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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

J. Derham Cole, Circuit Court Judge

Case No. 2022-CP-42-03123
Appellate Case No. 2023-001752

MECO, Inc. of Augusta. .... Appellant,

v.

Alex Sayed a/k/a Arshad M. Sayed a/k/a Arshed Sayed; NEPA Ventures LLC; NEPA Trading & Investments, LLC.. Respondents.

RECORD ON APPEAL - VOLUME I OF II

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August 6, 2024
Augusta, Georgia

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VOLUME I OF II

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2022 CP-42-**03123**

MECO, Inc. of Augusta,

PLAINTIFF(S)

Alex **SAYED** a/k/a Arshad M. SAYED a/k/a Arshed SAYED, **NEPA VENTURES**, LLC, and **NEPA TRADING AND INVESTMENTS**, LLC.,

DEFENDANT(S)

Submitted by: the COURT	**Attorney for :** ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT**. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☒ **DECISION BY THE COURT**. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.

☒ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☒ **Rule 56, SCRCP.**

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):

☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See formal order to follow ☒ Statement of Judgment by the Court:

This matter is before the Court on motion of the defendant seeking a grant of summary judgment pursuant to Rule 56, SCRCP.

Salient Facts

This is a civil action seeking damages for breach of contract. Pursuant to the contract the plaintiff performed services in the remodel of a truck stop. The work was completed on 02/13/2019. The last payment made to the plaintiff was on 02/15/2019. The plaintiff provided the defendant with what it asserts was outstanding invoices that had gone unpaid. The plaintiff provided a final invoice demanding payment of past due amounts to be paid not later than 08/08/2019 or a collection action would be commenced. The amount alleged to be due was not paid and the plaintiff commenced the present action on 08/23/2022.

Applicable Law

Rule 56, SCRCP, provides that:

> "(a) A party seeking to recover upon a claim … or to obtain a declaratory judgment may, at any time after the expiration of 30 days from the commencement of the action or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits for summary judgment in his favor upon all or any part thereof."
>
> "(b) A party against whom a claim … is asserted or declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in his favor as to all or any part thereof."
>
> "(c) "The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show there is genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law."

Summary judgment is appropriate when it is clear there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Kitchen Planners v. Friedman, S. Ct. Op. #2020-001669 filed 08/23/2023. Summary judgment must not be granted until the opposing party has had a full and fair opportunity to complete discovery. Baird v. Charleston County, 333 S.C. 519, (1999). "In determining whether any triable issues of fact exist, the court must view the evidence and all reasonable inferences that may be drawn from the evidence [and ambiguities] in the light most favorable to the non-moving party." Madison v. Babcock, 371 S.C. 123 (2006). In considering whether to grant summary judgment the Court must give every benefit of doubt to the non-moving party. Watters v. Terminix Service, Inc., 376 SC 632 (Ct.App. 2008). The Court must construe all ambiguities, conclusions, and inferences arising from the evidence against the moving party. Nolte v. Gibbs International, Inc., 335 SC 72 (Ct.App. 1999). It must be evident to the court that "further inquiry into the facts of the case is not desirable [or necessary] to clarify the application of the law." "Even if the material evidentiary facts are not in dispute, summary judgment should not be granted if there is a genuine dispute as to the conclusion to be drawn from those undisputed facts. Baugus v. Wessinger, 3-3 S.C. 412 (1991). "However, it is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine" in opposing a motion for summary judgment. Town of

Hollywood v. Floyd, 403 S.C. 466 (2013). When the plain, palpable, and indisputable facts establish but one reasonable interpretation, upon which reasonable minds cannot differ, and that interpretation would entitle the moving party to judgment as a matter of law, summary judgment may be granted. Singleton v. Sherer, 377 S.C. 185 (Ct. App. 2008); Brooks v. Northwood Little League, 327 S.C. 400 (Ct. App. 1997).

The period for the commencement of a civil action other than for the recovery of real property based upon a contract for the rendering of services is three years. S. C. Code Ann. Section 15-3-530(1). An action for damages resulting from a breach of contract generally accrues at the time that the contract is breached or on the date the aggrieved party either discovered the breach, or could or should have discovered the breach through the exercise of reasonable diligence. Summary judgment is appropriate when a plaintiff does not commence an action within the applicable statute of limitations. Kagan v. Simchon, 429 S.C. 516 (App. 2020).

Discussion

The plaintiff in this action became aware not later than 08/08/2019 that the defendants had breached a contract entered between the parties by the failure to pay sums owed under the contract. The statute of limitations on a contract action is three years. This action was commenced after the passage of three years from the breach and the plaintiff's knowledge of it.

Conclusion

Based upon a consideration of the record, memoranda submitted, the applicable rules and statutory and case law, this Court finds that the defendant's **MOTION** for **SUMMARY JUDGMENT** should be and **IS** therefore **GRANTED**.

Counsel for the defendants is requested to prepare and submit a proposed formal order for the Court's consideration.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk : ______________________

INFORMATION FOR THE JUDGMENT INDEX **Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.**		
Judgment in Favor of (List name(s) below)	**Judgment Against (List name(s) below)**	**Judgment Amount To be Enrolled (List amount(s) below)**
		$
		$

		$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**
E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

J. Derham Cole	2053	11/02/2023
J. DERHAM COLE, Circuit Court Judge	**Judge Code**	**Date**

For Clerk of Court Office Use Only

This judgment was entered on the day of NOV, 2023 and a copy mailed first class or placed in the appropriate attorney's box on this day of NOV, 2023to attorneys of record or to parties (when appearing pro se) as follows:

LOGAN A. BROWN, Esq.

ATTORNEY(S) FOR PLAINTIFF(S)

ADAM C. BACH, Esq.

ATTORNEY(S) FOR DEFENDANT(S)

AMY W. COX, CLERK OF COURT

Court Reporter: Webex

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

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

Spartanburg Common Pleas

Case Caption: Meco, Inc. Of Augusta VS Alex Sayed , defendant, et al

Case Number: 2022CP4203123

Type: Order/Form 4

IT IS SO ORDERED!

s/J. Derham Cole 2053

Electronically signed on 2023-11-02 12:02:53 page 6 of 6

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG MECO, INC. OF AUGUSTA, Plaintiff, vs. ALEX SAYED a/k/a ARSHAD M. SAYED a/k/a ARSHED SAYED; NEPA VENTURES LLC; NEPA TRADING & INVESTMENTS LLC, Defendants.	)))))))))))))	IN THE COURT OF COMMON PLEAS SEVENTH JUDICIAL CIRCUIT CASE NO. 2022-CP-42-03123 **ORDER**

This matter came before the Court for hearing on September 14, 2023, on the Defendants' Motion for Summary Judgment. MECO, Inc. of Augusta ("MECO") filed this action against the Defendants, Alex Sayed a/k/a Arshad M. Sayed a/k/a Arshed Sayed; NEPA Ventures, LLC and Nepa Trading & Investments, LLC (collectively hereinafter "Defendants"), seeking judgment on a debt arising from an alleged breach of contract. Defendants timely answered the Complaint and asserted counterclaims.

After considering the pleadings, the affidavit, exhibits attached to the motion, and accompanying briefs, as well as arguments presented at the hearing, this Court finds that the Plaintiff had notice of the alleged failure by Defendants to pay sums owed under the contract and failed to bring its action within the applicable statutes of limitations. Accordingly, there are no genuine issues of material facts, and Defendants are entitled to judgment as a matter of law.

FINDINGS OF FACT

Sayed hired the plaintiff, MECO, Inc. of Augusta, to renovate and upgrade a gas station known as the "Westar Travel Plaza," which is located at 175 Truck Stop Road, Cowpens, South Carolina in May of 2018 (the "Project"). The work at the Project was performed pursuant to a contract between MECO and Alex Sayed (the "Contract"). The Project was to complete the scope of work contained within the Contract.

Work on the Project began in August 2018 following payment of a deposit by Sayed to MECO. As work by MECO progressed, MECO was required to "furnish [Sayed] with an invoice at the end of each week for the value of materials stored and/or the value of work completed to date." Sayed was required to pay each invoice "within thirty (30) days of invoice date or completion of the Project." Further, the Contract provides that "All amounts Buyer does not pay when due shall accrue interest at the rate of 1.5% a month until paid." After payment of the deposit, MECO began its work and began sending invoices as required by the Contract. On February 15, 2019, Sayed made a second, final payment and has made no further payments since that time.

The Project proceeded in two phases and the second and final phase ended in late April or early May 2019. At some point a dispute arose between MECO and Sayed regarding the amount owed on the Project. In August 2019, MECO sent a list of all invoices it claimed were owed by Sayed (the "Spreadsheet"). A review of the Spreadsheet reveals two undisputed facts. First, the latest invoice for work performed on the Project is dated <u>July 2, 2019</u>. This fact is confirmed by an email sent by Roger Carpenter, a sales representative for MECO, to Sayed dated July 17, 2019. In that email, Mr. Carpenter attaches all of the invoices shown on the Spreadsheet with the following message: "Alex, here are the outstanding invoices which we need to get resolved…". Second, MECO has received no payments from Sayed on any of these outstanding invoices.

On August 7, 2019, Mr. William Burke of MECO sent an email to Sayed providing the Spreadsheet and stating:

> I have attached spreadsheets with contract amounts, invoices, payments made and outstanding invoices. I have attached the contracts and what you agreed to. I have attached service tickets that have not been paid and all finance charges for breach of contract. I don't want to go to court over this. I want payment made by the end

> of business tomorrow 8-8-10 through wire transfer for the full amount owed or you will hear from my lawyer on Friday.

Sayed responded the same day explaining his position and asking about coming up with an amicable solution. Mr. Burke responded and again affirmed that all of the amounts shown on the Spreadsheet were past due as of the date of these emails: "I'm giving you a chance to pay what you agreed to and giving you the ability to work with me. You have not called me and know this money has been outstanding." The Spreadsheet itself also confirms Burke's email, as the final line of the Spreadsheet showing the total owed states in all bold, all caps:

TOTAL DUE BY 8/8/19 OR LAWYERS WILL TAKE OVER FROM HERE

(emphasis in original). When questioned about this email and spreadsheet, Burke testified:

> Q: At this point in time, had you received any payment from the defendants since the February $70,000?
>
> A: No, I had not.
>
> . . .
>
> Q: An easier way of saying it would be to say – or what I'm – what I'm trying to ask is that it was MECO's position that as of August 8, 2019, my clients owed this amount on page two pursuant to the contract?
>
> A: Not pursuant to the ---
>
> Q: I mean, pursuant to their agreements with MECO?
>
> A: To all agreements and all the work that had been done, not just the original contract.
>
> Q: And it was not – it was not like you were sending this saying, hey this amount of money is coming due or this amount of money may be due in the future. It was due right now?
>
> A: It was way past due.
>
> Q: Way past due?

A: Months and months and months past due.

Q: Under the defendants' obligation to MECO?

A: Correct.

Q: They were in breach of it?

A: In all of them.

Q: Breach of their obligation to pay you?

A: Correct. In every – in every single line item.

Following this email, Burke and Sayed had one more conversation around the time of this email and then have not spoken since.

In sum, MECO testified that all amounts claimed in this lawsuit were past due as of August 8, 2019. MECO further testified that it has received no payment from Sayed, or anyone acting on his behalf, after February 2019. Finally, MECO confirmed that in its last conversation with Sayed, it received no promises to pay or other assurance of payment. MECO did not file this lawsuit until August 23, 2022, more than three years after it sent its final invoice on the contract and more than three years after demanding payment for all sums due in this lawsuit. When it finally did bring its lawsuit, it brought actions for breach of contract, quantum meruit, promissory estoppel, and "recovery of costs of collection and attorneys' fees," which is not a cause of action recognized by South Carolina law. All three causes of action are time-barred.

CONCLUSIONS OF LAW

A motion for summary judgment shall be granted when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *Staubes v. City of Folly Beach*, 500 S.E.2d 160 (1998); *Summer v. Carpenter*, 492 S.E.2d 55 (1997). When determining if any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party." *Turner v. Milliman*, 392 S.C. 116, 122, 708 S.E.2d 766, 769 (2011). A party opposing a properly supported motion for summary judgment may not rest on the mere allegations or denials of the pleading but must set forth or point to specific facts showing there is a genuine issue of material fact. *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 463, 892 S.E.2d 297, 301 (2023). "[I]t is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine." *Id* citing *Town of Hollywood v. Floyd*, 403 S.C. 466, 477, 744 S.E.2d 161, 166 (2013).

Each of MECO's causes of action arise from the contract between MECO and Sayed. Contract actions in South Carolina are subject to a three-year statute of limitations. In general, South Carolina has two statutes that must be examined to determine the length of time a plaintiff has to bring a claim for breach of contract. The first is found in S.C. Code § 15-3-530 and provides a three-year statute of limitations for nearly all contract claims. The second is found in the South Carolina Uniform Commercial Code (the "UCC") at S.C. Code § 36-2-725 and applies only to contracts for the sale of goods. Goods are defined by the UCC as "all things…which are moveable at the time of identification to the contract for sale…"

South Carolina applies the "predominant factor" test to determine whether a contract that calls for the sale of both goods and services is subject to the UCC. In determining the predominant factor of the contract, courts are directed to look at a variety of factors, including (1) the language of the contract, (2) the nature of the business of the supplier, and (3) the intrinsic worth of the materials involved.

Here, the Contract is one for services, not goods. The Contract uses language typical to a construction services contract to identify the parties to the contract, referring to Sayed as "Owner" and to MECO as "Contractor." The contract states explicitly why Sayed is paying MECO: "Owner shall pay the Contractor for the performance of the work," language typically used in a construction services contract. The Contract also makes clear that its subject is "work," not "goods" throughout. For example, it describes what is being provided by MECO as "Work" in paragraph 3 of the Contract, refers to a "Scope of Work," and then states that "Seller (a) will install the Equipment… [and] (b) Will install all safety equipment…" The word "goods" does not appear anywhere in the Contract, whereas the word "work" appears twenty-two (22) times. Similarly, the Contract refers to itself as an "Installation Agreement" in paragraphs 2 and 3. The Contract also contains other provisions typical of a construction services contract, dealing with issues such as "Performance Bonds," "Workers Compensation Insurance," "Contractor's Liability Insurance," terms related to "Digging and Excavating," "Environmental Indemnity," and "Permits." Id. None of these provisions would have any applicability to a contract for the sale of goods. Even where it does address "Materials," it makes clear that these are incident to the contract stating explicitly: "Any materials or equipment incidental to the installation or to be installed as part of this contract…"

The second factor also shows that this was a services contract. MECO admits in their brief that they are in the business of "supplying materials and installing them" not manufacturing or distributing equipment. MECO's 30(b)(6) representative testified that MECO does not manufacture any goods and compared its business to a contractor building a house. Applying the predominant factor test to the facts at issue, the Court finds that the predominant factor of this contract was services, not goods, and the three-year statute of limitations applies.

Turning to the plaintiff's causes of action, because each of the plaintiff's causes of action arise out of either an express contract (breach of contract) or an implied contract (quantum meruit and promissory estoppel), the statute of limitations period applicable to contracts applies to all of Plaintiff's actions. S.C. Code Ann. § 15-3-530 provides that "an action upon contract, obligation, or liability, express or implied…" must be brought within three years of the time the cause of action accrues. South Carolina's statute of limitations requires. South Carolina applies the discovery rule to breach of contract actions, which provides that an action accrues on the date the aggrieved party either discovered or could or should have discovered the breach through the exercise of reasonable diligence.

Here, there can be no dispute that the MECO's causes of action against Defendants are time-barred. Pursuant to the Contract, payment was net 30, meaning that Defendants were required to make payment on each invoice thirty (30) days after it was submitted. The Spreadsheet shows that the latest unpaid invoice for work performed on the Project is dated July 2, 2019, making payment on the latest invoice due on or before August 1, 2019. If there was any confusion about this, it was cleared up by Burke's email dated August 7, 2019 and corresponding testimony. MECO had a cause of action for breach of contract against Defendants thirty (30) days after the date of each invoice submitted to Sayed, meaning that any action for all of the invoices shown on the Spreadsheet is long since time barred.

There are two ways to revive a time-barred claim for breach of contract, neither of which apply here. First, a claim can be revived by a "new promise to pay the debt." MECO testified at length that it has not spoken to Defendants since around the time of the August 7, 2018 email and that conversation ended without any promise by Defendants to pay the debt. Second, a claim can be revived by partial payment on the debt. Here, MECO confirmed it has not received any payment on the debt since February 2019.

One purpose of a statute of limitations is to relieve the courts of the burden of trying stale claims when a plaintiff has slept on his rights. MECO became aware of its alleged cause of action not later than August 8, 2019, when it sent a communication to defendants demanding immediate payment and threatening legal action. It is clear from that communication that as of that date, MECO's cause of action for payment of the past due invoices had accrued. The statute of limitations on a breach of contract action is three years. This action commenced on August 23, 2022, after the passage of three years from the alleged breach and the plaintiff's knowledge of it.

THEREFORE IT IS ORDERED that the Defendants' Motion for Summary Judgment should be and is GRANTED and the plaintiff's actions against Defendants are dismissed with prejudice;

IT IS FURTHER ORDERED, that the Court's Form 4 indicating that the Court's judgment ends the case is vacated as the defendants brought counterclaims that remain pending. The clerk of court is directed to enter an amended Form 4 showing that this judgment <u>does not</u> end the case.

AND IT IS SO ORDERED.

____
J. Derham Cole, Circuit Court Judge

Spartanburg Common Pleas

Case Caption: Meco, Inc. Of Augusta VS Alex Sayed , defendant, et al

Case Number: 2022CP4203123

Type: Order/Summary Judgment

IT IS SO ORDERED!

s/J. Derham Cole 2053

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STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG MECO, INC. OF AUGUSTA, Plaintiff, v. ALEX SAYED a/k/a ARSHAD M. SAYED a/k/a ARSHED SAYED; NEPA VENTURES LLC; NEPA Trading & Investments, LLC, Defendants.	))))))))))))))))))	IN THE COURT OF COMMON PLEAS SEVENTH JUDICIAL CIRCUIT C/A NO.:__________________

COMPLAINT FOR DAMAGES

Plaintiff MECO, Inc. of Augusta files its Complaint against Defendant Arshad Sayed a/k/a Alex Sayed a/k/a Arshed Sayed, Defendant NEPA Ventures LLC, and Defendant NEPA Trading & Investments, LLC, stating as follows:

PARTIES, JURISDICTION, & VENUE

1. Plaintiff MECO, Inc. of Augusta ("MECO") is a corporation organized under the laws of the State of Georgia that is duly-authorized to transact business in the State of South Carolina.

2. Defendant Alex Sayed ("Sayed") is a resident of the Commonwealth of Pennsylvania who does business in the State of South Carolina. Sayed uses or has used multiple names including Arshad Sayed and Arshed Sayed. Regardless of the name Sayed is using presently, he may be served with process in accordance with South Carolina law.

3. Defendant NEPA Ventures LLC ("NEPA Ventures") is a limited liability company organized under the laws of the Commonwealth of Pennsylvania. This defendant owns property and does business in Spartanburg County, South Carolina. NEPA Ventures does not hold a certificate of authority from the South Carolina Secretary of State or maintain a registered agent or office in South Carolina, and it may be served with process in accordance with South Carolina law.

4. Defendant NEPA Trading & Investments, LLC ("NEPA Trading") is a limited liability company organized under the laws of the Commonwealth of Pennsylvania that does business in Spartanburg County, South Carolina. NEPA Trading does not hold a certificate of authority from the South Carolina Secretary of State or maintain a registered agent or office in South Carolina, and it may be served with process in accordance with South Carolina law.

5. Sayed is not in military service, and the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901-4043, does not apply to: any defendant to this civil action; this civil action or any allegation herein; any contract to which any defendant and MECO are parties; or any judgment that may be rendered as a result of this civil action.

6. This Court has original jurisdiction over the subject matter of this civil action.

7. This Court has personal jurisdiction over Defendants because they transact business in South Carolina and this action arises out of such conduct and contracts entered and performed in Spartanburg County, South Carolina.

8. Venue is proper in Spartanburg County because the most substantial part of the Defendants' actions or omissions giving rise to MECO's causes of action occurred in Spartanburg County and because NEPA Ventures and NEPA Trading maintain their principal place of business in this State there.

FACTS

9. This action arises from a contract for the construction of improvements to real property commonly known as the "Westar Travel Plaza" which is located at 175 Truck Stop Road, Cowpens, South Carolina 29330 (hereinafter "Property').

10. NEPA Ventures acquired the Property in 2017 and is the legal owner thereof.

11. On or about May 8, 2018, Sayed entered into a written contract (the "Contract") with MECO for improvements to the Property. Sayed signed the contract using the names "Alex Sayed" and "Westar Travel Plaza" and represented to MECO that "Alex Sayed" was his true and lawful name and that he was the owner and operator of the Property, including the Westar Travel Plaza operating there.

12. Pursuant to the terms of the Contract, Sayed agreed to pay MECO to make certain improvements, notably to the fueling system and equipment, at the Property.

13. The Contract provided an initial equipment and installation/startup cost of $378,000.16 to be paid by Sayed. The Contract further provided that MECO would furnish Sayed with invoices for the value of materials stored and/or for work completed as the Project progressed, whereupon Sayed agreed to pay such invoices within thirty (30) days of the invoice date or completion of the Project.

14. The Contract provided that all invoice amounts remaining unpaid when due shall accrue interest at the rate of 1.5% per month (18% per annum) and further provided Sayed shall pay all MECO's costs of collection, including reasonable attorneys' fees.

15. MECO fully performed its work under the Contract and promptly sent invoices to Sayed for the work performed thereunder.

16. In addition to the improvements specified in the Contract, Sayed asked MECO to perform additional work to improve the Property and promised to pay MECO for such additional work. MECO performed this additional requested work in reasonable reliance on Sayed's promises to pay for it.

17. Despite being assured by Defendants that it would be paid in full, MECO has only received partial payment for its work and has not received any payment(s) since January 2020.

18. Sayed has failed and refused to pay MECO for all the improvements made to the Property and is indebted to MECO for the principal sum of $65,597.46, plus applicable interest calculated from the due dates of each of the various unpaid invoices. This debt continues to accrue interest as set forth in the Contract.

19. At all times material to this action, Sayed was the owner, principal, manager, officer, partner, joint venturer, alter ego and/or agent of NEPA Ventures and NEPA Trading, and all three Defendants have acted in concert with one another for their mutual benefit and to the detriment of MECO.

20. NEPA Ventures and NEPA Trading are jointly and severally liable for all amounts owed to MECO by Sayed.

FOR A FIRST CAUSE OF ACTION
(Breach of Contract)

21. MECO realleges each allegation contained in Paragraphs 1-20 as if repeated verbatim herein.

22. Defendants breached the Contract by failing and refusing to pay MECO the full amount owed for the improvements made to the Property thereunder.

23. Defendants breached the agreement to pay for additional work performed at Sayed's specific request by failing and refusing to pay for such additional work.

24. Defendants' continued refusal to pay MECO under the Contract has been made in bad faith and in direct breach of Defendants' duty of good faith and fair dealing under the Contract.

25. Defendants are indebted to MECO in the principal sum of $65,597.46 plus applicable interest at the rate of 18% per annum calculated from the due dates of each of the various unpaid invoices.

FOR A SECOND CAUSE OF ACTION
(Quantum Meruit)

26. MECO realleges each and every allegation contained in Paragraphs 1-20 as if repeated verbatim herein.

27. Defendants have benefitted and continue to benefit directly from MECO's provision of services, labor, materials, and installation of equipment at the Property.

28. MECO is entitled to recover from Defendants the reasonable value of the labor, materials, and equipment provided to improve the Property for which it has not been paid.

29. Defendants are liable to MECO in *quantum meruit* for the sum of $65,597.46 plus applicable interest.

FOR A THIRD CAUSE OF ACTION
(Promissory Estoppel)

30. MECO realleges each and every allegation contained in Paragraphs 1-20 as if repeated verbatim herein.

31. Defendants unambiguously promised to pay MECO for the full value of the labor, materials, and equipment to perform its work and improve the Property.

32. Defendants knew and expected MECO would rely on Defendants' promise to pay for the work performed.

33. MECO rightfully, justifiably, and reasonably relied on Defendants' promises to pay for the work by entering the written and verbal contracts with Sayed and by then providing labor, materials, and equipment to complete the specified work in accordance therewith, all to MECO's detriment and pecuniary loss.

34. Defendants are liable to MECO under the doctrine of promissory estoppel for the sum of $65,597.46 plus applicable interest.

FOR A FOURTH CAUSE OF ACTION
(Recovery of Costs of Collection & Attorneys' Fees)

35. MECO realleges each allegation contained in Paragraphs 1-20 as if repeated verbatim herein.

36. Pursuant to the Contract, Defendants are liable to MECO for all costs of collection, including reasonable attorneys' fees, associated with the breach of said agreement.

WHEREFORE, MECO demands a trial by jury and respectfully prays this Court inquire into the allegations herein and issue its order and judgment in favor of MECO and against Defendants, jointly and severally, for the following:

a. Principal indebtedness of $65,597.46;
b. Applicable interest at the rate of 1.5% per month (18% per annum) calculated from the due dates of each of the various unpaid invoices;
c. Post-judgment interest at the same rate specified in the Contract;
d. All costs of collection, including reasonable attorneys' fees; and
e. Any other or further relief that the Court may deem is just and proper.

Respectfully submitted, this 23rd day of August, 2022.

/s/ Logan A. Brown
LOGAN A. BROWN
South Carolina Bar No.: 105462
Attorney for MECO, Inc. of Augusta

OF COUNSEL:
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STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	)	IN THE COURT OF COMMON PLEAS SEVENTH JUDICIAL CIRCUIT C/A NO.: 2022CP4203123
MECO, INC. OF AUGUSTA, Plaintiff, v. ALEX SAYED a/k/a ARSHAD M. SAYED a/k/a ARSHED SAYED; NEPA VENTURES LLC; NEPA Trading & Investments, LLC, Defendants.	)	

FIRST AMENDED COMPLAINT FOR DAMAGES

Plaintiff MECO, Inc. of Augusta files its First Amended Complaint For Damages against Defendant Arshad Sayed a/k/a Alex Sayed a/k/a Arshed Sayed, Defendant NEPA Ventures LLC, and Defendant NEPA Trading & Investments, LLC, stating as follows:

PARTIES, JURISDICTION, & VENUE

1. Plaintiff MECO, Inc. of Augusta ("MECO") is a corporation organized under the laws of the State of Georgia that is duly-authorized to transact business in the State of South Carolina.

2. Defendant Alex Sayed ("Sayed") is a resident of the Commonwealth of Pennsylvania who does business in the State of South Carolina. Sayed uses or has used multiple names including Arshad Sayed and Arshed Sayed. Regardless of the name Sayed is using presently, he may be served with process in accordance with South Carolina law.

3. Defendant NEPA Ventures LLC ("NEPA Ventures") is a limited liability company organized under the laws of the Commonwealth of Pennsylvania. This defendant owns property

and does business in Spartanburg County, South Carolina. NEPA Ventures does not hold a certificate of authority from the South Carolina Secretary of State or maintain a registered agent or office in South Carolina, and it may be served with process in accordance with South Carolina law.

4. Defendant NEPA Trading & Investments, LLC ("NEPA Trading") is a limited liability company organized under the laws of the Commonwealth of Pennsylvania that does business in Spartanburg County, South Carolina. NEPA Trading does not hold a certificate of authority from the South Carolina Secretary of State or maintain a registered agent or office in South Carolina, and it may be served with process in accordance with South Carolina law.

5. Sayed is not in military service, and the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901-4043, does not apply to: any defendant to this civil action; this civil action or any allegation herein; any contract to which any defendant and MECO are parties; or any judgment that may be rendered as a result of this civil action.

6. This Court has original jurisdiction over the subject matter of this civil action.

7. This Court has personal jurisdiction over Defendants because they transact business in South Carolina and this action arises out of such conduct and contracts entered and performed in Spartanburg County, South Carolina.

8. Venue is proper in Spartanburg County because the most substantial part of the Defendants' actions or omissions giving rise to MECO's causes of action occurred in Spartanburg County and because NEPA Ventures and NEPA Trading maintain their principal place of business in this State there.

FACTS

9. This action arises from agreements for the construction of improvements to real property commonly known as the "Westar Travel Plaza" which is located at 175 Truck Stop Road, Cowpens, South Carolina 29330 (hereinafter "Property').

10. NEPA Ventures acquired the Property in 2017 and is the legal owner thereof.

11. On or about May 8, 2018, Sayed entered into a written contract (the "Contract") with MECO for improvements to the Property. Sayed signed the contract using the names "Alex Sayed" and "Westar Travel Plaza" and represented to MECO that "Alex Sayed" was his true and lawful name and that he was the owner and operator of the Property, including the Westar Travel Plaza operating there.

12. Pursuant to the terms of the Contract, Sayed agreed to pay MECO to make certain improvements, notably to the fueling system and equipment, at the Property.

13. The Contract provided an initial equipment and installation/startup cost of $378,000.16 to be paid by Sayed. The Contract further provided that MECO would furnish Sayed with invoices for the value of materials stored and/or for work completed as the Project progressed, whereupon Sayed agreed to pay such invoices within thirty (30) days of the invoice date or completion of the Project.

14. The Contract provided that all invoice amounts remaining unpaid when due shall accrue interest at the rate of 1.5% per month (18% per annum) and further provided Sayed shall pay all MECO's costs of collection, including reasonable attorneys' fees.

15. MECO fully performed its work under the Contract and promptly sent invoices to Sayed for the work performed thereunder.

16. In addition to the improvements specified in the Contract, Sayed asked MECO to perform additional work to improve the Property and promised to pay MECO for such additional work. MECO performed this additional requested work in reasonable reliance on Sayed's promises to pay for it.

17. Despite being assured by Defendants that it would be paid in full, MECO has only received partial payment for its work and has not received any payment(s) since January 2020. MECO did not know, nor should it have reasonably known, before January 2020 that Defendants would breach the Contract or the agreements to pay for additional work.

18. Sayed has failed and refused to pay MECO for all the improvements made to the Property and is indebted to MECO for the principal sum of $109,678.71, plus applicable interest calculated from the due dates of each of the various unpaid invoices. This debt continues to accrue interest as set forth in the Contract.

19. At all times material to this action, Sayed was the joint venturer, alter ego and/or agent of NEPA Ventures and NEPA Trading, and all three Defendants have acted in concert with one another for their mutual benefit to improve and operate the Property.

20. NEPA Ventures and NEPA Trading are vicariously liable and/or jointly and severally liable for Sayed's actions and financial obligations alleged herein because Sayed was acting as a joint venturer, alter ego, or agent on behalf of his co-defendants at all material times.

FOR A FIRST CAUSE OF ACTION
(Breach of Contract)

21. MECO realleges each allegation contained in Paragraphs 1-20 as if repeated verbatim herein.

22. Defendants breached the Contract by failing and refusing to pay MECO the full amount owed for the improvements made to the Property thereunder.

23. Defendants breached the agreement to pay for additional work performed at Sayed's specific request by failing and refusing to pay for such additional work.

24. Defendants' continued refusal to pay MECO under the Contract has been made in bad faith and in direct breach of Defendants' duty of good faith and fair dealing under the Contract.

25. Defendants are indebted to MECO in the principal sum of $109,678.71 plus applicable interest at the rate of 18% per annum calculated from the due dates of each of the various unpaid invoices.

FOR A SECOND CAUSE OF ACTION
(Quantum Meruit)

26. MECO realleges each and every allegation contained in Paragraphs 1-20 as if repeated verbatim herein.

27. Defendants have benefitted and continue to benefit directly from MECO's provision of services, labor, materials, and installation of equipment at the Property.

28. MECO is entitled to recover from Defendants the reasonable value of the labor, materials, and equipment provided to improve the Property for which it has not been paid.

29. Defendants are liable to MECO in *quantum meruit* for the sum of $109,678.71 plus applicable interest.

FOR A THIRD CAUSE OF ACTION
(Promissory Estoppel)

30. MECO realleges each and every allegation contained in Paragraphs 1-20 as if repeated verbatim herein.

31. Defendants unambiguously promised to pay MECO for the full value of the labor, materials, and equipment to perform its work and improve the Property.

32. Defendants knew and expected MECO would rely on Defendants' promise to pay for the work performed.

33. MECO rightfully, justifiably, and reasonably relied on Defendants' promises to pay for the work by entering the written and verbal contracts with Sayed and by then providing labor, materials, and equipment to complete the specified work in accordance therewith, all to MECO's detriment and pecuniary loss.

34. Defendants are liable to MECO under the doctrine of promissory estoppel for the sum of $109,678.71 plus applicable interest.

FOR A FOURTH CAUSE OF ACTION
(Recovery of Costs of Collection & Attorneys' Fees)

35. MECO realleges each allegation contained in Paragraphs 1-20 as if repeated verbatim herein.

36. Pursuant to the Contract, Defendants are liable to MECO for all costs of collection, including reasonable attorneys' fees, associated with the breach of said agreement.

WHEREFORE, MECO demands a trial by jury and respectfully prays this Court inquire into the allegations herein and issue its order and judgment in favor of MECO and against Defendants, jointly and severally, for the following:

a. Principal indebtedness of $109,678.71;
b. Applicable interest at the rate of 1.5% per month (18% per annum) calculated from the due dates of each of the various unpaid invoices;
c. Post-judgment interest at the same rate specified in the Contract and invoices;
d. All costs of collection, including reasonable attorneys' fees; and
e. Any other or further relief that the Court may deem is just and proper.

Respectfully submitted, this 25th day of August, 2022.

/s/ Logan A. Brown
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STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	)	IN THE COURT OF COMMON PLEAS SEVENTH JUDICIAL CIRCUIT C. A. No. 2022-CP-42-03123
MECO, INC. OF AUGUSTA, Plaintiff, v. ALEX SAYED a/k/a ARSHAD M. SAYED a/k/a ARSHED SAYED; NEPA VENTURES LLC; NEPA Trading & Investments, LLC, Defendants.	)	**DEFENDANTS' ANSWER AND COUNTERCLAIMS TO PLAINTIFF'S FIRST AMENDED COMPLAINT FOR DAMAGES**

The Defendants Alex Sayed a/k/a Arshad M. Sayed a/k/a Arshed Sayed, NEPA Ventures LLC, and NEPA Trading & Investments, LLC ("Defendants"), answering the first amended complaint of the plaintiff, would respectfully show unto this court as follows:

FOR A FIRST DEFENSE

1. Defendants lack sufficient information to form a belief as to the truth of the allegations of paragraph 1 of the plaintiff's complaint and therefore deny the same.

2. Defendants admit the allegations of paragraph 2.

3. Defendants admit so much of the allegations of paragraph 3 as allege NEPA Ventures is a limited liability company organized under the laws of the Commonwealth of Pennsylvania and does not hold a certificate of authority from the South Carolina Secretary of State or maintain a registered agent or office in South Carolina. The remaining allegations of paragraph 3 are denied.

4. Defendants admit so much of the allegations of paragraph 4 as allege NEPA Trading is a limited liability company organized under the laws of the Commonwealth of Pennsylvania and does not hold a certificate of authority from the South Carolina Secretary of State or maintain a registered agent or office in South Carolina. The remaining allegations of paragraph 4 are denied.

5. Defendants admit the allegations of paragraph 5.

6. Defendants admit the allegations of paragraph 6.

7. Defendants admit so much of the allegations of paragraph 7 as allege the contracts at issue were to be performed in Spartanburg County, South Carolina. Defendants deny the remaining allegations of paragraph 7.

8. Defendants admit so much of the allegations of paragraph 8 as allege that the venue is proper in this Court as to any Defendant properly joined, if any. Defendants deny the remaining allegations of paragraph 8.

9. Defendants admit the allegations of paragraph 9.

10. Defendants admit only so much of the allegations of paragraph 10 as allege that NEPA Ventures LLC acquired the Property in 2017. Defendants deny the remaining allegations of paragraph 10.

11. Defendants admit the allegations of paragraph 11.

12. In response to paragraph 12, Defendants refer to the subject document and deny any allegations inconsistent therewith.

13. In response to paragraph 13, Defendants refer to the subject document and deny any allegations inconsistent therewith.

14. In response to paragraph 14, Defendants refer to the subject document and deny any allegations inconsistent therewith.

15. Defendants deny the allegations of paragraph 15.

16. Defendants admit so much of the allegation of paragraph 16 as allege Sayed asked MECO to perform additional work to improve the Property. Defendants deny the remaining allegations of Paragraph 16.

17. Defendants deny the allegations of paragraph 17.

18. Defendants deny the allegations of paragraph 18.

19. Defendants deny the allegations of paragraph 19.

20. Defendants deny the allegations of paragraph 20.

21. In response to Paragraph 21, Defendants repeat and reallege the defenses of the previous paragraphs.

22. Defendants deny the allegations of paragraph 22.

23. Defendants deny the allegations of paragraph 23.

24. Defendants deny the allegations of paragraph 24.

25. Defendants deny the allegations of paragraph 25.

26. In response to paragraph 26, Defendants repeat and reallege the defenses of the previous paragraphs.

27. Defendants deny the allegations of paragraph 27.

28. Defendants deny the allegations of paragraph 28.

29. Defendants deny the allegations of paragraph 29.

30. In response to paragraph 30, Defendants repeat and reallege the defenses of the previous paragraphs.

31. Defendants deny the allegations of paragraph 31.

32. Defendants deny the allegations of paragraph 32.

33. Defendants deny the allegations of paragraph 33.

34. Defendants deny the allegations of paragraph 34.

35. In response to paragraph 35, Defendants repeat and reallege the defenses of the previous paragraphs.

36. Defendants deny the allegations of paragraph 36.

37. Defendants deny each and every allegation of Plaintiff's complaint not admitted, modified, or explained, hereinabove.

FOR A SECOND DEFENSE

38. Defendants adopt and reallege the allegations of their previous defenses as if fully repeated herein.

39. The plaintiff's claims should be dismissed as to NEPA Ventures LLC and NEPA Trading & Investments, LLC because this court lacks jurisdiction over these defendants.

FOR A THIRD DEFENSE

40. Defendants adopt and reallege the allegations of their previous defenses as if fully repeated herein.

41. The plaintiff's amended complaint against Defendants should be dismissed pursuant to Rule 12 of the *South Carolina Rules of Civil Procedure*.

FOR A FOURTH DEFENSE

42. Defendants adopt and reallege the allegations of their previous defenses as if fully repeated herein.

43. Plaintiff's claims are barred by the applicable statute of limitations.

FOR A FIFTH DEFENSE

44. Defendants adopt and reallege the allegations of their previous defenses as if fully repeated herein.

45. Plaintiff's claims for relief are barred, in whole or in part, by the equitable doctrines of unclean hands, estoppel, and laches.

FOR A SIXTH DEFENSE

46. Defendants adopt and reallege the allegations of their previous defenses as if fully repeated herein.

47. Defendants have paid all amounts due and owed for the work performed by plaintiff and payment is pled as a complete defense to the complaint.

FOR A SEVENTH DEFENSE

48. Defendants adopt and reallege the allegations of their previous defenses as if fully repeated herein.

49. Plaintiff's claim is barred by the doctrine of accord and satisfaction.

FOR AN EIGHTH DEFENSE

50. Defendants adopt and reallege the allegations of their previous defenses as if fully repeated herein.

51. Defendants are entitled to a set off of sums incurred for repair and/or remedial work to any defective equipment installed by plaintiff.

FOR A NINTH DEFENSE BY WAY OF COUNTERCLAIM
(Breach of Contract)

52. Defendants adopt and reallege the allegations of their previous defenses as if fully repeated herein.

53. On or about May 8, 2018, Defendants by way of Alex Sayed, entered into a written contract ("the Contract") with the plaintiff for improvements to the Property at 175 Truck Stop Road Cowpens, S.C. 29330.

54. Pursuant to the terms of the Contract, the plaintiff guaranteed all equipment, materials and installation will be free of defects of material and workmanship for a period of one year from date of completion.

55. Plaintiff breached the Contract by failing to fully perform the work under the Contract.

56. Plaintiff provided defective equipment and refused to replace and/or repair the equipment as guaranteed under the Contract.

57. Plaintiff breached the Contract by failing to timely perform its work.

58. The Contract that existed between plaintiff and Defendants was materially breached by plaintiff's failure to perform under the contract. Therefore, plaintiff's claims should be dismissed due to its prior material breach.

