

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

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**APPEAL FROM BEAUFORT COUNTY**

**Court of Common Pleas**

**Marvin Dukes, III, Master in Equity**

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**S.C. Supreme Court**

**Case No. 2000-CP-07-524**

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**Bill P. Passaloukas and Susie H. Passaloukas,  
Individually and as Shareholders Derivatively  
on Behalf of Zorba's, Inc.,.....Appellants,**

**v.**

**Cynthia Bensch, Gary Bensch and Zorba's, Inc.,.....Defendants,  
Of whom, Cynthia Bensch and Gary Bensch are the.....Respondents.**

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**VOLUME II**

**SUPPLEMENTAL RECORD ON APPEAL**

**PAGES 466 - 930**

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RESPONDENTS**

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1 BENSCH - PASSALOUKAS (EXAMINATION)

2 going to have an opportunity to  
3 testify. This is the time to ask Mr.  
4 Passaloukas questions.

5 BY MRS. BENSCH:

6 Q Who is Nick Eletheriou? What was his  
7 position with the restaurant?

8 A Nick Eletheriou, he was a great cook I  
9 met in Columbia. He was working in Columbia in  
10 Shoney's and he had problems from there. He  
11 wanted to move from Columbia.

12 Q I mean, what was his position with your  
13 restaurant?

14 A He's position was a cook.

15 Q He was a cook?

16 A Helped me with the management, helped  
17 me with some deposits and stuff when I was not  
18 there.

19 Q Was he a salaried employee?

20 A I cannot remember what he was in the  
21 beginning. I think we had a fixed price -- a  
22 fixed weekly --

23 Q Salary?

24 A Something like that.

25 Q So he wasn't a waiter?

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1 BENSCH - PASSALOUKAS (EXAMINATION)

2 money, that you and Gary were supposed to put to  
3 help the business and you did not.

4 Q Did you discuss adding the Benschers to  
5 the checking account so that they could see what  
6 was in the checking account?

7 A I cannot remember. I would not have  
8 any problem about that if you had put some money  
9 in the business.

10 Q And did you give them the key to that  
11 P.O. Box?

12 A I cannot remember. And I wouldn't have  
13 any problems to give you the key. I don't have  
14 nothing to hide.

15 Q But you didn't?

16 A I don't remember.

17 Q Okay; you say that you were supposed to  
18 get a \$36,000 annual salary from this  
19 corporation. How is that supposed to be paid,  
20 or from what is what supposed to be paid? Who  
21 is supposed to pay that to you?

22 A From Zorba's.

23 Q And before or after profits, or if  
24 there's money there to pay you, you would get  
25 it?

1 BENSCH - PASSALOUKAS (EXAMINATION)

2 A Of course before profits I was supposed  
3 to get my salary.

4 Q Before profits; okay?

5 And who was supposed to pay you for  
6 profit since you were running the  
7 restaurant?

8 A Who.

9 Q If you were the manager and you were  
10 responsible for the income of that restaurant  
11 would your salary have come out of the revenue  
12 from Zorba's?

13 A I guess.

14 Q Okay; was there money there to pay you  
15 a salary?

16 A I was putting my money to keep the  
17 restaurant going, Cynthia. I haven't gotten a  
18 penny.

19 Q Sir, I said was there money to pay you  
20 a salary out of the proceeds of the sales?

21 A Yes. There was money there, but we  
22 were using the money to keep the business going,  
23 since you didn't put any money in it. I was  
24 putting my money to keep that business for four  
25 and-a-half months.

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1           BENSCH - PASSALOUKAS (EXAMINATION)

2                   MRS. BENSCH: Can we look at the  
3           shareholder's agreement page eight, its  
4           Exhibit 7.

5                   MR. PAPE: You don't have the  
6           shareholder's agreement there?

7                   MRS. BENSCH: Yeah.

8                   THE WITNESS: What am I suppose to  
9           be looking at?

10           BY MRS. BENSCH:

11                   Q     Down at the bottom of that page, that  
12           last paragraph as to how you were suppose to get  
13           your salary?

14                   MR. PAPE: Your Honor, the  
15           agreement speaks for itself. I don't  
16           know if we need it read it.

17                   THE WITNESS: Should I read it?

18                   THE COURT: Is the question  
19           whether or not he actually received  
20           anything or what the agreement says?

21                   MRS. BENSCH: The question is, was  
22           the salary supposed to be paid out of  
23           the sales from the restaurant per the  
24           shareholder's agreement.

25                   THE COURT: And I'll sustain Mr.

1 BENSCH - PASSALOUKAS (EXAMINATION)

2 Pape's suggestion. I documents, again,  
3 I think are stipulated, so I think the  
4 law requires me to simply read them and  
5 interpret them as best as I can.

6 BY MRS. BENSCH:

7 Q Okay; so your salary -- you had the  
8 checkbook and you could have given yourself a  
9 check for a salary at any time, right?

10 A No.

11 Q Why?

12 A The salary was suppose to come from  
13 Gill Fisher. He was the one paying the pay. He  
14 was fixing the payroll every week.

15 Q And you told him to give you a check?

16 A I did not tell him to give me anything.  
17 He suggested to get some reimbursement money in  
18 the beginning before I get any salary. That's  
19 why I haven't got any salary. We took some  
20 money that was reimbursement, but we never got  
21 any salary.

22 MR. PAPE: Your Honor, all of this  
23 is undisputed. It's already in the  
24 record from the last hearing and I don't  
25 see any point in going any further with

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1           BENSCH - PASSALOUKAS (EXAMINATION)

2           it.

3                   MRS. BENSCH: Well, Your Honor,  
4           part of their claim is --

5                   THE COURT: Let him finish. The  
6           reporter can only take one thing.

7                   Go ahead, Mr. Pape.

8                   MR. PAPE: This has already been  
9           delved into and all of this is  
10          undisputed. Mr. Clabaugh went into this  
11          all the last hearing.

12                   THE COURT: Go ahead, Mrs. Bensch;  
13          what were you going to say?

14                   MRS. BENSCH: The claims are that  
15          he's owed a salary and I'm trying to  
16          establish where was it suppose to come  
17          from and the checking accounts will  
18          show whether or not he got it. Again,  
19          he was the manager. He had control of  
20          the checking account, so I think it is  
21          reasonable that it would come out of  
22          gross profits --

23                   MR. BENSCH: Net profits.

24                   MRS. BENSCH: -- or net profits.

25                   And he didn't pay himself a salary for

1           BENSCH - PASSALOUKAS (EXAMINATION)

2           whatever reason, but I don't think the  
3           Bensch's interfered with him writing  
4           himself a check.

5           MR. PAPE: We don't have any  
6           problem with what she's saying, Judge.

7           MRS. BENSCH: Well, I'm trying to  
8           establish if the money wasn't there --

9           THE COURT: Let Mr. Pape finish.

10          MR. PAPE: But the fact there  
11          wasn't enough cash flow doesn't mean  
12          that there is not an obligation by  
13          Zorba's to pay it. Obviously these  
14          salaries were deferred until such time  
15          until Zorba's could pay it, and all from  
16          its assets. We stipulate to that.

17          THE COURT: You stipulate what  
18          exactly? The Bensch's did not interfere  
19          with his ability to pay himself a  
20          salary; is that the stipulation? I'm  
21          not trying to put words in your mouth;  
22          I'm just trying to find out the  
23          stipulation. Tell me what you are  
24          stipulating to.

25          MR. PAPE: Well, we're stipulating

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1           BENSCH - PASSALOUKAS (EXAMINATION)

2           that number one, there was a salary  
3           owed of \$3,000 a month by Zorba's.  
4           Number two, we were stipulating that  
5           there was not sufficient cash flow to  
6           pay Mr. Passaloukas' salary during the  
7           period of time, the short period of  
8           time, the restaurant was open and that  
9           the payment was to be deferred. It  
10          does not mean however, that Zorba's did  
11          not owe him and still does not owe him  
12          the salary of \$3,000 an month.

13                 THE COURT: I think Mrs. Bensch's  
14          point was that the Bensch's -- at least  
15          the line of questioning as I understand  
16          it -- did not do anything to go in and  
17          prevent him from paying himself a  
18          salary.

19                 MR. PAPE: We'll stipulate to  
20          that, Judge.

21                 THE COURT: That's the point you  
22          were making?

23                 MRS. BENSCH: Yes, that's the  
24          point.

25                 MR. PAPE: Except for the fact --

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1 BENSCH - PASSALOUKAS (EXAMINATION)

2 THE COURT: I understand the  
3 theory is they put \$20,000 into the  
4 business. But as I understand Mrs.  
5 Bensch's line of questioning, they  
6 didn't come in and steal the checkbook  
7 or anything. There was cash moving  
8 through the restaurant and he made a  
9 decision to put it back in the  
10 restaurant and not pay himself.

11 MR. PAPE: Exactly.

12 THE COURT: Okay.

13 BY MRS. BENSCH:

14 Q Again, would you look at the second  
15 page of your contribution under reimbursements  
16 to Passaloukas?

17 MR. PAPE: If she's going to ask  
18 you about reimbursement they set forth  
19 in Plaintiff's Exhibit Number 2.

20 THE COURT: I'll look it all up at  
21 some point.

22 BY MRS. BENSCH:

23 Q Did you call Mr. Bensch or discuss with  
24 Mr. Bensch reimbursing yourself any of these  
25 checks, any of these amounts?

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1 BENSCH - PASSALOUKAS (EXAMINATION)

2 A I was suggesting to do that by your  
3 account.

4 Q He told you to do this?

5 A He was the one -- he suggested.

6 Q Now, you're a shareholder?

7 MR. PAPE: Your Honor, this is  
8 argument --

9 THE WITNESS: He was -- that you  
10 put in a business so you can keep an eye  
11 on it.

12 BY MRS. BENSCH:

13 Q So in September it looks like you paid  
14 yourself -- reimbursed yourself loans of about  
15 \$2,000. October -- each month it looks like you  
16 pretty much reimbursed yourself about --

17 A Whatever is there.

18 Q \$2,000?

19 Right; did the Benschers ever get  
20 reimbursed for any of their loans?

21 MR. PAPE: Your Honor, we already  
22 have an exhibit in the record that shows  
23 they were reimbursed.

24 THE COURT: Tell you what, rather  
25 than go through that, why we don't we

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1           BENSCH - PASSALOUKAS (EXAMINATION)

2           just let the Bensch's testify as to  
3           whether or not they were reimbursed. If  
4           their testimony doesn't come comport  
5           with your memory --

6           MR. PAPE: Well, it's Plaintiff  
7           Exhibit 12 and they stipulated to those  
8           reimbursements.

9           MRS. BENSCH: Your Honor, these  
10          are items that were capital  
11          contributions paid for by the Bensch's  
12          that were supposed to actually be paid  
13          for by Mr. Passaloukas and so they were  
14          reimbursed, like paying the insurance  
15          and things like that. These were not  
16          the Bensch's capital contributions to  
17          begin with. So this isn't really  
18          reimbursement of their capital  
19          contributions. These are things  
20          Zorba's was supposed to have paid.

21          THE COURT: Why don't we do this;  
22          rather than use this witness' cross  
23          examination time to get to that, why  
24          don't we just leave it on the table that  
25          you have a disagreement with Plaintiff's

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1 BENSCH - PASSALOUKAS (EXAMINATION)

2 12 and we'll get back to that at some  
3 point.

4 BY MRS. BENSCH:

5 Q I'd like to go to the shareholder's  
6 agreement again?

7 In the shareholder's agreement  
8 we've gone over the responsibilities of both  
9 parties. When is asked you about  
10 Mr. Eletheriou you said he was the cook; was  
11 there another cook while you had that  
12 restaurant?

13 A I can't remember. I know we had some  
14 cooks.

15 Q Do you remember John Nicolai?

16 A Yeah, we did.

17 Q Who was he?

18 A He was a cook that you sent us,  
19 Cynthia, to work for us. That he used to work  
20 in the Belfair I believe and you suggested to  
21 hire him. And I ended up firing him because I  
22 caught him in the back of the building doing  
23 drugs.

24 Q You fired the chef?

25 A Yeah, I let him go.

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1 BENSCH - PASSALOUKAS (EXAMINATION)

2 Q When did you fire the chef?

3 A I cannot remember when.

4 Q Was it in October? November? December?

5 A I know we caught him smoking pot back  
6 in the building many times.

7 Q Sir, we'll have the Court subpoena this  
8 witness to refute some of that testimony because  
9 that's pretty serious what you are saying?

10 A We have already talked again.

11 Q Well, again, when did you fire the  
12 chef?

13 A I don't remember when. It should be in  
14 the records.

15 Q It was in your deposition it was in  
16 December --

17 A It should be in the books when his last  
18 check was, so somewhere around there.

19 Q Somewhere after the shareholder's  
20 meeting?

21 A I don't remember if it was before or  
22 after. You should know that. You have all my  
23 records from that restaurant.

24 Q In the agreement for the shareholders,  
25 the responsibility again, etc. Etc. Its Exhibit

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1 BENSCH - PASSALOUKAS (EXAMINATION)

2 2?

3 MR. PAPE: What are you referring  
4 to?

5 MRS. BENSCH: Page 3.

6 MR. PAPE: What document are you  
7 referring to?

8 MRS. BENSCH: The shareholder's  
9 agreement for Zorba's.

10 MR. PAPE: Plaintiff's Exhibit  
11 Number 7?

12 MRS. BENSCH: Uh-huh.

13 MR. PAPE: What page?

14 MRS. BENSCH: Under general  
15 provisions.

16 BY MRS. BENSCH:

17 Q What are -- under -- on page three item  
18 13 would you read that agreement; it's a means  
19 of --

20 A Item what.

21 Q 1311 on page three?

22 A You want to read it.

23 Q Please?

24 A Insolvency.

25 Q Yes?

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1 BENSCH - PASSALOUKAS (EXAMINATION)

2 A I don't know what that means.

3 Q Well, if you'll read that?

4 A Means and refers to the inability to  
5 pay one's debts on the lack of means to pay  
6 one's debts.

7 Q So that's part of the shareholder  
8 agreement that default by one of the  
9 shareholders or nonperformance on that to pay  
10 one's debts would be a default of the  
11 shareholders agreement?

12 MR. PAPE: Your Honor, I object.  
13 The document speaks for itself whatever  
14 the terms and conditions are.

15 THE COURT: Yes, sustained. I  
16 mean, Mrs. Bensch you can ask him  
17 whether or not the business was  
18 insolvent or something, but as far as  
19 just going through the particulars of  
20 the agreement that's not usually the  
21 way we do it.

22 MRS. BENSCH: Okay; sorry.

23 BY MRS. BENSCH:

24 Q Okay; the initial contributions were --

25 MRS. BENSCH: I'm trying to find

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1 BENSCH - PASSALOUKAS (EXAMINATION)

2 the page with the contributions spelled  
3 out. I don't know why it's not attached  
4 to this. It would be article -- the  
5 organizational meetings; do we have a  
6 copy of that?

7 MR. PAPE: Plaintiff's Exhibit  
8 Number 11?

9 MRS. BENSCH: Thank you.

10 BY MRS. BENSCH:

11 Q In the additional contributions in the  
12 shareholder's agreement it states in no case  
13 shall any --

14 MR. PAPE: Excuse me, Mrs. Bensch,  
15 would you let us look at the document.  
16 Why don't you give us the original.

17 MRS. BENSCH: That's not what I'm  
18 looking at right now. I'm looking at  
19 the shareholder's agreement.

20 MR. PAPE: You are looking at  
21 Plaintiff's Exhibit 7?

22 MRS. BENSCH: Yes.

23 MR. PAPE: What page do you want  
24 us to look at?

25 MRS. BENSCH: Six.

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1 BENSCH - PASSALOUKAS (EXAMINATION)

2 BY MRS. BENSCH:

3 Q Before Section 24, paragraph above it,  
4 the agreement was that in no case shall any  
5 shareholder be obligated to make additional  
6 capital contributions or loans to the  
7 corporation in an amount sufficient for the  
8 corporation to meet such obligations?

9 So it's basically stating that the  
10 shareholders are not obligated to make  
11 additional contributions or loans. And if  
12 they did so, would you assume you would get  
13 more stock?

14 MR. PAPE: Your Honor, it's  
15 irrelevant and it's a hypothetical  
16 assumption.

17 THE COURT: Do you have an extra  
18 copy of that agreement?

19 MR. PAPE: Let's see.

20 Your Honor, these are the copies  
21 that you had taken from the last  
22 hearing.

23 THE COURT: Okay; thank you.

24 You can go on.

25 BY MRS. BENSCH:

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1 BENSCH - PASSALOUKAS (EXAMINATION)

2 Q In the minutes of the organizational  
3 meeting, Exhibit 11 --

4 MRS. BENSCH: Is there a copy of  
5 that anywhere? I don't have a copy of  
6 it for some reason. Could I read yours  
7 for just a minute?

8 Should I go on, Your Honor, or wait  
9 a minute?

10 THE COURT: No, go on. I'm  
11 listening.

12 BY MRS. BENSCH:

13 Q Mr. Passaloukas, in the written consent  
14 in lieu of the organization meeting which was  
15 Exhibit 11, on page four of that agreement it  
16 says that the shareholders, Bill Passaloukas and  
17 Susie Passaloukas are issued a 1,000 shares with  
18 consideration paid of \$30,000 to Gary Bensch and  
19 Cynthia Bensch. Tenants were issues a 1,000  
20 shares with consideration paid of \$30,000.  
21 Terms upon which the capital contributions are  
22 made are; and there's an "x" by the word cash,  
23 so the parties are agreeing that capital  
24 contributions are being made and cash was the  
25 amount paid for the consideration of that stock;

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1 BENSCH - PASSALOUKAS (EXAMINATION)

2 is that correct?

3 A Yes. Also on the bottom here it says  
4 lease holding improvements provided utilizing  
5 these funds.

6 Q Right. Right; so the Bensch's actually  
7 put \$30,000 in cash and got the same amount of  
8 shares you did with their contribution and you  
9 put in the equipment and you got the same amount  
10 of shares for your consideration?

11 MR. PAPE: Your Honor, I object.  
12 Mrs. Bensch is trying to change the  
13 record. The contributions -- the list  
14 of contributions they've made to the  
15 corporation, they've already testified  
16 to it, what the lease holding  
17 improvements, and there's no cash in any  
18 exhibit or especially in the list of the  
19 contributions, there's no cash that's  
20 closed to the corporation from them.

21 THE COURT: Well, as to the  
22 testimony thus far, Mrs. Bensch, do you  
23 have some evidence where you are going  
24 to show you contributed \$30,000 in cash  
25 to the corporation?

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1           BENSCH - PASSALOUKAS (EXAMINATION)

2                   MRS. BENSCH: Your Honor, when the  
3 parties agreed on the contributions and  
4 the stipulation and the back of this  
5 which each party would do to fulfill  
6 their obligation Mr. Bensch was suppose  
7 to do the building and the up-fitting,  
8 etc., and Mr. Passaloukas was supposed  
9 to supply the furniture, equipment and  
10 inventory.

11                   THE COURT: Right.

12                   MRS. BENSCH: And that was the  
13 contributions whether --

14                   THE COURT: I understand that. Of  
15 course these things are typically done,  
16 evaluations are based on.

17                   MRS. BENSCH: Right.

18                   THE COURT: Are you getting to a  
19 point where you are going to offer that  
20 the Bensch had \$30,000 in cash that  
21 was put into the deal?

22                   MRS. BENSCH: I'm saying that the  
23 \$30,000 in capital improvements  
24 entitled them to the shares that they  
25 got.

1           BENSCH - PASSALOUKAS (EXAMINATION)

2                   THE COURT: I understand.

3                   MRS. BENSCH: Even though they  
4           paid.

5                   THE COURT: That's something  
6           that's completely different.

7                   MR. PAPE: But the point is, and  
8           over the last nine years they have  
9           never identified any cash funds that  
10          they put in the corporation.

11                  THE COURT: Other than, I think  
12          there was a list of some things that  
13          were cash funds, but some things that  
14          were up-fitted or things like that.

15                  MRS. BENSCH: Well, it says for  
16          the shares the consideration paid was  
17          \$30,000.

18                  THE COURT: No, I understand. The  
19          agreement speaks for itself.

20                  MRS. BENSCH: Right.

21                  THE COURT: You're not alleging  
22          that you came to the table with the  
23          \$30,000. You came to the table with  
24          the space, and some of the up-fitting,  
25          and that's what you are saying.

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1           BENSCH - PASSALOUKAS (EXAMINATION)

2                   MRS. BENSCH: And the 60-\$70,000  
3           paid for all the up-fitting by the  
4           Bensch's alone. Not the 60,000 they  
5           paid for the equipment, but all the  
6           checks that we put in for 62,000 or  
7           whatever it was.

8                   THE COURT: We haven't got to your  
9           case yet.

10                   But just so I'm sure about this,  
11           there was -- the business had an  
12           account, right; and there's not a  
13           contribution in cash to go into a money  
14           account from the Bensch's of \$30,000?

15                   MRS. BENSCH: No.

16                   THE COURT: Or 20,000, or any  
17           amount really.

18                   MRS. BENSCH: No.

19                   THE COURT: Okay.

20                   MRS. BENSCH: But I'm just trying  
21           to ask Mr. Passaloukas that it was  
22           agreed between the shareholders that the  
23           amount of shares and the amount of  
24           contributions were met in the  
25           shareholders, however they paid their

1           **BENSCH - PASSALOUKAS (EXAMINATION)**

2           bills, cash, credit cards, whatever to  
3           fulfill their obligations of their  
4           contributions.

5                   In other words, it seems the part  
6           of their case is that we owed the  
7           corporation an additional \$20,000 in  
8           cash and that it failed because we  
9           didn't contribute another \$20,000 in  
10          cash.

11                   MR. PAPE: She's making argument  
12          right now, but she's right. We do  
13          believe the shareholders agreement  
14          requires them to put up \$20,000 in cash.  
15          If you look at Plaintiff's Exhibit  
16          Number 11, the written consent in lieu  
17          of an organizational meeting on page  
18          five it says Gary Bensch, Cynthia  
19          Bensch, \$20,000 and leasehold  
20          improvements.

21                   THE COURT: And it says Bill  
22          Passaloukas \$20,000.

23                   MR. PAPE: That's right.

24                   MRS. BENSCH: So are they saying  
25          it was never --

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1           BENSCH - PASSALOUKAS (EXAMINATION)

2                   THE COURT: Let me ask you this,  
3           Mr. Pape, I'm guess, I'm trying to  
4           understand this. Again, we haven't  
5           even got through the Plaintiff's case,  
6           yet but did Mr. Passaloukas write a  
7           check for 20,000 and put it in the  
8           account as well?

9                   MR. PAPE: Yes, sir. And if you  
10          look at his exhibit of contribution,  
11          which is Plaintiff's Exhibit Number 2,  
12          I'm not sure that I've added it up, but  
13          I think he put 30 or \$40,000 in cash.

14                  THE COURT: Not in improvements,  
15          not in fixing things up, but actually  
16          cash.

17                  MRS. BENSCH: No, Your Honor.  
18          That was the actual improvements.  
19          That's in his list of things that he  
20          put in that restaurant.

21                  THE COURT: You're saying at some  
22          point the bank account before the  
23          restaurant started had more than  
24          \$20,000 in it?

25                  MR. PAPE: Yes, sir; much more than

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1 BENSCH - PASSALOUKAS (EXAMINATION)

2 \$20,000 in cash.

3 THE COURT: Before the first meal  
4 was sold?

5 MR. PAPE: Well, Plaintiff's  
6 Exhibit Number 2 shows the amount of  
7 cash.

8 THE COURT: Plaintiff's Exhibit 2  
9 which is the shareholder's management  
10 agreement.

11 MR. PAPE: No.

12 MRS. BENSCH: That was the  
13 organizational meeting. It's Exhibit  
14 11. Or actually it has three different  
15 ones, 66, 3, or 11 are the exhibit  
16 numbers.

17 MR. PAPE: Plaintiff's Exhibit  
18 Number 2; did you find that, Judge?

19 MRS. BENSCH: That's the  
20 contribution for the Passaloukas'.

21 MR. PAPE: I'll show you the  
22 document that's it's -- it's this one.

23 THE COURT: Okay; and on here  
24 somewhere -- we're a little off topic  
25 here -- but it's going to be cash?

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1           BENSCH - PASSALOUKAS (EXAMINATION)

2                   MR. PAPE: Yes, sir. I'll itemize  
3           these for you.

4           Mrs. Bensch, do you have a copy of  
5           that?

6                   MRS. BENSCH: Yes. My point is  
7           that some of his --

8                   MR. PAPE: Well, the Judge asked a  
9           question. Look at on the date May  
10           18th, 1999 operating funds \$2,000, a  
11           transfer from Mr. Passaloukas' to  
12           Zorba's. The next item is June 23rd,  
13           1999 operating funds a \$1,000 to be put  
14           in Zorbas'. June 29th, 1999, \$2,000  
15           operating funds he put into Zorba's.  
16           July 14, 1999 \$1,000 he put into  
17           Zorba's. July 30th, 1999 \$2,200  
18           operating funds he put into Zorba's.

19                   THE COURT: Are what account is  
20           this coming from?

21                   MR. PAPE: It's coming from him  
22           and it identifies the source of funds,  
23           the --

24                   THE COURT: But I mean, what  
25           account is the one ending in 695?

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1 BENSCH - PASSALOUKAS (EXAMINATION)

2 You're saying that's not a Zorba's  
3 account?

4 MR. PAPE: No. The source of  
5 funds account number -- and these are  
6 Mr. Passaloukas' contribution by date  
7 and these parties have stipulated to  
8 this document, and this is a source of  
9 funds. And if you want Mr. Passaloukas  
10 to testify to it, I'm sure he can  
11 testify that these are all from his  
12 personal accounts.

13 THE COURT: All right; tell you  
14 what, I'm not going to interrupt  
15 Mrs. Bensch cross anymore, but she'll  
16 ask him about that. I think I  
17 understand what you are talking about.

18 BY MRS. BENSCH:

19 Q So in other words, one party put in  
20 60-\$70,000, the other put in 60-\$70,000 some in  
21 cash and some in cash and leasehold improvements  
22 or whatever. Again, the \$20,000 and leasehold  
23 improvements, if they had put in 60 something  
24 thousand dollars and \$20,000 they would have  
25 gotten additional stock?

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1 BENSCH - PASSALOUKAS (EXAMINATION)

2 MR. PAPE: Your Honor, she's making  
3 an illegal argument that's incorrect.

4 MRS. BENSCH: No, I'm not.

5 MR. PAPE: She needs to just ask  
6 him some questions.

7 THE COURT: If you would, Mrs.  
8 Bensch just ask him questions. I  
9 apologize, but you can go ahead.

10 BY MRS. BENSCH:

11 Q Okay; at the shareholders meeting,  
12 Mr. Passaloukas, did you think if the Bensch  
13 didn't loan you any money that was an excuse for  
14 you not to pay the rent under the lease?

15 A I don't understand your question.

16 Q At the shareholders meeting when you  
17 were asked about -- well, this is you said  
18 December the 15th that you're having this  
19 meeting. Part of the Bensch's claim is that  
20 the rent from November was not paid, and you  
21 were bringing it, or you were asked to bring  
22 that check to the shareholders meeting. Did you  
23 bring that check to the shareholder's meeting  
24 for the November rent on December 15th?

25 A I believe that check was already there

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1 BENSCH - PASSALOUKAS (EXAMINATION)

2 in escrow. I can't remember exactly, but I

3 think we had put that check over there.

4 Q Okay; so you gave it to the Bensch

5 December the 15th or somebody did?

6 A Somebody did I believe.

7 Q Because that check for November was not

8 paid until December the 15th in your lease it

9 requires a five percent late fee. Did you pay a

10 five percent late fee?

11 A I cannot remember.

12 Q But do you have any evidence that you

13 paid it?

14 A I cannot remember.

15 Q But your checks show that it was simply

16 for the right amount, it was not for --

17 A Whatever is in the records. You should

18 know.

19 Q If you put in \$60,000 and Mr. Bensch

20 put in \$60,000 for stock, in a corporation and

21 you got the same amount of stock. Would you put

22 in \$20,000 for nothing?

23 MR. PAPE: Your Honor, it's an

24 irrelevant hypothetical question.

25 THE COURT: I mean, move on if you

1 BENSCH - PASSALOUKAS (EXAMINATION)

2 Q You needed him to be your banker kind  
3 of?

4 A I was needing him to my back door man  
5 when I needed him. I did not have the money  
6 that you had. I wanted a little Greek  
7 restaurant that's why I came to you so you can  
8 help us when we need you and you were not there,  
9 you or him.

10 Q At the shareholders meeting did  
11 Mr. Bensch say he would give you more money for  
12 that restaurant?

13 A I cannot remember. I don't think he  
14 wanted to put any more money. I cannot  
15 remember.

16 Q Did he say he would put more money in  
17 for more stock?

18 A I can't remember. It should be  
19 everything in your records.

20 Q It would be?

21 So you don't know if Mr. Bensch  
22 actually offered to give that restaurant  
23 more money? As important as that would have  
24 been to pay your bills, you can't remember  
25 if your partner --

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1 BENSCH - PASSALOUKAS (EXAMINATION)

2 should have gotten more stock if we put 20 more  
3 thousand dollars --

4 MR. PAPE: It was sustained.

5 THE COURT: Yes.

6 MRS. BENSCH: I'm sorry.

7 THE COURT: Just go on if you  
8 would.

9 MR. PAPE: No, that's all right,  
10 Mrs. Bensch. My heart goes out to you.  
11 You're doing an admirable job. You  
12 don't have any reason to be  
13 embarrassed. You'd make a good lawyer.

14 MRS. BENSCH: Thank you, but I like  
15 my job as a homemaker.

16 BY MRS. BENSCH:

17 Q When we adjourned from the last trial,  
18 Mr. Passaloukas, you were reviewing the bank  
19 statements. Could you find those exhibits, the  
20 bank statements?

21 MR. PAPE: We have Plaintiff's  
22 Exhibit 21 as a bank statement, Mrs.  
23 Bensch. Is that what you're looking  
24 for?

25 MRS. BENSCH: Yes. Thank you.

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1 BENSCH - PASSALOUKAS (EXAMINATION)

2 BY MRS. BENSCH:

3 Q You said there was a payroll -- or I'll  
4 ask you again; was there a payroll and a general  
5 fund for this restaurant?

6 A Yes.

7 Q Are statements both in this record?

8 A Everything should be there.

9 Q Everything should be there?

10 A And your friend, Gill Fisher, should  
11 know.

12 Q Two different accounts?

13 And you said your wife also wrote  
14 checks on this account?

15 A Yeah.

16 Q Did you owe the employees salaries in  
17 December?

18 A As you closed the doors I'm sure we  
19 did.

20 Q No, I'm saying for the months of the  
21 December and January the 8th did you pay all of  
22 your employees?

23 A I believe we did.

24 MR. PAPE: Your Honor, can I ask  
25 for the Court's indulgence. I don't

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1           BENSCH - PASSALOUKAS (EXAMINATION)

2           want to interfere with Mrs. Bensch's  
3           right to cross-examine and I think she's  
4           doing a very good job, but on the other  
5           hand so much of this stuff could be left  
6           to be presented in her own testimony and  
7           direct testimony. And I would ask  
8           that -- she'd already stated earlier she  
9           was going to take 30 more minutes, now  
10          we've been here another hour and-a-half  
11          on this.

12                 MRS. BENSCH: I'm sorry. Your  
13          Honor, Mr. Bensch was on the stand for  
14          a full day when he was called and I'm  
15          trying to keep --

16                 THE COURT: The questions though  
17          are about the bank accounts that  
18          Mr. Passaloukas had control over, right?  
19          So wouldn't it be more appropriate for  
20          Mr. Passaloukas to answer questions  
21          about those bank accounts than either of  
22          the Bensch's?  
23          Now, I understand it's going more slowly  
24          than --

25                 MR. PAPE: Again, I apologize for

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1           **BENSCH - PASSALOUKAS (EXAMINATION)**

2           interrupting. I want to give her every  
3           opportunity. I got a witness coming in  
4           at 3 o'clock and I have -- there's some  
5           foundation testimony that I need to get  
6           in.

7                   **MRS. BENSCH:** Well, where he had to  
8           send ours away, Your Honor. We thought  
9           he was going to be on the stand today  
10          too.

11          **BY MRS. BENSCH:**

12                **Q**    I'm just trying to recollect of the  
13           balance that was in the account at the end of  
14           December or January?

15                **A**    Whatever is there I cannot remember  
16           after ten years.

17                **Q**    Can we just show the balance in the  
18           checking account for December 31<sup>st</sup>?

19  
20                   **MR. PAPE:** Your Honor, they already  
21           presented this. It's an exhibit here  
22           which is Defendant's Exhibit Number 2.  
23           It's already been covered and there's an  
24           item.

25                   **THE COURT:** All right; it's zero,

1 BENSCH - PASSALOUKAS (EXAMINATION)

2 right? There's no money left?

3 MR. PAPE: Well, that's right.

4 We'll agree to that.

5 MRS. BENSCH: Well, my question is  
6 what was in the payroll account?

7 MR. PAPE: Well, if he knows, ask  
8 him.

9 THE WITNESS: I don't remember what  
10 was in the payroll account.

11 BY MRS. BENSCH:

12 Q Alright; I'm just trying to find out.  
13 I don't have these records?

14 A Usually we make the payroll every week  
15 or two. I can't remember. And they would bring  
16 the checks already made. I would put the money  
17 in the bank, either from my pocket or if we had  
18 it in Zorba's. And we'd paid the payroll.  
19 That's the way we were doing it.

20 Q Did you give the accountant the  
21 accounts payable in December?

22 A I cannot remember what we gave him.  
23 Whatever we gave him it's in the records.

24 THE COURT: That's your --

25 BY MRS. BENSCH:

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1 BENSCH - PASSALOUKAS (EXAMINATION)

2 Q You wouldn't have withheld the accounts  
3 payable to the --

4 THE COURT: Let me ask you this,  
5 Mr. Pape, just to shorten things; there  
6 were two accounts. Apparently we have  
7 the records of one of the accounts; do  
8 we have the records from the other  
9 account?

10 MR. PAPE: Judge, I'd have to look  
11 through all of those.

12 MRS. BENSCH: I just see 3010.  
13 I don't see a payroll account. All I  
14 see is 3010, 3010. I don't see  
15 anything that reflects the balance.

16 THE WITNESS: I don't remember.  
17 Maybe he was using the same checks, but  
18 he was the one who would make the  
19 payroll.

20 BY MRS. BENSCH:

21 Q But you said you opened two accounts,  
22 right?

23 A I cannot remember.

24 THE COURT: Check and see if the  
25 employee, whoever, was paid out of that

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1 BENSCH - PASSALOUKAS (EXAMINATION)

2 account or another account.

3 THE WITNESS: How they would get  
4 paid?

5 MRS. BENSCH: Here's another  
6 account -- no, that's 3010. It's all  
7 3010, sorry.

8 BY MRS. BENSCH:

9 Q So we don't know what the balance was  
10 from the payroll account from anything I can  
11 find there. Maybe y'all can find that later?

12 Your bank statement of 3/31/2000  
13 showed a zero balance. Did you pay your  
14 December rent, Mr. Passaloukas?

15 MR. PAPE: Your Honor, that's  
16 already in the record. And we  
17 understand we're here because of the  
18 December rent was owed on December 15th.  
19 It was not paid that's the reason for  
20 the eviction.

21 Your Honor, I need to clarify  
22 something; the lease agreement states  
23 that the initial installment is due in  
24 payable on the 15th day of August 1999  
25 and subsequent installments shall be due

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1           BENSCH - PASSALOUKAS (EXAMINATION)

2                   and payable on the same day each month  
3                   thereafter; that is if 15th of the  
4                   months and that's when they were paid.

5                   MRS. BENSCH: But the line above  
6                   that says the rent is due on the first,  
7                   right?

8                   MR. PAPE: Well --

9                   MR. BENSCH: Says right will  
10                  there, it's the first.

11                  MRS. BENSCH: But it was still due  
12                  on the -- let's just for the sake of  
13                  argument it's due the 15th.

14                  MR. PAPE: At the previous trial  
15                  everybody agreed and stipulated that  
16                  rents were due on the 15th day of each  
17                  month.

18                  Do you stipulate to that, Mrs.  
19                  Bensch?

20                  MRS. BENSCH: Well, the lease says  
21                  it's technically due on the first. The  
22                  parties did allow it to be paid on the  
23                  15th.

24                  THE COURT: Does it say the 15th  
25                  anywhere?

1 BENSCH - PASSALOUKAS (EXAMINATION)

2 MR. PAPE: But the lease agreement  
3 says initial installment of \$5,992 is  
4 due in payable on the 15th day of  
5 August 1999 and subsequent installments  
6 shall be payable and due on the same  
7 day of each month thereafter.

8 THE COURT: Okay; I believe you.

9 MRS. BENSCH: But still, the line  
10 above that says --

11 BY MRS. BENSCH:

12 Q But anyway, did you pay the December  
13 rent?

14 MR. PAPE: We stipulated that he  
15 didn't pay the December rent.

16 THE COURT: Whether it be the first  
17 or the 15th?

18 MR. PAPE: Whether it be the 1st  
19 or the 15th, right.

20 BY MRS. BENSCH:

21 Q So you were noticed and evicted on  
22 the -- actually the 9th I guess of January  
23 because you were open on Saturday and it's  
24 actually an eviction on Sunday the 9th; is that  
25 correct?

1 BENSCH - PASSALOUKAS (EXAMINATION)

2 question.

3 MR. PAPE: Allow her to ask her

4 question.

5 THE WITNESS: Sorry.

6 BY MRS. BENSCH:

7 Q Did you ever in any way give the

8 Bensch's a check for your rent?

9 MR. PAPE: Stipulated, Judge.

10 THE COURT: Yeah, I think it's

11 stipulated that no December payment was

12 ever received.

13 MR. PAPE: December.

14 MRS. BENSCH: December..

15 THE COURT: That's what I said; no

16 December rent was paid whatsoever.

17 BY MRS. BENSCH:

18 Q And as a person with full access to the

19 checking account you knew what the bank balance

20 was at that time, right? Through December there

21 was enough money to pay the rent in the bank

22 balance, right?

23 A The bank balance -- it was depending

24 from my pocket. I kept putting money and

25 helping this account for four and-a-half months,

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1 BENSCH - PASSALOUKAS (EXAMINATION)

2 A Insured.

3 Q Yes?

4 A No.

5 Q Did you pick those items up in boxes at  
6 an attorney's office by the name of Mike Mogil  
7 later?

8 A We did pick up some stuff and  
9 everything should be down -- whatever we pick up  
10 and whatever was missing in some kind of list.

11 MR. PAPE: Your Honor, Mr. Clabaugh  
12 at the last hearing, he went through  
13 that whole dialogue with him about that.

14 THE COURT: I think I remember.

15 MRS. BENSCH: Right; and now I'm  
16 trying to cross and see if he received  
17 all those items or not.

18 THE WITNESS: No, we did not.

19 BY MRS. BENSCH:

20 Q Were any of those items insured?

21 MR. PAPE: You already asked that  
22 questions.

23 BY MRS. BENSCH:

24 Q You had these items in a restaurant --  
25 in a public restaurant. You put them there

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1 BENSCH - PASSALOUKAS (EXAMINATION)

2 yourself, but the value that you're saying was  
3 there and you had no insurance on any of those  
4 items; is that's what you're stating?

5 A No, Cynthia, I could not afford  
6 insurance because I was trying to get the  
7 restaurant --

8 Q But you put your expensive items in a  
9 restaurant?

10 A Whatever it was it was there, yeah, it  
11 was for the reason it was helping the business.

12 Q And Michael Mogil did not return to you  
13 all the items that the Bensches --

14 A Everything should be in the list  
15 whatever was returned when we went to Mogil and  
16 whatever was missing. It should be in some list  
17 somewhere.

18 MR. PAPE: Your Honor, Plaintiff's  
19 Exhibit Number 26 is a list of the items  
20 that are still missing.

21 THE COURT: I think I saw that here  
22 a minute ago.

23 BY MRS. BENSCH:

24 Q Is there any value placed on these?

25 MR. PAPE: Your honor, in the

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1 BENSCH - PASSALOUKAS (EXAMINATION)

2 previous trial Mr. --

3 THE COURT: You even wrote them  
4 down on my version.

5 MR. PAPE: And now we have a  
6 record, so I don't think we don't need  
7 to go through that again.

8 THE COURT: French fry tongs,  
9 \$5-10?

10 MR. PAPE: Yes. Not big items. We  
11 shouldn't worry about them.

12 BY MRS. BENSCH:

13 Q But there's a satire diamond ring still  
14 missing?

15 MR. PAPE: What's that?

16 MRS. BENSCH: There's a satire  
17 diamond ring still missing?

18 THE WITNESS: The reason it was  
19 there, I work so many hours --

20 MR. PAPE: Wait a minute. You're  
21 not testifying, Mr. Passaloukas, but you  
22 can ask that.

23 BY MRS. BENSCH:

24 Q Mr. Passaloukas, was your wife's  
25 diamond ring insured?

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1 BENSCH - WARCO (EXAMINATION)

2 A No.

3 Q Do you know if that lease was  
4 terminated for default of rent payment?

5 A I do not.

6 Q Do you know if all the parties are on  
7 the checking account for this corporation?

8 A I do not.

9 Q Would you say a silent partner would  
10 pretty much be entitled to know what was going  
11 on with a company as far as money in the  
12 account, equal partners say they both put in  
13 60,000 would they both be entitled in your  
14 opinion to look at records and deposits and  
15 withdraws throughout the existence of this  
16 business?

17 A Typically that occurs.

18 Q But if just one person is controlling  
19 everything, all the mail, all the checks, all  
20 the whatever, then the other person can't do a  
21 whole lot to influence income that they're just  
22 not involved. They have no input into the value  
23 of anything if they are just silent partners,  
24 increasing the value or decreasing the value?

25 In other words, if one person is

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1 BENSCH - WARCO (EXAMINATION)

2 responsible to running the restaurant and  
3 make it produce a profit and the other is  
4 simply a silent partner with no access  
5 except to the end of the month records or  
6 something like that from an accountant,  
7 who's more liable for the success of this  
8 entity; the silent partner or the manager of  
9 this?

10 MR. PAPE: Your Honor, I object to  
11 the question.

12 THE COURT: I think it goes beyond  
13 the purposes of this witness.

14 MR. PAPE: Your Honor, I move the  
15 admission of Plaintiff's Exhibit 27  
16 into evidence.

17 MRS. BENSCH: Okay; I would  
18 object. It is simply a hypothetical  
19 based on no facts.

20 THE COURT: Well, I'll take it as  
21 a hypothetical.

22 MR. PAPE: Your Honor, let me state  
23 we have sufficient facts in the record  
24 to support all of those assumption on  
25 which his report is made.

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1 BENSCH - WARCO (EXAMINATION)

2 BY MRS. BENSCH:

3 Q If the manager or the tenant in this  
4 case was to procure insurance for this lease  
5 property and they were evicted and they were  
6 liable to eliminate that policy or call for that  
7 policy to be terminated six months earlier,  
8 there would have been more of an inventory or a  
9 value of the insurance premium, right?

10 In other words, if it wasn't  
11 terminated until the end of June and the  
12 lease was terminated at the end of December  
13 there would have been a six month value of  
14 the premium being returned?

15 MR. PAPE: Your Honor, again, I'll  
16 object.

17 MRS. BENSCH: Well, we're trying to  
18 get some numbers here. You're saying  
19 its \$481 with the inventory. But I'm  
20 simply asking if a premium is cancelled  
21 six months earlier wouldn't both the  
22 shareholders have more value.

23 MR. PAPE: Your Honor, ultimately  
24 that's a decision for the Court to make  
25 as to who's responsible it is for

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1 BENSCH - WARCO (EXAMINATION)

2 terminating that policy and everything.

3 THE COURT: Sustained. I think it  
4 kind of goes under things that perhaps  
5 this witness can't answer.

6 BY MRS. BENSCH:

7 Q So you're basing the value on the  
8 assets from information Mr. Pape gave you from  
9 the contributions of both parties? He gave you  
10 the list of the contributions of both parties,  
11 or he just told you this is all hypothetical?

12 A Well, Mr. Pape provided information to  
13 me so I could do the consultations.

14 Q Did you actually see the lists of  
15 contributions from the parties?

16 A No.

17 Q You've never seen these lists at all?

18 A No.

19 Q And you're aware that Mr. Passaloukas  
20 being the only person as a signee on these bank  
21 accounts was able to reimburse his loans, and  
22 Mr. Bensch was never able to reimburse any of  
23 his loans?

24 MR. PAPE: Your Honor, that's  
25 irrelevant.

1 BENSCH - WARCO (EXAMINATION)

2 THE COURT: As I understand the  
3 witness' testimony he's basing Exhibit  
4 27 on information not compiled by the  
5 witness, but rather given to the  
6 witness by Mr. Pape; is that correct?

7 MR. PAPE: Yes, sir. That's  
8 correct. And the assumptions that I  
9 gave him were based upon evidence  
10 that's already in the record.

11 THE COURT: All right.

12 BY MRS. BENSCH:

13 Q If this report is based on a business  
14 that's operating and what should be expected,  
15 assets of both parties and a continuing  
16 business, correct?

17 A This report is prepared on information  
18 that I got from Mr. Pape.

19 Q Okay; so you don't know if this  
20 business had been terminated and that there was  
21 no business? This is all just hypothetical?

22 You have no documentation to say  
23 whether this was a business April the 20th,  
24 2009 or January the 8th, 2000?

25 A That was beyond the scope of my

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1 BENSCH - WARCO (EXAMINATION)

2 assignment.

3 Q Would that change the value? If the  
4 lease was terminated -- there was no lease?

5 MR. PAPE: Your Honor, I object.

6 That goes beyond the project that he  
7 had. She's going into values. Mr.  
8 Warco wasn't asked to evaluate anything.

9 THE COURT: Right. As I  
10 understand the numbers in this were  
11 given to you, sir by Mr. Pape.

12 THE WITNESS: That's correct.

13 THE COURT: You weren't asked to  
14 evaluate the business or anything else?

15 THE WITNESS: I was not.

16 THE COURT: You were asked to take  
17 a certain set of numbers given to you  
18 by Mr. Pape and add interest to them  
19 and compile them; is that correct?

20 THE WITNESS: That's correct.

21 THE COURT: Okay.

22 BY MRS. BENSCH:

23 Q So, again, if the facts were completely  
24 different on -- I understand this report to be  
25 from a CPA who is trying to value assets and

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1 BENSCH - WARCO (EXAMINATION)

2 liabilities on a corporation with all these  
3 things being accurate that there is a lease and  
4 there's these monies, etc. Etc. But if there is  
5 no lease, and this business is terminated  
6 January the 8th, would that change your value of  
7 this report?

8 MR. PAPE: Your Honor, I need to do  
9 a brief objection here. Her assumptions  
10 are that he was asked to evaluate  
11 things. He wasn't. But we will  
12 stipulate that any of these values go  
13 either up or down depending upon the  
14 evidence then the bottom line on his  
15 report will change.

16 THE COURT: I think that's the  
17 point we're trying to get to.

18 MR. PAPE: For example, if she  
19 comes in and proves the proceeds of the  
20 sales of the restaurant that Zorba's  
21 was entitled on was \$37,500 obviously  
22 that would go down and we would need to  
23 perform an arithmetic calculation to  
24 make those adjustments.

25 THE COURT: I understand.

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1 BENSCH - WARCO (EXAMINATION)

2 MR. PAPE: But this just provides a  
3 frame work up of where we're going.

4 BY MRS. BENSCH:

5 Q So you are basing this on the sale from  
6 Zorba's to Mi Terra's?

7 THE COURT: I think his  
8 testimony -- I'll forestall the  
9 objection because I understand his  
10 testimony is based on a set of numbers  
11 given to him by Mr. Pape. And he has no  
12 independent knowledge whatsoever as to  
13 the basis or background for these  
14 numbers; is that correct?

