have money; you know.

Now, let's say if I withdrew -- let's say I changed my mind and -- and didn't grant either summary judgment, let's just say that that's what I did and allowed a jury to decide, I don't know how you would try this case. Literally, I don't know how. I mean, I'm not a dummy. And, again, this thing crinkled a little with age. But this is just almost -- I mean, this is a complicated mess, which is one of the reasons why I looked at it so hard when we finally -- when it, finally, was listed to be --

be right. Because, Lord have mercy, if you tried to try this in front of a jury, it would be awful.

Have y'all thought about that?

MR. KNOWLTON: Well, Your Honor, that's one reason we gave you a robust record --

THE COURT: You did.

MR. KNOWLTON: -- for summary judgment. Because when you drill down -- if -- if the case was -- there were -- there were things that should not never have been disputed. Because she got the benefit of the money -- or received the money directly.

And another thing, I -- I think the law is crystal clear with regard to the -- I mean, the evidence was undisputed as far as she really thought the money had been stolen. And she sat on her rights for four years. And I -- you know, I -- so I think it would be a waste to try it, everybody spend a whole lot of money with -- with that legal issue is -- I think a bullet to the heart and, you know, DOA and then spend all this resources trying a case that --

THE COURT: Yeah. I agree. I mean, I'm trying to -- I'm just trying to make sure I'm right. I mean, I almost think your best argument is the statute of repose with the UCC.

MR. KNOWLTON: I agree. I mean --

THE COURT: Which, quite frankly, wasn't the one that jumped to my head first.

MR. KNOWLTON: Well, the statute of repose is -- it might be tough, but it's a statute of repose. And it's unforgiving and she -- it's, basically, made a very -- if I had ever read these statements, I would have known.

THE COURT: And y'all's position, I would assume, is that -- that her -- that the statute of repose -- that point that she went to the bank in 2010 and said there's a problem, which we would all sort of agree began her statute of repose, assuming she read it. She had one year to read it. And it was within that year.

Your position is that, also, started the clock ticking on their statute of limitations. Because at that point, they knew or should have known there was a problem with the account.

MR. SCOTT: Yes, Your Honor.

That -- they're saying that money was taken from a bank account and put into her account. And that would have necessarily had to have happened more than three years before they asserted their claim necessarily.

If -- if they didn't -- they're saying she slept on her rights. But if the bank's trying to recoup that money from her, they, certainly, slept on their rights. They've got better information than she does. They've got a --

computers. They've got the records of every account, I mean, but --

THE COURT: It's amazing to me that it would take a bank examiner -- or a forensic examiner as long as it did. I mean, obviously, this Hiott guy was pretty good at being a crook.

MR. SCOTT: And -- and that goes to our negligence supervision claim, Your Honor. I mean, that -- that is our argument for negligent supervision, that they should have been -- and even Fred Shepherd, who was the president of the bank at the time -- and I think it was in an insurance deposition or a statement to an insurance adjuster made a statement -- and this is in the record as well -- that I should have kept a closer eye on him, you know, I trusted him too much, which is, to me, an admission that they supervised him negligently. They did not exercise a degree of care necessary that they should have --

THE COURT: How dare he be honest in a deposition.

MR. SCOTT: I'm sorry.

THE COURT: How dare he be honest in a deposition.

MR. SCOTT: Exactly.

MR. KNOWLTON: Your Honor, one -- let me make one other point on the statute of repose.

THE COURT: Yes, sir.

MR. KNOWLTON: That runs every month from each statement.

THE COURT: Okay.

MR. KNOWLTON: So the 2007 transactions, for example, were barred in 2008.

MR. SCOTT: But only if there's a checking account, Your Honor. And my -- my trusty co-counsel over here directed me --

THE COURT: Yeah. I'll let y'all look. I mean, obviously, you know, to be honest with you, for me to be able to sleep at night, I've got to, at least, think that I did the best I could. I want to look at those. And -- but I've got to tell you, if it is a checking account in the name of an ongoing trust -- if we were all in a room and we didn't have clients, we might all admit that the UCC applied.

If it was a document creating a trust to be managed by the bank, then I think we'd all agree in a room without clients that that UCC doesn't apply. So it may be that simple, quite frankly. And -- and I won't make you do it now. You can do it later.

MR. SCOTT: I mean, I have --

THE COURT: Have you got it?

MR. SCOTT: He found it for me. It is under tab C of --

THE COURT: Can y'all make another copy?

Again, we're having computer issues that have nothing -- have to do more with e-filing. Can y'all -- and I'll give you a second. Take your time. Just agree that that's the account that y'all think --

MR. KNOWLTON: Well, we can -- I mean --

THE COURT: Why don't I do this? I don't want to put you on the spot now. Here's -- here's the main issue with me now. I'm more concerned about the statute of repose and the UCC.