59. Alternatively, plaintiff's material breach of the Contract has caused damage to Sayed for sums to fix or correct plaintiff's work and Defendants are entitled to judgment against the plaintiff in an amount to be decided by the trier of fact.

FOR A TENTH DEFENSE BY WAY OF COUNTERCLAIM
(Breach of Implied Warranty of Workmanlike Services)

60. Defendants adopt and reallege the allegations of their previous defenses as if fully repeated herein.

61. Plaintiff holds itself out as specifically qualified to perform installation of dispensers and tanks at gas stations. Accordingly, plaintiff impliedly warranted that its construction would be of proper workmanship and reasonably fitted for its intended purpose.

62. Plaintiff breached its implied warranty of workmanlike services by installing the dispensers in such a way that constant repair is required.

63. As a direct and proximate result of these breaches by plaintiff, Defendants have incurred significant damages including payment of third-party vendors to conduct repairs and maintenance and attorney's fees and costs.

64. Defendants are entitled to an award of damages in the amount to be determined by the trier of fact.

FOR AN ELEVENTH DEFENSE BY WAY OF COUNTERCLAIM
(Breach of Express and Implied Warranties)

65. Defendants adopt and reallege the allegations of their previous defenses as if fully repeated herein.

66. Upon information and belief, plaintiff acted as General Contractor in connection with contracts to renovate the Subject Property and made express warranties to the effect that the Subject Property would be free from construction defects.

67. Plaintiff also impliedly warranted that the Subject Property would be constructed in a careful, diligent, and workmanlike manner, and free of defects.

68. Plaintiff breached their expressed and implied warranties in the following particulars:

a. In failing to property construct the Subject Property by deviating from the plans and specifications and/or failing to employ practices and methods of construction conforming to the customary and ordinary standards of the construction industry;

b. In using and/or supplying defective materials;

c. In installing materials not in accordance with the plans and specifications;

d. In failing to properly supervise employees, agents and subcontractors to assure that all work proceeded in accordance with the plans and specifications and in conformity with industry standards;

e. In accepting defective and/or non-conforming materials and labor;

f. In failing to construct the Subject Property in a good and workmanlike manner; and

g. In providing deficient and/or defective workmanship and/or materials, without proper inspections to assure that the work was correct and in conformity with customary industry standards and in accordance with the plans and specifications and the manufacturer's instruction and applicable building codes.

69. As a direct and proximate result, Defendants have suffered injuries and continue to suffer injuries and are entitled to the recovery of damages in the amount of the cost to repair the Subject Property, consequential damages, including loss of use and loss of value, punitive damages where applicable, plus costs and prejudgment and post judgment interest.

WHEREFORE, having fully answered, Defendants pray that the Court enter an order:

a. Dismissing plaintiff's action;

b. Entering judgment against plaintiff for actual and consequential damages;

c. Awarding Defendants' their attorney's fees;

d. Cost of the action; and

e. Other and further relief as the Court may deem just and proper.

Signature page follows

Respectfully submitted,

s/ Adam C. Bach

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September 30, 2022

Greenville, South Carolina

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG MECO, INC. OF AUGUSTA, Plaintiff, vs. ALEX SAYED a/k/a ARSHAD M. SAYED a/k/a ARSHED SAYED; NEPA VENTURES LLC; NEPA Trading & Investments, LLC, Defendants.	))))))))))))))))	IN THE COURT OF COMMON PLEAS SEVENTH JUDICIAL CIRCUIT C. A. No. 2022-CP-42-03123 **DEFENDANTS' REPLY TO PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO RECONSIDER**

Defendants Alex Sayed a/k/a Arshad M. Sayed a/ka/ Arshed Sayed, Nepa Ventures, LLC, and Nepa Trading & Investments, LLC (hereinafter "Sayed") respectively submit this reply to Plaintiff's Response to Defendants' Motion to Reconsider (hereinafter the "Response").

Plaintiff raises three arguments in its Response. First, that Plaintiff's request remains reasonably calculated to the discovery of admissible evidence despite receiving the information it told the Court it hoped to learn with Sayed's personal tax returns through less intrusive discovery. Second, that Sayed improperly relies on supplemental information provided prior to the Court's Order. Third, by narrowing the scope of the request and providing for a potential protective order, Sayed's personal tax returns are relevant to this breach of contract case. All of these arguments are incorrect, and the Court should hold the Plaintiff to its word as stated at the hearing – that the information it sought to learn from Sayed's personal tax returns could be obtained by less intrusive discovery, which Sayed has provided.

I. Plaintiff's request is Moot

Plaintiff argued at the hearing that it sought Sayed's personal tax returns to "get information to support [its] contention that this was a joint venture." (Hr'g Tr. 4:21-24). [1] Plaintiff's counsel stressed to the Court that they need tax returns from Sayed "to know what the relationship was when this project was being done" because "we think they are going to show an interrelationship between these parties." (Hr'g Tr. 11:1-5 & 12:20-25).

In response to this argument and prior to the Court's Order, on March 17, 2023 Sayed provided corporate documents showing the relationship between the parties to Plaintiff.[2] Sayed is the sole owner and operator of both Nepa Ventures, LLC and Nepa Trading & Investments, LLC. All three are named as parties in this suit and are subject to any potential judgment. Under the South Carolina Limited Liabilities Company Act, if Plaintiff gets a judgment against Mr. Sayed individually, it can execute against his membership interest. S.C. Code Ann § 33-44-504(a). Plaintiff articulated no other need for Sayed's personal financial information at the hearing.

II. Proper Change of Circumstance

Plaintiff's assertion that Sayed's Motion to Alter or Amend is "stonewalling to resist complying" is silly. Sayed's deadline for providing the returns has not even expired and there is nothing improper about filing a motion to alter or amend to provide information to the Court that was unavailable to it prior to the hearing. Specifically, Sayed provided less intrusive discovery than Sayed's personal tax returns[3], and Plaintiff has now received information from Sayed "to prove what [it] believe[s] is a central allegation of [its] case, which is that these parties are all interrelated." (Hr'g Tr. 9:18-19). Sayed filed the Motion to Alter or Amend to alert the Court that

[1] A true and accurate copy of the March 2, 2023 hearing transcript is attached as **Exhibit A**.

[2] On March 17, 2023 Sayed provided the following corporate documents: the Certificate of Organization Domestic Limited Liability Company for NEPA Trading & Investments, LLC, the Operating Agreement of Nepa Trading & Investments, LLC, Corporate Minutes of Nepa Trading & Investments, LLC, the Operating Agreement of Nepa Ventures, LLC, Certificate of Manager/Member of Nepa Ventures, LLC, and the Certificate of Organization Domestic Limited Liability Company for NEPA Ventures, LLC.

[3] Plaintiff's counsel told the Court the information it sought through Sayed's personal returns will be that, "the tax returns will indicate the ownership interest and show the [inter]relationship of these three parties." (Hr'g Tr. 9:13-15).

the requested information was provided and there is no further need for the production of Sayed's personal tax returns.

III. Sayed's Tax Returns Are Not Relevant

Plaintiff's request for Sayed's personal tax returns serves only to embarrass Sayed. This request remains outside the limitations of Rule 26(b) which seeks to restrict the scope of discovery to matters "relevant to the subject matter involved in the pending action." S.C.R.C.P. 26(b); Oncology & Hematology Assocs. Of S.C., LLC v. S.C. Dep't of Health & Envtl. Control, 387 S.C. 380, 387, 692 S.E.2d 920, 924 (210). Entry of a protective order does not make Sayed's personal tax returns relevant to this breach of contract case and improperly allows Plaintiff the opportunity to explore the sensitive, private and personal information of Sayed when Sayed has already provided the information Plaintiff sought within these returns through less intrusive disclosures.

Defendants' Motion to Reconsider should be granted because the request is now moot in light of Defendants' production of evidence that makes the information sought through Sayed's personal tax returns available to Plaintiff.

WHEREFORE, Defendants request the Court GRANT Defendants' Motion to Reconsider and ALTER and/or AMEND its Order granting Plaintiff's Motion to Compel.

Signature page follows

Respectfully submitted,

_s/Adam C. Bach______________

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April 27, 2023

Greenville, South Carolina

Exhibit A

State of South Carolina) Court of General Sessions
County of Spartanburg) 2022CP4203123

Meco, Inc. Of Augusta)
vs.) Transcript of Record
Alex Sayed, et al.)

March 2, 2023
Spartanburg, South Carolina

B E F O R E:

The Honorable Grace Gilchrist Knie, Judge.

A P P E A R A N C E S (All present by video or telephone):

Scott W. Kelly, Esq.
Dora H. Hogg, Esq.
Attorneys for the Plaintiff

Adam C. Bach, Esq.
Attorney for the Defendants

River Wolfe
Transcriber

THE COURT: The next matter is Meco of Augusta v. Alex Sayed, et al., 22-3123.

MS. HOGG: Good morning, Your Honor.

MR. KELLY: Good morning, Your Honor.

THE COURT: Good morning. Okay. Let me pull this up.

Okay. Again, this is the matter of Meco, Inc. of Augusta v. Alex Sayed, a/k/a Arshad M. Sayed, et al., civil action number 22CP423123.

If counsel will identify themselves for the record, beginning with counsel for the plaintiff.

MR. KELLY: Your Honor, Scott Kelly for Meco, the plaintiff, and I'm here with --

MS. HOGG: Dorothy Hogg.

MR. BACH: Adam Bach for the --

THE COURT: Okay.

MR. BACH: Sorry.

THE COURT: One more time. I'm sorry. So Scott Kelly, and it's Dora Hogg?

MS. HOGG: Yes, Your Honor.

THE COURT: And y'all are both attorneys?

MS. HOGG: Yes.

MR. KELLY: Yes, Your Honor.

MS. HOGG: Yes, Your Honor.

THE COURT: Okay. And I'm saying it wrong. How do you pronounce it, [Meh-cuh], [Meh-coh]?

MR. KELLY: It's [Meh-coh], Inc. of Augusta. Correct, Your Honor.

THE COURT: Meco. Okay. All right.

And counsel for defendants.

MR. BACH: Adam Bach, counsel for defendants.

THE COURT: And that would be all defendants, sir?

MR. BACH: Yes, ma'am.

THE COURT: Okay. This is before me as the plaintiff's motion to compel, filed with the court on January the 17th of this year. Have any of the issues been resolved?

MR. KELLY: No, Your Honor.

THE COURT: Okay. And let me back up. Do y'all agree for the hearing to be conducted this way, beginning with counsel for the plaintiff?

MR. KELLY: Yes, Your Honor.

THE COURT: And counsel for the defendant.

MR. BACH: Yes, Your Honor.

THE COURT: Okay. The most recent filings that I see in this are from yesterday. Is there anything else to be filed, anything else that you all have exchanged that you're forwarding to me? Have y'all have an opportunity to review everything from each other, before we start?

MR. KELLY: Yes, Your Honor.

MR. BACH: Yes, ma'am.

THE COURT: All right. Okay. And so let me hear from the moving party.

MR. KELLY: Your Honor, I'm going to adjust the video. Just, it's a little distracting with a large crowd.

I represent Meco, Inc. of Augusta. My client has offices here in Augusta, Georgia, and also in Greenville.

This was a -- this is an action arising from a breach of contract. And I want to give the Court a little background. I'll be quick.

Meco had a contract with Mr. Sayed. I may refer to him as Alex because that's how he identified himself to the client. We were not sure of his correct legal name, but Mr. Sayed hired Meco and entered into a written contract to perform certain improvements to what was called the Westar Travel Plaza. It's at the Cowpens exit in Spartanburg County.

This was a large contract, hundreds of thousands of dollars. My client is in the business of fuel systems and that sort of thing. So we're talking about a truck stop with tractor trailers as well as motor vehicles that would come in there. This is a suit for breach of that contract, not full payment.

There are two other defendants in this case, and central to our allegations are the fact that these other two defendants and Mr. Sayed we contend were in a joint venture, and under the law of South Carolina, when there is a joint venture or whatnot, those parties are governed by the law of partnership, which means that they are jointly and severally liable for the obligations of one or the other.

NEPA Ventures owned the real estate at the time all this was contracted for, at the time the work was done. It is my understanding that they have sold that property as of maybe last August. But they owned the property.

It is also our understanding based on documentation that we had that NEPA Trading & Investments, the third defendant, certainly financed all the improvements. In other words, Mr. Sayed contracted for the work to be done, but the money was arranged by NEPA Trading.

And what we see -- and we also understand, incidentally, from documentation we have provided to the defense in response to discovery, that these parties were all intermingled together.

We have emails where I believe for both the NEPA companies, NEPA Ventures, the property owner, and NEPA Trading, who we think was the operator of the plaza and a certain financer of the project, that Mr. Sayed was a managing member for both of those companies.

This motion is trying to get information to support our contention that this was a joint venture. They had disputed that this is a joint venture. So that's why this is relevant, the discovery we're seeking.

We have identified specific interrogatories and specific requests for production that have not been fully and completely responded to. So we're not trying to do this as a shotgun approach, Your Honor. We tried to identify specifically where we see deficient responses. When we initially filed our motion, no responses had been received.

Responses were provided shortly after the motion was filed. We reviewed those responses and identified deficiencies. We've written defense counsel, Mr. Bach, and he has another attorney there working with him on the file, identifying the specific interrogatories --

THE COURT: Yeah, Mr. Turner.

MR. KELLY: -- that we feel need to be supplemented, and I'll go into those here momentarily. But they've not been supplemented. We haven't gotten a response to those requests. In fact, most of our correspondence by email or letter is met with no response.

So let me jump into the specific interrogatories that we've raised.

We do make a waiver argument, Your Honor. And I realize that South Carolina law is not -- gives the Court great discretion on how these matters are to be handled. For example, under the Federal Rules, in the District of South Carolina in federal court, you don't respond, you've waived your objections. South Caroline Rules of Civil Procedure are not crystal clear in that regard, and they don't provide a clear waiver. I think that's up to the Court. But there are time limits involved, and if those time limits are to have meaning, objections need to be timely. Even if the responses are not timely, the objections need to be made in a timely matter.

And all that aside, what we're really after today is responses to specific interrogatories. We've identified those in the memorandum that we filed in February. And I'll identify those. They're also laid out very clearly in Exhibit L to our memorandum, a letter dated February 14th. And beginning on the second and into the third page of that letter, we specifically identified those interrogatories.

Your Honor, the first that we would like a complete answer to is the second interrogatory to Mr. Sayed individually. And that interrogatory asks for the name, address, phone number of people who are in possession, custody, or control of evidence. Now, we list things, documents, maps, pictures. We sked for -- we want to know who has the evidence that they're aware of.

And they simply object. They won't tell us who has that evidence. They refuse to tell us. They won't supplement it. They will not give us the names of the people who have evidence relevant to this case.

I can't imagine -- they have identified witnesses, but we don't know which of those folks have evidence. They have given us a list of -- or a stack of documents, several hundred pages of documents. We don't know who has those. Presumably, Mr. Sayed and the other two defendants, but there are other folks who were involved, either financing this project, the company who provided the financing and whatnot. I think we're entitled to know who had the documents so that we can conduct basic discovery.

Also, interrogatory number 12, that asked us -- that specifically asked Mr. Sayed to specify his relationship to each of his codefendants, including his managing or other responsibilities of each and the exact details of your ownership interest in each. And I think I've already said to the Court that we believe from his salutations in his emails that he's a managing member of those companies.

But when we asked them, their only response, other than an objection that it's not relevant, they say that he's a member of those companies. And they do acknowledge that NEPA owned the property. But then, they say there's no connection between NEPA Ventures and NEPA Trading Investments outside of Mr. Sayed and another man, whose name I will not pronounce correctly, Amouzegar, A-M-O-U-Z-E-G-A-R, are members.

They refuse to answer whether they're managing members, whether they're owners. Presumably, they have an ownership interest as members, but they just won't answer that question. And frankly, we've already provided for them documentation showing, in spite of their answer that there's no connection with NEPA Trading, the third defendant, that they financed this whole project. It defies logic that they would finance a project in which they had no interest or connection to whatsoever.

Those are the specific interrogatories sent to Mr. Sayed that we have asked about. We've also asked in the supplement request for production number 8 from Mr. Sayed. That is asking him for certain tax information. I've even actually spoken with Adam about this and explained that our contention is very simple.

By the way, there's been no proposal that we agree to keep these confidential. We'd be glad to do that. But we think the tax returns will indicate the ownership interest and show the inner relationship of these three parties.

Again, if they'll admit that this was a joint venture, I don't care about the tax returns. We're simply trying to prove what we believe is a central allegation of our case, which is that these parties are all interrelated. This is a join debt because this was a joint venture.

I think in their brief, Your Honor -- just to step aside for a second and address this -- I think --

THE COURT: What years do you want the tax returns?

MR. KELLY: I think we asked for seven years. Look, I'd take three, Your Honor. There's been no offer to give us less --

THE COURT: Okay.

MR. KELLY: -- but I would have gladly been willing to work with them.

THE COURT: What request for production -- what number is that?

MR. KELLY: I think in the request for production, Your Honor -- I'm going to pull it right in front of me, here. It's right here in my lap.

THE COURT: I need for you to be extremely specific because I'm trying to take notes as to the number and what you're requesting. And I'm assuming with the documents that you've sent in February that they would show any responses that you've received, correct?

MR. KELLY: They did, Your Honor. We included all the responses as exhibits to our motion. Actually, they're attached to the memorandum. And we do identify the specific interrogatories and the specific requests in the memorandum, so the Court won't have to go searching.

And Your Honor, I'm simply addressing this argument to go over it. I know it's available to the Court. It is request for production number 8 to Mr. Sayed. And in that we asked for the returns since 2016.

And, again, there's been no suggestion that it's the scope that's too big. Three years is better than nothing.

What's important is that we have, really, 2018. So maybe three years isn't enough. But we need to know what the relationship was when this project was being done and when it was contracted for. And that's why we did ask going back to 2016.

They did ask us, Your Honor -- they sent, and this is not before the Court, but I will tell the Court this --

THE COURT: Okay. Why don't we just continue with what you need in discovery. Okay.

MR. KELLY: Yes, Your Honor.

THE COURT: Trying to follow along.

MR. KELLY: Yes. Yes, Your Honor,

So that's what we've asked for from Mr. Sayed, interrogatories 2 and 12 be fully answered and request for production 8.

NEPA Ventures, which is the second defendant, Your Honor, we've asked that interrogatories 1 and 2 be fully answered and that request for productions 1, 2, and 10 be fully answered.

Interrogatory number 1 asks, basically, for the folks who are members of NEPA Ventures since March 2018, when this contract was signed or undergoing. And we want them to specify the ownership interest. I think that's clearly relevant in light of our allegations of a joint venture.

We also asked NEPA Ventures to specify the relationship to the codefendants, just as we asked Mr. Sayed. Both of these interrogatories, no answer, just a bold, not-relevant objection. And I do think given our allegations about a joint venture it's clearly relevant. We already have some proof of it.

Let me jump now to NEPA -- well, the request for production to NEPA Ventures that we've asked about, we asked, in light of our allegations and the evidence already that we have of the relationship between NEPA Ventures and Mr. Sayed, we asked for the governing documents, bylaws, membership agreements, and organizing documents of NEPA Ventures. That's request for production number 1. Just an objection. Not relevant, they say.

We asked for documentation showing the legal and financial relationship to the codefendants. There clearly is such a relationship. NEPA Ventures would -- Alex Sayed would not sign his name personally on a contract to pay hundreds of thousands of dollars for property that he had no benefit with.

There's clearly a connection. They just say, nope, that's not relevant. No other objection. No other response.

And lastly, request for production number 10, we asked for the tax returns of NEPA Ventures on the same basis that we asked for them for Mr. Sayed. We think they're going to show an interrelationship between these parties. We think they're going to show that in multiple ways, probably all prepared by the same person or entity, among other things.

Moving to NEPA Trading, Your Honor, the third defendant. We specifically seeking complete answers to interrogatories 1 and 2 and request for production 4. Shorter and sweeter, the same two interrogatories that we just went over with NEPA Ventures, we asked of NEPA Trading. I won't repeat those. The Court's already heard that. But it's the same two questions about their members and the ownership interest and of the relationship with the codefendants.

And the request for production is for the same things we asked for with, I think, the request for production concerning -- yes, I have it here in front of me. It's the governing documents, the bylaws. Again, the only objection is, this is not relevant.

We have made clear to them, not just in our amended complaint but also in our responses to our discovery, how we contend these parties are interrelated and why this is a joint venture. And I think it also is worth noting, Your Honor, that NEPA Ventures and NEPA Trading, it appears to use they disputed the jurisdiction over one or both of these defendants. I know NEPA Trading, they have. They've even asked interrogatory about that.

It appears to us, based on NEPA Ventures owning this travel star plaza -- Westar Travel Plaza, excuse me, and either operating it or leasing it, they were doing business in South Carolina. NEPA Ventures, according to the Secretary of

State's website, was never registered to do business here. Never had a registered agent here. I think the same is true of NEPA Trading and Investments.

So that just kind of adds another concern and why we're pursuing this discovery so diligently. Our Greenville office did a significant job and hasn't been paid. I mean, this is a dispute in excess of 100,000 dollars, not including attorneys' fees or anything like that. That's also being sought.

We want to be able to pursue our theory. We've already got some evidence of it, certainly enough evidence to get to a jury. But we want to be able to prove our case to a jury, and we think they're sitting on this evidence. And we had scheduled Mr. Sayed's deposition for late March, and we've been notified that there's a conflict there. We'll reschedule it.

But I try, Your Honor -- I'm admitted pro hac vice in this case. I'm a Georgia attorney. I've handled a couple cases in South Carolina, two or three, in my career. I always try to, and I think all of our South Carolina lawyers of office, we just want to be able to prepare our case so that if we have to go to a jury, we can. And we try to do that as diligently as possible. That's why we moved when we did. We didn't want to be here a year from now, when the Court would look at us and say, why are you coming to me now. We want to be ready, and these are just basic things.

Once we depose Mr. Sayed, hopefully, he'll answer every question we have, and they will provide us the documents. If they don't, then we're going to have to come back and continue this deposition. And there'll probably be a fight about that. I don't want that. We just want to be able to do the discovery so we can get to the heart of the case.

THE COURT: Okay. And before I Hear from Mr. Bach, who may agree to disclose this information to you, in reading, going along, and I see that Zac Turner -- is this the Zac Turner that clerked for Judge Hayes?

MR. BACH: Yes, ma'am.

THE COURT: Okay. And so I just need to put something on the record.

Mr. Turner lived in a condominium that I own in Spartanburg last year. He doesn't live there now, and he's moved away. I think he lives in Greenville now, but I'm not sure. I don't think I've seen him since he took his position after his clerkship. He did not clerk for me. He clerked for another circuit court judge in this circuit.

But I just wanted y'all to be aware of that. I know he's not arguing this today, but I did see his name on some of the correspondence. And so I just want to make sure that no one is objection to me hearing this. I don't think it's a conflict. But I just wanted to put that on the record. Okay.

MR. KELLY: Your Honor, we have no --

THE COURT: Any objection?

MR. KELLY: -- objection. And I have not personally with Zac, but my cocounsel Logan has. I've dealt with Adam.

THE COURT: Okay.

MR. KELLY: They've been very professional. This is no -- our contention is, the defendants are the ones who are the problem. And Adam's been very --

THE COURT: Okay. Okay. Let me ask Mr. Bach. Mr. Bach --

MR. KELLY: -- Adam's been very professional, and same with Zac, to my knowledge.

THE COURT: Okay. Mr. Bach, any objection to me hearing this?

MR. BACH: No, ma'am.

THE COURT: Okay. I'm happy to hear from you, sir, in response.

MR. BACH: Your Honor, Mr. Kelly concluded his argument by stating over and over again that they just want facts necessary to prepare and prove their case. This is a breach-of-contract action where the plaintiff alleges they entered into a contract with Mr. Sayed personally. The elements of breach of contract are the existence of a contract, breach, and resulting damages. Your Honor, the discovery that we are here about is not relevant to a breach of contract against an individual related to the construction of a gas station.

Your Honor, I don't know if you want me to address the waiver arguments. It's not South Carolina law. I've heard this argument many times in South Carolina circuit court. I have never heard a South Carolina circuit court judge accept it. The federal rule and the state rule are different, but it would also equally apply to the plaintiff, since they also were dilatory in responding to our discovery requests. If the Court wants to hear on that issue, I'm happy to provide argument it, but Your Honor, South Carolina does not provide for waiver objections due to late discovery requests.

And the statement that Mr. Kelly made about the rule in federal court is also incorrect in South Carolina. The waiver is not automatic. It is only waived if there is not good cause or the reason for the delay -- all of the federal court cases cited by the plaintiff involve situations that are not present here, a failure to respond due to an order, failure to respond to a motion --

THE COURT: Okay.

MR. BACH: -- and none of those exist here.

THE COURT: Okay. Let's just talk about what they're asking for.

MR. BACH: Okay.

THE COURT: Okay.

MR. BACH: I thought so, Your Honor.

THE COURT: And I understand you're saying that it's not relevant, but is it possible that the information that they're requesting could lead to relevant information and information that would be admissible?

MR. BACH: Thank you, Your Honor. And I think the focus here needs to be on what the rule says in Rule 26, which Your Honor just stated, which is, it's not just -- it has to be focused towards to the discovery of admissible evidence, and that's the language from Rule 26.

There is nothing that is made more or less probable by Mr. Sayed's personal tax returns. The fact that he took a deduction for a donation he gave to the human society has nothing to do with this case. And unfortunately, Your Honor, this has become somewhat of a standard practice in business litigation cases. When a business owner is sued on a breach of contract, the opposing party asks for tax returns and personal financial information going back years.

The request here, Your Honor, they're asking for his personal tax returns two years before this project even began. They claim that that's because -- well, first in their brief, they talk about piercing the corporate veil. Well, there is no piercing-the-corporate-veil claim here. A piercing-the-corporate-veil claim, the second element requires that you have some evidence that the defendants are trying to move assets after the plaintiff's claim has arisen.

Your Honor, there is no claim to any property belonging to the defendants prior to the project even beginning, and certainly not even prior to the invoices at issue. Additionally (indiscernible) --

THE COURT: He did say that he would agree to three years instead of seven years. So is it your position that none of the tax returns are relevant or would lead to admissible evidence?

MR. BACH: Correct, Your Honor. So Mr. Sayed is the individual.

So going past the piercing, as to the joint venture, we have disclosed that Mr. Sayed is a member of both entities, of both LLCs. Your Honor, "member" is just another word for "owner" under the Limited Liability Act. So we have disclosed that he is an owner of both entities, that there is a relationship between all three entities, and that that relationship centers on the fact that Mr. Sayed owns both entities.

If they want to prove a breach of contract action against the other two entities or that they are seeking to access assets through Mr. Sayed that belonged to those two entities, we have disclosed all they need to know. All three entities are either Mr. Sayed or owned by Mr. Sayed. And so Your Honor, again, there is no situation at trial where Mr. Sayed's personal tax returns would be presented to a jury. And we believe that that information is irrelevant.

I will say this, if they would like additional information about the specifics of those relationships, the ownership percentages, Your Honor, I thought we had disclosed that. We say that there are two owners. If they want us to specifically say 50/50 ownership or whatever it is, I'm not exactly sure, if they want us to disclose the percentages, that is fine.

But the idea that here is some -- that we should have to produce bylaws, years of tax returns including all schedules for companies that owned real estate and other assets, all of their deductions, all of their personal information. And I will enter into a confidentiality order. It's simply not relevant.

And Your Honor, again, I would just say, unfortunately, this has become the practice in business litigation cases. A business is sued, the owner is sued, and we want every single personal piece of financial information we can get from these individuals or this business going back years, even years before the project happened.

Your Honor, my suggestion would be with regard to the financial information, that we provide additional disclosures regarding these defendants' relationships, and if that is not sufficient, then come back to the Court with regard to any additional information they would need. But I would also just point out, this is exactly the kind of thing that a party can get in a deposition. What is your relationship with these entities, how much is your ownership percentage, we certainly don't dispute that they can ask that those questions.

Your Honor, I'm hoping you're still here. I see a little exclamation point on your screen now.

MR. KELLY: Uh-oh.

THE DEPUTY CLERK: Mr. Bach, can you hold on one second? Judge Knie's computer just shut off.

MR. BACH: Sure.

THE DEPUTY CLERK: Sorry.

MR. BACH: No problem. She's the star of the show so --

THE COURT: Okay. Can y'all here me?

MR. BACH: I can.

MR. KELLY: Yes, Your Honor.

THE COURT: Okay. I think -- an you see me?

MR. BACH: Can't see you.

MR. KELLY: No.

MS. HOGG: No, Your Honor.

THE COURT: It's not so bad, but I'm just not exactly sure why the camera is not working. But I can see y'all, and I can hear y'all. Okay.

And so you were talking about, Mr. Bach, when my computer, the battery died, that you thought that it would be reasonable for you to disclose the percentage of ownership in these cocorporations, and I think you also said the individuals. And you thought that you had already disclosed that and that the proper avenue would be if then the tax information or financial information is still needed, that that could be addressed in a future motion. Is that --

MR. BACH: Yes, Your Honor.

THE COURT: And maybe I'm misstating what you said.

MR. BACH: No, that's --

THE COURT: Maybe I'm oversimplifying, trying to be optimistic about the situation.

MR. BACH: No, that --

THE COURT: But yes, sir.

MR. BACH: You're correct, Your Honor. And I think before you went out, the last thing that I mentioned was obviously, a deposition is also the appropriate forum to ask these kind of questions. And then, if additional discovery is needed, certainly, and we would not object to questions about ownership percentages and interest in this.

But again, Your Honor, business owner shouldn't fear going through civil discovery in a breach of contract claim because their personal financial documents are subject to discovery in what is really just a breach-of-contract action. I mean --

THE COURT: Okay. Let me hear -- but with regard to basically, is that your response to all of the information that is attempting to be compelled, sir?

MR. BACH: Yes, Your Honor. It's all of the same kind.

Other than, I will say, the response to interrogatory number 2, where they ask for the name, home address, business address, telephone numbers for every person who is in possession, custody, or control of any document, Your Honor, I feel like we had already answered that with regard to number 1. But the problem with it is, is that we've got third-parties on here, folks who we don't control. I mean, I can't tell you -- I don't want to give an answer about what a third-party has or doesn't have with regard to documents.

We have certainly turned over what we have, and I don't know what we could say in addition to that. And I don't know why he would need my client's home address in order for that to be a complete response. So that was the only -- but the rest of them, Your Honor, concerning the business records, again, this is a breach-of-contract case. None of these business records are relevant to, did Mr. Sayed unjustifiably fail to pay for the renovations that were done at a gas station in Cowpens.

THE COURT: Okay. Let me hear, again, then, from the moving party.

Mr. Kelly.

MR. KELLY: Thank you, Your Honor. I'll make it simple.

I think what I'm hearing Mr. Bach say is that this was a joint venture. And if they'll admit that, then most of this stuff doesn't matter because then, if that's admitted, great, we don't need to do the discovery to prove that. But they have disputed that.

And with all due respect to Mr. Bach, I am familiar with business litigation. I've done my share of it. This is not traditional. We already have Mr. -- this is not where we're trying to pierce the corporate veil. Mr. Sayed signed the contract. We have him as a clear defendant. Normally, as Your Honor is aware, you've got the corporate defendant, and the owner might be hiding behind the corporate veil. Not an issue.

For us, it looks like there are multiple parties because we don't know if we're going to be able to collect this money from Mr. Sayed. He lives in Pennsylvania, we're told. So --

MR. BACH: Your Honor, could I address that, just briefly?

MR. KELLY: -- (indiscernible) --

MR. BACH: Under the law of LLCs, if they get a judgment against Mr. Sayed individually, they can absolutely execute against his membership interest. So again, knowing that we have disclosed he is a member of both companies -- and again, I'm happy to provide the exact percentage of ownership. I realize my answer was a little unclear. But they've got exactly what he just said. We were worried about -- well, he's a member of both. You can execute your judgment against all of the assets of either one of the LLCs by foreclosing on his membership interest. You can own the LLCs under our LLC (indiscernible).

MR. KELLY: Well, I suspect these are Pennsylvania LLCs. I Do not know -- that's not always the case, is my understanding. He might be able to collect his share. We do now know of the other owner because they did identify him. We know nothing more than a name, though. Don't know where he lives. Don't know anything about him.

And it's true, I can ask Mr. Sayed about that in his deposition. I suspect we're going to get an "I don't know" because he doesn't have that guy's address memorized.

The point of all this is very simply, we want to be able to pursue our joint-venture theory. We do already have Mr. Sayed as a undeniable defendant. He entered into a contract in South Carolina for work to be done in South Carolina. The other defendants had denied that they had any responsibility, notwithstanding their clear relationship to this project and to Mr. Sayed.

So I think we may be able to work around this. I was trying to get this information before the deposition so we didn't go into a deposition having to suspend it and come back to it later. That's why we --

THE COURT: Right.

MR. KELLY: -- that's why we filed the motion, Your

Honor, so we can get everything and do everything once, not twice.

THE COURT: Right. Can y'all still here me?

MR. BACH: Yes, ma'am.

MR. KELLY: Yes, Your Honor.

THE COURT: Okay. All right. So do y'all admit that it's a joint venture?

MR. BACH: Your Honor, we don't. These are separate entities.

THE COURT: Okay. Okay. I just wanted to make sure. Okay.

MR. BACH: Well, and Your Honor, let me just say this. I am happy to go back to my client and talk to him in more detail about that denial, but I do think that the word "joint venture" has a legal meaning that is not met here.

But regardless, all of the things that he says he needs this discovery for are met by what we have already disclosed or additional disclosures about the organization.

THE COURT: Okay. Anything else from y'all regarding these --

MR. KELLY: No, Your Honor.

MR. BACH: No, ma'am.

MR. KELLY: No, Your Honor. Thanks for your time.

THE COURT: Okay. Okay. And so I kind of like that y'all can't see me. This is nice. Cn you still not see me?

MR. BACH: (Indiscernible).

THE COURT: Okay. So I'll issue an order. I want to review everything, and I'll look at your responses. I don't want to slow y'all down. And so when is the next deposition scheduled?

MR. KELLY: It was set for March 28th. We just set that within the last two weeks. But --

THE COURT: Okay.

MR. KELLY: -- we want an email from their office saying that there's a conflict. I don't know who has the conflict, but we're trying to get a new date. Obviously, I don't want to kick the ball too far down the road. But I'm happy to accommodate Your Honor, whatever you need to rule and allow them some time to gather --

THE COURT: That's fine.

MR. KELLY: -- whatever you might order them to provide.

THE COURT: Okay.

MR. KELLY: So that's why we scheduled it for late March anyway because of this hearing.

THE COURT: Okay.

MR. KELLY: If we have to move it to April -- I don't think Adam's going to call time on us on this, but I don't want us to --

MR. BACH: I mean, Your Honor, this case was just filed in August of last year. I mean, it's not even eligible to be transferred until August of this year. We have plenty of time.

THE COURT: Okay. Okay. I will issue the order as quickly as I can. Thank you, all, very much. Okay.

MR. BACH: Thank you, Your Honor.

MR. KELLY: Thank you, Your Honor.

MS. HOGG: Thank you, Your Honor.

(End of Transcript of Record)

CERTIFICATE OF TRANSCRIBER

State of South Carolina)
)
County of Spartanburg)

I, RIVER WOLFE, a court-approved transcriber, 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 Court of General Sessions for Spartanburg County, South Carolina, on the 2nd day of March, 2023.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

April 12, 2023

____
River Wolfe, CDLT-265
Transcriber

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	)	IN THE COURT OF COMMON PLEAS SEVENTH JUDICIAL CIRCUIT
MECO, INC. OF AUGUSTA, Plaintiff, vs.	)	CASE NO: 2022-CP-42-03123
ALEX SAYED a/k/a ARSHAD M. SAYED a/k/a ARSHED SAYED; NEPA VENTURES LLC; NEPA TRADING & INVESTMENTS LLC, Defendants.	)	**DEFENDANT ALEX SAYED a/k/a ARSHAD M. SAYED a/k/a ARSHED SAYED, NEPA VENTURES LLC AND NEPA TRADING & INVESTMENTS LLC'S MOTION FOR SUMMARY JUDGMENT**

TO: PLAINTIFF AND ITS ATTORNEYS LOGAN A. BROWN & SCOTT W. KELLY

YOU WILL PLEASE TAKE NOTICE that the Defendants Alex Sayed a/k/a Arshad M. Sayed a/k/a Arshed Sayed; NEPA Ventures, LLC and Nepa Trading & Investments, LLC (collectively hereinafter "Defendants"), by and through their undersigned attorneys, will move at a date and time to be set by the court, but not sooner than ten days after service thereof, for an order granting Defendants summary judgment on the basis that there is no genuine issue of material fact that the plaintiff's claims are barred by the three (3) year statute of limitations, S.C. Code Ann. § 15-3-530. This motion is made pursuant to Rule 56 of the *South Carolina Rules of Civil Procedure* and other applicable law and is based on the following grounds:

1. MECO, Inc. of Augusta ("MECO") performed work at the Westar Travel Plaza located at 175 Truck Stop Road, Cowpens, SC 29330 (the "Project") for Defendants pursuant to a contract agreement (the "Contract") dated May 8, 2018. A true and accurate copy of the contract is attached hereto as **Exhibit A.**

2. William Burke acting as representative for MECO in its 30(b)(6) deposition confirmed that the "Work" described throughout the Contract refers to MECO's scope of work

contained within the Contract. A true and accurate copy of MECO's scope of work on the Project is attached hereto as **Exhibit B.**

3. The Contract provides "Contractor will furnish Owner an invoice at the end of each week for the value of materials stored and/or for the value of work completed to date. Owner shall pay for same within thirty (30) days of invoice date or completion of project."

4. MECO confirmed that it timely invoiced Defendant Sayed for work done and expected to be paid in 30 days per the contract terms. (Pl. Depo. P 110, ll. 3-9).

5. If everything went exactly as planned the Project could be completed in about 90 days. (Pl. Depo. P. 68, ll. 13-25 & P. 69, ll. 1-5).

6. As of August 21, 2018, MECO confirmed that Defendant Sayed would not release money for the Project until he was sent an installation date. (Pl. Depo. P. 90, ll. 23-25, P. 91, ll. 1-9).

7. MECO testified that on August 24, 2018, the Defendants' finance company, Patriot Capital, received permission to release the $257,000 deposit and no further payment was due from Defendants at that time. (Pl. Depo. P. 97, ll. 20-25, & P. 98, ll. 1-6).

8. MECO confirmed that sometime in January 2019, phase one of the Project ended and phase two began. (Pl. Depo. P. 107, ll. 14-17).

9. Defendants received notification from their financing company, Patriot Capital, that MECO fully completed its work at 175 Truck Stop Road, Cowpens, SC 29330 on February 13, 2019. See email attached as **Exhibit C**.

10. Patriot Capital provided a payment of $70,000.00 to MECO for the Project on February 15, 2019. See email attached as **Exhibit D**.

11. MECO confirmed this $70,000.00 was the last payment received for the Project and no payment was received from Defendants after February 15, 2019. (Pl. Depo P. 132 ll. 20-25 & P. 133, ll. 1-10).

12. Defendant Sayed received confirmation from MECO on April 26, 2019, that DHEC would allow the delivery of fuel to Westar Travel Plaza. See email attached as **Exhibit E**. MECO further confirmed this was the end of phase two of the project. (Pl. Depo. P. 116, l. 25 & P. 117, ll. 1-5).

13. On July 17, 2019, MECO provided all outstanding invoices to Defendant Sayed that were unresolved. (Pl. Depo P. 120 l. 15 through P. 124, l. 9) See also email and invoices attached as **Exhibit F**.

14. Mr. Burke testified that MECO drug its feet at times because it was not getting paid in accordance with the terms of the contract. (Pl. Depo P. 53, ll. 13-17).

15. MECO provided its final invoice summary with the accompanying statement "Total due by 8/8/2019 or lawyers will take over from here. No negotiations no waivering" and testified that all amounts sought by it in this lawsuit were owed and past due as of August 8, 2019. (Pl. Depo P. 120 l. 15 through P. 124, l. 9). See also invoice summary attached as **Exhibit G.**

16. MECO testified that the money from this final invoice summary was for an amount that was "months and months and months past due" and the Defendants never paid a dime after the February 2019 payment (Pl. Depo P. 120 l. 15 through P. 124, l. 9).