15 THE WITNESS: Yes.

16 BY MRS. BENSCH:

17 Q Did you know this was actually  
18 Nicolai's that was sold to Mi Terra's?

19 MR. PAPE: Your Honor, I object.  
20 It doesn't go to the instructions of his  
21 testimony.

22 THE COURT: Yes. I think his  
23 testimony is basically he took a set of  
24 the numbers, put them on an Excel  
25 spread sheet, and very expertly added

1 there and see if you see any checks drawn on the payroll  
2 account?

3 A. There's two checks drawn for the payroll account.

4 Q. All right, what page are they on?

5 A. Page 386.

6 Q. Okay, and you are referring to the -- on the lower left  
7 hand corner the number 386?

8 A. No, yes.

9 Q. Okay.

10 A. On the top that's the two payrolls there.

11 Q. And are they signed by you?

12 A. They are signed by me.

13 Q. And what's that account number?

14 A. 70013126.

15 Q. And what check numbers are they?

16 A. 1145, 1144.

17 Q. Okay, how are those prepared? Are they prepared by  
18 hand or prepared by computer?

19 A. Those were prepared by Gil Fisher's computer. He was  
20 our accountant.

21 Q. Did you have a computer in your offices to prepare  
22 checks?

23 A. No.

24 Q. Who were they prepared by?

1 A. They were prepared by Gil Fisher.

2 Q. And what role did Gil Fisher play with respect to the  
3 payroll account?

4 A. Gil Fisher was an accountant that the bank suggested.  
5 I guess he was their accountant and we met him in the  
6 beginning before we opened the restaurant.

7 Q. And what role did Mr. Fisher play with respect to the  
8 payroll?

9 A. Mr. Fisher would come once a month and equal our  
10 records and deposits. I would help prepare the payroll  
11 cards. No, actually he was doing the payroll two times a  
12 month in the beginning. So, he would come two times a month  
13 or whenever we had agreed and he would get the payroll cards  
14 that I had prepared, the total amount of hours of each  
15 employee and he would do the rest. He will figure out the  
16 Social Security, the taxes, whatever and he had the payroll  
17 checkbook in his possession. He would prepare the checks.  
18 He will bring me back the checks already made. I will sign  
19 them. We will have a total how much I had to deposit to  
20 cover those checks. I will deposit the money in Palmetto  
21 Bank for the payroll --

22 Q. For the payroll.

23 A. And I will sign the checks and give it to the  
24 employees.

Q. Okay.

1 A. Me and Susie and my kids we worked from generally when  
2 there was an empty shell almost seven days a week almost  
3 twelve hours a day to get that restaurant going. We worked  
4 our butts off all the way to January of 2001. We never got  
5 a penny for our work.  
6

7 Q. Thank you, I don't have any further questions.

8 COURT: Do you want to follow up on  
9 that?

10 MRS. BENSCH: Yes, just one or two  
11 questions.  
12

13 BY MRS. BENSCH:

14 Q. Mr. Passaloukas, but the Benschs were not on that  
15 payroll account either, but you were the only one that could  
16 sign those checks?

17 A. I guess.

18 Q. Is that a yes?

19 A. I am guessing, yes. I am guessing, yes.

20 Q. They didn't go to the bank with you -- Or did they go  
21 to the bank with you to sign signature cards when you opened  
22 that account?  
23

24 A. No.

25 Q. So -- and those checks and monthly statements all of  
that went to you or Mr. Fisher?

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MR. PAPE: There is nothing either way.  
Mr. Passaloukas testified he's looked through  
the records. He can't find any. I have  
searched, of course, Mr. Passaloukas has  
given me all of his records. I have searched  
through the records. I can't find it.  
There's not one of the five lawyers that the  
Benschs have had in the last nine years who  
have ever raised the issue.

MRS. BENSCH: It's never come up before  
but I have thought of it. So, Your Honor, I  
asked the accountant to please bring any  
documentation he has to have that account  
closed and what the balance was to date.

COURT: Okay.

MR. PAPE: Mr. Fisher, you might be able  
to speak to him.

COURT: Okay, so hopefully one of the  
pieces of the puzzle --

MRS. BENSCH: Just one last question and  
then I am done.

COURT: Go ahead, please.

BY MRS. BENSCH:

1 Q. Mr. Al Fiero you said was the chef and he was paid a  
2 salary?

3 MR. PAPE: That goes beyond the --

4 MRS. BENSCH: Re-direct, re-cross, okay.  
5 That's all.

6 COURT: All right, thank you sir.

7 MR. PAPE: Your Honor, I would like to  
8 do a little bit of housecleaning by way of  
9 admitting testimony of the Benschs from past  
10 depositions in the past trial and read those  
11 into the record and what I would like to do,  
12 I think I have got everything here.

13 MRS. BENSCH: Do we have documents to be  
14 stipulated to in this trial? I don't know.  
15 There was a shareholder's meeting. There was  
16 a question -- I don't see that there was  
17 previous testimony of --

18 MR. PAPE: What document?

19 COURT: I think we have all of them. It  
20 seemed like those are already exhibits,  
21 aren't they?

22 MR. PAPE: Your Honor --

23 COURT: We can look and see but it seems  
24 like --  
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MR. PAPE: They are exhibits and now that I am thinking about it, since she is talking about stipulations, a lot of these Plaintiffs' Exhibits were either stipulated to or otherwise authenticated and I am not sure the record is as clear as it should be that they were tendered for admission and they were admitted. And so I would like to tender, to be on the safe side, to tender all of Plaintiffs' Exhibits Numbers 1 through 27 for admission into evidence and ask the Court to admit them.

MS. BENSCH: Does that include the Defendants' previous testimony?

MR. PAPE: Well, the documents, I am just talking about the documents.

MS. BENSCH: Oh, okay.

COURT: I can't remember any objections at this point to any of them, but you are right, there may have been one or two done in an informal manner. Ms. Bensch, do you understand what's going on here?

MS. BENSCH: I think so. I think so.

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\$30,000 to the corporation and I think there's at least a latent ambiguity and in fact when Mrs. Bensch tried to cross-examine Mr. Passaloukas yesterday with respect to the same language on Page 4, she was trying to get him to agree to some other construction of it.

COURT: Well I mean the testimony you just went through was basically interpretation of the Contract. And so my understanding of your argument yesterday when we were talking about this, was that your position is these are unambiguous agreements and I understand that there may be some factual difference as to whether or not \$30,000 was contributed or not contributed --

MR. PAPE: Right.

COURT: But the question is the contracts themselves, and by contract I am talking about the written consent in lieu of an organizational meeting, the lease, articles of incorporation, shareholder's management agreement and any of the other agreements that put together the businesses

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related to this. Are there any ambiguities that your client asserts exist in any of those documents?

MR. PAPE: Your Honor, when we were talking about ambiguities yesterday, we were addressing the lease agreement. We weren't addressing this agreement as far as my memory goes. I do believe there is at least a latent ambiguity in this lease agreement because you have -- of course this is a form agreement.

COURT: You are talking about the lease agreement between Zorbas and the Benschs?

MR. PAPE: I am talking about the Plaintiffs' Exhibit 11, the written consent in lieu of an organizational meeting.

COURT: Okay, not the lease?

MR. PAPE: Not the lease agreement.

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COURT: All right, so of the agreements that are between either Zorbas, the Benschs, the Passaloukas, anyone in this case, zeroing in on Plaintiffs' Exhibit 11, written consent in lieu of organizational meeting, that is the sole agreement in which you assert there is a patent - a latent rather --

MR. PAPE: A latent and it is due to the fact that we are dealing with a standard form in which they tried to type in additional information. If you look at that form on Page 4, it says under Paragraph 3, the terms upon which capital contributions are being made is checked X by cash, but then if you look down the typewritten language and under the law of the typewritten language, it is going to take precedence over the -- over the printed language there -- the form language. It says the leasehold improvements to be provided utilizing these funds and obviously it says the leasehold improvements are what are being contributed. And I want to cite something else --- and I have briefed this in my Motion for Summary Judgment and I can send

1                   you another brief later on, but there's  
2                   certain exceptions under the parol evidence  
3                   rule. Of course, what the parol evidence  
4                   rule basically says is that -- let me read it  
5                   here. I thought I had it. It says and if  
6                   you look at the Gilleland vs. Elwood  
7                   Properties case, 391 S.E. 2<sup>d</sup> 577 that parol  
8                   evidence prohibits those understandings that  
9                   were made contemporaneously with or prior to  
10                  the execution of the written agreement.  
11                  That's all it says. The language that I have  
12                  been reading from are admissions that were  
13                  not made by Mr. Bensch either  
14                  contemporaneously with or prior to. These  
15                  were his understandings of what his  
16                  obligations were, reading this language. The  
17                  other thing is that there's a rule in South  
18                  Carolina that says where the consideration  
19                  paid is a mere recital through the parol  
20                  evidence rule doesn't prohibit evidence  
21                  showing what was actually paid and that's  
22                  what we are doing here and if you look at  
23                  this agreement on Page 4, it says  
24                  consideration paid. That's past tense and so  
25

1 the evidence has been totally for Mr. Bensch  
2 and Mrs. Bensch is that they never paid  
3 \$30,000. There's no evidence in the case so  
4 far that they ever paid \$30,000 cash. There  
5 will be none as far as I understand the  
6 record. But the evidence is, is that the  
7 consideration they actually paid was the  
8 leasehold improvements and of course they  
9 have at the bottom of this page there is a  
10 clear transfer. It's a formal transfer. It  
11 says, "The undersigned by execution of this  
12 Exhibit A do hereby transfer and grant and  
13 convey the assets and interest referenced  
14 above." And I won't read it all, . . . "And  
15 agree that such transfers will be made free  
16 and clear of all liens or other encumbrances  
17 except as is otherwise provided by the  
18 undersigned, acknowledged by execution of  
19 this Exhibit A that they are irrevocably  
20 making and completing such transfer and  
21 further agree to execute such other written  
22 and additional documentation as is necessary  
23 to give further a record notice of such  
24 transfer."  
25

1 COURT: And that was the transfer to  
2 Zorbas, Incorporated?

3 MR. PAPE: To Zorbas, Incorporated, yes,  
4 sir. And it is Mr. Bensch's testimony that  
5 by executing this Agreement A that he was  
6 transferring and granting to Zorbas, Inc.  
7 those leasehold improvements. Now there's --

8 COURT: Let me be clear. I am not  
9 stopping you from making a record. I was  
10 just -- your testimony as you are aware  
11 seemed to indicate that you believe there was  
12 an ambiguity somewhere. Otherwise, you  
13 wouldn't have been putting that testimony up.

14 MR. PAPE: Right.

15 COURT: Based on everything I have heard  
16 so far, my understanding was that your  
17 stipulation agreement was, there were no  
18 ambiguities and so I was curious as to why I  
19 was hearing that testimony.

20 MR. PAPE: I don't --

21 COURT: Maybe I misheard it.

22 MR. PAPE: Well I would have to look  
23 through the record. But it's an ambiguity.  
24 It's an ambiguity they have been trying to  
25

1 create and so in the nine years they have  
2 attempted to create this ambiguity and I have  
3 got to deal with it.

4 COURT: You don't think there's an  
5 ambiguity in the agreement as it is written.  
6 You think there's an ambiguity in what  
7 actually happened after the execution or  
8 contemporaneously with the agreement with  
9 regard to the payment?

10 MR. PAPE: No ambiguity there because it  
11 is clear. The record is clear that they  
12 never put in \$30,000 cash to the corporation.  
13 It's clear by Mr. Bensch's testimony what he  
14 did instead was to contribute the leasehold  
15 improvements. That's how he performed that  
16 agreement.

17 COURT: Okay, on Page -- the leasehold  
18 improvements you provided utilizing these  
19 funds is the part you've singled out there as  
20 being more important than the language on  
21 Page 4 because it was typed in, right?

22 MR. PAPE: That's right.

23 COURT: Okay, and as I recall, I don't  
24 have the Judge's Order in front of me, but in  
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the prior Order there was a stipulation from somewhere in the record that I would probably never find but the contributions were \$59,000 from the Benschs and \$63,000 from the Passaloukas' am I remembering ---

MRS. BENSCH: Vice versa.

MR. PAPE: Well, it's close. I think actually the Passaloukas have contributed \$68,500 but they got reimbursements of \$9,500.00.

COURT: But am I correct, its somewhere in that Order there is a stipulation that stands to this day as unchallenged?

MR. PAPE: Yes, as to the contributions. The only thing is, is that where Judge Kemmerlin made his mistake is that the original -- he netted out the Passaloukas' reimbursements.

COURT: Well, I will try to figure it out, but as far as -- that didn't change their contributions, right?

MR. PAPE: Well, the contributions are on Plaintiffs' Exhibit 2.

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COURT: Well, you are saying his number 63 or 59 or whatever it was, was an erroneous number because it was a net number and you are suggesting it should have been a gross number because contributions -- it should have said gross contributions less --

MR. PAPE: That's right and that is reflected in Plaintiffs' Exhibit 2. In Plaintiffs' Exhibit 2 the gross contributions were \$68,875.16. You net out the \$9500 that he's been reimbursed. That gets you down to \$59,375.16.

COURT: Now just to be clear on Plaintiffs' 11, if I were to sit down with no parol evidence at all and read this --

MR. PAPE: Right.

COURT: -- you are not suggesting I couldn't understand it or are you? Are you suggesting that inherent in this document are ambiguities, as I understand the latent --

MR. PAPE: Well, it is a matter of interpretation. I think without any parol evidence --

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COURT: I don't know whether he complied or didn't comply with the agreement but the agreement itself, is there an ambiguity somewhere where it says one thing in one part of it and says something different somewhere else? If so, if you could point me to that, I would be able to --

MR. PAPE: Uhm.

MS. BENSCH: Your Honor, can I say anything or wait until he's finished?

COURT: Wait until he's finished and we will be happy to certainly give you equal time on this issue.

MS. BENSCH: Okay.

MR. PAPE: Your Honor, on Page 4 you have to resort to some amount of interpretation to figure out whether or not it's cash that was being contributed or whether or not it was leasehold improvements that were being contributed. Now, this typed in language I think takes precedence over the form language.

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COURT: Right, doesn't that clearly say it was leasehold improvements to be contributed.

MR. PAPE: Right. And -- but you've got some other language in writing that's in Paragraph in Plaintiffs' Exhibit 7, this document that's called Shareholders' Management Agreement and if you look on Page -- on Article 2, Paragraph 2.1 Initial Capital Contributions --

COURT: I am sure I have it here, Shareholders' Management Agreement?

MR. PAPE: Yes, sir.

COURT: Page what, I am sorry.

MR. PAPE: It's Article 2, Page 2.1.

COURT: Okay.

MR. PAPE: Initial Capital Contributions. It describes these contributions. It says "Further it is anticipated" -- and this is talking about contributions again. "Further it is anticipated by the parties hereto that the areas of responsibility for each among the Passaloukas' interest the Benschs' interest

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shall be as indicated on attached Exhibit A, such Exhibit being incorporated herein by its reference."

COURT: Here it is attached to --

MR. PAPE: And then it says here in the past tense, the items listed on the attached Exhibit A pertaining to construction or providing equipment has as of the date of this agreement been satisfied and again it talks about capital contributions and it doesn't identify cash as being contributed. So, so yes I think with all of the written language it was contemporaneously executed on the 15<sup>th</sup> day of August. I think the only interpretation is, is that it was leasehold improvements that were being contributed and they were transferred by use of this document. But what my concern is, is that you know I understand reasonable people can read that written language and might disagree, but in order to plug up the hole in that, what I am suggesting is that there are clear exceptions to the parol evidence rule; one of them being that where the language in

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this case the \$30,000 is a mere recital and  
in this case I think it is clear that it is a  
recital.

COURT: I mean all parties executed the  
document saying that all the contributions  
had been made and had been satisfied except  
for those on Exhibit A which would I imagine  
lead one to believe that there were no  
further contributions.

MR. PAPE: No, no further contributions.

COURT: Except -- and that's  
unambiguous.

MR. PAPE: Right.

COURT: Except for the things on Exhibit  
A where there was some building permits and  
some things that were going to be gotten but  
there wasn't -- it doesn't appear that there  
is anything in any of these documents that  
required either party to contribute anything  
further --

MR. PAPE: By way of capital  
contributions.

COURT: Correct. Right.

MR. PAPE: Yes.

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COURT: Okay. Well I was -- all right.

MR. PAPE: But --

COURT: That's the part I was confused. I thought you all were thinking that it was some further capital contribution required and I --

MR. PAPE: No, no.

COURT: No, go ahead. I am just trying -- I was trying to understand where you were going so I can try to figure this out.

MR. PAPE: All right, I appreciate it.

COURT: Go ahead, sir, and I apologize for the -- I am sorry Ms. Bensch wanted to say something and certainly she is entitled to.

MS. BENSCH: Oh, okay. I think from Exhibit A the capital organizational minutes and contents, part of Plaintiffs' Exhibit 3 I believe it was.

MR. PAPE: Which Exhibit now?

MS. BENSCH: Plaintiffs' Exhibit 3.

MR. PAPE: What's it titled?

MS. BENSCH: The Organizational Minutes.

1 COURT: The written Consent in Lieu of  
2 Organizational Minutes?

3 MS. BENSCH: Yes, the same thing we were  
4 talking about.

5 MR. PAPE: What page?

6 COURT: Page 3 you said?

7 MS. BENSCH: I think so, Page 3. The  
8 Passaloukas --

9 MR. PAPE: What page are you reading  
10 from again?

11 MS. BENSCH: Well Page 5 of this  
12 document. Let's see, no I am sorry, Page 4  
13 of the Shareholders' Agreement, I guess it  
14 is.

15 MR. PAPE: Okay, Page 4, the same page  
16 we were just looking at, okay.

17 MS. BENSCH: The Passaloukas received  
18 1,000 of shares from Zorbas were stated  
19 considered contributions of \$30,000 which was  
20 marked paid. The Defendants Bensch to  
21 receive 1,000 shares of Zorbas, Inc. for  
22 stated consideration of \$30,000 which was  
23 marked paid. These capital contributions  
24 were stated to be in cash and the document  
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provides that leasehold improvements to be provided utilizing these funds. Both parties obviously contributed more than that, but to satisfy this document, it states and I don't know if we can reference Judge Kemmerlin's thing that the words and leasehold improvements appear after the entry of \$20,000 by the name of Bensch and he said I take the words to have no meaning for two reasons. That the Benschs were also to make leasehold improvements above this 20,000 he would have been entitled to more stock under the terms for increased contribution and no provision for more stock was contributed to him or mentioned. So, I think we want to be clear about Mr. Passaloukas, I mean Mr. Pape may be trying to say that loans are something different, but the Benschs agreed to and the Passaloukas agreed to more than what is actually in this document because if Mr. -- if everyone was calling this loans and Mr. Passaloukas was reimbursing himself for his loans, then the Benschs were also considered loans as well as capital contributions and

1 they were also entitled to be reimbursed. So  
2 I just -- I guess I am asking the Court to  
3 understand one party is not obligated to make  
4 loans to a corporation in this document above  
5 the other. They were equal shares, equal  
6 partners according to their responsibilities.  
7 The Benschs, as it says, the leasehold  
8 improvements utilized our cash. So we  
9 weren't supposed to put in \$70,000 worth of  
10 leasehold improvements and loan money to this  
11 corporation unless we were going to do it for  
12 more stock. I mean if we --

13  
14 COURT: I understand that's a  
15 fundamental difference in the parties' belief  
16 on what that says, is that right?

17 MR. PAPE: Yes, Your Honor, I -- Judge  
18 Kemmerlin's -- and I don't know where he got  
19 this from any of the documents -- what Judge  
20 Kemmerlin said that the -- if the Benschs  
21 were to put any more money into the  
22 corporation, they were entitled to receive a  
23 greater share of stock, but that's -- there's  
24 nothing in writing that says anything about  
25

1 that and that's where we then get to the  
2 second fundamental difference on Page 5.

3 MS. BENSCH: Your Honor, there is  
4 language addressing that.

5 MR. PAPE: Well, there is language  
6 addressing that. Look at Paragraph F  
7 Shareholder Loans and it requires Mr.  
8 Passaloukas to make loans of \$20,000 in cash  
9 and again in Paragraph 2 there for both of --  
10 all of the parties it says cash and Gary  
11 Bensch and Cynthia Bensch it says \$20,000 and  
12 leasehold improvements. What I think that --  
13 that's in the conjunctive, that's not an  
14 either/or. And is in the conjunctive \$20,000  
15 cash and leasehold improvements. I think  
16 what -- how Judge Kemmerlin became confused  
17 and how the Benschs are now confusing things,  
18 is that they are saying that look somehow  
19 they have put in more money value of  
20 leasehold improvements in a greater amount  
21 than the Passaloukases and therefore they  
22 don't have to put up any more cash. But the  
23 thing is, this is also unclear and -- I mean  
24 clear and unambiguous. It says \$20,000 cash.  
25

1 It doesn't say that the Benschs get credit  
2 for that \$20,000 cash loan by contributing  
3 leasehold improvements because it says  
4 \$20,000 and leasehold improvements.

5 MS. BENSCH: But the organizational  
6 minutes, Your Honor, this Section A, Exhibit  
7 A is a binding part of this whole Agreement  
8 but on Page 6 it says each shareholder shall  
9 be entitled to provide loans to the  
10 corporation in proportion --

11 MR. PAPE: I am sorry, --

12 MS. BENSCH: Page 6 where you read from  
13 capital loans and contributions, just turn  
14 the page.

15 MR. PAPE: No, you are reading from an  
16 entirely different document.

17 MS. BENSCH: No, this is the  
18 Shareholders Agreement.

19 MR. PAPE: The Shareholders Agreement  
20 you are looking at. Okay, hold on. What  
21 page on the Shareholders Agreement.  
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23 MS. BENSCH: Let's see, you were on Page  
24 5 when you read the capital loan  
25 contribution, just turn the page, Page 6.

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MR. PAPE: Well, actually you are looking at two different documents.

MS. BENSCH: No, this is your document. At the bottom of your page, right there.

MR. PAPE: Your Honor, she is actually now pointing us to Plaintiffs' Exhibit 7 which is the Shareholders Management Agreement.

MS. BENSCH: Isn't that where --

COURT: Well let's do this, I didn't mean to get far a field, I was just curious -

MS. BENSCH: Well this is the nuts and bolts of this trial.

COURT: No, no, you haven't already made your case yet. You can do whatever you -- I was just curious and I have obviously misunderstood what I thought I heard earlier which was there was no ambiguity in the agreements and then when Mr. Pape started offering testimony, he went on to explain that they were merely trying to explain an ambiguity. I was curious and I guess I flat

1 the loose ends of Zorbas. Is this what it is  
2 being offered for, is that correct?

3 MR. PAPE: Yes, sir and there's an  
4 indemnification --

5 COURT: Not with this trial, it has to  
6 do with the -- for instance you all I guess  
7 paid a power bill or something like that, the  
8 obligation of the Passaloukases to pay or  
9 some other housecleaning issue.

10 MS. BENSCH: Referring to the lease,  
11 Your Honor, on Page 268 of the trial  
12 document, it says, "Legal costs. The tenant  
13 and landlord agree that all costs, including  
14 reasonable attorney's fees of any legal  
15 action or suit in law or equity arising out  
16 of the mutual covenants, promises and  
17 agreements obviously should be paid by the  
18 tenant." So I would like to put on the  
19 record that that --  
20

21 COURT: And you all haven't gotten to  
22 your case yet. I wasn't -- what I was saying  
23 is, this is different than the attorneys fees  
24 issue in this whole case. As I understand  
25 what Mr. Pape is offering is after Zorbas

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went out of business, there were a variety of things that are alleged the parties did. It was alleged I think by the Benschs that you had to pay some bills and do some things that were left undone. And apparently it is alleged by the Passaloukases well they had their own set of things they had to do. And one of those things was hiring an attorney to defend the lawsuit brought by an employee. So, again, I am not, simply you have to get it into evidence and finding it is relevant doesn't mean I will rule one way or another, it just means that I think it is appropriate for it to be in the stack of things.

MS. BENSCH: Yeah, I think it is appropriate.

MR. PAPE: Just I need to pull --

COURT: You are just going to pull the one thing out, right?

MR. PAPE: That's all. And I also want to be sure that maybe we already don't have a -- I am not going to pull the Court's copy apart, but I am going to pull my copy out of here.

1 Wiggly. We bought it from the people who owned the Piggly  
2 Wiggly. It was a small home, but we had put three additions  
3 on it so our children --

4 Q. When you all went into business with the Benschs, was  
5 that home paid for?

6 A. Yes, so were our cars and credit cards.

7 Q. When you all met with Mr. and Mrs. Bensch, where was  
8 that, do you remember?

9 A. I believe it was at his office over by the restaurant.

10 Q. How many days a week did you open the restaurant?

11 Q. Five days a week?

12 A. I think in the beginning we were open seven days, but  
13 then we had a disagreement because with Greek cuisine goes  
14 wine and the Benschs did not want wine served on Sunday,  
15 which I can respect their religious things, but you can't --  
16 you can't run -- I mean if you are going to serve wine, you  
17 are going to serve wine and so we closed. We didn't do a  
18 brunch.  
19

20 Q. You closed on Sundays?

21 A. Yes, we didn't do a brunch and left off the finer  
22 dining.  
23

24 Q. Did you have a good following on Sunday?

25 A. Yeah, it was worth it to stay open for the brunch.

1 A. I think whoever helped them clean up probably put it in  
their pocket.

2 Q. Do you know how valuable it might have been? Do you  
3 have any idea? What size of a diamond was in it?  
4

5 A. You know it is a common little style, probably \$500-  
6 \$600.00. That's just guessing. My mother has passed away.  
7 I can't ask her.

8 Q. Were there any other items that you weren't able to  
9 retrieve?

10 A. Anything -- you know, I had several other things and I  
11 had a bottle there and a bottle at home, things like that.  
12 I had a little personal chef, I had things that the workers  
13 had to put back there or something like that. And all the  
14 way in the end of the little office area Mr. Bensch built  
15 was a desk and we had things up there. I put my jewelry in  
16 there and/or any personal things. Bill put his wallet down  
17 under -- But that's not missing. His wallet wasn't missing  
18 and the desk was never returned. It was a beat up old desk  
19 but it worked and just little things that even if somebody  
20 would say it was worth \$1,000 it wouldn't matter. I had  
21 little things from the house. We had a lot of little Greek  
22 things. All of my Greek cookbooks, where they went I don't  
23 know. I have replaced them since and notes and junk you  
24 know like where I would figure out menus, not menus, recipes  
25

1 Q. How did you find that out?

2 A. They may have told us or we knew that it was due or  
3 something. I can't really remember.

4 Q. But you would have learned it from them?

5 A. I would say so.

6 Q. Okay. All right and then when did you all first learn  
7 that you had been locked out?

8 A. Well the day before we were actually locked out, I went  
9 to open up and start breakfast.

10 Q. That was on a Saturday? Assuming that the lock out  
11 they went in there on January 9<sup>th</sup>, which I believe was a  
12 Sunday --

13 A. Okay.

14 Q. Does that make sense?

15 A. Sunday we were closed. That Sunday, because as it  
16 tapered down we started -- I can't really remember Frank,  
17 but it seems like I am not sure we were open then on Sunday.  
18 We may have been, but I can't -- because of the holidays,  
19 you know -- I can't really remember. But I think the actual  
20 process of trying to lock us out started a little before or  
21 a day before at least because I went in to unlock and I went  
22 over to put in the code for the alarm and the alarms went  
23 off. So, the woman didn't call me, I called her. You know  
24  
25

1 the post -- you know the 800 number and said the code had  
2 been changed. I didn't change it.

3 Q. Had you and Mr. Passaloukas changed it?

4 A. I didn't change it, unless I did something really  
5 fruity with punching it in and that would have been the only  
6 other -- but she had told me on the other line, or on the  
7 other side that it had been changed. So, -- and then the  
8 next day it was closed. Signs all up everywhere, it was  
9 just --

10 Q. Trespassing signs?

11 A. Yes, yes.

12 Q. Okay. Bill thinks that when you all were locked out  
13 there might have been \$60,000 in consumable inventory in  
14 there. What do you remember about what the value of that  
15 inventory might be and what kind of things you can tell a  
16 Judge that might make him think that there was \$60,000?

17 A. Well I would like for Your Honor to remember that it  
18 was a working restaurant. We had prepared food, we had  
19 received deliveries that week, we used suppliers like PYA,  
20 SYSCO, an Italian Greek company out of Columbia, and one out  
21 of New York. We had many wines, domestic and Greek and  
22 Italian, different things. We had some champagne bottles,  
23 not too many. You don't want to put so much money in  
24 champagne. And we used Mosavitz which is a wonderful  
25

1 started and we were on a good foot and I think it was a  
2 perfect time to open a place in Bluffton like that and --  
3 because you didn't have a fine dining -- semi-fine dining  
4 place. And we continued to try to keep it moving and I was  
5 not in the office, I only know what my husband told me.  
6 There near the end when he talked to Mr. Bensch about go  
7 ahead and putting in his money to help he told him no and  
8 that he wanted the rent. And if he didn't have the rent, he  
9 wanted the keys and that happened -- I heard that part that  
10 he wanted the keys, but I was not in there, so Bill and  
11 that's what it was and so were just trying to keep it going.  
12 And we put things on our credit cards and we kept trying to  
13 buy, and to pay our employees, we cut down on employees. We  
14 cut down hours on Nick Eliferio, I think we had started  
15 paying him a salary. We went to hourly and my husband and I  
16 did more time and that's how we tried to make it. On the  
17 other hand, things continued to get late at home. We could  
18 not continue to pay for our mortgage and things like that.  
19 We tried moving things around and you know trying to  
20 continue. We weren't getting a salary. We weren't getting  
21 money.  
22

23  
24 Q. Was that after you were locked out?

25 A. No, this is -- well pretty much. You know we were  
trying to keep one going and everything was working you know

1 pretty good, but then all this was going and we put focus on  
2 trying to settle all this and get everything divided up and  
3 break the partnership and get some relief and some money and  
4 reimbursements and it wasn't happening and hasn't happened  
5 and eventually we lost our house. It was either work three  
6 jobs which -- and pay for it. We tried the best that we  
7 could because we really wanted the house. We had paid for  
8 it in six and a half years and we re-mortgaged it to keep  
9 going with the restaurant.

10 Q. You re-mortgaged the house?

11 A. At some point in time, yes.

12 Q. How much was your house worth originally?

13 A. What we paid for it?

14 Q. What did you pay for it?

15 A. It was called like a little bungalow and in the  
16 beginning I guess it was about \$85,000 -- around there. It  
17 wasn't a very big house and it was close to an acre, right  
18 there on Able Street -- two streets behind where the Piggly  
19 Wiggly is. We bought it from Mr. and Mrs. Able and that's  
20 how we paid for it. We sent her a check and a wonderful  
21 little lady.  
22  
23

24 Q. And before you got involved with the Benschs?  
25

1 Q. Did you go with your husband to open up the checking  
accounts for that restaurant, the Zorbas?

2 A. I can't remember, Cynthia, I might have went with him,  
3 I don't know.  
4

5 Q. Did you sign checks for the corporation?

6 A. Yes, I did.

7 Q. Did the Benschs ever sign checks for the corporation?

8 A. As far as I know, no.

9 Q. Were they on the account to sign them?

10 A. No, they weren't.

11 Q. So if they had some checks, they weren't any good to  
12 them, right?

13 A. Right.  
14

15 Q. Did Mr. Bensch ever ask you for a key to that mailbox  
16 or to have a separate business PO Box?

17 A. I don't know if it was me personally.

18 Q. But at some point he asked for either a separate  
19 mailbox for the business or a key to that one at the  
20 shareholders meeting? Do you remember that?

21 A. I don't know if he asked for a separate box, but I do  
22 remember you all wanting a key and I think we cut one. I  
23 think, I can't remember.  
24

25 Q. So you don't know? Yes or no if you ever gave out one.

A. I thought we got you a key, but I can't remember.

1 Q. Okay, did you add when you did your contributions and  
2 actually put in cash but we actually paid for the food as  
3 contributions to Zorbas, you added that to your  
4 contributions; that was in the list like if you put \$1,000  
5 cash and later you bought food with it, that was still  
6 considered a contribution?

7 A. Food for the restaurant?

8 Q. When you originally opened up and added about the  
9 inventory, etc?

10 MR. PAPE: Your Honor, we've already got  
11 the list of contributions into evidence and I  
12 don't think that's gonna change. You know,  
13 she can --  
14

15 MS. BENSCH: As stock.

16 COURT: Well she can go ahead and ask  
17 him.

18 A. As stock for Zorbas?

19 Q. Yes.

20 A. No that wouldn't be a reimbursement. That would be  
21 what Zorbas pays for. It wouldn't be what Bill and I would  
22 pay --  
23

24 Q. I mean the initial contributions to buy -- to open a  
25 restaurant you had to go buy food or order food?

1 A. No, I remember -- I think I actually I am the one who  
2 wrote the check for the big order. That's the order when  
3 John Nicoli had ordered like ten frying pans and a whole  
4 bunch of stuff and I remember writing the check off of  
5 Zorbas' checkbook. We should be able to find it.

6 Q. Who was John Nicoli?

7 A. He was a little dude who came in and said he knowed --  
8 excuse me, knew Greek cuisine and he did know some things,  
9 sauté and all this kind of stuff. He told us where he had  
10 worked and we agreed to hire him.

11 Q. Okay.

12 A. And we paid him a salary.

13 Q. Do you know how much that salary was?

14 A. I can't remember. It was -- he was the highest paid  
15 employee.

16 Q. Okay and who was Nick Eliferio?

17 A. He was a man that we met in Columbia that worked for  
18 Shoney's. He was Greek. I am born here, but Greek.

19 Q. What was his position?

20 A. He was a cook.

21 Q. You had two cooks in a restaurant?

22 A. Not at the same time.

23 Q. They weren't employees at the same time?

24 A. I don't think so.  
25

1 Q. Okay, the payroll records won't show --

2 A. Because Nick had been warned -- excuse me, Nicoli had  
3 been warned, had been caught and warned for messing with  
4 marijuana outside. I told him my children come here. I  
5 said I don't believe --

6 MS. BENSCH: Your Honor, I object to  
7 this. This is irrelevant as far as --

8 A. Well I am telling you --

9 COURT: Ms. Passaloukas, if you could  
10 just answer the question. The question was  
11 did they overlap.

12 A. I don't know.

13 Q. And you were also in there cooking?

14 A. Yea, I did the -- they did grill, things like that. I  
15 did casseroles, potatoes, coleslaws, all that kind of stuff.

16 Q. And this was a 50 person restaurant and there were two  
17 and sometimes three chefs in the kitchen?

18 A. Don't know.

19 Q. Did you do inventory in December for that restaurant?  
20 At the end of December again for tax purposes, normally most  
21 businesses and especially restaurants have to do some type  
22 of inventory for a tax -- for the accountant?

23 MR. PAPE: Your Honor, I object, she is  
24 testifying.

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MS. BENSCH: Oh, I am sorry, I am simply asking did you personally or were you involved in doing inventory for the restaurant?

A. I know it was being done, but no.

Q. You weren't part of it?

A. Unless the person that was doing it asked me what you have, how much cabbage, how much this, that, this, I did not actually take the book and go around and do it. We had sheets that we did things on.

Q. Did Mr. Bensch ever ask you to work at the restaurant?

A. I am sorry?

Q. Did Mr. Bensch or Mrs. Bensch ever ask you to work at the restaurant?

A. Why would they? I don't understand --

Q. It's just a question.

COURT: You can just yes or no.

A. No.

Q. Do you receive disability?

A. I do.

Q. Okay.

MR. PAPE: Irrelevant, Your Honor.

MS. BENSCH: It is relevant as far as salary, Your Honor.

COURT: All right, I will allow it.

1 BY MS. BENSCH:

2 Q. If you receive a government disability, could you have  
3 received a salary from Zorbas as well?  
4

5 A. As long as I reported it, yes.

6 Q. And you wouldn't have lost your disability?

7 A. Not helping my husband, no.

8 Q. Okay.

9 A. I am not exactly sure that I was getting it then. I  
10 could check the dates, but I don't know if I was receiving.  
11 I don't know if it had been termed yet, that I was getting  
12 it, but I can find out.

13 Q. You stated that you paid \$85,000 in cash for your  
14 house?  
15

16 A. Not in cash, no.

17 Q. But you didn't get a mortgage? You said it was free  
18 and clear of a mortgage when you bought the house on Able  
19 Street?

20 A. We paid for it in six and a half years.

21 Q. Did the Benschs ask you and your husband about your  
22 experience in restaurants in those first couple of  
23 interviews, how much experience you had?  
24

25 A. Yes, that was on the paper I filled out for you.

1 Q. And he stated he had had many, many, many, many years,  
2 right, experience or I am sorry, what was his answer?

3 A. That we had owned a restaurant in Clemson or Clemson  
4 University campus and we owned a restaurant in Seneca, South  
5 Carolina and had worked at previous restaurants where it  
6 actually which was a Cheeburger Cheeburger kind of place for  
7 other Greeks.

8 Q. In actuality, how long had it been since your husband  
9 had actually worked in a restaurant prior to Zorbas?

10 A. You are asking for this memory to go back and then go  
11 back. I don't know Cynthia, probably 7, 8, 10 years, I am  
12 not sure?

13 Q. Maybe 15 prior to Zorbas?

14 A. Well we had only been down here 19 years, so it  
15 couldn't have been that much.

16 Q. But the Benschs were thinking you had been in the  
17 restaurant business?

18  
19 MR. PAPE: Object. What their thinking  
20 is immaterial.

21 A. We owned two restaurants.

22 Q. Okay, so you said, or did you and your husband, did you  
23 discuss with the Benschs you said changing the menu in the  
24 restaurant?

25 A. You all called that meeting, yes.

1 A. Possibly.

2 Q. And did Mr. Bensch suggest some of those ideas?

3 A. Yes.

4 Q. And Mr. Passaloukas wanted to keep it pretty much an  
5 authentic Greek restaurant?

6 A. Yes.

7 Q. Did you attend the shareholders' meeting?

8 A. I did.

9 MRS. BENSCH: Should we get into this  
10 later, Your Honor, or no?

11 COURT: If these are questions you would  
12 like Mrs. Passaloukas to answer, probably do  
13 it now.

14 MRS. BENSCH: So we won't have to call  
15 her again.

16 BY MRS. BENSCH:

17 Q. Did the Benschs offer to give Zorbas more capital at  
18 that meeting for stock?

19 A. Yes.

20 Q. And did you agree?

21 A. To do that?

22 Q. Yes.

23 A. No.

1 Q. Did you -- did they ask you to be included on the bank  
statements?

2 A. That I don't remember. But I mean I am already  
3 included on the bank statements.  
4

5 Q. No, I am sorry, for them -- for their names to be added  
6 to the bank statements so that they could view the deposits  
7 and --

8 A. I don't remember the A, B, C, D what we went over.

9 Q. So you don't remember if they asked to be signors on  
10 that account?

11 A. You could have, I can't remember.

12 Q. Okay and you have already stated they may have asked  
13 for a key and you don't remember if you gave them a key?  
14

15 A. I am pretty sure we cut one, but I --

16 Q. Do you know how many employees were working at that  
17 restaurant on -- say any given month?

18 A. Even if John and Nick overlapped there would only be  
19 one on one shift and there would only be myself back there  
20 and we would probably have a dishwasher, so one, two, three,  
21 dishwasher, prep. She did a lot of things. She wasn't a  
22 one person thing. Four, five, five to six on a shift.  
23 Total employees ten to twelve. That's just guesses. That's  
24 not guesses, it's pretty close. On busier nights that we  
25

1 knew or if reservations were coming or parties were coming,  
2 of course we would have more servers.

3 Q. You stated you called Mr. and Mrs. Bensch after the  
4 eviction several times?

5 A. Yes.

6 Q. Did you ever leave a message on an answering machine?

7 A. Of course we did. We also took a piece of paper and  
8 put it out on the door of the thing -- taped it out there.

9 Q. Okay. You said you attended a shareholders' meeting  
10 that the Benschs called at Mr. Hale's office?

11 A. Yes. It was the only one, the same one, right?

12 Q. Yes, just the one. Okay, did you call a shareholders'  
13 meeting for the shareholders?

14 A. Did I ever call?

15 Q. After that meeting, yes, as a shareholder did you ever  
16 call a meeting?

17 A. I don't think so.

18 Q. So you never called a shareholders' meeting to go back  
19 over any items that were in dispute or talk about the rent  
20 or --  
21

22 A. I never did.

23 Q. So when you met with the Benschs and you agreed to do a  
24 restaurant, etc. towards the end you pretty much trusted  
25

1           them, you left your jewelry laying around -- you said you  
2           had --

3           A.     Not laying around, that's not true.   That's not true.  
4           I had a place back in the desk for my stuff where me and  
5           Bill would come to work.   We would put it securely, because  
6           we liked our employees but they are not always great so we  
7           had a place back there.

8           Q.     Is that office locked?

9           A.     It could, yes.

10          Q.     Did you lock it?

11          A.     On occasion, especially if there was a bank deposit to  
12          be made because the back door would come out -- right  
13          there's the back door.   So if anyone had come to get -- all  
14          of our paper stuff was back there.   So if anyone came to get  
15          that, they would know the desk was there.   But in a more  
16          secure drawer was the checkbook and things and that kind of  
17          stuff.  
18

19          Q.     Did you make deposits for the corporation?

20          A.     I probably did.   I know I went and got change, stuff  
21          like that so I probably made deposits.  
22

23          Q.     As tenants in your lease agreement, you agreed to  
24          procure insurance for the landlord.   Did you do that or did  
25          the bank just do that?

1 A. I think that you said you knew a company that would be  
2 good and I think you helped us get it or found it for us.

3 Q. Okay, as the tenant did you -- so you didn't get it,  
4 the landlord got it?

5 A. I didn't -- I don't know if we paid for it. I know  
6 there was some discrepancy when it was cancelled and getting  
7 the money back or something, but I didn't go per se.

8 Q. As the tenant the last month when you didn't pay your  
9 rent, when you were evicted by the Benschs, did you cancel  
10 or terminate that insurance policy?

11 A. No.

12 Q. The Passaloukas' contributions --

13 A. We didn't have any way of going -- we didn't -- it was  
14 like having your ID taken. We didn't have anything -- we  
15 had nothing at home. We had no account numbers. We didn't  
16 memorize bank account numbers. We didn't memorize insurance  
17 stuff. So we didn't know how to do all of that. All of the  
18 information was there.

19 Q. Now at the shareholders' meeting you said that you went  
20 over some items, rent that hadn't been paid that was late.  
21 You gave a check with the November rent in December. You  
22 discussed keys and bank statements and other issues. Was  
23 there contention between you and the Benschs at this point  
24 in time?  
25

1 A. Contention?

2 Q. Well tension.

3 A. Tension, I couldn't --

4 Q. Yes, I am sorry.

5 A. I would say so, yes.

6 Q. So --

7 A. We were just trying to get the place to work and we  
8 were going to try to figure out something that day.

9 Q. Did you pay your December rent?

10 A. No.

11 Q. Did you --

12 A. We made attempts to find you.

13 Q. You signed a lease that if you didn't pay your rent you  
14 would be evicted, though, right?  
15

16 MR. PAPE: Your Honor, the lease speaks  
17 for itself.

18 MRS. BENSCH: Right, okay.

19 BY MRS. BENSCH:

20 Q. So knowing that the rent wasn't paid and knowing the  
21 situation you might find yourself in of being evicted, you  
22 still left a lot of personal expensive items in that  
23 restaurant?  
24

25 A. You had the keys.

Q. No, before the eviction.

1 A. We didn't -- we had no idea that that was going to  
2 happen. We had not heard from you.

3 Q. And you said Mr. Bensch --

4 A. That was going to be the final threat and the only way  
5 to do it, we would have got the money.

6 Q. Okay, but if you are not paying your bills and the  
7 landlord has already told you if you don't pay your rent,  
8 you will be evicted, that's just business -- the way the law  
9 is -- you just didn't --

10 A. Didn't think it would happen.

11 Q. So contributions to date and Mr. Pape would you agree  
12 that your client could just look at these contributions.

13 MR. PAPE: Do you have a question about  
14 them?

15 MRS. BENSCH: Yes, in October --

16 COURT: Just for the record --

17 MRS. BENSCH: Yes, I am sorry. It's Mr.  
18 Passaloukas' contributions.

19 MR. PAPE: She's referring to  
20 Plaintiffs' Exhibit 2 Your Honor.

21 A. That down here.

22 Q. No, it's up here. Page 270 Your Honor, well no, I am  
23 sorry, on his -- not his checks but his contributions  
24 actually, let's see if I have another copy. Yes, here it  
25

1 is. On October 13<sup>th</sup>, do you know what yellow zor 10, all  
2 that means on the exhibit, of the first column of the  
3 exhibit to the right over here? These items, do you know  
4 what any of those words mean?

5 A. Where did this come from?

6 Q. This is your contributions.

7 A. I mean --

8 MR. PAPE: Answer the question.

9 A. No, I do not know.

10 Q. It says October 13<sup>th</sup> you deposited cash of \$1500.00.

11 A. Okay.

12 Q. October, you deposited cash of \$2,000.00, October 19<sup>th</sup>  
13 another \$2,000.00.

14 MR. PAPE: Do you have a question?

15 MRS. BENSCH: Yes.

16 BY MRS. BENSCH:

17 Q. The question is, do you remember where that cash came  
18 from?

19 A. That would come off of our credit cards or having -- we  
20 had refinanced the house but then we took another loan. We  
21 had something with two different loan companies and because  
22 we had good credit you could get a large amount of money on  
23 our credit cards.  
24  
25

1 Q. Okay, so it was really a credit card but it was  
stipulated cash because it was virtually --

2 A. Well, we would get it from the credit card and then we  
3 took it to -- we didn't walk up there with the credit card.

4 Q. Right.

5 A. I am assuming again Cynthia that that's the only way I  
6 would know, but I definitely don't know what yellow Zor 10  
7 is.  
8

9 Q. I didn't either.

10 MR. PAPE: Your Honor, incidentally, we  
11 have already stipulated to Plaintiffs'  
12 Exhibit 2 and so there is no issue about  
13 those contributions.  
14

15 COURT: Well, I think there's -- at  
16 least she can ask what they are and where  
17 they came from.

18 BY MRS. BENSCH:

19 Q. Did you know what the balance in the checking account  
20 was for December from the bank statement you all received in  
21 December?  
22

23 A. Probably so at the time.

24 Q. Do you know that it was not good?

25 A. Yes. I knew it was low. I knew that we had the thing  
we referred to earlier to make a deposit and then with other

things come in we were to pay, we would find a way to do it.

1 We had requested from Mr. Bensch for help as well.

2 Q. And you stated that this restaurant did have carpet in  
3 it or Mr. Passaloukas said it had carpet in it and it had  
4 tablecloths, designer tablecloths or something in it?  
5

6 A. Not designer but we had nice white -- We would put  
7 those on for the evening.

8 Q. Did the Benschs ever buy tablecloths?

9 A. I don't remember.

10 Q. Linen tablecloths in kind of a beigy color?

11 A. You could have Cynthia, I can't remember.

12 Q. Okay. I have no further questions. Thank you.

13 A. Could I add something?  
14

15 MR. PAPE: No.

16 A. Okay

17 COURT: Let's see who's your next  
18 witness?

19 MR. PAPE: Your Honor, I need to offer  
20 an affidavit testimony concerning attorney's  
21 fees. As you know we have got a  
22 shareholders' derivative suit and under the  
23 common fund fee we are assuming that the  
24 Court finds there's a fee -- if you find at  
25 all, then attorney's fees are payable out of

1 that common fund that's brought back into the  
2 file and also attorney's fees are allowable  
3 under the post operations statute under a  
4 direct action.

5 COURT: Do you have an affidavit form?

6 MR. PAPE: Yes, I have an affidavit form  
7 and I would actually -- the affidavit hasn't  
8 been signed yet. I would like to ask Joanne  
9 if she would notarize my signature on this  
10 and I do have a couple of supplemental fees.  
11 I don't know if you want to put me under oath  
12 to do the supplemental things or not.