So rather than put you on the spot now and having you do that, if y'all can between now and the beginning of the year agree that that account statement is the one we're talking about, the one you're holding. Again, I'll give you time to look at it and think.

MR. KNOWLTON: Well, yeah. And what -- what's he's handing you is not an agreement. There's some paperwork about setting up the account. The account --

THE COURT: Which -- which, I think, I would need, too. And y'all get together and figure that out and get me a packet.

MR. KNOWLTON: Okay.

THE COURT: Specifically, to the UCC issue.

MR. KNOWLTON: And I think we've got an affidavit with all that neatly all attached.

THE COURT: Yeah. Anything you want to send is fine with me. I mean, I -- this is now -- the UCC concerns me. And driving up here today, I had in my head -- I had notes about the -- why the statute of limitations didn't apply and would have, could have, and, also, the amount. The UCC, quite frankly, wasn't at the top of my brain pan.

So why don't y'all take some time and make sure that y'all are comfortable with what you tell me. And then if you can't agree, I'm perfectly willing the next time I'm up here to -- or do it in Anderson, hold a hearing. And I -- because I want to see -- make sure those documents are right.

MR. SCOTT: May -- let me let Bob look at this and maybe we can resolve it now.

THE COURT: Yeah.

(Pause.)

MR. KNOWLTON: Yeah. We'll -- we'll get it -- we'll get you a copy, Your Honor.

THE COURT: Yeah. I'm -- I'm more -- quite frankly, at this point, I'm more worried about your travel. You better get out of here. Because if you've ever driven through Seneca at 5:00, which I've had to do many a time, wear your seat belts.

MR. KNOWLTON: We're -- we're fine on the time. I just -- but we'll -- we'll get you a clear package of not

only the account agreement, but the other documents associated with creating the account.

THE COURT: Yeah. Y'all know where I'm headed. I want to see if the UCC -- I mean, that will obviously -- it doesn't help your client much. But it, also, will give me some comfort.

And, then again, on some of these issues, I really want to think about them. I mean, this one bothers me. This one is complicated. And -- and I want to make sure it's right. I want to make sure the record's right so that when you go up that everybody is clear.

There have been a couple of cases that were not mine, thank goodness, that -- where records have been not as complete as they have been -- should have been. And I want to make sure this isn't one of them. It's a lot of money. And -- you know, and y'all have good lawyers. So I want to make sure I have got that clear.

So take some time. Heck, I mean, I say the first of the year, January -- by January 15th. I know people have travel plans. See if you can get me a packet, or an agreement, or a request for a hearing for me to look at it.

Does that work?

MR. SCOTT: It does, Your Honor.

MR. KNOWLTON: Absolutely. We can probably have it a

lot quicker than that --

THE COURT: Yeah. I'll just set that as a way outside limit. So, I mean, you know, I -- I don't want to put -- at this time of year, it's very difficult for me to force y'all to do something in a hurry. I wouldn't like it. And I'm not going to make y'all do it. Okay.

**********END OF TRANSCRIPT OF RECORD**********

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of Common Pleas for Oconee County, South Carolina, on the 6th day of December, 2017.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

June 24, 2019

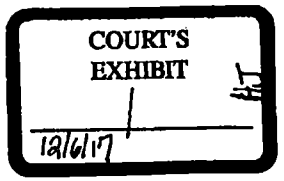
Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

Selected Damages Issues

Description	Source	Amount	Remaining Balance in Dispute
Total Deposited Into/Disbursed Out of Account	Exhibit 18	$ 4,057,114.34	$4,057,114.34
Undisputed Disbursements	Exhibit 41	-$1,865,761.69	$2,191,352.65
Transaction Reversals	Exhibit 43	-$351,246.57	$1,840,106.08
Transfers to Plaintiff's BB&T Accounts	Exhibit 44	-$182,998.57	$1,657,107.51
Car Payments	Exhibit 45	-$7,823.14	$1,649,284.37
CFB Credit Card Payments	Exhibit 46	-$7,224.74	$1,642,059.63
Insurance	Exhibit 47	-$6,079.17	$1,635,980.46
Logan Voxx	Exhibit 48	-$1,600.00	$1,634,380.46
CFB Funds into Account	Exhibit 50	-$880,855.58	$753,524.88
July 10, 2007 to Crosby	Exhibit 52	-$500,000.00	$253,524.88
November 28, 2007 to Crosby	Exhibit 42	-$200,000.00	$53,524.88
Additional to Crosby in 2008	Exhibit 42	-$353,437.39	($299,912.51)