17. MECO filed its summons and complaint on August 23, 2022, more than three (3) years after all sums claimed on the lawsuit were due and owed.

18. Therefore, MECO's claims are barred by the applicable statute of limitations, S.C. Code § 15-3-530.

This Motion shall be based on the South Carolina Rules of Civil Procedure, the common and statutory law of South Carolina, the pleadings, affidavits, deposition transcripts, exhibits, and a memorandum of law that will be filed prior to a hearing concern said Motion.

s/Adam C. Bach
Adam C. Bach, S.C. Bar #74885
Zachary A. Turner, S.C. Bar #105187
TONNSEN BACH, LLC
1306 South Church Street
Greenville, SC 29605
Phone: (864) 236-5013
Fax: (864) 312-4191
abach@tonnsenbach.com
zturner@tonnsenbach.com

Attorneys for Defendants

August 22, 2023

Greenville, South Carolina

Exhibit A

MECO
AUGUSTA GREENVILLE
"SERVICE MAKES THE DIFFERENCE"

Post Office Box 692 * Augusta GA 30903
Augusta Home Office: (706) 724-7603
Greenville Office: (864) 271-4455

CONTRACT AGREEMENT

Agreement is made this 8th day of MAY, 2018

Between Owners: ALEX SAYED WESTAR TRAVEL PLAZA Located At: 175 TRUCK STOP ROAD COWPENS, SC. 29330
and MECO Inc. Corporate office located at 1234 Gordon Park Road, Augusta Ga 30901

EQUIPMENT TOTAL AMOUNT: $ 257, 923. 61

INSTALLATION/ STARTUP: $ 99, 308. 82

TAXES: $ 20, 767. 73

TOTAL: $ 378, 000. 16

The Owner and MECO Inc. of Augusta/ Greenville agree as set forth below:

I. CONTRACT SUM:

1. The Owner shall pay the Contractor for the performance of the work (subject to additions and deletions by written change orders mutually agreed upon and initiated in advance by a Sales Representative or Officers of MECO).

II. PAYMENTS:

1. A 100% down payment for all EQUIPMENT is required upon signing this contract. Contractor will furnish Owner with an invoice for all equipment costs, owner shall pay for invoice before any equipment will be ordered. Contractor will furnish Owner an invoice at the end of each week for the value of materials stored and/or for the value of work completed to date. Owner shall pay for same within thirty (30) days of invoice date or completion of project. Upon completion of project all installation/startup/ final invoice payments are due before site start up is completed. Also all invoice payments are due before Fire Marshall/DEHC/GA EPD approval is transferred to the customer. All Amounts Buyer does not pay when due shall accrue interest at the rate of 1.5% a month until paid. Buyer shall pay all of Seller's Costs of collection, including reasonable attorneys' fees. No partial payment by Buyer shall constitute an accord and satisfaction or otherwise satisfy the entire outstanding balance of any invoice of Seller, notwithstanding any notation or statement accompanying that payment.

Equipment Amount Due Upon Contract Signature
$ 257, 923. 61

(Customer Initials)
(Sales Rep. Initials)

III. GENERAL CONDITIONS:

1. Taxes: State, Federal, and/or local taxes are included in this proposal unless specifically so stated.

2. **Performance Bond:** No provision is made in this agreement for performance bond. Should owner require such, the cost of such bond will be additional to the contract price.

3. **Work.** Seller will perform the Work on the terms and conditions of this Agreement. Seller (a) will install the Equipment at the Job Site in Accordance with the current version of the American Petroleum Institute's Recommended Practice 1615-1987 (the "API Standards") and the Petroleum Equipment Institute's Recommended Practices for Installation of Underground Liquid Storage Systems (the "PEI Standards") and (b) Will install all safety equipment included in the Equipment in accordance with the NFPA 30-1993 Flammable and Combustible Liquids Code or NFPA 30-A1993 Automotive and Marine Service Code, as applicable, (collectively, the "NFPA Standards").

4. **Contractor's Liability Insurance:** The Contractor shall purchase and maintain such insurance as will protect him from claims under Workmen's Compensation acts and other employee benefit acts, from claims for damages to property which may arise out of or result from the Contractor's negligent operations under this contract, whether such operations be by himself or by any Sub-contractor or anyone directly or indirectly employed by any of them.

5. **Owner's Liability Insurance:** The Owner shall be responsible for purchasing and maintaining his own liability insurance, or shall meet financial responsibility requirements of Federal and State underground storage tank regulations, and at his option, may maintain such insurance or financial responsibility in addition to those previously described in this paragraph as will protect him against claims which may arise from operations under the contract.

6. **Special fees:** Unless otherwise stated, no provision is made in this agreement for special fees, etc. If Contractor is requested to furnish same, this will be additional to the contract price.

7. **Changes in the Work:** The Owner, without invalidating the contract, may request changes in the work, consisting of additions, deletions, or modifications, the contract sum and the contract price being adjusted accordingly. All such changes must be accepted and approved in writing by the Owner and the Contractor with revised drawings where applicable. All other provisions of this contract shall remain in full force and effect. The contract sum will include Subcontractor's fee plus an additional 15%.

8. **Pricing:** Prices quoted are for acceptance within thirty (30) days from date of this quotation and for immediate delivery or at our earliest delivery schedule.

9. **Delivery:** Delivery promises are contingent upon strikes, accidents, weather, or other causes beyond our control. Contractor will endeavor to maintain schedules, but cannot guarantee to do so. The price for this Quote may not include all freight charges incurred. All

10. **Warranty:** Unless otherwise stated in the Sales Contract, all equipment and materials and installation will be guaranteed free of defects of material and workmanship for a period of one year from date of completion. In the case of defect or failure within one year, the Contractor will be required to comply with the equipment manufacturer's warranty to the extent of replacement of the equipment only, and not to include actual or consequential damages. The manufacturer's warranty is specifically incorporated herein by reference. Contractor must be notified promptly of any circumstances involving Contractor's own personnel. Contractor will not accept any invoices or charges for any work performed during the warranty period by others, without written approval of the Contractor. Notwithstanding anything to the contrary in this paragraph, Contractor shall not be responsible for any damages resulting from the negligence of

_____________ (Customer Initials)
_____________ (Sales Rep. Initials)

Customer and the failure of Customer to monitor the operation of all equipment on a daily basis in accordance with standards established by any Federal, State, or Local U.S.T. Regulations. Contractor shall not be responsible for actual or consequential damages resulting from manufacturer defects, other than for replacement of the equipment according to the manufacturer's warranty. Claims pursuant to this warranty must be made within one year from the date of completion of installation.

NO EMPLOYEE OR REPRESENTATIVE OF THE CONTRACTOR IS AUTHORIZED TO CHANGE THIS WARRANTY IN ANY WAY

11. **Materials:** Any material or equipment incidental to the installation or to be installed as a part of this contract shall, upon delivery to jobsite, become property of Owner, subject to a reservation of a security interest herein granted to Contractor and any losses or damage thereto, not caused by negligence of the Contractor, shall be borne by Owner, who shall obtain appropriate Builder's Risk insurance for fire, theft, and extended coverage.

12. **Hardware/software**: In this contract the parties assume that any system hardware and software supplied by owner and/or contractor is inherently compatible and requires only routine start-up and programming. If on start-up, it is discovered that the hardware and/or software is not compatible or has innate deficiencies that require additional configuration or upgrading, Contractor will be held harmless from any resulting delays in completion of the Work, and shall be entitled to full payment of the Price.

VeriFone Warranty Is One Year Materials Only – No Labor.

13. **Substitution**: Any identification of Equipment by brand name, manufacturer, catalog number, or other designation in Buyer's purchase order, Seller's documents or elsewhere only establishes a general quality standard and does not require Seller to supply a particular item. Seller shall have the right to select other Equipment that in Seller's opinion meets that general quality standard.

14. **Underground Structures**: Buyer shall inform Seller in writing of the location of all underground structures, including tanks, product lines, cables, conduits, sewer lines and water lines, where the digging or excavating is to occur before Seller starts any of the Work at the Job Site. Buyer shall indemnify, defend and hold Seller and its affiliates and their respective directors, officers, managers, employees and agents harmless from and against all claims, losses, damages, costs and attorneys' fees and expenses resulting from Seller's encountering any such underground structure unless Buyer informs Seller of the correct location and size of the structure before Seller commences the Work.

IV. SPECIAL CONDITIONS:

1. **Digging and/or Excavating**: Digging and Excavation quotations are based on normal soil conditions.

A. Should any digging or excavating be included in this agreement, and any heavy rock, shale, water, or unusual digging be encountered, Contractor's cost for overcoming such shall be reimbursed at Contractor's normal hourly rate. Any outside contract work shall be charged to Owner at Contractor's cost plus 20%. Should the job be abandoned entirely as a result of such conditions, Owner shall pay Contractor's cost for work performed to date. Contractor will notify Owner of such conditions before proceeding with removal. In the event any underground structures including tank/product lines, cables, conduits, sewer lines, and water lines are encountered, destroyed, or damaged during the performance of the installation/removal agreement, the Contractor shall not be held responsible. Owner shall have product available to fill tank(s) as requested by Contractor. In the event tank(s) are not filled as requested, Owner will be responsible for all damage that may be caused by tank(s) floating under all circumstances, including all costs for equipment, labor and materials required to reinstall the tanks. Unless Contractors quotation expressly quotes a price for

_______ (Customer Initials)
RC _______ (Sales Rep. Initials)

ballasting tanks in Scope of Work, Owner is responsible for ballasting tanks to capacity. Contractor is not responsible for ballasting tanks or for any water removal or disposal from tanks. In addition, Contractor is not responsible for filling the tanks with petroleum products or any associated overfill releases. Owner is responsible for all overfills and releases under all circumstances.

2. **Environmental Indemnity:** By acceptance of this Installation Agreement, Owner acknowledges that it is responsible for compliance with the underground storage tank regulations promulgated by all applicable Federal, State, and Local Laws Owner agrees and does hereby indemnify MECO for any and all liability MECO may incur as a result of Owner's failure to comply with this indemnity or said laws, regulations, and ordinances. MECO is not responsible for inspection of the property or reporting of any discovered contamination to the appropriate state agency. Rather, Owner acknowledges its sole responsibility for such inspection and/or reporting. The Owner agrees to inform MECO immediately of any leaks or contamination found.

3. MECO reserves the right to terminate this Installation Agreement in the event: (1) MECO encounters any signs of surface/sub-surface contamination conditions such as hydrocarbons or other hazardous materials "in or on" the soil, (2) MECO has reasonable belief that Owner has failed to comply with any federal and state laws, regulations, and ordinances applicable to the operation of Owner's business. Owner represents and certifies that to Owner's knowledge; there have been no leaks, spills, or releases of any kind whatsoever at the locations that the Owner is in compliance with all state and federal environmental laws of whatsoever nature.

4. **Electrical:** Unless otherwise specifically stated in Scope of Work section, electrical work is not included in the Contractor's agreement.

5. **Concrete/Asphalt:** Unless otherwise specifically state in Scope of Work section, no concrete or asphalt work is included in contractor's agreement.

6. **Permits:** It shall be the responsibility of contractor to supply Fire Marshall/DHEC approval prior to install all of the equipment including underground storage tanks covered by this agreement. Any additional permits/ government fees other than the 2 stated above will be billed to owner at Actual Cost of permit plus 20%, plus $40 per actual man hour. Any additional engineering cost required by the jurisdiction/ sealed drawings/ general contractor's license (Meco is a Specialty Contractor) required for any permit will be to owner at Actual Cost of permit plus 20%, plus $40 per actual man hour required to complete. Contractor shall supply copies of all such permits and/or licenses to Owner prior to commencement of installation.

7. **Photography:** Owner grants Contractor permission to take still photographs and video recordings of all aspects of excavation of equipment including tanks, and installation of new equipment including tanks. Owner understands and agrees that the price quotation for tank and line tests includes a line and tank test prior to completion of installation and station operation.

8. **Ballasting of Tanks/Initial Operations**: Supplying ballasting material, whether it be petroleum or water is the responsibility of the owner. It is also stated that it is the owner's responsibility to provide equipment to transfer water into tank if contractor is required to ballast. This should be defined as stated in Scope of Work. Any cost of disposal of water used for ballasting is the responsibility of the owner. Owner will be responsible for enough ballast to accomplish 100% of capacity of tanks.

V. OTHER SPECIAL CONDITIONS:

1. Installation price does not include Saturday, Sunday, or Holiday work. Should Owner request work on these days, this will constitute an extra charge to contract price at 2 times the normal MECO labor rate.

________________ (Customer Initials)
________________ (Sales Rep. Initials)

2. This Installation/ Equipment Contract Agreement, when accepted by the Owner, will constitute a contract, subject to all terms and conditions as stated and subject to the approval of the Contractor's Credit Manager. It is agreed that there are no promises, agreements, or understandings, oral or written, not specified in this proposal. All changes and/or deletions to contract to be approved and signed by MECO Sales Representative of Officer of the Company.

3. Owner has read this Agreement in its entirety and understands all of the provisions hereof, including Owner's responsibilities and rights.

4. It is Owners Responsibility to have "Third Party Testing" on tanks and lines upon completion, and providing results to SCDEHC/ Georgia EPD if Owner Requires Meco to provide this service it will be billed outside this contract and will be billed separately at Actual Cost of permit plus 20%, plus $40 per actual man hour required to complete.

5. **Cancellation and Return of Goods**: Buyer may cancel an order only upon advance written approval of Seller and the manufacturer; provided Buyer pre-pays the freight charges and Seller's reasonable cancellation and restocking charges, and Seller's handling fee equal to 10-12% of the Price for the Equipment or services that are the subject of the cancellation. No merchandise is returnable without Seller's advance written consent. Merchandise must be returned within ten (10) days of Buyer's receipt of written authorization and must be accompanied by the invoice number and/or a copy of the sales receipt. Return of material prior to receiving Seller's approval will result in material remaining the property of Buyer, and it will be stored at Buyer's risk and expense. If Seller accepts the material in return for credit, a handling charge based in part on acceptance of the material for return by the manufacturer will be charged, and no credit will be issued to Buyer until credit from the manufacturer is received. Special custom orders (including dispensers/specialty products) shall be non-cancelable and non-refundable.

6. Seller shall not be liable for delays or failing to perform any of its obligations under this Agreement resulting directly or indirectly, in whole or part, from events or causes beyond its reasonable control, acts of God, accidents, riots, wars, national emergencies, terrorism, strikes, labor disputes, unusual weather, natural disasters, hurricanes, storms, persistent or heavy rain, cyclones, earthquakes, floods, lightning, embargoes, failure by suppliers to deliver or by other contractors to perform, delays in obtaining or the inability to obtain supplies, equipment or labor through normal sources at normal prices, delays of carriers or postal authorities, or governmental restrictions, prohibitions or diversions. The occurrence of any of the foregoing shall operate to extend Seller's time of performance under this Agreement for a period not less than the period of the delay caused by any of the foregoing, plus a reasonable amount of time for remobilization.

ACCEPTED AND AGREED TO:

X ______________________________
OWNER'S NAME PRINTED

X ______________________________
OWNERS' SIGNATURE

X ______________ (Customer Initials)
______________ (Sales Rep. Initials)

MECO
AUGUSTA GREENVILLE
"SERVICE MAKES THE DIFFERENCE"

ROGER CARPENTER

MECO SALES REPRESENTATIVE NAME PRINTED

Roger Carpenter

MECO SALES REPRESENTATIVE SIGNATURE

5-8-2018

DATE OF CONTRACT

_______________ (Customer Initials)

_______________ (Sales Rep. Initials)

Exhibit C

From: Mathis, Ashle
Sent: Wednesday, February 13, 2019 10:14 AM
To: alex@fuelonpa.com; rcarpenter@mecogreenville.com; Hardin, Sean
Cc: Raffensperger, Jason
Subject: [EXTERNAL] NEPA Trading & Investments LLC., DBA Westar Travel Plaza - Final Deposit

PATRIOT CAPITAL

re: NEPA Trading & Investments LLC., DBA Westar Travel Plaza - Agreement No. 6129381

Hello Arshed Sayed,

We have been notified by your Vendor(s) - **Meco of Augusta,** that they have fully completed the work at your **175 Truck Stop Road, Cowpens, SC 29330** location.

In order for us to release the remaining deposit to your Vendor(s) please sign/date and return the **attached Delivery and Acceptance** form. You can send this document to **my attention via email, or fax: 404.255.0775.**

Please Do Not Take A Picture.

Please let me know if the work has been fully completed, and if not when the ETA would be for the completion of this job.

**** Note,** please also respond to this email, that per our conversation, you CONFIRM the partical release of the total final funding deposit in the amount of **$70,000.00 on February 13, 2019**.

Once this deposit is released you are CONFIRMING that the r**remaining balance due to Meco of Augusta is $50,076.55.** .

The overall total final funding amount due to Meco of Augusta is **$120,076.55****

Please respond to the statement above with CONFIRM.

Thank you for your business,

Ashle Mathis

Lending Operations Specialist I

CADENCE BANK, N.A.D/B/A PATRIOT CAPITAL

1200 Ashwood Parkway, Suite 570 | Atlanta, GA 30338

Direct: (404) 255-1770 | Fax: (404) 255-0775

ashle.mathis@patcapfinance.com | www.patriotcapitalcorp.com

Exhibit D

FW: Deposit for NEPA Trading & Investments LLC., DBA Westar Travel Plaza

Roger Carpenter <rcarpenter@mecogreenville.com>
Fri 2/15/2019 9:20 AM
To: Linda Smoot <ar@mecoaugusta.com>

FYI

From: Ashle Mathis <ashle.mathis@patcapfinance.com>
Sent: Friday, February 15, 2019 8:35 AM
To: Roger Carpenter <rcarpenter@mecogreenville.com>; alex@fuelonpa.com
Cc: jason.raff@patcapfinance.com
Subject: Deposit for NEPA Trading & Investments LLC., DBA Westar Travel Plaza

PATRIOT CAPITAL

Dear Roger Carpenter,

Patriot Capital is pleased to inform you that a second deposit for **$70,000.00** has been sent for **NEPA Trading & Investments LLC., DBA Westar Travel Plaza**.

Please remember that we are not aware of when the work at the site(s) has been completed and is ready for final funding unless you inform us. The final funds are generally released when the equipment is fully installed, and the customer gives their verbal approval to release these funds. We would appreciate three (3) or more days of prior notice so that we can expedite your funding process.

Thanks,

Ashle Mathis
Lending Operations Specialist I
CADENCE BANK, N.A.D/B/A PATRIOT CAPITAL
1200 Ashwood Parkway, Suite 570 | Atlanta, GA 30338
Direct: (404) 255-1770 | Fax: (404) 255-0775
ashle.mathis@patcapfinance.com | www.patriotcapitalcorp.com

Exhibit E

Fwd: NEPA Ventures - UST Permit 11080 - Product Line/Dispenser Closure Assessment (Results and Status)

Roger Carpenter <rcarpenter@mecogreenville.com>
Fri 4/26/2019 4:46 PM
To: alex@nepaventuresllc.com <alex@nepaventuresllc.com>
Cc: John Magee <jmagee@mecoaugusta.com>;Dan Kissell <dkissell@mecogreenville.com>;Brad Burke <bburke@mecoaugusta.com>

Alex,
I just spoke with Eric Cathcart from DHEC and is giving you the go ahead to cut the tags and continue to receive delivery of fuel. Please let me know if you have any questions. I will talk to you on Monday when I'm back in the office.
Thanks,
Roger

Sent from my iPhone

Begin forwarded message:

From: "Dan Kissell" <dkissell@mecogreenville.com>
To: "ALEX@NEPAVENTURESLLC.COM" <ALEX@NEPAVENTURESLLC.COM>
Cc: "Roger Carpenter" <rcarpenter@mecogreenville.com>
Subject: FW: NEPA Ventures - UST Permit 11080 - Product Line/Dispenser Closure Assessment (Results and Status)

Alex
Here is the information we got from BLE this has been sent to DHEC and should be enough to get the delivery prohibition lifted from your diesel tanks.
I hope this gets to the appropriate parties in time to get the delivery prohibition lifted.
If I get a response from DHEC I will forward it to you immediately.
Thanks
Daniel

π EXHIBIT
Deponent 22
30(b)(6) Burke
Date 6-7-23 Rptr.
WWW.DEPOBOOKPRODUCTS.COM

From: Trevor Benton <Trevor.Benton@blecorp.com>
Sent: Friday, April 26, 2019 4:16 PM
To: Denise Place <placedm@dhec.sc.gov>; Donna Owens <owensdm@dhec.sc.gov>; Cathcart, Eric F. <cathcaef@dhec.sc.gov>; Evans, Courtney H. <evansch@dhec.sc.gov>
Cc: John Magee <jmagee@mecoaugusta.com>; Dan Kissell <dkissell@mecogreenville.com>
Subject: NEPA Ventures - UST Permit 11080 - Product Line/Dispenser Closure Assessment (Results and Status)

Good afternoon,

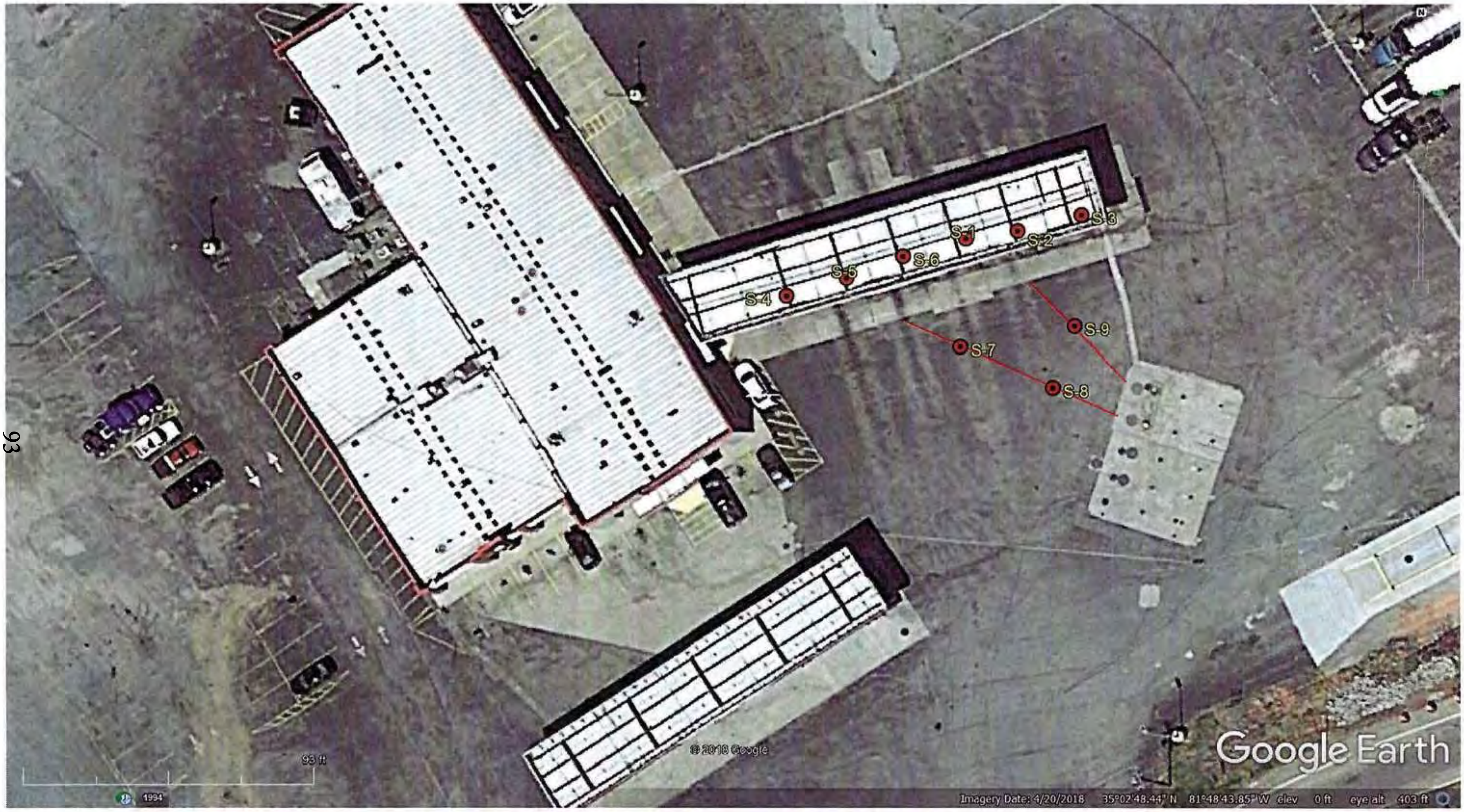
As you are aware, a the dispensers and product lines associated with the diesel USTs have been replaced at the subject NEPA Ventures facility in Cowpens (UST Permit 11080). Attached is a site map depicting the closure sampling locations and the laboratory analytical results for the dispenser samples. Samples for the closed product lines were collected today and will be submitted to the laboratory for analysis on Monday, April 29. The Chain of Custody for those samples is also attached.

Based on this information and the data provided, could the SCDHEC remove the delivery prohibition for this site? A final closure report will be submitted upon receipt of the product line sample results.

Please let us know as soon as possible if this is acceptable. Additionally, please let me know if you need any additional information. Thank you for your assistance.

Sincerely,

Trevor J. Benton, P.G.
Senior Hydrogeologist
cid:image002.png@01D41DE1.0A8F0820
T: 864.288.1265 | M: 864.346.8208
BLECORP.com | LinkedIn | Facebook
6004 Ponders Court | Greenville, SC 29615



SITE PLAN

NEPA Ventures
UST Permit #11080
175 Truck Stop Road
Cowpens, South Carolina

MECO 00064

93

Exhibit F

Outstanding Invoices which you have open

Roger Carpenter <rcarpenter@mecogreenville.com>
Wed 7/17/2019 2:55 PM
To: alex@nepaventuresllc.com <alex@nepaventuresllc.com>
Cc: rcarpenter@mecogreenville.com <rcarpenter@mecogreenville.com>

Alex,
Here are the outstanding Invoices which we need to get resolved. Please take a look at these and we can discuss.
Thanks for your help with this matter. I look forward to speaking with you soon.

Thanks

Roger Carpenter
MECO
AUGUSTA GREENVILLE
2312 River Rd
Piedmont SC. 29673
Sales Representative
Cell-864-444-9250
Office-864-271-4455
rcarpenter@mecogreenville.com

Follow us on Social Media!

EXHIBIT 23
Deponent 30(b)(6) Burke
Date 6-7-23 Rptr. Cinton
WWW.DEPOBOOKPRODUCTS.COM

Invoice

MECO AUGUSTA GREENVILLE
Post Office Box 696 • Augusta, GA 30903
Phone (706) 724-7603 • Fax (706) 395-0614
"SERVICE MAKES THE DIFFERENCE"

Date	Number
4/18/2019	23621

Bill To Address:	Work/ShipAddress
CHANGE ORDER AUTO DIESEL WORKING INSTALL DBA WESTAR TRAVEL PLAZA 35 ALEKSANDER BLVD Mountain Top, PA 18707 ALEX SAYED	CHANGE ORDER AUTO DIESEL WORKING INSTALL DBA WESTAR TRAVEL PLAZA 175 TRUCK STOP RD COWPENS, SC 29330 ALEX SAYED

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
4298		DUE UPON RECEIPT	4/18/2019	Roger Carpenter	

Item	Description	Quanity	Price	Amount
QUOTED AUGUSTA INSTALLATION TOTAL	QUOTED AUGUSTA INSTALLATION TOTAL-CHANGE ORDER	1.00		$13,230.94
NUPI 19SGEDW63	2" COAXIAL D/W ELECTROFUSION ELBOW 90	1.00	0.00	$0.00
MEIN RENTAL MINI EXCAVATOR PER DAY	PER DAY MINI EXCAVATOR	1.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00
MEIN MISC EQUIPMENT RENTALS	MISC EQUIPMENT RENTALS	1.00	0.00	$0.00
MEIN CONCRETE 4000 PSI W/FIBER	4,000 PSI CONCRETE WITH FIBER PER YARD	1.00	0.00	$0.00
INSTALL LABOR - JOSH YOUNGBLOOD	REGULAR TIME	30.96	0.00	$0.00

Subtotal	$13,230.94
Sales Tax	$363.33
Total	$13,594.27
Balance Due	$13,594.27

Interest at the rate of 1 1/2% per month may be charged on overdue amounts.

Any items ordered are subject to a 30% restock fee (new or used). To return a product, return an item in its original condition and packaging, with receipt, within 30 days of the purchase date to request a refund. Return a defective item within the warranty period. Requests for refunds may be denied if the item has been used or installed by you, your company, or any of our technicians. Electronic items may not be returned. Refunds will be made in the same manner as at the time of purchase.

All freight charges incurred may not be included on this invoice. Freight charges may be included on a separate invoice.

CORE CREDIT CONTINGENT UPON CREDIT RECEIPT FROM VENDOR.

Thank you for your business!!!

Invoice

MECO
AUGUSTA GREENVILLE
Post Office Box 696 • Augusta, GA 30903
Phone (706) 724-7603 • Fax (706) 395-0614
"SERVICE MAKES THE DIFFERENCE"

Date	Number
4/18/2019	23623

Bill To Address:	Work/ShipAddress
WESTAR TRUCK PLAZA CHANGE ORDER REPAIR CONCRETE PO DBA WESTAR TRAVEL PLAZA 35 ALEKSANDER BLVD Mountain Top, PA 18707 ALEX SAYED	WESTAR TRUCK PLAZA CHANGE ORDER REPAIR CONCRETE PO DBA WESTAR TRAVEL PLAZA 175 TRUCK STOP RD COWPENS, SC 29330 ALEX SAYED

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
4298		DUE UPON RECEIPT	4/18/2019	Roger Carpenter	

Item	Description	Quanity	Price	Amount
QUOTED AUGUSTA INSTALLATION TOTAL	QUOTED AUGUSTA INSTALLATION TOTAL	1.00		$3,759.89
MEIN SUBCONTRACTOR C	CONCRETE WORK	1.00	0.00	$0.00
MEIN CONCRETE 4000 PSI W/FIBER	4,000 PSI CONCRETE WITH FIBER PER YARD	1.00	0.00	$0.00

Subtotal	$3,759.89
Sales Tax	$175.44
Total	$3,935.33
Balance Due	$3,935.33

Interest at the rate of 1 1/2% per month may be charged on overdue amounts.

Any items ordered are subject to a 30% restock fee (new or used). To return a product, return an item in its original condition and packaging, with receipt, within 30 days of the purchase date to request a refund. Return a defective item within the warranty period. Requests for refunds may be denied if the item has been used or installed by you, your company, or any of our technicians. Electronic items may not be returned. Refunds will be made in the same manner as at the time of purchase.

All freight charges incurred may not be included on this invoice. Freight charges may be included on a separate invoice.

CORE CREDIT CONTINGENT UPON CREDIT RECEIPT FROM VENDOR.

Thank you for your business!!!

MECO
AUGUSTA GREENVILLE

Post Office Box 696 • Augusta, GA 30903
Phone (706) 724-7603 • Fax (706) 395-0614
"SERVICE MAKES THE DIFFERENCE"

Invoice

Date	Number
12/28/2018	21212

Bill To Address:	Work/ShipAddress
NEPA TRADING & INVESTMENTS, LLC 175 TRUCK STOP RD Cowpens, SC 29330 ALEX SAYED	DIESEL FUEL PROJECT WORKING INSTALL 175 TRUCK STOP RD COWPENS, SC 29330 ALEX SAYED

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
4298		NET 30	1/27/2019	Roger Carpenter	

Item	Description	Quanity	Price	Amount
QUOTED AUGUSTA INSTALLATION TOTAL	QUOTED AUGUSTA INSTALLATION TOTAL	1.00		$30,139.64
SUBTOTAL		0.00	0.00	$30,139.64
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	2.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	2.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	2.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	4.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	6.00	0.00	$0.00
SUBTOTAL		0.00	0.00	$0.00
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00

Subtotal	$30,139.64
Sales Tax	$960.41
Total	$31,100.05
Balance Due	$17,760.21

Interest at the rate of 1 1/2% per month may be charged on overdue amounts.

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CORE CREDIT CONTINGENT UPON CREDIT RECEIPT FROM VENDOR.

Thank you for your business!!!

MECO
AUGUSTA GREENVILLE
Post Office Box 696 • Augusta, GA 30903
Phone (706) 724-7603 • Fax (706) 395-0614
"SERVICE MAKES THE *DIFFERENCE*"

Invoice

Date	Number
12/28/2018	21212

Bill To Address:	Work/ShipAddress
NEPA TRADING & INVESTMENTS, LLC 175 TRUCK STOP RD Cowpens, SC 29330 ALEX SAYED	DIESEL FUEL PROJECT WORKING INSTALL 175 TRUCK STOP RD COWPENS, SC 29330 ALEX SAYED

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
4298		NET 30	1/27/2019	Roger Carpenter	

Item	Description	Quanity	Price	Amount
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00
SUBTOTAL		0.00	0.00	$0.00
MEIN RENTAL CONCRETE SAW PER DAY	PER DAY CONCRETE SAW	1.00	0.00	$0.00
MEIN RENTAL CONCRETE SAW PER DAY	PER DAY CONCRETE SAW	1.00	0.00	$0.00
MEIN RENTAL MINI EXCAVATOR WEEKLY	WEEKLY MINI EXCAVATOR	1.00	0.00	$0.00
MEIN MISC EQUIPMENT RENTALS	MISC EQUIPMENT RENTALS	1.00	0.00	$0.00
SUBTOTAL		0.00	0.00	$0.00
MEIN DIRT HAULING	DIRT, ROCK OR CONCRETE HAULING FEES	1.00	0.00	$0.00
MEIN DIRT HAULING	DIRT, ROCK OR CONCRETE HAULING FEES	1.00	0.00	$0.00
MEIN DEBRIS REMOVAL	MEIN DEBRIS REMOVAL	56.41	0.00	$0.00
SUBTOTAL		0.00	0.00	$0.00
MEIN ROCK WASHED	ROCK BY THE TON	203.97	0.00	$0.00

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Subtotal	$30,139.64
Sales Tax	$960.41
Total	$31,100.05
Balance Due	$17,760.21

CORE CREDIT CONTINGENT UPON CREDIT RECEIPT FROM VENDOR.

Thank you for your business!!!

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"SERVICE MAKES THE DIFFERENCE"

Date	Number
12/28/2018	21212

Bill To Address:	Work/ShipAddress
NEPA TRADING & INVESTMENTS, LLC 175 TRUCK STOP RD Cowpens, SC 29330 ALEX SAYED	DIESEL FUEL PROJECT WORKING INSTALL 175 TRUCK STOP RD COWPENS, SC 29330 ALEX SAYED

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
4298		NET 30	1/27/2019	Roger Carpenter	

Item	Description	Quanity	Price	Amount
BACKFILL				
MEIN SAND WASHED BACKFILL	SAND BY TON	60.00	0.00	$0.00
MEIN ROCK WASHED BACKFILL	ROCK BY THE TON	42.39	0.00	$0.00
SUBTOTAL		0.00	0.00	$0.00
MEIN HOTEL CHARGES	INSTALLATION HOTEL CHARGES	1.00	0.00	$0.00
MEIN HOTEL CHARGES	INSTALLATION HOTEL CHARGES	1.00	0.00	$0.00
MEIN PER DIEM PER DAY	PER DIEM PER DAY PER PERSON	2.00	0.00	$0.00
MEIN PER DIEM PER DAY	PER DIEM PER DAY PER PERSON	2.00	0.00	$0.00
MEIN PER DIEM PER DAY	PER DIEM PER DAY PER PERSON	2.00	0.00	$0.00
SUBTOTAL		0.00	0.00	$0.00
MEIN SUBCONTRACTOR C	CONCRETE WORK	1.00	0.00	$0.00
SUBTOTAL		0.00	0.00	$0.00
MEIN SUBCONTRACTOR E	ELECTRICAL WORK	1.00	0.00	$0.00
SUBTOTAL		0.00	0.00	$0.00
INSTALL LABOR - TONY SMITH	REGULAR TIME	19.00	0.00	$0.00
INSTALL LABOR - JOSH YOUNGBLOOD	REGULAR TIME	19.00	0.00	$0.00
INSTALL LABOR - JOSH	REGULAR TIME	33.50	0.00	$0.00

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Subtotal	$30,139.64
Sales Tax	$960.41
Total	$31,100.05
Balance Due	$17,760.21

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Date	Number
12/28/2018	21212

Bill To Address:	Work/ShipAddress
NEPA TRADING & INVESTMENTS, LLC 175 TRUCK STOP RD Cowpens, SC 29330 ALEX SAYED	DIESEL FUEL PROJECT WORKING INSTALL 175 TRUCK STOP RD COWPENS, SC 29330 ALEX SAYED

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
4298		NET 30	1/27/2019	Roger Carpenter	

Item	Description	Quanity	Price	Amount
YOUNGBLOOD				
INSTALL LABOR - JOSH YOUNGBLOOD	REGULAR TIME	39.20	0.00	$0.00
SUBTOTAL		0.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00

Subtotal	$30,139.64
Sales Tax	$960.41
Total	$31,100.05
Balance Due	$17,760.21

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"SERVICE MAKES THE DIFFERENCE"

Date	Number
1/25/2019	21569

Bill To Address:	Work/ShipAddress
DIESEL FUEL PROJECT WORKING INSTALL 175 TRUCK STOP RD Cowpens, SC 29330 ALEX SAYED	DIESEL FUEL PROJECT WORKING INSTALL 175 TRUCK STOP RD COWPENS, SC 29330 ALEX SAYED

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
4298		DUE UPON RECEIPT	1/25/2019	Roger Carpenter	

Item	Description	Quanity	Price	Amount
QUOTED AUGUSTA INSTALLATION TOTAL	QUOTED AUGUSTA INSTALLATION INVOICE-FOR CONCRETE FOR POURING LAST 4 LANES/ DELIVERY OF EQUIPMENT/ MINI-X AND RUNNING ELECTICAL TO NEW DISPENSERS	1.00		$6,435.00
MEIN CONCRETE 4000 PSI W/FIBER	4,000 PSI CONCRETE WITH FIBER PER YARD	1.00	0.00	$0.00
MEIN CONCRETE 4000 PSI W/FIBER	4,000 PSI CONCRETE WITH FIBER PER YARD	1.00	0.00	$0.00
SUBTOTAL		0.00	0.00	$6,435.00
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES-LOWES	1.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS-WOLSEY	1.00	0.00	$0.00
SUBTOTAL		0.00	0.00	$0.00
MEIN HOTEL CHARGES	INSTALLATION HOTEL CHARGES	2.00	0.00	$0.00
SUBTOTAL		0.00	0.00	$0.00
MEIN RENTAL TRACK HOE/EXCAVATOR	TRACK HOE/EXCAVATOR RENTAL	1.00	0.00	$0.00
SUBTOTAL		0.00	0.00	$0.00
MEIN SUBCONTRACTOR E	ELECTRICAL WORK	1.00	0.00	$0.00

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All freight charges incurred may not be included on this invoice. Freight charges may be included on a separate invoice.

Subtotal	$6,435.00
Sales Tax	$206.10
Total	$6,641.10
Balance Due	$6,641.10

CORE CREDIT CONTINGENT UPON CREDIT RECEIPT FROM VENDOR.

Thank you for your business!!!

Invoice

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Date	Number
1/25/2019	21569

Bill To Address:	Work/ShipAddress
DIESEL FUEL PROJECT WORKING INSTALL 175 TRUCK STOP RD Cowpens, SC 29330 ALEX SAYED	DIESEL FUEL PROJECT WORKING INSTALL 175 TRUCK STOP RD COWPENS, SC 29330 ALEX SAYED

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
4298		DUE UPON RECEIPT	1/25/2019	Roger Carpenter	

Item	Description	Quanity	Price	Amount

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Subtotal	$6,435.00
Sales Tax	$206.10
Total	$6,641.10
Balance Due	$6,641.10

CORE CREDIT CONTINGENT UPON CREDIT RECEIPT FROM VENDOR.