13 COURT: Well, I - Let Ms. Bensch look at  
14 them and let her cross-examine you.

15 MR. PAPE: I think that's Plaintiffs'  
16  
17 29.

18 (WHEREUPON, PLAINTIFF'S  
19 EXHIBIT NUMBER 29 WAS  
20 MARKED AND ENTERED INTO  
21 EVIDENCE.)

22 COURT: Hand that over to the Benschs.

23 MR. PAPE: And Your Honor, I do need to  
24 supplement it for costs associated with some  
25

1 of the testimony from the experts and things  
2 like that.

3 COURT: All right, the appropriate time  
4 to do that would be at the very end of the  
5 trial I guess. For all we know it is going  
6 to go for several more days.

7 MR. PAPE: Okay, well if I may be around  
8 to supplement the affidavit at a later time.

9 COURT: Mrs. Bensch, if you just want to  
10 skim through it. Do you have any questions  
11 about it?

12 MRS. BENSCH: No.

13 COURT: Is that your case Mr. Pape?

14 MR. PAPE: Yes, sir.

15 COURT: Mrs. Bensch, what is your --

16 MRS. BENSCH: Your Honor, let's see I  
17 would like to ask the Court to move for a  
18 Motion for a Directed Verdict, Your Honor, on  
19 -- number 1 for the Court to hold that the  
20 eviction was properly and purposely done per  
21 provisions of the law in this case. There's  
22 no testimony given that it was a wrongful  
23 eviction.  
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COURT: Do you have another Motion?

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MRS. BENSCH: Yes, for the value of the equipment established by the appraiser. There was no evidence brought to contradict an increase of that equipment.

COURT: Anything else?

MRS. BENSCH: Just that the value of the equipment therefore is as is stated.

COURT: It wasn't stated.

MRS. BENSCH: I am sorry, I mean as per the appraisal.

COURT: What amount?

MRS. BENSCH: \$12,6 --

MR. PAPE: Your Honor, if I may, there's no appraisal that's been entered into evidence.

MRS. BENSCH: Okay.

COURT: The recent testimony on value had to deal with the witness yesterday on the restaurant but --

MRS. BENSCH: Which is actually lower than what the expert appraiser said or the Bensch's expert appraiser said.

COURT: Well, let's deal with first, Mr. Pape, on the wrongful eviction. As I recall,

1 let's see, Judge Kemmerlin ruled on his note  
2 wrongful eviction -- I took the issue up and  
3 ruled in a similar fashion I think. You had  
4 filed a Motion to Reconsider which I had  
5 taken under advisement and at trial, am I  
6 correct on that?

7 MS. BENSCH: Yes, sir.

8 MR. PAPE: Your Honor, with respect to  
9 the wrongful eviction if I can find that  
10 letter, now the eviction notice is  
11 Plaintiffs' Exhibit A, and we need to also  
12 consider the language of the lease agreement.

13 COURT: Paragraph 11A --

14 MR. PAPE: Let me see if I can find that  
15 lease agreement. Paragraph 11A of course is  
16 pretty clear and it's unambiguous. It allows  
17 the landlord to terminate the lease on not  
18 less than ten days prior written notice to  
19 the tenant and on the date specified in such  
20 notice. So you gotta give him ten days  
21 written notice prior to notice and its got to  
22 specify a date on which it is going to  
23 terminate. And if you look at Plaintiffs'  
24 Exhibit No. 8, this notice of default. We  
25

1 know that it was served - the notice was  
2 given to the tenant on December 31<sup>st</sup>.

3 MRS. BENSCH: No sir, we don't know  
4 that.

5 MR. PAPE: That's the only evidence in  
6 the record.

7 MRS. BENSCH: Where's that?

8 COURT: Let him finish, Mrs. Bensch.

9 MR. PAPE: And it says this letter is  
10 notification that Zorbas is in default of its  
11 lease per the default terms of your lease  
12 agreement dated August 15, 1999, so far so  
13 good. But then it goes on to say as of this  
14 date December 28, 1999 you are given notice  
15 that your lease is terminated as of this date  
16 December 28, 1999. It says here that its got  
17 to specify in the lease agreement -- says its  
18 got to specify a date in the notice that it  
19 is terminated -- to be terminated. It says  
20 it's being terminated December 29<sup>th</sup>. That is  
21 not sufficient notice.  
22  
23

24 MRS. BENSCH: Your Honor, I think --

25 MR. PAPE: Then it goes on to say that  
as of January 8<sup>th</sup> you must turn over all keys

1 to the premises to the landlord at Suite 100  
2 Town Center. This notice does not give the  
3 tenant any right to cure. It doesn't advise  
4 them of any right to cure or what he must do  
5 in order to cure. We don't know how much  
6 money he is supposed to give. I mean -- to  
7 pay even if its implied that there is  
8 supposed to be notice. The -- if you look at  
9 the address, it is addressed to P. O. Box  
10 1667, Page 7 it says the notice have to be  
11 addressed to William Passaloukas, 27 Able  
12 Street, Bluffton, South Carolina 29910. It  
13 is sent to the wrong address and of course  
14 they went in there within the ten day period  
15 on a Sunday morning secretly on January 9<sup>th</sup>  
16 and changed the locks on the premises  
17 Assuming that the notice was actually  
18 delivered to Mr. Passaloukas on December 31<sup>st</sup>,  
19 1999 the tenth day would have been the 10<sup>th</sup>  
20 day of January. Now, if you look at the  
21 payments were picked up Ms. Bensch every  
22 month on the 15<sup>th</sup>. And if you look here in  
23 the lease agreement as to where those rent  
24 payments were to be paid, it says on Page 2  
25

1 of the lease agreement rent subparagraph 8  
2 "Base Rent. During the lease term Tenant  
3 covenants and agrees to pay the Landlord at  
4 Landlord's office or at such other place as  
5 Landlord may designate." It says Landlord's  
6 office, we don't even have an address here as  
7 to where it is to be paid, but we do know  
8 that the Landlord's office was -- the  
9 testimony, the only testimony in the case was  
10 right next door to this Unit 101. The  
11 testimony is that they went over there, tried  
12 to find them at their office. They weren't  
13 there. Ms. Passaloukas just testified they  
14 put a note on the door so the Benschs -- and  
15 of course the testimony is that the Benschs  
16 were not in town. They tried to call them  
17 numerous times to discuss the situation with  
18 them and they never were able to find them.  
19 So they were disabled from performing their  
20 requirements if any they had to comply with  
21 this notice under the terms of the lease  
22 agreement. Furthermore, and now we have --  
23 this is if we were in position of two  
24 different hats. The Benschs as Landlords and  
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then the Benschs as shareholders, it is clear if you read this written consent in lieu of an organizational meeting. It says that the Benschs have the obligation to lend \$20,000 in cash to Zorbas. That's clear that it's in the conjunctive, cash plus leasehold improvements. It is also clear that they never contributed any cash to the corporation. The Benschs' default as shareholders in putting up that \$20,000 cash -- that default resulted in the cash flow problem that resulted in the cash flow problems with the corporation and that lack of money contributed -- now you've got to take a look at that Kuriakitis case which I have cited in our brief to the Court and I don't have it right in front of me, but basically that case applies to commercial leases. Never seen it applied to residential leases but it is based on the premises in South Carolina that South Carolina upholds forfeitures and so the Court's got a ---

MRS. BENSCH: Is this Kuriakitis a Litchfield or which one --

COURT: Go ahead.

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MR. PAPE: But the Court required -- the Court of Appeals requires the trial court to look at all the circumstances and in this case where one of the essential things is if -- is to compare the default in relationship to the harm that is going to be suffered. In this case, we had a course of dealing between the Passaloukas and the Benschs. With respect to the November rent, they had had the shareholders' meeting. They had held it in escrow. There were issues, the dispute between the parties over the lack of repairs. There was continuing to be disputes after that over lack of repairs. They accepted the November rent on December 15<sup>th</sup> on the day the December rent was due. They took that rent without any further consequences. As Mr. Passaloukas said, I was dealing with a partner. Now whether he is right or wrong legally about that, that's the way they were dealing with one another.

COURT: Now you are sort of getting into the -- I think what the Motion is right now

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has to do with whether or not a corporation called Zorbas complied with the lease. I think that is undisputed that Zorbas was in default under the lease. So the question -- right? I mean that is not --

MR. PAPE: No, they are in default. The question is again whether or not they were given their ten day notice to cure that default and if you look at that letter which was delivered on December 31<sup>st</sup> they were not given their right.

MRS. BENSCH: Your Honor, I think if you will actually look at this -- at the certified mail receipt that there is really no date on there and we know how specific the law is about these things. It says Article Number 123199. No one can assume that that is a date when it says Article Number. That would have to stipulate Article Number. So he is assuming. Mr. Passaloukas testified earlier that he had received a letter of some sort, didn't know what it was from Mr. Bensch, but you know all this testimony about the Passaloukas say there was a letter --

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have no proof that they sent a letter to the  
 Benschs. Say that they made phone calls,  
 there's no evidence of any phone calls. I  
 speak for myself. I never received a phone  
 call or -- but there was one notice placed on  
 that door. Here's a photograph of it; it was  
 properly noticed. Per the lease, Your Honor,  
 it says that they have no right to cure.  
 They were noticed to pay the 5% late fee for  
 the November rent which again they did not  
 do. There was no acceptance or anything  
 waived by the Landlord because they didn't  
 proceed to evict the Tenants in November  
 instead of December, but I think that showed  
 good faith on the part of the Benschs trying  
 to continually figure out how to make this  
 restaurant work. The December payment not  
 being paid, instead giving the Benschs  
 \$195.00 bill for the food they ate there and  
 tell them they can't even eat there anymore  
 without paying for it. I mean I don't think  
 their attitude showed anything of trying to  
 work together whether the Benschs could say -

1 COURT: Okay, well the attitude thing is  
2 a little beyond the scope of the Motion.

3 MRS. BENSCH: Right, but Mr. Pape keeps  
4 trying to imply that the Benschs caused this  
5 to fail because they did not make a loan to  
6 this corporation and I think that is the  
7 ambiguity in these documents that he has been  
8 trying for ten years to say and that is not  
9 correct. If so, the Benschs -- it would have  
10 been a loan and they would have gotten more  
11 stock for their contribution and Mrs.  
12 Passaloukas' testimony was that they wouldn't  
13 agree to give them more stock for a loan so -  
14 --  
15

16 COURT: With regard to the Motion, I  
17 mean I have got the lease here in front of  
18 me, in the default provision, it appears to  
19 me that rent is due on the 15<sup>th</sup> of each month.  
20 That the right to cure period is five days  
21 beyond that date; as specified in 10E because  
22 the default provision 10 "Upon the occurrence  
23 of any one or more of the following events  
24 and expiration of the applicable period  
25 herein provided for curing of such default" -

1 - so the cure period is in 10E -- five days  
2 on top of the 15 so it's the 20<sup>th</sup> of December  
3 for the December rent it was due by. I  
4 understand it is stipulated that the December  
5 rent was never paid ---

6 MR. PAPE: It was never paid.

7 COURT: Never paid. I understand and I  
8 will have to go back and see -- and another -  
9 - paragraph 15 as you all have pointed out  
10 "Notice required and submitted hereunder  
11 shall be delivered by hand to the following  
12 named persons, so that is one way to do it,  
13 or by U.S. certified or registered mail,  
14 return receipt, etc. or by express commercial  
15 courier at the following addresses." All  
16 right, so it would seem like the place you  
17 had meetings you could either hand something  
18 to someone no matter where they are or if you  
19 want to send them certified mail, etc. you  
20 must send them to the addresses here in,  
21 Paragraph 15. So we've got in evidence, you  
22 all refresh my memory, we've got the letter  
23 that was sent certified that is dated what  
24 day?  
25

MR. PAPE: It is dated December 28<sup>th</sup>.

1 COURT: That's what is dated on the --  
2 that's what's on the letter -- the body of  
3 the letter December 28. And what Exhibit is  
4 that?  
5

6 MR. PAPE: It is Exhibit 8.

7 MRS. BENSCH: It says, yeah --

8 COURT: Exhibit 8 -- that is December  
9 28<sup>th</sup>. So it certainly, at least that  
10 particular letter wasn't mailed before  
11 December 28<sup>th</sup>, is that correct?  
12

13 MR. PAPE: Well, we don't know when it  
14 was mailed.

15 COURT: And the locks were changed what  
16 date?

17 MRS. BENSCH: On the 9<sup>th</sup>.

18 MR. PAPE: On the 9<sup>th</sup>.

19 MRS. BENSCH: Because they didn't return  
20 the keys.  
21

22 COURT: And the card itself -- the green  
23 card states 12/31?

24 MRS. BENSCH: No, that's the Article  
25 Number.

1 MR. PAPE: It looks like a date, Your  
Honor.

2 MRS. BENSCH: I know, Your Honor, but  
3 believe me I have been through that in the  
4 other trial. One thing on a Post Office Box  
5 that wasn't changed and the Court literally  
6 ruled that what it says it says, you cannot  
7 assume you cannot interpret --

8 MR. PAPE: Your Honor, --

9 COURT: Well 12/31/99 isn't that ten  
10 days?  
11

12 MR. PAPE: No.

13 MRS. BENSCH: Yeah, it would be, but I  
14 am just saying I just want to --

15 MR. PAPE: No, the 10<sup>th</sup> day of January is  
16 the 10<sup>th</sup> day.  
17

18 COURT: Let's see -- terminate not less  
19 than ten days prior to written notice to the  
20 Tenant.

21 MR. BENSCH: But they were hand -- it  
22 was hand delivered also Judge.  
23

24 MR. PAPE: Well let's --

25 COURT: You haven't testified yet so we  
can certainly deal with this later, but -- I

1 will continue to take this under advisement  
2 along with the equipment valuation issue.

3 MRS. BENSCH: Okay.

4 COURT: The old lawyer -- I will see  
5 what we can figure out. All right, why don't  
6 we do this then. Who's your first witness.

7 MRS. BENSCH: The accountant, Mr.  
8 Fisher.

9 COURT: What time is he coming?

10 MRS. BENSCH: He's been here since  
11 11:30.

12 COURT: How long is he going to take?

13 MRS. BENSCH: Well, I guess Mr. Pape  
14 will want to re-cross him, right?

15 COURT: Well I don't want to wait too  
16 much longer, but I think we will probably end  
17 up eating lunch at 2:00.

18 MRS. BENSCH: Yeah, let's eat. Can we  
19 eat lunch now?

20 COURT: Yeah, why don't we -- if  
21 possible can we be back by 1:10?

22 MRS. BENSCH: Okay.

23 GIL FISHER, called as a witness, after  
24 being duly sworn, testified as follows:  
25

BY MRS. BENSCH:

1 Q. Mr. Fisher, what was your position for a corporation  
2 known as Zorbas back in 1999?

3 A. I was hired as an independent bookkeeper.  
4

5 COURT: If you could for the Court state  
6 your name, address, spell it?

7 MRS. BENSCH: Sorry? Oh, yes.

8 BY MRS. BENSCH:

9 Q. Please state your name.

10 A. Name is William G. Fisher.

11 MR. PAPE: Your address?

12 A. My address is 27 Doctor Mellichamp Drive, Suite 100,  
13 Bluffton, South Carolina and I am out of breath -- 29910.

14 Q. You should have parked closer. Mr. Fisher, how did you  
15 receive accounting information about Zorbas Corporation?

16 A. Well Bill, the manager or president kept all the source  
17 data. He kept the checkbooks and the payroll stubs and  
18 everything and then at the end of the month or bi-monthly if  
19 I would come by to check on things, he would give me the  
20 source data that I requested. Canceled checks, invoices,  
21 everything.  
22

23 Q. Who was John Nicoli?  
24  
25

1 A. These Greek names are difficult for me to remember. I  
2 believe he was a chef. I didn't have much contact with the  
3 employees. I dealt directly with Bill.

4 Q. And do you remember who Nick Eliferio was?

5 A. I believe he was a manager. I remember the manager  
6 clearly, but remembering his name is not easy for me.

7 Q. Why do you think he was the manager?

8 MR. PAPE: Object, Your Honor. She is  
9 asking him to speculate.

10 COURT: Well, I will allow it because he  
11 may have seen something that said manager on  
12 it. I think he missed the question.

13 A. Could you repeat the question?

14 Q. What gave you the impression or why did you believe Mr.  
15 Eliferio to be the manager of Zorbas?

16 A. Well, he was the service manager obviously by the  
17 functions that he performed as I saw them when I was there.  
18 He managed the tables when he arrived at 4:00. Bill had  
19 done that. That's what I saw, but he was a service manager  
20 on the floor is what I saw. That's all I said.

21 Q. I am going to give you a document, Your Honor, this is  
22 what we have been talking about the payroll item detail.

23 COURT: Do you have that marked as --  
24  
25

1 MRS. BENSCH: And have that marked as  
Exhibit 28 I guess.

2 COURT: Well, Plaintiffs have 28.

3 MRS. BENSCH: Oh, I am sorry, we  
4 wouldn't do that would we?  
5

6 JOANNE: You have 13 so it would be 14.

7 MRS. BENSCH: This is Defendants'  
8 Exhibit 14.

9 (WHEREUPON, DEFENDANT'S  
10 EXHIBIT NUMBER 14 WAS  
11 MARKED AND ENTERED INTO  
12 EVIDENCE.)  
13

14 BY MRS. BENSCH:

15 Q. Would you take a look at that document, Mr. Fisher, and  
16 is there anything on there -- it's a payroll ledger. Let me  
17 ask you, what is that?

18 A. It is a summary -- it is a detailed item summary of the  
19 payroll. Not the accounting itself, but the paychecks.

20 Q. Is there a John, I mean a Nick Eliferio listed anywhere  
21 with any sort of a total, the amount that was paid to him?  
22

23 MR. PAPE: Your Honor, I object, they  
24 need to do something to authenticate the  
25 document.

1 COURT: If you don't mind asking him  
2 questions or at least to Mr. Pape's  
3 satisfaction, where did you get that.

4 BY MRS. BENSCH:

5 Q. Who prepared that document?

6 A. This came from the Quick Books system that did the  
7 bookkeeping for Zorbas.

8 Q. And where was that information given -- how did you  
9 obtain that information?

10 A. Well each bi-weekly or monthly Bill would give me the  
11 amounts to pay the employees. Either they were on salary or  
12 they were working by the hour and they had tips and he would  
13 give me that information and then I would prepare the  
14 payroll check with the tax deductions and this summary is  
15 just a summary of the checks, not the deductions themselves.

17 Q. Were you on that account as a signee?

18 A. No.

19 Q. Were the Benschs on that account as a signee?

20 A. Not to my knowledge.

21  
22 MR. PAPE: Your Honor, can I have a  
23 moment to establish some foundation for this  
24 document? I mean I may --

25 COURT: No, go ahead.

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MRS. BENSCH: I apologize, we just became aware there were these other accounts. After ten years nobody mentioned it before.

BY MR. PAPE:

Q. Mr. Fisher, where did this particular document come from?

A. It came from the Quick Books bookkeeping system that was used to do the bookkeeping for Zorbas.

Q. And was this document prepared by you?

A. You just push print, yeah.

Q. So it was prepared by you?

A. It was really prepared by Quick Books, but I printed it yes. I think it is very --

Q. And these are based on entries that you prepared in the ordinary course of business?

A. That's just a list of the payroll checks, yes, and the amount of the checks. It's not the checking account itself, it's just the payroll summary.

Q. You weren't provided this document from any other source, but you prepared it?

A. Correct. There was no outside service.

MR. PAPE: Thank you, Your Honor.

BY MRS. BENSCH:

1 Q. So do you see any total on there for an employee called  
Mr. Eligerio?

2 A. Well, I don't think you turn to this for totals. This  
3 is again just a summary of the net checks or the gross  
4 checks. I would have to check to see which. There are  
5 other summaries that you can have that will show payroll  
6 with deductions.  
7

8 Q. Okay, Your Honor, I want to submit some information  
9 that we requested Mr. Fisher to submit. Mr. Fisher did you  
10 ever -- did Mr. Pape ever ask you to furnish him any  
11 information for this corporation?  
12

13 A. Like what?

14 Q. I mean for summation of balances or expenses or any  
15 information regarding the accounting of this corporation?

16 A. No, he was --

17 MR. PAPE: Your Honor, I object to the  
18 relevance.

19 MRS. BENSCH: Did you ever give Mr. --

20 COURT: What was the -- what's the  
21 relevance of whether or not Mr. Pape  
22 requested it.  
23

24 MRS. BENSCH: I guess my next question  
25 is a better one though.

BY MRS. BENSCH:

1 Q. Did you ever give Mr. Pape any documentation whatsoever  
2 in regards to the finances of this corporation?

3 MR. PAPE: I object to the relevance. I  
4 am not a party to this lawsuit.

5 MRS. BENSCH: Well, we are trying to  
6 find out where the documents have been.

7 COURT: Are you talking about the  
8 originals? He can answer, go ahead.

9 A. It was understood between both partners that --

10 MR. PAPE: I object. No foundation.

11 COURT: All right. Avoid what somebody  
12 else may have understood. If you could just  
13 directly answer the questions.

14  
15 A. Both partners received a --

16 MR. PAPE: I object. Still no  
17 foundation.

18 MRS. BENSCH: Okay, Your Honor, I am  
19 asking him to testify so that we can get to  
20 the bottom of where the monies went and where  
21 the assets ended up and he is only person  
22 that had the records. He is the person who  
23 did the bookkeeping.

24  
25 COURT: All right, well he can answer a  
direct question. You may ask him questions

1 designed to lead to direct answers about  
2 exactly what he did or what he did not do.  
3 His assumptions on what others did or did not  
4 do are not relevant.

5 MRS. BENSCH: Okay.

6 BY MRS. BENSCH:

7 Q. Did you ever furnish Mr. Pape any financial records for  
8 the corporation?

9 A. Yes.

10 MR. PAPE: Your Honor, my objection is  
11 to the relevance. What he furnished me is  
12 irrelevant to this case.

13 COURT: Well, I will allow it.

14 BY MRS. BENSCH:

15 Q. What did you furnish him?

16 A. A compilation each month was given to both partners.

17 MR. PAPE: Well, Your Honor, that is not  
18 even responsive to the question.

19 COURT: The question had to do with Mr.  
20 Pape. What was the -- you can specifically  
21 go through who got what if he knows.

22 Q. Was there ever an occasion -- did you ever go to Mr.  
23 Pape's office?  
24  
25

1 A. Only at the end when I offered accounting services and  
2 I gave him --

3 MR. PAPE: Your Honor, they are  
4 attempting to make a witness out of me and I  
5 just think that's improper. I don't know  
6 where you are going with it, but --

7 MRS. BENSCH: No, I am not. I am just  
8 trying to say where the records are to figure  
9 out why we are where we are and who had what  
10 and who withheld what and who produced what.

11 MR. PAPE: Well, I think it is  
12 irrelevant, Your Honor. We've already got  
13 all the accounting records that we had that  
14 have already been identified. I mean the  
15 checkbook records which are identified as  
16 Plaintiffs' Exhibit No. 21. My client  
17 testified earlier today that he never saw any  
18 -- that he's looked for and never saw any  
19 payroll records. Now, we do have this  
20 Exhibit, Defendants' No. 14 which is some  
21 sort of list of payroll checks. I don't know  
22 what the relevance of --

23 MRS. BENSCH: The relevance is, Your  
24 Honor, this bookkeeper provided everything  
25

1 for this trial as requested by Mr. Pape in  
2 the past?

3 MR. PAPE: Your Honor, --

4 MRS. BENSCH: Did Mr. Pape ever request  
5 him --

6 MR. PAPE: She is making a witness out  
7 of me. In the normal course of discovery a  
8 lawyer sends requests to other parties. I  
9 have never sent any third-party request to  
10 him that I recall. It would have all been  
11 information directed at the Bensch's' lawyers.

12 COURT: I guess part of my problem is  
13 this. For ten years this has been going on.  
14 It has been to court, it's been to the  
15 Appeals Court, it's been back. We now learn  
16 ten years down the road that -- well I am  
17 learning this the first time, but you all are  
18 suggesting for the first time in ten years  
19 that you have learned that there was a second  
20 account and the second account certainly is  
21 important I would think to determining the  
22 value of what the business was. And so what  
23 I was told earlier or at least I understand  
24 the testimony was, nobody knows what happened  
25

1 to that account after it closed and so I am  
2 guessing this witness is going to say --

3 MR. PAPE: Well, I don't mind him and I  
4 would like for him to tell us what balance in  
5 the payroll account was, for example on  
6 December 31, 1999. I mean that is an  
7 important question the expert accountant that  
8 we had testify yesterday said the only reason  
9 we would want an accounting of the payroll  
10 records would be to know if there were any  
11 funds in that account at the end of the day  
12 and I assume Mr. Fisher may have some records  
13 --  
14

15 COURT: I agree with you. That's all  
16 relevant and Mr. Fisher if you can answer all  
17 those questions for us --

18 MRS. BENSCH: All right, let's get to  
19 those questions first. I am sorry, Your  
20 Honor.  
21

22 BY MRS. BENSCH:

23 Q. Mr. Fisher, did Mr. Passaloukas give you an inventory  
24 for Zorbas any time in the month of December or the end of  
25 the year?

A. No.

1 Q. Did you ask him?

2 A. That would have been a part of the year-end accounting.

3 MR. PAPE: I object. He is speculating  
4 a hypothetical -- would have. I mean he  
5 either did or didn't do nothing.

6 MRS. BENSCH: Okay.

7 BY MRS. BENSCH:

8 Q. Did he give you the accounts payable to do a report for  
9 the month of December?

10 A. No.

11 Q. You didn't get records for the accounts payable --

12 MR. PAPE: Object. It is leading.

13 A. No.

14 Q. For December?

15 COURT: Try to ask -- not lead the  
16 question.

17 BY MRS. BENSCH:

18 Q. Did Mr. Passaloukas receive a salary from Zorbas?

19 A. I don't believe his name appeared -- no, on the  
20 payroll.

21 Q. Did Mr. Passaloukas receive -- reimburse himself for  
22 contributions or loans?

23 A. Yes.

24 MR. PAPE: I am sorry, I --

1 I mean there has to be some foundation. I  
2 mean --

3 MRS. BENSCH: Well, I think his  
4 contribution report.

5 MR. PAPE: Well, we already have that  
6 and that's stipulated in the record.

7 COURT: As long as it is stipulated that  
8 it's all there, correct?

9 MRS. BENSCH: What we are trying to  
10 establish is --

11 COURT: I think it was just identified.  
12 I don't think it was entered as an Exhibit.  
13 You are talking about the new -- the document  
14 that no one has had for the last ten years?  
15

16 MR. PAPE: No, this document here. I  
17 think she is talking about Plaintiffs'  
18 Exhibit No. 2, the statement of the  
19 contributions.  
20

21 COURT: Well let's go back because I --  
22 Defendants' Exhibit was it number 8?

23 MR. PAPE: Number 14 is the one that is  
24 on the table now Judge.

25 COURT: All right, Number 14. Okay,  
Number 14 is identified -- was put in for

1 identification. Is that -- before we go too  
2 much further, you have seen that Mr. Pape?

3 MR. PAPE: Yes.

4 COURT: Is that defense exhibit 14 as an  
5 Exhibit? Are you saying you stipulate to the  
6 contents of that?

7 MR. PAPE: I will, but this has nothing to  
8 do with the contributions. This is only  
9 payroll records, payments and check numbers  
10 and dates and amounts paid to employees from  
11 the payroll account.

12 COURT: I guess what I am saying is that  
13 is Defendants 14?

14 MR. PAPE: Yes, and I don't have any  
15 objection to it.

16 MRS. BENSCH: Your Honor, I would like to  
17 submit the register for the payroll account.

18 MR. PAPE: Well you know it has got to be  
19 authenticated by somebody.

20 BY MRS. BENSCH:

21 Q. Mr. Fisher, did you prepare that document?

22 COURT: Mark that as Defendant's 15 for  
23 identification.

24 (WHEREUPON, DEFENDANTS'  
25

EXHIBIT NUMBER 15 WAS  
MARKED FOR  
IDENTIFICATION.)

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Q. Can you identify this document?

A. Yes, I can.

Q. What is that document?

A. This is the check register of the payroll account of Zorbas, Inc.

Q. And I would like to submit this register at Palmetto State Bank for Zorbas.

MR. PAPE: Judge, I don't have any objection because I think it is ultimately answered in this agreement you brought up yesterday but what's the payroll account worth?

COURT: I think that was one of the things the Appeals Court tasked the next trial judge with coming up with. But anyway --

MRS. BENSCH: Here's another Palmetto State cash for Zorbas. I would like to submit, Your Honor.

COURT: If Mr. Pape agrees to mark it as 16 without objection.

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MR. PAPE: Go ahead and mark it as  
Defendants' Exhibit 16 and have it  
identified.

(WHEREUPON, DEFENDANTS'  
EXHIBIT NUMBE 16 WAS  
MARKED FOR  
IDENTIFICATION.)

BY MRS. BENSCH:

Q. And this is an employee earnings summary?

COURT: Hold on one second.

MR. PAPE: Go ahead and mark it.

COURT: All right, so we have 16 without  
objection, is that correct, Mr. Pape?

MR. PAPE: No objection, Judge. Well he  
has to identify it. I just want to be sure he  
can authenticate it.

BY MRS. BENSCH:

Q. Who prepared that document?

A. Who prepared it?

Q. Yes.

A. I did.

Q. Okay, where did you get that information from?

A. It was prepared from the check stubs and bank  
statements that I had of Zorbas, Inc.

1 Q. Who gave you that information?

2 A. Well, Bill had all the source documents.

3 Q. Did you ever get any of that from the Benschs?

4 A. No. Bill had all that in the restaurant.

5 Q. Okay. And this is 20 -- Mr. Fisher who prepared that  
6 document?

7 A. I did.

8 Q. And where did you receive that information from?

9 A. Well again it came -- the source -- the information for  
10 the payroll came from Bill. He was the one who knew who to  
11 pay and what to pay them. This is just a summary.

12 Q. Okay, on that document do you see a summary for  
13 earnings on a Mr. Eliferio?  
14

15 MR. PAPE: Your Honor, I don't know what  
16 the relevance of that is.

17 MRS. BENSCH: Well part of the charges  
18 are that we owe a salary for a manager to Mr.  
19 Passaloukas and I am trying to establish Mr.  
20 Passaloukas hired a salary [sic] and  
21 therefore forfeited his salary by Zorbas. I  
22 mean hired a manager, I think I said --  
23

24 MR. PAPE: Your Honor --

25 COURT: Go ahead, Mr. Pape.

1 MR. PAPE: I just object to the --  
2 there's nothing in the case that suggests  
3 that Mr. Passaloukas wasn't entitled to  
4 receive a salary. I mean the shareholders'  
5 agreement says that he is to be paid \$3,000 a  
6 month and there's nothing in the record that  
7 says that he wasn't doing the job that he was  
8 hired to do.

9 MRS. BENSCH: Well that's because we  
10 haven't had these records before, Your Honor.

11 COURT: Well I think I agree with Mr.  
12 Pape on that point that if you look at your  
13 employee shareholders, Section 4.2 of the  
14 Shareholders' Management Agreement, it says  
15 his employee is a general manager, duties,  
16 responsibilities, obligations normally or  
17 customarily associate with such position. I  
18 think somewhere else I had seen that he was  
19 to hire people to operate the business to  
20 maximize profits, etc. so the fact that he  
21 had hired other people, if it was a bad  
22 business decision, I don't know but I don't  
23 know that that goes to Section 4.2 if that's  
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what you are saying is relevant to this point.

MRS. BENSCH: Okay.

BY MRS. BENSCH:

Q. What was the total amount paid to Mr. Eliferio?

MR. PAPE: Subject to same objection.

COURT: Sustained.

BY MRS. BENSCH:

Q. Did -- let me look at that document just a minute, I am sorry. This document states that we're calling two people the chef at this restaurant. It says one chef received \$2,300 and the other one received \$9,100.00.

MR. PAPE: Your Honor, again she's reading from a document. I think the document speaks for itself. I admit to its authenticity and if she has got an argument later on that she wants to make based upon these records, I don't have a problem with that, but --

BY MRS. BENSCH:

Q. Was there any benefit to Mr. -- Mr. Fisher, was there any benefit to Mr. Passaloukas or -- did you ever tell Mr. Passaloukas to reimburse himself out of that account -- out of the --

1 A. Absolutely not.

2 Q. You didn't tell him to pay himself loan reimbursements?

3 A. I had nothing to do with his capital account.

4 Q. Would there be any advantage to a person reimbursing  
5 himself as opposed to paying himself a salary?

6 A. There would be a tax advantage -- shall I go on?

7 Q. Yes.

8 A. He would be entitled to be repaid for any loans that he  
9 made the corporation tax free. If he took a salary, that  
10 would be taxable.

11 Q. In December of 1999 there was a shareholders meeting  
12 held for Zorbas Corporation. Were you present at that  
13 meeting?  
14

15 A. Yes, I was.

16 Q. Can you tell me the purpose of the meeting? Do you  
17 remember any details after ten years?

18 A. I am going to have to be able to talk to answer that.

19 Q. Okay, please do.

20 A. The purpose was that --  
21

22 MR. PAPE: Your Honor, he's got to  
23 establish a foundation for his knowledge. I  
24 mean I don't know if he is assuming things or  
25 whether he got information directly from the  
Benschs or --

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MRS. BENSCH: I only want him to testify  
as to what he heard.

COURT: I am understanding he was  
present at the meeting and the question again  
I am sorry?

MRS. BENSCH: What was the purpose --  
what went on at that meeting. I just want  
him to testify.

MR. PAPE: Well he can describe what he  
saw and heard.

BY MRS. BENSCH:

Q. Who was at that meeting?

A. Bill was there, Susie was there. I don't recall if  
Frank Pape was there. I know that Gary was there, Cynthia  
was there. I believe a family member of the two of yours  
was there.

MR. PAPE: Your Honor, she is coaching  
the witness.

A. I didn't listen to him. There was an attorney there and  
there was a tape recorder on the table.

Q. Was Mr. Hale there?

A. I believe Mr. Hale was the lawyer that I mentioned.

Q. Was Tony Griffis there?

A. I don't recall that name. Was he an attorney?

1 Q. There was an attorney there, I don't remember how many.

2 A. Do you remember any of the issues discussed -- well  
3 first of all did the discussion of a mailbox key --

4 MR. PAPE: Object to the leading  
5 question.

6 BY MRS. BENSCH:

7 Q. Did the Benschs ask for a mailbox key?

8 MR. PAPE: Again, she is leading the  
9 witness.

10 COURT: I will allow it.

11 MR. PAPE: Some of it's harmless, Judge,  
12 but I still don't know when she is going to  
13 move into --

14 COURT: I understand.

15 A. Yes and more. Yes, they did.

16 Q. Okay, did the Benschs ask to be placed as signors on  
17 the bank account?  
18

19 MR. PAPE: Objection to the leading  
20 questions. I mean if she is going to go  
21 through a whole list of --  
22

23 BY MRS. BENSCH:

24 Q. Well then, would you just tell me what you heard at the  
25 meeting?

A. It was about Gary putting more money into the business.

1 Q. For what purpose?

2 A. Because the business was not cash flowing. It was  
3 insolvent.

4 Q. And did Mr. Bensch offer to put more money in?

5 A. He offered \$50,000.00.

6 Q. And was there a vote taken on that by the shareholders?

7 A. Not that I recall. I believe it was just rejected.

8 Q. Rejected by who?

9 A. The other side.

10 Q. The Passaloukases.

11 COURT: You have to make an audible, yes  
12 or no.

13 A. I am sorry?

14 COURT: You said uh huh. Ms. McDonald  
15 has to take everything down.

16 A. Oh, I am sorry, Ms. McDonald, I am sorry. I forgot you  
17 were over there.

18 Q. So --

19 COURT: You probably ought to go back to  
20 the question so he can answer.

21 BY MRS. BENSCH:

22 Q. Okay, so you are saying that the Passaloukases -- who  
23 rejected the offer?

24 MR. PAPE: Already asked and answered.

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COURT: Right but he didn't answer audibly.

MR. PAPE: Go ahead, sorry.

A. Bill rejected the offer.

Q. Bill and Susie Passaloukas or just Bill?

A. And his attorney.

Q. Do you recall their objection?

A. I know what it was.

Q. What?

MR. PAPE: There's got to be some sort of a foundation. I don't know what his source of his knowledge is.

COURT: Let me ask you this, are you testifying from your memory of attending the meeting?

WITNESS: Yes, sir.

COURT: Go ahead.

BY MRS. BENSCH:

Q. If -- at the shareholders meeting when the Passaloukases rejected the cash input from the -- a loan from the Benschs, did the Benschs ask for stock?

A. Yes.

Q. Did the Passaloukases reject or accept that?

A. Rejected.

1 Q. And when you were trying -- did you prepare final  
2 accounting records for Zorbas, Inc.?

3 A. No.

4 Q. Why?

5 A. I offered accounting services but they were rejected by  
6 Frank Pape.

7 MR. PAPE: Your Honor, he is making me a  
8 witness in this case. I honestly don't have  
9 any memory after ten years. He could be  
10 confusing me with one of the many other  
11 lawyers who have been involved in this case.

12 COURT: Well the fact is whether or not  
13 he offered -- I don't know if that has any  
14 relevance in the case anyway. I guess the  
15 final accounting services are what I am  
16 supposed to do at this point, so whether or  
17 not this witness did or didn't do it, you  
18 know I don't know if it makes any difference.  
19 So, --  
20

21 MR. PAPE: And of course I think it is  
22 irrelevant that any conversations he might  
23 have had with me, because I have only been  
24 involved in this -- with the Passaloukases  
25 after the lawsuit was filed. I was never

1 involved with them before the lawsuit was  
2 filed.

3 MR. PASSALOUKAS: I didn't know him  
4 before.

5 COURT: I don't think it has any  
6 relevance, but you can move on.

7 BY MRS. BENSCH:

8 Q. Mr. Fisher, how many accounts did Zorbas have?

9 A. Three.

10 Q. What were those three accounts?

11 A. They had a general operating account. They had a  
12 payroll account and they had a petty cash account.

13 Q. Okay, do you have any records of the payroll account?

14 A. Yes, I just gave you the check register.

15 Q. Okay, and what was the balance in that account on  
16 December 31<sup>st</sup>?

17 A. I could not determine that because Bill refused to turn  
18 over the bank statement for 12/31.

19 Q. But was the actual final number that you have for  
20 payroll account?

21 A. The bank statement is just a guess.

22 Q. Okay, were there -- where were the checks for that  
23 account? Well, first of all, how many sets of checks were  
24 on that payroll account?  
25

1 A. We had two sets of checks. There was one set of checks  
2 with the checkbook that Bill had and then there were  
3 preprinted checks to be used given -- not preprinted, blank  
4 checks to be given to employees so they would have a printed  
5 check. Bill signed both and Bill could write his own check  
6 to make up deposits but I needed a set of blank checks to  
7 run into the computer to print out all the payroll  
8 information to give the employee a perfect copy.

9 Q. So Mr. Passaloukas provided you bank statements for  
10 that payroll account?

11 A. Yes.

12 Q. Did the Benschs ever provide you a bank statement for  
13 that payroll account?

14 A. No.

15 Q. What about the petty cash account Mr. Fisher is there -  
16 - what were the funds in that petty cash account at  
17 December -- January 9<sup>th</sup>, 2000?

18 A. I don't know anything past 12/31.

19 Q. Okay, what do your records show for 12/31, do you have  
20 any?

21 A. Look in the file.

22 Q. Can you look at -- please get the report whatever you  
23 have.

24 A. Okay, would you repeat the question?  
25

1 Q. Yes, what was the balance of the payroll account  
2 December 31<sup>st</sup>, 1999?

3 A. It appears that it was not reconciled. Let me look one  
4 minute. Can I look back to November to see if it is the  
5 same number?

6 Q. Certainly.

7 A. It was not reconciled like the payroll account, so we  
8 don't know.

9 Q. Okay, but what was the last figure that you had?

10 A. Seven hundred dollars.

11 Q. Seven hundred dollars. Where was that money?

12 A. It disappeared when the restaurant closed.

13 Q. Disappeared when the restaurant closed.

14 A. If there was anything there. I am not saying there  
15 was. I didn't reconcile it.

16 Q. Was it cash?

17 A. All cash, it was a petty cash account.

18  
19 MR. PAPE: I am sorry, I thought -- I am  
20 getting confused. I thought we were talking  
21 about the payroll account going into this.  
22 You're talking about his petty cash account?  
23 And I apologize for the interruption, Judge.

24 MRS. BENSCH: Well I would like to --  
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COURT: She is talking about the petty

cash account.

BY MRS. BENSCH:

Q. So this is just -- this is not something that there's checks on? This is just cash?

A. Yea, every business -- especially a restaurant will have a little petty cash fund. You write a check for \$500 from the operating account, you cash it, you put the cash in a jar or somewhere in the office and if somebody needs \$3.00 for postage stamps you give them the \$3.00. It is quite common in restaurants.

Q. What was the balance in the general account December 31? And you do have that?

A. Minus \$1400.00.

Q. Minus? And what was the date of that?

A. 12/31/99.

Q. That was on the general account?

A. Yes.

Q. That was the month -- was there a rent check paid in December to Zorbas?

A. I would have to look at the check register to determine that.

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MR. PAPE: Your Honor, we have already stipulated that the December rent wasn't paid so I mean I --

COURT: The December -- the November rent was paid at some point in December, but the December rent was never paid but your question was, was the rent paid in December, so the November rent was paid in December.

MRS. BENSCH: But the December rent was never paid, okay.

COURT: I just want to make sure I got the facts right.

BY MRS. BENSCH:

Q. Do you have any records indicating any liabilities owed by Zorbas by December 31<sup>st</sup>?

A. Just taxes is all I knew of.

Q. Taxes?

MR. PAPE: We've got to establish a foundation, Judge.

BY MRS. BENSCH:

Q. How would you determine that taxes were due? Were you -- you were the bookkeeper for the corporation?

A. These would have only been payroll taxes, is all I knew because my offer to do income taxes was rejected.

1 Q. Okay. Did you -- did the Benschs ask you to do any  
2 accounting for this -- to close out this corporation?

3 A. No, they did not.

4 Q. Did -- let's see, so the only liabilities you know of -  
5 - oh, that's right, you said you didn't get accounts payable  
6 for December so you wouldn't know?

7 A. The December work was not finished.

8 Q. Was never finished, okay. Were you paid your final fee  
9 from Zorbas, do you remember?

10 MR. PAPE: Object, Your Honor, on  
11 relevance.

12 COURT: Well, it would an expense of  
13 Zorbas.

14 MR. PAPE: Well, the statute of  
15 limitations have long since passed.

16 COURT: I will allow it, go ahead.

17 A. I am sorry, will you repeat the question?

18 Q. Did you have a balance due from Zorbas? Were you paid  
19 your final -- And were you paid for December?  
20

21 A. Not by Zorbas.

22 Q. Who were you paid by?

23 A. Cynthia Bensch paid me.

24 Q. Okay, do you know that amount?  
25

1 A. As I recall it was \$300.00 but I don't -- I would have  
2 to check.

3 Q. The Benschs contributed roughly \$70,000 per the  
4 contribution record and the Passaloukas contributed --

5 MR. PAPE: Object, Your Honor, she is  
6 mischaracterizing the evidence that's already  
7 in the record.

8 COURT: You can ask if he has the detail  
9 and what those numbers are.

10 MRS. BENSCH: Okay.

11 BY MRS. BENSCH:

12 Q. Do you have numbers for the Bensch's and the  
13 Passaloukas' contributions?  
14

15 A. Yes, I do.

16 Q. And what are the Passaloukas' contributions?

17 MR. PAPE: Your Honor, we have already  
18 stipulated to the contributions in  
19 Plaintiffs' Exhibit No. 2 and Plaintiffs'  
20 Exhibit No. --  
21

22 MRS. BENSCH: I am not trying to change  
23 them, I am trying just clarify them in regard  
24 to the Shareholders' Agreement.

25 COURT: I will allow it, go ahead.

BY MRS. BENSCH:

1 Q. What was the Passaloukas' contributions before  
reimbursements?

2 A. Before reimbursements --

3 Q. Well if all you have is -- Yea, if it's all you have is  
4 after --

5 A. I have a sum -- a total.

6 Q. Okay.

7 A. \$59,319 reduced \$1,000 for common stock.

8 Q. Okay, and what about the Bensch's?

9  
10 MR. PAPE: Your Honor, I don't  
11 understand the foundation. He's not reading  
12 from his own memory, he's now referring to  
13 some sort of document that hasn't been  
14 identified and I don't know what source of  
15 his information is. He's offering some sort  
16 of expert opinion about what the  
17 contributions are and his numbers are varying  
18 from the stipulation.  
19

20 COURT: Tell me what the stipulation is  
21 again.

22 MR. PAPE: The stipulation is \$61,695.09  
23 plus \$1300.00 I believe --  
24

25 COURT: For which one?

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MR. PAPE: That's for the Benschs. I have got their total added up here in Plaintiffs' Exhibit No. 27.

COURT: This was a stipulation in the prior file, is that correct?

MR. PAPE: Yes, sir.

COURT: He has stipulated at some point?

MR. PAPE: No we have stipulated and that amount -- the total amount -- let me -- the Passaloukas' contributions are --

MRS. BENSCH: Your Honor, if it would help I am not trying to change the stipulation of the contributions, I am simply trying to get to another point and this helps me get there.

COURT: Okay, let me just get this so I will have these numbers.

MR. PAPE: The Passaloukases contributed \$68,875.16 and --

COURT: Now those sound different than the previously stipulated numbers I saw somewhere, but that's all right, I will figure it out. All right, but you can --

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I've lost track of what the question was --  
what were the contributions?

MRS. BENSCH: Right.

COURT: All right, if you would, lay  
some foundation for where he came up with the  
numbers he was about to give.

BY MRS. BENSCH:

Q. Where did you -- how did you --

A. There's a list in Bill's handwriting and Bill and I  
have a list from the Benschs in their handwriting.

Q. So you were only provided -- given -- you are giving  
the Court this information from the shareholders giving it  
to you?

A. Yes.

Q. Okay. Did you or any third party have any input into  
any of this of these contributions?

A. Nothing to do with it whatsoever. I wasn't even  
present when this occurred. Let me clarify though, there's  
money going in and out during the course of business, which  
is included in my balance on 12/31. It's not just their  
list, there are transactions that occurred after the  
contribution itself.

Q. Right. The shareholders each made capital  
contributions to this corporation. At the shareholders'

1 meeting as an accountant, the Benschs were asked to loan  
2 more money to the corporation. In standard business  
3 practices when someone loans a corporation more money, is  
4 that loan -- how was that loan acknowledged? Is it more  
5 stock or how do you loan more money and get credit for it?

6 MR. PAPE: Object, Your Honor. She is  
7 asking for his opinion on the general  
8 business practices of some unidentified  
9 corporation with some unidentified set of  
10 covenants and agreements and it just has  
11 nothing to do with this. Second thing is  
12 that he's not been qualified as an expert  
13 witness. He has been qualified as a book --  
14 I mean he's not even been qualified - He has  
15 identified himself as the bookkeeper and he  
16 was never listed in answers to any of the  
17 interrogatories as an expert witness. He is  
18 a fact witness.

19  
20 MRS. BENSCH: Mr. --

21  
22 COURT: All right, hold on a minute.

23 Sustained.

24 BY MRS. BENSCH:

25 Q. Mr. Fisher, did you ever work for Cherry, Beckert and  
Holland?

1 A. Yes, ma'am I did, two times.

2 Q. Where is the exhibit that we just had from Mr. Warko?

3 I think I have a copy of that.

4 MR. PAPE: It's 27, right here.

5 BY MRS. BENSCH:

6 Q. Mr. Fisher, would you take a look at that document?

7 This is from an accountant with Cherry, Beckert and Holland.

8 It was prepared -- do you know Mr. Warko?

9 A. Very well.

10 Q. The top of this document states that in accordance with

11 Mr. Pape's request he summarized the financial aspects of

12 the assumptions made relating to the course of events that

13 transpired between the Passasloukases and Mr. Bensch and

14 they are summarized as follows. As a certified public

15 accountant he acknowledged that he produced this document

16 giving the ethics and standards of CPA standards and this is

17 how he derived at these liabilities, etc. In looking at

18 this information, does this concur with the facts on

19 12/31/99 for Zorbas?