ELECTRONICALLY FILED - 2017 Dec 07 9:46 AM - OCONEE - COMMON PLEAS - CASE#2014CP3700526



Subject: Debi Baker Brookshire VS Community First Bank Inc., et al Case No.: 2014CP3700526
Date: Monday, April 17, 2017 at 2:31:05 PM Eastern Daylight Time
From: Maddox, J. Cordell Law Clerk (Courtney Huether)
To: barneygiese@gmail.com, David Scott (dscott@jrslawsc.com), eblack@hsblawfirm.com, dgh@dghlaw.net, bknowlton@hsblawfirm.com ('bknowlton@hsblawfirm.com')

All,

Judge Maddox has reached a decision in the above referenced case, which was taken under advisement by him on December 13, 2016 in Oconee County. Judge Maddox is denying Benjamin Lee Holt's motion for summary judgment and granting Community First's motion for summary judgment. I believe Elizabeth Black and Robert Knowlton represent Community First. Please submit a proposed order to our office no later than May 31, 2017. Email the proposed order to our administrative assistant, Cindy Hicks, as Judge Maddox will not have a law clerk beginning at the end of April. Her email is listed below.

Thank you for your patience with this matter and please let me know if I may be of further assistance.

Best regards,

Courtney R. Huether
Law Clerk to the Honorable J. Cordell Maddox, Jr.
Tenth Judicial Circuit
100 S. Main Street
P.O.Box 8002
Anderson, SC 29624 (29622)
Phone: (864) 260-4636
Fax: (864) 260-6348
cmaddoxlc@sccourts.org

PLEASE NOTE: Beginning April 24, 2017, please send all correspondence to our Administrative Assistant, Cindy Hicks, at cmaddoxsc@sscourts.org.

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Subject: Rule 59(e), Brookshire
Date: Thursday, October 19, 2017 at 2:55:13 PM Eastern Daylight Time
From: David Scott
To: Black, Elizabeth, Daryl G. Hawkins (dgh@dghlaw.net)
CC: barneygiese@gmail.com, Justin Kata, jonathan@wallergroupsc.com

Elizabeth and Daryl, see attached letter that I sent to Judge Maddox today along with a courtesy copy of our Rule 59(e) Motion, which you should have received earlier from the efiling system.

Thanks,

M. David Scott
Attorney at Law

J | R | S LAW
Jordan, Rauton & Scott, LLC
109-B Vista Oaks Drive
Post Office Box 948
Lexington, SC 29071
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(803) 785-7878

JRS LAW
Jordan, Rauton & Scott, LLC

NANCY T. JORDAN
KATHRYN M. RAUTON
M. DAVID SCOTT

October 19, 2017

The Honorable J. Cordell Maddox, Jr.
Presiding Judge
Tenth Judicial Circuit
P.O. Box 8002
Anderson, SC 29622

Re: Debi Baker Brookshire vs. Community First Bank, Inc. and Benjamin Lee Hiott
C/A No: 2013-CP-38-0720

Dear Judge Maddox:

I represent the Plaintiff in the above-referenced action. You issued an Order Granting Defendant Community First Bank, Inc.'s Motion for Summary Judgment and Denying Defendant Benjamin Lee Hiott's Motion for Summary Judgment filed September 26, 2017. I filed a Motion to Alter or Amend the Judgment Pursuant to Rule 59(e), SCRCP, on October 6, 2017.

I have enclosed a copy of the filed 59(e) motion for your review. I am copying Counsel for the Defendants on this letter and have previously electronically served filed copies of the motion on them as well.

If you have any questions, please do not hesitate to ask. My telephone number is 803-454-1200.

Sincerely,

M. David Scott

Enclosures

Cc: Elizabeth Black, *via email only*
Daryl G. Hawkins, *via email only*

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	10TH JUDICIAL CIRCUIT
COUNTY OF OCONEE	)	
Debi Baker Brookshire,	)	
	)	**CERTIFICATE OF SERVICE**
Plaintiff,	)	
vs.	)	
	)	Case No. 2014-CP-37-526
Community First Bank, Inc. and Benjamin Lee Hiott,	)	
Defendants.	)	

I certify that on this date I served a copy the Plaintiff's Motion to Alter or Amend the Judgment Pursuant to Rule 59(e), SCRCP and Supporting Memorandum in this case on the presiding judge by delivering a copy of same to the Judge's chambers by delivering by the United States Postal Service, in a sealed envelope clearly bearing a return address with adequate first class postage affixed thereon, said copy to his chambers located at P.O. Box 8002, Anderson, SC 29622, and addressed to his attention.

Jonathan D. Waller

Columbia, South Carolina

This 19 day of October, 2017

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM OCONEE COUNTY
Court of Common Pleas

J. Cordell Maddox, Jr., Circuit Court Judge

Case No. 2014-CP-37-00526
Appellate Case No. 2019-000614

Debi Baker Brookshire,

Appellant,

v.

Community First Bank and
Benjamin Hiott,

Defendants,

Of Which, Community First
Bank is

Respondent.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

January 2, 2020

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