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"SERVICE MAKES THE DIFFERENCE"

Date	Number
1/31/2019	21892

Bill To Address:	Work/ShipAddress
DIESEL FUEL PROJECT WORKING INSTALL 175 TRUCK STOP RD Cowpens, SC 29330 ALEX SAYED	DIESEL FUEL PROJECT WORKING INSTALL 175 TRUCK STOP RD COWPENS, SC 29330 ALEX SAYED

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
4298		NET 30	3/2/2019	Roger Carpenter	

Item	Description	Quanity	Price	Amount
QUOTED AUGUSTA INSTALLATION TOTAL	QUOTED AUGUSTA INSTALLATION TOTAL	1.00		$14,061.63
MEIN MISC EQUIPMENT RENTALS	MISC EQUIPMENT RENTALS	1.00	0.00	$0.00
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00
MEIN HOTEL CHARGES	INSTALLATION HOTEL CHARGES	3.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00
MEIN MISC ELECTRICAL SUPPLIES	MISC ELECTRICAL SUPPLIES	1.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00
MEIN SUBCONTRACTOR M	MECHANICAL	1.00	0.00	$0.00
MEIN SUBCONTRACTOR C	CONCRETE WORK	1.00	0.00	$0.00
MEIN RENTAL MINI EXCAVATOR PER DAY	PER DAY MINI EXCAVATOR	1.00	0.00	$0.00
MEIN MISC ELECTRICAL SUPPLIES	MISC ELECTRICAL SUPPLIES	1.00	0.00	$0.00
MEIN ROCK WASHED BACKFILL	ROCK BY THE TON	43.11	0.00	$0.00
MEIN CONCRETE 4000 PSI W/FIBER	4,000 PSI CONCRETE WITH FIBER PER YARD	18.00	0.00	$0.00
MEIN MISC PIPE &	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00

Subtotal	$14,061.63
Sales Tax	$225.28
Total	$14,286.91
Balance Due	$14,286.91

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CORE CREDIT CONTINGENT UPON CREDIT RECEIPT FROM VENDOR.

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Invoice

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"SERVICE MAKES THE DIFFERENCE"

Date	Number
1/31/2019	21892

Bill To Address:	Work/ShipAddress
DIESEL FUEL PROJECT WORKING INSTALL 175 TRUCK STOP RD Cowpens, SC 29330 ALEX SAYED	DIESEL FUEL PROJECT WORKING INSTALL 175 TRUCK STOP RD COWPENS, SC 29330 ALEX SAYED

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
4298		NET 30	3/2/2019	Roger Carpenter	

Item	Description	Quanity	Price	Amount
FITTINGS				
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00
MEIN SUBCONTRACTOR E	ELECTRICAL WORK	1.00	0.00	$0.00
INSTALL LABOR - JOSH YOUNGBLOOD	REGULAR TIME	40.00	0.00	$0.00
INSTALL LABOR IN OT - JOSH YOUNGBLOOD	OVERTIME INSTALL LABOR	4.00	0.00	$0.00
MILEAGE - INSTALL	PER MILE COST	280.00	0.00	$0.00

Subtotal	$14,061.63
Sales Tax	$225.28
Total	$14,286.91
Balance Due	$14,286.91

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"SERVICE MAKES THE DIFFERENCE"

Date	Number
4/18/2019	23619

Bill To Address:	Work/ShipAddress
DIESEL FUEL PROJECT WORKING INSTALL 175 TRUCK STOP RD Cowpens, SC 29330 ALEX SAYED	DIESEL FUEL PROJECT WORKING INSTALL 175 TRUCK STOP RD COWPENS, SC 29330 ALEX SAYED

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
4298		DUE UPON RECEIPT	4/18/2019	Roger Carpenter	

Item	Description	Quanity	Price	Amount
QUOTED AUGUSTA INSTALLATION TOTAL	QUOTED AUGUSTA INSTALLATION TOTAL-FINAL DRAW ON ORIGINAL CONTRACT FOR INSTALLATION	1.00		$11,494.17
QUOTED GREENVILLE SERVICE LABOR INSTALL TOTALS - R	QUOTED GREENVILLE SERVICE LABOR INSTALL TOTALS-R-FINAL DRAW FOR INSTALLATION EXISTING CONTRACT	1.00		$1,498.94
JDWI 436ZB	4"ID X 36" ZIP BOOT	2.00	0.00	$0.00
HAJO PFU 1346	2" 150 BLK MI UNION	4.00	0.00	$0.00
COMMENT	ABOVE ITEMS WERE PULLED FROM GREENVILLE STOCK	1.00	0.00	$0.00
NUPI 19SAFNP632NPT	2" ADAPTER X 2" NPT FEMALE	1.00	0.00	$0.00
OPW 10RU-2005	OPW 2" SGL POPPET SHEAR VALVE	1.00	0.00	$0.00
VEEDER-ROOT 330020-282	PROBE RISER CAP 4" POLY	1.00	0.00	$0.00
TECH LABOR - JOHN THOMAS	REGULAR TIME	3.00	0.00	$0.00
MODERN PIPE BOLLARD	BOLLARD 6" X5' LONG SCHEDULE 40	4.00	0.00	$0.00
MEIN SUBCONTRACTOR M	MECHANICAL	1.00	0.00	$0.00
MEIN SUBCONTRACTOR E	ELECTRICAL WORK	1.00	0.00	$0.00
MEIN SUBCONTRACTOR E	ELECTRICAL WORK	1.00	0.00	$0.00
MEIN RENTAL TRACK HOE/EXCAVATOR	TRACK HOE/EXCAVATOR RENTAL	1.00	0.00	$0.00

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Subtotal	$12,993.11
Sales Tax	$213.82
Total	$13,206.93
Balance Due	$13,206.93

CORE CREDIT CONTINGENT UPON CREDIT RECEIPT FROM VENDOR.

Thank you for your business!!!

Invoice

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"SERVICE MAKES THE DIFFERENCE"

Date	Number
4/18/2019	23619

Bill To Address:	Work/ShipAddress
DIESEL FUEL PROJECT WORKING INSTALL 175 TRUCK STOP RD Cowpens, SC 29330 ALEX SAYED	DIESEL FUEL PROJECT WORKING INSTALL 175 TRUCK STOP RD COWPENS, SC 29330 ALEX SAYED

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
4298		DUE UPON RECEIPT	4/18/2019	Roger Carpenter	

Item	Description	Quanity	Price	Amount
MEIN RENTAL REMOTE TRENCH ROLLER/COMPACTOR	TRENCH ROLLER	1.00	0.00	$0.00
MEIN RENTAL MINI EXCAVATOR WEEKLY	WEEKLY MINI EXCAVATOR	1.00	0.00	$0.00
MEIN PER DIEM PER DAY	PER DIEM PER DAY PER PERSON	4.00	0.00	$0.00
MEIN PER DIEM PER DAY	PER DIEM PER DAY PER PERSON	2.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	12.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	4.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00

Subtotal	$12,993.11
Sales Tax	$213.82
Total	$13,206.93
Balance Due	$13,206.93

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Invoice

Date	Number
4/18/2019	23619

Bill To Address:	Work/ShipAddress
DIESEL FUEL PROJECT WORKING INSTALL 175 TRUCK STOP RD Cowpens, SC 29330 ALEX SAYED	DIESEL FUEL PROJECT WORKING INSTALL 175 TRUCK STOP RD COWPENS, SC 29330 ALEX SAYED

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
4298		DUE UPON RECEIPT	4/18/2019	Roger Carpenter	

Item	Description	Quanity	Price	Amount
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	12.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00
MEIN MISC PIPE & FITTINGS	PIPE AND PIPE FITTINGS	1.00	0.00	$0.00
MEIN MISC MATERIALS	MISC MATERIALS (CHANGE DESCRIPTION)	1.00	0.00	$0.00
MEIN MISC MATERIALS	MISC MATERIALS (CHANGE DESCRIPTION)	1.00	0.00	$0.00
MEIN MISC MATERIALS	MISC MATERIALS (CHANGE DESCRIPTION)	1.00	0.00	$0.00
MEIN MISC MATERIALS	MISC MATERIALS (CHANGE DESCRIPTION)	1.00	0.00	$0.00
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00

Interest at the rate of 1 1/2% per month may be charged on overdue amounts.

Any items ordered are subject to a 30% restock fee (new or used). To return a product, return an item in its original condition and packaging, with receipt, within 30 days of the purchase date to request a refund. Return a defective item within the warranty period. Requests for refunds may be denied if the item has been used or installed by you, your company, or any of our technicians. Electronic items may not be returned. Refunds will be made in the same manner as at the time of purchase.

All freight charges incurred may not be included on this invoice. Freight charges may be included on a separate invoice.

Subtotal	$12,993.11
Sales Tax	$213.82
Total	$13,206.93
Balance Due	$13,206.93

CORE CREDIT CONTINGENT UPON CREDIT RECEIPT FROM VENDOR.

Thank you for your business!!!

MECO
AUGUSTA GREENVILLE
Post Office Box 696 • Augusta, GA 30903
Phone (706) 724-7603 • Fax (706) 395-0614
"SERVICE MAKES THE DIFFERENCE"

Invoice

Date	Number
4/18/2019	23619

Bill To Address:	Work/ShipAddress
DIESEL FUEL PROJECT WORKING INSTALL 175 TRUCK STOP RD Cowpens, SC 29330 ALEX SAYED	DIESEL FUEL PROJECT WORKING INSTALL 175 TRUCK STOP RD COWPENS, SC 29330 ALEX SAYED

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
4298		DUE UPON RECEIPT	4/18/2019	Roger Carpenter	

Item	Description	Quanity	Price	Amount
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00
MEIN MISC JOB SUPPLIES	MISC JOB SUPPLIES	1.00	0.00	$0.00
MEIN MISC EQUIPMENT RENTALS	MISC EQUIPMENT RENTALS	1.00	0.00	$0.00
MEIN MISC EQUIPMENT RENTALS	MISC EQUIPMENT RENTALS	1.00	0.00	$0.00
MEIN MISC ELECTRICAL SUPPLIES	MISC ELECTRICAL SUPPLIES	1.00	0.00	$0.00
MEIN MISC ELECTRICAL SUPPLIES	MISC ELECTRICAL SUPPLIES	1.00	0.00	$0.00
MEIN MISC ELECTRICAL SUPPLIES	MISC ELECTRICAL SUPPLIES	1.00	0.00	$0.00
MEIN HOTEL CHARGES	INSTALLATION HOTEL CHARGES	1.00	0.00	$0.00
MEIN HOTEL CHARGES	INSTALLATION HOTEL CHARGES	1.00	0.00	$0.00
MEIN HOTEL CHARGES	INSTALLATION HOTEL CHARGES	1.00	0.00	$0.00
MEIN CONCRETE 4000 PSI W/FIBER	4,000 PSI CONCRETE WITH FIBER PER YARD	1.00	0.00	$0.00

Subtotal	$12,993.11
Sales Tax	$213.82
Total	$13,206.93
Balance Due	$13,206.93

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All freight charges incurred may not be included on this invoice. Freight charges may be included on a separate invoice.

CORE CREDIT CONTINGENT UPON CREDIT RECEIPT FROM VENDOR.

Thank you for your business!!!

Invoice

MECO
AUGUSTA GREENVILLE
Post Office Box 696 • Augusta, GA 30903
Phone (706) 724-7603 • Fax (706) 395-0614
"SERVICE MAKES THE DIFFERENCE"

Date	Number
4/18/2019	23619

Bill To Address:	Work/ShipAddress
DIESEL FUEL PROJECT WORKING INSTALL 175 TRUCK STOP RD Cowpens, SC 29330 ALEX SAYED	DIESEL FUEL PROJECT WORKING INSTALL 175 TRUCK STOP RD COWPENS, SC 29330 ALEX SAYED

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
4298		DUE UPON RECEIPT	4/18/2019	Roger Carpenter	

Item	Description	Quanity	Price	Amount
FREIGHT/HANDLING - INBOUND	FREIGHT (INBOUND)	1.00	0.00	$0.00
FREIGHT/HANDLING - INBOUND	FREIGHT (INBOUND)	1.00	0.00	$0.00
FAIRFIELD 180-12	18" MANHOLE W/12" SKIRT FRAME	4.00	0.00	$0.00
MEIN ENVIRONMENTAL ASSESMENT-SOIL SAMPLING	CP REPAIR & RECERTIFICATION	1.00	0.00	$0.00

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All freight charges incurred may not be included on this invoice. Freight charges may be included on a separate invoice.

Subtotal	$12,993.11
Sales Tax	$213.82
Total	$13,206.93
Balance Due	$13,206.93

CORE CREDIT CONTINGENT UPON CREDIT RECEIPT FROM VENDOR.

Thank you for your business!!!

MECO
AUGUSTA GREENVILLE
Post Office Box 696 • Augusta, GA 30903
Phone (706) 724-7603 • Fax (706) 395-0614
"SERVICE MAKES THE DIFFERENCE"

Invoice

Date	Number
4/18/2019	23624

Bill To Address:	Work/ShipAddress
WESTAR UPGRADE KITS-WORKING INSTALL DBA WESTAR TRAVEL PLAZA 35 ALEKSANDER BLVD Mountain Top, PA 18707 ALEX SAYED	WESTAR UPGRADE KITS-WORKING INSTALL DBA WESTAR TRAVEL PLAZA 175 TRUCK STOP RD COWPENS, SC 29330 ALEX SAYED

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
4298		DUE UPON RECEIPT	4/18/2019	Roger Carpenter	

Item	Description	Quanity	Price	Amount
QUOTED GREENVILLE SERVICE LABOR INSTALL TOTALS - R	QUOTED GREENVILLE SERVICE LABOR INSTALL OF OVATION KITS PER AGREED CONTRACT	1.00		$2,649.17

Interest at the rate of 1 1/2% per month may be charged on overdue amounts.

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All freight charges incurred may not be included on this invoice. Freight charges may be included on a separate invoice.

Subtotal	$2,649.17
Sales Tax	$0.97
Total	$2,650.14
Balance Due	$2,650.14

CORE CREDIT CONTINGENT UPON CREDIT RECEIPT FROM VENDOR.

Thank you for your business!!!

Invoice

MECO
AUGUSTA GREENVILLE
Post Office Box 696 • Augusta, GA 30903
Phone (706) 724-7603 • Fax (706) 395-0614
"SERVICE MAKES THE DIFFERENCE"

Date	Number
10/31/2018	19902

Bill To Address:	Work/ShipAddress
NEXGEN COMDATA UPGRADE MASTER DBA WESTAR TRAVEL PLAZA 35 ALEKSANDER BLVD Mountain Top, PA 18707 ALEX SAYED	NEXGEN COMDATA UPGRADE MASTER DBA WESTAR TRAVEL PLAZA 175 TRUCK STOP RD COWPENS, SC 29330 ALEX SAYED

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
4298		NET 30	11/30/2018	Roger Carpenter	

Item	Description	Quanity	Price	Amount
ALLIED NEXGEN WAYNE	ALLIED NEXGEN WAYNE GROUP	1.00		$4,245.22
RDM 1529	D-BOX UNIVERSAL	1.00	700.00	$700.00

Interest at the rate of 1 1/2% per month may be charged on overdue amounts.

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All freight charges incurred may not be included on this invoice. Freight charges may be included on a separate invoice.

Subtotal	$4,945.22
Sales Tax	$296.72
Total	$5,241.94
Balance Due	$5,241.94

CORE CREDIT CONTINGENT UPON CREDIT RECEIPT FROM VENDOR.

Thank you for your business!!!

Invoice

MECO
AUGUSTA GREENVILLE
Post Office Box 696 • Augusta, GA 30903
Phone (706) 724-7603 • Fax (706) 395-0614
"SERVICE MAKES THE *DIFFERENCE*"

Date	Number
4/30/2019	24053

Bill To Address:	Work/ShipAddress
DIESEL FUEL PROJECT WORKING SALES 175 TRUCK STOP RD Cowpens, SC 29330 ALEX SAYED	DIESEL FUEL PROJECT WORKING SALES 175 TRUCK STOP RD COWPENS, SC 29330 ALEX SAYED

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
4298		NET 30	5/30/2019	Roger Carpenter	

Item	Description	Quanity	Price	Amount
POST GUARD 7" X 60" YELLOW	POST GUARD 6" ROUND BOLLARD COVER	24.00	36.00	$864.00
FREIGHT/HANDLING - INBOUND	FREIGHT (INBOUND)	1.00	240.00	$240.00

Subtotal	$1,104.00
Sales Tax	$60.48
Total	$1,164.48
Balance Due	$1,164.48

Interest at the rate of 1 1/2% per month may be charged on overdue amounts.

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CORE CREDIT CONTINGENT UPON CREDIT RECEIPT FROM VENDOR.

Thank you for your business!!!

MECO
AUGUSTA GREENVILLE
Post Office Box 696 • Augusta, GA 30903
Phone (706) 724-7603 • Fax (706) 395-0614
"SERVICE MAKES THE DIFFERENCE"

Invoice

Date	Number
12/21/2018	20749

Bill To Address:	Work/ShipAddress
WESTAR UPGRADE KITS-WORKING SALES DBA WESTAR TRAVEL PLAZA 35 ALEKSANDER BLVD Mountain Top, PA 18707 ALEX SAYED	WESTAR UPGRADE KITS-WORKING SALES DBA WESTAR TRAVEL PLAZA 175 TRUCK STOP RD COWPENS, SC 29330 ALEX SAYED

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
4298		NET 30	1/20/2019	Roger Carpenter	

Item	Description	Quanity	Price	Amount
WAPU 2D1/D6/LN/6R	UPGRADE KITS FOR SPMS WITH DISPLAY AND EMV HYBRID CHIP CARD READER	1.00	4,200.00	$4,200.00
WAPU 2D1/D6/LN/6R	UPGRADE KITS FOR SPMS WITH DISPLAY AND EMV HYBRID CHIP CARD READER	1.00	4,200.00	$4,200.00
WAPU 2D1/D6/LN/6R	UPGRADE KITS FOR SPMS WITH DISPLAY AND EMV HYBRID CHIP CARD READER	1.00	4,200.00	$4,200.00
WAPU 2D1/D6/LN/6R	UPGRADE KITS FOR SPMS WITH DISPLAY AND EMV HYBRID CHIP CARD READER	1.00	4,200.00	$4,200.00
WAPU 2D1/D6/LN/6R	UPGRADE KITS FOR SPMS WITH DISPLAY AND EMV HYBRID CHIP CARD READER	1.00	4,200.00	$4,200.00
WAYNE WU005346-001 IN-STORE SERVER	IN STORE SERVER KIT	1.00	1,835.00	$1,835.00
WAYNE WU005124-001 CONNECT	WAYNE CONNECT	1.00	600.00	$600.00
WAYNE WU005124-001 CONNECT	WAYNE CONNECT	1.00	600.00	$600.00
WAYNE WU005124-001 CONNECT	WAYNE CONNECT	1.00	600.00	$600.00
WAYNE WU005124-001 CONNECT	WAYNE CONNECT	1.00	600.00	$600.00
WAYNE WU005124-001 CONNECT	WAYNE CONNECT	1.00	600.00	$600.00
FREIGHT/HANDLING - INBOUND	FREIGHT (INBOUND)	1.00	300.00	$300.00

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All freight charges incurred may not be included on this invoice. Freight charges may be included on a separate invoice.

Subtotal	$26,135.00
Sales Tax	$1,550.10
Total	$27,685.10
Balance Due	$27,685.10

CORE CREDIT CONTINGENT UPON CREDIT RECEIPT FROM VENDOR.

Thank you for your business!!!

MECO
AUGUSTA GREENVILLE

Invoice 18389

Meco Inc. of Augusta
1234 Gordon Park
Augusta, GA 30901
800 877-3560
706-395-0614

Date: 9/12/2018
Terms: NET 30
Work/Ship Date: 9/11/2018
W.O. #: 9314
Rep: Roger Carpenter

WESTAR TRUCK PLAZA
ALEX SAYED
175 TRUCK STOP RD
Cowpens, SC 29330

Item	Description	Quantity	Price	Total
TECH LABOR - KEVIN WOOD	REGULAR TIME	2.50	$75.00	*$187.50*
MILEAGE - SERVICE	MILEAGE	1.00	$1.25	*$1.25*
HUSKY 026810N-03	1" DIESEL NOZZLE	1.00	$72.00	*$72.00*
TECH LABOR - KEVIN WOOD	REGULAR TIME	2.50	$75.00	*$187.50*
WAPU 001-201917	SWITCH	1.00	$18.00	*$18.00*

SEE NOTES

9 AND 10 KEYPAD ISSUES
3 CARD READER ISSUES
CHECK OVER ALL DISPENSERS
#11 DIESEL SATTELITE ISSUE

9-5-18 TRAVELED TO SITE FOUND PINPAD ON 10 IS WORN OUT FUNCTIONS BUT HAVE TO PRESS REALLY HARD ....NO ISSUES WITH 9 OR 3 .... 11 SATELLITE DIESEL NEEDS HANDLE SWITCH
9-11-18 TRAVELED TO SITE REPLACED SWITCH ON SATELLITE TESTED GOOD NO ISSUES PUMPED GOOD

Taxes	**$5.40**
Total	**$471.65**
Balance	**$471.65**

MECO 00137

MECO
AUGUSTA GREENVILLE

Invoice 21243

Meco Inc. of Augusta
1234 Gordon Park
Augusta, GA 30901
800 877-3560
706-395-0614

Date: 1/11/2019
Terms: NET 30
Work/Ship Date: 1/2/2019
W.O. #: 10583
Rep: Roger Carpenter

WESTAR TRUCK PLAZA
ALEX SAYED
175 TRUCK STOP RD
Cowpens, SC 29330

Item	Description	Quantity	Price	Total
MILEAGE - SERVICE	MILEAGE - SERVICE	100.00	$1.25	*$125.00*
TECH LABOR OT - JOHN THOMAS	OVERTIME TECH LABOR	5.00	$115.00	*$575.00*

SITE IS DOWN

THE E-STOP WAS USED. IT CUT THE POWER TO THE BRAKER BOX FOR THE FUEL. I HAD A HARD TIME FINDING THE BRAKER TO TURN ON THE OTHER BRAKER BOX FOR THE FUEL. I DID FIND IT AND I LABELED IT VERY CLEARLY FOR FUTURE USE.

Taxes	**$0.00**
Total	**$700.00**
Balance	**$700.00**

MECO 00138

MECO
AUGUSTA GREENVILLE

Invoice 22564

Meco Inc. of Augusta
1234 Gordon Park
Augusta, GA 30901
800 877-3560
706-395-0614

Date: 3/5/2019
Terms: NET 30
Work/Ship Date: 3/1/2019
W.O. #: 11143
Rep: Roger Carpenter

WESTAR TRUCK PLAZA
ALEX SAYED
175 TRUCK STOP RD
Cowpens, SC 29330

Item	Description	Quantity	Price	Total
PMP 26077	WAYNE PROPORTIONAL VALVE	2.00	$159.60	*$319.20*
FREIGHT/HANDLING - OUTBOUND	FREIGHT (OUTBOUND)	1.00	$23.33	*$23.33*

4 NOZZLE DRIPPING

REPLACE NOZZLE

2/31/19- TRAVELED TO SITE AND REPLACED NOZZLE BUT IT STILL WOULD DRIP WHEN YOU SQUEEZE THE NOZZLE SO I PUT THE OLD ONE BACK ON. I TRIPPED THE PREM LINE AND IT STILL DRIPPED, AFTER TRIPPING THE REG LINE IT STOPPED DRIPPING. I CHANGED THE REG VALVE AND TESTED AGAIN AND IT STILL DRIPPED, AFTER TRIPPING THE PREM LINE IT STOPPED DRIPPING. NEED TO RETURN WITH ANOTHER VALVE.
3/1/19- TRAVELED TO SITE AND REPLACED PREM VALVE FOR SIDE 4. TESTED NOZZLE GOOD, NO LONGER DRIPPING OUT. OPS CHECK GOOD.

Taxes	**$22.34**
Total	**$364.87**
Balance	**$364.87**

MECO 00139

MECO
AUGUSTA GREENVILLE

Meco Inc. of Augusta
1234 Gordon Park
Augusta, GA 30901
800 877-3560
706-395-0614

Invoice 23482

Date: 4/11/2019
Terms: NET 30
Work/Ship Date: 4/9/2019
W.O. #: 11535
Rep: Roger Carpenter

WESTAR TRUCK PLAZA
ALEX SAYED
175 TRUCK STOP RD
Cowpens, SC 29330

Item	Description	Quantity	Price	Total
MILEAGE - SERVICE	MILEAGE - SERVICE	60.00	$1.25	*$75.00*
TECH LABOR - JIMMY SMITH	REGULAR TIME	3.00	$75.00	*$225.00*
HUSKY 159559-04	NOZZLE GAS BLACK	2.00	$61.56	*$123.12*

REPLACE NOZZLES # 6 # 3

4/9/19- TRAVELED TO SITE AND REPLACED NOZZLES ON #3 & #6. ALSO REBOOTED #7 SO THEY COULD GET A STUCK SALE CLEARED OUT. OPS CHECK GOOD.

Taxes	**$8.62**
Total	**$431.74**
Balance	**$431.74**

MECO 00140

Exhibit G

Number	Type	Date	Customer:Job	signed estimate #	Total		Balance	Memo
21937	Estimate	2/7/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:DIESEL FUEL PROJECT MASTER:DIESEL FUEL PROJECT INSTALL MASTER:CHANGE ORDER AUTO DIESEL MASTER	21937	$16,173.38			MASTER change order auto diesel
23621	Invoice	4/18/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:DIESEL FUEL PROJECT MASTER:DIESEL FUEL PROJECT INSTALL MASTER:CHANGE ORDER AUTO DIESEL WORKING INSTALL	Posted	$13,594.27		$13,594.27	INSTALL AU: LBR, DIEM, MINIX, CNCRT, MISC
26282	INVOICE	7/1/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:DIESEL FUEL PROJECT MASTER:DIESEL FUEL PROJECT INSTALL MASTER:CHANGE ORDER AUTO DIESEL WORKING SALES	Posted	$2,579.11		$2,579.11	SALES GR:NUPI PIPE,FITTINGS AND AOSM
				TOTAL BILLED		$16,173.38	$16,173.38	BALANCE DUE
				DIFFERENCE		$0.00		

Number	Type	Date	Customer:Job	signed estimate #	Total		Balance	Memo
11347	Estimate	8/6/2018	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:DIESEL FUEL PROJECT MASTER	11347	$378,000.16			MASTER diesel fuel project
23619	Invoice	4/18/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:DIESEL FUEL PROJECT WORKING INSTALL	Posted	$13,206.93		$13,206.93	INSTALL AU: SUB E/M, CNCRT, PIPE/FTTNGS, PER DIEM
21892	Invoice	1/31/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:DIESEL FUEL PROJECT WORKING INSTALL	Posted	$14,286.91		$14,286.91	INSTALL AU: LABOR/HOTEL/ELECTRICAL/FITTINGS/BF
21569	Invoice	1/25/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:DIESEL FUEL PROJECT WORKING INSTALL	Posted	$6,641.10		$6,641.10	INSTALL AU: 4,000PSI CNCRT/MISC SUPLY/HTL CHG/SUBE
21212	Invoice	12/28/2018	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:DIESEL FUEL PROJECT WORKING INSTALL	Posted	$31,100.05		$12,336.21	INSTALL AU: LBR, HTL, RENTAL, CNCRT, BCKFILL, MISC
19813	Invoice	10/31/2018	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:DIESEL FUEL PROJECT WORKING INSTALL	Posted	$36,140.10		$0.00	INSTALL AU:-OCTOBER LBR AND SUPPLIES
16932	Invoice	6/30/2018	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:DIESEL FUEL PROJECT WORKING INSTALL	Posted	$2,500.00		$0.00	INSTALL GR:LABOR POS INSTALL
19905	Invoice	11/7/2018	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:DIESEL FUEL PROJECT WORKING SALES	Posted	$3,313.08		$0.00	SALES VEEDER ROOT EQUIPMENT
19554	Invoice	10/29/2018	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:DIESEL FUEL PROJECT WORKING SALES	Posted	$41,830.40		$0.00	FEPE TNK ADPTER/TNK SUMPS/BLLRDS/FRFLD/DEF TNK/
18797	Invoice	9/28/2018	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:DIESEL FUEL PROJECT WORKING SALES	Posted	$215,080.19		$0.00	BILLED DISPENSERS, NUPI AND SOME MATERIAL
16306	Invoice	6/21/2018	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:DIESEL FUEL PROJECT WORKING SALES	Posted	$16,101.39		$0.00	POS DUAL RUBY AND SCANNERS SALE
26283	Invoice	7/1/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:DIESEL FUEL PROJECT WORKING SALES	Posted	$3,224.01		$3,224.01	SALES GR:20 BOLLARDS AND FREIGHT
				TOTAL BILLED		$383,424.16	$49,695.16	BALANCE DUE
				DIFFERENCE		-$5,424.00		

120

Number	Type	Date	Customer:Job	signed estimate #	Total		Balance	Memo
26058	Credit	7/29/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:DIESEL FUEL PROJECT WORKING SALES	Posted	-$2,737.26		$0.00	(APPLIED TO INV 21212) AR: CREDIT: ITEMS NOT USED ON INV 18797
24194	Credit	5/8/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:DIESEL FUEL PROJECT WORKING SALES	Posted	-$2,305.35		$0.00	(APPLIED TO INV 21212) AR: CREDIT: SALES GR: RETURNED NUPI ITEMS
19429	Credit	10/24/2018	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:DIESEL FUEL PROJECT WORKING SALES	Posted	-$381.39		$0.00	(APPLIED TO INV 21212) CREDIT FOR 4' TNK FLANGE REBILL TO 6"
				TOTAL CREDIT		-$5,424.00	$0.00	

Number	Type	Date	Customer:Job	signed estimate #	Total		Balance	Memo
24050	Estimate	5/1/2019	DIESEL FUEL PROJECT (CHG ORD) BOLLARDS	24050	$1,164.48			WORKING SALES - POST GUARDS & FREIGHT
24053	Invoice	4/30/2019	DIESEL FUEL PROJECT (CHG ORD) BOLLARDS	Posted	$1,164.48		$1,164.48	SALES GR:BOLLARD COVERS
				TOTAL BILLED		$1,164.48	$1,164.48	BALANCE DUE
				DIFFERENCE		$0.00		

Number	Type	Date	Customer:Job	signed estimate #	Total		Balance	Memo
16670	Estimate	7/5/2018	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:NEXGEN COMDATA UPGRADE MASTER	16670	$5,241.94	$5,241.94		MASTER NEXGEN
19902	Invoice	10/31/2018	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:NEXGEN COMDATA UPGRADE MASTER	Posted	$5,241.94		$5,241.94	SALES GR: SALES ALLIED NEXGEN EQUIPMENT
				TOTAL BILLED		$5,241.94	$5,241.94	BALANCE DUE
				DIFFERENCE		$0.00		

Number	Type	Date	Customer:Job	signed estimate #	Total		Balance	Memo
23250	Estimate	3/31/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:WESTAR TRUCK PLAZA CHANGE ORDER REPAIR CONCRETE POUR:WESTAR TRUCK PLAZA CHANGE ORDER REPAIR CONCRETE POUR INSTALL MASTER	23250	$3,935.33	$3,935.33		MASTER change order concrete repair
23623	Invoice	4/18/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:WESTAR TRUCK PLAZA CHANGE ORDER REPAIR CONCRETE POUR:WESTAR TRUCK PLAZA CHANGE ORDER REPAIR CONCRETE POUR WORKING INSTALL	Posted	$3,935.33		$3,935.33	INSTALL AU: CONCRETE LBR,MATERIALS,SUPPLIES
				TOTAL BILLED		$3,935.33	$3,935.33	BALANCE DUE
				DIFFERENCE		$0.00		

Number	Type	Date	Customer:Job	signed estimate #	Total		Balance	Memo
19182	Estimate	10/12/2018	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:WESTAR UPGRADE KITS MASTER	19182	$30,593.45			MASTER-upgrade kits
23624	Invoice	4/18/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:WESTAR UPGRADE KITS MASTER:WESTAR UPGRADE KITS WORKING INSTALL	Posted	$2,650.14		$2,650.14	SERVICE GR:LBR,TRVL,VERIFONE CABLES
20749	Invoice	12/21/2018	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:WESTAR UPGRADE KITS MASTER:WESTAR UPGRADE KITS WORKING SALES	Posted	$27,685.10		$27,685.10	SALES GR: UPGRADE KITS

MECO 00356

26284	Invoice	7/2/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:WESTAR UPGRADE KITS MASTER:WESTAR UPGRADE KITS WORKING SALES	Posted	$258.21		$258.21	SALES GR:FREIGHT
				TOTAL BILLED		$30,593.45	$30,593.45	BALANCE DUE
				DIFFERENCE		$0.00		

TOTAL ALL CONTRACTS	$435,108.74			TOTAL AMOUNT STILL OWED-DOESN'T INCLUDE FINANCE CHARGES
AMOUNT BILLED		$435,108.74		
AMOUNT PAID	$328,305.00			
AMOUNT OWED	$106,803.74	$106,803.74		

finance charges breach of contract ON CONTRACTS ABOVE

Number	Type	Date	Customer:Job	Posted	Total		Balance	Memo
FC26305	Invoice	8/7/2019	DIESEL FUEL PROJECT (CHG ORD) BOLLARDS	Posted	$39.62		$39.62	
FC26306	Invoice	8/7/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:DIESEL FUEL PROJECT MASTER:DIESEL FUEL PROJECT INSTALL MASTER:CHANGE ORDER AUTO DIESEL WORKING SALES	Posted	$47.06		$47.06	FINANCE CHARGES BREACH OF CONTRACT
FC26307	Invoice	8/8/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:DIESEL FUEL PROJECT MASTER:DIESEL FUEL PROJECT INSTALL MASTER:CHANGE ORDER AUTO DIESEL WORKING INSTALL	Posted	$744.15		$744.15	FINANCE CHARGES BREACH OF CONTRACT
FC26308	Invoice	8/9/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:DIESEL FUEL PROJECT WORKING INSTALL	Posted	$3,639.56		$3,639.56	FINANCE CHARGES BREACH OF CONTRACT
FC26309	Invoice	8/10/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:NEXGEN COMDATA UPGRADE MASTER	Posted	$646.27		$646.27	FINANCE CHARGES BREACH OF CONTRACT
FC26310	Invoice	8/11/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:WESTAR TRUCK PLAZA CHANGE ORDER REPAIR CONCRETE POUR:WESTAR TRUCK PLAZA CHANGE ORDER REPAIR CONCRETE POUR WORKING INSTALL	Posted	$215.42		$215.42	FINANCE CHARGES BREACH OF CONTRACT
FC26311	Invoice	8/12/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:WESTAR UPGRADE KITS MASTER:WESTAR UPGRADE KITS WORKING INSTALL	Posted	$145.07		$145.07	FINANCE CHARGES BREACH OF CONTRACT
FC26312	Invoice	8/13/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC:WESTAR UPGRADE KITS MASTER:WESTAR UPGRADE KITS WORKING SALES	Posted	$2,721.52		$2,721.52	FINANCE CHARGES BREACH OF CONTRACT
				TOTAL FINANCE CHARGES AS OF 8-7-19 CONTRACTS		$8,198.67	$8,198.67	BALANCE DUE FINANCE CHARGES CONTRACTS

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PAST DUE SERVICE INVOICES

Number	Type	Date	Customer:Job	Posted	Total		Balance	Memo
18389	Invoice	9/12/2018	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC	Posted	$471.65		$471.65	SERVICE CALL GR
21243	Invoice	1/11/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC	Posted	$700.00		$700.00	SERVICE CALL GR
22564	Invoice	3/5/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC	Posted	$364.87		$364.87	SERVICE CALL GR
23842	Invoice	4/11/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC	Posted	$431.74		$431.74	SERVICE CALL GR
				total service bills outstanding		$1,968.26	$1,968.26	BALANCE DUE SERVICE INVOICES

finance charges SERVICE INVOICES

Number	Type	Date	Customer:Job	Posted	Total		Balance	Memo
FC26304	Invoice	8/7/2019	WESTAR TRUCK PLAZA:NEPA TRADING & INVESTMENTS, LLC	Posted	$172.22		$172.22	FINANCE CHARGES PAST DUE SERVICE INVOICES
				TOTAL FINANCE CHARGES AS OF 8-7-19 SERVICE		$172.22	$172.22	BALANCE DUE FINANCE CHARGES-SERVICE TICKETS

TOTAL DUE BY 8/8/2019 OR LAWYERS WILL TAKE OVER FROM HERE. NO NEGOTIATIONS NO WAIVERING	$117,142.89	TOTAL BALANCE DUE

MECO 00357

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	)	IN THE COURT OF COMMON PLEAS SEVENTH JUDICIAL CIRCUIT C/A NO.: 2022CP4203123
MECO, INC. OF AUGUSTA, Plaintiff, v. ALEX SAYED a/k/a ARSHAD M. SAYED a/k/a ARSHED SAYED; NEPA VENTURES LLC; NEPA TRADING & INVESTMENTS, LLC, Defendants.	)	

PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Plaintiff MECO, Inc. of Augusta ("Plaintiff"), by and through undersigned counsel, submits this Memorandum in Opposition to Defendants' Motion for Summary Judgment. Defendants filed their Motion for Summary Judgment ("Motion" or "Defendants' Motion") on August 22, 2023, and as of the date of this filing have not filed a memorandum in support of their Motion. Defendants' Motion fails to establish the absence of a genuine issue of material fact as to the appropriate statute of limitations, as well as the commencement and expiration of same, and the propriety of tolling, and for these reasons—which are elucidated and supported by materials provided and cited herein—the Motion should be DENIED.

STATEMENT OF FACTS

Plaintiff brought this suit to recover money Defendants owe from the parties' original contract, and monies owed from other work at Defendants' property. (See generally Pl.'s Am. Compl., attached hereto as **Exhibit 1**; see also Contract (MECO 00307 – 319, attached hereto as

Exhibit 2). Plaintiff is "a sales, service, and installation company for petroleum equipment products." (Pl.'s Dep. 19:4 – 24, attached hereto as **Exhibit 3** (including all cited excerpts)).

Plaintiff was initially hired to provide new and improved replacement equipment for 1) Westar Travel Plaza's payment & communication systems; 2) Westar's old tanks; 3) Westar's old gas dispensers; 4) Westar's small DEF tank. (Pl.'s Dep 37:16 – 39:20). Defendant Sayed needed Plaintiff to do additional work at the property located at 175 Truckstop Road, Cowpens, SC, then known as Westar Travel Plaza, that hadn't been included in the Contract's original scope. (See, e.g., Pl.'s Dep 50:2 – 52:6, 98:9 – 17). And so, Plaintiff completed 3 additional jobs at Westar: (1) upgrade kits for gas-side dispensers; (2) piping job to connect front diesel pumps directly to diesel tanks; (3) concrete repair job. (Pl.'s Dep 50:2 – 52:6, 98:9 – 17). Plaintiff held all the equipment required to perform under the Contract and the 3 additional jobs in its warehouses, except for the singular DEF tank. (Pl.'s Dep. 43:12 – 20, 44:13 – 24). Defendants made 2 payments to Plaintiff, and Plaintiff alleges Defendants still owe $109,678.71 plus applicable interest and costs of collection, including reasonable attorneys' fees. (See, e.g., Pl.'s Am. Compl.'s Prayer for Relief; see also Contract § II(1)). The Contract bore an initial price of $378,000.16—of which $257,923.691 was for goods/equipment and $99,308.82 was for installation/startup. (See Contract). That is, over 72% of the initial Contract price was for goods/equipment (excluding taxes from calculation). (See id.)