20 MR. PAPE: Your Honor, she is asking him

21 for an opinion. There's no factual

22 foundation been established. He has not even

23 said that he is familiar with the facts.

24 This document that Mr. Warko has prepared for

1 the corporation is based upon facts that have  
2 been introduced in this case and there's no  
3 knowledge -- there's no evidence in this case  
4 that Mr. Fisher has any knowledge as to what  
5 facts were introduced in this case.

6 MRS. BENSCH: But Your Honor Mr. Fisher  
7 had all of the books, all the checks, all the  
8 records. This gentleman said he saw nothing  
9 and he prepared assets --

10 COURT: I agree, I will allow it, but --

11 MRS. BENSCH: So, I am just not even  
12 sure if this -- if this should be part of the  
13 record for the Court to consider --

14 COURT: Well it can be part of the  
15 record.

16 MRS. BENSCH: Yea, to be considered for  
17 any real valuation, right.

18 COURT: You may answer.

19 A. Would you repeat the question?

20 Q. Oh, I am sorry. Would you say that the liabilities for  
21 Zorbas on 12/31/99 are the same as this document states?  
22

23 MR. PAPE: Your Honor, again I object.  
24 There is no foundation. There's no evidence  
25 that he has ever prepared a report, no

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evidence that he's ever prepared -- in fact his testimony is that he didn't have all of the documents.

MRS. BENSCH: All right, I withdraw the question, Your Honor.

BY MRS. BENSCH:

Q. When was the last time you met with Mr. Passaloukas in regards to the Zorbas restaurant to get records or --

A. It was the day of the eviction or the day -- that day I believe, the day of the eviction I do believe.

Q. Will you tell the Court what happened on that day?

A. Yes. I went -- I had asked Bill previously for the payroll bank statement for 12/31 and I went back to ask a second time. I had no -- I was not aware that Bill had been evicted. I knocked on the front door of the restaurant and no one was there, so I walked around to the back alley and I saw Bill in the alley.

Q. And what was Bill doing in the alley?

A. Well, the first thing he said to me was I have been evicted.

Q. Oh, okay. Did you tell him that you needed --

MR. PAPE: I object to the leading question.

MRS. BENSCH: Oh, I am sorry.

BY MRS. BENSCH:

1 Q. Did you ask him any questions?

2 A. Yes.

3 Q. What did you ask him?

4 A. I asked him for the bank -- the normal source documents  
5 that I ask for every month in particular the payroll bank  
6 statement.

7 Q. And what did he say?

8 A. He said it was either in his truck, which he pointed  
9 to. I could see it was at the end of the alley and it was  
10 loaded with stuff or he said it was at his house and he  
11 would try to get it for me.

12 Q. So the payroll records were in his truck or at his  
13 house?

14 A. That's what he said.

15 Q. Did -- you said there were two separate sets of checks  
16 on that payroll account, one that you were given to print  
17 for employees?

18 A. Yes.

19 Q. And what was the other for?

20 A. That was for Bill to make deposits or withdrawals or  
21 transfers or do whatever he wanted to with it.

22 Q. Did you receive bank statements from that account?

1 A. No, not the statement itself, no. Not for December. I  
2 did for five months, but not for December. That's why I was  
3 at the restaurant looking for that stuff.

4 Q. In December of 1999, was Zorbas solvent or insolvent?

5 MR. PAPE: The question has been asked  
6 and answered.

7 COURT: I will allow it.

8 A. Insolvent.

9 Q. What were the balances on all of the accounts December  
10 31<sup>st</sup>, 1999?

11 A. The reconciled balance of Palmetto State Bank, the  
12 operating account, was minus \$1400.23. The reconciled  
13 balance of the payroll account according to this bank  
14 reconciliation, which I will be glad to give you a copy of,  
15 was minus Sixteen hundred dollars thirty-three, I am sorry,  
16 minus \$1,633.94.

17 Q. And what account was that?

18 A. The payroll account. This is unreconciled but I did  
19 try to do a reconciliation without the statement and I have  
20 a list of what I considered uncleared checks and uncleared  
21 deposits plus I had a copy of the November statement.

22 Q. Mr. Pape, I am going to ask the witness to look at this  
23 check on 12/21, check no. 1221.

24 COURT: Check dated 12/21 or --  
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MRS. BENSCH: Yes. I am sorry, check

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number 1221.

A. These are 1300s.

Q. 1321.

A. Okay. What's your question?

Q. And what is that check? Who is it made out to?

A. It is made out to Zorbas' payroll account apparently.

Q. And how much is it for?

A. \$1,000.00.

Q. And who is it signed by?

A. It's Bill's signature. It looks to be his signature.

Q. Would you look at check number 1217 -- let's see it's  
on 12/20, it's check number 1318?

A. This check ma'am?

Q. Uh huh.

A. What's your question?

Q. Who is that made out to?

A. Zorbas payroll account.

Q. And what's the amount?

A. \$1,000.00.

Q. And who is that check signed by or whose signature does  
it appear to be?

A. It appears to be Bill's signature.

Q. Would you look at this check on 12/02?

MR. PAPE: What's that check number?

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MRS. BENSCH: 1291.

A. Okay, what's your question?

Q. Who is that check made out to?

A. It's made out to Zorbas payroll account.

Q. How much is it for?

A. \$1,000.00.

Q. And who is it signed by?

A. It appears to be Bill Passaloukas, I can't pronounce those names, I am sorry. I apologize, it's very difficult.

Q. Would you look at this check on 12/15?

MR. PAPE: Is that the check number  
1215?

MRS. BENSCH: It's 1305, no I am sorry.

MR. PAPE: Is that the check number?

MRS. BENSCH: No, I am sorry. I can't  
read upside down either, can I? No, 1305 is  
the check number and the date is 12/15.

A. Okay, what's your question?

Q. Who is that check made out to, please?

A. Zorbas payroll.

Q. And how much is that for?

A. \$2300.00.

Q. And who is that signed by?

1 A. It appears to be Bill.

2 Q. Would you look at check number 1315 -- 1315 this check  
3 right here dated 12/17/99?

4 A. Okay, what's your question, ma'am?

5 Q. Who's that check made out to?

6 A. Bill Passaloukas.

7 Q. And how much is that for?

8 A. \$500.00.

9 Q. And who's that signed by?

10 A. It appears to be Bill Passaloukas.

11 MR. PAPE: Your Honor --

12 MRS. BENSCH: I am just about finished,  
13 Your Honor.

14 MR. PAPE: I was wondering about the  
15 relevance of all of this and how many of  
16 these checks because these are already in the  
17 record with Plaintiffs' Exhibit No. 2 and  
18 Plaintiffs' Exhibit No. 21.

19 MRS. BENSCH: It all has to do with the  
20 relevance of the good faith of the partners,  
21 Your Honor, of the shareholders to --

22 MR. PAPE: It's already in the record.

23 MRS. BENSCH: These payroll records are  
24 not.  
25

1 COURT: Well if it's a couple more, I  
will allow it.

2 MRS. BENSCH: I think this is -- I think  
3 there's this one and one more and we are  
4 done.

5 COURT: All right.

6  
7 BY MRS. BENSCH:

8 Q. This is - what check number is that? 1330.

9 A. 1330.

10 Q. And who is that check made out to?

11 A. Bill Passaloukas.

12 Q. And the date of that is?

13 A. Date on the check is 12/27 or 29, 1999.

14 Q. And what's the amount of that?

15 A. \$1,000.00.

16 Q. All right. And Mr. -- I don't think we can go here,  
17 but per your client's contributions he also on January 4<sup>th</sup>  
18 wrote a check for another thousand dollars to himself.

19  
20 MR. PAPE: Your Honor, she's giving him  
21 a document that I am guessing that he has  
22 never seen before and all of this information  
23 is already in the record.

24 COURT: What's the document?  
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MRS. BENSCH: This is Passaloukas' contributions, Your Honor. I am just trying to establish the amounts Mr. Passaloukas paid to himself in the payroll account for December.

MR. PAPE: Your Honor, those amounts are shown on Plaintiffs' Exhibit No. 2.

MRS. BENSCH: Okay.

COURT: Is there a total from this account?

MR. PAPE: Yes, sir.

MRS. BENSCH: Yes.

COURT: Linked directly to --

MR. PAPE: And each item, and the dates, check numbers and the amount.

MRS. BENSCH: Now --

COURT: Is that correct?

MRS. BENSCH: Yes, but not for the payroll account. We've just established that. That's never been --

COURT: Are you talking about the Passaloukas' contributions by date is Number 2?

MRS. BENSCH: Right.

1 COURT: All right, but what you are  
2 establishing is reimbursements to  
3 Passaloukas, okay. All right.

4 MRS. BENSCH: For the month of December  
5 only, just for December. Just -- when the  
6 bank balance is zero.

7 COURT: All right, but Exhibit 2 has all  
8 the way from September 1<sup>st</sup> to January 4<sup>th</sup>.

9 MRS. BENSCH: Yeah. My point is Your  
10 Honor, that again we can't pay the rent, we  
11 can't pay taxes, but we are paying ourselves.  
12 That is my point.

13 MR. PAPE: Your Honor, she is testifying  
14 and argument.

15 COURT: Stay away from the argument  
16 parts, but you can go ahead and ask him  
17 questions about what he might know that might  
18 add to the general knowledge that we don't  
19 already have.

20 MRS. BENSCH: All right.

21 BY MRS. BENSCH:

22 Q. The checks that you had to print to employees were in  
23 your possession or no?

24 A. Yes.

Q. Okay.

1 A. Just those checks. There was another set.

2 Q. There's another set of checks? Who was the signee on  
3 those checks?  
4

5 A. Bill Passaloukas as far as I know.

6 Q. Did -- and you -- did you ask Mr. Passaloukas for that  
7 register on that account that we've never seen, the account  
8 that there's payroll checks and then there seems to be  
9 another set of checks. Do you know where those records were  
10 -- or did anybody ever tell you where those records were?  
11

12 A. Well, they were obviously with Bill because you just  
13 counted some of the transactions that he was doing.

14 Q. Oh, I am sorry. I mean for the payroll account. I  
15 should have --

16 A. Yes, Bill had a set -- the checkbook and checks for the  
17 payroll account. All I had was the blank checks for  
18 employees only, but Bill could write or deposit anything he  
19 wanted into out of the payroll account.

20 Q. But those checks you didn't have? You had the set for  
21 the employees, but you did not have the set that Bill had?  
22

23 A. Right, I had Quick Books blank payroll checks for the  
24 payroll checks. They are to be run through a printer. They  
25 print three at a time, or sometimes two copies. There are  
different types of computer checks.

1 Q. How do you know there was another set of checks?

2 A. Because you just showed evidence that Bill could write  
3 checks out of the payroll account.

4 Q. Thank you. Okay.

5 MR. PAPE: Your Honor, I would move to  
6 strike his testimony concerning Mr.  
7 Passaloukas' access to any other set of  
8 checks, because he has just testified that  
9 the basis of his knowledge that he had a set  
10 of checks was based upon records that Ms.  
11 Bensch has just shown him.

12 MRS. BENSCH: Mr. Passaloukas had --

13 COURT: I would --

14 MR. PAPE: She asked the question to him  
15 was how did you know that Mr. Passaloukas had  
16 a second set of payroll checks. He said his  
17 knowledge is based upon what Mrs. Bensch has  
18 just shown him in evidence. I mean --

19 COURT: Copies of the checks?

20 MR. PAPE: Yeah.

21 COURT: I will allow it. He has seen  
22 copies of the checks.

23 BY MRS. BENSCH:

1 Q. With the contributions and loans of the shareholders,  
2 Mr. Fisher, were the Benschs obligated to contribute more  
3 money to this corporation?

4 MR. PAPE: Object. It is irrelevant. It  
5 calls for an opinion and there is no factual  
6 foundation that has been established.

7 COURT: All right. Sustained.

8 BY MRS. BENSCH:

9 Q. Did you witness any list or anything given to the  
10 Benschs at the shareholders meeting?

11 A. I don't recall any paperwork going back and forth. It  
12 was mostly conversation.

13 Q. When you asked -- did you ask Mr. Passaloukas any other  
14 questions the day that you saw him behind Zorbas?

15 A. No, I was only interested in doing the bookkeeping. I  
16 wanted the bank statement and the source documents.

17 Q. And his answer --

18 MR. PAPE: Object.

19 Q. What was his answer for not giving you the documents  
20 you asked for?

21 COURT: What's the objection?

22 MR. PAPE: Your Honor, I withdraw the  
23 objection.

24 A. Sorry, restate the question.  
25

1 Q. What was his reason for not giving you the bookkeeping  
for this?

2 A. He admitted it was in his car or at his house and he  
3 didn't know which and he would try to find it.

4 Q. What did you take that statement to mean?

5  
6 MR. PAPE: I object. It is irrelevant.

7 MRS. BENSCH: Okay.

8 BY MRS. BENSCH:

9 Q. Did you see at the shareholders meeting -- did you see  
10 the Benschs receive a mail box key?

11 A. No I did not.

12 Q. Okay, Your Honor, I have no further questions at the  
13 moment, but I do ask for re-cross or rebuttal.

14  
15 COURT: Go ahead, sir.

16 MR. PAPE: Thank you, Your Honor.

17 BY MR. PAPE:

18 Q. Mr. Fisher,

19 COURT: Mr. Fisher, by the way if you  
20 need a break just let us know.

21 MR. FISHER: Thank you, Your Honor, I am  
22 under medical treatment and I may need some.  
23 Thank you.

24  
25 BY MR. PAPE:

Q. What kind of medical treatment are you on, Mr. Fisher?

1 A. Urinary tract infection.

2 Q. Okay, does it affect your memory in any way?

3 A. No.

4 Q. What kind of medication are you on?

5 A. Actually I finished with the medication, but I still  
6 have a complication and I need to go back, but I am not on  
7 any medication at this time.

8 Q. Mr. and Mrs. Bensch hired you to handle the books for  
9 Zorbas, is that right?

10 A. No actually both shareholders agreed to my employment.

11 Q. Who approached you first?

12 A. They approached me at the same time at a meeting at  
13 Gary's house.

14 Q. Okay, when was that?

15 A. It was after the capital contributions, right before  
16 the business was to open, just weeks before the business was  
17 to open.

18 Q. And Mr. Passaloukas provided you with all the source  
19 data that you were to input in your accounting records,  
20 right?  
21

22 A. Yes, he did a very good job until December.

23 Q. You have any reason to believe he withheld anything --  
24 information from you?  
25

A. Not until December.

1 Q. All right, well what happened in December to make you  
change your mind?

2 A. Again, I met him in the alley behind the restaurant.

3 Q. What date was that?

4 A. I believe it was the day of the eviction.

5 Q. Well, give me a date.

6 A. It was the early part of January. Frank, I don't  
7 recall ten years ago.

8 Q. How do you know it was the day of the eviction?

9 A. Because it just seemed like a fresh crime scene, I  
10 mean, Bill was standing outside. It looked like he was  
11 trying to get in. I don't know what he was doing back  
12 there, but he told me -- the first thing that came out of  
13 his mouth was, I have been evicted. So, I assumed it was  
14 recent, very recent.

15 Q. So you make an assumption?

16 A. Well, wouldn't you?

17 Q. Well, but you were making an assumption?

18 A. Yes, sir.

19 Q. Okay, so you don't really know that it was the day of  
20 the eviction?

21 A. No, I don't know that.

22 Q. Do you have -- what days do you actually do business?  
23 Monday through Friday or Saturdays, Sundays?

1 A. I am a workaholic, seven days a week.

2 Q. All right, and was it on a Sunday that you encountered  
3 Mr. Passaloukas?

4 A. I don't recall what day of the week it was.

5 Q. What time of the day was it?

6 A. It was sunny, I remember that. It may have been  
7 anywhere from 9:00 to 6:00 p.m., I don't recall.

8 Q. And if it were on a Sunday you were telling the Judge  
9 that it was a Sunday that you were out there and --

10 MRS. BENSCH: Your Honor, I think he has  
11 answered that question, he doesn't know.

12 COURT: Yes.

13 A. No, I said sunny. It was a sunny day, it was not  
14 cloudy, I remember that. It wasn't raining.

15 Q. You would have been out there on a Sunday?

16 A. I didn't say I was there on a Sunday, sir.

17 Q. Okay. Were you in fact out there on a Sunday?

18 MRS. BENSCH: Your Honor, I object.

19 A. I don't recall what day of the week it was.

20 Q. I am sorry; I didn't hear his response.

21 A. I don't recall which day of the week it was.

22 Q. And of course you are only assuming it was the day of  
23 the eviction?  
24  
25

1 A. It appeared to be when a man is standing in the parking  
2 lot and can't get in his building, it appears that's the  
3 day. I wouldn't expect him there a week later.

4 Q. So you encountered him in the parking lot?

5 A. In the back alley.

6 Q. In the back alley?

7 A. I said back alley.

8 Q. I heard you say parking lot.

9 MRS. BENSCH: Your Honor, I think this  
10 is -- I object. He said --

11 A. It's all the parking lot, sir. It's both, an alley and  
12 a parking lot.

13 Q. Back alley, you mean behind the building?

14 A. Yes, sir.

15 Q. Okay, and there's a parking lot behind the building?

16 A. It's parking for all the shopping center back there,  
17 yes sir.

18 Q. Okay, what were you doing back there?

19 A. I came to get this payroll bank statement that I had  
20 been asking for.

21 Q. How did you know you would find somebody out there on a  
22 Sunday?

23 A. I didn't say I was there on a Sunday.

24 Q. Do you ordinarily go out on Sundays to get the --

1 A. I work every day of the week, sir, and I have a full  
2 time job. I would have done this probably after work. It  
3 could have been on a Monday, Tuesday, Wednesday, Thursday,  
4 Friday -- doesn't matter. It could have been on a weekend,  
5 it wouldn't matter to me. I worked all the time.

6 Q. Have you been having conversations with the Benschs  
7 over the last few days?

8 A. Yes, I have, sir.

9 Q. And have they been feeding information to you?

10 A. No, sir I wouldn't say that.

11 Q. Have they been telling you what issues that they want  
12 you to testify about?

13 A. They have asked me questions.

14 Q. And did you discuss this encounter with the Benschs  
15 prior to being here today?

16 A. Only ten minutes before I came into this courtroom.

17 Q. Today?

18 A. Yes, sir.

19 Q. And describe who were you talking with, both Mr. and  
20 Mrs. Bensch?  
21

22 A. Yes, sir.

23 Q. And who brought up the subject of this encounter in the  
24 back alley with Mr. Passaloukas?  
25

A. I believe I did.

1 Q. Okay. And what did you tell to the Benschs?

2 A. Just what I just told -- said in this courtroom.

3 Q. Why did it occur to you to bring that subject up?

4 A. We were talking about the balance in the payroll  
5 account and I told the Benschs I could not reconcile the  
6 account because I wanted that bank statement and that's how  
7 it came up.

8 Q. And your encounter with Mr. Passaloukas on that Sunday  
9 or that other day that you are talking about, did he seem  
10 positive as to where the documents were that you were  
11 seeking?

12 A. He seemed to always be cooperative and it seemed to me  
13 that he was being cooperative, yes.

14 Q. And being cooperative he's likely to be as -- try to be  
15 as helpful as he can, right?

16 A. He said he would try to find it.

17 Q. And did he give you the impression that he absolutely  
18 knew where those documents were?

19 A. Yes, he said they were in his truck or in his house.

20 Q. He didn't say, I don't know where they are?

21 A. He said I don't know which, they are either in my truck  
22 or in my house, that's what he said.  
23  
24  
25

1 Q. Well, if he had been evicted, is it possible that he  
2 would have told you that they also might still be in the  
3 restaurant?

4 A. He didn't say that. I could have got into the  
5 restaurant by contacting the other shareholder, that would  
6 not have been an issue. I needed it from Bill.

7 Q. All right, did you ever prevent Mr. and Mrs. Bensch  
8 from getting access to the accounting records that you had?

9 A. No, neither did I prevent you.

10 Q. Did -- had the Benschs wanted access to the records  
11 that you had, would they have been freely available to them  
12 to examine?

13 A. They would have been Mr. Pape, but sadly nobody ever  
14 asked the accountant.

15 Q. Okay and the Benschs never asked you at any time for  
16 your records?

17 A. Not once the lawyers got involved. Nobody talked to me  
18 about anything.

19 Q. And the lawyers didn't get involved until sometime mid-  
20 December, is that right?

21 A. When I gave you this engagement letter at your office,  
22 sir, can I look at the date? This was the last conversation  
23 that I had with you.

24 Q. Get me that letter.

1 A. I think I gave you a copy of it, sir. Can you copy it?  
2 This is our engagement letter. I do need that original  
3 back.

4 Q. Well this letter is not a letter that's addressed to  
5 me, is it?

6 A. It was hand-delivered to you sir with the cash receipts  
7 and disbursements journal at your office near Cherry Bekaert  
8 Holland's office. I didn't even know where your office was,  
9 but I found you and I delivered that cash receipts and  
10 disbursements journal with that engagement letter and I  
11 never heard from you again.

12 Q. Let's go ahead and have this marked as Plaintiffs'  
13 Exhibit.

14 A. I need a copy of that, sir.

15  
16 COURT: Remind me sir and we will get  
17 you a copy.

18 A. Thank you.

19 BY MR. PAPE:

20 Q. And mark this as Plaintiffs' Exhibit No. 30 and this  
21 document is a letter that's dated February 17, 2000, is  
22 that right?  
23

24 A. Yes.

25 (WHEREUPON, PLAINTIFFS'  
EXHIBIT NUMBER 30 WAS

MARKED AND ENTERED INTO  
EVIDENCE.)

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Q. It is addressed to Mr. Bill Passaloukas?

A. Yes, sir, it was addressed to him.

Q. P. O. Box 716?

A. But I hand-delivered it.

Q. You say this document was hand-delivered to me?

A. To your law firm, yes sir.

Q. To my law firm, okay. Where was my law firm located?

A. It was near Cherry Bekaert & Holland off I believe it is Arrow Road over there. I could walk to it today, but I can't tell you the exact road.

Q. All right.

A. It is right across the street from Cherry Bekaert & Holland's office. You were with a client. I waited.

Q. And you described this as a retainer agreement -- engagement letter?

A. It was an engagement letter for accounting services.

Q. All right. Your Honor, in all fairness to Mr. Fisher it's quite possible that on February 17, 2000, he delivered this to me and I don't want to make Mr. Fisher to be a witness that is not credible based upon any transactions he said he might have had with me, but I would note that this letter is dated February 17, 2000. Mr. Fisher seems to be

1 indicating that it was delivered on or about that time, is  
2 that right, Mr. Fisher?

3 A. Yes, sir.

4 Q. Okay, all right.

5 A. I believe on that day.

6 Q. Did you also provide documents to Mr. and Mrs. Bensch,  
7 the same documents?

8 A. No. I told Gary on the phone that you needed to take  
9 care of your taxes and your year-end accounting no matter  
10 who owned or who was evicted or whatever, the IRS is not  
11 going to rest and this is -- I told him on the phone that I  
12 had delivered this letter and that you know, somebody  
13 whoever the shareholders are of this corporation, better do  
14 its taxes and the year-end accounting in case something like  
15 this happens.  
16

17 Q. All right, did Mr. and Mrs. Bensch or Mr. Passaloukas  
18 ever respond to this engagement letter?

19 A. No, there were attorneys involved and --

20 Q. All right. But it would be -- you would have to have  
21 all the records in order to comply with this process that  
22 you wanted to comply with?  
23

24 A. For an accrual base statement I would for cash. I  
25 would probably -- everything I needed by the bank statement.  
It depends on whether the corporation chose accrual or cash.

1 I believe they were on accrual. Yeah, I was missing  
2 documents and it does state that I was missing source  
3 documents.

4 Q. What kind of truck does -- did you see Mr. Passaloukas  
5 with that day when you came there?

6 A. I don't recall. I think it was a -- like a covered  
7 pickup or an SUV or a van. It wasn't a normal car, it was  
8 more of a truck.

9 Q. And would you say, based upon your examination of the  
10 records that you have presented here today, that there was  
11 nothing of value in the payroll account that belonged to  
12 Zorbas?

13 A. Not according to the check stubs and the records I had,  
14 there was nothing of value in there.

15 Q. Okay, so there would be nothing for the shareholders to  
16 divide up in that account?

17 A. I would say that's true of all the accounts.

18 Q. Okay, and you presented detail for Zorbas' payroll  
19 account, is that right, Defendants' Exhibit 14?

20 A. That's a detailed summary. If it is not a complete  
21 report is what I mean to say it is not.

22 Q. Does it identify the names of all and the amounts and  
23 dates of payments to all the employees of Zorbas during the  
24 periods of time represented there?  
25

1 A. Well it does not include the taxes withheld. It  
2 appears to be a net check.

3 Q. Does it identify all the employees who were paid from  
4 the payroll account?

5 A. Yes, it does that.

6 Q. All right. Does Mr. Passaloukas' name appear on that  
7 list anywhere?

8 A. No, it never did appear on the payroll.

9 Q. All right, because he wasn't paid anything out of that  
10 account?

11 A. He was never given a paycheck, sir, to my recollection.

12 Q. Was Mrs. Passaloukas ever paid anything out of the  
13 payroll account?

14 A. No, not to my recollection.

15 Q. Were any of their children ever paid anything out of  
16 that account?

17 A. Not to my recollection.

18 Q. And now you described a petty cash account. That  
19 wasn't a checking account, was it?

20 A. No it is a petty cash account.

21 Q. So it means cash in a jar sitting in the office of  
22 Zorbas, right?

23 A. Correct.

24

25

1 Q. And your report indicated that -- your last report and  
it was unreconciled I take it, right?

2 A. December was not reconciled for petty cash, but the  
3 November was.

4 Q. But presumably if it was cash sitting in a jar in an  
5 office somewhere whoever had possession of that cash at any  
6 particular moment in time would be in control of that cash,  
7 right?

8 A. Yes, sir. It was petty.

9 Q. Okay. Let me have one moment to talk with my client,  
10 Judge.

11  
12 COURT: Okay. Mr. Mogil is here as a  
13 witness. Can you give me one minute? What  
14 Exhibit was it, 13? What Exhibit was your  
15 letter?

16  
17 MR. PAPE: It's Plaintiffs' Exhibit 30,  
18 Judge.

19 COURT: 30, I am sorry. Can you do me a  
20 favor and make a couple of copies of that?

21 MRS. BENSCH: I thought that was  
22 Defendants' Exhibit? That's your Exhibit?

23 MR. PAPE: That's my Exhibit.  
24 Defendant.  
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COURT: Well, it's Number 30 and we will copy it and bring it back so you all will have a copy. I am substituting the original and you can have the original back or whatever suits you all.

MRS. BENSCH: Your Honor, could we tell Mr. Mogil about how long it will be before we get to him?

COURT: Do you know?

MRS. BENSCH: Do you have any idea?

MR. PAPE: I have to talk with Mr. Passaloukas and then --

COURT: You all think about it and if you want to get up and tell Mr. Mogil we will take five or ten minutes.

MRS. BENSCH: Okay.

BY MR. PAPE:

Q. You have been reading from something, if you don't mind.

A. Your Honor, that's a work -- accounts working paper file and it's confidential. I will be glad to give you any copies from it or anything you want, but --

Q. Is that for the business Zorbas?

1 A. Yes, sir, but I asked before I brought it in here if it  
2 would be taken and I was told no.

3 COURT: Well, it won't necessarily be  
4 taken, but with regard to the pages that you  
5 are referring to with regard to your  
6 testimony, Mr. Pape certainly is entitled to  
7 look at it.

8 A. I would be glad to give him any copies of anything  
9 that's relevant, yes sir.

10 COURT: Okay.

11 A. Is that good enough?

12 COURT: You let him look at it right  
13 now, or --

14 A. It's a big file, there's four files actually. Do you  
15 want just the working paper file or all --

16 MR. PAPE: I want to look at all of his  
17 files with respect to Zorbas and I want to  
18 take about five minutes just to look through  
19 them.  
20

21 A. Well, somebody needs to be there to make sure that  
22 nothing is taken out of the file.  
23

24 MR. PAPE: Well I will look at them  
25 right in front of you.

A. Okay.

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COURT: Well, let's take five minutes then and take a look at it. Can't take too long, it is 3:16 and --

A. Here's sales tax Mr. Pape. This is a bank reconciliation file with all of the reconciliations of the accounts.

Q. I am done with that one.

A. You did just want to look at them. This is the payroll file with all the payroll records. This is an accountant's working paper file that would have been destroyed after seven years but I did not do so. I believe I missed one, sir. Two more, three -- sales file, tax forms file.

MR. PAPE: Thank you. I would like to have this marked as Plaintiffs' Exhibit if you don't mind.

COURT: Do you know which file it came out of?

MR. PAPE: It came out of the file that you have in your hand.

COURT: Let's make some copies real quick; hold on.

MRS. BENSCH: This is the balance sheet from Zorbas.

1 A. It's just the draft in bookkeeping, it's not my balance  
2 sheet.

3 COURT: Let me borrow it for one second.  
4 Do you remember which file this goes in, Mr.  
5 Fisher?

6 A. Yes, sir. It is in my working paper file.

7 COURT: Anything else, Frank?

8 MR. PAPE: No, sir, not out of that  
9 file. I just got -- is there just one more  
10 file for me to look at?

11 A. That's just forms.

12 COURT: Just this?

13 MR. PAPE: Yes, sir.

14 COURT: All right, let's see these are  
15 all identified. There's the ones that came  
16 out of his files, so --

17 MR. PAPE: Thank you, Your Honor.

18 BY MR. PAPE:

19 Q. Mr. Fisher what is Plaintiff's Exhibit No. 31?

20 A. I don't know. It appears to be a print off of the  
21 accounting unadjusted trial balance is what it appears to  
22 be.

23 Q. Was this document prepared by you?  
24  
25

1 A. No, it was a print off of the bookkeeping system. The  
2 statement I prepared is right here. You didn't pull it up.  
3 That's what I am reading off of. If it doesn't have  
4 disclaimers on it, it was just a print off of the  
5 bookkeeping system and no adjustments.

6 Q. But you prepared it, right?

7 A. No, it is printed by Quick Books. This is what I --

8 Q. Do you rely on Quick Books?

9 A. We rely on a compilation before we make adjustments  
10 absolutely.

11 Q. All right. And do you -- or are you aware that there  
12 are any errors in this report -- this balance sheet?

13 A. You pulled a piece of paper out of my file, sir. This  
14 is not the file -- this is not the paper I have been reading  
15 from.  
16

17 Q. What paper have you been reading from?

18 A. It's right here with the disclaimers, I believe. Yeah,  
19 this is -- they are probably very similar but there may be  
20 differences.  
21

22 Q. Well Plaintiffs' Exhibit No. 31 is identical to the  
23 document you have in your file, isn't it?

24 A. If you give me a minute I will read it and find out.

25 Q. All right.

1 A. Yes, the assets are the same. Liabilities are the  
2 same. Yeah, it appears to be the same, yes sir, I am sorry.  
3 I stand corrected.

4 Q. And so the total liabilities and equity of Zorbas, Inc.  
5 as of December 31, 1999 was \$115,760.93, is that correct?

6 A. Not counting the inventory and payables, yes.

7 Q. All right. Well you've got -- you show accounts  
8 payable here?

9 A. That's just taxes, it says payroll taxes, sales tax  
10 liabilities. Those are only monthly taxes. I don't see an  
11 accounts payable. Can you show me that, sir?

12 Q. The \$2,560.00?

13 A. That's the rent -- the back rent. Why don't I see that  
14 on mine?

15 Q. Well, its there. Look at it.

16 A. Show it to me again on yours.

17 Q. Right there.

18 A. Accounts payable -- rent. This was the back rent owed.  
19 Now why doesn't it show up on this paper. I thought they  
20 were the same.  
21

22 Q. But the bottom line is on both documents is it --

23 A. I kind of like that one better yet.

24 Q. Okay. All right. Offer Plaintiffs' Exhibit No. 31  
25 into evidence, Your Honor.

COURT: Mrs. Bensch?

MRS. BENSCH: I have no objection.

(WHEREUPON, PLAINTIFFS'  
EXHIBIT NUMBER 30 WAS  
MARKED AND ENTERED INTO  
EVIDENCE.)

BY MR. PAPE:

Q. By the way, that encounter you had with Mr.  
Passaloukas, you said he was loading up things into a truck?

A. No, I said that his truck appeared to be loaded with  
things.

Q. You know where those things had come from or did you  
see him load?

A. I never saw him load. He was standing behind the  
restaurant and the truck was at the end of the back alley or  
toward the end. It wasn't parked right behind the  
restaurant.

Q. Did you see him driving that truck?

A. No, sir.

Q. Okay.

A. He pointed to it. He said it's either in my truck or  
at my house.

MR. PAPE: Okay, I have no further  
questions, Judge.

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COURT: Okay. Anything else Mrs.

Bensch?

MRS. BENSCH: Yes, just a couple of questions.

BY MRS. BENSCH:

Q. Mr. Fisher, when Mr. Bensch got the report from you, did you ever discuss the reports?

A. Every month.

Q. Could you tell me about that discussion?

A. Yes. At the time Gary was one of the sharpest business owners I had ever seen and he went over every account and then he focused his discussion on cash and the lack of it.

Q. So what do you do about a lack of cash in the restaurant business?

A. You are going bankrupt.

Q. Is there any -- was there any other options?

MR. PAPE: Your Honor, this is going beyond the scope of my cross-examination.

MRS. BENSCH: Okay, I am sorry.

BY MRS. BENSCH:

Q. With the document -- with that letter that you gave Mr. Pape you said that you gave him other documents too?

A. Yes.

Q. What were the other documents?

1 A. I gave him a complete cash receipts and disbursements  
2 journal showing how every transaction had been coded and  
3 checked every account, every deposit. It was a cash  
4 receipts and disbursements journal for the corporation, for  
5 the entire period up to December 31<sup>st</sup> including every  
6 adjustment, everything that was done.

7 Q. How many -- do you know how many employees were paid in  
8 December out of that payroll account?

9 A. I can look.

10 Q. Could you then? We are going to have to weigh that  
11 against the total deposit there to determine what was in the  
12 payroll account since we don't seem to have that.

13 A. If you will hand me the check register for the payroll  
14 account, I will look and count.  
15

16 MR. PAPE: Your Honor, it is already in  
17 the evidence and I don't -- I mean I don't  
18 interfere with a particular point, but --

19 COURT: If he wants to add it up rather  
20 than me.

21 MR. PAPE: Well, okay. If it will help  
22 the Court, that's fine.  
23

24 COURT: He can provide the numbers real  
25 quick and then he can pull the calculator out  
or I will be happy to.

1 A. How many employees?

2 Q. Yes, how many employees.

3 A. Well first we have to turn to this is the operating  
4 account, not the payroll account. I need the payroll  
5 account. Okay, we need to go to the month of December. We  
6 need a different summary to answer that question. I have a  
7 different summary that will show you -- this account I am  
8 talking about without a lot of work.

9 Q. For the checks that I asked you about from the bank  
10 statements for Zorbas for the month of December only, do we  
11 have a bank statement for that payroll account?

12 MR. PAPE: Your Honor, that goes beyond  
13 the scope of my cross-examination.

14 COURT: It may be but it is certainly  
15 relevant to try to do what the Appeals Court  
16 wanted the next trial judge to do and come up  
17 with a final tally so --

18 Mr. PAPE: Okay.

19 COURT: In fact, let me ask this. You  
20 have the end of November statement, right?

21 MR. FISHER: Yes, sir.

22 COURT: So there was a balance there and  
23 then you have the deposits received -- all  
24 the deposits from the general account if you  
25

1 add it up. And then you have all the payroll  
2 checks that went out.

3 MR. FISHER: Correct.

4 COURT: So if you add all that together  
5 and subtract the outgoing you would come up  
6 with the December 31<sup>st</sup> total?

7 MRS. BENSCH: Not without the accounts  
8 payable.

9 MR. FISHER: No. I mean it would.

10 MRS. BENSCH: Accounts payable for  
11 December, that's our problem. We don't know  
12 what that corporation owed.

13 COURT: I am looking at the balance in  
14 the account. The only deposits, as I  
15 understand it, into the payroll account came  
16 from --

17 MRS. BENSCH: Oh, yeah, just the payroll  
18 account, yeah.

19 COURT: Okay, that's what I am talking  
20 about the payroll account.

21 MRS. BENSCH: No, there were other  
22 checks. That's what I just found out today.

23 COURT: Out of the payroll account or  
24 into the payroll account?  
25

1 MRS. BENSCH: Out of the payroll  
2 account. Apparently there were payroll  
3 checks that were printed by him but then  
4 there was another set of checks --

5 COURT: I am interested in what it would  
6 have been based on the checks that he has in  
7 his possession.

8 MR. FISHER: I am confused.

9 MRS. BENSCH: Yeah, right.

10 MR. FISHER: I am confused. We started  
11 out with one question and ended up with  
12 another. What's your question again?  
13

14 BY MRS. BENSCH:

15 Q. I guess my question was, how many employees were in the  
16 restaurant in December. How many employees were paid out of  
17 the payroll?

18 A. I will have to look at the payroll file, which Frank  
19 already looked through.

20 MRS. BENSCH: Your Honor, I don't want  
21 to waste his time looking for that as I  
22 understand it might take forever. Just  
23 trying to determine what was in that payroll  
24 account December 31<sup>st</sup>.  
25

A. I can answer that question.

1 MR. PAPE: It was already answered, I  
2 think.

3 COURT: Well I missed it. I would love  
4 to hear the answer from him if possible.

5 MR. PAPE: I think it was minus  
6 \$1600.00, is that right, Mr. Fisher.

7 MR. FISHER: It is a complicated answer  
8 and I would love to give it to you. Frank, I  
9 guess you are the closest, I will show you.  
10 This is a reconciliation that we did of the  
11 account, of the payroll account but it is not  
12 correct because if you look back on the trial  
13 balance according to the check stubs - this  
14 is the Judge's question - he said if you add  
15 on deposits and subtract all the checks and  
16 considering the beginning balance, this is  
17 what you would come up with but the bank  
18 record didn't disagree with that number and  
19 so I wanted that statement. And there's  
20 another issue. You have \$1100 in one account  
21 and \$1400 overdrawn in another. An  
22 experienced accountant would tell you that  
23 there's probably a transfer check in the  
24 middle. There's something wrong with that.  
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These accounts are probably both nothing, but one shows minus 1400, which we know that's right. This one we don't know because this is why I was in the back alley looking for the statement to try to find out why this reconciliation did not come back to the check.

COURT: All right, so the difference in the reconciliation that you did based on the records that you have and the actual balance of the account is how much?

MR. FISHER: Well, you would have to get the bank statement itself.

COURT: How did you come up with negative \$1633.00? Where did that number come from?

MR. FISHER: Well we took the beginning balance, we subtracted all the checks, this is what the Judge was saying and we added the deposits and that came up with the cleared bank balance. I believe this balance is on the bank statement. Does somebody have this statement. I have a copy if you don't.

MRS. BENSCH: The bank statement here.

1 MR. PAPE: Oh you have a bank statement  
2 for December 31<sup>st</sup>?

3 MR. FISHER: Yes, we have a copy of the  
4 statement, not the entire contents of the ---

5 MRS. BENSCH: For the payroll account?

6 MR. FISHER: Yes. I have a bank  
7 statement on the payroll account somewhere.  
8 Let's go back to -- this is 12/31 payroll.  
9 Here we see the balance of \$108.84. That  
10 balance ties back to here. However, there's  
11 13 outstanding checks that haven't cleared  
12 and one deposit that we know of. So the  
13 account was overdrawn \$1633.94 but without  
14 that statement I cannot stand up in Court and  
15 say that was the balance or this was the  
16 balance or anything else. I needed the  
17 contents of that statement. You can see  
18 where I am checking off everything, but I am  
19 not sure. Something is wrong.  
20

21 COURT: The balance based on everything  
22 you have is somewhere between \$108.00  
23 positive and \$1600 negative?  
24

25 MR. FISHER: Correct.

COURT: Okay. All right.

BY MRS. BENSCH:

1 Q. Let's see -- and what do you show on your statement for  
2 the inventory -- on that same balance sheet?

3 A. It was an estimated number of \$643.00 which was  
4 obtained from Gary Bensch.  
5

6 Q. December 31<sup>st</sup>, 1999?

7 A. Yes, ma'am.

8 Q. And how did --

9 MR. PAPE: Your Honor, that goes beyond  
10 the scope of my cross-examination. I didn't  
11 ask any questions concerning inventory.

12 COURT: Sustained.

13 MRS. BENSCH: Okay, that's all the  
14 questions I have for you. Thank you.  
15

16 MR. FISHER: Am I dismissed?

17 COURT: Thank you, sir.

18 MR. FISHER: Thank you, Your Honor.

19 COURT: You got everything that you came  
20 with, right?

21 MR. FISHER: Yes, sir. Thanks for  
22 asking.

23 MR. PAPE: Thank you, Mr. Fisher.  
24

25 BY MRS. BENSCH:

1 Q. Oh, I am so sorry. For the record, did the Benschs pay  
2 you to be here for -- is there any money owed you for this  
3 assistance?

4 A. No, they didn't even pay my travel, which is fine with  
5 me.

6 Q. Just for the record, thank you.

7 COURT: You just enjoyed being here.

8 MR. FISHER: Well I believe the  
9 courtroom is the basis of our legal system  
10 because I have traveled overseas quite a bit.

11 COURT: We appreciate you being here and  
12 thank you for your help.

13 MR. FISHER: It's an honor, sir.

14 COURT: Mr. Fisher, on your way out if  
15 you could have Mr. Mogil come in.

16 MR. FISHER: I certainly will.

17 MRS. BENSCH: Aren't we going to --

18 COURT: Yeah, I am not suggesting that  
19 we just stop right here. I was just --  
20 here's based on all available knowledge, the  
21 payroll account was \$1508.00 positive and  
22 maybe the \$1600.00. I think the operating  
23 account was overdrawn \$1400 -- I have that  
24 somewhere else here. I think we have  
25

1 stipulated as to the fact that you all  
2 contributed \$1695.09 --

3 MRS. BENSCH: Plus 13 --

4 COURT: And the Passaloukas netted --  
5 contributed \$68,875.16 and once you add out  
6 the repayment of loan checks that you all  
7 referenced earlier it is \$59,375.60.

8 MRS. BENSCH: I think the Benschs were  
9 61 plus the \$1300.00 that was --

10 COURT: I am sorry, I reversed the  
11 numbers.

12 MR. PAPE: That's right.

13 COURT: So if you all want to stipulate  
14 that at the conclusion of this business it  
15 was zero in all accounts, now apparently  
16 there was some petty cash somewhere whether  
17 it's ten years down the road, a few hundred  
18 dollars, but it seems to be that there was  
19 nothing there; nothing in the accounts,  
20 nothing in any petty cash to speak of. Is  
21 that a correct statement?  
22  
23

24 MR. PAPE: Yes, sir I would agree with  
25 that. There's nothing to divide; there's no  
asset there.

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MRS. BENSCH: We can stipulate to the accounts.

COURT: All right. How are you, Mr. Mogil. Can you hold your right hand up for me, sir?

MICHAEL MOGIL, after being duly sworn, testified as follows:

COURT: Would you like a more comfortable chair?

MR. MOGIL: No, this is fine.

MRS. BENSCH: If you sit right here, Mike -- if you sit here, I can hand you documents a little better maybe.

MR. PAPE: Your Honor, I have a preliminary matter that I need to take up. At the last trial on -- in 2002 before Judge Kemmerlin Mr. Mogil was the attorney for the Defendants and I asked at that time that Judge Kemmerlin disqualify him as a witness. Judge Kemmerlin disqualified him as a witness. Now, I don't know what his status is here today, whether he's continued to give Mr. and Mrs. Bensch advice, but I would like

1 to inquire into that issue before you qualify  
2 him as a witness.

3 COURT: All right, ask away.

4 BY MR. PAPE:

5 Q. Mr. Mogil, you are a South Carolina licensed attorney,  
6 is that right?

7 A. Correct.

8 Q. Practice law on Hilton Head Island, South Carolina?

9 A. Correct.

10 Q. Been practicing there for about twenty years or so?

11 A. Twelve years.

12 Q. Twelve years and at some prior point in time before  
13 this date you prepared and filed an Answer on behalf of Mr.  
14 and Mrs. Bensch, is that correct?

15 A. I prepared and filed an Answer and I participated as  
16 their counsel in the early stages of this case.

17 Q. With respect to discovery and --

18 A. Depositions in your office.

19 Q. Depositions at my office and all of that and sometime  
20 subsequently you withdrew as their attorney, is that  
21 correct?  
22

23 A. Correct. Before the trial --

24 Q. Was it before the trial?  
25

1 A. Yes. Sam Bauer and Brent Kiker were the trial --  
2 before Judge Coltrane.

3 Q. I had the impression that you had not formally  
4 withdrawn before the trial, am I wrong about that?

5 A. I was no longer representing them, advising them or  
6 being paid by them at any time prior to that trial, maybe  
7 six months before that trial.

8 Q. Don't the South Carolina Rules require an attorney to  
9 file a Notice of Withdrawal?

10 A. I would think it was done -- substitution. I don't  
11 think it was --

12 Q. A substitution of counsel.

13 A. I would think that there was a substitution done  
14 because Mr. Bauer took over the case. I wasn't aware of it.

15 Q. Well for some reason or other I had objected to your  
16 qualifications as a witness in the case because of your  
17 appearance on their behalf. At some point during the  
18 litigation Judge Kemmerlin refused to let you -- allow you  
19 to testify. I want to ask you today now since that date any  
20 time subsequent to that date and up until this very moment,  
21 have you given Mr. and Mrs. Bensch any kind of legal advice  
22 in connection with the subject of this lawsuit?

23 A. I have discussed the outcomes of the various hearings  
24 with them. Not prior to the hearing, but there was a  
25

1 hearing back in 2002 I think you were saying and I found out  
2 what happened with it and discussed my view of what happened  
3 to it. Then there was a hearing I think with Mr. Clabaugh  
4 last year and after the hearing of course, I spoke with Mrs.  
5 Bensch and Mr. Bensch because I have represented them in  
6 other matters so in passing, yes, we had conversations about  
7 it, but I haven't done any research, looked at the file  
8 other than back when Mr. Clabaugh was handling the case, I  
9 went through my corporate work -- my file when I was  
10 representing them prior to litigation to look for some  
11 documents, but I haven't -- I really don't know what is  
12 going on in the case.

13  
14 Q. Did they ask you for any legal advice at any time  
15 during that time?

16 A. No, in fact I found out that Mr. Clabaugh withdrew from  
17 this case it was, I believe Friday afternoon when Mrs.  
18 Bensch came to my office and said can -- I may need you to  
19 testify. I really have no connection with this case even  
20 though I have represented them, they kind of kept me out of  
21 it completely.

22  
23 Q. But you have given them legal advice with respect to  
24 the defenses and the counterclaims they have made against my  
25 client?

1 A. Originally I certainly did, way back when, you know  
2 2000-2001.

3 Q. And would you be able to separate the legal advice that  
4 you have given them in connection with your representation  
5 of them and any facts --- factual testimony that you might  
6 be presenting to the Court today?

7 A. Yes, I think I am only a fact witness to very limited  
8 aspect to this prior to the litigation.

9 Q. Can you tell me what you are here to be a fact witness  
10 on today?

11 A. I was at the shareholders' meeting that was at Jim  
12 Hale's office before the litigation was commenced in the  
13 fall of '99, the fall of '99 that I was representing the  
14 Benschs. You know, I called for a shareholders meeting.  
15 Bill was there, Mr. Passaloukas was there, Jim Hale was  
16 there, Mr. Bensch's son-in-law was there and that's the only  
17 connection I have with this.  
18

19 Q. What other facts are you expected to testify to today?

20 A. I am not aware of any other facts.

21 Q. Your Honor --

22 A. Unless you ask me other questions, I don't know.

23 Q. I understand.  
24

25 MR. PAPE: Your Honor, based upon the  
fact that he has represented the Benschs as

1 an active litigant -- attorney in this case,  
2 I would move to disqualify Mr. Mogil as a  
3 witness in the case.