There is conflicting evidence as to when Plaintiff discovered, or should have discovered, its causes of action against Defendants for not paying Plaintiff. (Compare Stmt. of Not. and Mech. Lien, filed with Dec. 19, 2019 with Spartanburg County Register of Deeds, attached hereto as **Exhibit 4**, with Pl.'s Dep. at 121:20 – 122:20 (discussing e-mail sent about money owed as of August 8, 2019). But Plaintiff retained counsel on September 11, 2019, and Plaintiff filed its

Amended Complaint on August 25, 2022, which Defendants' counsel acknowledged service of by September 2, 2022. (See Brodie Aff., attached hereto as **Exhibit 5**; see also Pl.'s Am. Compl.; see also Defs.' Ackn. of Service, filed Sept. 2, 2022, attached hereto as **Exhibit 6**). Despite Plaintiff's and Defendant Sayed's testimony, there is conflicting evidence as to when Plaintiff was still working at Westar—Plaintiff issued invoices (on a net-30 basis) that were due on September 26, 2019. (See, e.g., Invoice Nos. 27487, 27488 (MECO 00434 – 435), attached hereto as **Exhibit 7**). Moreover, Plaintiff's prior lien is evidence that Plaintiff last did work at Westar on September 21, 2019. (See Stmt. of Not. and Mech. Lien). And so, Plaintiff's prior lien compared with Plaintiff's testimony and Plaintiff's invoices due September 26 are all conflicting evidence of when Plaintiff finished work at Westar *and* when Plaintiff discovered, or should have discovered, its causes of action against Defendants—which of course, is a material fact.

Plaintiffs now know that Defendants are all out-of-state residents. (See generally Brodie Aff.; see also Sayed's Dep. 8:20 – 9:15, 75:25 – 76:12, attached hereto as **Exhibit 8** (including all cited excerpts); see also Screenshots from Sec. of State Search for NEPA Defendants, attached hereto as **Exhibit 9**). But neither Plaintiff nor its counsel knew the legal name of Defendant Sayed until around August 2022 when it filed its Complaint. (See Brodie Aff.; see also Screenshot of Public Case Records Search re 2018CV4210109141 (indicating last name "Sayedtol"), attached hereto as **Exhibit 10**; see also Mortgage from Defendant NEPA Ventures (indicating name "Arshad Sayed"), attached hereto as **Exhibit 11**; see also Aff. of Service of Not. of Mech. Lien (indicating name "Alex Sod"), attached hereto as **Exhibit 12**; see also Sayed's Dep. 7:5 – 18 (admitting name is Arshed Sayed and denying any aliases other than Alex)). After he was hired in September 2019, Plaintiff's then-counsel sifted through a mass of contradictory public records, and the absence of same, to try and determine Defendant Sayed's legal name as his affidavit describes:

> Personally appeared before me, Brad A. Brodie, Esq., who being duly sworn deposes and says:
>
> I helped prepare a Statement and Notice of Mechanic's Lien for MECO, Inc. of Augusta (MECO) which was filed in Spartanburg County, South Carolina. I was hired on or about September 11, 2019. When I reviewed the contract with MECO it described the owner of the location at 175 Truck stop Rd. as "Alex Sayed, Westar Travel Plaza". A search of the Spartanburg County real estate records indicated that the real property where the subject truck stop is located is actually in the name of Nepa Ventures LLC. There were no records filed at the South Carolina Secretary of State's office for Nepa Ventures LLC or a registered agent listed. In addition, there were no records filed at the South Carolina Secretary of State's office concerning Nepa Trading & Investments, LLC either, which apparently is another company which was involved in the underlying transaction. A search of the judicial records showed a Judgment in favor of Davis Services Inc. against a Alex Sayedtol dba Westar Travel Plaza, 175 Truck Stop Rd., Cowpens, SC 29330 which is the address of the subject truck stop (Case Number 2018CV4210109141). In addition, there was a mortgage from NEPA Ventures LLC to Celtic Bank Corporation, recorded in Mortgage Book 5426 at page 604 in the RMC office for Spartanburg County, South Carolina, which was executed by Arshad Sayed, on behalf of Nepa Ventures, LLC. This Mortgage appeared to be executed in the State of Pennsylvania, based on the notary block. We searched Pennsylvania corporate records and came up with a possible address for Nepa Ventures, LLC of 100 N. Wilkes Bane Blvd, Ste 206, Wilkes-Bane, PA 18702. However, when the lien was served the name of "Mr. Sod" appeared on the Affidavit of Service.
>
> Nepa Ventures, LLC and Nepa Trading & Investments, LLC should have obtained a certificate to conduct business in South Carolina and should have had a registered agent in the State of South Carolina, as required by law. To this day I think both Nepa entities are still out of compliance with the filing requirements for the state of South Carolina, because I ran a search on September 7, 2023 and neither of the Nepa entities appear on the website for the South Carolina Secretary of State.
>
> I was unable to determine the legal name of Alex Sayed, Arshad Sayed, or Alex Sayedtol and am unsure to this day what the legal name of the person who signed the contract with MECO is. In addition, we were never able to determine a personal address for Alex Sayed or Arshad Sayed in South Carolina, or Pennsylvania.

(Brodie Aff. (referring to, in order, Exhibits 4, 2, 9, 10, 11, 12)).

ARGUMENT & CITATION OF AUTHORITY

A. Defendants Should be Limited to Arguing the Authority & Evidence in their Principal Motion.

Defendants filed their Motion on August 22, 2023 and have not yet, at the time of this filing's submission, filed any memorandum in support. Accordingly, Defendants have only given sufficient notice of the limited grounds in their Motion and should be barred from arguing or relying upon any other evidence or authority that may be included in a forthcoming memorandum of law—or at the hearing. "One of the basic purposes of a notice of motion is to apprise the opposing party of the relief sought and the grounds therefor." Turbeville v. Floyd, 288 S.C. 171, 174, 341 S.E.2d 651, 652–53 (Ct. App. 1986) (quoting Skinner v. Skinner, 257 S.C. 544, 549, 186 S.E.2d 523, 526 (1972)). "Ordinarily, a court may not grant relief beyond the limits or scope of such notice." Id. "However, our Supreme Court has indicated in dicta that the Circuit Court may grant a motion for summary judgment on a ground not included in the notice of the motion if the ground is fully argued before the court without objection." See id. (citing Salvo v. Hewitt, Coleman & Associates, 274 S.C. 34, 260 S.E.2d 708 (1979)). Put plainly, Plaintiff has ***only*** received notice of the grounds in Defendants' Motion "at least 10 days before [Sept. 12, 2023] . . . ." Rule 56(c), SCRCP—and Plaintiff objects to the consideration of any evidence or authority outside what is specifically cited in the Motion.

Defendants' Motion cites no legal authority other than a statute of limitations, S.C. Code Ann. § 15-3-530, and Rule 56, SCRCP.[1] And so, Defendants should be held to rely only upon those authorities in arguing their Motion before the Court on September 12, 2023. Additionally, Defendants should be restricted to arguing their Motion only on the evidence cited therein—

[1] Defendants' counsel also briefly refers to Rule 30(b)(6), SCRCP in describing Plaintiff's deposition.

because allowing anything else would not provide Plaintiff with the notice required by Rule 56, SCRCP. Considering that Defendants' counsel may attempt to bring other evidence or legal authority to the Court (in either a memorandum or orally at the hearing), Plaintiff now preemptively objects to consideration of any legal authority or evidence not included in Defendants' Motion filed on August 22, 2023, for the lack of notice to Plaintiff such consideration would cause.

B. Summary Judgment Standard

In order to succeed, Defendants must "show that there is no genuine issue as to any material fact and that [they are] entitled to a judgment as a matter of law." Rule 56(c), SCRCP. Inversely—and as recently clarified by the Supreme Court of South Carolina—Plaintiff as the nonmovant must present a genuine issue of material fact which would permit reasonable inference(s) creating an issue of fact for trial. See Kitchen Planners, LLC v. Friedman, No. 2020-001669, 2023 WL 5420401, at *2-3 (S.C. Aug. 23, 2023). However, "[i]n determining whether any triable issues of fact exist, the circuit court must view the evidence and all reasonable inferences that may be drawn from the evidence in the light most favorable to the non-moving party." E.g., RWE NUKEM Corp. v. ENSR Corp., 373 S.C. 190, 195, 644 S.E.2d 730, 733 (2007) (citation omitted).

C. Genuine Issue on whether Six-Year Statute of Limitations Applies to the Contract.

Defendants' Motion fails because there is at least a genuine issue of fact on whether the Uniform Commercial Code applies to the Contract between Plaintiff and Defendants. And if the UCC does apply to the Contract at issue, then Defendants' Motion is premised on an inapplicable statute of limitations and should be denied accordingly. See S.C. Code Ann. §§ 36-2-725, 36-2-106 (providing 6-year statute of limitations for breach of contracts for sale & defining "contract for sale" as including a present sale of goods and a contract to sell goods at a future time). Chapter

2, Title 36 of the S.C. Code Ann. "applies to transactions in goods . . . ." S.C. Code Ann. § 36-2-102 (exempting transactions intended to operate only as a security transaction). "'Goods' means all things (including specially manufactured goods) which are movable at the time of identification to the contract for sale other than the money in which the price is to be paid, investment securities (Title 36, Chapter 8) and things in action." S.C. Code Ann. 36-2-105(1). Here, the Contract between Plaintiff and Defendants was made for both the supply of goods and services by Plaintiff at the Westar Travel Plaza, for an initial price of $378,000.16. (See Contract at 1).

When determining whether a contract involving goods and services should be treated as a "sale of goods" under the UCC, courts employ a simple test—"whether their predominant factor, their thrust, their purpose, reasonably stated, is the rendition of service, with goods incidentally involved (e.g., contract with artist for painting) or is a transaction of sale, with labor incidentally involved (e.g., installation of a water heater in a bathroom)." Bonebrake v. Cox, 499 F.2d 951, 960 (8th Cir. 1974) (citations omitted); see also Ranger Const. Co. v. Dixie Floor Co., 433 F. Supp. 442, 444 (D.S.C. 1977) (citing Bonebrake as "[t]he leading case on the UCC's applicability to [mixed contracts]"). In Bonebrake, the Eighth Circuit Court of Appeals characterized the subject contract as one clearly for the replacement of bowling-lane equipment that had been destroyed by a fire—and therefore, one for the sale of goods under the UCC. 499 F.2d at 957 – 60. The district court in Ranger Const. Co. deployed the Bonebrake test but went the other way because the predominant purpose of the contract there was providing floor installation services, and discovery responses showed the subcontractor did not maintain a warehouse for the flooring materials and supplies it used for the job. 433 F. Supp. at 444 – 45.

The Contract between Plaintiff and Defendants in this case includes a delineation for the price of "equipment" and the installation Plaintiff anticipated providing at the Westar Travel Plaza.

The cost of equipment under the Contract was $257, 923.61 and the price for Plaintiff's installation pales in comparison at $99,308.82—excluding taxes, the equipment comprised over ***72%*** of the Contract price. Now, while Plaintiff is in the business of supplying materials and installing them (i.e., they do not manufacture their equipment)—it is "a ***sales***, service, and installation company for petroleum equipment products." (See Pl.'s Dep. 19:4 – 24) (emphasis supplied). But this diminutive ratio of services to equipment in the Contract, and Plaintiff's business model are not the only facts relevant to determining the purpose of the Contract.

Bonebrake and Ranger Const. Co. both make clear that other factors should be considered to determine the primary purpose of the Contract. Like the contract for bowling lane equipment in Bonebrake—which was held to fall under the UCC—Defendants hired Plaintiff to ***provide*** and replace ***equipment***. Specifically, Plaintiff was initially hired to provide new and improved replacement equipment for 1) Westar's payment & communication systems; 2) Westar's old tanks; 3) Westar's old gas dispensers; 4) Westar's small DEF tank. (Pl.'s Dep 37:16 – 39:20). All 4 of these items required Plaintiff to provide or procure new equipment, deliver it to Westar Travel Plaza, and install each properly. And like the supplier of bowling lane equipment in Bonebrake, Plaintiff held all the equipment required to perform under the Contract in one of its warehouses except for the singular and large DEF tank. (Pl.'s Dep. 43:12 – 20, 44:13 – 24). Put another way, unlike the subcontractor in Ranger Const. Co., Plaintiff held most of the equipment for the Westar job in its own warehouses. And Plaintiff entered the Contract with Defendants for the replacement of equipment that Westar Travel Plaza wanted in order to upgrade its premises. Cf. Bonebrake, 499 F.2d at 960; (see also Sayed's Dep. at 43:14 – 20). The parties' Contract and agreements for additional jobs at Westar are much more like the "installation of a water heater in a bathroom" than entering a "contract with artist for [a] painting". Bonebrake v. Cox, 499 F.2d 951, 960 (8th Cir. 1974) (citations omitted).

Defendants' Motion should be denied because there is at least a genuine issue of material fact on the primary thrust or purpose of the Contract between the parties. If that factual dispute is resolved to hold the UCC applies—then Defendants' Motion is baseless because S.C. Code Ann. § 36-2-725(1) provides a 6-year statute of limitations under which Plaintiff's August 2022 filing of its Complaint, and service shortly thereafter, would fall.

D. Genuine Issue on When Plaintiff Discovered Causes of Action.

Defendants' Motion should also be denied because there are genuine issues of material fact concerning when Plaintiff discovered its cause of action against any Defendant and relatedly, when Defendants last made payment on their obligations under the Contract. Non-UCC breach of contract actions must be commenced within three years pursuant to S.C. Code Ann. § 15-3-530(1)—however, "[t]he discovery rule applies to breach of contract actions." E.g., Prince v. Liberty Life Ins. Co., 390 S.C. 166, 169, 700 S.E.2d 280, 282 (Ct. App. 2010) (citations omitted). "[A] breach of contract action accrues not on the date of the breach, but rather on the date the aggrieved party either discovered the breach, or could or should have discovered the breach through the exercise of reasonable diligence." E.g., Maher v. Tietex Corp., 331 S.C. 371, 377, 500 S.E.2d 204, 207 (Ct. App. 1998) (citation omitted). And where there is conflicting evidence as to the time of discovery—there is a genuine issue of material fact and the jury has an issue to decide. See, e.g., McAlhany v. Carter, 415 S.C. 54, 63, 781 S.E.2d 105, 110 (Ct. App. 2015), *aff'd*, No. 2016-000405, 2017 WL 4873655 (S.C. May 3, 2017) (reversing trial court's grant of summary judgment because evidence conflicted on timing of discovery of no-moisture barrier versus actual mold in the home); see also Logan v. Cherokee Landscaping & Grading Co., 389 S.C. 611, 618, 698 S.E.2d 879, 883 (Ct. App. 2010) (citation omitted) ("If there is conflicting evidence as to whether a claimant knew or should have known he or she had a cause of action, the question is one for the jury."); Arant v. Kressler, 327 S.C. 225, 229, 489 S.E.2d 206, 208 (1997) (citation omitted) ("When there is conflicting testimony regarding the time of discovery, it becomes an issue for the jury to decide."); Johnston v. Bowen, 313 S.C. 61, 64, 437 S.E.2d 45, 47 (1993) (citation omitted) ("Whether a claimant knew or should have known that they had a cause of action is question for the jury.").

In McAlhany, the Court of Appeals reversed the trial court's grant of summary judgment barring the plaintiff's claim based on the expiration of statute of limitations simply because the record showed ***conflicting evidence*** as to when McAlhany first discovered mold in his home. 415 S.C. at 63 – 66, 781 S.E.2d at 110 – 12 (emphasis supplied). In that case, McAlhany sued the pest control company and the prior homeowner in April 2011 for negligence based on property damage and personal injury resulting from termite and water damage to a home McAlhany bought in 2007. Id. McAlhany testified at one point that he discovered black mold when he first moved into the home in October 2007—he also testified he first discovered mold in August 2009, and that he first learned of flooding problems in June 2008. Id. at 64, 781 S.E.2d at 111. The trial court granted summary judgment for the defendants based on the 3-year statute of limitations and McAlhany's testimony that he discovered no proper moisture barrier and mold in 2007. Id. at 61, 781 S.E.2d at 109. But the Court of Appeals' reversed and hinged its decision on the plain reasoning that "McAlhany presented evidence that he did not discover mold within the home until June 2008 or August 2009, which would have made his lawsuit timely filed in April 2011 . . . . " Id. at 66, 781 S.E.2d at 112.

While McAlhany's discovery of causes of action for negligence is admittedly more nebulous than Plaintiff's discovery of its contractual causes of action against Defendants—there is conflicting evidence on when that discovery occurred. Similar to McAlhany's testimony, Plaintiff's statements at deposition are ***some*** evidence that it knew Defendant(s) had breached some of their contractual obligations by August 9, 2019. (See Pl.'s Dep. at 121:20 – 122:20). But Plaintiff's prior lien on Defendant NEPA Ventures' property, given under oath, establishes Plaintiff last provided labor and materials to Defendants at the Westar Travel Plaza on ***September 21, 2019***. (See Stmt. of Not. and Mech. Lien, filed Dec. 19, 2019 with Spartanburg County Register of Deeds). Moreover, the labor and materials referenced in Plaintiff's lien were "for use in construction of diesel fuel pumps and related equipment located [at the Westar Travel Plaza] owned by NEPA Ventures[,] LLC" which is the same type of work Defendants hired to perform under the Contract. (See id.; see also Pl.'s Dep 37:16 – 39:20). Considering this evidence that the work was not even complete until September 21, 2019, Defendant's payment obligations for the work Plaintiff did at Westar could not possibly have been breached in August because Plaintiff was still doing work at Westar.

Plaintiff's Complaint also alleges that Defendant Sayed had Plaintiff perform work outside the original scope of work in the Contract—some of which was done after August 9 and for most of which Defendants eventually made payment. (See, e.g., Invoice Nos. 27487, 27488 (MECO 00434 – 435); see also Pl.'s Am. Compl. ¶¶ 16, 23, 33); see also S.C. Code Ann. § 15-3-130 (providing part payment on obligation is evidence to prevent bar of statute of limitations); see also Madren v. Bradford, 378 S.C. 187, 193, 661 S.E.2d 390, 394 (Ct. App. 2008) (citation omitted) ("A written contract may be modified by the parties thereto in any manner they choose, notwithstanding, agreement prohibiting its alteration except in a particular manner."); see also

Smith-Hunter Const. Co. v. Hopson, 365 S.C. 125, 129, 616 S.E.2d 419, 421, n.1 (2005) (noting trial court correctly held that party waived provisions of contract related to change orders based on unsigned invoices/change orders and changes having been requested without insisting on strict compliance with contract provisions); see also Sapp v. Wheeler, 402 S.C. 502, 510, 741 S.E.2d 565, 570 (Ct. App. 2013) (finding no error in "trial court's determination that Sapp had no reason to believe he had a cause of action against Wheeler until the rental payments [being received from various entities] ceased").

As a result of Plaintiff's testimony conflicting with its prior lien and its records, there is a genuine issue of material fact as to when Plaintiff knew Defendants had breached their contractual obligations. Much like the plaintiff in McAlhany, Plaintiff has inadvertently provided conflicting evidence on when it discovered Defendants breached their contractual obligations giving rise to causes of action. Thus, a genuine issue of material fact remains for the trier of fact to decide, and Defendants' Motion should be denied.

E. Statute of Limitations Should be Tolled.

a. Defendant Sayed

Even if the Court sees no genuine issue of material fact on which statute of limitations applies to the Contract and when Plaintiff discovered its causes of action, a 3-year statute of limitations should be tolled for Defendants' continuous presence and/or residence outside the State of South Carolina, and Plaintiff's lack of knowledge as to Defendant Sayed's name and Defendants' location. South Carolina law provides for tolling where a party is located out-of-state:

> If when a cause of action shall accrue against any person he shall be out of the State, such action may be commenced within the terms in this chapter respectively limited after the return of such person into this State. And if, after such cause of action shall have accrued, such person shall depart from and reside out of this State or remain continuously absent therefrom for the space of one year or more, the time of his

absence shall not be deemed or taken as any part of the time limited for the commencement of such action.

S.C. Code Ann. § 15-3-30. The General Assembly "enacted this tolling provision in 1870 [] to protect its residents from defendants who were not amenable to personal service of process because the defendants were out of state." Meyer v. Paschal, 330 S.C. 175, 178 – 179, 498 S.E.2d 635, 637 (1998). The first sentence has been interpreted by the Supreme Court of South Carolina "to include defendants who are residents of this State but out-of-state and defendants who have never resided in this State." Id. Here, Defendants are all out-of-state residents. (See generally Brodie Aff.; see also Sayed's Dep. 8:20 – 9:15, 75:25 – 76:12; see also Screenshots from Sec. of State Search for NEPA Defendants). While the Meyer court recognized that the purpose of the tolling statute has been served and no longer applies when a defendant becomes amenable to long-arm jurisdiction and/or substitute service, it expressly limited that holding "to situations similar to the instant case in which the name and location of the defendant is known to the plaintiff." Meyer, 330 S.C. at 183 – 184, 498 S.E.2d at 639. "The period of limitations may be tolled when that information is not known to the plaintiff. Whether the plaintiff had such knowledge could conceivably be a ***question of fact***." Meyer, 330 S.C. at 184, 498 S.E.2d at 639 (emphases supplied).

Indeed, this is the very situation in the case at hand because neither Plaintiff nor its counsel knew the legal name of Defendant Sayed until around August 2022 when it filed its Complaint. (See Brodie Aff.; see also Screenshot of Public Case Records Search re 2018CV4210109141 (indicating last name "Sayedtol"); see also Mortgage from Defendant NEPA Ventures (indicating name "Arshad Sayed"); see also Aff. of Service of Not. of Mech. Lien (indicating name "Alex Sod"); see also Sayed's Dep. 7:5 – 18 (admitting name is Arshed Sayed and denying any aliases other than Alex)). After September 2019, Plaintiff's then-counsel sifted through a profusion of contradictory public records, and an absence of same, to try and determine Defendant Sayed's legal name. First, Plaintiff's counsel went off the name which Defendant Sayed signed on the Contract—Alex Sayed. (See Contract; see also Brodie Aff.). Then, Plaintiff's counsel searched Spartanburg County's real estate records which revealed that NEPA Ventures LLC owned the Westar property, but the South Carolina Secretary of State's office had no records for that entity or the financing entity for Plaintiff's project at Westar, NEPA Trading & Investments, LLC. (See Brodie Aff; see also Screenshots from Sec. of State Search for NEPA Defendants). Next, Plaintiff's counsel found a Spartanburg County judgment against an "Alex Sayedtol". (See Brodie Aff.; see also Screenshot of Public Case Records Search re 2018CV4210109141).

Searching further, Plaintiff's counsel found a mortgage related to the Westar Travel Plaza which was executed by an "Arshad Sayed" and revealed a potential presence in the Commonwealth of Pennsylvania. (See Brodie Aff.; see also Mortgage from Defendant NEPA Ventures). This led to Plaintiff's counsel seeking to serve NEPA Ventures LLC at its Pennsylvania-registered address with Plaintiff's Statement and Notice of Mechanic's Lien against the property. (See Brodie Aff.; see also Aff. of Service of Not. of Mech. Lien). And when NEPA Ventures was served, an "Alex Sod" apparently presented himself as the Office Manager who was authorized to accept service for NEPA Ventures. (See id.) At the end of this search, Plaintiff's then-counsel was unable to determine either the legal name of the contracting party, or a personal address for Alex Sayed or Arshad Sayed in South Carolina or Pennsylvania. (See Brodie Aff.) And so, Plaintiff also did not know the legal name and address of Defendant Sayed until the undersigned filed the Complaint in August 2022.

In the case at bar, Plaintiff did not know Defendant Sayed's correct name and address because of the confusion caused by the multiple contradictory public records and because its course of dealing with Defendant Sayed never necessitated learning his home address. This establishes at least the same "question of fact" envisioned by the Court in Meyer. 330 S.C. at 184, 498 S.E.2d at 639 (emphasis supplied) ("The period of limitations may be tolled when that information is not known to the plaintiff. Whether the plaintiff had such knowledge could conceivably be a ***question of fact***."). Accordingly, the statute of limitations as to Sayed should be tolled pursuant to S.C. Code Ann. § 15-3-30.

b. Defendants NEPA Ventures LLC and NEPA Trading & Investments, LLC

Equitable tolling should operate as to Plaintiff's causes of action against Defendants NEPA Ventures and NEPA Trading & Investments because neither followed the law by registering with the South Carolina Secretary of State or maintaining a registered agent in South Carolina. (See Brodie Aff.; see also Screenshots from Sec. of State Search for NEPA Defendants). "Equitable tolling is judicially created; it stems from the judiciary's inherent power to formulate rules of procedure where justice demands it." Hooper v. Ebenezer Sr. Servs. & Rehab. Ctr., 386 S.C. 108, 115, 687 S.E.2d 29, 32 (2009). In Hooper, the Supreme Court of South Carolina held the remedy for the defendant's "failure to properly list its registered agent for service with the Secretary of State as required by state law" was to equitably toll the statute of limitations. 386 S.C. at 117 – 18, 687 S.E.2d at 33 – 34. In the face of the defendant's argument that Hooper should have pursued other means of service, the Court pointed out "the obvious fact that the need for alternative means of service was caused by [the defendant's] own failure to supply the [] information regarding its agent to the Secretary of State." Id. Moreover, the Court pointed out the defendant still had not given the name of an appropriate agent for service of process at the time the case was filed. See id. Ultimately, the Court found it would "not [be] equitable that [the defendant] be the beneficiary of the drastic consequence of dismissal." Id.

This same rule applies in the present case. The NEPA Defendants failed to register with the Secretary of State and did not have the required registered agents even though they were doing business in this State and NEPA Ventures owned the property underlying Westar. As justice demanded relief for the plaintiff in Hooper, it would not be equitable to allow Defendants to rely on the statute of limitations in this case. Plaintiff was "entitled to rely on the public records" to locate these entities—but those records provided nothing in the pursuit of locating Defendants. See id. at 118, 687 S.E.2d at 34; (see Brodie Aff; see also Screenshots from Sec. of State Search for NEPA Defendants). "The statute of limitations' purpose of protecting defendants from stale claims ***must give way*** to the public's interest in being able to rely on public records required by law." Hooper, 386 S.C. at 119, 687 S.E.2d at 34 (emphasis supplied). Consequently, Defendants' Motion should be denied in its entirety because there is at least a genuine issue of material fact as to Plaintiff's ability to locate and serve the NEPA Defendants due to their failure to comply with the law concerning foreign entities doing business in the State of South Carolina.

CONCLUSION

For all the reasons set out above, Defendants' Motion fails to establish the absence of a genuine issue of material fact as to the appropriate statute of limitations; the commencement and expiration of same; Plaintiff's knowledge of Defendant Sayed's legal name; and Plaintiff's ability to locate and serve the NEPA Defendants who remain unregistered with the South Carolina Secretary of State. Therefore, Defendants' Motion should be DENIED.

Respectfully submitted, this 8th day of September, 2023.

[SIGNATURE ON FOLLOWING PAGE]

s/ Logan A. Brown
LOGAN A. BROWN
South Carolina Bar No.: 105462
SCOTT W. KELLY
Admitted *Pro Hac Vice*
Attorneys for MECO, Inc. of Augusta

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MECO
AUGUSTA GREENVILLE
"SERVICE MAKES THE DIFFERENCE"

Post Office Box 692 * Augusta GA 30903
Augusta Home Office: (706) 724-7603
Greenville Office: (864) 271-4455

CONTRACT AGREEMENT

Agreement is made this 8th day of MAY, 2018

Between Owners: ALEX SAYED WESTAR TRAVEL PLAZA Located At: 175 TRUCK STOP ROAD COWPENS, SC. 29330
and MECO Inc. Corporate office located at 1234 Gordon Park Road, Augusta Ga 30901

EQUIPMENT TOTAL AMOUNT: $ 257, 923. 61

INSTALLATION/ STARTUP: $ 99, 308. 82

TAXES: $ 20, 767. 73

TOTAL: $ 378, 000. 16

The Owner and MECO Inc. of Augusta/ Greenville agree as set forth below:

I. CONTRACT SUM:

1. The Owner shall pay the Contractor for the performance of the work (subject to additions and deletions by written change orders mutually agreed upon and initiated in advance by a Sales Representative or Officers of MECO).

II. PAYMENTS:

1. A 100% down payment for all EQUIPMENT is required upon signing this contract. Contractor will furnish Owner with an invoice for all equipment costs, owner shall pay for invoice before any equipment will be ordered. Contractor will furnish Owner an invoice at the end of each week for the value of materials stored and/or for the value of work completed to date. Owner shall pay for same within thirty (30) days of invoice date or completion of project. Upon completion of project all installation/startup/ final invoice payments are due before site start up is completed. Also all invoice payments are due before Fire Marshall/DEHC/GA EPD approval is transferred to the customer. All Amounts Buyer does not pay when due shall accrue interest at the rate of 1.5% a month until paid. Buyer shall pay all of Seller's Costs of collection, including reasonable attorneys' fees. No partial payment by Buyer shall constitute an accord and satisfaction or otherwise satisfy the entire outstanding balance of any invoice of Seller, notwithstanding any notation or statement accompanying that payment.

Equipment Amount Due Upon Contract Signature
$ 257, 923. 61

X [signature] (Customer Initials)
[initials] (Sales Rep. Initials)

III. GENERAL CONDITIONS:

1. Taxes: State, Federal, and/or local taxes are included in this proposal unless specifically so stated.

2. **Performance Bond:** No provision is made in this agreement for performance bond. Should owner require such, the cost of such bond will be additional to the contract price.

3. **Work.** Seller will perform the Work on the terms and conditions of this Agreement. Seller (a) will install the Equipment at the Job Site in Accordance with the current version of the American Petroleum Institute's Recommended Practice 1615-1987 (the "API Standards") and the Petroleum Equipment Institute's Recommended Practices for Installation of Underground Liquid Storage Systems (the "PEI Standards") and (b) Will install all safety equipment included in the Equipment in accordance with the NFPA 30-1993 Flammable and Combustible Liquids Code or NFPA 30-A1993 Automotive and Marine Service Code, as applicable, (collectively, the "NFPA Standards").

4. **Contractor's Liability Insurance:** The Contractor shall purchase and maintain such insurance as will protect him from claims under Workmen's Compensation acts and other employee benefit acts, from claims for damages to property which may arise out of or result from the Contractor's negligent operations under this contract, whether such operations be by himself or by any Sub-contractor or anyone directly or indirectly employed by any of them.

5. **Owner's Liability Insurance:** The Owner shall be responsible for purchasing and maintaining his own liability insurance, or shall meet financial responsibility requirements of Federal and State underground storage tank regulations, and at his option, may maintain such insurance or financial responsibility in addition to those previously described in this paragraph as will protect him against claims which may arise from operations under the contract.

6. **Special fees:** Unless otherwise stated, no provision is made in this agreement for special fees, etc. If Contractor is requested to furnish same, this will be additional to the contract price.

7. **Changes in the Work:** The Owner, without invalidating the contract, may request changes in the work, consisting of additions, deletions, or modifications, the contract sum and the contract price being adjusted accordingly. All such changes must be accepted and approved in writing by the Owner and the Contractor with revised drawings where applicable. All other provisions of this contract shall remain in full force and effect. The contract sum will include Subcontractor's fee plus an additional 15%.

8. **Pricing:** Prices quoted are for acceptance within thirty (30) days from date of this quotation and for immediate delivery or at our earliest delivery schedule.

9. **Delivery:** Delivery promises are contingent upon strikes, accidents, weather, or other causes beyond our control. Contractor will endeavor to maintain schedules, but cannot guarantee to do so. The price for this Quote may not include all freight charges incurred. All

10. **Warranty:** Unless otherwise stated in the Sales Contract, all equipment and materials and installation will be guaranteed free of defects of material and workmanship for a period of one year from date of completion. In the case of defect or failure within one year, the Contractor will be required to comply with the equipment manufacturer's warranty to the extent of replacement of the equipment only, and not to include actual or consequential damages. The manufacturer's warranty is specifically incorporated herein by reference. Contractor must be notified promptly of any circumstances involving Contractor's own personnel. Contractor will not accept any invoices or charges for any work performed during the warranty period by others, without written approval of the Contractor. Notwithstanding anything to the contrary in this paragraph, Contractor shall not be responsible for any damages resulting from the negligence of

______ (Customer Initials)
______ (Sales Rep. Initials)

Customer and the failure of Customer to monitor the operation of all equipment on a daily basis in accordance with standards established by any Federal, State, or Local U.S.T. Regulations. Contractor shall not be responsible for actual or consequential damages resulting from manufacturer defects, other than for replacement of the equipment according to the manufacturer's warranty. Claims pursuant to this warranty must be made within one year from the date of completion of installation.

NO EMPLOYEE OR REPRESENTATIVE OF THE CONTRACTOR IS AUTHORIZED TO CHANGE THIS WARRANTY IN ANY WAY

11. **Materials:** Any material or equipment incidental to the installation or to be installed as a part of this contract shall, upon delivery to jobsite, become property of Owner, subject to a reservation of a security interest herein granted to Contractor and any losses or damage thereto, not caused by negligence of the Contractor, shall be borne by Owner, who shall obtain appropriate Builder's Risk insurance for fire, theft, and extended coverage.

12. **Hardware/software**: In this contract the parties assume that any system hardware and software supplied by owner and/or contractor is inherently compatible and requires only routine start-up and programming. If on start-up, it is discovered that the hardware and/or software is not compatible or has innate deficiencies that require additional configuration or upgrading, Contractor will be held harmless from any resulting delays in completion of the Work, and shall be entitled to full payment of the Price.

VeriFone Warranty Is One Year Materials Only – No Labor.

13. **Substitution**: Any identification of Equipment by brand name, manufacturer, catalog number, or other designation in Buyer's purchase order, Seller's documents or elsewhere only establishes a general quality standard and does not require Seller to supply a particular item. Seller shall have the right to select other Equipment that in Seller's opinion meets that general quality standard.

14. **Underground Structures**: Buyer shall inform Seller in writing of the location of all underground structures, including tanks, product lines, cables, conduits, sewer lines and water lines, where the digging or excavating is to occur before Seller starts any of the Work at the Job Site. Buyer shall indemnify, defend and hold Seller and its affiliates and their respective directors, officers, managers, employees and agents harmless from and against all claims, losses, damages, costs and attorneys' fees and expenses resulting from Seller's encountering any such underground structure unless Buyer informs Seller of the correct location and size of the structure before Seller commences the Work.

IV. SPECIAL CONDITIONS:

1. **Digging and/or Excavating**: Digging and Excavation quotations are based on normal soil conditions.

A. Should any digging or excavating be included in this agreement, and any heavy rock, shale, water, or unusual digging be encountered, Contractor's cost for overcoming such shall be reimbursed at Contractor's normal hourly rate. Any outside contract work shall be charged to Owner at Contractor's cost plus 20%. Should the job be abandoned entirely as a result of such conditions, Owner shall pay Contractor's cost for work performed to date. Contractor will notify Owner of such conditions before proceeding with removal. In the event any underground structures including tank/product lines, cables, conduits, sewer lines, and water lines are encountered, destroyed, or damaged during the performance of the installation/removal agreement, the Contractor shall not be held responsible. Owner shall have product available to fill tank(s) as requested by Contractor. In the event tank(s) are not filled as requested, Owner will be responsible for all damage that may be caused by tank(s) floating under all circumstances, including all costs for equipment, labor and materials required to reinstall the tanks. Unless Contractors quotation expressly quotes a price for

______ (Customer Initials)
Rdc ______ (Sales Rep. Initials)

ballasting tanks in Scope of Work, Owner is responsible for ballasting tanks to capacity. Contractor is not responsible for ballasting tanks or for any water removal or disposal from tanks. In addition, Contractor is not responsible for filling the tanks with petroleum products or any associated overfill releases. Owner is responsible for all overfills and releases under all circumstances.

2. **Environmental Indemnity:** By acceptance of this Installation Agreement,
Owner acknowledges that it is responsible for compliance with the underground storage tank regulations promulgated by all applicable Federal, State, and Local Laws Owner agrees and does hereby indemnify MECO for any and all liability MECO may incur as a result of Owner's failure to comply with this indemnity or said laws, regulations, and ordinances. MECO is not responsible for inspection of the property or reporting of any discovered contamination to the appropriate state agency. Rather, Owner acknowledges its sole responsibility for such inspection and/or reporting. The Owner agrees to inform MECO immediately of any leaks or contamination found.

3. MECO reserves the right to terminate this Installation Agreement in the event: (1) MECO encounters any signs of surface/sub-surface contamination conditions such as hydrocarbons or other hazardous materials "in or on" the soil, (2) MECO has reasonable belief that Owner has failed to comply with any federal and state laws, regulations, and ordinances applicable to the operation of Owner's business. Owner represents and certifies that to Owner's knowledge; there have been no leaks, spills, or releases of any kind whatsoever at the locations that the Owner is in compliance with all state and federal environmental laws of whatsoever nature.

4. **Electrical:** Unless otherwise specifically stated in Scope of Work section, electrical work is not included in the Contractor's agreement.

5. **Concrete/Asphalt:** Unless otherwise specifically state in Scope of Work section, no concrete or asphalt work is included in contractor's agreement.

6. **Permits:** It shall be the responsibility of contractor to supply Fire Marshall/DHEC approval prior to install all of the equipment including underground storage tanks covered by this agreement. Any additional permits/ government fees other than the 2 stated above will be billed to owner at Actual Cost of permit plus 20%, plus $40 per actual man hour. Any additional engineering cost required by the jurisdiction/ sealed drawings/ general contractor's license (Meco is a Specialty Contractor) required for any permit will be to owner at Actual Cost of permit plus 20%, plus $40 per actual man hour required to complete. Contractor shall supply copies of all such permits and/or licenses to Owner prior to commencement of installation.

7. **Photography:** Owner grants Contractor permission to take still photographs and video recordings of all aspects of excavation of equipment including tanks, and installation of new equipment including tanks. Owner understands and agrees that the price quotation for tank and line tests includes a line and tank test prior to completion of installation and station operation.

8. **Ballasting of Tanks/Initial Operations**: Supplying ballasting material, whether it be petroleum or water is the responsibility of the owner. It is also stated that it is the owner's responsibility to provide equipment to transfer water into tank if contractor is required to ballast. This should be defined as stated in Scope of Work. Any cost of disposal of water used for ballasting is the responsibility of the owner. Owner will be responsible for enough ballast to accomplish 100% of capacity of tanks.

V. OTHER SPECIAL CONDITIONS:

1. Installation price does not include Saturday, Sunday, or Holiday work. Should Owner request work on these days, this will constitute an extra charge to contract price at 2 times the normal MECO labor rate.

__________ (Customer Initials)
__________ (Sales Rep. Initials)

2. This Installation/ Equipment Contract Agreement, when accepted by the Owner, will constitute a contract, subject to all terms and conditions as stated and subject to the approval of the Contractor's Credit Manager. It is agreed that there are no promises, agreements, or understandings, oral or written, not specified in this proposal. All changes and/or deletions to contract to be approved and signed by MECO Sales Representative of Officer of the Company.

3. Owner has read this Agreement in its entirety and understands all of the provisions hereof, including Owner's responsibilities and rights.

4. It is Owners Responsibility to have "Third Party Testing" on tanks and lines upon completion, and providing results to SCDEHC/ Georgia EPD if Owner Requires Meco to provide this service it will be billed outside this contract and will be billed separately at Actual Cost of permit plus 20%, plus $40 per actual man hour required to complete.

5. **Cancellation and Return of Goods**: Buyer may cancel an order only upon advance written approval of Seller and the manufacturer; provided Buyer pre-pays the freight charges and Seller's reasonable cancellation and restocking charges, and Seller's handling fee equal to 10-12% of the Price for the Equipment or services that are the subject of the cancellation. No merchandise is returnable without Seller's advance written consent. Merchandise must be returned within ten (10) days of Buyer's receipt of written authorization and must be accompanied by the invoice number and/or a copy of the sales receipt. Return of material prior to receiving Seller's approval will result in material remaining the property of Buyer, and it will be stored at Buyer's risk and expense. If Seller accepts the material in return for credit, a handling charge based in part on acceptance of the material for return by the manufacturer will be charged, and no credit will be issued to Buyer until credit from the manufacturer is received. Special custom orders (including dispensers/specialty products) shall be non-cancelable and non-refundable.

6. Seller shall not be liable for delays or failing to perform any of its obligations under this Agreement resulting directly or indirectly, in whole or part, from events or causes beyond its reasonable control, acts of God, accidents, riots, wars, national emergencies, terrorism, strikes, labor disputes, unusual weather, natural disasters, hurricanes, storms, persistent or heavy rain, cyclones, earthquakes, floods, lightning, embargoes, failure by suppliers to deliver or by other contractors to perform, delays in obtaining or the inability to obtain supplies, equipment or labor through normal sources at normal prices, delays of carriers or postal authorities, or governmental restrictions, prohibitions or diversions. The occurrence of any of the foregoing shall operate to extend Seller's time of performance under this Agreement for a period not less than the period of the delay caused by any of the foregoing, plus a reasonable amount of time for remobilization.

ACCEPTED AND AGREED TO:

X ______________________________
OWNER'S NAME PRINTED

X ______________________________
OWNERS' SIGNATURE

X ____________ (Customer Initials)
____________ (Sales Rep. Initials)

MECO
AUGUSTA GREENVILLE
"SERVICE MAKES THE DIFFERENCE"

ROGER CARPENTER
MECO SALES REPRESENTATIVE NAME PRINTED

Roger Carpenter
MECO SALES REPRESENTATIVE SIGNATURE

5-8-2018
DATE OF CONTRACT

X ______________ (Customer Initials)
______________ (Sales Rep. Initials)

SCOPE OF WORK FOR WESTAR TRAVEL PLAZA COWPENS SC

INSTALLATION TO INCLUDE THE FOLLOWING ITEMS:

- PROVIDE CUSTOMER DETAILED CONSTRUCTION SCHEDULE FOR PROJECT
- HOLD AN OFFICE PRE-CON MEETING PRIOR TO ORDERING EQUIPMENT TO VERIFY QUANTITIES AND SIZES
- PROVIDE MECHANICAL LABOR
- REMOVE EXISTING DISPENSERS EQUIUPMENT AND DISPOVE OF IT
- INSTALL NEW WAYNE OVATION HS DISPENSERS WITH DEF
- PROGRAM/TEST DISPENSERS
- PURGING THE LINES
- CALIBRATE AND START UP DISPENSERS
- INSTALL DUAL RUBY 2 COMMANDER POS WITH SCANNERS
- BREAK OUT EXISTING ISLANDS, DISPOVE OF THEM AND INSTALL NEW ISLANDS
- INSTALL NEW DISPENSER SUMPS
- PULL NEW WIRE TO THE ISLANDS
- RUN NEW DOUBLE WALL NUPI PIPE TO THE ISLANDS FROM THE TANK SUMPS
- INSTALL NEW TANK SUMPS AND ADAPTORS AND SENSORS
- INSTALL MANHOLES
- INSTALL PROBES CAPS
- INSTALL NEW SHEAR VALVES FOR DIESEL AND DEF
- INSTALL 8,000 GALLON DOUBLE WALL DEF TANK FIBERGLASS
- RUN NEW DOUBLE WALL NUPI PIPE FOR DEF TANK
- INSTALL REMOTE FILL FOR DEF TANK ON LAST ISLAND
- INSTALL BLUE DIVER 200 PUMP ASSEMBLY FOR REMOTE FILL FOR DEF
- INSTALL DEF PROBE FOR DEF TANK
- INSTALL SUMP SENSOR IN LAST DISPENSER SUMP TO MEET DHEC REQUIREMENTS
- RUN DEF VENT UP THROUGH CANOPY
- INSTALL BOLLARDS AROUND REMOTE FILL AND TANK
- PROVIDE EQUIPMENT AND MATERIALS FOR THE JOB
- SAW CUT, BREAK OUT CONCRETE HAUL OFF AND INSTALL NEW CONCRETE 4000 PSI WITH FIBER IN 2 AREAS (SIZE AS REQUIRED FOR ISLANDS AND 25' X 12' X 4" TO INSTALL DEF TANK)
- PROVIDE BACKFILL DIRT AND ROCK FOR INSTALLATION OF DEF TANK PER MANUFACTURES SPECS
- PROVIDE ELECTRICAL LABOR TO INSTALL CONDUIT AND PULL WIRE FOR THE FOLLOWING AREA: TANK PROBES, SUMP SENSORS, DISPENSERS, INTERNAL SPEAKERS, REMOTE FILL AND TANK MONITOR
- PERFORM SOIL SAMPLING FOR DIESEL CLOSURE PER DHEC REQUIREMENTS
- VERIFY THAT ALL SYSTEMS ARE WORKING PROPERLY BEFORE LEAVING SITE
- INSTRUCT CUSTOMERS PERSONNEL IN PROPER OPERATION OF EQUIPMENT SUPPLIED BY MECO
- PERFORM PRECISION TEST ON DEF TANK
- PERFORM PRECISION LINE TEST AND MECHANICAL LEAK DECTECTOR TEST (IF APPLICABLE) ON DISCHARGE LINE
- PROVIDE A "CLOSE OUT BOOK" COMPLETE WITH PHOTOS, INSPECTION REPORTS & PERMITS
- THIS PROPOSAL IS CONTINGENT ON THE FOLLOWING: IF ANY UNDERGROUND OBSTRUCTIONS OR CONDITIONS ARE ENCOUNTERED REQUIREING DEWATERING, ROCK REMOVAL, SHORING, ADDITIONAL EXCAVATING TIME, REMOVAL OF SUB SURFACE CONCRETE, REMOVAL OF SUB SURFACE STRUCTURES,

RELOCATION OF UTILITITIES, EXCESSIVE CAVE-INS, ETC., THEIR WILL ADDITIONAL CHARGES TO THE CUSTOMER THRU A CHANGE ORDER

- IF WE RUN INTO CONTAIMINATED SOIL OR FREE PRODUCT IS ENCOUNTERED MECO WILL STOP WORK AND DISCUSS A GAME PLAN TO RESOLVE THE ISSUE WITH THE CUSTOMER
- If WE RUN INTO ISSUES WE WILL NOTIFY CUSTOMER OF ISSUES AND PROVIDE THEM WITH A CHANGE ORDER TO BE APPROVED BEFORE WE CONTINUE WITH PROJECT
- COLLECTFINALPAYMENTAMOUNTOF$ j-u;, 071,,,. :,',

OWNERS SIGNATURE

DATE

Roger Carpenter

SALES REP SIGNATURE

5-8-2018

DATE

MECO
AUGUSTA GREENVILLE

Post Office Box 696 • Augusta, GA 30903
Phone (706) 724-7603 • Fax (706) 724-0766
"SERVICE MAKES THE DIFFERENCE"

ESTIMATE

Date	Number
12/6/2017	11347

Bill To Address:	Work/ShipAddress
PAPCO-WESTAR TRAVEL PLAZA 4920 SOUTHERN BLVD Virginia Beach, VA 23462 ASHLEY LUTHER	PAPCO-WESTAR TRAVEL PLAZA 175 TRUCK STOP ROAD Cowpens, SC 29330 ASHLEY LUTHER

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
3732		NET 30		Roger Carpenter	

Item	Description	Quanity
WAYNE HW22/22D	Wayne Ovation HS Diesel Dual Master with Dual DEF. 2 Hose, 2 Inlets w/IX EPP Payment	1.00
WAYNE HW23/22C	Wayne Ovation HS Diesel Master Satelite Combo + Single DEF. 2 Hose, 2 Inlets + Satelite w/IX EPP Payment	1.00
WAYNE HW23/22C	Wayne Ovation HS Diesel Master Satelite Combo + Single DEF. 2 Hose, 2 Inlets + Satelite w/IX EPP Payment	1.00
WAYNE HW23/22C	Wayne Ovation HS Diesel Master Satelite Combo + Single DEF. 2 Hose, 2 Inlets + Satelite w/IX EPP Payment	1.00
WAYNE HW23/22C	Wayne Ovation HS Diesel Master Satelite Combo + Single DEF. 2 Hose, 2 Inlets + Satelite w/IX EPP Payment	1.00
WAYNE HW23/22C	Wayne Ovation HS Diesel Master Satelite Combo + Single DEF. 2 Hose, 2 Inlets + Satelite w/IX EPP Payment	1.00
COMMENT	DISPENSERS WILL COME WITH STANDARD GRAPHICS, 1X SECURE PAY EPP, IOTV MEDIA PACKAGE WITH 10.4 COLOR SCREEN, HOSE RETRACTION, ALPHANUMERIC KEYPAD, INTERCOM SPEAKER, INTERCOM CALL BUTTON, PUSH TO START, DEF STRAINER, SATELITE IN USE INDICATOR, DISPENSER SECURE ACCESS LOWER DOOR, HYBRID CHIP CARD READER, WAYNE CONNECT, STANDARD VALANCE AND 2 YRS PARTS AND LABOR	1.00
FREIGHT/HANDLING-INBOUND	FREIGHT FOR DISPENSERS	1.00
HUCO 010476	1" X 15' GREEN DSL KIT	12.00

Estimate is valid for 30 days from the date above.

Upon acceptance, an equipment downpayment is due in the amount of $ 257,923.61 .
Downpayment is due on ___/___/___. until Patriot approved.

Please sign in agreement to the terms above X [signature]
All freight charges incurred may not be included in the estimate above. Final freight charges may be included on a separate invoice. An environmental surcharge of $2.49 may be added to each invoice.

Subtotal	$357,232.43
Sales Tax	$20,767.73
Total	$378,000.16
Balance Due	$0.00

EXHIBIT 2

MECO 00315

MECO
AUGUSTA GREENVILLE

Post Office Box 696 • Augusta, GA 30903
Phone (706) 724-7603 • Fax (706) 724-0766

"SERVICE MAKES THE DIFFERENCE"

ESTIMATE

Date	Number
12/6/2017	11347

Bill To Address:	Work/ShipAddress
PAPCO-WESTAR TRAVEL PLAZA 4920 SOUTHERN BLVD Virginia Beach, VA 23462 ASHLEY LUTHER	PAPCO-WESTAR TRAVEL PLAZA 175 TRUCK STOP ROAD Cowpens, SC 29330 ASHLEY LUTHER

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
3732		NET 30		Roger Carpenter	

Item	Description	Quanity
OPEN 21GU-0400	WAYNE DEF NOZZLE	6.00
OPEN 21GU SSB	OPW STAINLESS STEEL BREAKAWAY AND SWIVEL	6.00
OPEN TSM-4536	OPEN TSM-4536 TANK SUMP	2.00
OPEN TFA-4090	OPEN TFA-4090 TANK SUMP ADAPTOR	2.00
OPEN 61T-SS-0412	SS 4"X12 FT DROP TUBE FOR DEF	1.00
FAIN 440COMP WT	44" COMP MANHOLE WATERTIGHT	3.00
FAIN 180-12	18" MANHOLE w/12" SKIRT FRAME	2.00
FAIN 120-MW-12	12" MANHOLE W/12" SKIRT	1.00
OPEN 71SO-400C	EVR OVERFILL VALVE 96"	1.00
OPEN 10RUP 2006	OPW 2" DBL POPPET SHEAR VALVE	16.00
FEPE 663100001	1 1/2" NPT INLET X 1" OUTLET DEF SHEAR VALVE	6.00

Estimate is valid for 30 days from the date above.

Upon acceptance, an equipment downpayment is due in the amount of $_______________.
Downpayment is due on ____/____/____.

Please sign in agreement to the terms above __________________________
All freight charges incurred may not be included in the estimate above. Final freight charges may be included on a separate invoice. An environmental surcharge of $2.49 may be added to each invoice.

Subtotal	$357,232.43
Sales Tax	$20,767.73
Total	$378,000.16
Balance Due	$0.00

EXHIBIT 2

MECO 00316

MECO
AUGUSTA GREENVILLE
Post Office Box 696 • Augusta, GA 30903
Phone (706) 724-7603 • Fax (706) 724-0766
"SERVICE MAKES THE DIFFERENCE"

ESTIMATE

Date	Number
12/6/2017	11347

Bill To Address:	Work/ShipAddress
PAPCO-WESTAR TRAVEL PLAZA 4920 SOUTHERN BLVD Virginia Beach, VA 23462 ASHLEY LUTHER	PAPCO-WESTAR TRAVEL PLAZA 175 TRUCK STOP ROAD Cowpens, SC 29330 ASHLEY LUTHER

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
3732		NET 30		Roger Carpenter	

Item	Description	Quanity
FEPE 310-40011	4 X 4 X 2 EXTRACTOR TEE FOR DEF	1.00
FEPE 66320000	MOUNTING BRACKET FOR DEF SHEAR VALVE INCLUDES U BOLT, NUTS AND BRACKET GUIDE	6.00
PEMC 70049X12	4 X 12 X 9 ISLAND FORMS MODEL 700 6" RADIUS STRAIGHT SIDES	5.00
FEPE DEF10X12MXEZM	1" DEF FLEX CONNECTOR 12" LONG X HEX MALE NPT X EZFIT MALE NPT	6.00
PEMC 70049X18	4 X 18 X 9 ISLAND FORM MODEL 700 6" RADIUS STRAIGHT SIDE	1.00
BOLLARDS 6"	6" BOLLARDS	4.00
FEPE DEF15X18MXEZM	DEF FLEX CONNECTOR 1 1/2" DIA. X 18" LONG W/ MALE NPT X EZFIT MALE NPT	1.00
DAB 10-6K11HFP2-8	DIVER 200 (SINGLE PHASE) MANIFOLD PUMP PACKAGE FOR 8FT TANK INCLUDES- PUMP, CONTROLLER/STARTER, 10" MANIFOLDED FLANGE ASSEMBLY, K11 CHECK VALVE, AND RELIEF VALVE ASSEMBLY, IN TANK PUMP DISCHARGE PIPING, IN TANK BY PASS RETURN PIPING	1.00
FAIN MTO 10 GALL SS	10 GAL S/S ASSEMBLED REMOTE FILL PORT. 3" REAR OUTLET, LOCKABLE HINGED DOOR, ALL STAINLESS STEEL PIPING, DUST CAP, ADAPTER, BALL VALVE, SWING CHECK VALVE, NO PUMP, LEGS	1.00

Subtotal	$357,232.43
Sales Tax	$20,767.73
Total	$378,000.16
Balance Due	$0.00

Estimate is valid for 30 days from the date above.

Upon acceptance, an equipment downpayment is due in the amount of $_______________.
Downpayment is due on ____/____/____.

Please sign in agreement to the terms above ______________________________
All freight charges incurred may not be included in the estimate above. Final freight charges may be included on a separate invoice. An environmental surcharge of $2.49 may be added to each invoice.

MECO
AUGUSTA GREENVILLE
Post Office Box 696 • Augusta, GA 30903
Phone (706) 724-7603 • Fax (706) 724-0766
"SERVICE MAKES THE *DIFFERENCE*"

ESTIMATE

Date	Number
12/6/2017	11347

Bill To Address:	Work/ShipAddress
PAPCO-WESTAR TRAVEL PLAZA 4920 SOUTHERN BLVD Virginia Beach, VA 23462 ASHLEY LUTHER	PAPCO-WESTAR TRAVEL PLAZA 175 TRUCK STOP ROAD Cowpens, SC 29330 ASHLEY LUTHER

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
3732		NET 30		Roger Carpenter	

Item	Description	Quanity
OPEN 723V-2203	2" EVR PRESSURE-VAC VENT-DEF	1.00
KITZ 68-200	2" BALL VALVE FP	2.00
MORB 691BSS0700 1V	1 1/2" STAINLESS STEEL FULL PORT LOCKING BALL VALVE	1.00
DUAL TERM TOPAZ/COMMANDER	VERIFONE DUAL TERMINAL RUBY 2 COMMANDER, PINPAD, CUSTOMER DISPLAY AND PRINTER	1.00
SCSO SCANNER SYSTEM COMPLETE	SCANNER SYSTEM COMPLETE FOR POS	2.00
2" D/W NUPI FUSION WELDED PIPING GROUP	DIESEL FUEL PIPING AND CONTAINMENT	1.00
COMMENT	THE FOLLOWING IS FOR THE DEF TANK	1.00
COSO 8K DEF	CONTAINMENT SOLUTIONS DWT-6 TYPE II 8000 GALLON DEF TANK	1.00
FREIGHT/HANDLING-INBOUND	FREIGHT (Inbound)	1.00
MEIN MISC MATERIALS	VEEDER ROOT EQUIPMENT- 1-PROBE FOR ALT FLUID HGP WATER DETECT 8FT, 8 SUMP SENSORS, 8 MOUNTING KITS, 4" RISER CAP & RING KIT, INTERSTITAL SENSOR FOR FIBERGLASS TANK, 2" CAP AND RING KIT, INSTALL KIT, ALT FLUID 4" FLOAT	1.00

Subtotal	$357,232.43
Sales Tax	$20,767.73
Total	$378,000.16
Balance Due	$0.00

Estimate is valid for 30 days from the date above.

Upon acceptance, an equipment downpayment is due in the amount of $________________.
Downpayment is due on _____/_____/_____.

Please sign in agreement to the terms above ______________________________

All freight charges incurred may not be included in the estimate above. Final freight charges may be included on a separate invoice. An environmental surcharge of $2.49 may be added to each invoice.

MECO
AUGUSTA GREENVILLE

Post Office Box 696 • Augusta, GA 30903
Phone (706) 724-7603 • Fax (706) 724-0766

"SERVICE MAKES THE DIFFERENCE"

ESTIMATE

Date	Number
12/6/2017	11347

Bill To Address:	Work/ShipAddress
PAPCO-WESTAR TRAVEL PLAZA 4920 SOUTHERN BLVD Virginia Beach, VA 23462 ASHLEY LUTHER	PAPCO-WESTAR TRAVEL PLAZA 175 TRUCK STOP ROAD Cowpens, SC 29330 ASHLEY LUTHER

Customer #	PO #	Terms	Due Date	Sales Rep	WO #
3732		NET 30		Roger Carpenter	

Item	Description	Quanity
QUOTED LABOR-AUGUSTA INSTALL	QUOTED LABOR AUGUSTA INSTALL	1.00
QUOTED LABOR-GREENVILLE INSTALL	QUOTED LABOR GREENVILLE INSTALL	1.00

Estimate is valid for 30 days from the date above.

Upon acceptance, an equipment downpayment is due in the amount of $_______________.
Downpayment is due on ____/____/____.

Please sign in agreement to the terms above ______________________________
All freight charges incurred may not be included in the estimate above. Final freight charges may be included on a separate invoice. An environmental surcharge of $2.49 may be added to each invoice.

Subtotal	$357,232.43
Sales Tax	$20,767.73
Total	$378,000.16
Balance Due	$0.00

EXHIBIT 2

MECO 00319

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	)	IN THE COURT OF COMMON PLEAS SEVENTH JUDICIAL CIRCUIT C/A NO.: 2022CP4203123
MECO, INC. OF AUGUSTA, Plaintiff, v. ALEX SAYED a/k/a ARSHAD M. SAYED a/k/a ARSHED SAYED; NEPA VENTURES LLC; NEPA TRADING & INVESTMENTS, LLC, Defendants.	)	AFFIDAVIT

Personally appeared before me, Brad A. Brodie, Esq., who being duly sworn deposes and says:

I helped prepare a Statement and Notice of Mechanic's Lien for MECO, Inc. of Augusta (MECO) which was filed in Spartanburg County, South Carolina. I was hired on or about September 11, 2019. When I reviewed the contract with MECO it described the owner of the location at 175 Truck stop Rd. as "Alex Sayed, Westar Travel Plaza". A search of the Spartanburg County real estate records indicated that the real property where the subject truck stop is located is actually in the name of Nepa Ventures LLC. There were no records filed at the South Carolina Secretary of State's office for Nepa Ventures LLC or a registered agent listed. In addition, there were no records filed at the South Carolina Secretary of State's office concerning Nepa Trading & Investments, LLC either, which apparently is another company which was involved in the underlying transaction. A search of the judicial records showed a Judgment in favor of Davis Services Inc. against a Alex Sayedtol dba Westar Travel Plaza, 175 Truck Stop Rd., Cowpens, SC 29330 which is the address of the subject truck stop (Case Number

EXHIBIT 5

2018CV4210109141). In addition, there was a mortgage from NEPA Ventures LLC to Celtic Bank Corporation, recorded in Mortgage Book 5426 at page 604 in the RMC office for Spartanburg County, South Carolina, which was executed by Arshad Sayed, on behalf of Nepa Ventures, LLC. This Mortgage appeared to be executed in the State of Pennsylvania, based on the notary block. We searched Pennsylvania corporate records and came up with a possible address for Nepa Ventures, LLC of 100 N. Wilkes Barre Blvd, Ste 206, Wilkes-Barre, PA 18702. However, when the lien was served the name of "Mr. Sod" appeared on the Affidavit of Service.

Nepa Ventures, LLC and Nepa Trading & Investments, LLC should have obtained a certificate to conduct business in South Carolina and should have had a registered agent in the State of South Carolina, as required by law. To this day I think both Nepa entities are still out of compliance with the filing requirements for the state of South Carolina, because I ran a search on September 7, 2023 and neither of the Nepa entities appear on the website for the South Carolina Secretary of State.

I was unable to determine the legal name of Alex Sayed, Arshad Sayed, or Alex Sayedtol and am unsure to this day what the legal name of the person who signed the contract with MECO is. In addition, we were never able to determine a personal address for Alex Sayed or Arshad Sayed in South Carolina, or Pennsylvania.

FURTHER DEPONENT SAYETH NOT.

Brad A. Brodie

SWORN TO BEFORE ME THIS 8
DAY OF SEPTEMBER, 2023

Notary Public for South Carolina
My Commission Expires: 6/19/29
(SEAL)

AMANDA L. DANIEL
My Commission Expires
NOTARY PUBLIC
06-19-2029
STATE OF SOUTH CAROLINA

MECO
AUGUSTA GREENVILLE

Post Office Box 696 • Augusta, GA 30903
Phone (706) 724-7603 • Fax (706) 395-0614
"SERVICE MAKES THE DIFFERENCE"

Invoice

Number	27488
Date	9/26/2019
Due Date	9/26/2019
Customer PO #	
Payment Terms	DUE UPON RECEIPT
WO #	

Work/ShipAddress

WESTAR TRUCK PLAZA

ALEX SAYED
175 TRUCK STOP RD
COWPENS, SC 29330

Bill To Address:

WESTAR TRUCK PLAZA
ALEX SAYED
175 TRUCK STOP RD
Cowpens, SC 29330

Sales Rep
Roger Carpenter

STATEMENTS WILL NO LONGER BE SENT OUT.
PLEASE PAY FROM THIS INVOICE.
THANK YOU FOR YOUR BUSINESS!

Item	Description	Quanity	Price	Amount
TECH LABOR - DANNY DEMERY	REGULAR TIME	3.00	75.00	$225.00
MILEAGE - SERVICE	MILEAGE - SERVICE	80.00	1.25	$100.00
CIMTEK 300-10 (70010)	FILTER	12.00	10.00	$120.00

PAID

Warranty items for vendors including, but not limited to, Franklin Fueling and Champion will be charged to the customer until the vendor approves the warranty coverage. At which time we will credit the customer for the charge in way of a credit on the account or a check reimbursement.

Interest at the rate of 1 1/2% per month may be charged on overdue amounts. Any items ordered are subject to a 30% restock fee (new or used). To return a product, return an item in its original condition and packaging, with receipt, within 30 days of the purchase date to request a refund. Return a defective item within the warranty period. Requests for refunds may be denied if the item has been used or installed by you, your company, or any of our technicians. Electronic items may not be returned. Refunds will be made in the same manner as the time of purchase. All freight charges incurred may not be included on this invoice. Freight charges may be included on a separate invoice.

Subtotal	$445.00
Sales Tax	$8.40
Total	$453.40
Balance Due	$0.00

MECO
AUGUSTA GREENVILLE
Post Office Box 696 • Augusta, GA 30903
Phone (706) 724-7603 • Fax (706) 395-0614
"SERVICE MAKES THE DIFFERENCE"

Invoice

Number	27487
Date	9/26/2019
Due Date	9/26/2019
Customer PO #	
Payment Terms	DUE UPON RECEIPT
WO #	

Work/ShipAddress

WESTAR TRUCK PLAZA

ALEX SAYED
175 TRUCK STOP RD
COWPENS, SC 29330

Bill To Address:

WESTAR TRUCK PLAZA
ALEX SAYED
175 TRUCK STOP RD
Cowpens, SC 29330

Sales Rep
Roger Carpenter

STATEMENTS WILL NO LONGER BE SENT OUT.
PLEASE PAY FROM THIS INVOICE.
THANK YOU FOR YOUR BUSINESS!

Item	Description	Quanity	Price	Amount
TECH LABOR - DANNY DEMERY	REGULAR TIME	1.00	75.00	$75.00
MORRISON 305XP-0200 AC (OBS)	4" TANK MONITORING CAP	1.00	60.00	$60.00
COMMENT	TRAVEL TO LOCATION REPLACED PROBE CAP ON RUL TANK VERIFIED THAT THE RUL TANK IS MANIFOLDED WITH ANOTHER TANK INSPECTED NUPI ENTRY FITTINGS AND VERIFIED TEST PORT IS OPEN TO THE SECONDARY	1.00	0.00	$0.00

PAID

Warranty items for vendors including, but not limited to, Franklin Fueling and Champion will be charged to the customer until the vendor approves the warranty coverage. At which time we will credit the customer for the charge in way of a credit on the account or a check reimbursement.

Subtotal	$135.00
Sales Tax	$4.20
Total	$139.20
Balance Due	$0.00

Interest at the rate of 1 1/2% per month may be charged on overdue amounts. Any items ordered are subject to a 30% restock fee (new or used). To return a product, return an item in its original condition and packaging, with receipt, within 30 days of the purchase date to request a refund. Return a defective item within the warranty period. Requests for refunds may be denied if the item has been used or installed by you, your company, or any of our technicians. Electronic items may not be returned. Refunds will be made in the same manner as at time of purchase. All freight charges incurred may not be included on this invoice. Freight charges may be included on a separate invoice.

Business Entities Online

File, Search, and Retrieve Documents Electronically

Log In

Business Name Search

To Search
Enter the business name of the company you wish to view and click "Search." Find the business in the results below and click to view the official business profile and relevant information.

To File for an Existing Business
Enter the business name of the company for which you wish to file documents and click search. Find the business in the results below and click to view the official business profile. From your business's profile click the "Add Filing" button.

Results displayed will show entities that contain your search criteria.

Search by Business Name

Begins With | NEPA | Search

See results below

Add New Entity

Search Results

Displaying 2 record(s)

Entity Name	Date of Incorporation	Entity Type	Entity Status	Incorporated State
NEPA HUB, LLC Former	04/13/2011	Limited Liability Company	Good Standing	South Carolina
NEPAL, INC.	05/15/1991	Nonprofit	Good Standing	South Carolina

EXHIBIT 9

Desktop 10:15 AM 9/8/2023

South Carolina Secretary of State Mark Hammond

Business Entities Online

File, Search, and Retrieve Documents Electronically

In partnership with SC.GOV

Log In

Business Name Search

To Search

Enter the business name of the company you wish to view and click "Search." Find the business in the results below and click to view the official business profile and relevant information.

To File for an Existing Business

Enter the business name of the company for which you wish to file documents and click search. Find the business in the results below and click to view the official business profile. From your business's profile click the "Add Filing" button.

Results displayed will show entities that contain your search criteria.

Search by Business Name

Begins With | NEPA Ventures LLC | Search

This name is available

Add New Entity

No Results

For filing questions please contact us at **803-734-2158**

Download Adobe Reader

South Carolina Secretary of State

Desktop 10:14 AM 9/8/2023

EXHIBIT 9

South Carolina Secretary of State *Mark Hammond*

Business Entities Online

File, Search, and Retrieve Documents Electronically

In partnership with SC.GOV

Log In

Business Name Search

To Search

Enter the business name of the company you wish to view and click "Search." Find the business in the results below and click to view the official business profile and relevant information.

To File for an Existing Business

Enter the business name of the company for which you wish to file documents and click search. Find the business in the results below and click to view the official business profile. From your business's profile click the "Add Filing" button.

Results displayed will show entities that contain your search criteria.

Search by Business Name

Begins With | NEPA Trading & Investments, LLC | Search

This name is available

Add New Entity

No Results

EXHIBIT 9

Desktop 10:15 AM 9/8/2023

South Carolina Secretary of State *Mark Hammond*

Business Entities Online

File, Search, and Retrieve Documents Electronically

In partnership with SC.GOV

Log In

Registered Agent Search

Enter the full or partial name you wish to search for. The first 50 results will be displayed below. If you query has more than 50 results please contact the Secretary of State's office.

Search by Agent Name

Alex Sayed

Search

No Results

For filing questions please contact us at **803-734-2158**

Download Adobe Reader

South Carolina Secretary of State

EXHIBIT 9

Desktop 10:16 AM 9/8/2023

Log In

WESTAR TRAVEL PLAZA, INC.

Corporate Information

Entity Id 00580103

Entity Type Corporation

Status Forfeited

Domestic/Foreign Domestic

Incorporated State South Carolina

Important Dates

Effective Date 09/12/2013

Expiration Date N/A

Term End Date N/A

Dissolved Date 12/10/2018

Registered Agent

Agent HILDA ENRIQUEZ

Address 175 TRUCK STOP ROAD
COWPENS, South Carolina 29330

Request Documents

Add Filing

Official Documents On File

Filing Type	Filing Date
Administrative Dissolution	12/10/2018
Change of Agent or Office	11/12/2013
Incorporation	09/12/2013

Back

EXHIBIT 9

Spartanburg County
Seventh Judicial Circuit
Public Index

Spartanburg County Home Page South Carolina Judicial Department Home Page SC.GOV Home Page

Search By...Court Type All Courts Court Agency All Agencies

Case # Case Type All Case Types Case SubType All Case Sub-Types

Last Name/Business sayed First alex Middle Suffix Party Type All

Action Type All Actions CDR Code Indictment #

Date Type Beginning Ending

Tax Map# From Through

Only for Civil Cases... Index Search All Lis Pendens Judgments | Cross Index Search All Judgment For Judgment Against

Search Reset Search Fields | Name Search Option Begins With Contains

Name	Party Type	Case Number	Filed Date	Case Status	Disposition Date	Type	Subtype	Judgment #	Court Agency
Sayed, Alex	Defendant	2022CP4203123	08/23/2022	Pending/ADR Sanctions		Common Pleas	Breach of Cont 140		Common Pleas
Sayed Dba, Alex	Appellant	2019CP4200470	02/08/2019	Dismissed	04/22/2019	Appeal	Magistrate Civil 910		Common Pleas
Sayedtol Dba, Alex	Defendant	2019CP4201619	05/03/2019	Judgment	05/03/2019	Common Pleas	Transcript Judg 740	2019CP4201619	Common Pleas
Sayedtol dba Westar Travel Plaza, Alex	Defendant	2018CV4210109141	10/02/2018	Disposed	01/09/2019	Civil	Summons & Complaint	2018CV4210109141	Spartanburg Magistrate

EXHIBIT 10

MTG-2018014023
Recorded 10 on 04/02/2018 11:02:00 AM
Recording Fee: $16.00
Office of REGISTER OF DEEDS, SPARTANBURG, S.C.
DOROTHY EARLE REGISTER OF DEEDS
BK:MTG 5426 PG:604-613

RECORDATION REQUESTED BY:
Celtic Bank Corporation
268 S. State Street
Suite 300
Salt Lake City, UT 84111

WHEN RECORDED MAIL TO:
Celtic Bank Corporation
268 South State Street, Suite 300
Salt Lake City, UT 84111

SEND TAX NOTICES TO:
Celtic Bank Corporation
268 South State Street, Suite 300
Salt Lake City, UT 84111

SPACE AE

After recording return to:
Calloway Title & Escrow, LLC
David W. Dudley 3-01600
4170 Ashford Dunwoody Rd. Ste. 525
Atlanta, Georgia 30319

MORTGAGE

THIS MORTGAGE dated March 30, 2018, is made and executed between NEPA Ventures LLC, a Pennsylvania limited liability company (referred to below as "Grantor") and Celtic Bank Corporation, whose address is 268 S. State Street, Suite 300, Salt Lake City, UT 84111 (referred to below as "Lender").

GRANT OF MORTGAGE. For valuable consideration, Grantor mortgages, grants, and conveys to Lender all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, **(the "Real Property") located in Spartanburg County, State of South Carolina:**

See Exhibit A, which is attached to this Mortgage and made a part of this Mortgage as if fully set forth herein.

The Real Property or its address is commonly known as 175 Truck Stop Road, Cowpens, SC 29330. The Real Property tax identification number is 3-07-00-068.01; 3-07-00-065.00; 3-07-00-065.04; 3-07-00-065.03.

CROSS-COLLATERALIZATION. In addition to the Note, this Mortgage secures all obligations, debts and liabilities, plus interest thereon, of Grantor to Lender, or any one or more of them, as well as all claims by Lender against Grantor or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated, whether Grantor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise, and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations, and whether the obligation to repay such amounts may be or hereafter may become otherwise unenforceable.

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS MORTGAGE. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

PAYMENT AND PERFORMANCE. Except as otherwise provided in this Mortgage, Grantor shall pay to Lender all amounts secured by this Mortgage as they become due and shall strictly perform all of Grantor's obligations under this Mortgage.

POSSESSION AND MAINTENANCE OF THE PROPERTY. Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

Possession and Use. Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property.

Duty to Maintain. Grantor shall maintain the Property in tenantable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

Compliance With Environmental Laws. Grantor represents and warrants to Lender that: (1) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify, defend, and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify and defend, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

Nuisance, Waste. Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products without Lender's prior written consent.

Removal of Improvements. Grantor shall not demolish or remove any Improvements from the Real Property without Lender's prior written consent. As a condition to the removal of any Improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such Improvements with Improvements of at least equal value.

Lender's Right to Enter. Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Mortgage.

Compliance with Governmental Requirements. Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

Duty to Protect. Grantor agrees neither to abandon or leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

DUE ON SALE - CONSENT BY LENDER. Lender may, at Lender's option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property. If any Grantor is a corporation, partnership or limited liability company, transfer also includes any change in ownership of more than twenty-five percent (25%) of the voting stock, partnership interests or limited liability company interests, as the case may be, of such Grantor. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by South Carolina law.

TAXES AND LIENS. The following provisions relating to the taxes and liens on the Property are part of this Mortgage:

Payment. Grantor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of any liens having priority over or equal to the interest of Lender under this Mortgage, except for those liens specifically agreed to in writing by Lender, and except for the lien of taxes and assessments not due as further specified in the Right to Contest paragraph.

Right to Contest. Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and reasonable attorneys' fees, or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

Evidence of Payment. Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

Notice of Construction. Grantor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property, if any mechanic's lien, materialmen's lien, or other lien could be asserted on account of the work, services, or materials. Grantor will upon request of Lender furnish to Lender advance assurances satisfactory to Lender that Grantor can and will pay the cost of such improvements.

PROPERTY DAMAGE INSURANCE. The following provisions relating to insuring the Property are a part of this Mortgage:

Maintenance of Insurance. Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Lender being named as additional insureds in such liability insurance policies. Additionally, Grantor shall maintain such other insurance, including but not limited to hazard, business interruption and boiler insurance as Lender may require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of ten (10) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Administrator of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, if available, within 45 days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

Application of Proceeds. Grantor shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds $5,000.00. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at Lender's election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Mortgage. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

Grantor's Report on Insurance. Upon request of Lender, however not more than once a year, Grantor shall furnish to Lender a report on each existing policy of insurance showing: (1) the name of the insurer; (2) the risks insured; (3) the amount of the policy; (4) the property insured, the then current replacement value of such property, and the manner of determining that value; and (5) the expiration date of the policy. Grantor shall, upon request of Lender, have an independent appraiser satisfactory to Lender determine the cash value replacement cost of the Property.

LENDER'S EXPENDITURES. If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Mortgage or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Mortgage or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the Indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Mortgage also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

WARRANTY; DEFENSE OF TITLE. The following provisions relating to ownership of the Property are a part of this Mortgage:

Title. Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Mortgage, and (b) Grantor has the full right, power, and authority to execute and deliver this Mortgage to Lender.

Defense of Title. Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Lender under this Mortgage, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

Compliance With Laws. Grantor warrants that the Property and Grantor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

Survival of Representations and Warranties. All representations, warranties, and agreements made by Grantor in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as Grantor's Indebtedness shall be paid in full.

CONDEMNATION. The following provisions relating to condemnation proceedings are a part of this Mortgage:

Proceedings. If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments and documentation as may be requested by Lender from time to time to permit such participation.

Application of Net Proceeds. If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the Indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Lender in connection with the condemnation.

IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES. The following provisions relating to governmental taxes, fees and charges are a part of this Mortgage:

Current Taxes, Fees and Charges. Upon request by Lender, Grantor shall execute such documents in addition to this Mortgage and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

Taxes. The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (2) a specific tax on Grantor which Grantor is authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (3) a tax on this type of Mortgage chargeable against the Lender or the holder of the Note; and (4) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantor.

Subsequent Taxes. If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (1) pays the tax before it becomes delinquent, or (2) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

SECURITY AGREEMENT; FINANCING STATEMENTS. The following provisions relating to this Mortgage as a security agreement are a part of this Mortgage:

Security Agreement. This instrument shall constitute a Security Agreement to the extent any of the Property constitutes fixtures, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

Security Interest. Upon request by Lender, Grantor shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall not remove, sever or detach the Personal Property from the Property. Upon default, Grantor shall assemble any Personal Property not affixed to the Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender to the extent permitted by applicable law.

Addresses. The mailing addresses of Grantor (debtor) and Lender (secured party) from which information concerning the security interest granted by this Mortgage may be obtained (each as required by the Uniform Commercial Code) are as stated on the first page of this Mortgage.

FURTHER ASSURANCES; ATTORNEY-IN-FACT. The following provisions relating to further assurances and attorney-in-fact are a part of this Mortgage:

Further Assurances. At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Grantor's obligations under the Note, this Mortgage, and the Related Documents, and (2) the liens and security interests created by this Mortgage as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Lender agrees to the contrary in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

Attorney-in-Fact. If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

FULL PERFORMANCE. If Grantor pays all the Indebtedness when due, and otherwise performs all the obligations imposed upon Grantor under this Mortgage, Lender shall execute and deliver to Grantor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Grantor will pay, if permitted by applicable law, any reasonable termination fee as determined by Lender from time to time.

EVENTS OF DEFAULT. Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

Payment Default. Grantor fails to make any payment when due under the Indebtedness.

Default on Other Payments. Failure of Grantor within the time required by this Mortgage to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

Other Defaults. Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

Default in Favor of Third Parties. Should Grantor default under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of Grantor's property or Grantor's ability to repay the Indebtedness or Grantor's ability to perform Grantor's obligations under this Mortgage or any of the Related Documents.

False Statements. Any warranty, representation or statement made or furnished to Lender by Grantor or on Grantor's behalf under this Mortgage or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

Defective Collateralization. This Mortgage or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

Death or Insolvency. The dissolution of Grantor's (regardless of whether election to continue is made), any member withdraws from the limited liability company, or any other termination of Grantor's existence as a going business or the death of any member, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

Creditor or Forfeiture Proceedings. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against any property securing the Indebtedness. This includes a garnishment of any of Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

Breach of Other Agreement. Any breach by Grantor under the terms of any other agreement between Grantor and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantor to Lender, whether existing now or later.

Events Affecting Guarantor. Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any

Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness.

Adverse Change. A material adverse change occurs in Grantor's financial condition, or Lender believes the prospect of payment or performance of the Indebtedness is impaired.

Insecurity. Lender in good faith believes itself insecure.

Right to Cure. If any default, other than a default in payment, is curable and if Grantor has not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured if Grantor, after Lender sends written notice to Grantor demanding cure of such default: (1) cures the default within thirty (30) days; or (2) if the cure requires more than thirty (30) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

RIGHTS AND REMEDIES ON DEFAULT. Upon the occurrence of an Event of Default and at any time thereafter, Lender, at Lender's option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

Accelerate Indebtedness. Lender shall have the right at its option without notice to Grantor to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that Grantor would be required to pay.

UCC Remedies. With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

Collect Rents. Lender shall have the right, without notice to Grantor, to take possession of the Property and, as mortgagee-in-possession, collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

Appoint Receiver. Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

Judicial Foreclosure. Lender may obtain a judicial decree foreclosing Grantor's interest in all or any part of the Property.

Nonjudicial Sale. If permitted by applicable law, Lender may foreclose Grantor's interest in all or in any part of the Personal Property or the Real Property by non-judicial sale.

Deficiency Judgment. If permitted by applicable law, Lender may obtain a judgment for any deficiency remaining in the Indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this section.

Tenancy at Sufferance. If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (1) pay a reasonable rental for the use of the Property, or (2) vacate the Property immediately upon the demand of Lender.

Other Remedies. Lender shall have all other rights and remedies provided in this Mortgage or the Note or available at law or in equity.