4 COURT: Mrs. Bensch?

5 MRS. BENSCH: Your Honor, I would have  
6 appreciated it if they would have called  
7 their attorney Mr. Hale or Tony Griffis or  
8 anybody to help the Court understand the  
9 shareholders meeting and the facts of this  
10 case so I think that's all we are asking him  
11 to really to testify to is what he heard with  
12 his own ears at a shareholders meeting. It  
13 is very limited.  
14

15 COURT: You know sometimes attorneys do  
16 become witnesses and in that case we would  
17 not have been able to try the case today,  
18 sir, but I will allow you to testify as to  
19 the limited facts. Go ahead.  
20

21 BY MRS. BENSCH:

22 Q. Would you state your name?

23 A. Michael W. Mogil.

24 COURT: Did I swear you in?

25 MR. MOGIL: Yes.

COURT: Okay.

BY MRS. BENSCH:

1 Q. And your address?

2 A. Professional address is 303 Professional Building,  
3 Hilton Head Island, 29928.

4 Q. Mr. Mogil, and Mr. Pape this document is No. 5 it was a  
5 letter from Mr. Mogil to call the shareholders meeting.  
6

7 MR. PAPE: Are you going to mark that as  
8 -- as what -- Defendants' Exhibit No. what  
9 since you are asking that this be marked as -  
10 -

11 MRS. BENSCH: Oh, I am sorry, please --

12 COURT REPORTER: 18.

13 COURT: Without objection?

14 MR. PAPE: Without objection.

15  
16 (WHEREUPON, DEFENDANTS'  
17 EXHIBIT NUMBER 18 WAS  
18 MARKED AND ENTERED INTO  
19 EVIDENCE.)

20 BY MRS. BENSCH:

21 Q. Mr. Mogil, did you prepare that document?

22 A. Yes I prepared it. It looks like my signature. I  
23 definitely typed it, it looks like my signature.  
24

25 Q. And who did you send that to?

1 A. It says I sent it to Jim Hale by fax and I copied Tony  
2 Griffis by fax.

3 Q. Who is Tony Griffis?

4 A. Tony is an attorney over there at Moss Creek Village  
5 and I am going to think at the time Jim Hale was the  
6 corporate attorney for Zorbas who formed the company. Tony  
7 Griffis must have been representing the Passaloukas'  
8 individual interests and that's why I copied him.

9 Q. Okay and yourself?

10 A. I was hired by you and Mr. Bensch, and prior to that  
11 time I had never represented you in any matter before.

12 Q. Can you go down the contents of the recent -- what the  
13 purpose of that is or what that is?  
14

15 MR. PAPE: Your Honor, is she asking him  
16 if he remembers or is she just asking him to  
17 publish the letter?

18 MRS. BENSCH: I am sorry, just -- would  
19 you read the letter.  
20

21 COURT: The whole thing or just parts of  
22 --

23 BY MRS. BENSCH:

24 Q. Well, I guess what I am looking for is -- first of all  
25 what is the purpose of the letter?

1 A. My recollection is at some point Mr. Fisher had put you  
2 in -- Mr. Fisher knew me from another client representation.  
3 He was an accountant for another one of my clients. Mr.  
4 Fisher put you in touch with me. I understood there was a  
5 dispute over the management of Zorbas and I had contacted  
6 Jim Hale or Jim had contacted me, I am not sure, about Mr.  
7 Bensch's interest in having a shareholders meeting and this  
8 letter outlined what Mr. Bensch, because I really wasn't  
9 talking to you at the time. I think I was talking to Mr.  
10 Bensch about what the agenda he wanted handled at the  
11 meeting.

12 Q. And what were the items on the agenda?

13 A. Referring to the document that I wrote it appears that  
14 from the document agenda one was that a board of directors  
15 be created, a seven-person board of directors including it  
16 looks like on here all the principals plus Mr. Fisher and  
17 Mr. Jackson and a neutral. That the stock be issued because  
18 I guess at that time Mr. Bensch didn't believe that the  
19 corporation had actually issued the stock for whatever  
20 agreements were in place. That the corporation make a  
21 resolution to pay rent and I believe you and Mr. Bensch  
22 owned the corporation that owned the facility where this  
23 Zorbas paid rent; I know that. And item four says that you  
24 be added, the Bensch be added as signatory parties to the  
25

1 checking account and that checks over \$50.00 require one of  
2 their signatures. That would have been something that I  
3 would have suggested; that \$50.00 part because at the time  
4 that was standard. That an accounting be made by Mr.  
5 Passaloukas of any monies withdrawn and that you get a copy  
6 of the mailbox key and get a business mailbox and that was  
7 the agenda that I had asked Mr. Hale on behalf of the  
8 Benschs to go over at the meeting.

9 Q. Do you know what the party's responsibilities or  
10 positions were in that corporation?

11 MR. PAPE: Your Honor, I -- the written  
12 documents I believe speak -- pretty much  
13 speak for themselves. I don't know if there  
14 are any details that Mr. Mogil can really go  
15 into that's going to change anything that the  
16 written documents stand for.

17 MRS. BENSCH: I withdraw that question.

18 BY MRS. BENSCH:

19 Q. Did you ask Mr. Passaloukas to submit a budget; was  
20 that one of the items on that list?

21 A. I don't believe that I had any communication other than  
22 verbal with Mr. Passaloukas.

23 Q. I mean was it in there? I am sorry, I could just read  
24 --

1 A. Jumping ahead, the budget was discussed at the meeting.  
2 I don't know if it is here. My letter asked that Mr. Hale  
3 have Mr. Passaloukas make a full accounting. I don't know  
4 that the word budget is in here. That was discussed in  
5 detail at the meeting.

6 Q. How was it discussed? Why was it discussed?

7 A. I think that the company -- I recall that the company  
8 was basically about operating revenue and that the  
9 discussions centered around you and Mr. Bensch contributing  
10 more funds. And one of the things that you wanted and I had  
11 discussed with you ahead of time was a business plan or a  
12 budget or something that -- that you would be able to make  
13 sense of so you could make -- decide you know how this thing  
14 was going to work when it hadn't worked before.

15 Q. What were -- can you just tell the Court what else  
16 happened at that shareholders' meeting in regards to Mr.  
17 Fisher?  
18

19 MR. PAPE: Your Honor, I object to the  
20 relevance. I mean I don't know where he is  
21 going to go with that, but I don't know if --  
22 it is just such an open-ended question.  
23

24 MRS. BENSCH: Your Honor, we are trying  
25 to ask about was a budget produced?

COURT: Just ask that.

BY MRS. BENSCH:

1 Q. Was a budget produced or did the Passaloukas's I guess  
2 bring a budget?

3 A. There was not. I don't recall a budget at the meeting.  
4

5 Q. Okay. Did the Benschs ask for keys to the -- or

6 A. At the meeting, yes, there was a request for mailbox  
7 keys and the meeting centered around the fact that  
8 originally the way the documents were drafted up by Mr. Hale  
9 there was no clear control of the company and that's -- I  
10 remember that centered back and forth about establishing  
11 some way to control. Imagine you have a lock -- the parties  
12 were locked as to what they wanted. There was no clear  
13 mechanism to -- I remember very specifically Mr. Hale  
14 defending himself in that regard.  
15

16 Q. For what purpose was he defending himself?

17 MR. PAPE: Your Honor, if he knows.

18 A. I don't know why he would defend himself, but basically  
19 Your Honor and again this is now nine years ago, I had a lot  
20 of hair back then. You did too. What happened was Mr. and  
21 Mrs. Passaloukas were the operating partners. Mr. and Mrs.  
22 Bensch were being asked to contribute money and they wanted  
23 more of a say of what was going on and the documents didn't  
24 provide a clear mechanism for that in terms of if they put  
25 in additional money and shouldn't they get more control and

1 more say of what's going on and Mr. Hale I clearly remember  
2 to this day because I joke with Jim Hale when I see him at  
3 the gym about it. He got very upset and confrontational  
4 with Mr. Bensch. Mr. Bensch said I don't understand how you  
5 said it -- you know how you made this this way and anyway  
6 there was some explicative and what not, but we still joke  
7 about it. I remember Jim turning red and that was the end  
8 of the meeting.

9 Q. So the shareholders were deadlocked?

10 A. I don't know if they were deadlocked. I know that the  
11 issue was you know there was money needed and you didn't  
12 want to -- the Benschs didn't want to give money unless they  
13 had some say about the operation of the business, the  
14 budget, the finances. They didn't want to keep on putting  
15 money in and there wasn't an agreement reached at that  
16 meeting as to how it would all play out. The meeting ended  
17 in confrontation.  
18

19 Q. Did you counsel us that we were obligated to put more  
20 funds in this corporation?  
21

22 A. I would not have said that you were obligated to put  
23 more funds in.

24 Q. Under the shareholders agreement we wouldn't have been  
25 obligated to loan more money to this corporation?

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MR. PAPE: I object. If she is asking him for his opinion with respect to the obligation of the Benschs visa vi the shareholders agreement.

COURT: I think he already answered the question. He did not counsel you to do it.

A. I haven't reviewed that shareholders agreement in so many years, that I don't know what it says.

Q. Okay. Well, when a shareholder contributes or loans a corporation money, do they get stock, additional stock?

MR. PAPE: Object.

COURT: She is generally, variably -- the agreement speaks for itself.

A. To summarize, I did not --

MR. PAPE: There's not a question on the floor.

BY MRS. BENSCH:

Q. Would you tell anything else that you remember about that meeting?

MR. PAPE: Object.

COURT: Don't answer that.

MRS. BENSCH: Oh, okay, I am sorry.

Could I see the letter?

BY MRS. BENSCH:

1 Q. Were you -- did you receive notice of a shareholders  
meeting from the Passaloukas' after this meeting?

2 Additional shareholders meeting?

3 MR. PAPE: Irrelevant, Judge.

4 COURT: Well I will allow him to answer.

5  
6 A. No, what happened Mr. Hale gave me notice of this  
7 meeting. I do not recall any other shareholders meetings in  
8 Jim Hale's office or other places after this meeting. I  
9 don't remember if Hale noticed one or not, but I know that  
10 we didn't have one after this.

11 Q. Item 2 was that the corporation issue initial stock --  
12 set forth an additional stock in direct proportion -- was a  
13 rent check given to the Benschs at that meeting?

14  
15 A. A rent check was demanded and again in my notes that I  
16 had when Mr. Clabaugh was counsel I remember there were  
17 dates when it was -- ultimately there was a rent check one  
18 month behind and I don't remember if it came to that meeting  
19 or if it was tendered to you or to me later, but ultimately  
20 I remember there was an eviction proceeding commenced. That  
21 is my recollection.

22  
23 Q. This -- reading your letter it said this shareholders  
24 meeting represents the last opportunity to restructure this  
25 business without Court's supervision. What right did you  
have to write that?

1 A. I would have written that because in the normal course  
2 when shareholders in a corporation cannot agree, you often  
3 go to the courthouse for a receiver to be appointed to  
4 liquidate a business or to put one party in control. And I  
5 would have written that and Jim would have understood that  
6 to mean let's resolve it, no I was your attorney, let's  
7 resolve this in lieu of getting a Court to decide whose  
8 right or appoint a receiver.

9 Q. So this company was by every stretch insolvent?

10 MR. PAPE: Object. There is no  
11 foundation.

12 COURT: You can ask him if he was aware  
13 of --  
14

15 BY MRS. BENSCH:

16 Q. Do you know if anything was voted on or agreed on at  
17 that meeting?

18 A. I think we agreed on the Board of Directors. I am good  
19 at my recollection there was agreement that a Board of  
20 Directors would be created. I am fairly sure I remember  
21 Mrs. Passaloukas agreeing to the mailbox key. I think  
22 nothing else was agreed on at that meeting.  
23

24 Q. And do you have any documents to sustain that? You  
25 don't have anything in writing?

1 A. I know there was no agreement on budget or finances or  
2 control and if I had those documents, they would have been  
3 provided to Mr. Clabaugh. And I didn't have time with two  
4 days notice or one business day's notice to go through and  
5 find all of that.

6 Q. At the end of the meeting, did this meeting produce any  
7 benefits for the corporation in your opinion?

8 MR. PAPE: Object. She is asking for an  
9 opinion. I don't --

10 COURT: Stick to the facts. What he saw

11 --

12 MRS. BENSCH: Your Honor, I rest for a  
13 moment and then rebuttal if necessary.  
14

15 BY MR. PAPE:

16 Q. Mr. Mogil, let me ask you to tell the Judge whether or  
17 not that is your signature on that document.

18 A. Yes, that is my signature.

19 Q. And you remember preparing that document?

20 A. I don't remember preparing it, but it's certainly  
21 something I have prepared.  
22

23 Q. And it is a letter from yourself to Anthony F. Griffis,  
24 Esquire?

25 A. Correct.

1 Q. And Mr. Griffis was the attorney for the Passaloukas's  
at that time?

2 A. That is my recollection, yes.

3 Q. And you sent this to Mr. Griffis by fax on December 21,  
4 1999 at 11:42 a.m.?

5 A. That would be -- that's what it says on the top sheet  
6 of the paper so I can't dispute that.

7 Q. And the intention of this document was to communicate  
8 directly to the Passaloukas's through Mr. Griffis is that  
9 correct?  
10

11 A. Yes, I think subsequent to the meeting I think Mr. Hale  
12 made it clear that he wanted to be neutral, that I was  
13 representing the Benschs and Mr. Griffis was representing  
14 them so I guess at this time Mr. Griffis and I were trying  
15 to work something out.  
16

17 Q. And the purpose of this letter was to advise the  
18 Passaloukas' that the December rent was past due and  
19 payable, is that correct?  
20

21 A. That's one of the things -- it was a two run on  
22 sentences but that was one of the things, yeah.

23 Q. All right. And it was directions from Mr. and Mrs.  
24 Bensch and I will read this. "In the meantime Mrs. Bensch  
25 asked me to remind you to inform Bill that rent had not been  
received for December as of this morning and he is in danger

1 of triggering the late fee provision again." Is that what  
2 you wrote?

3 A. Yes it is.

4 Q. You didn't tell him -- you weren't -- Mrs. Bensch had  
5 not asked you to advise the Passaloukases that they were in  
6 danger of being evicted, did she?

7 A. I don't remember if she asked me to do that. This is  
8 what I wrote. I don't remember.

9 Q. Well if she had asked you to advise the Passaloukas's  
10 that they were in danger of being evicted, you surely would  
11 have communicated that to Anthony Griffis? Is that right?

12 A. If she had asked me to tell them, I would have put that  
13 in there but I --  
14

15 MR. PAPE: I tender Plaintiffs' Exhibit  
16 31, Your Honor.

17 MRS. BENSCH: Yes.

18 COURT: Is that marked?

19 MR. PAPE: I have already marked -- I am  
20 sorry.

21 COURT: Is it already in?

22 COURT REPORTER: This is 32.

23  
24 BY MR. PAPE:

25 Q. And let's go back to this letter of December 8, 1999  
that you wrote to Mr. Hale. Do you have a copy of that?

1 A. No.

2 Q. That's Defendants' Exhibit 18, is that correct?

3 A. Correct.

4 Q. And look on Page -- the second page, look at the next  
5 to last paragraph and Mr. Hale was the attorney for the  
6 corporation Zorbas, Inc., is that correct?

7 A. At that time, yes.

8 Q. And before you sent this letter out, you had talked  
9 with Mr. and Mrs. Bensch, is that also correct?

10 A. Yes.

11 Q. And you got their advice and as to what you -- the  
12 message you wanted to communicate to Zorbas, Inc., is that  
13 correct?  
14

15 A. I think this letter attempted to set forth an agenda, a  
16 series of demands and an agenda for the upcoming meeting.

17 Q. All right. And this letter was done with the Bensch's  
18 explicit consent, is that correct?

19 A. I had authority to write to them. I don't know that  
20 they reviewed the letter one way or the other. I may have  
21 gone over it with them on the phone, but I wrote this letter  
22 on their behalf.  
23

24 Q. And you wouldn't have sent out a document like this  
25 without consulting with your client, would you?

1 A. I would have consulted with them and I would have had  
2 authority to write all this, but I don't know for sure that  
3 they saw the final version. I mean a lot of times people  
4 ask me to write letters as an advocate and we go over what I  
5 am going to say and I send it. I don't always get approval  
6 for every word in the letter.

7 Q. But you discussed the substance of each and every issue  
8 that you wrote in this letter, is that right?

9 A. All my knowledge at this point would have come from the  
10 Benschs because I had no direct dealings with any of the  
11 parties other than from what they told me.

12 Q. And they authorized you to tell -- by the way a copy --  
13 you sent a copy of this letter to Mr. and Mrs. Passaloukas'  
14 attorney by fax that same day, is that correct?

15 A. That's what the cc says so in the normal course I would  
16 have sent it at the same time unless I did something wrong,  
17 but --

18 Q. And so the purpose of t his letter was to communicate  
19 these issues and Mr. and Mrs. Bensch's posture directly to  
20 the Passaloukas' is that also correct?

21 A. Just to communicate to Mr. Hale for the purposes of  
22 structuring a meeting and also so that Mr. Griffis knew what  
23 they were demanding, yes.  
24  
25

1 Q. So that Mr. and Mrs. Passaloukas would be aware of what  
2 the Bensch's intentions were, is that right?

3 A. Well I don't know if it was Ms. Passaloukas or Mr.  
4 Passaloukas so that the partners in the business would be  
5 aware of what they were asking or demanding, yeah.

6 Q. And what they were saying is that unless we get this  
7 thing resolved, we are going to go to Court to ask for  
8 supervision. Is that what your communication with the  
9 Passaloukas is?

10 A. Yes.

11 Q. Okay. And when the Benschs ultimately decided they  
12 wanted to evict the Passaloukas' they came to you and sought  
13 advice, didn't they?  
14

15 A. I don't know if I filed the eviction, but I definitely  
16 would have talked to them about it. I don't remember if I  
17 filed the eviction.

18 Q. Well they never filed an eviction did they?

19 A. I don't remember. I never filed it, I don't know.

20 Q. They used self-help.

21 A. I don't recall.

22 Q. All right. You would not have advised them to use  
23 self-help in this situation, would you?  
24

25 A. I think what I advised them would be their privilege to  
waive is what I advised them.

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MR. PAPE: Well they have already waived that privilege Your Honor and at the deposition of -- that they gave on October 23, 2001, see if I can find this. I apologize, Judge, I thought I had it sitting right here. Your Honor, Mrs. Passaloukas, I mean Mrs. Bensch, look at the deposition of October 23, 2001 that you gave and go to Page 77.

MRS. BENSCH: Can I just glance at yours?

MR. PAPE: Well let me see if I have got a copy of it. Here it is.

MRS. BENSCH: What page, Frank?

MR. PAPE: Page 77. Your Honor, the purpose of this is obviously to get around the privilege that Mr. Mogil has correctly asserted on behalf of his clients, but it is my position that the privilege was waived when they testified to the advice that Mr. Mogil gave them during the period of time that they were taking this eviction action and I would like to read Mrs. Bensch's testimony into the record -- Mrs. Bensch's

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testimony in the record concerning that issue so the Judge can make a determination as to whether or not the attorney client privilege has been waived unless she is willing to admit that it has been waived.

COURT: I would take her silence to be no.

MR. PAPE: Okay.

MRS. BENSCH: I am sorry, I just don't understand what you just said.

COURT: Ordinarily, attorney and client -- there is attorney-client privilege that would preclude Mr. Mogil from testifying unless you waive the attorney-client privilege or there are ways in this state and other states to waive that privilege by action such as testifying as to the advice that you did something under attorney's advice or something like that. I am guessing that's what you are getting to.

MR. PAPE: Yes, sir.

COURT: So you apparently testified in your deposition regarding a particular action Mr. Mogil told you to take with regard to the

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eviction. I am guessing that's where we are going with this.

MR. PAPE: Yes, sir.

COURT: With regards to the eviction, thus Mr. Pape wants to ask Mr. Mogil what was the advice you gave the Benschs.

MRS. BENSCH: Yeah, but I think where he is pointing to goes back before the December 15<sup>th</sup> counsel.

MR. PAPE: Well, let me go ahead and put it in the record and so the Judge can make a decision and you can make your argument based upon --

MR. MOGIL: Before you object, can I proffer something, Judge, without reading this. I am not going to recall what I advised them. I don't even remember the issue.

MR. PAPE: You are not going to give me an opportunity to ask?

COURT: That being the case, I would be happy to continue -- whatever you would like to do, go ahead.

MR. PAPE: Thank you, Your Honor.

Beginning at Page 76, line 18 and again in

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customary fashion I would use the designation of Mr. Pape and Mrs. Bensch to determine who the speaker is. Sir?

MR. MOGIL: How many pages are we on?

MR. PAPE: It's about one, two, about three pages.

COURT: Mrs. Bensch, do you waive the attorney-client privilege with regards to the advice Mr. Mogil says he can't remember anyway?

MRS. BENSCH: Yeah, I guess I do.

COURT: Please ask Mr. Mogil any questions you have with regards to the eviction advice.

BY MR. PAPE:

Q. Mr. Mogil, you have already stated in your letter dated December 8, 1999, that you were advising on instructions from Mr. and Mrs. Bensch -- you were advising Mr. and Mrs. Passaloukas that if they didn't restructure the business you're going to have to go to Court to get supervision over the corporation. That's what your testimony was, correct?

A. That's a summary of what's in there, yes.

Q. Okay. And so at some point in time after that when it appeared December 15<sup>th</sup> was in default, the Benschs came to

1 you to ask for your legal advice as to how to move forward  
2 to resolve the differences that they had with the  
3 Passaloukas's, is that correct?

4 A. All I can answer to that is if Mrs. Bensch testified  
5 that that happened, it happened. I know I was talking to  
6 them almost every day during this period of time, but I  
7 don't recall that specific meeting or conversation.

8 Q. You would have not given -- under these circumstances  
9 where there had been this huge dispute that required a  
10 shareholders meeting on December 15 and given Mr. Hale's  
11 advocacy at about that time on behalf of the corporation,  
12 you would have not advised Mr. and Mrs. Bensch to lock the  
13 doors of the restaurant and to lock out Mr. and Mrs.  
14 Passaloukas using self-help, would you?

15 A. Is the question, did I advise them?

16 Q. You would not have -- in thinking over how you --

17 A. I will answer the question. I don't recall how I  
18 advised them. I would have gone over the lease which I don't  
19 -- sitting here today I haven't seen that lease since 2001  
20 or 2002 and looked at what the lease said and what the  
21 common law issues involving self-help were and would have  
22 told them of the various consequences of either have various  
23 courses of action, time frames and rarely would -- rarely  
24 would any client ask me what should I do. They would just  
25

1 want to know different results. Most clients who run  
2 businesses don't ask me what should I do, they ask me what  
3 can I do.

4 Q. You would have advised them that the use of self-help  
5 to lock a tenant is very risky business, wouldn't you?

6 A. Unless the lease said -- and I would have to look at  
7 the lease, unless the lease says it could be done. You are  
8 summarizing our understanding of the common law.

9 Q. Well assume the lease requires them to give ten days  
10 notice before they can terminate the lease.

11 A. Then I would have told them that's what the lease  
12 required. I don't -- I said I really don't have any  
13 recollection of the conversation with them about this. I am  
14 not saying it didn't happen, but it was ten years ago.

15 Q. Do you remember having a conversation with me in which  
16 you advised me that you had informed Mr. and Mrs. Bensch not  
17 -- to go to the Magistrate's Court and -- go to the  
18 Magistrate's court to evict them so you could have a hearing  
19 on that issue?  
20

21 A. No, basically, they would have made --

22 Q. Well, I don't know how he's going to answer it and I am  
23 going to immediately withdraw the question Mr. Mogil if you  
24 deny any knowledge of it?  
25

1 A. Mr. Pape, the only conversations I had with you were  
2 once the litigation started because I don't think we had --  
3 and I don't remember one way or the other that conversation.

4 Q. All right, but you don't -- Mr. and Mrs. Bensch came to  
5 you at that time seeking your advice on how to deal with  
6 locking the Benschs out -- I mean the Passaloukas's out of  
7 this location that they were leasing?

8 A. I was advising them on this whole situation. I don't  
9 remember any -- I mean this was all around the holidays.

10 Q. I don't have any further questions.

11 MRS. BENSCH: That's okay, thank you.

12 BY MRS. BENSCH:

13 Q. Using that same document, can we go back to Page 74.

14 MR. PAPE: Page 74 of what?

15 MRS. BENSCH: Oh, I am sorry, the  
16 deposition.

17 MR. PAPE: Well he wasn't a witness to  
18 the deposition, so --

19 MRS. BENSCH: I just want to give the  
20 context of it.

21 MR. PAPE: Well, well --

22 COURT: Let me ask you all this. What  
23 is the relevance of any of this?  
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MRS. BENSCH: Well, I think he is trying to establish an illegal eviction, Your Honor.

COURT: No, no I understand the allegations.

MRS. BENSCH: Yeah.

COURT: But -- Mr. Mogil as far as I can tell hasn't asserted to have given any advice with regard to the eviction. He is not a witness as with regard to the value of the business.

MRS. BENSCH: We're just trying to establish at the shareholders meeting the legal options of the shareholders to try to resolve how to continue this business, what was everybody's options, how do you do it --

COURT: You got that part, but then we went into this whole thing.

MR. PAPE: Your Honor, I was trying to establish the ambiguity of the situation. Mr. and Mrs. Passaloukas were being --- during this whole period of time they are not being advised that there was going to be any eviction. They were advised in one letter from Mr. Mogil that they were going to have

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to go to Court to seek -- restructure the corporation or for supervision and/or that there would be late charges if they didn't pay the December 15<sup>th</sup> rent.

COURT: That lease doesn't require a shareholders meeting, right?

MR. PAPE: No, no.

COURT: Give notice under Paragraph 10 whatever and then -- assuming it is done correctly.

MR. PAPE: Right. I see.

MRS. BENSCH: But Your Honor, Mr. Bensch's deposition states right here there was verbal notice.

COURT: Okay, but we haven't gotten to Mr. Bensch's testimony yet, so don't worry about that. I am not cutting off your case. I am just trying to figure out what Mr. Mogil's --

MRS. BENSCH: Was he advising us as a shareholder or was he advising us as a landlord? It would have been different advice, I guess.

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COURT: Well, anyway go ahead. I am sorry; I didn't mean to interrupt. I am just trying to understand where all the pieces fit.

BY MRS. BENSCH:

Q. Well -- in your letter to Mr. Hale you said that we were trying to stipulate as to new directors or add directors to be able to break the 50-60 issues so that something could change or something could be agreed on, some control could change or whatever. Is that what you -- would that be the reason for the directors added --

MR. PAPE: Your Honor, I am sorry, that goes beyond the scope of --

COURT: It does and I am still trying to figure out the relevance of it, but it does. Sustained.

BY MRS. BENSCH:

Q. You were -- you stated you were giving or Mr. Pape asked you about giving counsel for shareholders and their options? Is that what he just asked you about?

MR. PAPE: I didn't ask about shareholders, Your Honor. I asked about the advice concerning the eviction, so her

1 question concerning shareholders goes beyond  
2 the scope of the questions.

3 MRS. BENSCH: Okay.

4 BY MRS. BENSCH:

5 Q. The shareholders options were -- were they different  
6 than the landlords?

7 A. I just answered that question.

8 Q. So shareholders tried to determine how to -- the  
9 shareholders were they -- the purpose of any of this was  
10 that ultimately to make a profit for this restaurant?

11 MR. PAPE: No foundation.

12 MRS. BENSCH: Okay.

13 MR. PAPE: And it's speculative and --

14 COURT: Common sense yet, I will sustain  
15 your objection.

16 MR. PAPE: Common sense, thank you,  
17 Judge.

18 COURT: The whole idea was to make a  
19 profit out of this.

20 MRS. BENSCH: Well, Your Honor, he asked  
21 him if the Passaloukas' had any other warning  
22 from the Benschs that there -- if the rent  
23 wasn't paid, anything that we were going to  
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do that might give them any concept that they  
might be evicted.

MR. PAPE: Go ahead and ask him a  
question.

BY MRS. BENSCH:

Q. So in this deposition --

MR. PAPE: Your Honor, it is improper  
for her to refer to a deposition.

MRS. BENSCH: Well, okay then --

COURT: Go ahead and just ask the  
question.

MRS. BENSCH: Okay.

BY MRS. BENSCH:

Q. Mr. Pape asked Mr. Bensch in the deposition about his  
first written notice if that was it. If the first time he  
ever saw any written notice --

COURT: No, I said you could ask him the  
question.

MRS. BENSCH: Oh, I am sorry.

MR. MOGIL: I am on the stand.

MRS. BENSCH: Yeah, I am sorry Mike.

BY MRS. BENSCH:

1 Q. The question was if -- this meeting was in regards to  
2 the November rent not being paid, is that correct? I mean  
3 that was one of the issues of the shareholders --

4 A. I don't know if it was October, November or December,  
5 but one of the issues in the agenda was the rent was a month  
6 behind.

7 Q. Okay, and your letter to Mr. Griffis is dated December  
8 21<sup>st</sup>?

9 A. Right, that would have been after the meeting.

10 Q. Right. The meeting was on the 15<sup>th</sup>?

11 A. It was early in December.

12 Q. So by the 21<sup>st</sup> they still hadn't received the November  
13 rent according to your letter?  
14

15 MR. PAPE: Foundation, Your Honor, if he  
16 knows.

17 COURT: Let me say this. As I  
18 understand it, it was stipulated -- all you  
19 stipulated the December rent was never paid.  
20 The November rent was paid at some point in  
21 December and I imagine if we could come up  
22 with a date and all agree with what is in  
23 these records, so I mean I guess Mr. Mogil  
24 certainly can add to that, but that's already  
25 in the record as far as I know. You are

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trying to establish that the December rent wasn't paid and that the November rent was paid late, is that right?

MRS. BENSCH: Yes.

MR. PAPE: And that's stipulated.

MRS. BENSCH: Correct, but I am also trying to stipulate -- I mean determine or to demonstrate that we had a shareholders meeting, what was the outcome of the shareholders' meeting? Did it actually help the corporation in any way shape or form and what did each party do in an effort to help this corporations sustain itself?

COURT: Okay, I think you -- again I will let Mr. Pape make his own objections, but as I understand Mr. Mogil's testimony it was a vote to create a board of directors and Mr. Passaloukas agreed to give a key and other than that --

MRS. BENSCH: Nothing -- nothing happened.

COURT: That's your testimony, right?

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MR. MOGIL: My testimony was recalling everything else that was discussed ended with confrontation.

BY MRS. BENSCH:

Q. So -- so your testimony is that you -- Mrs. Passaloukas agreed to give the Benschs, a key but do you know if she did give that key?

MR. PAPE: Again that goes beyond the scope of my cross-examination.

COURT: Well it doesn't have a whole lot to do with me adding the numbers up, but I agree, I will sustain.

MRS. BENSCH: Okay. All right.

BY MRS. BENSCH:

Q. So would your counsel have been to the shareholders limited to the shareholders legal options or -- you were strictly advising them as a shareholder at this meeting, right, what their options were, not as a landlord, is that correct?

MR. PAPE: Your Honor, that goes beyond the scope of my cross-examination.

COURT: It does.

MRS. BENSCH: No further questions.

COURT: Anything else, Mr. Pape?

MR. PAPE: I object Your Honor.

1 That calls for a legal conclusion and I  
2 think the documents that are in the  
3 record sufficiently describe those  
4 obligations.  
5

6 COURT: I will allow it; go ahead.

7 BY MRS. BENSCH:

8 Q. Would you look at the Shareholders' Agreement,  
9 Page 237 right up here in that paragraph 4. Mr.  
10 Passaloukas' responsibilities and just read that, those  
11 lines that are underlined.

12 A. "Passaloukas will operate a business with the  
13 objective to maximize profits taking into account  
14 reasonable, prudent, and ethical operation procedures.  
15 In this regard, Passaloukas shall submit to the  
16 remaining shareholders a monthly budget for the  
17 shareholders' consideration and approval. Such budget  
18 shall outline in itemized fashion anticipated fixed  
19 costs associated with operation of the business. Do you  
20 want me to continue?"  
21

22 Q. Where are you? Right here?

23 A. I am right here.

24 Q. Yes, just the next underlined line and that's it.  
25

1 A. "And an anticipated gross margin percentage for  
2 sales. Upon approval of the budget by the Board,  
3 Passaloukas shall operate in accordance with such  
4 budget and shall inform and seek an approval of the  
5 shareholders for any increase in any expenditures on  
6 any particular fixed cost item in excess of 10% of the  
7 amount originally budgeted for such item."

8 Q. Thank you. Does that mean this Zorbas was  
9 supposed to operate within a budget submitted by you?

10 MR. PAPE: Your Honor, I object.

11 It speaks for itself.

12 COURT: You can answer. Go ahead,

13 sir.

14 A. Yes and originally we were supposed to get with  
15 Gil Fisher. Gil Fisher was the one that -- he was  
16 supposed to guide us with the all budgets, all the  
17 profit and loss and everything else about that. I was  
18 there running from the morning until the night. I  
19 don't have time for all that stuff and he was supposed  
20 to come and help us with that. That was the  
21 understanding we had and the conversations we have at  
22 your house with Gil Fisher, your husband, Gary and it  
23 was -- Gil Fisher never came to help us out with that.  
24 I was waiting for him.  
25

1 Q. Okay, but this document says that you are  
2 responsible to produce the budget, not Mr. Fisher.

3 A. What that says -- says, but that was the plan.  
4 Gil Fisher was supposed to -- I did not know much about  
5 budgets. I was trying to get the kitchen done. I was  
6 trying to get the building to work and everything else  
7 we had there to work.

8 Q. And you were the Manager? You were the Manager?

9 A. I was everything. I was the Manager, the cook,  
10 fixing your building, all the stuff that what was  
11 supposed to be needed.

12 Q. Do you have any idea -- or how many employees you  
13 planned to run this restaurant of 50 people - seats for  
14 50 people.

15 A. We had one cook on every shift. We had one  
16 dishwasher that also he was part of operation,  
17 cleaning. He did all odd jobs in the restaurant. We  
18 had one waitress in slow time. We had two waitresses  
19 on busy time and either me or Susie there all the time.  
20 It was slow times like between lunch and dinner that we  
21 -- in the beginning we had more employees because we  
22 was trying to figure out our needs. We had busy  
23 opening, grand opening. We had more help -- we had  
24 three waitress at one time. Later on, slowly, slowly

1 we tried to cut down according to our needs. By the  
2 end of the year, we tried to save to cut down the  
3 employees and the slow time between lunch and dinner  
4 and early in the morning when it was not needed, there  
5 would be me and Susie or we might have one person to  
6 help, or one waitress. We had cut down -- it all  
7 depended on the busy time of the restaurant. The  
8 lunch-time we had at least one cook, one person to help  
9 and two waitresses. And the dinner-time we were about  
10 the same.

11 MRS. BENSCH: Your Honor, Mr. Mogil  
12 testified yesterday that he had some  
13 other documents he came across and  
14 failed to bring them with him for this  
15 case and he would provide them to the  
16 Court if they would be helpful. He did  
17 fax them to us last night. They are  
18 simply --- I am not going to use --  
19 They were asking questions about them.  
20 They are simply -- since he called the  
21 shareholders meeting, they are simply  
22 his records and the -- I guess the  
23 resolutions on whatever were agreed on  
24  
25

1 at that meeting. Mr. Pape can look at  
2 those and decide if he objects.

3 COURT: Do they differ from the  
4 testimony we heard yesterday?

5 MR. PAPE: My first impression is  
6 that it really doesn't, but what he's  
7 got here, Your Honor, is the minutes for  
8 the Shareholders meeting. It is  
9 actually called a Draft and he is asking  
10 Mr. Hale, the corporate attorney, to  
11 approve them and --

12 MRS. BENSCH: Like the minutes of  
13 the meeting actually, what resolutions  
14 were presented, which ones -- how they  
15 were voted on is basically what the this  
16 says.

17 COURT: Let's let Mr. Pape look at  
18 them for a second and then my initial  
19 inclination is if Mr. Mogil, the drafter  
20 were here, or they met some other  
21 requirements that --

22 MRS. BENSCH: Yeah, he could be  
23 here. Would you like -- he said he's  
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going to be in Beaufort today, so he can come over just to --

COURT: Well first let's see if they add to the -- or let's let Mr. Pape look at them because if they don't add or subtract anything to the testimony we heard yesterday --

MRS. BENSCH: It's more verification I think than --

COURT: Mr. Pape, correct me if I am wrong, but I don't think there's even a dispute as to what happened at the shareholders' meeting?

MR. PAPE: I don't think so either, Your Honor. There were several issues that have arisen. I think we have identified what those issues are and there was agreement with respect to some of them. For example, I think the testimony was that a key was given to the Benschs. I believe the testimony was that as a result of the repair issue, Mr. Bensch agreed to make some repairs, but with respect to other

1 issues like giving the Benschs  
2 additional stock in consideration for  
3 them giving them more money, no  
4 agreement was reached and those were the  
5 essential issues, weren't they Ms.  
6 Bensch?

7 MRS. BENSCH: Yeah, well those were  
8 the essential issues I think in the ---

9 COURT: I don't remember the part  
10 about repairs.

11 MRS. BENSCH: Yea, I don't either,  
12 but I --

13 COURT: Was that part of the ---

14 MR. PAPE: Well, I think Mr.  
15 Passaloukas testified to that.

16 COURT: Well the minutes are  
17 important. You can take a look at them  
18 and see.

19 MRS. BENSCH: And that's the other  
20 thing he sent regarding requesting that  
21 they -- the Passaloukases requested  
22 their belongings from the restaurant.

23 MR. PAPE: Well, these letters  
24 refer to some communications between me  
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and Mr. Mogil concerning the personal items and a lot of the things that he has in here is just hearsay and I would object to these. I mean it wouldn't even be admissible by him if he was here.

COURT: Well if Mr. Mogil is here anyway, so you will just have to make the call as to whether or not you think its important enough to bring him back in an attempt to get those in.

MRS. BENSCH: No, actually, I am not sure it adds anything or not.

COURT: All right having not seen them I don't know if it affects this witness or not, but I -- anyway feel free to go on with Mr. Passaloukas.

MRS. BENSCH: Okay.

A. One thing, Your Honor, I want to add about employees we was talking about earlier, there was times that I had to cook, I had to wait tables if somebody did not show up. Either me or Susie would jump in the car and be there or do whatever we have to do; clean dishes, cook, anything that need to be done.

BY MRS. BENSCH:

1 Q. Mr. Passaloukas, after that shareholders meeting,  
2 you testified you're just not sure if you ever gave us  
3 a key. You think you did, but you are not sure of  
4 that?  
5

6 A. I can't remember. I thought that was not a  
7 problem. We agreed; we had misunderstood because I did  
8 not know that we had to have a separate box about the  
9 corporation. We tried to save money and we had one  
10 box. That was not a problem, so we decided to get  
11 another P. O. Box for the business and give you as many  
12 keys as you like. I think that was not -- I don't know  
13 if we gave you one or was planning on giving you one or  
14 whatever.  
15

16 Q. Do you have any records showing what that P. O.  
17 Box number would have been?

18 A. No, I don't. I don't remember anymore.

19 Q. Do you have any keys for that mailbox, that  
20 additional one?  
21

22 A. No. It has been years.

23 Q. So --

24 A. All the keys that was in the restaurant, you  
25 should have them.

1 Q. And I think you voted not to allow the Benschs on  
2 the bank account at that meeting, isn't that right.  
3 Mr. Pape, I can't even remember what that vote was. I  
4 think that was your testimony.

5 MR. PAPE: Well, if you want to  
6 start, you can ask the question and he  
7 will proffer -- Your Honor, for right  
8 now why don't we just offer this  
9 document for identification only and she  
10 can reference it. I think it is  
11 probably substantially correct, but she  
12 can ask him whatever she wants from the  
13 document.

14 COURT: Please mark it as whatever  
15 the next number is, for identification.

16 MR. PAPE: Only the minutes of the  
17 meeting.

18 MRS. BENSCH: I am looking for the  
19 ones from him specifically that had his  
20 fax number and when it was received.

21 MR. PAPE: Is there a difference?

22 MRS. BENSCH: Yeah, it is different  
23 because there is a - on the top it has a  
24 fax number and I just wanted to have the  
25

1 original when I got to him, not the one  
2 that was a copy or draft.

3 COURT: So we are removing the part  
4 that is the minutes from the letter. I  
5 haven't seen any of this, but there's a  
6 letter and there is the minutes, is that  
7 right?

8 MRS. BENSCH: Yeah, it is just  
9 identification, the letter stating that  
10 this is the minutes of the --

11 MR. PAPE: Your Honor, on second  
12 thought, I don't have any problem with  
13 the cover letter if she wants to put it  
14 in there.

15 MRS. BENSCH: It's just a cover  
16 letter.

17 COURT: For identification --

18 MR. PAPE: Yes, sir.

19 COURT: Or in general --

20 MR. PAPE: For identification and  
21 then --

22 COURT: Okay. All right, well I  
23 just don't know how Mr. Passaloukas is  
24  
25

1 going to identify a letter that was  
2 written, but any way --

3 MRS. BENSCH: Yeah, I am not going  
4 to use it with him. I'm just submitting  
5 it with the exhibit.

6 COURT: Well, as I understood it,  
7 what you were going to do is ask Mr.  
8 Passaloukas if he remembered the  
9 particulars in that letter or in the  
10 minutes as being exactly what happened  
11 at the meeting?

12 MRS. BENSCH: Oh, yeah. No, I am  
13 submitting it -- maybe it's for later,  
14 but right now its just asking you to the  
15 best that you can remember that you  
16 didn't vote at the shareholders meeting  
17 to allow the Benschs on the checking  
18 account?

19  
20 A. I didn't have any problems with you being on the  
21 checkbook or sign checks. I was the one; I was there;  
22 I was doing business with buying groceries, buying wine  
23 and all that. If you had to come to work there in the  
24 restaurant with us, I wouldn't have minded at all for  
25

1 you to be there, but I never had any problems. I never  
2 denied for you to be on the account or sign checks.

3 Q. Well, maybe I do need to show you the shareholders  
4 -- I mean this. On Item 2 the issue was addressed at  
5 that shareholders meeting. Would you just read those  
6 two sentences of what the item was and then how the  
7 vote was?

8 A. Which one you want to read?

9 Q. I am sorry, Item 2 right there.

10 A. "That the Benschs be given signatory authority on  
11 the account of Palmetto State Bank and that co-  
12 signatures be required on disbursements in excess of  
13 \$500.00 other than to food suppliers."

14 Q. And what was the vote on that? The line under  
15 that?

16 A. Vote -- Bill Passaloukas against, Susie  
17 Passaloukas against, Gary Bensch for, Cynthia Bensch  
18 for, the measure did not pass.

19 Q. Okay.

20  
21 MR. PAPE: Well you need to ask him  
22 -- that document is not in evidence.  
23 You need to -- you are asking him if  
24 it's true.  
25

BY MRS. BENSCH:

Q. Do you remember, is that true?

1 A. I don't remember what we vote. The thing, I am  
2 saying I didn't mind for you to be there. I was the  
3 one; I was doing all the business --  
4

5 Q. Okay.

6 A. And if you had come to work there or put some  
7 money into the business, you are welcome to everything.

8 Q. Okay. Did you ever give the Benschs a bill for  
9 \$195 for food that they had eaten at the restaurant  
10 prior --

11 A. I don't remember.

12 Q. You never gave the Benschs --

13 A. I say, I don't remember.

14 Q. Okay. Let's see -- was that part of your  
15 testimony in the previous trial?  
16

17 MR. PAPE: Your Honor, that's  
18 irrelevant.

19 COURT: Well, I don't know if it is  
20 or not. If you are going to show that  
21 as part of the monies owed to your  
22 clients.  
23

24 MR. PAPE: Yeah, true.

25 A. I might had. Gary came there many times buying --  
getting food for his employees and his friends and I

1 was tired to feed his friends so if it was something  
2 that -- sometimes he came over there to get five, ten  
3 box of food, steaks and seafood for his friends, I  
4 might have charged him for something like that. I  
5 can't remember. I did not charge you anything when you  
6 used to come to eat or drink and I sent food to your  
7 house many times for your whole family.

8 Q. Did you?

9 A. You don't remember?

10 Q. Let's see - sir, again this is the Shareholders'  
11 Agreement. This is Exhibit A, Page 247, Frank. Would  
12 you just read that last sentence right there?

13 A. All Shareholders are to dine --

14 Q. Gratis.

15 A. Gratis under this Agreement until such time as buy  
16 out may occur.

17 Q. Okay, so again in the Shareholders Agreement --

18 A. Again, I gave you food free many, many times.

19 Q. Okay, so the answer is we were -- the Benschs were  
20 to dine gratis per the Shareholders Agreement, or  
21 actually all the shareholders were to dine gratis. And  
22 after that Shareholders meeting, you fired the chef?  
23 You don't need to explain why you fired him, just that  
24 you fired Mr. Nicoli?  
25

1 A. I don't remember if it was after or before. I  
know I fired him because we had problems.

2 Q. Do you remember if it was December?

3 A. I don't remember.

4 Q. The last month of the --

5 A. I don't remember. Everything should be there, his  
6 last check should be there in the payroll.

7 Q. Did you contact Mr. Bensch to tell him you might  
8 fire the chef?

9 A. Why should I?

10 Q. Okay.

11 A. I was the General Manager and I should take -- it  
12 was my decision, right? So I fired your buddy. I am  
13 sorry, Judge, it gets emotional.

14 MR. PAPE: There's no question, Mr.

15 Passaloukas.

16 BY MRS. BENSCH:

17 Q. I am going to -- You stated that you tried to  
18 contact the Benschs and you left messages on their cell  
19 phone number and that you made every good faith effort  
20 to meet with them before the eviction?

21 A. Yes, we did.

22 Q. Okay.

1 A. I don't know if it was myself or Susie or both of  
2 us, I can't remember but I know we did.

3 MRS. BENSCH: The exhibit that we  
4 looked at yesterday, what was the number  
5 of that in regards to the references  
6 that you made to the -- to the first  
7 trial about Mr. Bensch's testimony that  
8 he had not given any other notice to the  
9 -- per his own words he had not given  
10 any other notice to the Passaloukases --

11 MR. PAPE: Well the notice --

12 MRS. BENSCH: Do you remember where  
13 we were on that? I thought I had marked  
14 it.

15 MR. PAPE: Well the notice is  
16 Plaintiffs' Exhibit A. Is that what you  
17 are looking for?

18 MRS. BENSCH: No, it was a  
19 reference to the -- in the trial --  
20 direct -- maybe it was a direct  
21 examination by you, that's what it was.

22 MR. PAPE: Mrs. Bensch, I am sorry,  
23 I don't remember.  
24  
25

MRS. BENSCH: Okay. That's okay.

1 I am not going to keep the Court  
2 waiting. I lost my tab for it, so  
3 whatever.  
4

5 BY MRS. BENSCH:

6 Q. In your statements in regards to the eviction  
7 being improper, you stated that you had no other idea  
8 that Mr. Bensch was going to evict you. Is that  
9 correct?

10 A. That's correct.

11 Q. Okay. But you had the lease and you knew what the  
12 lease said, right?

13 A. We had the lease, yeah.

14 Q. Okay. What other responsibility does the lease  
15 have or what other method or what other unknown  
16 responsibility was there that the landlord had to you  
17 for notice of eviction?  
18

19 MR. PAPE: Your Honor, I object. I  
20 think the question is ambiguous and/or  
21 open-ended and I am not sure how or -  
22 how he would respond to this.  
23

24 COURT: Well, really more -- more  
25 importantly, the lease and its eviction  
procedures speak for itself.

BY MRS. BENSCH:

1 Q. Okay, so is there any other argument -- I mean not  
2 argument -- any other document that you have that says  
3 we, the Benschs, were to do more than what the lease  
4 required?  
5

6 A. I don't know any other documents.

7 Q. I have no further questions, Your Honor.

8 BY MR. PAPE:

9 Q. Mr. Passaloukas, what was the reason for firing  
10 the chef?

11 A. Well we had a problem for a long time. He was not  
12 really what he promised us he can do work-wise. What  
13 he can cook, what he can fix. He was -- he knew that  
14 it was an authentic Greek cuisine and he promised he  
15 knew so much. On the side of that, we tried to work  
16 things out. We tried to teach him things and some --  
17 some of the stuff we had start to work right, but we --  
18 we had the main problem it was drugs. He was -- him  
19 and his wife had problems and we had caught him on the  
20 back of the building countless times over there  
21 smoking pot and sometimes in the busy time we was  
22 losing him. He would not be in the kitchen and he  
23 would be on the back and tried to find him and we gave  
24 him a couple warnings and finally I was tired. So, I  
25

1 don't remember if we gave him a notice or we just --  
2 and I feel we had a problem with his wife. She was  
3 working for awhile as a waitress or around the  
4 register. I can't exactly remember. We came up short  
5 a few times and we tried to see what was the problem.  
6 We end up let her go so she got mad and -- but problems  
7 like that.