Sale of the Property. To the extent permitted by applicable law, Grantor hereby waives any and all right to have the Property marshalled. In exercising its rights and remedies, Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property.

Notice of Sale. Lender shall give Grantor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition. Any sale of the Personal Property may be made in conjunction with any sale of the Real Property.

Election of Remedies. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Mortgage, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies. Nothing under this Mortgage or otherwise shall be construed so as to limit or restrict the rights and remedies available to Lender following an Event of Default, or in any way to limit or restrict the rights and ability of Lender to proceed directly against Grantor and/or against any other co-maker, guarantor, surety or endorser and/or to proceed against any other collateral directly or indirectly securing the Indebtedness.

Attorneys' Fees; Expenses. If Lender institutes any suit or action to enforce any of the terms of this Mortgage, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's reasonable attorneys' fees in an amount not less than fifteen percent (15%) of the amount owing on the Indebtedness and Lender's legal expenses whether or not there is a lawsuit, including reasonable attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees and title insurance, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

NOTICES. Any notice required to be given under this Mortgage, including without limitation any notice of default and any notice of sale shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Mortgage. All copies of notices of foreclosure from the holder of any lien which has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Mortgage:

Amendments. This Mortgage, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Mortgage. No alteration of or amendment to this Mortgage shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Annual Reports. If the Property is used for purposes other than Grantor's residence, Grantor shall furnish to Lender, upon request, a certified statement of net operating income received from the Property during Grantor's previous fiscal year in such form and detail as Lender shall require. "Net operating income" shall mean all cash receipts from the Property less all cash expenditures made in connection with the operation of the Property.

Caption Headings. Caption headings in this Mortgage are for convenience purposes only and are not to be used to interpret or define the provisions of this Mortgage.

Applicable Law. The Loan secured by this lien was made under a United States Small Business Administration (SBA) nationwide program which uses tax dollars to assist small business owners. If the United States is seeking to enforce this document, then under SBA regulations: (a) When SBA is the holder of the Note, this document and all documents evidencing or securing this Loan will be construed in accordance with federal law. (b) Lender or SBA may use local or state procedures for purposes such as filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using these procedures, SBA does not waive any federal immunity from local or state control, penalty, tax or liability. No Borrower or Guarantor may claim or assert against SBA any local or state law to deny any obligation of Borrower, or defeat any claim of SBA with respect to this Loan. Any clause in this document requiring arbitration is not enforceable when SBA is the holder of the Note secured by this instrument.

Choice of Venue. If there is a lawsuit, Grantor agrees upon Lender's request to submit to the jurisdiction of the courts of Salt Lake County, State of Utah.

No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Mortgage unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Mortgage shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Mortgage. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

Severability. If a court of competent jurisdiction finds any provision of this Mortgage to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Mortgage. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Mortgage shall not affect the legality, validity or enforceability of any other provision of this Mortgage.

Merger. There shall be no merger of the interest or estate created by this Mortgage with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

Successors and Assigns. Subject to any limitations stated in this Mortgage on transfer of Grantor's interest, this Mortgage shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Mortgage and the Indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Mortgage or liability under the Indebtedness.

Time is of the Essence. Time is of the essence in the performance of this Mortgage.

Waive Jury. All parties to this Mortgage hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

Waiver of Homestead Exemption. Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of South Carolina as to all Indebtedness secured by this Mortgage.

DEFINITIONS. The following capitalized words and terms shall have the following meanings when used in this Mortgage. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code:

Borrower. The word "Borrower" means NEPA Ventures LLC and includes all co-signers and co-makers signing the Note and all their successors and assigns.

Default. The word "Default" means the Default set forth in this Mortgage in the section titled "Default".

Environmental Laws. The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto

Event of Default. The words "Event of Default" mean any of the events of default set forth in this Mortgage in the events of default section of this Mortgage.

Grantor. The word "Grantor" means NEPA Ventures LLC.

Guarantor. The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the Indebtedness.

Guaranty. The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

Hazardous Substances. The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

Improvements. The word "Improvements" means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

Indebtedness. The word "Indebtedness" means all principal, earned interest, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Lender to enforce Grantor's obligations under this Mortgage, together with interest on such amounts as provided in this Mortgage. Specifically, without limitation, Indebtedness includes all amounts that may be indirectly secured by the Cross-Collateralization provision of this Mortgage.

Lender. The word "Lender" means Celtic Bank Corporation, its successors and assigns.

Mortgage. The word "Mortgage" means this Mortgage between Grantor and Lender

Note. The word "Note" means the promissory note dated March 30, 2018, **in the original principal amount of $2,600,000.00** from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. The maturity date of this Mortgage is March 30, 2043. **NOTICE TO GRANTOR: THE NOTE CONTAINS A VARIABLE INTEREST RATE.**

Personal Property. The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or affixed to the Real Property; together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

Property. The word "Property" means collectively the Real Property and the Personal Property.

Real Property. The words "Real Property" mean the real property, interests and rights, as further described in this Mortgage.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

Rents. The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND GRANTOR AGREES TO ITS TERMS.

GRANTOR:

NEPA VENTURES LLC

By: ______________________________
Arshad Sayed, Member-Manager of NEPA Ventures LLC

By: M. Amouzegar
Munireh Amouzegar, Member of NEPA Ventures LLC

Signed, acknowledged and delivered in the presence of:

X Carla Martin
Witness

X ______________________________
Witness

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF Pa)

) ACKNOWLEDGMENT

COUNTY OF Luzerne)

The foregoing instrument was acknowledged before me this March 29, 20 18 by **Arshad Sayed, Member-Manager of NEPA Ventures LLC and Munireh Amouzegar, Member of NEPA Ventures LLC, a Pennsylvania limited liability company,** on behalf of the limited liability company.

_______________________ (SEAL)

Print Name Kathleen M. Hein

Notary Public in and for the State of Pa

My commission expires 10-21-2021

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
KATHLEEN M. HEIN Notary Public
Luzerne County
My Commission Expires October 21, 2021

[AFFIX NOTARY SEAL HERE]

This Mortgage prepared/reviewed by:

Name: Monica Mintah
Title: SBA Loan Specialist
Address: 268 S. State Street
City, State, ZIP: Salt Lake City, UT 84111

Exhibit "A"

TRACT 1:

9.04 Acres

All that certain tract or parcel of land, containing 9.04 acres, more or less, together with all improvements thereon, located on the north side of Interstate Highway 85, approximately 1 ½ miles north of the Town of Cowpens in the County of Spartanburg, State of South Carolina, and being more particularly described on a plat of survey prepared for J. Mathis Brown by J. V. Phillips, Jr., Land Surveyor, dated March 7, 1970 and recorded in Plat Book 61, at Page 260, ROD Office for Spartanburg County.

3.00 Acres

All that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Spartanburg, on the north side of Interstate Highway 85 (but not fronting on Interstate Highway 85) and containing approximately 3 acres, more or less, and being more particularly described on the above reference plat of survey as follows:

BEGINNING at a point on the rear boundary line of property described above (joint corner with property now or formerly owned by R. D. Hines) and running thence N 30-15 W 210 feet; thence N 65-35 E 630 feet; thence S 30-15 E 210 feet to the other rear corner of the property described above; thence along and with the boundary line of the property described above S 65-35 W 630 feet to the point of beginning.

TRACT 2:

All that certain piece, parcel or lot of land together with all improvements, situate, lying and being in the County of Spartanburg, State of South Carolina, containing 0.996 acre, more or less, and being more particularly shown and designated as Tract B on a plat of survey for Mathis Brown by Neil R. Phillips, PLS, dated December 21, 1990 and recorded in Plat Book 112, Page 182, ROD Office for Spartanburg County.

TRACT 3:

All that certain piece, parcel or tract of land situate, lying and being in the County of Spartanburg, State of South Carolina and being more particularly shown and designated on a plat of survey for J. Mathis Brown by Lavender, Smith and Associates, Inc., dated November 26, 1994 and recorded in Plat Book 128, Page 766, and having the following metes and bounds:

BEGINNING at a 10" br. Spike set in the northern edge of the right of way for the Frontage Road of Interstate Highway I-85 and running thence N 30-19-11 W 155.43 feet to a No. 5 rebar set; thence S 63-53-31 W 59.70 feet to an iron pin; thence N 29-38-54 W 217.57 feet to an iron pin; thence N 66-23-54 E 115.64 feet to a No. 4 rebar found; thence S 30-51-53 E 368.29 feet to a No. 4 rebar found in the northern edge of the right of way for the Frontage Road; thence along and with the right of way for the Frontage Road S 63-48-31 W 61.52 feet to a 10' br. spike set, the beginning point. Reference is made to the aforementioned plat of survey and the record thereof for a more complete and accurate description.

TRACT 4:

All that certain piece, parcel or tract of land situate, lying and being in the County of Spartanburg, State of South Carolina and being more particularly shown and designated on a plat of survey for J. Mathis Brown by Lavender, Smith and Associates, Inc., dated November 26, 1994 and recorded in Plat Book 128, Page 766, and having the following metes and bounds:

BEGINNING at a No. 5 rebar set which is located N 27-19-46 W 155.43 feet from a No. 4 rebar found in the northern edge of the right of way for the Frontage Road of Interstate Highway I-85 and running thence from the No. 5 rebar set N 27-19-46 W 227.52 feet to a No. 4 rebar found; thence N 66-23-54 E 231.29 feet to an iron pin; thence S 29-38-54 E 217.57 feet to an iron pin; thence S 63-53-31 W 239.66 feet to a No. 5 rebar set, the beginning point; Reference is made to the aforementioned plat of survey and the record thereof for a more complete and accurate description.

This being the same property conveyed to the Mortgagor herein by Title to Real Estate General Warranty Deed of Westar SC Holdings, LLC, dated April 4, 2017, and recorded April 17, 2017 in the office of the Spartanburg County Register of Deeds in Book 115-L, Page 663.

TMS#3-07-00-068.01; 3-07-00-065.00; 3-07-00-065.04; 3-07-00-065.03.

NO TITLE EXAMINATION
Prepared by: The Grek Law Group, LLC.
8781 Warren H. Abernathy Hwy
Spartanburg SC 29301

DEE-2015-7867
Recorded 4 Pages on 2/27/2015 3:50:16 PM
Recording Fee: $10.00 Documentary Stamps: $0.00
Office of Register of Deeds, Spartanburg, S.C.
Dorothy Earle, Register

TITLE TO REAL ESTATE
No Title Examination

KNOW ALL MEN BY THESE PRESENTS, that **Maksim A. Malanchuk (hereinafter called "Grantor")** in consideration of **Ten ($10.00) Dollars** has granted, bargained, sold and released and by these presents does grant, bargain, sell and release unto **Nikita Roos, Liliya Say and Aleksandr Say,** for and during their joint lives and upon the death of either of them, then to the survivors of them, his heirs and assigns forever in fee simple, together with every contingent remainder and right of reversion, the following described property:

All that certain piece, parcel or lot of land, with all improvements thereon, situate, lying and being in the State of South Carolina, County of Spartanburg, known and designed as Lot No.: 7 in Block of Spartan Heights as shown on plat recorded in Plat Book 2 at page 31. Also, see plat for Mary Ann Smith dated August 21, 2000 by Deaton Land Surveyors, Inc., recorded in August 22, 2000 in Plat Book 148 at page 486 in the Register of Deeds for Spartanburg County, South Carolina.

This being the same property conveyed unto Stolin, LLC by deed from Gordon G. Cooper, Master in Equity for the County of Spartanburg dated December 20, 2013 and recorded on December 20, 2013 in Deed Book 105-A, Page 478 in Spartanburg County, South Carolina.

This being the same property conveyed unto Maksim A. Malanchuk by deed from Stolin, LLC., dated December 30, 2013 and recorded on January 3, 2014 in Deed Book 105-C, page 570 in Spartanburg county, South Carolina.

TMS#: 7-12-01-036.00

Grantee's Address:	**725 Fulton Avenue** **Spartanburg SC 29303**
Property Address:	**725 Fulton Avenue** **Spartanburg, SC 29303**

NO TITLE EXAMINATION
Prepared by: The Grek Law Group, LLC.
8781 Warren H. Abernathy Hwy
Spartanburg SC 29301

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

TO HAVE AND TO HOLD, all and singular the premises before mentioned unto the Grantee, his Heirs, Successors and Assigns forever.

And the Grantor do hereby bind themselves and their heirs, to warrant and forever defend all and singular premises unto the Grantee, his Heirs and Assigns against themselves and their heirs, and against any person whomsoever lawfully claiming or to claim the same, or any part therefore.

IN WITNESS WHEREOF, THE GRANTOR have set their hands and seals this the **24th** day of February, 2015.

SIGNED, SEALED, AND DELIVERED

IN PRESENCE OF:

____
Witness No.: 1

By: ______________________ (SEAL)
Maksim A. Malanchuk

____
Witness No.: 2

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

ACKNOWLEDGMENT

I, Notary Public of the County and State aforesaid, certify that the Grantor appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official seal, this the 24 day of February, 2015

______________________ (SEAL)
NOTARY PUBLIC FOR SC
My Commission Expires: Feb 5, 2023

Antonina Grek
Notary Public, State of South Carolina
My Commission Expires Feb. 5, 2023

NO TITLE EXAMINATION
Prepared by: The Grek Law Group, LLC.
8781 Warren H. Abernathy Hwy
Spartanburg SC 29301

STATE OF SOUTH CAROLINA)
COUNTY OF Spartanburg)

AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.

The property being transferred is located at 725 Fulton Avenue, Spartanburg South Carolina, bearing **Spartanburg** County Tax Map Number 7-12-01-036.00, was transferred by **Maksim A. Malanchuk** to **Nikita Roos, Liliya Say and Alexandr Say** on **February 24, 2015.**

2. Check one of the following: The Deed is

(a)_ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
(b) ___ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
(c) __x_ exempt from the deed recording fee because: **consideration is less than $ 100.**

If exempt because transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? N/A

3. Check one of the following if either item 3(a) or item 3(b) above has been checked:

(a)___The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of:
(b)____ The fee is computed on the fair market value of the realty which is ________.
(c) ____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _______________.

4. Check YES_____ or NO X to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer: If "Yes," the amount of the outstanding balance of this lien or encumbrance is: ______.

NO TITLE EXAMINATION
Prepared by: The Grek Law Group, LLC.
8781 Warren H. Abernathy Hwy
Spartanburg SC 29301

5. The Deed recording fee is computed as follows:
   (a) Place the amount listed in item 4 above here:
   (b) Place the amount listed in item 5 above here: 0
   (c) Subtract Line 6(b) from Line 6(a) and place results here:

6. The Deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is:

7. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as Seller(s) of the property.

8. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Maksim A. Malanchuk
Responsible Person Connected with the Transaction

SWORN to before me this
24 day of February, 2015.

Notary Public for SC
My Commission Expires: Feb 5, 2023

Antonina Grek
Notary Public, State of South Carolina
My Commission Expires Feb. 5, 2023

AFFIDAVIT OF SERVICE

State of South Carolina **County of Spartanburg** **Register Of Deeds Court**

Case Number: MEC-2019-59945

Plaintiff:
MECO, INC. OF AUGUSTA

vs.

Defendant:
NEPA VENTURES LLC, D/B/A WESTAR TRAVEL PLAZA

Received these papers to be served on **Nepa Ventures, Llc, 100 N. Wilkes Barre Blvd, Ste. 206, Wilkes-Barre, PA 18702**.

I, Brian Duffy, being duly sworn, depose and say that on the **19th day of December, 2019** at **2:55 pm, I:**

SUBSTITUTE served by delivering a true copy of the **Statement and Notice of Mechanic's Lien** with the date and hour of service endorsed thereon by me, to: **Mr. Sod** as **Office Manager**, a person employed therein and authorized to accept service for **Nepa Ventures, Llc** at the address of: **100 N. Wilkes-Barre Blvd., Ste. 206, Wilkes-Barre, PA 18702**, the within named person's usual place of **Work**, in compliance with State Statutes.

Description of Person Served: Age: 64, Sex: M, Race/Skin Color: White, Height: 5'9", Weight: 165, Hair: Grey, Glasses: Y

I certify that I am over the age of 18, have no interest in the above action, and am a Certified Process Server, in good standing, in the judicial circuit in which the process was served.

Subscribed and Sworn to before me on the 23 day of 12, 2019 by the affiant who is personally known to me.

NOTARY PUBLIC

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
THOMAS J MILLER SR
Notary Public
DUNMORE BORO, LACKAWANNA COUNTY
My Commission Expires Mar 18 20

Brian Duffy
Process Server

Our Job Serial Number: KDA-2019001355

EXHIBIT 12

STATE OF SOUTH CAROLINA	)	IN THE OFFICE OF THE
COUNTY OF SPARTANBURG	)	REGISTER OF DEEDS
	)	
MECO, INC. OF AUGUSTA,	)	
	)	
Claimant,	)	**STATEMENT AND NOTICE**
	)	**OF MECHANIC'S LIEN**
v.	)	
	)	
NEPA Ventures LLC,	)	
d/b/a Westar Travel Plaza,	)	
	)	
Respondents.	)	

The undersigned, being duly sworn deposes and says:

The statements herein are a just and true account of the labor and materials furnished by MECO, Inc. of Augusta, a Georgia Corporation, for use upon the premises hereinafter described, and the amount justly due and owing MECO, Inc. of Augusta is the sum of One Hundred Thirty Thousand Two Hundred Eighty Seven and 93/100 ($130,287.93) Dollars as may be seen by reference to Exhibit "A" attached hereto plus interest, costs, and attorney's fees.

The undersigned further states that said labor and materials were furnished pursuant to an agreement with NEPA Ventures, LLC (A Pennsylvania limited liability company) d/b/a Westar Travel Plaza with the knowledge and consent of NEPA Ventures LLC, for the improvement of the premises hereinafter described, and that the said labor and materials were last supplied to NEPA Ventures LLC for use upon the premises on September 21, 2019. The various amounts are for labor and materials supplied and are true and correct amounts with all just credits given.

The undersigned further states that the said labor and materials were furnished for use in construction of diesel fuel pumps and related equipment located on real property owned by NEPA Ventures LLC, said real property being described on Exhibit "B" attached hereto.

CONTRACTOR'S LICENSE NUMBER: 111355

The undersigned further states that for the amount due, One Hundred Thirty Thousand Two Hundred Eighty Seven and 93/100 ($130,287.93) Dollars, MECO, Inc. of Augusta claims a lien upon the said premises.

SWORN and subscribed to before me
this 18 day of December, 2019.

Notary Public for South Carolina
My Commission Expires: 11/9/2027

BRAD A. BRODIE
Notary Public-State of South Carolina
My Commission Expires
November 09, 2027

CONTRACTOR'S LICENSE NUMBER: 111355

MECO, Inc. of Augusta

By: William B. Burke
William B. Burke
Its: President
Post Office Box 692
Augusta, GA 30903
(706) 724-7603

Smith, Massey, Brodie, Guynn & Mayes, LLC

Brad A. Brodie
S.C. Bar No. 8632
210 Colony Parkway, SE
Aiken, SC 29803
(803) 643-4110
brodielawfirm@gmail.com

Attorney for Claimant

EXHIBIT A

TRUE STATEMENT OF ACCOUNT

Main Contract Price with Change Orders:	$435,108.74
Total:	$435,108.74
Less Payments:	($328,305.00)
BALANCE DUE ON WORK COMPLETED	**$130,287.93**

Personally appeared before me, William B. Burke, who being first duly sworn, deposes and says that he is the President of MECO, Inc. of Augusta, and that he has actual authority to execute this Affidavit by and on behalf of MECO, Inc. of Augusta; that he is familiar with the status of the account of NEPA Ventures, LLC; and that the foregoing is a true and accurate statement of account.

SWORN and subscribed to before me
this 18 day of December, 2019.

[signature]
Notary Public for South Carolina
My Commission Expires: ________

BRAD A. BRODIE
Notary Public-State of South Carolina
My Commission Expires
November 09, 2027

MECO, Inc. of Augusta

By: William B. Burke
William B. Burke
Its: President

Post Office Box 692
Augusta, GA 309093
(706) 724-7603

EXHIBIT "B"

TRACT 1

9.04 Acres

ALL that certain tract of parcel of land, containing 9.04 acres, more or less, together with all improvements thereon, located on the north side of Interstate Highway 85, approximately 1½ miles North of the Town of Cowpens, in the County of Spartanburg, State of South Carolina, and being more particularly described on a plat of survey prepared for J. Mathis Brown by J. V. Phillips, Jr., Land Surveyor, dated March 7, 1970 And recorded in Plat Book 61, at page 260, ROD for Spartanburg County.

3.00 Acres

ALL that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Spartanburg, on the north side of Interstate Highway 85 (but not fronting on Interstate Highway 85) and containing approximately 3 acres, more or less, and being more particularly described on the above referenced plat of survey as follows:

BEGINNING at a point on the rear boundary line of property described above (joint corner with property now or formerly owned by R. D. Haas) and running thence N 30-15 W 210 feet; thence N 65-35 E 630 feet; thence S 30-15 E 210 feet to the other rear corner of the property described above; thence along and with the boundary line of the property described above S 65-35 W 630 feet to the point of beginning.

TMS No.: 3-07-00-068-01

TRACT 2

ALL that certain piece, parcel or lot of land, together with all improvements, situate, lying and being in the County of Spartanburg, State of South Carolina, containing 0.996 acre, more or less, and being more particularly shown and designated as TRACT B on a plat of survey for Mathis Brown by Neil R. Phillips, PLS, dated December 21, 1990 and recorded in Plat Book 112, page 182, ROD Office for Spartanburg County.

TMS No.: 3-07-00-065.00

TRACT 3

ALL that certain piece, parcel or tract of land situate, lying and being in the County of Spartanburg, State of South Carolina and being more particularly shown and designated on a plat of survey for J. Mathis Brown by Lavender, Smith and Associates, Inc., dated November 26, 1994 and recorded in Plat Book 128, page 766, and having the following metes and bounds:

BEGINNING at a 10" br. Spike set in the northern edge of the right of way for the Frontage Road of Interstate Highway I-85 and running thence N 30-19-11 W 155.43 feet to a No. 5 rebar set; thence S 63-53-31 W 59.70 feet to an iron pin; thence N 29-38-54 W 217.57 feet to an iron pin; thence N 66-23-54 E 115.64 feet to a No. 4 rebar found; thence S 30-51-53 E 368.29 feet to a No. 4 rebar found in the northern edge of the right of way for the Frontage Road; thence along and with the right of way for the Frontage Road S 63-48-31 W 61.52 feet to a 10" br. Spike set; the beginning point. Reference is made to the aforementioned plat of survey and the record thereof for a more complete and accurate description.

TMS No.: 3-07-00-065.04

TRACT 4

ALL that certain piece, parcel or tract of land situate, lying and being in the County of Spartanburg, State of South Carolina and being more particularly shown and designated on a plat of survey for J. Mathis Brown by Lavender, Smith and Associates, Inc., dated November 26, 1994 and recorded in Plat Book 128, page 766, and having the following metes and bounds:

BEGINNING at a No. 5 rebar set which is located N 27-19-46 W 155.43 feet from a No.4 rebar found in the northern edge of the right of way for the Frontage Road of Interstate Highway I-85 and running thence from the No. 5 rebar set N 27-19-46 W 227.32 feet to a No. 4 rebar found; thence N 66-23-54 E 231.29 feet to an iron pin; thence S 29-38-54 E 217.57 feet to an iron pin; thence S 63-53-31 W 239.66 feet to a No. 5 rebar set, the beginning point. Reference is made to the aforementioned plat of survey and the record thereof for a more complete and accurate description.

TMS No.: 3-07-00-065.03

This being the same property conveyed to NEPA Ventures LLC, a Pennsylvania limited liability company by Deed of Westar SC Holdings, LLC, a Florida limited liability company dated April 4, 2017 and recorded April 17, 2017 in Deed Book 115-L at page 663-672, in the Office of the Register of Deeds for Spartanburg County, South Carolina.

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	)	IN THE COURT OF COMMON PLEAS SEVENTH JUDICIAL CIRCUIT
MECO, INC. OF AUGUSTA, Plaintiff, vs. ALEX SAYED a/k/a ARSHAD M. SAYED a/k/a ARSHED SAYED; NEPA VENTURES LLC; NEPA TRADING & INVESTMENTS LLC, Defendants.	)	CASE NO: 2022-CP-42-03123 **DEFENDANTS ALEX SAYED a/k/a ARSHAD M. SAYED a/k/a ARSHED SAYED, NEPA VENTURES LLC AND NEPA TRADING & INVESTMENTS LLC'S MEMORANDUM IN SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT**

Defendants Alex Sayed a/k/a Arshad M. Sayed a/k/a Arshed Sayed; NEPA Ventures, LLC and Nepa Trading & Investments, LLC (collectively hereinafter "Defendants"), by and through their undersigned attorneys, respectfully submit this memorandum in support of their motion for summary judgment. There is no dispute of material fact that this case is barred by the applicable three-year statute of limitations and should be dismissed.

FACTS

Sayed hired the plaintiff, MECO, Inc. of Augusta, to renovate and upgrade a gas station known as the "Westar Travel Plaza," which is located at 175 Truck Stop Road, Cowpens, South Carolina in May of 2018 (the "Project"). The work at the Project was performed pursuant to a contract between MECO and Alex Sayed (the "Contract"), which is attached as Exhibit A to Defendants' Motion for Summary Judgment ("MSJ").[1] The Project was to complete the scope of work attached as Exhibit B to the MSJ, MECO 00516-517.

Work on the Project began in August 2018 following payment of a deposit by Sayed to MECO. As work by MECO progressed, MECO was required to "furnish [Sayed] with an invoice at

[1] Defendants motion for summary judgment and accompanying exhibits were filed on August 22, 2023.

the end of each week for the value of materials stored and/or the value of work completed to date. Owner shall pay for the same within thirty (30) days of invoice date or completion of the Project." *See* Contract at II.1. Further, the Contract provides that "All amounts Buyer does not pay when due shall accrue interest at the rate of 1.5% a month until paid." *Id*. After payment of the deposit, MECO began its work and began sending invoices as required by the Contract. On February 15, 2019, Sayed made a second, final payment and has made no further payments since that time. *See* Exhibits B and C to MSJ.

The Project proceeded in two phases and the second and final phase ended in late April or early May 2019. See MECO 30(b)(6) Deposition Transcript attached as Exhibit B to MSJ at 116:3-117:5 (referring to a deposition exhibit dated April 26, 2019 indicating that Phase 2 was complete). At some point a dispute arose between MECO and Sayed regarding the amount owed on the Project. In August 2019, MECO sent a list of all invoices it claimed were owed by Sayed (the "Spreadsheet") *See* Exhibit G to the MSJ at MECO 00356-357. The Spreadsheet is broken into four parts. The first part shows the invoices sent by MECO to Sayed with the invoice number, date, description of the work performed, the total owed, and any remaining balance. The second part shows finance charges owed on past due invoices, each reflecting the internal code "FC" plus the invoice number. The third part shows invoices for additional services requested and then, similarly, the fourth section shows corresponding finance charges on those service invoices. In addition, the Spreadsheet shows three codes for "Credit," which are credits MECO received from returning unused materials ordered for the Project. A copy of the invoices referenced by the Spreadsheet are attached as Exhibit F to the MSJ at MECO 00117-140 (the "Past Due Invoices").

A review of the Spreadsheet reveals two undisputed facts relevant to this motion. First, the latest invoice for work performed on the Project is dated July 2, 2019. This fact is confirmed by an email sent by Roger Carpenter, a sales representative for MECO, to Sayed dated July 17, 2019. In that email, Mr. Carpenter attaches all of the invoices shown on the Spreadsheet with the following message: "Alex, here are the outstanding invoices which we need to get resolved…" *See* Exhibit F to MSJ. Second, MECO received and has received no payments from Sayed on any of these outstanding invoices.

On August 7, 2019, Mr. Burke sent an email to Sayed providing the Spreadsheet and stating:

> I have attached spreadsheets with contract amounts, invoices, payments made and outstanding invoices. I have attached the contracts and what you agreed to. I have attached service tickets that have not been paid and all finance charges **<u>for breach of contract</u>**. I don't want to go to court over this. I want payment made **<u>by the end of business tomorrow 8-8-10 through wire transfer for the full amount owed or you will hear from my lawyer on Friday</u>**.

See Email from Burke to Sayed, August 7, 2019, attached as **Exhibit 1** (emphasis added). Sayed responded the same day explaining his position and asking about coming up with an amicable solution. Mr. Burke responded and again affirmed that all of the amounts shown on the Spreadsheet were past due as of the date of these emails: "I'm giving you a chance to pay what you agreed to and giving you the ability to work with me. You have not called me and <u>know this money has been outstanding</u>." *Id*. (emphasis added). The Spreadsheet itself also confirms Burke's email, as the final line of the Spreadsheet showing the total owed states in all bold, all caps:

TOTAL DUE BY 8/8/19 OR LAWYERS WILL TAKE OVER FROM HERE

See Spreadsheet (emphasis in original). When questioned about this email and spreadsheet, Burke could not have been clearer:

> Q: At this point in time, had you received any payment from the defendants since the February $70,000?
>
> A: No, I had not.

(MECO 30(b)(6) Deposition at 120:13-15)

Q: An easier way of saying it would be to say – or what I'm – what I'm trying to ask is that it was MECO's position that as of August 8, 2019, my clients owed this amount on page two pursuant to the contract?

A: Not pursuant to the ---

Q: I mean, pursuant to their agreements with MECO?

A: To all agreements and all the work that had been done, not just the original contract.

Q: And it was not – it was not like you were sending this saying, hey this amount of money is coming due or this amount of money may be due in the future. It was due right now?

A: It was way past due.

Q: Way past due?

A: Months and months and months past due.

Q: Under the defendants' obligation to MECO?

A: Correct.

Q: They were in breach of it?

A: In all of them.

Q: Breach of their obligation to pay you?

A: Correct. In every – in every single line item.

(MECO 30(b)(6) Deposition at 122:6 – 123:8). Following this email, Burke testified that he and Sayed had on more conversation around the time of this email and then have not spoken since. (MECO 30(b)(6) at 125:4 – 15).

In sum, MECO testified that all amounts claimed in this lawsuit were past due as of August 8, 2019. MECO further testified that it has received no payment from Sayed, or anyone acting on his behalf, after February 2019. Finally, MECO confirmed that in its last conversation with Sayed, it received no promises to pay or other assurance of payment. MECO did not file this lawsuit until August 23, 2022, more than three years after it sent its final invoice on the contract and more than three years after demanding payment for all sums due in this lawsuit. When it finally did bring its lawsuit, it brought actions for breach of contract, quantum meruit, promissory estoppel, and "recovery of costs of collection and attorneys' fees," which is not a cause of action recognized by South Carolina law. All three causes of action are time-barred.

ARGUMENT

A motion for summary judgment shall be granted when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *Staubes v. City of Folly Beach*, 500 S.E.2d 160 (1998); *Summer v. Carpenter*, 492 S.E.2d 55 (1997). When determining if any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party." *Turner v. Milliman*, 392 S.C. 116, 122, 708 S.E.2d 766, 769 (2011). A party opposing a properly supported motion for summary judgment may not rest on the mere allegations or denials of the pleading but must set forth or point to specific facts showing there is a genuine issue of material fact. *Anderson v. Liberty Lobby, Inc*., 477 S.S. 242, 248 (1986).

I. S.C. Code § 15-3-530 Applies to MECO's Causes of Action

Each of MECO's causes of action arise from the contract between MECO and Sayed. Contract actions in South Carolina are subject to a three-year statute of limitations. In general, South Carolina has two statutes that must be examined to determine the length of time a plaintiff has to bring a claim for breach of contract. The first is found in S.C. Code § 15-3-530 and provides a three-year statute of limitations for nearly all contract claims. The second is found in the South Carolina Uniform Commercial Code (the "UCC") at S.C. Code § 36-2-725 and applies only to contracts for the sale of goods. Goods are defined by the UCC as "all things…which are moveable at the time of identification to the contract for sale…"

South Carolina applies the "predominant factor" test to determine whether a contract that calls for the sale of both goods and services is subject to the UCC. *See Ranger Const. Co. v. Dixie Floor Co., Inc.*, 433 F. Supp. 442 (D.S.C. 1977) (cited with approval by *Plantation Shutter Co. v. Ezell*, 328 S.C. 475, 478, 492 S.E.2d 404, 406 (Ct. App. 1997)). In determining the predominant factor of the contract, courts are directed to look at a variety of factors, including "(1) the language of the contract, (2) the nature of the business of the supplier, and (3) the intrinsic worth of the materials involved." *Grimes v. Young Life, Inc.*, No. CV 8:16-1410-HMH, 2017 WL 5634239, at *3–4 (D.S.C. Feb. 17, 2017), *aff'd sub nom. Grimes v. Inner Quest Inc.*, 731 F. App'x 249 (4th Cir. 2018) (quoting *Coakley & Williams, Inc. v. Shatterproof Glass Corp.*, 706 F.2d 456, 460 (4th Cir. 1983)).

In *Ranger Construction*, the court examined whether or not a contract for the installation of floors was subject to the UCC. In determining that it was not, the court noted that the contract was a "construction contract" as evidenced by the fact that the seller was referred to throughout the contract as "contractor" rather than "materialman." *Ranger Const.*, 433 F. Supp. at 445. Further, the court noted that the plaintiff was not "contracting for materials" but rather for performance of a contract. *Id*. The court further noted that the defendant did not "operate as a supplier or maintain a supply house for flooring materials and supplies." *Id*. Further, the court found relevant that for the particular job the "defendant planned to purchase the materials completely from an independent dealer." *Id*.

The United States District Court for the District of South Carolina examined similar factors in reaching the same conclusion in *Grimes* to determine that a contract for construction of a swing at a Young Life facility was one for services. In *Grimes* the court began by discussing the factors the court may consider, including whether the contract at issue contains "language primarily associated with the sale of goods, such as "buyer," "seller," "terms of sale," "customer," and "sales representative." *Grimes* 2017 WL 5634239, at *3–4 (citing *Plantation Shutter*, 492 S.E.2d at 406). In finding that the contract was for services, not goods, the court found that the contract did not use these terms and provided only a summary list of the materials to be provided.

Here, the contract is one for services, not goods. Starting with the contract language, the contract uses language typical to a construction services contract to identify the parties to the contract, referring to Sayed as "Owner" and to MECO as "Contractor." *See* Exhibit A to MSJ at MECO 00509-00514. The contract states explicitly why Sayed is paying MECO: "Owner shall pay the Contractor **for the performance of the work**," language typically used in a construction services contract. *Id*. (emphasis added).

The Contract also makes clear that its subject is "work," not "goods" throughout. For example, it describes what is being provided by MECO as "Work" in paragraph 3 of the Contract, refers to a "Scope of Work," and then states that "Seller (a) will install the Equipment… [and] (b) Will install all safety equipment…" The word "goods" does not appear anywhere in the Contract, whereas the word "work" appears twenty-two (22) times. Similarly, the Contract refers to itself as an "Installation Agreement" in paragraphs 2 and 3. The Contract also contains other provisions typical of a construction services contract, dealing with issues such as "Performance Bonds," "Workers Compensation Insurance," "Contractor's Liability Insurance," terms related to "Digging and Excavating," "Environmental Indemnity," and "Permits." *Id*. None of these provisions would have any applicability to a contract for the sale of goods. Even where it does address "Materials," it makes clear that these are incident to the contract stating explicitly: "Any materials or equipment **incidental** to the installation or to be installed as part of this contract…"

The second factor also shows that this was a services contract. MECO admits in their brief that they are in the business of "supplying materials and installing them" not manufacturing or distributing equipment. In fact, MECO's 30(b)(6) representative testified to this explicitly when asked:

> Q: Getting back to – so I want to – I want to get back to some more general questions about MECO. What does MECO do?
> A: We are a sales, service, and installation company for petroleum equipment products.
> Q: Okay. So do you all manufacture any petroleum equipment products?
> A: No, sir
> Q: Okay. So you don't do any manufacturing; is that correct?
> A: Correct.
> Q: So – so MECO's role is to purchase from third parties and then you handle the installation; is that correct?
> A: Correct.
> Q: So sort of like a contractor for a house; is that accurate?
> A: Correct
> Q: Where the contractor – he's not cutting the wood or, you know, forging the doorknob, he is supplying the materials and then what he's doing is the service of putting all together; is that accurate?
> A: Yes sir, that is.
> Q: That's what MECO does, correct?
> A: Correct.
> Q: Is that what MECO did on this project, correct?
> A: Correct.

(MECO 30(b)(6) Deposition at 19:4 – 20:4.)

MECO's own representative compared MECO to a contractor building a house, not to a merchant selling goods. No South Carolina court has ever found that a homebuilder is a "merchant" selling goods, even though the material costs of every house far exceed the costs of contractor's services. Similarly, here, Sayed was renovating and expanding his travel plaza, not buying machines.

His contract with MECO was a construction contract, not a contract for goods, and the UCC does not apply.

II. More than Three Years has Passed since MECO's Causes of Action Accrued

Because each of the plaintiff's causes of action arise out of either an express contract (breach of contract) or an implied contract (quantum meruit and promissory estoppel), the statute of limitations period applicable to contracts applies to all of Plaintiff's actions. See *Wells Fargo Bank v. Carter*, No. CV 9:14-127-SB, 2014 WL 11034776, at *2 (D.S.C. July 22, 2014) (noting that S.C. Code Ann. § 15-3-530's three-year statute of limitations applies to claims for unjust enrichment and quantum meruit); *Magwood v. Heritage Tr. Fed. Credit Union*, No. CIV.A. 2:09-2751-DCN, 2010 WL 4604661, at *4 (D.S.C. June 4, 2010), report and recommendation adopted, No. 2:09-2751-RMG-BM, 2010 WL 4622454 (D.S.C. Nov. 4, 2010)(dismissing Plaintiff's quantum meruit cause of action for failing to comply with S.C. Code Ann. § 15-3-530's three-year limitation period).

S.C. Code Ann. § 15-3-530 provides that "an action upon contract, obligation, or liability, express or implied…" must be brought within three years of the time the cause of action accrues. South Carolina's statute of limitations requires "very little to start the clock." *Maher v. Tietex Corp.*, 331 S.C. 371, 380, 500 S.E.2d 204, 208 (Ct. App. 1998) "The fundamental test for determining whether a cause of action has accrued is whether the party asserting the claim can maintain a cause of action to enforce it." *Matthews v. City of Greenwood*, 305 S.C. 267, 269, 407 S.E.2d 668, 669 (Ct. App. 1991). South Carolina applies the discovery rule to breach of contract actions, which provides that an action accrues on the date the aggrieved party either discovered or could or should have discovered the breach through the exercise of reasonable diligence. *Maker v. Tietex Corp.*, 331 S.C. 371, 376-377, 500 S.E.2d 204, 207 (Ct. App. 1998). *See also Dean v. Ruscon Corp.*, 321 S.C. 360, 363, 468 S.E.2d 645, 647 (199) ("According to the discovery rule…the statute of limitations…

begins to run from the date the injured party either knows or should have known by the exercise of reasonable diligence that a cause of action exists for the wrongful conduct."); *State v. McClinton*, 369 S.C. 167, 173, 631 S.E.2d 895, 898 (2006) (a breach of contract action generally accrues at the time the contract is breached).

Here, there can be no dispute that the MECO's causes of action against Sayed are time-barred. Pursuant to the Contract, payment was net 30, meaning that Sayed was required to make payment on each invoice thirty (30) days after it was submitted. The Spreadsheet shows that the latest unpaid invoice for work performed on the Project is dated July 2, 2019, making the latest invoice due on or before August 1, 2019. If there was any confusion about this, all such confusion was cleared up by Burke's email dated August 7, 2019 and corresponding testimony. *Supra*. MECO had a cause of action for breach of contract against Sayed thirty (30) days after the date of each invoice submitted to Sayed, meaning that any action for all of the invoices shown on the Spreadsheet is long since time-barred.

There are two ways to revive a time-barred claim for breach of contract, neither of which apply here. First, a claim can be revived by a "new promise to pay the debt." *Cross v. Stackhouse*, 212 S.C. 100, 46 S.E.2d 668, 670 (1948). MECO testified at length that it has not spoken to Sayed since around the time of the August 7, 2018 email and that conversation ended without any promise by Sayed to pay the debt. Second, a claim can be revived by partial payment on the debt. *Zaks v. Elliott*, 106 F.2d 425, 427 (4th Cir. 1939) (applying South Carolina law). Here, MECO confirmed it has not received any payment on the debt since February 2019.