8 Q. What was the name of that chef?

9 A. John Nicoli.

10 Q. I don't have any further questions, Judge.

11 COURT: All right. Let's do this.

12 Why don't we break and --

13 BY MRS. BENSCH: Can I just do one  
14 thing on redirect?  
15

16 COURT: Yes.

17 MRS. BENSCH: Okay.

18 BY MRS. BENSCH:

19 Q. This is John Nicoli's direct examination by Mr.  
20 Bauer Page 142.  
21

22 MR. PAPE: Your Honor, what is she  
23 reading?

24 MRS. BENSCH: This is the Appeals -  
25 - Judge Kemmerlin's trial, the first  
trial.

1 MR. PAPE: But are you reading  
2 testimony from Mr. Nicoli you said?

3 MRS. BENSCH: Well I would like Mr.  
4 Passaloukas to read the testimony from  
5 Mr. Nicoli.

6 MR. PAPE: What page are you  
7 looking at?

8 MRS. BENSCH: 142.

9 COURT: Well here's what you could  
10 do with this part of the procedure. I  
11 mean, if you are going to find Mr.  
12 Passaloukas' testimony and find where  
13 its different than with regard to that  
14 subject matter than what he testified to  
15 today, that would be permissible. But  
16 it's --

17 MRS. BENSCH: Nothing else?

18 COURT: Mr. Pape hasn't technically  
19 made the objection yet, but if he's  
20 going -- if what you are going to do  
21 unless Mr. Pape doesn't object is read  
22 from a gentleman's - who not here -  
23 testimony and then ask him to comment on  
24  
25

1 that, that would not be admissible at  
2 this point.

3 MR. PAPE: Your Honor, I had not  
4 actually remembered that John Nicoli had  
5 testified at the first trial so yes I  
6 would object to her reading his  
7 testimony.

8 COURT: Unless you want to have him  
9 here certainly you can bring it up.

10 MRS. BENSCH: Okay, no further  
11 questions, thank you.

12 COURT: Let's break for an hour and  
13 come back and keep going. And after  
14 lunch you will have ---  
15

16 MRS. BENSCH: Myself.

17 COURT: Yourself and that's it,  
18 right? Why don't we call it an hour and  
19 fifteen minutes.  
20

21 (WHEREUPON A LUNCH BREAK WAS TAKEN.)  
22  
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1 MR. PAPE: Are we back on the  
2 record?

3 COURT: Yes.

4 MR. PAPE: Your Honor, as a  
5 preliminary matter, I have examined pro  
6 se Plaintiffs or parties in Magistrates  
7 Court and its more informal in those  
8 Courts than this one. I am not quite  
9 sure how to object to a party who's  
10 essentially going to be giving a  
11 narrative rather than a question and  
12 answer form and I am not sure I must  
13 object to either hearsay, but -- but if  
14 I -- I don't mean to step on any of her  
15 narrative, but I may have to do that  
16 from time to time.

17  
18 COURT: No, I understand. I doubt  
19 she will take it personally and also I  
20 understand. The -- of course, there's  
21 no jury here, so we don't worry about  
22 the complexities of having to unring a  
23 bell and all of that sort of thing. But  
24 if you could just go slowly Mrs. Bensch  
25 and from time to time if Mr. Pape

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agreed to give them an opportunity to be equal partners in a business to do the things that they said that they were able to do. And so we agreed in good faith to a 50/50 Shareholders Agreement so that everybody was equal and everybody could just put their best efforts forward to run a restaurant and make some money. And as time went by and the restaurant started going down in October, Mr. Bensch or we, Gary and I, went to the Passaloukases and tried to figure out what needed changed with that scenario; how you improve things and it just became completely untenable that there was any agreement going to be reached between the four of us. And one of the issues that surfaced and we did not realize previous to any of that was that there was such a commitment to a Greek or authentic Greek cuisine. And we didn't really care what the cuisine was. We just really cared that the restaurant made a profit, that's why we

1 let them have carte blanc with any of  
2 that. But Gary did as a 50/50  
3 shareholder say well maybe --

4 MR. PAPE: I object to what Mr.  
5 Bensch said --

6 MRS. BENSCH: I also agreed. I  
7 believed that changing the menu might be  
8 something to consider. That's what we  
9 had -- that was our belief and possibly  
10 changing the prices on the menu. Your  
11 Honor, I would like to just submit one  
12 page of the menu just for the Court's  
13 record to show how little things become  
14 such big things. That was the other page  
15 was -- I believe the alcohol beverages  
16 or something. It is just a page that  
17 shows menu was mostly Greek.

18  
19 COURT: Okay, so you are offering  
20 that as defense exhibit -- I lost track  
21 of numbers.

22 MRS. BENSCH: 18 I believe.

23 COURT: Without objection.

24 MR. PAPE: No objection.

25 MR. PASSALOUKAS: The other page --

1 MRS. BENSCH: I don't have it.

2 MR. PASSALOUKAS: All the dinners -

3  
4 MRS. BENSCH: That's all I am  
5 submitting; that's all I have.

6 MR. PAPE: But that menu is not  
7 complete?

8 MRS. BENSCH: No, that's what I  
9 said. There was a wine list and -- but  
10 it was basically a Greek menu. So  
11 because we were in downtown Bluffton, we  
12 decided to ask the Passaloukas would  
13 pizza or tacos or something help and  
14 they, I think you know were really  
15 offended. Mr. Passaloukas was or he  
16 appeared to be offended at that meeting  
17 so, anyway, we couldn't figure out what  
18 our options were to proceed so we called  
19 a shareholders meeting and noticed the  
20 corporate attorney. And as Mr. Mogil  
21 has testified to and at that meeting per  
22 the testimony already given, we all know  
23 where the parties ended up or who agreed  
24 on what and who didn't agree on what.  
25

1 Well, then we were left with what are we  
2 going to do as landlords with the  
3 fiduciary responsibility as landlords  
4 with the mortgage and as shareholders.  
5 And it was really obvious from the  
6 actions after the restaurant closed that  
7 we really weren't going to be able to  
8 talk. The Passaloukases have testified  
9 that they called us several times. In  
10 the public phone book for the past 15  
11 years we have had two phone numbers, two  
12 answering machines and they made the  
13 statement that it was around the time  
14 when a grandchild of ours was born.  
15 Well, we have 15 of them and the only  
16 one born nine or ten years ago was  
17 Abigail and she was born in the Hilton  
18 Head Hospital and we have been married  
19 30 years and our family tradition is we  
20 have never left town for Christmas  
21 before New Year's.

24 MR. PAPE: Your Honor, I object.

25 She needs to address this specific

1 situation he is talking about rather  
2 than --

3 COURT: Overruled. She can testify  
4 as to where she was at Christmas.

5 MRS. BENSCH: So we were not  
6 unavailable to be reached by the  
7 Passaloukas'. Again we've never, we  
8 never will leave Christmas because our  
9 kids all come over. So we -- we let's  
10 see --- after we had the shareholders  
11 meeting we had to sit down and consider  
12 how financially what were our  
13 liabilities and what were our  
14 responsibilities. Mr. Fisher has  
15 testified that he was unable to --

16 MR. PAPE: Object to Mr. Fisher's  
17 testimony. I mean she would be  
18 characterizing his testimony, Your  
19 Honor, and his testimony is in the  
20 record. I don't think she --

21 COURT: Well, if she is trying to  
22 change it, she is set up for some  
23 comment she is going to make so you can  
24 continue on and then I will --  
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MRS. BENSCH: No, I am not trying to change it. I am just trying to verify it that we couldn't get the records to figure out what the credit card deposits were or the -- we couldn't get the mail. We had no way to know what was going on with that record -- I mean with that restaurant financially. Was it making money or losing money but we were liable for the assets -- I mean for the liabilities of Zorbas and we clearly understood that.

MR. PAPE: Object to the legal conclusion and that they were legally liable for the assets or --

MRS. BENSCH: Well, we were equal shareholders in that corporation and so we were liable for the asset -- that's why we are here today because of the contributions that we made and who owns what assets, etc.

COURT: Okay.

MR. PAPE: Your Honor --

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COURT: I am sorry. Go ahead Mr. Pape.

MR. PAPE: That's all right. I am not sure exactly what legal liability -- she is saying liable for the assets. I am not sure exactly what --

MRS. BENSCH: I am sorry, the liabilities. I am liable for the liabilities. In other words, if the employees aren't paid, if the vendors aren't paid, if the rent is not paid, you know --

MR. PAPE: I object. She is drawing a legal conclusion based upon some facts that are not in evidence.

COURT: All right. Well anyway, sustained, but go ahead.

MRS. BENSCH: So the Plaintiffs have made the argument that we, per the Krikitis law, South Carolina law ruling that we had some -- that that law was applicable to this eviction. And Your Honor, that eviction, it was a tenant

1 was an assignee of the original tenant -  
2 -

3 MR. PAPE: Your Honor, I object.

4 She is arguing the case law and --

5 COURT: If you can go ahead and  
6 just give us the -- try to wear the hat  
7 of the witness at this point and you  
8 will certainly get to argue later.

9 MRS. BENSCH: Okay. Well anyway --

10 COURT: I mean if you will testify  
11 as to the eviction and the circumstances  
12 from what you know, that's okay. But you  
13 will have an opportunity to argue the  
14 law at the conclusion of all this.

15 MRS. BENSCH: Oh, okay, so we are  
16 all going to have a conclusion? Oh,  
17 okay, I didn't think we were. All  
18 right, then I will go by this. The  
19 chef, Mr. Elliferio called me --  
20

21 MR. PAPE: Foundation, hearsay or  
22 potential hearsay.  
23

24 MRS. BENSCH: Okay, I am going to  
25 submit his checks. He called me because  
he was not being paid his salary.

MR. PAPE: Object, hearsay.

COURT: That would be hearsay.

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3 MRS. BENSCH: All right. We paid -  
4 - I paid several of the debts for Zorbas  
5 because the Manager was not paying the  
6 bills.

7 MR. PAPE: Object, hearsay. She is  
8 suggesting --

9 MRS. BENSCH: Can I submit the  
10 checks?

11 COURT: Yes. You can tell us what  
12 you paid and certainly show the checks  
13 that you paid.  
14

15 MRS. BENSCH: Here's Mr. Eliferio,  
16 Exhibit whatever that is going to be.

17 MR. PAPE: Your Honor, my initial  
18 objection is that I have requested them  
19 for the past nine years to produce  
20 records of all their expenses and  
21 somewhere in the deposition testimony is  
22 promises by Mr. and Mrs. Bensch that  
23 they would produce those records. This  
24 is the first time I have ever seen these  
25 documents and if you look at Check No.

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6164 it is on an account of Benschmark Custom Builders signed by Cynthia Bensch. It is dated January 20, 2000. It only says toward money owed and we don't have any evidence -- I think there needs to be a proper foundation made that there was actually money owed by Zorbas that they undertook themselves to pay.

COURT: Well I think she was showing you copies of that and if you will go through each individual check Mrs. Bensch and just tell us what they were for.

MRS. BENSCH: Okay. The -- Mr. Eliferio claimed he was not --

MR. PAPE: I object.

COURT: Well, now you can't say what he said, but you can --

MRS. BENSCH: Okay. We wrote him a check on --

COURT: You can tell us what action you took.

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MRS. BENSCH: Okay. I wrote him a check on -- from the Benschmark account because I was not on the Zorbas account. So I had to use our company check to pay him.

COURT: And who was that gentleman?

MRS. BENSCH: He was the chef at Zorbas.

COURT: So how many pages do you have there -- I am trying to decide --

MRS. BENSCH: Oh, just a couple of those.

COURT: Why don't we mark -- is there one check on a page or more than one check.

COURT REPORTER: There's four checks on this page.

COURT: Why don't we mark them all collectively as whatever -- as the checks themselves aren't separated.

MR. PAPE: Do you have an extra copy of those?

MRS. BENSCH: Yes, I do.

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COURT: Why don't we attach them all together as a package and then give Mr. Pape what is attached together, and we will mark the package as whatever the next number is.

MRS. BENSCH: Did I just have the one and then it disappeared again?

COURT: Well I could probably take those right now and go make copies faster, unless you find it immediately. Now do you have a package there? How many pages is it that you are going to need to make a total set?

MRS. BENSCH: Well, Your Honor, as Mr. Pape just said, we have been trying to get accounting for years in this case and literally finding out some of these numbers. This is just a list that I will give you.

MR. PAPE: Your Honor, I would object to any summaries or -- I mean this is just a very short list of apparently expenses that she is probably claiming. I mean if she had thousands

1 of items then a summary might be  
2 appropriate, but it is such a short list  
3 of things, I think it would be just --  
4 and she says she has the checks. I  
5 would rather her --

6 COURT: Tell you what, why don't we  
7 go through the checks. If the checks  
8 match the summary, then I am happy to  
9 have the summary because I think that is  
10 helpful to the finder of fact while I am  
11 calculating things.

12 MRS. BENSCH: Okay, the purpose of  
13 this brief document -- this brief item  
14 is, Your Honor, yesterday when we were  
15 trying to clarify what were the assets  
16 of Zorbas at the time, and we have to  
17 determine I guess the admission of the  
18 appraisal by -- from kitchen and  
19 equipment is admissible, was agreed on  
20 as a document stipulated to so that's  
21 how I am trying to establish the  
22 \$12,635.00 as an asset to Zorbas.

23 MR. PAPE: Your Honor, she is  
24 offering an appraisal of kitchen  
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equipment. We have never stipulated to that.

MRS. BENSCH: Yes, sir. It was stipulated on these documents right here. It was --

COURT: I will tell you what. Why don't we -- you were a moment ago getting ready to testify as to the checks and what they were for and then somehow we got off on something else, But it would be helpful to me if you were to finish with the checks and then we can get into those other issues.

MRS. BENSCH: This is it. I mean those checks and the -- as far -- well, you are right. I am combining the liability and the assets, I am sorry.

COURT: Well you haven't told me what the checks are yet. I understand you have them there. You have given them to Mr. Pape, but I don't know what they are.

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MRS. BENSCH: Mr. -- okay, we paid those checks to Mr. Eliferio for his unpaid salary.

MR. PAPE: I am sorry, I am -- she has not laid a foundation and it sounds to me like that the only basis of her belief that it was unpaid salary was what he told her and to that extent that's hearsay.

COURT: Don't tell me what he told you, but you can tell me who you paid.

MRS. BENSCH: Okay, we paid --

COURT: And why you paid it, but without telling me what he told you.

MRS. BENSCH: Okay. I paid Mr. Eliferio \$950.00 for his --

MR. PAPE: Objection, foundation, improper foundation.

COURT: Overruled. Go ahead.

MRS. BENSCH: Okay. For his December salary at Zorbas.

MR. PAPE: But I don't know which. I mean there are lots of checks on these copies and I just don't ---

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MRS. BENSCH: Oh, I am sorry, just the ones that have Mr. Eliferio. Those three checks is all I am talking about; this one, this one and that one.

MR. PAPE: Well, are these marked as Exhibits?

MRS. BENSCH: \$950.00. Yes I think she marked one of them.

COURT: Okay, I was hoping y'all would take all of the checks that you were going to assert were and put them as one Exhibit.

MRS. BENSCH: This one, this one and you have got this one.

COURT REPORTER: Well, let me see this. He wants you to put them all in one Exhibit, every check.

MRS. BENSCH: These are copies. Those are the same thing.

COURT REPORTER: Okay.

COURT: One page?

MRS. BENSCH: No, two pages.

COURT REPORTER: Two pages.

COURT: All right.

1 MRS. BENSCH: Exhibit 21.

2 MR. PAPE: Well let me look --

3 COURT: I thought there were four  
4 checks per page and you were talking  
5 about three checks?

6 MRS. BENSCH: Yeah, out of the two  
7 pages there are just three checks but  
8 they are on separate pages.

9 COURT: So the other checks have  
10 nothing to do with this?

11 MR. PAPE: So, may I staple these  
12 together? And let me compare them with  
13 what I have now. Your Honor, I think  
14 you probably understand my objection and  
15 I don't want to belabor it, but all she  
16 can say about these checks is that she  
17 wrote them in that amount and on that  
18 date, and to the person whom it is  
19 payable, but she can't testify directly  
20 of her own knowledge as to what they  
21 were for and that's my problem. It is a  
22 relevance issue.

23 MRS. BENSCH: This was in the first  
24 trial.  
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COURT: But anyway, it's -- it is what it is and I think I did agree with you that she can't tell us what this gentleman, I can't remember his name, told her, but certainly I think one of the Appeals Court's questions was -- money in, money out, money leftover and as I understand it, this is money out from the Defendants.

MR. PAPE: And it requires a strict accounting and I --

COURT: Which nobody ever gave.

MR. PAPE: And these were never provided to us either; not in any deposition, not in any discovery, not at the last trial.

COURT: I understand and Mr. Fisher yesterday all his documents apparently after ten years surfaced yesterday, so it is confusing, I grant you and I am going to do the best I can, but go ahead Ms. Bensch.

MRS. BENSCH: Okay. On the documents that we stipulated to, the

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kitchen and its equipment, per the appraisal was supposed to be marked as -  
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MR. PAPE: Your Honor, again I object to that. The document that she is offering up is an appraisal by a gentleman who is apparently an equipment -- a restaurant equipment appraiser. He is not here to testify as to his appraisal and we have never stipulated to this document.

MRS. BENSCH: Yes, sir, it is on these documents to be stipulated to.

MR. PAPE: Your Honor, the document she is referring to is a copy of a document that I got from Mr. Clabaugh in some correspondence; documents that he proposed that we stipulate to and apparently this is one of the documents on his list that he sent to me. I never stipulated to those documents, especially this one.

MRS. BENSCH: Okay.

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COURT: All right. Well we will take a look at it. Can you stipulate to it today or not?

MR. PAPE: No, sir.

COURT: So we have no record appraisal of the equipment?

MRS. BENSCH: Okay, so I think your -- Mr. Steinberg's testimony that as to how he would have appraised the equipment --

MR. PAPE: I object. She is arguing the --

COURT: Go ahead and just finish testifying as a fact witness if you would.

MRS. BENSCH: In the course of the upfitting of that restaurant per Mr. Passaloukas' testimony yesterday that there was to be a patio, it was on the plans. Mr. Bensch built a patio and billed Zorbas for the patio and was never paid for the patio. A bill was submitted for the patio and that's part of the -- that was Exhibit 8 under the

1 bills paid by the Defendants that was  
2 not reimbursed by Zorbas. That is part  
3 of this list, the patio.

4 MR. PAPE: Your Honor, I object to  
5 her referring to some summary.

6 MRS. BENSCH: Okay.

7 COURT: You can testify from your  
8 own independent knowledge, Ms. Bensch as  
9 to the accounting, however you would  
10 like to make your case, but I am  
11 guessing what you are testifying to is  
12 sort of a post-closure accounting of  
13 what was owed and paid.

14 MRS. BENSCH: Right; just trying to  
15 do some sort of accounting. Well, Your  
16 Honor, yesterday Mr. Fisher admitted a  
17 cover letter. I am not sure what Exhibit  
18 it was, and he said that he gave Mr.  
19 Pape the business journal ledger on this  
20 corporation and that cover letter says  
21 he could have done a complete accounting  
22 for \$650.00. He could have done the  
23 federal taxes, everything and closed out  
24 this business.  
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MR. PAPE: Your Honor --

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2 MRS. BENSCH: Mr. Pape has had  
3 these documents since February of 2000.  
4 We didn't know that until yesterday.

5 MR. PAPE: Your Honor, she's got to  
6 establish some foundation. If she has  
7 personal knowledge that I have received  
8 all of these things, then she can  
9 testify as to her own personal  
10 knowledge. Otherwise, it is  
11 inadmissible and I think it is  
12 irrelevant.

13  
14 COURT: Here's what we are doing.  
15 Let's go off the record for a second and  
16 let me talk to Mrs. Bensch and Mr. Pape  
17 in my office.

18 All right back on the record in  
19 00CP07-524. I had a brief discussion  
20 with Ms. Bensch and Mr. Pape about some  
21 issues in the case and as I recall we  
22 were -- before we left Ms. Bensch had  
23 offered an Exhibit which I understand  
24 Mr. Pape objected to. Is that correct?  
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MR. PAPE: Yes, sir.

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COURT: Okay and that Exhibit was some sort of stipulation offered by Mrs. Bensch's previous counsel. Is that what it was? A valuation --

MR. PAPE: -- of the equipment in the restaurant, yes sir.

COURT: Okay.

MRS. BENSCH: Uhm --

MR. PAPE: He had offered it as a stipulation and I had rejected the stipulation.

MRS. BENSCH: Okay, since we are trying to get the numbers here, we're -- I guess then the Court will either use this appraisal or your expert appraisal numbers. Your Honor, I just want to get right to the -- well I want to clear up one little thing and then try to just stick to numbers. On Plaintiffs' Exhibit 277 --

COURT: We don't have 277 so you mean Page 277 --

MRS. BENSCH: Oh, I am sorry, Exhibit 9.

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COURT: Okay.

MR. PAPE: Well --

MRS. BENSCH: It's there. The things that were still missing is the --

COURT: It's been a long trial, but I am pretty sure we don't have a 277.

MRS. BENSCH: We are not at 277.

MR. PAPE: Your Honor, she's referring to the transcript of record in the Court of Appeals and none of those numbers match any of our Exhibit numbers or anything. I will see if I can find -

COURT: 277, I found it. It is -- this says Plaintiffs' Exhibit 9, would that be right?

MR. PAPE: No. In this case it is Plaintiffs' Exhibit 26 Judge.

COURT: This is the one item still missing; some CDs and cassette tapes?

MR. PAPE: That's right.

COURT: Got you. Okay.

MRS. BENSCH: Your Honor, in a narrative, it's my position that

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everything that belonged to the  
Passaloukases was boxed up and taken to  
Mr. Mogil's and they picked it up from  
Mr. Mogil.

MR. PAPE: Foundation, Your Honor.

COURT: Okay.

MRS. BENSCH: The letter that Mr.  
Mogil wrote states that they -- he had -

MR. PAPE: Objection.

COURT: We are still in -- one  
second Mr. Pape, we are still in your  
testimony part, so of your own knowledge  
for instance, did you box things up and  
take them.

MRS. BENSCH: Yes, I personally --

COURT: You can testify to that,  
but you can't testify that you are aware  
that something happened. Just things  
that you --

MRS. BENSCH: Yeah, we boxed these  
things up and took them all to the  
attorney's office and again I am under

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oath and I have never stolen anything in my life.

MR. PAPE: I object, Your Honor.

MRS. BENSCH: I don't have any of these items, I never did. I returned them all to the Passaloukases. In trying to determine the fixtures and the value, the purchases from the Passaloukases and the Benschs their Exhibit 2 of the Passaloukases, Your Honor. Now, would the Court think it's best to just go down these items to determine if these are actual equipment, this is actual equipment that would be part of any appraisal and/or removable or do we want to do two separate reviews?

COURT: I think it would certainly be helpful to me if you would differentiate between that which is a fixture and that which is not.

MR. PAPE: Your Honor, I am not sure that she's qualified to determine from a Plaintiffs' Exhibit 2 what is a

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fixture or removable item or anything else.

COURT: Well, she may or may not be, I don't know.

MRS. BENSCH: Well we have been smart builders for 30 years.

COURT: If she doesn't know I would assume she would testify she doesn't know. As a member of the corporation or LLC, I can't remember how it was set up at this point, but I think an owner is always authorized to testify as to their opinion of valuation of items.

MR. PAPE: Well, but she is not the owner of this --

COURT: Wasn't she the owner or one of the owners of --

MR. PAPE: Well Zorbas, Inc. is the owner and she's got to -- she's not the personal owner. She's got to establish some sort of foundation as to what her source of knowledge would be. I mean --

MRS. BENSCH: Well, as the landlord that benefited from these assets, Your

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Honor, I guess we can look at it from that perspective.

COURT: Well go ahead and -- I don't know what your testimony is yet. You were just asking about number 2 so why don't you start off and then we will just take things as we go.

MRS. BENSCH: Okay, again the purpose of this is to just determine what equipment was in the restaurant per the blue prints and plans provided by the Passaloukas and per Mr. Passaloukas's contribution statement -- what's real -- removable and what the value was. That's all I am trying to do, okay.

COURT: All right.

MRS. BENSCH: And the first one the blueprints would show that -- Your Honor, I could save -- does Mr. Pape want to agree that this was a removable fixture or not and --

COURT: Well, if you wanted to go off the record for a second and if you

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all can agree on what was removable and what was not. Since it's a walk in cooler I am guessing it would be a non-removable item, but --

MR. PAPE: Well, Your Honor that's already been the subject of cross-examination in the earlier hearing and Mr. Passaloukas testified that it was removable. It is a walk-in cooler.

MRS. BENSCH: Okay, it's --

COURT: I tell you what -- do you for instance - well, let's see -- is it possible for the two of you to check the items that were the removable items.

MRS. BENSCH: Okay. Well again --

MR. PAPE: Your Honor, I would say that it is irrelevant. I mean because -

MRS. BENSCH: How are we going to establish what was there?

COURT: Hold on; let him finish.

MR. PAPE: We have already established what was there through not only Plaintiffs' Exhibit 2 those were

1 contributed. Mr. Bensch has testified  
2 that everything that was in there on  
3 April, on May -- I am sorry January 8<sup>th</sup>,  
4 the date of the eviction was the same  
5 equipment that Mr. Passaloukas had  
6 contributed.

7 MRS. BENSCH: Right. Correct.  
8 There's no disagreement there.

9 COURT: Nevertheless it is hard for  
10 me to figure the value of it out, so --

11 MRS. BENSCH: Okay. Without --  
12 again we put in nothing but upfitting,  
13 walls, light fixtures, electrical,  
14 heating, air. Those are not removable  
15 items.  
16

17 MR. PAPE: Your Honor, she's got to  
18 -- I object. She's got to be able to  
19 establish a foundation and just to  
20 generally say what we put in there are  
21 not removable items.  
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23 COURT: Mrs. Bensch, if you know,  
24 you can go down the list and testify as  
25 to what was removable and what was not  
removable.

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MRS. BENSCH: Okay. All right.  
Per the Shareholders Agreement also it  
states of course each person's  
responsibilities, the landlord's and the  
shareholders. And my part and Gary's  
part as shareholders was to upfit this  
shell and I think the common law in  
South Carolina in regards to upfitting  
it is that you don't rip the sheetrock  
and the plumbing and the electrical.  
So, anyway --

MR. PAPE: Your Honor, I object to  
her legal opinions.

MRS. BENSCH: So anyway he can  
contest that and say he could have  
ripped the sheetrock and the walls and  
all of that out, but we know that's not  
true.

MR. PAPE: Your Honor, we are not  
saying that. She is only arguing her  
case.

MRS. BENSCH: We will just go down  
the list.

COURT: Go down the list.

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MRS. BENSCH: Okay. The walk in cooler the building was penetrated. A door was built.

MR. PAPE: Your Honor, there's no foundation.

MRS. BENSCH: There's electrical --

COURT: Hold on a second.

MR. PAPE: There's nothing -- she's got to first establish the basis for her knowledge so we can determine whether or not she has direct, non-hearsay information with respect to her conclusions.

COURT: Ms. Bensch, are you the landlord?

MRS. BENSCH: Yes, I am.

COURT: Did you have an opportunity to view the building both before and after Zorbas was put in?

MRS. BENSCH: Well, I am employee -  
- I was an employee of Benschmark Builders for 30 years so actually I employed the employees to do all this work.

1 COURT: Okay, the work that was --  
the upfit for Zorbas?

2 MRS. BENSCH: Right.

3 COURT: Okay, any more questions?  
4 Anything, Mr. Pape?

5 MR. PAPE: Yes, sir. I mean she  
6 hasn't established any first-hand  
7 knowledge on which to establish her  
8 testimony.

9 COURT: Okay, I think she has.  
10 Overruled. Go ahead, Mrs. Bensch.

11 MRS. BENSCH: Okay. The walk in  
12 cooler that would be a refrigerated  
13 system with electrical, etc.

14 MR. PAPE: Your Honor, subject to  
15 my objection -- subject to my objection  
16 is the foundation over knowledge. I'll  
17 be quiet and then let her get through  
18 this if that is all right.

19 COURT: This testimony with regard  
20 to number 2 is subject to Mr. Pape's  
21 objection. All right, go ahead Mrs.  
22 Bensch. Thank you.  
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MRS. BENSCH: That's fine. Okay, so let's see -- I am sorry -- the start of the blueprints for \$18.90, that is not part of furniture or any equipment in my opinion.

MR. PAPE: Your Honor, we are not looking for her opinion, but --

MRS. BENSCH: All right, well you don't need my opinion -- \$18.90 for blueprints is not a removable fixture. We are just looking for equipment and furnishings that were of value to the corporation, right?

COURT: Well, if that's what you want to tell me about, go ahead.

MRS. BENSCH: Okay, the rents and deposits again -- we'll I am sure I'll get to that in a minute. I am strictly talking about equipment, trying to determine if it's removable or non-removable fixtures. The walk in cooler one check was for \$500 and the other was \$1,300. And again I guess if we continue in Court, we'll get someone to

1 say was that be viewed as a removable or  
2 a non-removable fixture so we will put a  
3 question mark by those two. A deli  
4 case, prep table, ice merchandiser, etc.  
5 for \$3,000.00. Again, fixtures that  
6 penetrate walls and have special  
7 systems, electrical or whatever involved  
8 in them are considered non-removable  
9 fixtures. Not like table and chairs.

10 COURT: Why don't you just -- okay,  
11 I think what Mr. Pape is objecting to is  
12 your characterizing what is a fixture or  
13 what's not a fixture. If you would like  
14 to rather than give us what the law on  
15 it is, just go through whether you  
16 believe it is removable or not-  
17 removable, but you don't need to recite  
18 the law on fixtures.

19 MRS. BENSCH: Okay, and also just  
20 for the purposes of what was fixtures  
21 and what was not. Okay. Deli case and  
22 prep table, ice merchandiser --

23 MR. PAPE: Your Honor, can we try  
24 to short circuit this by, I guess her  
25

1 ultimate point is to say that there are  
2 some things here that are not removable  
3 and therefore belong to the landlord  
4 rather than to the corporation? If that  
5 is so, why doesn't she just go through  
6 the list of items there that she says  
7 are not removable rather than tell us --

8 COURT: Or the other way, talk  
9 about the items that were removable.

10 MR. PAPE: Either way --

11 COURT: However, you would like to  
12 do it or Mrs. Bensch if that's your  
13 purpose as Mr. Pape says, maybe you can  
14 tell us what was in there that was  
15 removable when you entered in January.  
16

17 MRS. BENSCH: Okay.

18 COURT: However you would like to  
19 do it. But I think Mr. Pape's probably  
20 right, that might speed things up a  
21 little bit.  
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23 MRS. BENSCH: All right. I will  
24 just put an R and an M beside my list.

25 MR. PAPE: Well, I mean, but your  
list is not part of the record. Why

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don't you just identify the ones on the  
Plaintiffs' --

COURT: The list is Exhibit 2.

MRS. BENSCH: Exhibit 2.

COURT: Her list is Plaintiffs' 2,  
so -- I mean, again, I am not going to  
tell you how to do it, it just might be  
helpful at some point if -- as I  
understand it you are trying to  
establish the value of the non-removable  
items and the removable items as two  
separate lists.

MR. PAPE: Here Judge, I will give  
her a piece of paper and she can write  
on this piece of paper the ones she  
thinks are not removable and then we can  
enter that as an Exhibit. Would that be  
okay with the Court?

COURT: If Ms. Bensch wants to do  
it that way, that certainly suits me or  
she can take Exhibit 2 and if she wants  
to take some special colored pen and --

MRS. BENSCH: Put a little mark by  
it. Why don't I do that?

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MR. PAPE: Here's an orange and a yellow here, but the yellow is almost out. It is a highlighter.

MRS. BENSCH: Thank you, I have got a little blue on here. Okay, the first one --

MR. PAPE: You want to do this on Plaintiffs' Exhibit No. 2? Why don't you do it on the original of Plaintiffs' Exhibit 2?

COURT: I thought you had the original of Plaintiffs' 2?

MR. PAPE: No, she didn't.

COURT: Okay. Or if it's not going to be -- to cause Plaintiffs' Exhibit 2 not to be readable after the fact, you can do it on a copy.

MRS. BENSCH: No, I will put a dot beside it. I am not going to make it --

COURT: Okay, that will work.

MRS. BENSCH: All right. The walk in cooler I would say the blue mark will indicate that it's non-removable.

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MR. PAPE: But you have already --  
I am sorry -- subject to my continuing  
objection.

MRS. BENSCH: Subject to your  
objections, right. The deli case, okay,  
non-removable. R and R Kitchen  
equipment, I really don't know what that  
is so I can't stipulate as to whether it  
is removable or not. We will just go  
down it. The Secretary of State  
Incorporation fee for \$135.00. Tables  
and chairs \$600.00 that was removable.  
Business license --

MR. PAPE: Ms. Bensch, I am sorry,  
just -- I am sorry, Judge, I -- this is  
-- I am only a lawyer, but if you would  
only tell us what are removable. There  
is no issue over the items that --

MRS. BENSCH: Oh, I am just reading  
it for the first time trying to figure  
it out.

COURT: Yeah, and as I understand  
what you were trying to tell us was you  
were trying to figure out the value of

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the removable items by making a list and then perhaps compiling the values there. Is that where you were going? And I think what Mr. Pape is saying, probably accurate, it might be easier to go down and figure out which was removable either using this list or your memory of what you found when you walked in there and coming up with a value of what the things were that were in there that were non-fixtures.

MRS. BENSCH: Okay, then for your notes just put the red will indicate the things that were removable. Is that what you want me to do?

MR. PAPE: No, I mean you do it anyway you want to, but you've already got some dots on there, so --

MRS. BENSCH: I know.

COURT: You are changing colors now as I understand it. For the record, Mrs. Bensch now has a red pen and is going to --

MRS. BENSCH: For the removable --

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COURT: Removable -- R for red,  
removable.

MRS. BENSCH: I am so sorry.

COURT: Got it, okay. Blue for  
bolted to the floor site.

MRS. BENSCH: I am going to put a  
question mark by -- do you have just a  
pen, a regular pen, all I have got is  
this big old bulky thing. I don't know  
what the next one is, so I will just put  
a question mark by it.

MR. PAPE: Your Honor, she is  
making all sorts of marks.

MRS. BENSCH: Oh, I am sorry, I  
don't know what that is, so I can't.

MR. PAPE: Well --

MRS. BENSCH: I am not saying it is  
removable or not, I just don't know what  
it is.

COURT: Rather than make a mark on  
the ones that you don't know, maybe you  
could just make marks on the ones you  
do. Two years from now after I have

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tried to figure this out it might be easier for me.

MRS. BENSCH: I guess I should have asked your client what these things are, that would help a lot, wouldn't it?

MR. PAPE: Are you saying you don't know what many of those things are?

MRS. BENSCH: Yeah, I don't know a number of them.

COURT: Are you still making dots, Mrs. Bensch?

MRS. BENSCH: With -- without any more information than this document provides, Your Honor, I can only mark a couple of them. And then I will just rely on the Court's decision as to what it would assume is removable and not from that point, like sinks or whatever or stoves, or whatever.

COURT: Mrs. Bensch, what you are doing is sort of summarizing, based on testimony?

MRS. BENSCH: Yes.

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COURT: You can certainly do that in a post-trial brief if you are going to try to basically match something in one exhibit and testimony you've already heard in this case. I am not sure what you are looking at there, but right now you are still the witness so if you could testify from your own knowledge as to values or whatever was in there or whatever, but I mean this is --

MRS. BENSCH: The values of the stove and the hood and the vent system and all of that would have been one of the most expensive items installed in the restaurant and I would just consider that a fixture because it is non-removable and the value is \$3,000.00.

MR. PAPE: Your Honor, I would object. She is looking at the summary of the appraisal that has not been admitted into evidence and it appears to me that the only basis of her opinion is the -- is the appraisal that was submitted by this expert who's not in

1 Court today to testify. Is that right  
2 Ms. Bensch?

3 MRS. BENSCH: No, I am really  
4 trying to use this to figure out these  
5 numbers somehow. If this is the stove  
6 for \$3,000 he is valuing it, what would  
7 be half of \$3,000 on this list is what I  
8 am trying to do.

9 MR. PAPE: But --

10 MRS. BENSCH: Figure out which  
11 equipment is which cause it doesn't  
12 specify. It simply says R and R  
13 equipment and some of this was bought  
14 from the same company that appraised it  
15 so I was hoping there was some number  
16 that matched up.

17 MR. PAPE: Mrs. Bensch, aren't you  
18 in fact looking at the appraisal that  
19 this appraiser made in order to  
20 determine the values?  
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22 MRS. BENSCH: No, I am really  
23 looking for clarification on what it is.  
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25 MR. PAPE: But are you looking at  
the appraisal?

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COURT: Well let's do this. Mrs. Bensch, you can testify as to your own knowledge if what you are testifying to is Plaintiffs' 2 which I think was actually prepared by the Plaintiff, and you don't know what these things are, then you can't really testify as to what they are because you would be speculating or guessing. Okay? And you can't really use other exhibits to sort of give yourself a better idea of what the guess might be.

MRS. BENSCH: Okay.

COURT: But if you know or you have an idea of what certain things are valued at, please go ahead.

MRS. BENSCH: I think we will just rely on the expert attorney's appraisal of things and then I guess the Court will have to determine what was removable and what was not and I will move on.

COURT: Well I didn't mean to cut you off, at some point you were trying

1 to give us what was in there that was  
2 removable in way of tables and chairs  
3 and tablecloths and all that sort of  
4 thing and --

5 MRS. BENSCH: Right.

6 COURT: I am not stopping your  
7 testimony. It seems to be going down a  
8 path that's not your knowledge.

9 MRS. BENSCH: No, that part is too  
10 foggy. I agree and no way to get there.  
11 The other thing that I was also trying  
12 to do was say what was equipment period,  
13 so that list -- all right the same items  
14 will be. Forget the red dots for value.  
15 We are just going to simply do what was  
16 equipment. I am not asking -- I am not  
17 stating that there is any value that I  
18 know of on these things, I am simply  
19 going to state the things marked in red  
20 are going to be considered equipment and  
21 fixed furnitures and fixtures of his  
22 list.  
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25 COURT: I thought red was  
removable.

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MRS. BENSCH: Forget red. I think we will just forget it. It's just taking too --

COURT: The dots on number 2 are meaningless. Okay, got it. All right, well please continue on with your testimony then if you would.

MRS. BENSCH: Okay, now can we try to have a system of red dots that simply mean these are fixtures and furnishings period. Forget any other dots. The red dots simply mean --

COURT: Well I will tell you what I think you -- what you are going for is Mr. Pape stipulating certain things as fixtures or removable or not removable as I understand the conversation previously and you are not going to get such a stipulation so that might be a waste of time.

MRS. BENSCH: No not removable, I am forgetting that. I am just saying what was equipment and furnishings period.

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MR. PAPE: Well Your Honor that  
doesn't --

MRS. BENSCH: In other words, like  
blueprints are not furnishings.

COURT: Well, I mean I think some  
of them are labeled and there has  
already been testimony with regards to  
some of them. I guess I will sort  
through it at some point so --

MRS. BENSCH: Okay.

MR. PAPE: Actually Mr. Clabaugh  
cross-examined Mr. Passaloukas at length  
on all those issues.

COURT: What Mr. Pape suggested  
earlier might be of interest is for you  
to list what the removable items might  
have been.

MR. PAPE: The non-removable items  
I think is --

COURT: Well either way. It's you  
know --

MR. PAPE: Well, I think she  
earlier --

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MRS. BENSCH: No, he was simply stipulating as to value, not removable and non-removable items in this document. This list and Mr. Passaloukas's equipment list, simply all the equipment. It was not any judgment as to whether it was removable or not. It was just --

COURT: Okay, well anyway I'm --

MRS. BENSCH: So, we have already had that in an exhibit the total contributions - I mean the total equipment purchases were \$26,200 whatever and that's an exhibit. Has a copy of these plans been submitted as an exhibit?

MR. PAPE: Yes, those are exhibits.

MRS. BENSCH: Your Honor, I would like to refer to Exhibit 30 from yesterday of Mr. Fisher who was the bookkeeper for Zorbas.

COURT: I don't know if I have a copy of 30. Just tell me what it was and I will try to remember it.

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MRS. BENSCH: It's his cover letter  
that he presented to Mr. --

COURT: -- Pape?

MRS. BENSCH: -- Pape.

MR. PAPE: I don't have it, Your  
Honor, but go ahead. I --

MRS. BENSCH: Even though I know we  
heard Mr. Fisher's testimony is that he  
submitted this letter --

MR. PAPE: I object, Your Honor, to  
her characterizing Mr. Fisher's  
testimony.

COURT: Well here's the thing.  
Were you an addressee on that letter?  
Remember you're now here as a witness.  
Was that a letter simply to Mr. Pape  
from Mr. Fisher?

MRS. BENSCH: No, I am just  
referring to the exhibit that was  
submitted by the accountant.

COURT: Okay, but I mean --

MRS. BENSCH: For purposes of  
trying to understand what it means.

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COURT: All right, but this --  
remember you are still the witness  
Cynthia Bensch. All right. You are not  
-- this isn't argument or questions. I  
know it is confusing. It is confusing  
to all of us because this isn't the way  
it is usually done.

MRS. BENSCH: Well as a witness --

COURT: This is your chance to  
testify as to the your personal  
knowledge with regard to things that may  
or may not have happened in this case.

MRS. BENSCH: Okay. In trying to  
determine the assets, liabilities, etc.  
of this corporation, we had an  
accountant prepare books and we reviewed  
whatever statements he gave us when they  
were available. The last month of this  
corporation being open, around December  
31<sup>st</sup> or the end of the year, Your Honor,  
we didn't get records from --

MR. PAPE: Your Honor, I would  
object. There is no foundation. I mean  
she is just -- just sort of telling a

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story rather than telling what she  
either saw or heard or direct -- or  
otherwise directly observed.

MRS. BENSCH: Yeah, I picked up the  
records from Mr. Fisher.

COURT: Okay, overruled, go ahead.

MRS. BENSCH: I was unable to get a  
December report from him, a complete  
report and he told -- I mean I asked him  
why.

MR. PAPE: Object to the hearsay,  
Judge.

MRS. BENSCH: It doesn't matter  
what he said; I didn't get them.

COURT: All right.

MRS. BENSCH: For the record, I  
never knew about this letter until  
yesterday.

COURT: You are referring to  
Exhibit 30?

MRS. BENSCH: To Exhibit 30, yes  
sir. And in this letter he's --

MR. PAPE: Object, Your Honor, to  
her either reading from or

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characterizing whatever. I think it speaks for itself.

COURT: Well the letter speaks for itself.

MRS. BENSCH: But it states that it is a compilation of all the daily sales of Zorbas from the beginning to the end. From August, the first day of operation, to the end.

MR. PAPE: We have no objection as to what the letter says, Judge.

MRS. BENSCH: Okay, but he states that if he could locate the bank statements and the payroll cards, he could complete the federal and state income tax returns for Zorbas ending December 31<sup>st</sup> and I just found out that Mr. Pape was given this general ledger yesterday.

MR. PAPE: Your Honor, all that's hearsay and I object to it.

MRS. BENSCH: Okay. Well I guess Your Honor in trying to help the Court come up with a strict accounting, I

1 don't think it is possible to come up  
2 with a strict accounting on this  
3 corporation because --

4 MR. PAPE: Object, Your Honor.

5 MRS. BENSCH: -- certain documents

6 --

7 COURT: I will allow it.

8 MRS. BENSCH: Certain documents are  
9 not available. The payroll for December  
10 is not available.

11 MR. PAPE: Object, Your Honor.

12 COURT: What's the objection?

13 MR. PAPE: The objection is, that  
14 it's irrelevant because we have already  
15 stipulated with respect to the payroll  
16 account a couple of things. Number 1,  
17 that it's valueless to the corporation  
18 based upon Mr. Fisher's testimony  
19 yesterday. He believed that it either  
20 had a negative balance or some other  
21 balance that had no value to the owners  
22 of the corporation. And he also  
23 testified that Mr. Passaloukas never  
24 received any money out of that payroll  
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account. There's no other issue that would be of importance to the Court.

COURT: Well, there is, I would think because the relevance would be does this case need to go on for X number of years and for X number of attorney's fees if the documents had been released earlier, so I think for that purpose it might have relevance so you can -- you go ahead Ms. Bensch.

MRS. BENSCH: Okay. And then the Shareholders' Agreement --

MRS. BENSCH: I am sorry, Your Honor.

COURT: That's okay.

MRS. BENSCH: I had it yesterday and don't have it today.

COURT: I hope to finish today.

MRS. BENSCH: Yeah, I do too. I really, really, really do. I am trying to simply locate the Shareholders not withholding any information from each other clause, that's all.

1 MR. PAPE: Well Your Honor, I think  
2 what she is wanting to do is -- is quote  
3 something from the Shareholders'  
4 Agreement to establish the shareholders'  
5 duties, fiduciary obligations to one  
6 another and --

7 COURT: But that's already in  
8 evidence, so the Agreement speaks for  
9 itself, I am sure.

10 MRS. BENSCH: So the -- in trying  
11 to provide a strict accounting do  
12 Defendants' -- I mean does Plaintiffs'  
13 attorney have a general -- I mean this  
14 computation of the daily sales of Zorbas  
15 from the beginning of the operations to  
16 the end of December, '99?

17 MR. PAPE: I am not a witness, Your  
18 Honor.

19 COURT: Well, you can't ask the  
20 questions at this point?

21 MRS. BENSCH: Okay.

22 COURT: Just want to hear from you  
23 of your own knowledge what the facts  
24 that you believe are relevant.  
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MRS. BENSCH: Okay. I believe as landlords when we received the rent for the Unit 101 at Town Center, Zorbas, Page 2 in regards to the base rent. The initial payment, let's see that's Exhibit -- I mean that's 261, Page 261 of the record. The first and last month's rent were \$5,992.00 and as the landlord that first and last month's rent, the first month was applied to the first month. The last month is to be applied to the last month in fulfillment of the responsibility and the obligation to pay the full 24 months of the lease. It is not to be substituted for any other month in default of the lease.

MR. PAPE: Your Honor, I object, she is either interpreting or misinterpreting the contract, I am not sure which. The contract --

MRS. BENSCH: No, it's the law.

COURT: Well let's do this, Mrs. Bensch. It's really just -- I know it is hard to shift because you were doing

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a great job as a lawyer yesterday and  
now you are sort of mixing up the two.  
What we need to -- this is your time to  
tell me --

MRS. BENSCH: -- what happened.

COURT: Your case, all right, from  
your own personal knowledge. For  
instance, when I interrupted your direct  
earlier, you were listing for me the  
amounts that were spent by the  
Defendants after the closing of the  
building, the business rather and you  
had gone through \$950 or something paid  
to someone, I can't remember who. And  
some other things and then you shifted  
into something else. Is it possible to  
group those things together, that would  
be helpful to me.

MRS. BENSCH: Okay, the reason why  
I jumped ship was because of the  
liabilities that we paid or absorbed or  
were damaged or however it should be  
phrased. Part of that was the December  
and January rent that were not paid, so

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when we are talking about the debts of Zorbas, we as shareholders paid the December and January rent for the corporation instead of Zorbas paying it.