One purpose of a statute of limitations is "to relieve the courts of the burden of trying stale claims when a plaintiff has slept on his rights." *Moates v. Bobb*, 322 S.C. 172, 176, 470 S.E.2d 402, 404 (Ct. App. 1996). Despite MECO knowing that its invoices were past due as of August 7, 2019, and despite making threats to bring legal action, confirming it knew it had a cause of action as of that date, MECO chose to wait until more than three years passed before bringing this lawsuit. There is no material dispute that this is beyond the applicable statute of limitations and its action is time-barred.

CONCLUSION

For the foregoing reasons, the Court should grant Defendants' motion for summary judgment.

Respectfully submitted,

s/Adam C. Bach
Adam C. Bach (#74885)
Zachary A. Turner (#105187)
TONNSEN BACH, LLC
1306 South Church Street
Greenville, SC 29605
Telephone: (864) 236-5013
Facsimile: (864) 312-4191
abach@tonnsenbach.com
zturner@tonnsenbach.com

Attorneys for Defendants

September 11, 2023

Greenville, South Carolina

Exhibit 1

Brad Burke

From: alex@nepaventuresllc.com
Sent: Wednesday, August 7, 2019 4:30 PM
To: Brad Burke
Subject: RE: MECO DOCUMENTS WHAT IS OWED!! MUST READ TODAY FINAL NOTICE

Brad ,

i think u r over reacting ,till date the job u had undertaken is incomplete .

u have added finance charge which u think u can do because that is ur term ,but are not acknowledging the fact that the job was delayed for months ,a job which started in october 2018 was not complete until may of 2019 .

we have to come to a settlement amount and move on without wasting anymore time .

i had requested a write off amount/discount to compensate for the delay causing us some serious loss in business ,which i have expressed before .

Alex sayed
Nepa ventures llc .
Managing member .
100 N wilkes barre blvd ,
suite 206 ,wilkes barre,
Pa 18707.
ph nos 570-7068525 ext 101
fax .570-2442924.
Cell.201-4869272.

--------- Original Message ---------
Subject: RE: MECO DOCUMENTS WHAT IS OWED!! MUST READ TODAY FINAL NOTICE
From: "Brad Burke" <bburke@mecoaugusta.com>
Date: 8/7/19 3:45 pm
To: "alex@nepaventuresllc.com" <alex@nepaventuresllc.com>

EXHIBIT 27
Deponent 30(b)(6) Burke
Date 6-7-23 Rptr. Cintron
WWW.DEPOBOOKPRODUCTS.COM

Alex,

You can call and discuss if you want. Its not a threat I'm giving you a chance to pay what you agreed to and giving you the ability to work with me. You have not once called me and know this money has been outstanding. We kept you up in running the whole time in some facet. Nowhere does it say on the contract where we breached contract. It specifically says that we cant be held liable for things outside our control. There was changes issues, more piping that had to be done, snow, rain, trucks running over concrete and we split the job into sections to help you out when we wanted to do it all at once. I'm not asking for anything more than

MECO 00287

what we deserve. Half these costs have nothing to do with the diesel island. What would you do if no one called you tried to work through it, didn't pay you and after you kept following through no matter what and continued to do work on other parts of there site?

From: alex@nepaventuresllc.com <alex@nepaventuresllc.com>
Sent: Wednesday, August 7, 2019 3:21 PM
To: Brad Burke <bburke@mecoaugusta.com>
Cc: Roger Carpenter <rcarpenter@mecogreenville.com>; Dan Kissell <dkissell@mecogreenville.com>
Subject: RE: MECO DOCUMENTS WHAT IS OWED!! MUST READ TODAY FINAL NOTICE

Brad ,

i think u r mis interpreting the situation and taking into a direction which goes no-where .

u have breached the contract 5 months ago by not completing the job in a timely manner and making us in-curr losses over 175k dollars .we have not threatened u once for legal action but discussed amicable solution .

i will give u until friday to come up with a decision on continuing discussion

i am thinking the below email constitutes a threat to us and i will be directing this to my attorneys as well .

Alex sayed

Nepa ventures llc .

Managing member .

100 N wilkes barre blvd ,

suite 206 ,wilkes barre,

MECO 00288

Pa 18707.

ph nos 570-7068525 ext 101

fax .570-2442924.

Cell.201-4869272.

-------- Original Message --------

Subject: MECO DOCUMENTS WHAT IS OWED!! MUST READ TODAY FINAL NOTICE
From: "Brad Burke" <bburke@mecoaugusta.com>
Date: 8/7/19 1:02 pm
To: "alex@nepaventuresllc.com" <alex@nepaventuresllc.com>
Cc: "Dan Kissell" <dkissell@mecogreenville.com>, "Roger Carpenter" <rcarpenter@mecogreenville.com>

Good Morning Alex,

I have attached spreadsheets with contract amounts, invoices, payments made and outstanding invoices. I have attached the contracts, and what you agreed to. I have attached service tickets that have not been paid and all finance charges for breach of contract. I don't want to go to court over this. I want the payment made by the **end of business tomorrow 8-8-19 through wire transfer** for the full amount owed or you will hear from my lawyer on Friday. Everyday this goes further you will incur more finance charges. We billed you everything correctly and have proof. I'm not negotiating or wavering. If we go to court you will pay all legal fees and collection cost per signed contracts. If you want to call me my number is below. I suggest you get the money to me TODAY!!!!

(BRAD)

William B. Burke

CEO

Meco Inc. of Augusta/Greenville

1234 Gordon Park Rd.

Augusta GA 30901

706-724-7603 (Office)

762-333-4024 (Cell)

MECO 00289

bburke@mecoaugusta.com

Make it a great day!

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
	)	C/A NO.: 2022CP4203123
	)	
MECO, INC. OF AUGUSTA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
ALEX SAYED a/k/a ARSHAD M. SAYED a/k/a ARSHED SAYED; NEPA VENTURES LLC; NEPA TRADING & INVESTMENTS, LLC,	)	
	)	
Defendants.	)	

PLAINTIFF'S SUPPLEMENTAL MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Plaintiff MECO, Inc. of Augusta ("Plaintiff"), by and through undersigned counsel, submits this Supplemental Memorandum in Opposition to Defendants' Motion for Summary Judgment. Defendants' Motion fails to establish the absence of a genuine issue of material fact as to the appropriate statute of limitations, as well as the commencement and expiration of same, and the propriety of tolling, and for these reasons—which are supported by additional materials provided herein, and those provided in Plaintiff's Memorandum in Opposition filed on September 8, 2023—the Motion should be DENIED.

Plaintiff hereby supplements its original Memorandum in Opposition by providing copies of the Certificates of No Record that were recently provided to Plaintiff's counsel by the South Carolina Secretary of State. (See Certs. of No Record by Sec. of State, attached hereto as **Exhibits 13 & 14**).

For all the reasons set out in Plaintiff's Memorandum in Opposition and based on the certificates provided herein, Defendants' Motion fails to establish the absence of a genuine issue of material fact as to the appropriate statute of limitations; the commencement and expiration of same; Plaintiff's knowledge of Defendant Sayed's legal name; and Plaintiff's ability to locate and serve the NEPA Defendants who remain unregistered with the South Carolina Secretary of State. Therefore, Defendants' Motion should be DENIED.

Respectfully submitted, this 12th day of September, 2023.

s/ Logan A. Brown
LOGAN A. BROWN
South Carolina Bar No.: 105462
SCOTT W. KELLY
Admitted *Pro Hac Vice*
Attorneys for MECO, Inc. of Augusta

OF COUNSEL:

FULCHER HAGLER LLP
Post Office Box 1477
Augusta, GA 30903-1477
Phone: (706) 724-0171
Fax: (706) 396-3622
lbrown@fulcherlaw.com; skelly@fulcherlaw.com

The State of South Carolina

Office of Secretary of State Mark Hammond

Certificate of No Record

I, Mark Hammond, Secretary of State of South Carolina Hereby Certify that:

At this time, this office can find no record of an entity using the name: NEPA Ventures LLC

Given under my Hand and the Great Seal of the State of South Carolina this 12th day of September, 2023.

Mark Hammond, Secretary of State

EXHIBIT 13

The State of South Carolina

Office of Secretary of State Mark Hammond

Certificate of No Record

I, Mark Hammond, Secretary of State of South Carolina Hereby Certify that:

At this time, this office can find no record of an entity using the name: NEPA Trading & Investments LLC

Given under my Hand and the Great Seal of the State of South Carolina this 12th day of September, 2023.

Mark Hammond

Mark Hammond, Secretary of State

EXHIBIT 14

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED
Nov 07 2023
SC Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

J. Derham Cole, Circuit Court Judge

Case No. 2022-CP-42-03123

MECO, Inc. of Augusta. .... Plaintiff,

v.

Alex Sayed a/k/a Arshad M. Sayed a/k/a Arshed Sayed; NEPA Ventures LLC; NEPA Trading & Investments, LLC.. Defendants,

OF WHOM

MECO, Inc. of Augusta is.. Appellant, and

Alex Sayed a/k/a Arshad M. Sayed a/k/a Arshed Sayed; NEPA Ventures LLC; NEPA Trading & Investments, LLC.. Respondents.

NOTICE OF APPEAL

MECO, Inc. of Augusta appeals the Order of the Honorable J. Derham Cole, dated November 2, 2023, which granted Defendants' Motion for Summary Judgment. Appellant received written notice of entry of this Order on November 2, 2023.

s/ Logan A. Brown
LOGAN A. BROWN
South Carolina Bar No.: 105462
SCOTT W. KELLY
Admitted *Pro Hac Vice*
Attorneys for MECO, Inc. of Augusta

November 7, 2023
Augusta, Georgia

OF COUNSEL:

FULCHER HAGLER LLP
Post Office Box 1477
Augusta, GA 30903-1477
Phone: (706) 724-0171
Fax: (706) 396-3622
lbrown@fulcherlaw.com; skelly@fulcherlaw.com

EXHIBIT A

RECEIVED
Nov 07 2023
SC Court of Appeals

RECEIVED
Nov 07 2023
SC Court of Appeals

ELECTRONICALLY FILED - 2023 Nov 02 12:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2022CP4203123

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2022 CP-42-**03123**

MECO, Inc. of Augusta,

PLAINTIFF(S)

Alex **SAYED** a/k/a Arshad M. SAYED a/k/a Arshed SAYED, **NEPA VENTURES**, LLC, and **NEPA TRADING AND INVESTMENTS**, LLC.,

DEFENDANT(S)

Submitted by: the COURT	**Attorney for :** ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT**. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☒ **DECISION BY THE COURT**. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ <u>See Page 2 for additional information.</u>

☒ **ACTION DISMISSED** (*<u>CHECK REASON</u>*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☒ **Rule 56, SCRCP.**

☐ **ACTION STRICKEN** (*<u>CHECK REASON</u>*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** *<u>(CHECK APPLICABLE BOX)</u>*:

☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See formal order to follow ☒ Statement of Judgment by the Court:

This matter is before the Court on motion of the defendant seeking a grant of summary judgment pursuant to Rule 56, SCRCP.

Salient Facts

This is a civil action seeking damages for breach of contract. Pursuant to the contract the plaintiff performed services in the remodel of a truck stop. The work was completed on 02/13/2019. The last payment made to the plaintiff was on 02/15/2019. The plaintiff provided the defendant with what it asserts was outstanding invoices that had gone unpaid. The plaintiff provided a final invoice demanding payment of past due amounts to be paid not later than 08/08/2019 or a collection action would be commenced. The amount alleged to be due was not paid and the plaintiff commenced the present action on 08/23/2022.

Applicable Law

Rule 56, SCRCP, provides that:

> "(a) A party seeking to recover upon a claim … or to obtain a declaratory judgment may, at any time after the expiration of 30 days from the commencement of the action or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits for summary judgment in his favor upon all or any part thereof."
>
> "(b) A party against whom a claim … is asserted or declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in his favor as to all or any part thereof."
>
> "(c) "The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show there is genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law."

Summary judgment is appropriate when it is clear there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Kitchen Planners v. Friedman, S. Ct. Op. #2020-001669 filed 08/23/2023. Summary judgment must not be granted until the opposing party has had a full and fair opportunity to complete discovery. Baird v. Charleston County, 333 S.C. 519, (1999). "In determining whether any triable issues of fact exist, the court must view the evidence and all reasonable inferences that may be drawn from the evidence [and ambiguities] in the light most favorable to the non-moving party." Madison v. Babcock, 371 S.C. 123 (2006). In considering whether to grant summary judgment the Court must give every benefit of doubt to the non-moving party. Watters v. Terminix Service, Inc., 376 SC 632 (Ct.App. 2008). The Court must construe all ambiguities, conclusions, and inferences arising from the evidence against the moving party. Nolte v. Gibbs International, Inc., 335 SC 72 (Ct.App. 1999). It must be evident to the court that "further inquiry into the facts of the case is not desirable [or necessary] to clarify the application of the law." "Even if the material evidentiary facts are not in dispute, summary judgment should not be granted if there is a genuine dispute as to the conclusion to be drawn from those undisputed facts. Baugus v. Wessinger, 3-3 S.C. 412 (1991). "However, it is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine" in opposing a motion for summary judgment. Town of

Hollywood v. Floyd, 403 S.C. 466 (2013). When the plain, palpable, and indisputable facts establish but one reasonable interpretation, upon which reasonable minds cannot differ, and that interpretation would entitle the moving party to judgment as a matter of law, summary judgment may be granted. Singleton v. Sherer, 377 S.C. 185 (Ct. App. 2008); Brooks v. Northwood Little League, 327 S.C. 400 (Ct. App. 1997).

The period for the commencement of a civil action other than for the recovery of real property based upon a contract for the rendering of services is three years. S. C. Code Ann. Section 15-3-530(1). An action for damages resulting from a breach of contract generally accrues at the time that the contract is breached or on the date the aggrieved party either discovered the breach, or could or should have discovered the breach through the exercise of reasonable diligence. Summary judgment is appropriate when a plaintiff does not commence an action within the applicable statute of limitations. Kagan v. Simchon, 429 S.C. 516 (App. 2020).

Discussion

The plaintiff in this action became aware not later than 08/08/2019 that the defendants had breached a contract entered between the parties by the failure to pay sums owed under the contract. The statute of limitations on a contract action is three years. This action was commenced after the passage of three years from the breach and the plaintiff's knowledge of it.

Conclusion

Based upon a consideration of the record, memoranda submitted, the applicable rules and statutory and case law, this Court finds that the defendant's **MOTION** for **SUMMARY JUDGMENT** should be and **IS** therefore **GRANTED**.

Counsel for the defendants is requested to prepare and submit a proposed formal order for the Court's consideration.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk : ______________________________

INFORMATION FOR THE JUDGMENT INDEX **Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.**		
Judgment in Favor of (List name(s) below)	**Judgment Against (List name(s) below)**	**Judgment Amount To be Enrolled (List amount(s) below)**
		$
		$

		$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**
E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

J. Derham Cole	2053	11/02/2023
J. DERHAM COLE, Circuit Court Judge	**Judge Code**	**Date**

For Clerk of Court Office Use Only

This judgment was entered on the day of NOV, 2023 and a copy mailed first class or placed in the appropriate attorney's box on this day of NOV, 2023to attorneys of record or to parties (when appearing pro se) as follows:

LOGAN A. BROWN, Esq.

ATTORNEY(S) FOR PLAINTIFF(S)

ADAM C. BACH, Esq.

ATTORNEY(S) FOR DEFENDANT(S)

AMY W. COX, CLERK OF COURT

Court Reporter: Webex

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

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

Spartanburg Common Pleas

Case Caption: Meco, Inc. Of Augusta VS Alex Sayed , defendant, et al

Case Number: 2022CP4203123

Type: Order/Form 4

IT IS SO ORDERED!

s/J. Derham Cole 2053

Electronically signed on 2023-11-02 12:02:53 page 6 of 6

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

J. Derham Cole, Circuit Court Judge

Case No. 2022-CP-42-03123
Appellate Case No. 2023-001752

MECO, Inc. of Augusta. ....
Plaintiff,

v.

Alex Sayed a/k/a Arshad M. Sayed a/k/a Arshed Sayed; NEPA Ventures LLC; NEPA Trading & Investments, LLC..
Defendants,

OF WHOM

MECO, Inc. of Augusta is..
Appellant, and

Alex Sayed a/k/a Arshad M. Sayed a/k/a Arshed Sayed; NEPA Ventures LLC; NEPA Trading & Investments, LLC..
Respondents.

AMENDED NOTICE OF APPEAL

MECO, Inc. of Augusta appeals the Order of the Honorable J. Derham Cole, dated November 27, 2023 and attached as Exhibit "A", which granted Defendants' Motion for Summary Judgment. Appellant received written notice of entry of this Order on November 27, 2023. This Order vacated the previous Form 4 Order from which Plaintiff originally appealed, so Plaintiff amends its Notice of Appeal to reflect that the trial court's November 27, 2023 Order is the judgment being appealed.

s/ Kyle B. Waddell
KYLE B. WADDELL
South Carolina Bar No.: 106095
SCOTT W. KELLY
Admitted *Pro Hac Vice*
Attorneys for MECO, Inc. of Augusta

December 4, 2023
Augusta, Georgia

OF COUNSEL:

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EXHIBIT A

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	)	IN THE COURT OF COMMON PLEAS SEVENTH JUDICIAL CIRCUIT
MECO, INC. OF AUGUSTA, Plaintiff, vs. ALEX SAYED a/k/a ARSHAD M. SAYED a/k/a ARSHED SAYED; NEPA VENTURES LLC; NEPA TRADING & INVESTMENTS LLC, Defendants.	)	CASE NO. 2022-CP-42-03123 **ORDER**

This matter came before the Court for hearing on September 14, 2023, on the Defendants' Motion for Summary Judgment. MECO, Inc. of Augusta ("MECO") filed this action against the Defendants, Alex Sayed a/k/a Arshad M. Sayed a/k/a Arshed Sayed; NEPA Ventures, LLC and Nepa Trading & Investments, LLC (collectively hereinafter "Defendants"), seeking judgment on a debt arising from an alleged breach of contract. Defendants timely answered the Complaint and asserted counterclaims.

After considering the pleadings, the affidavit, exhibits attached to the motion, and accompanying briefs, as well as arguments presented at the hearing, this Court finds that the Plaintiff had notice of the alleged failure by Defendants to pay sums owed under the contract and failed to bring its action within the applicable statutes of limitations. Accordingly, there are no genuine issues of material facts, and Defendants are entitled to judgment as a matter of law.

FINDINGS OF FACT

Sayed hired the plaintiff, MECO, Inc. of Augusta, to renovate and upgrade a gas station known as the "Westar Travel Plaza," which is located at 175 Truck Stop Road, Cowpens, South Carolina in May of 2018 (the "Project"). The work at the Project was performed pursuant to a contract between MECO and Alex Sayed (the "Contract"). The Project was to complete the scope of work contained within the Contract.

Work on the Project began in August 2018 following payment of a deposit by Sayed to MECO. As work by MECO progressed, MECO was required to "furnish [Sayed] with an invoice at the end of each week for the value of materials stored and/or the value of work completed to date." Sayed was required to pay each invoice "within thirty (30) days of invoice date or completion of the Project." Further, the Contract provides that "All amounts Buyer does not pay when due shall accrue interest at the rate of 1.5% a month until paid." After payment of the deposit, MECO began its work and began sending invoices as required by the Contract. On February 15, 2019, Sayed made a second, final payment and has made no further payments since that time.

The Project proceeded in two phases and the second and final phase ended in late April or early May 2019. At some point a dispute arose between MECO and Sayed regarding the amount owed on the Project. In August 2019, MECO sent a list of all invoices it claimed were owed by Sayed (the "Spreadsheet"). A review of the Spreadsheet reveals two undisputed facts. First, the latest invoice for work performed on the Project is dated July 2, 2019. This fact is confirmed by an email sent by Roger Carpenter, a sales representative for MECO, to Sayed dated July 17, 2019. In that email, Mr. Carpenter attaches all of the invoices shown on the Spreadsheet with the following message: "Alex, here are the outstanding invoices which we need to get resolved…". Second, MECO has received no payments from Sayed on any of these outstanding invoices.

On August 7, 2019, Mr. William Burke of MECO sent an email to Sayed providing the Spreadsheet and stating:

> I have attached spreadsheets with contract amounts, invoices, payments made and outstanding invoices. I have attached the contracts and what you agreed to. I have attached service tickets that have not been paid and all finance charges for breach of contract. I don't want to go to court over this. I want payment made by the end

> of business tomorrow 8-8-10 through wire transfer for the full amount owed or you will hear from my lawyer on Friday.

Sayed responded the same day explaining his position and asking about coming up with an amicable solution. Mr. Burke responded and again affirmed that all of the amounts shown on the Spreadsheet were past due as of the date of these emails: "I'm giving you a chance to pay what you agreed to and giving you the ability to work with me. You have not called me and know this money has been outstanding." The Spreadsheet itself also confirms Burke's email, as the final line of the Spreadsheet showing the total owed states in all bold, all caps:

TOTAL DUE BY 8/8/19 OR LAWYERS WILL TAKE OVER FROM HERE

(emphasis in original). When questioned about this email and spreadsheet, Burke testified:

> Q: At this point in time, had you received any payment from the defendants since the February $70,000?
>
> A: No, I had not.
>
> . . .
>
> Q: An easier way of saying it would be to say – or what I'm – what I'm trying to ask is that it was MECO's position that as of August 8, 2019, my clients owed this amount on page two pursuant to the contract?
>
> A: Not pursuant to the ---
>
> Q: I mean, pursuant to their agreements with MECO?
>
> A: To all agreements and all the work that had been done, not just the original contract.
>
> Q: And it was not – it was not like you were sending this saying, hey this amount of money is coming due or this amount of money may be due in the future. It was due right now?
>
> A: It was way past due.
>
> Q: Way past due?

A: Months and months and months past due.

Q: Under the defendants' obligation to MECO?

A: Correct.

Q: They were in breach of it?

A: In all of them.

Q: Breach of their obligation to pay you?

A: Correct. In every – in every single line item.

Following this email, Burke and Sayed had one more conversation around the time of this email and then have not spoken since.

In sum, MECO testified that all amounts claimed in this lawsuit were past due as of August 8, 2019. MECO further testified that it has received no payment from Sayed, or anyone acting on his behalf, after February 2019. Finally, MECO confirmed that in its last conversation with Sayed, it received no promises to pay or other assurance of payment. MECO did not file this lawsuit until August 23, 2022, more than three years after it sent its final invoice on the contract and more than three years after demanding payment for all sums due in this lawsuit. When it finally did bring its lawsuit, it brought actions for breach of contract, quantum meruit, promissory estoppel, and "recovery of costs of collection and attorneys' fees," which is not a cause of action recognized by South Carolina law. All three causes of action are time-barred.

<u>CONCLUSIONS OF LAW</u>

A motion for summary judgment shall be granted when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *Staubes v. City of Folly Beach*, 500 S.E.2d 160 (1998); *Summer v. Carpenter*, 492 S.E.2d 55 (1997). When determining if any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party." *Turner v. Milliman*, 392 S.C. 116, 122, 708 S.E.2d 766, 769 (2011). A party opposing a properly supported motion for summary judgment may not rest on the mere allegations or denials of the pleading but must set forth or point to specific facts showing there is a genuine issue of material fact. *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 463, 892 S.E.2d 297, 301 (2023). "[I]t is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine." *Id* citing *Town of Hollywood v. Floyd*, 403 S.C. 466, 477, 744 S.E.2d 161, 166 (2013).

Each of MECO's causes of action arise from the contract between MECO and Sayed. Contract actions in South Carolina are subject to a three-year statute of limitations. In general, South Carolina has two statutes that must be examined to determine the length of time a plaintiff has to bring a claim for breach of contract. The first is found in S.C. Code § 15-3-530 and provides a three-year statute of limitations for nearly all contract claims. The second is found in the South Carolina Uniform Commercial Code (the "UCC") at S.C. Code § 36-2-725 and applies only to contracts for the sale of goods. Goods are defined by the UCC as "all things…which are moveable at the time of identification to the contract for sale…"

South Carolina applies the "predominant factor" test to determine whether a contract that calls for the sale of both goods and services is subject to the UCC. In determining the predominant factor of the contract, courts are directed to look at a variety of factors, including (1) the language of the contract, (2) the nature of the business of the supplier, and (3) the intrinsic worth of the materials involved.

Here, the Contract is one for services, not goods. The Contract uses language typical to a construction services contract to identify the parties to the contract, referring to Sayed as "Owner" and to MECO as "Contractor." The contract states explicitly why Sayed is paying MECO: "Owner shall pay the Contractor for the performance of the work," language typically used in a construction services contract. The Contract also makes clear that its subject is "work," not "goods" throughout. For example, it describes what is being provided by MECO as "Work" in paragraph 3 of the Contract, refers to a "Scope of Work," and then states that "Seller (a) will install the Equipment… [and] (b) Will install all safety equipment…" The word "goods" does not appear anywhere in the Contract, whereas the word "work" appears twenty-two (22) times. Similarly, the Contract refers to itself as an "Installation Agreement" in paragraphs 2 and 3. The Contract also contains other provisions typical of a construction services contract, dealing with issues such as "Performance Bonds," "Workers Compensation Insurance," "Contractor's Liability Insurance," terms related to "Digging and Excavating," "Environmental Indemnity," and "Permits." Id. None of these provisions would have any applicability to a contract for the sale of goods. Even where it does address "Materials," it makes clear that these are incident to the contract stating explicitly: "Any materials or equipment incidental to the installation or to be installed as part of this contract…"

The second factor also shows that this was a services contract. MECO admits in their brief that they are in the business of "supplying materials and installing them" not manufacturing or distributing equipment. MECO's 30(b)(6) representative testified that MECO does not manufacture any goods and compared its business to a contractor building a house. Applying the predominant factor test to the facts at issue, the Court finds that the predominant factor of this contract was services, not goods, and the three-year statute of limitations applies.

Turning to the plaintiff's causes of action, because each of the plaintiff's causes of action arise out of either an express contract (breach of contract) or an implied contract (quantum meruit and promissory estoppel), the statute of limitations period applicable to contracts applies to all of Plaintiff's actions. S.C. Code Ann. § 15-3-530 provides that "an action upon contract, obligation, or liability, express or implied…" must be brought within three years of the time the cause of action accrues. South Carolina's statute of limitations requires. South Carolina applies the discovery rule to breach of contract actions, which provides that an action accrues on the date the aggrieved party either discovered or could or should have discovered the breach through the exercise of reasonable diligence.

Here, there can be no dispute that the MECO's causes of action against Defendants are time-barred. Pursuant to the Contract, payment was net 30, meaning that Defendants were required to make payment on each invoice thirty (30) days after it was submitted. The Spreadsheet shows that the latest unpaid invoice for work performed on the Project is dated July 2, 2019, making payment on the latest invoice due on or before August 1, 2019. If there was any confusion about this, it was cleared up by Burke's email dated August 7, 2019 and corresponding testimony. MECO had a cause of action for breach of contract against Defendants thirty (30) days after the date of each invoice submitted to Sayed, meaning that any action for all of the invoices shown on the Spreadsheet is long since time barred.

There are two ways to revive a time-barred claim for breach of contract, neither of which apply here. First, a claim can be revived by a "new promise to pay the debt." MECO testified at length that it has not spoken to Defendants since around the time of the August 7, 2018 email and that conversation ended without any promise by Defendants to pay the debt. Second, a claim can be revived by partial payment on the debt. Here, MECO confirmed it has not received any payment on the debt since February 2019.

One purpose of a statute of limitations is to relieve the courts of the burden of trying stale claims when a plaintiff has slept on his rights. MECO became aware of its alleged cause of action not later than August 8, 2019, when it sent a communication to defendants demanding immediate payment and threatening legal action. It is clear from that communication that as of that date, MECO's cause of action for payment of the past due invoices had accrued. The statute of limitations on a breach of contract action is three years. This action commenced on August 23, 2022, after the passage of three years from the alleged breach and the plaintiff's knowledge of it.

THEREFORE IT IS ORDERED that the Defendants' Motion for Summary Judgment should be and is GRANTED and the plaintiff's actions against Defendants are dismissed with prejudice;

IT IS FURTHER ORDERED, that the Court's Form 4 indicating that the Court's judgment ends the case is vacated as the defendants brought counterclaims that remain pending. The clerk of court is directed to enter an amended Form 4 showing that this judgment <u>does not</u> end the case.

AND IT IS SO ORDERED.

____
J. Derham Cole, Circuit Court Judge

Spartanburg Common Pleas

Case Caption: Meco, Inc. Of Augusta VS Alex Sayed , defendant, et al

Case Number: 2022CP4203123

Type: Order/Summary Judgment

IT IS SO ORDERED!

s/J. Derham Cole 2053

Electronically signed on 2023-11-27 14:45:31 page 9 of 9

STATE OF SOUTH CAROLINA) SOUTH CAROLINA CIRCUIT COURT 7
COUNTY OF SPARTANBURG) DOCKET NO. 2022-CP-42-03123

MECO, INC. OF AUGUSTA)
Plaintiff,)
versus)
)
ALEX SAYED A/K/A ARSHAD M. SAYED A/K/A)
ARSHED SAYED, NEPA VENTURES, LLC, AND)
NEPA TRADING AND INVESTMENTS, LLC)
Defendants.)

H E A R I N G
BEFORE THE HONORABLE J. DERHAM COLE

DATE: September 14, 2023
TIME: --
LOCATION: South Carolina Circuit Court 7
TRANSCRIBED BY: Natasha Barrientos

LEGAL EAGLE
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My client, Alex Sayed contracted with Meco to perform the renovations. That contract had terms that included that the work would be invoiced weekly and had net 30 payment terms. The work started in August of 2018. It continued for about a year. Some facts that I think that we all agree on Meco has not received any payment for any of this since February, 2019.

That was the last payment made by the defendants to Meco about -- about 80% of what was owed on the project was paid. And the -- the work was in our -- we -- we don't agree on this fact, but the work, according to the -- the Meco's 30 B6 representative, he testified at his deposition, the work completed in late April, early May plaintiffs are now running from that date because it -- they, I think it would affect the statute of limitations and -- and are actually in their brief site contradictions and their -- their own testimony their side's own testimony, which does not create an issue of fact. So there are 30 B6 representatives testimony is -- is that the work completed in late April, early May, 2019, there was a dispute over the amount owed and the work performed.

In beginning in June, July, there was a series of emails that were sent concerning the -- the amounts that they claimed were past due, which we disputed. And then that led to an email that was sent by their CEO to our client that we have concluded the most relevant excerpt in our brief. That was dated August 7, 2019. This is their CEO. "I have attached spreadsheets with contract amounts, invoices, payments made, and outstanding invoices. I have attached the contracts and what you agreed to. I have attached service tickets that have not been paid and all finance charges." And this is his words, not mine, quoted in the breach, "For breach of contract. I do not want to go to court over this. I want payment made in full by the end of business tomorrow, 8/8/'19 through Wire transfer for the full amount owed by you or you will hear it from our lawyer."

Your Honor, if I could, I -- I'd like to share if I can share screen, I'd like to share a window so you can see the invoice spreadsheet that he was referring to. Can you see that, Your Honor?

THE COURT: I see it.

MR. BACH: Okay. This is the spreadsheet of the outstanding invoices that he was claiming were due and that were, quote his words, "Breach of contract." It had to be paid by the very next day. We submitted this as Exhibit G to our motion for summary judgment. The invoice numbers are here on the left. The date that they were submitted is here under date, and the -- the work that was performed and the outstanding balances.

If you go through each of these dates, Your Honor, the latest date on here is -- is July 2, 2019. There are a few seller terms of sale. Sales representative.

First, Your Honor, I'd like to point out in this contract. We -- the -- the purchaser here, my client, the defendants, is referred to as owner -- owner of property. If you look at why my client is paying the contract the -- the contract sum, the owner shall pay the contractor for performance of the work, not for the sale of the goods, not for delivery of the goods not for shipment of the goods. It is paying for performance of the work.

In fact, Your Honor, if you do a word search in this contract, the word work appears 22 times the words good - the word goods does not appear a single time. It goes on to have, it has numerous terms that are normal for a construction services contract, for example, it deals with performance bonds, it deals with contractor's liability insurance, it deals with owner's liability insurance.

And again, Your Honor, in a contract for goods, we don't -- we don't call the person who's receiving owner. We call them buyer. We don't call the seller contractor, we call them seller. We don't deal with liability insurance, workers' compensation insurance, property insurance things dealing with paragraph seven changing of the work. It deals with warranties of workmanship. It deals with underground structures, digging and excavating, environmental liability, concrete asphalt permitting, another contract term you're never gonna see in a contract for the sale of goods.

And then, Your Honor, where it does deal with materials, paragraph 11, it says this, any material or equipment incidental to the installation or to be installed as part of this contract, Your Honor, and that's exactly what it is. The materials are incidental to the services that are being provided.

Your Honor, it -- it also has special conditions, like the installation price does not include certain dates. And in both, in paragraphs two and three, it -- it refers to itself as an in by acceptance of this installation agreement, Meco reserves the right to terminate this installation agreement.

So Your Honor, this is clearly a contract for it's a construction services contract. So factor one, the language of the contract specifically deals with services. It's a construction services contract, and not a sale of goods. Does not contain any terms or contains very few that you could potentially shoehorn. But -- but by far it's dealing with scope of work -- work permitting indemnity insurance for work and that sort of thing. And then, Your Honor, the -- the work that's to be performed is referred to at Exhibit B as scope of work, and then it's installation to include the following items.

It is not a list of goods that is being sold. It's not a -- it's not a bill of lading or a bill of sale. This is for work that's to be performed. So factor one, the language of the contract, this is clearly a construction services contract. Factor two is how the, how the -- the parties describe themselves.

And Your Honor, we -- we quoted this language in our brief it's Meco's 30 B6 representative, again, testifying, and I asked him this specifically. I want to get back to some more questions, general questions about Meco. What does Meco do? Answer, we are a sales service and installation company for petroleum equipment's products. Okay. Do you manufacture any petroleum equipment products? No, sir. You don't do any manufacturing, is that correct? Correct. So Meco's role is to purchase from third parties and then you handle the installation. Is that correct? Answer, correct.

So sort of like a contractor for a house, is that accurate? Correct. Where the contractor may be supplying materials, but what he's doing is the service of putting it all together. Is that accurate? Answer, yes, sir. That is. That's what Meco does, correct? Correct. Is that what Meco did on this project? Correct.

So, Your Honor the Meco describes himself like a contractor on a house. No South Carolina Court has ever found that a contractor on a house is a merchant selling goods rather than a -- a providing a construction service.

Meco provided to Westar was the area item that they did not hold in the warehouse gas dispensers that, that Mrs had and Westar needed replaced, held in Meco's warehouse. And like I said, the small DEF tank was the only thing that was not in Meco's Warehouse when they were hired to do this work.

And so we submit that this contract is, it's not like, you know, floor installation services and Ranger Construction because Meco held all of its equipment except for the DEF tank and its warehouses, which the court there have found as a very important factor. The -- the other factors, you, you know, the, that those can be weighed. And so we submit that, you know, the -- the ratio of equipment under the contract, which appears that phrase appears 34 times throughout is over 72%. And we also submit that because Meco was holding the equipment in its warehouse, it's much more comparable to the supplier of goods than Mr. Bach would -- would have the court perceive.

Moving to the discovery issue again, there's conflicting evidence and under (inaudible) that creates a genuine issue of material fact precluding summary judgment. Mr. Burke did testify that he was ready to move in early August of 2019. He also signed an affidavit in the same year stating that Meco was still doing work at (inaudible) until September 21, 2019. There's -- there are also invoices with payment due dates of September 26, 2019, indicating that Meco

CERTIFICATE OF TRANSCRIBER

I, NATASHA BARRIENTOS, a court-approved transcriber, 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 South Carolina Circuit Court 7 of Spartanburg County, South Carolina, on the 14th Day of September, 2023.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

November 15, 2023

Natasha Barrientos
Transcriber

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF SPARTANBURG) CASE NO.: 2022-CP-42-03123
)
)
MECO, INC. OF AUGUSTA,)
)
Plaintiff,)
)
vs.)
)
ALEX SAYED a/k/a)
ARSHAD M. SAYED a/k/a)
ARSHED SAYED;)
NEPA Ventures, LLC; and)
NEPA Trading & INVESTMENTS,)
LLC,)
)
Defendants.)
_________________________________)

VIDEOCONFERENCE DEPOSITION BY ZOOM OF

ALEX SAYED

April 12, 2023

10:05 a.m.

Kimbely Griffin, CCR, CVR

5409-4423-1615-6928

APPEARANCES

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Also present:

Mr. Brad Burke, MECO (By Zoom)
Mr. John McGee, MECO (By Zoom)
Mr. Tyler Tam, Videographer (By Zoom)

MR. TURNER: Correct.

MR. KELLY: Great. That's what I meant. Okay.

The witness has been sworn.

CROSS-EXAMINATION

BY MR. KELLY:

Q. Mr. Sayed, would you please tell me your full name?

A. My full name is Arshed Sayed, also known as Alex Sayed.

Q. And would you spell your first name and your last name?

A. A-r-s-h-e-d. Last name, S-a-y-e-d.

Q. And tell me, do you go by any names other than Arshed or Alex?

A. No.

Q. Have you ever gone by any names other than Arshed or Alex, nicknames included?

A. No.

Q. What languages do you speak fluently?

A. English and Hindi.

Q. Are you an American citizen?

A. Yeah.

Q. Were you born here or were you born overseas?

A. In India.

Q. Okay. And your date of birth, please.

A. 1/1/71.
Q. A New Year's baby.
A. That's correct.
Q. And when did you immigrate to the United States?
A. 2000 -- well, I don't remember accurately. I think sometime in 2000s.
Q. Okay. And when did you become a citizen?
A. How is that relevant, so I'll understand?
Q. Yeah. I'm just asking the questions. It's really not my job to answer your questions. I'm just asking when you became a citizen. You testified you are. I don't need the exact date if you don't know it. I'm just trying to find out the year.
A. Around 8 or 10 years.
Q. I'm sorry.
A. 10 years ago.
Q. Okay. So about 2013. Is that what you're telling me?
A. Yeah.
Q. What is your home address, sir?
A. 75 Sutton Farms Road, Shavertown, Pennsylvania.
Q. And I'm going to ask you to spell that street name because I couldn't quite understand it and I want to make sure the court reporter understands it.
A. S-u-t-t-o-n Farms Road, Shavertown, Pennsylvania.

Q. Shavertown. S-h-a-v-e-r-t-o-w-n --
A. Yes.
Q. -- correct. All right. And how long have you lived at that address in Shavertown?
A. 3 years.
Q. 2 years.
A. 3 years approximately.
Q. 3. That's why I repeated it, I wasn't sure which one you said.
Who lives with you at that residence?
A. My wife and 2 children.
Q. Okay. Do you have any family, blood or -- anybody related to you by blood or marriage living in South Carolina?
A. No.
Q. Have you ever had to give testimony before, like in a deposition or in court?
A. Yes.
Q. Tell me what that -- what that was in connection with?
A. I had to collect money from some customer.
Q. Okay. And where -- where was that?
A. Pennsylvania.
Q. And was that a lawsuit that was filed on your behalf or a company that you owned or operate?

A. No. I don't know what you mean by I understand. Do you understand?

Q. The important thing is whether -- whether you understand and whether MECO understands. You want to blame MECO for a lot of issues with software and --

A. Not true. Not true. Not true.

(Cross-talk.)

Q. -- (unintelligible) they are not responsible for; isn't that right?

A. That's not true.

Q. One of the things you complained about is that you say that MECO didn't properly instruct Westar Travel Plaza customers -- personnel, excuse me. This just doesn't make sense. Hold on. Well, looking at this interrogatory response that's on your screen, one of the things you complained about is that they -- that MECO, not instructing Westar Travel Plaza customers personnel in the proper operation of equipment supplied by MECO. What are you talking about?

A. The POS system installed by -- by MECO. They didn't train the new -- we bought new POS system, which is, I think, Topaz. No, not Topaz. Verifone POS system from them, and they -- they didn't train the employees. Show them exactly how everything works before they left.

Q. So your folks -- it's your testimony that the