COURT: Well if you could list things rather than -- the problem is I understand you want me to have a complete understanding of this, but rather than telling me that, you sort of go into off track and go into this convoluted manner to get to it so --

MRS. BENSCH: Okay, so for December and January rent per the lease that was \$5,122. The patio Benschmark paid for was billed to Zorbas, the \$3273.45.

MR. PAPE: Your Honor, I object. There's no foundation that there was any obligation on behalf of Zorbas.

MRS. BENSCH: Well I think --

COURT: I think we've heard a little bit of testimony on the patio, so I will allow it. Go ahead Mrs. Bensch.

MRS. BENSCH: The balance for the grease trap and Beaufort Jasper water

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fees were prorated into the rent and were to be paid by the tenant. Partial payment was made for the months that the tenant was there paying rent, but the balance of that was \$9,051.45.

Gil Fisher the accountant we paid \$300.00 per his testimony yesterday for some accounting -- or the accounting we had.

And then I presented Mr. Eleferio's paychecks for the Court to consider that we paid him for Zorbas and the total liabilities paid by the Benschs personally for Zorbas were \$18,696.90. And the assets, there's no way to determine value other than what the Court decides. I guess an expert witness is going to take this information and give an opinion or whatever. The bank balances established on the accountant's records were one account --

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MR. PAPE: Object, there's no foundation - there's got to be a foundation.

MRS. BENSCH: Oh, I thought we had.

COURT: I think we've actually stipulated that at the end of the day we would just count them all as zero. Is that my understanding of the stipulation?

MR. PAPE: I think that's right, Judge.

MRS. BENSCH: Is that -- okay. I am just trying to say what he showed was minus 1400 and \$1100 on one, so you just want it to be zero on all of them? I mean I am just --

COURT: Well I mean unless your testimony is going to be you all wrote a check for \$1400.

MRS. BENSCH: No, no. This is not anything that we wrote. I am simply saying the assets. I am trying to determine liabilities and Zorbas assets to do --

1 COURT: I think what we decided was  
2 there's no money in the bank at the end  
3 of the day.

4 MRS. BENSCH: Okay.

5 COURT: As I understand it, that  
6 negative \$1400 is still out there  
7 somewhere. Some bank just must have  
8 written it off, I guess. I never heard  
9 any testimony to the contrary.

10 MRS. BENSCH: Okay.

11 COURT: Is that your understanding,  
12 Mr. Pape?

13 MR. PAPE: Yes, sir.

14 COURT: I have never heard any  
15 testimony. Some bank just absorbed it  
16 somewhere.

17 MRS. BENSCH: Well, I guess I am  
18 trying to give my understanding as a  
19 shareholder of what the assets of Zorbas  
20 were with real cash or deposits in a  
21 bank deposit bag or whatever. I am just  
22 trying to --

23 COURT: No, I understand. Go  
24 ahead. I am just -- Mr. Pape correctly  
25

1 pointed out yesterday I think the  
2 numbers were impossible to actually pin  
3 down.

4 MRS. BENSCH: Right.

5 COURT: I think there might have  
6 been a little positive in one account  
7 and a little bit of negative in the  
8 other account and the testimony was  
9 basically it all sort of zeroed out, so  
10 I thought we stipulated --

11 MRS. BENSCH: Yeah.

12 COURT: It zeros out.

13 MRS. BENSCH: Okay, so again  
14 depending on -- trying to establish the  
15 assets for this corporation, as a  
16 shareholder in this lawsuit, that's why  
17 I came up with the \$14,780.96 which I am  
18 not asking the Court to accept or  
19 consider as a real value, I am simply  
20 saying without this furniture and  
21 equipment - it is not even based on his  
22 expert's opinion way of appraising.

23 MR. PAPE: Objection, no  
24 foundation.  
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COURT: Okay, how did you come up with the \$14,780.00?

MRS. BENSCH: Again, I hoped that Mr. Pape would accept the appraiser's --

COURT: Okay, but since he didn't, is that your opinion?

MRS. BENSCH: I don't know Your Honor. That's why I hired an appraiser, so we will either go with this or what you say or what his witness says. There's no real point in trying to determine the assets -- the point of doing this is to say what were the assets of the corporation when it was closed out and what were the liabilities that the Benschs paid. I am trying to figure out how we figure what was the net worth.

COURT: Oh, I had hoped to be able to do that as well, but anyway.

MRS. BENSCH: Okay, so again so that we don't keep having the appellate courts go back and forth and back and forth trying to say where's the rest of

1 the numbers, where's the rest of the  
2 numbers, I am asking Mr. Pape is there  
3 any computation of daily sales that you  
4 have for Zorbas from the first day of  
5 operation to December 31<sup>st</sup>?

6 MR. PAPE: I am not a witness, Your  
7 Honor.

8 COURT: Well, do you -- I am sorry  
9 go ahead. You can go ahead with your --

10 Mrs. BENSCH: Okay.

11 MR. PAPE: Your Honor, Mr. Fisher  
12 was here yesterday with a lot of  
13 records. If she wanted those documents  
14 she could have asked him for them.  
15

16 MRS. BENSCH: I thought he said he  
17 gave that ledger to Mr. Pape.

18 COURT: Well whatever he said is in  
19 the record and we will review it and see  
20 what it says.

21 MRS. BENSCH: The best I can come  
22 up with from my strict accounting --  
23

24 MR. PAPE: Your Honor, I don't have  
25 any objection if she submits it to you  
as -- as argument as to what the value

1 of the assets are. I would object to  
2 her submitting it as -- as an authentic  
3 accounting.

4 MRS. BENSCH: I agree.

5 MR. PAPE: Based upon the facts of  
6 the record.

7 COURT: As I understand it, this is  
8 your opinion, is that right?

9 MRS. BENSCH: Exactly.

10 COURT: Not the appraiser -- not  
11 the -- nobody, Benschmark is -- Just  
12 mark it as --

13 MR. PAPE: No, I don't want it  
14 marked as an Exhibit. She can submit it  
15 to you to ask you to look through the  
16 record to find out if you concur with  
17 these values or whatever, but I don't  
18 want to authenticate the document  
19 because it is a summary that's not based  
20 upon any facts and evidence.

21 COURT: Well, it's based on her  
22 testimony as to what her opinion is of  
23 the things and the amount they spent,  
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right. I haven't seen it yet but that is my understanding of it.

MRS. BENSCH: I will give you a copy of it.

MR. PAPE: I don't think so. For example the item at the top here says equipment and furnishings \$12,625. She has already testified that that's an opinion of some person who is not in Court testifying.

MRS. BENSCH: Right.

MR. PAPE: And not her own opinion.

MRS. BENSCH: Yeah, I said that this is just simply from trying to determine from an appraiser that I paid -- a document that he gave me that is not admissible in Court that I am just stating that's what was on this document that's not admissible in Court.

COURT: Here's what I am going to do. I will just let you do a post-trial summary if you would of these things. Just so I understand this, what is your opinion of the value of the removable

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items if you have one and your opinion of the value of the non-removable items, if you have one?

MR. PAPE: Object, no foundation. She is not qualified.

COURT: Nevertheless, go ahead and answer the question.

MRS. BENSCH: In trying to determine removable fixtures, Your Honor, I came up with \$5,785.00. Wait a minute, those are non-removable fixtures. What did I just say? These are non-removable fixtures due to their --- the installed. After we sent an eviction notice to the -- Gary and I, Mr. Bensch, the landlord sent an eviction notice to the Passaloukases. We noticed them per our lease through certified mail and delivered a letter to -- delivered a copy of that to Mr. Passaloukas and hand-delivered and proceeded to wait until --

MR. PAPE: Your Honor, I object as to foundation. She's talking in the

global we and I am not sure it

1 establishes a --

2 COURT: Right, Mrs. Bensch if you  
3 could confine your comments to what you,  
4 Cynthia Bensch did. Every time you say  
5 we -- you need to testify as to what you  
6 did or ---  
7

8 MRS. BENSCH: What I did, okay.  
9 Basically did nothing until January 9<sup>th</sup>  
10 at which time I went over to the  
11 restaurant with my husband and met an  
12 officer of the law there and he placed  
13 an eviction notice on the door and the  
14 locks were changed and we left. The  
15 next thing I did was to begin to --  
16 because we were the landlords we  
17 mitigated our damages to Town Center to  
18 -- as landlords and created another  
19 corporation because for two reasons. It  
20 had -- the restaurant would have value  
21 with the corporation or another entity  
22 and an operating restaurant in there and  
23 because of the employees. I told them  
24 we would rehire them after we had all  
25

1 the documentation and all for the  
2 corporation and all the licenses and all  
3 which took about a month. And Your  
4 Honor I would like to submit for the  
5 Court these documents for Nicoli's  
6 Incorporation.

7 MR. PAPE: Your Honor, I --

8 MRS. BENSCH: The FDIC numbers and  
9 just all the things that had to be done  
10 to convert from Zorbas to Nicoli's.

11 MR. PAPE: I would object. These  
12 are documents with respect to the  
13 Nicoli's. They are just not relevant.

14 COURT: Yeah, I tend to agree.

15 MRS. BENSCH: Well, Your Honor, if  
16 we are saying that part of our  
17 mitigating damages to Zorbas was to  
18 discontinue their lease or they would  
19 have owed the balance of the lease if we  
20 had not put any other establishment in  
21 there, they would have been liable for  
22 another 18 months on that lease, but by  
23 terminating the lease we mitigated the  
24 damages to Zorbas and so that was why we  
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made the decision which is two fold.  
Again, it benefited us as landlords and  
it also mitigated the damages for  
Zorbas.

COURT: In the spirit of just  
letting it all in and figuring it out  
later, all right, I will allow it and  
mark it.

MRS. BENSCH: I operated Nicoli's  
restaurant until April, approximately  
April 31<sup>st</sup> of 2000 at which time we were  
approached or I was approached as a  
landlord and owner of Town Center for a  
lease -- for a lease base and owner of  
Nicoli's to purchase the shopping  
center. Your Honor, I would like to  
submit an offer to purchase and contract  
of sale. Again to explain to the Court  
while this is not a signed document  
because in the course of this trial and  
all the attorney's and tax accountants,  
I don't have a signed copy. I do have  
an original from Minor, Haight and  
Arundell that references the sale and

1 why it didn't go through because of lack  
2 of financing.

3 MR. PAPE: Your Honor, I object,  
4 that's irrelevant.

5 COURT: Yeah, actually I think Mr.  
6 Clabaugh previously argued it was  
7 irrelevant.

8 MRS. BENSCH: The sale of the  
9 shopping center?

10 COURT: The sale of the shopping  
11 center.

12 MRS. BENSCH: Okay. All right. We  
13 operated -- I operated Nicoli's until  
14 MiTierra's entered into a lease with us  
15 in May of 2000, May 2<sup>nd</sup> of 2000 and I  
16 believe that's an agreed upon exhibit.

17 MR. PAPE: Yes, that Exhibit is  
18 already in.

19 MRS. BENSCH: Okay. And there were  
20 -- item 6 of this document has -- states  
21 that --  
22 that --

23 MR. PAPE: Your Honor, if she's  
24 going to just read the document into  
25 evidence to save time I would just ask

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that she forego reading and rely on the record.

COURT: Yeah, if you -- I prefer you not to read the whole document.

MRS. BENSCH: No, I am not going to read it. There was a consulting agreement between that tenant and Mr. Bensch and these documents are -- because there was a payment of \$75,000 for equipment and --

MR. PAPE: Your Honor, again object to foundation. I don't know if she's just narrating a story rather than testifying as to what she knows of her own personal knowledge.

COURT: Mrs. Bensch, were you a part of the negotiations?

MRS. BENSCH: Yes, I was.

COURT: All right, go ahead.

MRS. BENSCH: I met with the prospective tenants and helped draw up all of these documents and filed for building permits, etc. The Benschmark Builders, another corporation I am half

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owner in, drew up plans for an exterior patio for that tenant.

MR. PAPE: Objection, it's irrelevant, Your Honor.

MRS. BENSCH: Well, I am trying to establish what was done for the \$75,000 as far as the goodwill and since that's part of the contention of this suit.

COURT: Yeah, go ahead, overruled.

MRS. BENSCH: Anyway, there were designs submitted to the County for parking spaces and that area had to be paved -- I mean pressure run, etc. back there. This is design too I would like to submit for Benschmark Builders did and submitted to the County for parking because that space was going to be expanded.

MR. PAPE: Your Honor, I object to the relevancy.

COURT: I will allow it. As I understand it, your argument is that the business that was the exact same business was sold for \$75,000 as I guess

1 I understand the testimony goes to  
2 establish that it was perhaps somewhat  
3 different so it is probably relevant in  
4 that regard, but go ahead, I would be  
5 happy to hear from you.

6 MR. PAPE: Well, thank you, Your  
7 Honor. First of all, I have never been  
8 provided these documents and I had  
9 requested all the documents from day one  
10 concerning expenses and everything that  
11 they might have incurred in connection  
12 with anything and they have never  
13 produced those documents. Now at the  
14 last hearing of this, I think I remember  
15 Mr. Clabaugh showing us some documents  
16 in your office. I then sent him a  
17 Request for Production of Documents and  
18 he never produced those documents to me.

19 COURT: Well, think about it and  
20 look at them and then --

21 MR. PAPE: The other thing is, is a  
22 parole evidence rule. I mean we've got  
23 a contract which is dated May 2<sup>nd</sup>, 2000  
24 which sets forth the complete terms and  
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conditions of that Contract of Sale and what she's now trying to do is offer some things that might bury the contents of that.

COURT: As I understand the Contract, it talks about selling some -- it doesn't say we are selling the contents of Zorbas, right? It says we are selling some items.

MR. PAPE: We don't know.

COURT: I would have to look at it to --

MRS. BENSCH: It says the list of Nicoli's Restaurant and equipment, two of them was attached.

MR. PAPE: It describes the sale of equipment and furnishings for \$37,500 and goodwill for \$37,500 and consulting. It doesn't say anything about an obligation to pave roads or parking lots or anything like that.

MRS. BENSCH: Well, Your Honor, this is all under the good will. It was not just as Mr. Pape has argued; it was

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just good will which really is a tax  
accountant's means of showing income.

COURT: But I understand your claim  
Mr. Pape to be is not 37 anyway. It is  
70 some odd thousand dollars and of  
course that has to do with the --

MR. PAPE: Well it is \$75,000.00.

COURT: Right, the building and  
everything and this is part of the  
patio, so anyway, overruled. Go ahead.

MRS. BENSCH: Okay. So, I would  
like to submit the --

COURT: Well, first let's let Mr.  
Pape look at that document and mark it.  
What's the next Plaintiffs' number?

COURT REPORTER: Plaintiff?

COURT: Defendant I mean. It's  
labeled.

COURT REPORTER: This is 23.

COURT: All right, Defendants' 23  
right there is what? That thing Ms.  
McDonald just marked.

MRS. BENSCH: Thank you.

COURT REPORTER: What is this?

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MRS. BENSCH: Oh, it's -- this shows the parking areas added for MiTierra's and the rear of the building. The County required more parking spaces for an expansion of the restaurant. This was the plans to open up this unit into this unit and actually the photographs that were submitted earlier are photographs of the added areas of the interior so maybe these should accompany that or lease -- well they will just be part of the --

COURT: Well added to what?

MRS. BENSCH: The photographs.

COURT: No, no, no. What was added?

MRS. BENSCH: Oh, I am sorry. This is the plans that were actually when -- what MiTierra's --

COURT: Let's mark that first for identification. What is supposed to be Defendants' -- here's the problem. Later when you give the Court or someone

1 is reading this, they won't know what  
2 you are holding on to.

3 MRS. BENSCH: This is MiTierra's  
4 expansion from Unit 101 and 102 to be  
5 Unit 101 which was Zorbas, Nicoli's --  
6 ultimately MiTierra's, but expanded into  
7 another unit. That was what Benschmark  
8 -- Town Center did for that \$37,000 is  
9 all the drawings and submit to the  
10 County and the construction for this  
11 unit to be expanded and add a patio.

12 MR. PAPE: Your Honor, again  
13 subject to my continuing objection, if  
14 you don't mind, I don't want to  
15 interrupt to have to continually object  
16 to each item of her testimony, is it  
17 okay if I just have a continuing  
18 objection to all of this?

19 COURT: What is the nature of the  
20 objection?  
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22 MR. PAPE: Well I think it is  
23 irrelevant and as I said before, I think  
24 the parole evidence rule applies and --  
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COURT: All right, okay, your objection is noted.

MRS. BENSCH: But if \$37,000 is what the furniture and equipment is worth that were in Zorbas, then another \$37,000 was actually payment more than good will even though it was labeled goodwill, but it was for Mr. Bensch's consulting and work to be performed and he did. He drew all of this and submitted it to the County.

MR. PAPE: Your Honor, foundation. She's got to speak from her direct knowledge.

COURT: This is argument at this point. But let's do this. Please mark that. I am just afraid we are going to get off on our exhibits here. That's Defendants' -- what would that be?

COURT REPORTER: 23.

COURT: Okay, let Mrs. McDonald mark that and it is subject to of course to your objection.

(WHEREUPON, DEFENDANTS'

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EXHIBIT NUMBER 23 WAS  
MARKED AND ENTERED INTO  
EVIDENCE.)

MRS. BENSCH: This next Exhibit,  
Your Honor, is from Beaufort County just  
in regards to specifications and more  
information that they needed for these  
plans, more details to Benschmark  
Builders. It was June, 2000 after they  
had the plans reviewed they were asking  
for more --

MR. PAPE: Object to the hearsay.

MRS. BENSCH: Well it says what it  
says.

COURT: Is that -- who is it to and  
from?

MRS. BENSCH: To Benschmark  
Builders.

MR. PAPE: Object, it's hearsay.

MRS. BENSCH: No, it says on the  
letter it is Benschmark Builders.

MR. PAPE: Well, but Benschmark is  
not a party to this lawsuit.

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MRS. BENSCH: They were the  
builders that Mr. Bensch was --

COURT: What's your position with  
Benschmark?

MRS. BENSCH: Vice-President, Co-  
owner.

COURT: I will allow it.

(WHEREUPON, DEFENDANTS'  
EXHIBIT NUMBER 24 WAS  
MARKED AND ENTERED INTO  
EVIDENCE.)

MRS. BENSCH: This is another  
document, just -- Town Center from  
MiTierra's that contractors that were  
paid to do some of the work, The check  
numbers, the amounts and the change  
orders on this one. This is to verify  
things that were actually done for this  
\$37 -- the \$75,000 that it was not just  
goodwill that he states the value of it  
was really \$75,000.00.

MR. PAPE: Object to the hearsay.

MRS. BENSCH: Well --

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COURT: What is -- that document  
was generated by whom?

MRS. BENSCH: Town Center to  
MiTierra's for payment to contractors  
for expansion of this restaurant.

COURT: And what is your position  
with Town Center?

MR. PAPE: Your Honor, this is all  
hearsay. It looks like a compilation of  
some kind. It's not signed by anybody;  
there's no supporting information. It  
is a summary and I have never been  
provided this document. I have never  
been provided any of these documents.  
They have never given me an accounting  
at the last trial. They have never  
testified to any of this stuff and --

MRS. BENSCH: I couldn't get it in,  
Your Honor. Couldn't get it in.

MR. PAPE: You didn't offer it. We  
have got a trial transcript.

COURT: Well I haven't seen it yet,  
but who produced that document?

MRS. BENSCH: Town Center did.

1 COURT: All right. And what is  
2 your position with Town Center?

3 MRS. BENSCH: Owner.

4 COURT: Is that a record kept in  
5 the books and records of Town Center?

6 MRS. BENSCH: Exactly.

7 COURT: And you are custodian of  
8 the books and records of Town Center?

9 MRS. BENSCH: Yes.

10 COURT: I will allow it. Please  
11 mark it the next number.

12 MR. PAPE: Your Honor, there's  
13 another -- was it created at or near the  
14 time of the event by a person who had  
15 knowledge of the transaction?

16 MRS. BENSCH: Yes, it was actually  
17 created by myself. It was just a  
18 summary of employees that I was paying  
19 on that job.

20 MR. PAPE: Subject to my objection,  
21 Judge.

22 (WHEREUPON, DEFENDANTS'  
23 EXHIBIT NUMBER 25 WAS  
24 MARKED AND ENTERED INTO  
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EVIDENCE.)

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MRS. BENSCH: Your Honor, the documents that we were given yesterday in Court for the first time, adjusted trial balances, I just do not remember if this was ever submitted as an Exhibit by the -- by the accountant or not.

COURT: Do you want to take a minute?

MR. PAPE: Judge, I don't see that the document was ever presented by the accountant yesterday.

MRS. BENSCH: It was submitted for the record. I am submitting this as evidence to the best that I have to the Court to try to determine strict accounting on this.

COURT: What is that? I am sorry.

MRS. BENSCH: This is an unadjusted trial balance of December 31 on Zorbas, prepared by Mr. Fisher.

COURT: Let Mr. Pape review it.

MR. PAPE: Your Honor, I would object. I -- it is apparent that she

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didn't prepare it, and so there's no proper foundation.

MRS. BENSCH: Well, as a shareholder in Zorbas I am just trying to produce the documents for the Court.

COURT: Well I understand but actually your time to try and get that one might have been yesterday. Sustained.

MRS. BENSCH: Was the balance sheet submitted yesterday? Was that filed? I think that was submitted yesterday. I think it was.

MR. PAPE: There was a balance sheet that was entered yesterday. I don't see it.

MRS. BENSCH: Okay. Your Honor, that's all I have I guess.

COURT: Please answer any questions Mr. Pape may have.

MR. PAPE: Thank you.

BY MR. PAPE:

Q. Ms. Bensch, look at the list of the contributions made by the Benschs. Do you have that?

1 A. Not yet.

2 Q. It's on Page 468 of the Court of Appeals record.

3 That would be helpful. And look at -- actually Page

4 470 and look at the line, the item at the top of the

5 page dated August 6, 1999. Check number 6677 Beaufort

6 Jasper Water Sewer Authority.

7 A. Sorry, 470, yeah, okay.

8 Q. Right there.

9 A. Right.

10 COURT: Is that document part of  
11 this trial?

12 MR. PAPE: Yes it is. It was just  
13 for easier reference. It's the -- it's  
14 their list of contributions and it is -  
15

16 COURT: That's all right.

17 MR. PAPE: Yes, sir, it is a list  
18 of contributions.

19 BY MR. PAPE:

20 Q. And it shows a payment that you all made to  
21 Beaufort Jasper Water and Sewer Authority in the sum of  
22 \$9,931.00?  
23

24 A. That's correct.

25 Q. For the water sewer tap fee?

A. Uh huh.

Q. Is that correct?

1 A. That's right.

2 Q. So you all paid that amount out, right?

3 A. Right.

4 Q. And this is listed on your contributions, is that  
5 correct?  
6

7 A. That's correct.

8 Q. And look at the item down at the bottom of the  
9 page dated September 21, 1999 Collins Septic Tank for  
10 \$2500 for a grease trap?

11 A. Uh huh.

12 Q. And that's listed as your contributions, right?

13 A. Yes, it was.

14 Q. So if the Judge gives you credit for all of your  
15 contributions, I think he's obligated to do, he would  
16 be actually reimbursing you for those contributions,  
17 correct?  
18

19 A. When I wrote these checks and paid these amounts,  
20 this was after a change in the lease was made because  
21 these two items were systems that were to be --  
22 actually done by the other shareholder and he was not  
23 able to do so, so ultimately and confusingly ended up  
24 also being prorated into the rent. So, you know,  
25

1 should they be pulled out of capital contributions, I  
2 don't know.

3 Q. All right, but I mean it is already on the  
4 contributions list that you are supposed to be  
5 reimbursed by the Court, right? It's already on your  
6 list of contributions?

7 A. Yes.

8 Q. Ms. Bensch, I do want to ask you about that  
9 Purchase and Sale Agreement that you tried to offer  
10 into evidence a little while ago. Do you have a copy  
11 of that?

12 A. The MiTierra's or what?

13 Q. The sale of the shopping center.

14  
15 MRS. BENSCH: Your Honor, as  
16 counsel I think you already ruled that  
17 you aren't going to allow any testimony  
18 regarding the sale of the shopping  
19 center.

20 COURT: Well I actually hadn't had  
21 the question yet, so -- I may just want  
22 to look at it.

23 MR. PAPE: I just want her to look  
24 at it. Well I can stand over you if you  
25 don't mind me approaching you and we can

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and my eyes are so bad, Ms. Bensch, I've  
got to -- I don't mean to encroach on  
your personal space, but --

MRS. BENSCH: That's fine.

MR. PAPE: If that's okay.

BY MR. PAPE:

Q. Do you recognize this as a Purchase and Sale  
Agreement that you referred to a while ago?

MRS. BENSCH: Your Honor, I would  
have to advise my witness not to answer  
that because you've already ruled it was  
not part of the trial.

COURT: It's not part of the trial  
and we talked about it already and it is  
irrelevant. Move on if you would.

MR. PAPE: Your Honor, there's a  
particular paragraph I want her to -- it  
relates to an issue in the lawsuit if I  
can at least make a proffer?

COURT: What's the paragraph?

BY MR. PAPE:

Q. Look at -- Ms. Bensch at Paragraph 12.01.6 when  
you negotiate -- and you signed this document, right?

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COURT: Is this the offer that  
didn't occur?

MR. PAPE: That's right.

COURT: This is irrelevant. You  
are welcome to mark it and put it in as  
a proffer, but I am not -- this is a  
deal that wasn't even consummated on the  
entire shopping center not just the  
restaurant.

MR. PAPE: That's right, but  
there's particular representations which  
are made here with respect to Zorbas  
that I believe are relevant.

COURT: Can I look at it real  
quick?

MR. PAPE: Yes, sir. Paragraph  
12.01.6.

BY MR. PAPE:

Q. Ms. Bensch would you please read Paragraph 12.01.6  
and read that into the record please.

A. Oh, read it out loud?

Q. Yes, please.

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MRS. BENSCH: Your Honor, again I would advise my client that this is just irrelevant and --

COURT: I understand, but I will overrule your objection, but it is perfectly understandable.

A. Okay. "There are no rights or claims of parties in possession not shown by the public records of Beaufort County except the existing leases of the existing tenants of the property. All leases will be assigned to the Purchaser, Zorbas, Inc. an entity 50% owned by the Seller's principals Gary and Cynthia Bensch as terminated as a tenant at Town Center on January 8<sup>th</sup> with written notice and as of that date this Purchase and Sale Agreement no lawsuits have been asserted," --

Q. Would you please read the whole thing?

A. ". . . have been asserted by the remaining shareholders with respect to the leasehold interest or tenant improvements and no action has been taken to liquidate or dissolve."

Q. And what's the date of that Agreement? What date did you sign it? You signed it on May 2, 2000?

COURT: Find the date?

A. I'm trying to figure out --

1 Q. Well just tell me what date you and Mr. Bensch  
signed that document.

2 A. May 2, 2000.

3 Q. And so you represented to the Seller there that no  
4 lawsuits or claims had been made by any of the  
5 shareholders of Zorbas, is that correct?  
6

7 A. I represented what?

8 Q. You state in this over your signature that no  
9 lawsuits or claims had been made by any of the  
10 shareholders of Zorbas?  
11

12 A. I cannot possibly remember that -- when the  
13 lawsuit began if that's what your question is.

14 Q. Well, the lawsuit actually was filed in March of  
15 2000, wasn't it?

16 A. I cannot remember.

17 MR. PAPE: Your Honor, I would like  
18 to offer this in so that we have a  
19 record of that language.  
20

21 COURT: I think the balance of it  
22 is irrelevant, but, yes, I will allow it  
23 for purposes of that paragraph.  
24 Paragraph whatever it was, 12.

25 MR. PAPE: Okay

(WHEREUPON, PLAINTIFFS'

1 A. Well, I was looking at the lease also with --

2 Q. No, I asked you about the letter Ms. Bensch.

3 A. You were asking me about what, the appraisal?

4 Q. Yes, ma'am.

5 A. That's not -- I thought that wasn't submitted for  
6 evidence?

7 Q. No, it's not, but in making your estimate a little  
8 while ago as to the value of certain items on there,  
9 you were actually closely referring to that and making  
10 notes from it, weren't you?

11 A. Well, I couldn't make anything out of it, so I  
12 ultimately ended up looking at the attachment to  
13 Nicoli's lease, or I mean MiTierra's lease.

14 Q. So your opinion of the value is not based upon any  
15 independent knowledge you have, you have to refer to  
16 other documents that aren't in evidence here to come up  
17 with your determination and opinion of the value?  
18

19 A. There was a list made by an expert appraiser as to  
20 what was in that restaurant April, 2000.

21 Q. And that's what you were using?

22 A. I wasn't using that, no, sir, I was not using that  
23 for that. I was simply going by the figures on Mr.  
24 Passaloukas's thing comparing that if he -- if this was  
25 that item what was the most expensive item. It was the

1 hood it was \$3,000.00. The appraiser was over here  
2 with \$2,000 I assumed that's the hood.

3 Q. Well you referred to other documents in order to  
4 come up with your opinion?

5 A. I am referring to Mr. Passaloukas's computations  
6 and --

7 Q. But you were also --

8 A. I was using that list just to look and see what  
9 the item was and I was using his, Mr. Passaloukas's,  
10 numbers to determine if it was the same item.

11 Q. Well, where did your numbers for valuations come  
12 from?

13 A. Mr. Passaloukas's statements on what he paid for  
14 certain items, walk in cooler or whatever and then I  
15 was trying to figure out, okay, you are talking about  
16 50 cents on the dollar; that's what the man said he was  
17 doing.

18 Q. So you don't -- other than relying on -- it is  
19 just a guesstimate?

20 A. It is just a guesstimate.

21 Q. You were trying to draw on information that other  
22 people have provided you?

23 A. I was trying to draw on -- I knew what was in the  
24 restaurant. I was trying to compare what it said --

1 which one of Mr. Passaloukas's kitchen equipment items  
2 was which.

3 MR. PAPE: Your Honor, can I have a  
4 moment to talk with my clients.

5 COURT: Certainly. Now keep in  
6 mind we are going to get Joanne on the  
7 road here in about twelve minutes.

8 MR. PAPE: Yes, sir we will try to  
9 keep that in mind.

10 BY MR. PAPE:

11 Q. Ms. Bensch this -- the agreement was that this was  
12 to be an authentic Greek restaurant, was that right?

13 A. Was that in the lease?

14 Q. I am asking you -- the agreement was that this  
15 would be an authentic Greek restaurant?

16 A. Sir, if you are saying that I agreed that this  
17 restaurant would only ever sell Greek food, the answer  
18 is no. He was the Manager. He was entitled to put  
19 whatever he wanted. He had cart blanc.

20 Q. And he was the Manager?

21 A. He didn't perform the fiduciary responsibilities  
22 of a Manager, but that was his role as a shareholder.  
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1 Q. Okay, when you all bought -- started operating the  
2 restaurant as Nicoli's you changed the menu to -- a  
3 menu that you all wanted, right?

4 A. Sir, we changed the menu. Not to -- we didn't  
5 give a rip what the menu was. We simply wanted to --  
6 just like MiTierra's has been in there for ten years  
7 since then. They have low prices and they have food, a  
8 menu that people buy. That's all we were trying to do.  
9 We weren't trying to be exclusive in culture or  
10 cuisine. I could care less.

11 Q. And during that period of time, you lost \$7,000 a  
12 month with it, didn't you, in your operation?

13 A. We were just simply trying -- we were not  
14 restaurateurs. We were simply trying to keep a  
15 restaurant open so that somebody would lease the space  
16 or buy it or do something with it. We didn't know what  
17 we were going to do with it.

18 Q. Do you remember giving your deposition again and  
19 testifying about how much you lost every month?

20 A. Again, I am not saying I did or didn't lose money.  
21 I am simply saying that we didn't ever plan to be in  
22 the restaurant business. We simply wanted to be silent  
23 partners that made a profit from our investment and it  
24 was more valuable to have that restaurant open as it  
25

1 proved to be, than to have it closed and just equipment  
2 there for sale, used equipment for sale.

3 Q. I thought I had it right -- oh, sorry. But you  
4 would agree you lost \$7,000 a month?

5 A. No, sir.

6 MR. PAPE: How many more minutes do  
7 I have, Judge?

8 COURT: Four.

9 MR. PAPE: Four minutes? I will do  
10 it.

11 BY MR. PAPE:

12 Q. Look at lines 4-6 on Page 162 of the trial  
13 transcript. Is that the transcript of the trial in  
14 this case?  
15

16 MRS. BENSCH: Is this trial  
17 transcript admissible, Your Honor. Have  
18 we said that you are going to allow this  
19 to be part of --

20 COURT: I am guessing he is going  
21 to ask you about your previous  
22 testimony.  
23

24 MS. BENSCH: Okay, so you are  
25 allowing this?

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COURT: He's not putting it in as an Exhibit as I understand it. He is asking you to testify as to your previous testimony.

BY MR. PAPE:

Q. Is that the trial transcript?

A. I believe it is.

Q. Look at the top of Page 162. Are you there?

A. Yes.

Q. Look at line 4 through 6. Didn't you state there that under your operation of Nicoli's it lost about \$7,000 a month?

A. Where does it say I am testifying here, I am sorry? Mrs. Bensch I heard that you contributed --

Q. It says that you are testifying here, doesn't it?

A. Well, yes it does. It says I contributed \$22,000 of working capital to Nicoli's.

Q. Now I didn't ask you a question. I asked you to read line 4. My question is whether or not you stated at that time that you lost \$7,000 a month?

A. And I said the restaurant lost roughly \$7,000 a month.

Mr. PAPE: Okay, thank you very much. Your Honor, I believe I am

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finished, but let me -- no further questions, Your Honor. I would like to, unless Ms. Bensch has some redirect, I want to call Mr. Passaloukas for one question.

COURT: Ms. Bensch, do you have any questions?

MS. BENSCH: Yeah, I have one question for him, please, Your Honor.

COURT: Well, I mean your redirect on your testimony.

MRS. BENSCH: That's fine. Yes.

COURT: Technically -- anything else you want to tell us following up on what you just answered?

BY MR. PAPE:

Q. Mr. Passaloukas, you are still under oath.

COURT: Hold on one second. Ms. Bensch did you want to say anything else on your -- you don't have to.

MRS. BENSCH: Yeah, I'm sorry. What was your question though?

COURT: I didn't have a question. The question was did you want to make

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any comments, any further testimony with regard to what you were asked on cross-examination?

MRS. BENSCH: The next thing that we will do is a summary -- I mean a conclusion or whatever?

COURT: We are not doing it today.

MRS. BENSCH: Right.

COURT: Okay. All right, go ahead.

BY MR. PAPE:

Q. One quick question. I think I heard Ms. Bensch testify that the walk in coolers were not removable. Tell the Judge real quickly about that.

A. I bought the walk in cooler from Georgia. It has a fiberglass back. I put it on the trailer with some help. We installed it. The only thing we did we had to cut the hole like a door hole and we set that on four or six cement blocks. Everything is removable on this list.

Q. All right, thank you. I don't have any further questions.

COURT: On the refrigerator or whatever it is at this point.

BY MRS. BENSCH:

1 Q. Mr. Passaloukas, does this refrigeration system  
2 isn't it actually a hole in the building that there's a  
3 door to that freezer?

4 A. I just said it. Yeah, there was a door, a hole  
5 like a door.

6 Q. So if you removed that freezer there would be a  
7 big hole in the back wall?

8 A. Exactly, for a hundred bucks you can close it.

9 Q. Did it have refrigeration lines, electrical lines,  
10 water lines run to it?

11 A. Yes, it has electrical lines.

12 Q. Thank you, that's all.

13  
14 COURT: Anything else, Ms. Bensch?

15 MRS. BENSCH: Yes, Your Honor. We  
16 can do this tomorrow. It's just one  
17 quick question, so she can go.

18 COURT: Well you can ask questions  
19 with regard to the refrigeration system.  
20 Is it about that or something else?

21 MRS. BENSCH: Something else.

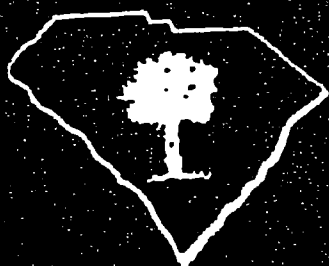
22 MR. PAPE: Your Honor, I object.  
23 It's gone beyond the scope of what we  
24 have been doing and that's the only  
25 thing I have asked.

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MRS. BENSCH: It was just one quick question in regards to his statements about things he paid for that the Benschs should have paid for.

COURT: Yeah, I think we have sort of gone through the time for that. All right, so let's get Joanne on the road.

(WHEREUPON, THE HEARING  
WAS CONCLUDED.)



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# Palmetto STATE BANK

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ACCOUNT OPENED .....		2,000.00	05/18/99	2,000.00
CUSTOMER TRANSFER	400.00		05/18/99	1,600.00
CHECK			05/20/99	1,600.00
BALANCE THIS STATEMENT .....			05/28/99	1,600.00
TOTAL CREDITS (1)		2,000.00		
TOTAL DEBITS (1)	400.00			
TAX ID NUMBER	**PROVIDE**			

### YOUR CHECKS SEQUENCED

DATE...	CHECK #.....	AMOUNT	DATE...	CHECK #.....	AMOUNT
05/20		400.00			

53.91

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 75-7-6485  
 SE 12 99  
 \$ 400.00  
 PALMETTO STATE BANK  
 11068578 05-20-99 0734 0739 27  
 Fair Grounds  
 Palmetto STATE BANK  
 BLUFFTON, SOUTH CAROLINA  
 Bill [Signature]

0 \$400.00 05/20/99

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DATE 5-17-99

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TELEPHONE		LIOther		FEE	
TRANSFER INSTITUTE	ACCOUNT	(CREDIT)	NAME	ACCOUNT NUMBER	AMOUNT
ACCOUNT	ACCOUNT NUMBER	ACCOUNT			TOTAL
					<u>2,000.00</u>

TO Will [unclear]  
[Signature]  
 APPROVED BY [Signature]

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PAGE: [REDACTED]



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[REDACTED] SALOUKAS  
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BALANCE LAST STATEMENT			06/02/99	1,558.42
CHECK	41.58		06/16/99	1,400.48
CHECK	157.94		06/22/99	1,381.48
DELUXE CHECK CHECK/ACC.	19.00		06/22/99	1,317.50
DELUXE CHECK CHECK/ACC.	63.98		06/23/99	2,317.50
CUSTOMER TRANSFER	200.00	1,000.00	06/24/99	2,117.50
CHECK	1,100.00		06/24/99	1,017.50
CHECK		2,000.00	06/29/99	3,017.50
CUSTOMER TRANSFER			06/30/99	3,014.99
SERVICE CHARGE	2.51		06/30/99	3,014.99
BALANCE THIS STATEMENT				
TOTAL CREDITS	(2)	3,000.00		
TOTAL DEBITS	(7)	1,585.01		
TAX ID NUMBER		58-2470957		

### YOUR CHECKS SEQUENCED

DATE...	CHECK #...	AMOUNT	DATE...	CHECK #...	AMOUNT	DATE...	CHECK #...	AMOUNT
06/02	*	41.58	06/24	*	200.00			
06/16	*	157.94	06/24		1,100.00			

(\*) INDICATES A GAP IN CHECK NUMBER SEQUENCE

ZORBA'S INC. H7 46  
 P.O. Box 1667  
 BLUFFTON, SC 29910  
 757-6995  
 ORDER OF House Depot  
 Fifty one  
 Palmetto STATE BANK  
 BLUFFTON, SOUTH CAROLINA  
 Bill P. [Signature]  
 000000158

0 \$41.58 06/02/99

ZORBA'S REST  
 P.O. Box 1667  
 BLUFFTON, SC 29910  
 ORDER OF PRIME TO SECURITY SYSTEM \$ 157.94  
 One hundred and fifty seven  
 Palmetto STATE BANK  
 BLUFFTON, SOUTH CAROLINA  
 Tel: 843-293-1111  
 Bill P. [Signature]  
 0000001579

0 \$157.94 06/16/99

ZORBA'S INC. 00488978 #4  
 27 MELLINCAMP DR  
 BLUFFTON, SC 29910  
 TEL 843-757-1485  
 ORDER OF Department  
 Two hundred  
 Palmetto STATE BANK  
 BLUFFTON, SOUTH CAROLINA  
 Bill P. [Signature]  
 00000020000

0 \$200.00 06/24/99

ZORBA'S INC.  
 TEL: 843-293-1111  
 ORDER OF San Antonio Music \$ 1,100.00  
 One thousand one hundred  
 Palmetto STATE BANK  
 BLUFFTON, SOUTH CAROLINA  
 Bill P. [Signature]  
 000001100

0 \$1,100.00 06/24/99

20RBAY Ae

000 70 05  
DATE: 07/30/99 PAGE: 1



# Palmetto STATE BANK

HAMPTON • BEAUFORT • BLUFFTON • MEMBER FDIC  
P.O. Box 219 Beaufort, SC 29902 (803) 524-3300  
P.O. Drawer 327 Bluffton, SC 29910 (803) 757-3747  
Box 158 Hampton, SC 29924 (803) 943-2671



ZORBA'S INC  
BILL PASSALOUKAS  
PO BOX 1667  
BLUFFTON SC 29910

30-2  
2  
12

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
BALANCE LAST STATEMENT			06/30/99	3,014.99
CHECK	78.00		07/01/99	2,936.99
CHECK	300.00		07/01/99	2,636.99
CHECK	1,700.00		07/08/99	936.99
CUSTOMER TRANSFER		1,000.00	07/14/99	1,936.99
CHECK	500.00		07/15/99	1,436.99
CHECK	65.01		07/16/99	1,371.98
CHECK # 1001	223.81		07/16/99	1,148.17
DELUXE CHECK CHECK/ACC.	26.87		07/20/99	1,121.30
CHECK # 1002	22.75		07/20/99	1,098.55
CHECK # 1003	75.00		07/26/99	1,023.55
CHECK # 1004	38.08		07/28/99	985.47
CHECK # 1005	42.51		07/28/99	942.96
CHECK # 1006	115.89		07/29/99	827.07
DEPOSIT		2,200.00	07/30/99	3,027.07
CHECK # 1008	315.00		07/30/99	2,712.07
SERVICE CHARGE	3.58		07/30/99	2,708.49
BALANCE THIS STATEMENT			07/30/99	2,708.49

TOTAL CREDITS (2) 3,200.00  
TOTAL DEBITS (14) 3,506.50  
TAX ID NUMBER 58-2470957

### YOUR CHECKS SEQUENCED

DATE...CHECK #.....AMOUNT	DATE...CHECK #.....AMOUNT	DATE...CHECK #.....AMOUNT
07/01 * 78.00 07/16 *	65.01 07/28	1004 38.08
07/01 * 300.00 07/16 1001	223.81 07/28	1005 42.51
07/08 * 1,700.00 07/20 1002	22.75 07/29	1006* 115.89
07/15 * 500.00 07/26 1003	75.00 07/30	1008 315.00

(\* ) INDICATES A GAP IN CHECK NUMBER SEQUENCE

PALMETTO STATE BANK  
P. O. BOX 227  
BLUFFTON, SC 29910-0327

DATE 6-23-99

<input type="checkbox"/> TELEPHONE	<input checked="" type="checkbox"/> OTHER	CREDIT		AMOUNT
ACCOUNT	ACCOUNT NUMBER	ACCOUNT	ACCOUNT NUMBER	TOTAL
	11711	002		1,000.00

TO: *Bill Passalunghi*

04⑈0000 100000⑈

DDA Credits \$1,000.00 06/23/99

PALMETTO STATE BANK  
P. O. BOX 227  
BLUFFTON, SC 29910-0327

DATE 6-29-99

<input type="checkbox"/> TELEPHONE	<input checked="" type="checkbox"/> OTHER	CREDIT		AMOUNT
ACCOUNT	ACCOUNT NUMBER	ACCOUNT	ACCOUNT NUMBER	TOTAL
	10903 903	DDA		2000.00

TO: *Bill Passalunghi*

04⑈0000 200000⑈

DDA Credits \$2,000.00 06/29/99

ZORBA'S INC. 434162 6.  
 120072124 07-01-99 0722 0732 27 87-388232  
 6-24-99  
 PAY TO THE ORDER OF LYNNA 10304800 06-30-99 0071 \$4938.05  
 06-30-99 3429 3415 00 06-30-99 DOLLARS  
 Palmetto STATE BANK BLUFFTON, SOUTH CAROLINA  
 FOR Dana P. [redacted] Bill P. [redacted] #000007880

0 78.00 07/01/99

ZORBA'S INC.  
 TEL. 843-757-6495 6-25-99  
 PAY TO THE ORDER OF Personal Spend \$300.00  
 Three hundred + no DOLLARS  
 Palmetto STATE BANK BLUFFTON, SOUTH CAROLINA  
 FOR [redacted] Bill P. [redacted] #000003000

0 300.00 07/01/99

ZORBA'S INC.  
 843-757-6495 7-2-99  
 PAY TO THE ORDER OF Souvenir Metal \$1,700.00  
 and seven hundred + no DOLLARS  
 Palmetto STATE BANK BLUFFTON, SOUTH CAROLINA  
 FOR [redacted] Bill P. [redacted] #000007000

0 1700.00 07/08/99

ZORBA'S INC.  
 14041593007598-89 7-13-99  
 PAY TO THE ORDER OF S.C. Elmer S. G. \$500.00  
 Five hundred + no DOLLARS  
 Palmetto STATE BANK BLUFFTON, SOUTH CAROLINA  
 FOR [redacted] Bill P. [redacted] #000005000

0 500.00 07/15/99

ZORBA'S INC RESTAURANT  
 757-6495 7-12-99  
 PAY TO THE ORDER OF ISLAND PACKET \$65.01  
 Sixty five + 01 DOLLARS  
 Palmetto STATE BANK BLUFFTON, SOUTH CAROLINA  
 FOR 2 Zorba's ads 5% off [redacted] Bill P. [redacted] #000006501

0 65.01 07/16/99

ZORBA'S INC.  
 PAY TO THE ORDER OF Home DEPOT \$223.81  
 Two hundred and twenty three + 81 DOLLARS  
 Palmetto STATE BANK BLUFFTON, SOUTH CAROLINA  
 FOR [redacted] Bill P. [redacted] #000002238

1001 223.81 07/16/99

1002  
 27 Helencamp DR SC04 2516247  
 Turnover ZORBA'S INC. PA. REG. 100. SOUTH CAROLINA BLUFFTON, SC 29910  
 DATE 7-17-99  
 PAY TO THE ORDER OF Grace \$22.75  
 Twenty two + 75 DOLLARS  
 Palmetto STATE BANK BLUFFTON, SOUTH CAROLINA  
 FOR [redacted] Bill P. [redacted] #000002175

ZORBA'S INC.  
 PAY TO THE ORDER OF D. W. Thomas Co. Inc \$5.75  
 Five and 75/100 DOLLARS  
 Palmetto STATE BANK BLUFFTON, SOUTH CAROLINA  
 FOR S.S. Shelf [redacted] Bill P. [redacted] #000005750

1003 75.00 07/26/99

1004

80501 0025 16247

ZOBRA'S, INC.  
PA. REG. 1992 10-27-99  
BLUFFTON, SC 29910

DATE: 7-23-99

PAY TO THE ORDER OF: Home Depot

THIRTY EIGHT + 08

\$ 38.08

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

15022755 Bill [Signature]

⑈00000000⑈

1005

5602112117

ZOBRA'S, INC.  
PA. REG. 1992 10-27-99  
BLUFFTON, SC 29910

DATE: 7-23-99

PAY TO THE ORDER OF: Home Depot

Forty + 00

\$ 42.00

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

⑈00000000⑈

1004 38.08 07/28/99

1006

5C002516247 Bill Passaloukas

ZOBRA'S, INC.  
PA. REG. 1992 10-27-99  
BLUFFTON, SC 29910

DATE: 7-28-99

PAY TO THE ORDER OF: Home Depot

ONE hundred and fifteen + 00

\$ 115.00

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

⑈000011589⑈

1005 42.51 07/28/99

1008

ZOBRA'S, INC.  
PA. REG. 1992 10-27-99  
BLUFFTON, SC 29910

DATE: 7-28-99

PAY TO THE ORDER OF: Carol K. [Signature]

THREE hundred and fifteen + 00

\$ 315.00

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

⑈00000000⑈

1006 115.89 07/29/99

1008 315.00 07/30/99



# Palmetto STATE BANK

HAMPTON • BEAUFORT • BLUFFTON • MEMBER FDIC  
 P.O. Box 219 Beaufort, SC 29902 (803) 524-3300  
 P.O. Drawer 327 Bluffton, SC 29910 (803) 757-3747  
 Box 158 Hampton, SC 29924 (803) 943-2871

000 70 05  
 DATE: 08/31/99

PAGE: 1



ZORBA'S INC  
 BILL PASSALOUKAS  
 PO BOX 1667  
 BLUFFTON SC 29910

30-2  
 12  
 50

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
BALANCE LAST STATEMENT			07/30/99	2,708.49
CHECK # 1009	720.00		08/03/99	1,988.49
LYNK SYSTEMS, IN STATEMENT LK109998	9.50		08/06/99	1,978.99
CHECK # 1007	400.00		08/06/99	1,578.99
CHECK # 1011	73.00		08/10/99	1,505.99
CHECK # 1010	201.25		08/11/99	1,304.74
CHECK # 1017	33.08		08/12/99	1,271.66
CHECK # 1014	129.82		08/13/99	1,141.84
CHECK # 1016	150.00		08/13/99	991.84
CHECK # 1012	250.00		08/13/99	741.84
DEPOSIT		3,000.00	08/16/99	3,741.84
GOLDEN EAGLE CC DEBITS 351470 EET	44.29		08/16/99	3,697.55
CHECK # 1015	62.80		08/16/99	3,634.75
CHECK # 1019	300.00		08/16/99	3,334.75
CHECK # 1020	264.81		08/17/99	3,069.94
CHECK # 1022	708.00		08/18/99	2,361.94
DEPOSIT		3,000.00	08/19/99	5,361.94
CHECK # 1023	20.00		08/20/99	5,341.94
CHECK # 1024	60.00		08/20/99	5,281.94
CHECK # 1026	125.56		08/20/99	5,156.38
CHECK # 1038	200.00		08/20/99	4,956.38
CHECK # 1021	257.27		08/20/99	4,699.11
CHECK # 1034	300.00		08/20/99	4,399.11
CHECK # 1029	1,043.66		08/20/99	3,355.45
DEPOSIT		326.26	08/23/99	3,681.71
DEPOSIT		358.00	08/23/99	4,039.71
CUSTOMER TRANSFER		2,000.00	08/23/99	6,039.71
CHECK # 1030	84.58		08/23/99	5,955.13
CHECK # 1036	112.68		08/23/99	5,842.45
CHECK # 1032	119.65		08/23/99	5,722.80
CHECK # 1035	150.00		08/23/99	5,572.80
CHECK # 1027	259.03		08/23/99	5,313.77

\*\*\* CONTINUED \*\*\*

PALMETTO STATE BANK  
 P. O. BOX 827  
 BLUFFTON, SC 29910-0827

DATE 7-14-99

TELEPHONE EITHER

TRANSFER FROM: SAV

ACCOUNT NUMBER: 10702910

ACCOUNT: DDA

AMOUNT: 1000.00

INITIAL: JS

TO: Bill Pussalukas

APPROVED BY: [Redacted]

0000

DDA Credits 1000.00 07/14/99

DEPOSIT TICKET

PALMETTO STATE BANK  
 BLUFFTON, S.C. 29910

DATE: 7-30-99

CURRENCY	CHECK	ATM	OTHER	DATE	AMOUNT
				7-29-99	2200.00
TOTAL					2200.00

ZIGRAY, INC.  
 P.O. BOX 1847 840-JONES  
 BLUFFTON, SC 29910

02/0000 & 20000

DDA Credits 2200.00 07/30/99

2708.49  
 3.58  
 26.87

2738.94  
 315.00  
 2053.94



# Palmetto STATE BANK

HAMPTON • BEAUFORT • BLUFFTON • MEMBER FDIC

P.O. Box 219 Beaufort, SC 29902 (803) 524-3300  
P.O. Drawer 327 Bluffton, SC 29910 (803) 757-3747  
Box 158 Hampton, SC 29924 (803) 943-2671



ZORBA'S INC

000 70 05  
DATE: 08/31/99

PAGE: 2

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
		148.00	08/24/99	5,461.77
		660.30	08/24/99	6,122.07
DEPOSIT				6,026.67
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000004	✓ 95.40		08/24/99	5,930.95
CHECK # 1037	✓ 95.72		08/24/99	5,730.95
CHECK # 1033	✓ 200.00		08/24/99	5,343.91
CHECK # 1048	✓ 387.04		08/24/99	4,423.13
CHECK # 1041	✓ 920.78		08/24/99	4,566.51
CHECK # 1028		143.38	08/25/99	4,895.29
		328.78	08/25/99	5,228.27
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000006		332.98	08/25/99	5,961.44
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000005		733.17	08/25/99	5,861.44
DEPOSIT	✓ 100.00		08/25/99	5,745.44
CHECK # 1043	✓ 116.00		08/25/99	5,595.44
CHECK # 1044	✓ 150.00		08/25/99	5,089.79
CHECK # 1042	✓ 505.65		08/25/99	4,299.32
CHECK # 1049	✓ 790.47		08/25/99	2,802.24
CHECK # 1039	✓ 1,497.08		08/25/99	2,850.48
CHECK # 1040		48.24	08/26/99	3,319.96
		469.48	08/26/99	3,900.96
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000007		581.00	08/26/99	3,900.96
DEPOSIT	✓ 95.00		08/26/99	3,805.96
CHECK # 1051	✓ 100.00		08/26/99	3,705.96
CHECK # 1054	✓ 124.50		08/26/99	3,581.46
CHECK # 1056	✓ 138.71		08/26/99	3,442.75
CHECK # 1050	✓ 150.00		08/26/99	3,292.75
CHECK # 1053	✓ 251.22		08/26/99	3,041.53
CHECK # 1018		105.31	08/27/99	3,146.84
		511.80	08/27/99	3,658.64
DEPOSIT	✓ 31.92		08/27/99	3,626.72
CHECK # 1052	✓ 50.00		08/27/99	3,576.72
CHECK # 1058	✓ 60.02		08/27/99	3,516.70
CHECK # 1055	✓ 64.48		08/27/99	3,452.22
CHECK # 1031	✓ 110.54		08/27/99	3,341.68
CHECK # 1045	✓ 125.62		08/27/99	3,216.06
CHECK # 1046	✓ 212.58		08/27/99	3,003.48
CHECK # 1047		93.96	08/30/99	3,097.44
		380.12	08/30/99	3,477.56
		393.33	08/30/99	3,870.89
		528.90	08/30/99	4,399.79
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000008		538.35	08/30/99	4,938.14
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000009		748.76	08/30/99	5,686.90
DEPOSIT	✓ 66.90		08/31/99	5,753.80
		310.84	08/31/99	6,064.64
		335.98	08/31/99	6,400.62
		497.63	08/31/99	6,898.25

\*\*\* CONTINUED \*\*\*



# Palmetto STATE BANK

HAMPTON • BEAUFORT • BLUFFTON • MEMBER FDIC

PO Box 219  
Beaufort, SC 29902  
(803) 524-3300

P.O. Drawer 327  
Bluffton, SC 29910  
(803) 757-3747

Box 158  
Hampton, SC 29924  
(803) 943-2671

000 70 05  
DATE: 08/31/99

PAGE: [REDACTED]



ZORBA'S INC

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
CHECK # 1060	201.14		08/31/99	6,697.11
CHECK # 1059	369.80		08/31/99	6,327.31
SERVICE CHARGE	11.12		08/31/99	6,316.19
BALANCE THIS STATEMENT			08/31/99	6,316.19
TOTAL CREDITS (26)		16,641.47		
TOTAL DEBITS (53)	13,033.77			
TAX ID NUMBER	58-24709			

### YOUR CHECKS SEQUENCED

DATE	CHECK #	AMOUNT	DATE	CHECK #	AMOUNT	DATE	CHECK #	AMOUNT
08/06	1007*	400.00	08/23	1027	259.03	08/25	1044	116.00
08/03	1009	720.00	08/24	1028	920.78	08/27	1045	110.54
08/11	1010	201.25	08/20	1029	1,043.66	08/27	1046	125.62
08/10	1011	73.00	08/23	[REDACTED]	84.58	08/27	1047	212.58
08/13	1012*	250.00	08/27	1031	[REDACTED]		1048	200.00
08/13	1014	129.82	08/23	1032	119.65	08/25	[REDACTED]	505.65
08/16	1015	62.80	08/24	1033	95.72	08/26	1050	138.71
08/13	1016	150.00	08/20	1034	300.00	08/26	1051	95.00
08/12	1017	33.08	08/23	1035	150.00	08/27	1052	31.92
08/26	1018	251.22	08/23	1036	112.68	08/26	1053	150.00
08/16	1019	300.00	08/24	1037	95.40	08/26	1054	100.00
08/17	1020	264.81	08/20	1038	200.00	08/27	1055	60.02
08/20	1021	257.27	08/25	[REDACTED]	200.00	08/26	1056*	124.50
08/18	1022	708.00	08/25	1040	1,437.00		1058	50.00
08/20	1023	20.00	08/24	1041	387.04	08/31	[REDACTED]	369.80
08/20	1024*	60.00	08/25	1042	150.00	08/31	1060	201.14
08/20	1026	125.56	08/25	1043	100.00			

(\*) INDICATES A GAP IN CHECK NUMBER SEQUENCE

[REDACTED]

ZOBRA'S, INC. 02006516 1007  
 P.O. BOX 1107 PALMETTO, SC 29553  
 DATE 7-27-99  
 PAY TO THE ORDER OF S.C. Department of Revenue \$400.00  
 Four hundred and no/100  
 PALMETTO STATE BANK  
 Bill [Signature]

1007 \$400.00 08/16/99

ZOBRA'S, INC. 1009  
 P.O. BOX 1107 PALMETTO, SC 29553  
 DATE 7-30-99  
 PAY TO THE ORDER OF Land's Erection \$720.00  
 Seven hundred and twenty/100  
 PALMETTO STATE BANK  
 Bill [Signature]

1009 \$720.00 08/03/99

ZOBRA'S, INC. 1010  
 P.O. BOX 1107 PALMETTO, SC 29553  
 DATE 8-5-99  
 PAY TO THE ORDER OF Coke-Cola \$201.25  
 Two hundred and one/100  
 PALMETTO STATE BANK  
 Bill [Signature]

1010 \$201.25 08/11/99

ZOBRA'S, INC. 1011  
 P.O. BOX 1107 PALMETTO, SC 29553  
 DATE 8-6-99  
 PAY TO THE ORDER OF Land's Erection \$73.00  
 Seventy three/100  
 PALMETTO STATE BANK  
 Bill [Signature]

1011 \$73.00 08/10/99

ZOBRA'S, INC. 1012  
 P.O. BOX 1107 PALMETTO, SC 29553  
 DATE 8/9/99  
 PAY TO THE ORDER OF Island Packet \$250.00  
 Two hundred and fifty and no/100  
 PALMETTO STATE BANK  
 Bill [Signature]

1012 \$250.00 08/13/99

ZOBRA'S, INC. 1013  
 P.O. BOX 1107 PALMETTO, SC 29553  
 DATE 8-11-99  
 PAY TO THE ORDER OF BEAR LISTING DISTRIBUTORS, INC. \$121.00  
 One hundred and twenty one/100  
 PALMETTO STATE BANK  
 Bill [Signature]

1013 \$121.00 08/13/99

ZOBRA'S, INC. 1014  
 P.O. BOX 1107 PALMETTO, SC 29553  
 DATE 8-14-99  
 PAY TO THE ORDER OF NATIONAL \$250.00  
 Sixty two/100  
 PALMETTO STATE BANK  
 Bill [Signature]

1014 \$250.00 08/13/99

ZOBRA'S, INC. 1015  
 P.O. BOX 1107 PALMETTO, SC 29553  
 DATE 8-15-99  
 PAY TO THE ORDER OF John Huff \$150.00  
 One hundred and fifty/100  
 PALMETTO STATE BANK  
 Bill [Signature]

1015 \$150.00 08/13/99

ZOBRA'S, INC.  
P.O. BOX 1187  
BLUFFTON, SC 29910

1017

DATE: 08/11/99

PAY TO THE ORDER OF: CTS

\$ 33.08

DOLLARS

Palmetto State Bank

ZOBRA'S, INC.  
P.O. BOX 1187  
BLUFFTON, SC 29910

1018

DATE: 8-12-99

PAY TO THE ORDER OF: AMERICAN

\$ 251.22

DOLLARS

Palmetto State Bank

1017 \$33.08 08/12/99

1018 \$251.22 08/26/99

ZOBRA'S, INC.  
P.O. BOX 1187  
BLUFFTON, SC 29910

1019

DATE: 8-13-99

PAY TO THE ORDER OF: JOHN NICOLA

\$ 300.00

DOLLARS

Palmetto State Bank

ZOBRA'S, INC.  
P.O. BOX 1187  
BLUFFTON, SC 29910

1020

DATE: 08/15/99

PAY TO THE ORDER OF: Wm. Mader

\$ 264.81

DOLLARS

Palmetto State Bank

1019 \$300.00 08/16/99

1020 \$264.81 08/17/99

ZOBRA'S, INC.  
P.O. BOX 1187  
BLUFFTON, SC 29910

1021

DATE: 8-16-99

PAY TO THE ORDER OF: A. O. P.

\$ 257.27

DOLLARS

Palmetto State Bank

ZOBRA'S, INC.  
P.O. BOX 1187  
BLUFFTON, SC 29910

1022

DATE: 8-17-99

PAY TO THE ORDER OF: SYCCA

\$ 708.00

DOLLARS

Palmetto State Bank

1021 \$257.27 08/20/99

1022 \$708.00 08/18/99

ZOBRA'S, INC.  
P.O. BOX 1187  
BLUFFTON, SC 29910

1023

DATE: 8-17-99

PAY TO THE ORDER OF: Clyde Sheppard

\$ 20.00

DOLLARS

Palmetto State Bank

ZOBRA'S, INC.  
P.O. BOX 1187  
BLUFFTON, SC 29910

1024

DATE: 8-17-99

PAY TO THE ORDER OF: DHEC

\$ 60.00

DOLLARS

Palmetto State Bank

294

-844-

1023 \$20.00 08/20/99

1024 \$60.00 08/20/99

1025

ZOBRA'S, INC.  
P.O. BOX 1007 843-7000  
BLUFFTON, SC 29910

110190419 08-19-99 0001 A053 09  
140144823 08-20-99 0700 82AR 2-99

DATE 8-18-99

PAY TO THE ORDER OF CASH \$ 125.56

One hundred and twenty five and 56/100 DOLLARS

PALMETTO STATE BANK

FOR Bill Neal

70000012556

1027

ZOBRA'S, INC.  
P.O. BOX 1007 843-7000  
BLUFFTON, SC 29910

110073092 08-20-99 0786 0788 27  
DATE 8-18-99

PAY TO THE ORDER OF NATIONAL \$ 259.03

Two hundred and fifty nine and 03/100 DOLLARS

PALMETTO STATE BANK

FOR Bill Neal

70002590

1026 \$125.56 08/20/99

1028

ZOBRA'S, INC.  
P.O. BOX 1007 843-7000  
BLUFFTON, SC 29910

150002488 08-24-99 0824 0824 27  
DATE 8-18-99

PAY TO THE ORDER OF CASH \$ 920.78

Nine hundred and twenty and 78/100 DOLLARS

PALMETTO STATE BANK

FOR Equity

70000092078

1027 \$259.03 08/23/99

101

ZOBRA'S, INC.  
P.O. BOX 1007 843-7000  
BLUFFTON, SC 29910

110073092 08-20-99 0786 0788 27  
DATE 8-18-99

PAY TO THE ORDER OF CASH \$ 1,104.00

One thousand and forty three and 00/100 DOLLARS

PALMETTO STATE BANK

FOR Equity

700001040

1028 \$920.78 08/24/99

1030

ZOBRA'S, INC.  
P.O. BOX 1007 843-7000  
BLUFFTON, SC 29910

150057750 08-24-99 0724 0724 27  
DATE 8-18-99

PAY TO THE ORDER OF F.R.S. \$ 24.50

Twenty four and 50/100 DOLLARS

PALMETTO STATE BANK

FOR Kelley's Equip

70000008458

1029 \$1,043.66 08/20/99

1031

ZOBRA'S, INC.  
P.O. BOX 1007 843-7000  
BLUFFTON, SC 29910

110073092 08-20-99 0786 0788 27  
DATE 8-18-99

PAY TO THE ORDER OF Peter Krueger \$ 64.00

Sixty four and 00/100 DOLLARS

PALMETTO STATE BANK

FOR Home Depot

70000006400

1030 \$84.58 08/23/99

1032

ZOBRA'S, INC.  
P.O. BOX 1007 843-7000  
BLUFFTON, SC 29910

27 Mellickamp  
DATE 8-19-99

PAY TO THE ORDER OF Public \$ 119.65

One hundred nineteen and 65/100 DOLLARS

PALMETTO STATE BANK

FOR Bill Neal

70000119

1031 \$64.48 08/27/99

1033

ZOBRA'S, INC.  
P.O. BOX 1007 843-7000  
BLUFFTON, SC 29910

DATE 8-19-99

PAY TO THE ORDER OF Parletina \$ 9.72

Nine and 72/100 DOLLARS

PALMETTO STATE BANK

FOR Burns

7000000972

1032 \$119.65 08/23/99

1033 \$95.72 08/24/99

1034

ZOBRA'S, INC.  
P.O. BOX 187 24728-0187  
SALFORD, NC 28130

DATE 8-19-99

PAY TO THE ORDER OF JOHN NICOLAI \$ 300.00

Three hundred & no/100 DOLLARS

FOR [Redacted] *Bill Head*

⑈000003000⑈

1033

ZOBRA'S, INC.  
P.O. BOX 187 24728-0187  
SALFORD, NC 28130

DATE 8-19-99

PAY TO THE ORDER OF Campbell Electric \$ 150.00

One hundred and fifty & no/100 DOLLARS

FOR Electric work in Zebra's Ball Head

⑈000001500⑈

1034 \$300.00 08/20/99

1035 \$150.00 08/23/99

1035

ZOBRA'S, INC.  
P.O. BOX 187 24728-0187  
SALFORD, NC 28130

DATE 8-19-99

PAY TO THE ORDER OF Sysco \$ 112.00

One hundred and twelve & no/100 DOLLARS

FOR [Redacted] *Bill Head*

⑈000001120⑈

1036

ZOBRA'S, INC.  
P.O. BOX 187 24728-0187  
SALFORD, NC 28130

DATE August 23, 1999

PAY TO THE ORDER OF Kitchen Collection \$ 95.40

Ninety five and 40/100 DOLLARS

FOR [Redacted] *Bill Head*

⑈000009540⑈

1036 \$112.68 08/23/99

1037 \$95.40 08/24/99

1038

ZOBRA'S, INC.  
P.O. BOX 187 24728-0187  
SALFORD, NC 28130

DATE 8-20-99

PAY TO THE ORDER OF Palmetto State Bank \$ 200.00

Two hundred & no/100 DOLLARS

FOR [Redacted] *Bill Head*

⑈000002000⑈

1037

ZOBRA'S, INC.  
P.O. BOX 187 24728-0187  
SALFORD, NC 28130

DATE 8-20-99

PAY TO THE ORDER OF Sudarna Jime \$ 79.00

Seventy nine & no/100 DOLLARS

FOR [Redacted] *Bill Head*

⑈000007900⑈

1038 \$200.00 08/20/99

1039 \$790.47 08/25/99

1040

ZOBRA'S, INC.  
P.O. BOX 187 24728-0187  
SALFORD, NC 28130

DATE 8-20-99

PAY TO THE ORDER OF Ray's Kool \$ 497.08

Four hundred and ninety seven and 8/100 DOLLARS

FOR [Redacted] *Bill Head*

⑈0000049708⑈

1039

ZOBRA'S, INC.  
P.O. BOX 187 24728-0187  
SALFORD, NC 28130

DATE 8-20-99

PAY TO THE ORDER OF Sysco \$ 790.47

Seven hundred and ninety and 47/100 DOLLARS

FOR [Redacted] *Bill Head*

⑈0000079047⑈

296

-846-

1040 \$1,497.08 08/25/99

1041 \$387.04 08/24/99

1042

ZOBRA'S, INC.  
PA. BOX 1847  
BLUFFTON, SC 29518

DATE 8-25-99

PAY TO THE ORDER OF Gill Fish  
One hundred and fifty +

PALMETTO

FOR [Redacted]

1043

ZOBRA'S, INC.  
PA. BOX 1847  
BLUFFTON, SC 29518

DATE 8-27-99

PAY TO THE ORDER OF C. H. Country  
One hundred +

PALMETTO STATE BANK

FOR [Redacted]

1042 \$150.00 08/25/99

1043 \$100.00 08/25/99

1044

ZOBRA'S, INC.  
PA. BOX 1847  
BLUFFTON, SC 29518

DATE 8/25/99

PAY TO THE ORDER OF MOVIE VITS  
One hundred and sixteen +

PALMETTO

FOR [Redacted]

1043

ZOBRA'S, INC.  
PA. BOX 1847  
BLUFFTON, SC 29518

DATE 8/24/99

PAY TO THE ORDER OF Same Club  
One hundred and five +

PALMETTO STATE BANK

FOR [Redacted]

1044 \$116.00 08/25/99

1045 \$110.54 08/27/99

1048

ZOBRA'S, INC.  
PA. BOX 1847  
BLUFFTON, SC 29518

DATE 8-27-99

PAY TO THE ORDER OF [Redacted]  
One hundred and twenty five +

PALMETTO

FOR [Redacted]

1045

ZOBRA'S, INC.  
PA. BOX 1847  
BLUFFTON, SC 29518

DATE 8-23-99

PAY TO THE ORDER OF [Redacted]  
One hundred and ten +

PALMETTO STATE BANK

FOR [Redacted]

1046 \$125.62 08/27/99

1047 \$212.58 08/27/99

1048

ZOBRA'S, INC.  
PA. BOX 1847  
BLUFFTON, SC 29518

DATE 8-22-99

PAY TO THE ORDER OF [Redacted]  
Two hundred +

PALMETTO

FOR [Redacted]

1047

ZOBRA'S, INC.  
PA. BOX 1847  
BLUFFTON, SC 29518

DATE 08-25-99

PAY TO THE ORDER OF SYCCO  
Five hundred and five +

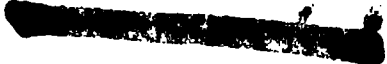
PALMETTO STATE BANK

FOR [Redacted]

1048 \$200.00 08/24/99

1049 \$505.65 08/25/99

-847-



1050

ZOBRA'S, INC.  
P.O. BOX 1847 24378-2228  
BLUFFTON, SC 29910

DATE 8-24-99

PAY TO THE ORDER OF SYSCO 140116247 08-26-99 0700 0749 PS 138.71

and thirty eight dollars

Bill [Signature]

FOR [Redacted]

106

ZOBRA'S, INC.  
P.O. BOX 1847 24378-2228  
BLUFFTON, SC 29910

DATE 8-24-99

PAY TO THE ORDER OF COCA - 6010 110104773 08-26-99 072A 5071 23

Ninety five and 00/100

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

FOR [Redacted]

1050 \$138.71 08/26/99

1051 \$95.00 08/26/99

1052

ZOBRA'S, INC.  
P.O. BOX 1847 24378-2228  
BLUFFTON, SC 29910

DATE 8-25-99

PAY TO THE ORDER OF David P. Stone 15 31.92

and one dollar

FOR [Redacted]

1051

ZOBRA'S, INC.  
P.O. BOX 1847 24378-2228  
BLUFFTON, SC 29910

DATE 8-25-99

PAY TO THE ORDER OF John Nicolai 15 95.00

and fifty dollars

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

FOR [Redacted]

1052 \$31.92 08/27/99

1053 \$150.00 08/26/99

1054

ZOBRA'S, INC.  
P.O. BOX 1847 24378-2228  
BLUFFTON, SC 29910

DATE 8-25-99

PAY TO THE ORDER OF Bonnie Nicolai 15 100.00

and one hundred dollars

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

FOR [Redacted]

1053

ZOBRA'S, INC.  
P.O. BOX 1847 24378-2228  
BLUFFTON, SC 29910

DATE 8-25-99

PAY TO THE ORDER OF NATIONAL 15 150.00

Sixty +

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

FOR [Redacted]

1054 \$100.00 08/26/99

1055 \$60.02 08/27/99

1056

ZOBRA'S, INC.  
P.O. BOX 1847 24378-2228  
BLUFFTON, SC 29910

DATE 8-26-99

PAY TO THE ORDER OF C.T.S. 15 124.50

One hundred twenty four and 50/100

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

FOR [Redacted]

1055

ZOBRA'S, INC.  
P.O. BOX 1847 24378-2228  
BLUFFTON, SC 29910

DATE 8-26-99

PAY TO THE ORDER OF John Nicolai 15 60.02

Fifty +

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

FOR [Redacted]

298

-848-

1056 \$124.50 08/26/99

1058 \$50.00 08/27/99

1059

ZOBRA'S, INC.  
P.O. BOX 1807  
SALFORD, NC 27160

120324367 03-31-99 0243 8272 87 0-03/99

DATE 8-27-99

PAY TO THE ORDER OF Sycco \$ 369.80

Three hundred and sixty nine and 80/100 DOLLARS

PALMETTO STATE BANK

1060

ZOBRA'S, INC.  
P.O. BOX 1807  
SALFORD, NC 27160

DATE 8-27-99

PAY TO THE ORDER OF SCE & G \$ 201.14

Two hundred and one and 14/100 DOLLARS

PALMETTO STATE BANK

1059 \$369.80 08/31/99

1060 \$201.14 08/31/99

DEPOSIT TICKET  
PALMETTO STATE BANK  
P. O. BOX 127  
BLUFFTON, S.C. 29910

DATE: 8-16-99

CURRENCY	3,000.00
CASH	
SAVINGS	
OTHER	
TOTAL	3,000.00

RECEIVED  
AUG 16 1999

TOTAL ITEMS: 1  
PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED

3,000.00

DDA Credits \$3,000.00 08/16/99

DEPOSIT TICKET  
PALMETTO STATE BANK  
P. O. BOX 127  
BLUFFTON, S.C. 29910

DATE: 8-19-99

CURRENCY	3,000.00
CASH	
SAVINGS	
OTHER	
TOTAL	3,000.00

RECEIVED  
AUG 19 1999

TOTAL ITEMS: 1  
PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED

3,000.00

DDA Credits \$3,000.00 08/19/99

DEPOSIT TICKET  
PALMETTO STATE BANK  
P. O. BOX 127  
BLUFFTON, S.C. 29910

DATE: 8-23-99

CURRENCY	326.26
CASH	
SAVINGS	
OTHER	
TOTAL	326.26

RECEIVED  
AUG 23 1999

TOTAL ITEMS: 1  
PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED

326.26

DDA Credits \$326.26 08/23/99

DEPOSIT TICKET  
PALMETTO STATE BANK  
P. O. BOX 127  
BLUFFTON, S.C. 29910

DATE: 8-23-99

CURRENCY	358.00
CASH	
SAVINGS	
OTHER	
TOTAL	358.00

RECEIVED  
AUG 23 1999

TOTAL ITEMS: 1  
PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED

358.00

DDA Credits \$358.00 08/23/99

PALMETTO STATE BANK  
P. O. BOX 127  
BLUFFTON, SC 29910-0127

TELEPHONE  OTHER

TRANSFER FROM: SAV 1070255655 DDA

ACCOUNT NUMBER: [REDACTED]

AMOUNT: 2000

to Zobra's Inc.

DATE: 8/23/99

DDA Credits \$2,000.00 08/23/99

DEPOSIT TICKET  
PALMETTO STATE BANK  
P. O. BOX 127  
BLUFFTON, S.C. 29910

DATE: 8-24-99

CURRENCY	148.00
CASH	
SAVINGS	
OTHER	
TOTAL	148.00

RECEIVED  
AUG 24 1999

TOTAL ITEMS: 1  
PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED

148.00

DDA Credits \$148.00 08/24/99

DEPOSIT TICKET  
PALMETTO STATE BANK  
P. O. BOX 127  
BLUFFTON, S.C. 29910

DATE: 8-25-99

CURRENCY	733.17
CASH	
SAVINGS	
OTHER	
TOTAL	733.17

RECEIVED  
AUG 25 1999

TOTAL ITEMS: 1  
PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED

733.17

DDA Credits \$733.17 08/25/99

DEPOSIT TICKET  
PALMETTO STATE BANK  
P. O. BOX 127  
BLUFFTON, S.C. 29910

DATE: 8/26/99

CURRENCY	581.00
CASH	
SAVINGS	
OTHER	
TOTAL	581.00

RECEIVED  
AUG 26 1999

TOTAL ITEMS: 1  
PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED

581.00

DDA Credits \$581.00 08/26/99

300

-850-



# Palmetto STATE BANK

HAMPTON • BEAUFORT • BLUFFTON • MEMBER FDIC

P.O. Box 219  
Beaufort, SC 29902  
(803) 524-3300

P.O. Drawer 327  
Bluffton, SC 29910  
(803) 757-3747

Box 158  
Hampton, SC 29924  
(803) 943-2571

000 70 05  
DATE: 09/30/99

PAGE: 1



10 TR 143-7

ORBA'S INC  
BILL PASSALOUKAS  
PO BOX 1667  
BLUFFTON SC 29910

30-2  
26  
68

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
BALANCE LAST STATEMENT			08/31/99	6,316.19
AMERICAN EXPRESS SETTLEMENT 4392411500		231.70	09/01/99	6,547.89
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000012		291.54	09/01/99	6,839.43
DEPOSIT		323.93	09/01/99	7,163.36
CHECK # 1057 ✓ ✓	300.00		09/01/99	7,045.59
CHECK # 1069 ✓ ✓	1,000.00		09/01/99	6,745.59
CHECK # 1068 ✓		424.60	09/02/99	5,745.59
DEPOSIT		643.83	09/02/99	6,170.19
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000013			09/02/99	6,814.02
CHECK # 1066 ✓	99.75		09/02/99	6,714.27
CHECK # 1062 ✓	144.20		09/02/99	6,570.07
CHECK # 1067 ✓ ✓	322.44		09/02/99	6,247.63
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000014		309.94	09/03/99	6,557.57
DEPOSIT		531.47	09/03/99	7,089.04
CHECK # 1064 ✓	306.43		09/03/99	6,782.61
AMERICAN EXPRESS SETTLEMENT 4392411500		106.36	09/07/99	6,888.97
DEPOSIT		209.00	09/07/99	7,098.05
AMERICAN EXPRESS SETTLEMENT 4392411500		213.71	09/07/99	7,311.76
DEPOSIT		311.92	09/07/99	7,623.68
CHECK # 1065 ✓ ✓	4,539.65		09/07/99	3,084.03
CHECK # 1070 ✓ ✓ ✓	50.06		09/07/99	3,033.97
CHECK # 1061 ✓ ✓	80.60		09/07/99	2,953.37
CHECK # 1071 ✓ ✓	142.05		09/07/99	2,811.32
CHECK # 1073 ✓ ✓	143.29		09/07/99	2,668.03
CHECK # 1079 ✓ ✓	3,000.00		09/07/99	331.97-
NOVUS SERVICES SETTLEMENT 601101079010359		102.86	09/08/99	229.11-
DEPOSIT		358.49	09/08/99	129.38
DEPOSIT		500.00	09/08/99	629.38
AMERICAN EXPRESS SETTLEMENT 4392411500		622.61	09/08/99	1,251.99
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000015		652.05	09/08/99	1,904.04
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000016		1,266.00	09/08/99	3,170.04
NSF FEE CHARGE ✓	20.00		09/08/99	3,150.04
DELUXE CHECK CHECK/ACC ✓	11.98		09/08/99	3,138.06
CHECK # 1074 ✓ ✓	64.40		09/08/99	3,073.66

\*\*\* CONTINUED \*\*\*

302

-852-

NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFO

DEPOSIT TICKET

PALMETTO STATE BANK  
MEMPHIS, TN 38103

DATE: 7/27/99

CURRENCY	CASH	CHEQUES	TOTAL
367			367
	50		417
	18		435
	11		446
	24		470
	50		520
			510

RECEIVED  
AUG 27 1999

ZIGORAY, INC.  
P.O. BOX 1067  
SUITE 100  
MEMPHIS, TN 38110

TOTAL ITEMS: 5  
PLEASE PRINT ALL INFO AND PROPERLY ADDRESS TO THE BANK OF DEPOSIT

DDA Credits \$511.80 08/27/99

DEPOSIT TICKET

PALMETTO STATE BANK  
MEMPHIS, TN 38103

DATE: Aug 27 1999

CURRENCY	CASH	CHEQUES	TOTAL
700			700
	25		725
	24		749
			748

RECEIVED  
AUG 30 1999

ZIGORAY, INC.  
P.O. BOX 1067  
SUITE 100  
MEMPHIS, TN 38110

TOTAL ITEMS: 3  
PLEASE PRINT ALL INFO AND PROPERLY ADDRESS TO THE BANK OF DEPOSIT

DDA Credits \$748.76 08/30/99

DEPOSIT TICKET

PALMETTO STATE BANK  
MEMPHIS, TN 38103

DATE: 8/30/99

CURRENCY	CASH	CHEQUES	TOTAL
360			360
	24		384
	12		396
			390.12

RECEIVED  
AUG 30 1999

ZIGORAY, INC.  
P.O. BOX 1067  
SUITE 100  
MEMPHIS, TN 38110

TOTAL ITEMS: 3  
PLEASE PRINT ALL INFO AND PROPERLY ADDRESS TO THE BANK OF DEPOSIT

DDA Credits \$380.12 08/30/99

DEPOSIT TICKET

PALMETTO STATE BANK  
MEMPHIS, TN 38103

DATE: 8/31/99

CURRENCY	CASH	CHEQUES	TOTAL
310			310
	84		394
			310.84

RECEIVED  
AUG 31 1999

ZIGORAY, INC.  
P.O. BOX 1067  
SUITE 100  
MEMPHIS, TN 38110

TOTAL ITEMS: 2  
PLEASE PRINT ALL INFO AND PROPERLY ADDRESS TO THE BANK OF DEPOSIT

DDA Credits \$310.84 08/31/99



# Palmetto STATE BANK

HAMPTON • BEAUFORT • BLUFFTON • MEMBER FDIC

P.O. Box 219 Beaufort, SC 29902 (803) 824-3900  
P.O. Drawer 327 Bluffton, SC 29910 (803) 757-3747  
Box 158 Hampton, SC 29924 (803) 943-2671



ZORBA'S INC

000 70.05  
DATE: 09/30/99

PAGE: 2

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
				2,900.66
CHECK # 1076 ✓	173.00		09/08/99	3,325.00
DEPOSIT		424.84	09/09/99	4,254.29
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000017		929.29	09/09/99	4,098.85
LYNK SYSTEMS, INC MTHLY CHGS LK109998 090199	155.44		09/09/99	3,974.25
CHECK # 1075 ✓	124.60		09/10/99	4,052.96
NOVUS SERVICES SETTLEMENT 601101079010359		78.71	09/10/99	4,503.10
DEPOSIT		450.14	09/10/99	5,195.17
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000018		692.07	09/10/99	5,135.11
CHECK # 1081 ✓	60.06		09/10/99	5,073.51
CHECK # 1084 ✓	61.60		09/10/99	5,008.09
CHECK # 1083 ✓	65.42		09/10/99	4,868.88
CHECK # 1087 ✓	139.21		09/10/99	4,621.38
CHECK # 1080 ✓	247.50		09/10/99	4,315.95
CHECK # 1077 ✓	305.43		09/10/99	3,315.95
CHECK # 1093 ✓	1,000.00		09/10/99	3,590.49
AMERICAN EXPRESS SETTLEMENT #392411500		274.54	09/13/99	3,935.25
DEPOSIT		344.76	09/13/99	4,315.21
AMERICAN EXPRESS SETTLEMENT 4392411500		375.96	09/13/99	4,802.28
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000019		491.07	09/13/99	5,338.64
DEPOSIT		536.36	09/13/99	5,281.82
CHECK # 1090 ✓	56.82		09/13/99	5,196.80
CHECK # 1086 ✓	85.02		09/13/99	5,212.05
NOVUS SERVICES SETTLEMENT 601101079010359		15.25	09/14/99	5,358.05
DEPOSIT		146.00	09/14/99	5,523.40
NOVUS SERVICES SETTLEMENT 601101079010359		165.35	09/14/99	6,026.16
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000021		502.76	09/14/99	6,997.46
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000020		971.30	09/14/99	6,939.61
CHECK # 1082 ✓	57.85		09/14/99	6,867.02
CHECK # 1095 ✓	72.59		09/14/99	6,743.41
CHECK # 1094 ✓	123.61		09/14/99	6,599.71
CHECK # 1072 ✓	143.70		09/14/99	6,246.71
CHECK # 1085 ✓	353.00		09/14/99	5,746.71
CHECK # 1105 ✓	500.00		09/14/99	4,746.71
CHECK # 1103 ✓	1,000.00		09/14/99	4,835.75
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000022		89.04	09/15/99	5,049.00
AMERICAN EXPRESS SETTLEMENT 4392411500		213.25	09/15/99	5,004.71
GOLDEN EAGLE CC DEBITS 351470 EET	44.29		09/15/99	5,027.71
NOVUS SERVICES SETTLEMENT 601101079010359		23.00	09/16/99	4,911.71
CHECK # 1089 ✓	116.00		09/16/99	4,791.40
CHECK # 1092 ✓	120.31		09/16/99	4,654.32
CHECK # 1091 ✓	137.08		09/16/99	4,326.08
CHECK # 1096 ✓	328.24		09/16/99	4,349.08
DEPOSIT		23.00	09/17/99	

\*\*\* CONTINUED \*\*\*

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NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFO



# Pannetto STATE BANK

HAMPTON • BEAUFORT • BLUFFTON • MEMBER FDIC

P.O. Box 219 Beaufort, SC 29902 (803) 524-3300  
P.O. Drawer 327 Bluffton, SC 29910 (803) 757-3747  
Box 158 Hampton, SC 29924 (803) 943-2671

## FDIC

ZORBA'S INC

000 70 05  
DATE: 09/30/99

PAGE: 3

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
				4,381.01
		31.93	09/17/99	4,233.80
			09/17/99	4,276.04
AMERICAN EXPRESS SETTLEMENT 4392411500	147.21			4,487.18
CHECK # 1097 ✓		42.24	09/20/99	4,794.19
AMERICAN EXPRESS SETTLEMENT 4392411500		211.14	09/20/99	4,753.07
DEPOSIT		307.01	09/20/99	4,693.07
DEPOSIT	41.12		09/20/99	4,605.98
CHECK # 1100 ✓	60.00		09/20/99	4,466.48
CHECK # 1088 ✓	87.09		09/20/99	4,487.78
CHECK # 1099 ✓	139.50		09/20/99	4,631.31
CHECK # 1098 ✓		21.30	09/21/99	4,917.55
NOVUS SERVICES SETTLEMENT 601101079010359		143.53	09/21/99	5,249.90
AMERICAN EXPRESS SETTLEMENT 4392411500		286.24	09/21/99	5,737.92
DEPOSIT		332.35	09/21/99	8,737.92
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000024		488.02	09/21/99	8,433.10
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000025		3,000.00	09/21/99	8,108.10
DEPOSIT	304.82		09/21/99	7,432.10
CHECK # 1106 ✓	325.00		09/21/99	5,281.10
CHECK # 1101 ✓	676.00		09/21/99	1,281.10
CHECK # 1110 ✓	2,151.00		09/21/99	1,345.10
CHECK # 1111 ✓	4,000.00		09/21/99	1,436.77
CHECK # 1115 ✓		64.00	09/22/99	2,336.77
DEPOSIT		91.67	09/22/99	2,286.89
AMERICAN EXPRESS SETTLEMENT 4392411500		900.00	09/22/99	1,786.89
DEPOSIT	49.88		09/22/99	1,899.53
CHECK # 1108 ✓	500.00		09/22/99	2,427.21
CHECK # 1120 ✓		112.64	09/23/99	2,367.18
DEPOSIT		527.68	09/23/99	2,286.29
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000026			09/23/99	2,164.52
CHECK # 1107 ✓	60.03		09/23/99	1,975.28
CHECK # 1116 ✓	80.89		09/23/99	1,995.78
CHECK # 1117 ✓	121.77		09/23/99	2,481.99
CHECK # 1118 ✓	189.24		09/23/99	2,447.05
DEPOSIT		20.50	09/24/99	2,380.29
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000027		486.21	09/24/99	2,184.45
CHECK # 1109 ✓	34.94		09/24/99	2,297.08
CHECK # 1114 ✓	66.76		09/24/99	2,429.63
CHECK # 1113 ✓	195.84		09/24/99	2,711.41
DEPOSIT		112.63	09/27/99	3,001.06
NOVUS SERVICES SETTLEMENT 601101079010359		132.55	09/27/99	3,352.07
AMERICAN EXPRESS SETTLEMENT 4392411500		281.78	09/27/99	3,352.07
AMERICAN EXPRESS SETTLEMENT 4392411500		289.65	09/27/99	3,286.47
DEPOSIT		351.01	09/27/99	3,198.02
CHECK # 1122 ✓	65.60		09/27/99	3,029.96
CHECK # 1121 ✓	88.45		09/27/99	2,725.71
CHECK # 1119 ✓	168.06		09/27/99	
CHECK # 1112 ✓	304.25		09/27/99	

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NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFO



# Palmetto STATE BANK

000 70 05  
DATE: 09/30/99 PAGE: 4

HAMPTON • BEAUFORT • BLUFFTON • MEMBER FDIC  
P.O. Box 219 Beaufort, SC 29902 (803) 524-3300  
P.O. Drawer 327 Bluffton, SC 29910 (803) 757-3747  
Box 158 Hampton, SC 29924 (803) 943-2671



ZORBA'S INC

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
		49.13	09/28/99	2,774.84
NOVUS SERVICES SETTLEMENT 601101079010359		54.00	09/28/99	2,828.84
NOVUS SERVICES SETTLEMENT 601101079010359		150.39	09/28/99	2,979.23
AMERICAN EXPRESS SETTLEMENT 4392411500		447.92	09/28/99	3,427.15
DEPOSIT		457.37	09/28/99	3,884.52
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000030		689.19	09/28/99	4,573.71
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000028		880.28	09/28/99	5,453.99
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000029			09/28/99	5,261.59
CHECK # 1124 ✓	192.40		09/28/99	4,111.59
CHECK # 1126 ✓	1,150.00		09/28/99	4,188.50
AMERICAN EXPRESS SETTLEMENT 4392411500		76.91	09/29/99	4,345.50
DEPOSIT		157.00	09/29/99	4,714.25
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000031		368.75	09/29/99	4,559.99
CHECK # 1125 ✓	154.26		09/29/99	4,145.77
CHECK # 1132 ✓	414.22		09/29/99	1,584.77
CHECK # 1133 ✓	2,561.00		09/29/99	1,621.83
NOVUS SERVICES SETTLEMENT 601101079010359		37.06	09/30/99	1,962.44
DEPOSIT		340.61	09/30/99	2,809.64
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000032		847.20	09/30/99	2,767.97
CHECK # 1127 ✓	41.67		09/30/99	2,720.25
CHECK # 1131 ✓	47.72		09/30/99	2,636.35
CHECK # 1128 ✓	83.90		09/30/99	2,317.98
CHECK # 1130 ✓	318.37		09/30/99	2,312.09
SERVICE CHARGE	5.89		09/30/99	2,312.09
BALANCE THIS STATEMENT				

TOTAL CREDITS (71) 26,636.17  
 TOTAL DEBITS (73) 30,640.27  
 TAX ID NUMBER 58-2470957

### YOUR CHECKS SEQUENCED

DATE...	CHECK #.....	AMOUNT	DATE...	CHECK #.....	AMOUNT	DATE...	CHECK #.....	AMOUNT
09/01	1057*	117.77	09/07	1070	50.06	09/10	1080	247.50
09/07	1061	80.60	09/07	1071	142.05	09/10	1081	60.06
09/02	1062*	144.20	09/14	1072	143.70	09/14	1082	57.85
09/03	1064	306.43	09/07	1073	143.29	09/10	1083	65.42
09/07	1065	4,539.65	09/08	1074	64.40	09/10	1084	61.60
09/02	1066	99.75	09/09	1075	124.60	09/14	1085	353.00
09/02	1067	322.44	09/08	1076	173.00	09/13	1086	85.02
09/01	1068	1,000.00	09/10	1077*	305.43	09/10	1087	139.21
09/01	1069	300.00	09/07	1079	3,000.00	09/20	1088	60.00

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NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFO



# Palmetto STATE BANK

HAMPTON • BEAUFORT • BLUFFTON • MEMBER FDIC

P.O. Box 219 Beaufort, SC 29902 (803) 524-3300  
P.O. Drawer 327 Bluffton, SC 29910 (803) 757-3747  
Box 158 Hampton, SC 29924 (803) 943-2671



ZORBA'S INC

000 70 05

DATE: 09/30/99

PAGE:

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DATE...	CHECK #.....	AMOUNT	DATE...	CHECK #.....	AMOUNT	DATE...	CHECK #.....	AMOUNT
09/16	1089	116.00	09/14	1105	500.00	09/27	1119	168.06
09/13	1090	56.82	09/21	1106	304.82	09/22	1120	500.00
09/16	1091	137.08	09/23	1107	60.03	09/27	1121	88.45
09/16	1092	120.31	09/22	1108	49.88	09/27	1122*	65.60
09/10	1093	1,000.00	09/24	1109	34.94	09/28	1124	192.40
09/14	1094	123.61	09/21	1110	676.00	09/29	1125	154.26
09/14	1095	72.59	09/21	1111	<u>2,151.00</u>	09/28	1126	1,150.00
09/16	1096	328.24	09/27	1112	304.25	09/30	1127	41.67
09/17	1097	147.21	09/24	1113	195.84	09/30	1128*	83.90
09/20	1098	139.50	09/24	1114	66.76	09/30	1130	318.37
09/20	1099	87.09	09/21	1115	4,000.00	09/30	1131	47.72
09/20	1100	41.12	09/23	1116	80.89	09/29	1132	414.22
09/21	1101*	325.00	09/23	1117	121.77	09/29	1133	2,561.00
09/14	1103*	1,000.00	09/23	1118	189.24			

(\*) INDICATES A GAP IN CHECK NUMBER SEQUENCE

1057

ZOBRA'S, INC.  
P.O. BOX 1587  
SUFFLESP, SC 2916

DATE 8-26-99

PAY TO THE ORDER OF MAY SOVITZ \$ 117.77

Palmetto and Seve...

PALMETTO STATE BANK

FOR Bill P...

1061

ZOBRA'S, INC.  
P.O. BOX 1587  
SUFFLESP, SC 2916

DATE August 27, 1999

PAY TO THE ORDER OF Sullivan... \$ 80.60

Eighty dollars and 100/100

PALMETTO STATE BANK

FOR Bill P...

1057 \$117.77 09/01/99

1061 \$80.60 09/07/99

1062

ZOBRA'S, INC.  
P.O. BOX 1587  
SUFFLESP, SC 2916

DATE August 29, 1999

PAY TO THE ORDER OF East Coast Fruit Co. Inc. \$ 144.20

One hundred forty-four and 20/100

PALMETTO STATE BANK

FOR Bill P...

1064

ZOBRA'S, INC.  
P.O. BOX 1587  
SUFFLESP, SC 2916

DATE 8/30/99

PAY TO THE ORDER OF Amia... \$ 306.43

Three hundred six dollars and 43/100

PALMETTO STATE BANK

FOR Bill P...

1062 \$144.20 09/02/99

1064 \$306.43 09/03/99

1065

ZOBRA'S, INC.  
P.O. BOX 1587  
SUFFLESP, SC 2916

DATE 8-31-99

PAY TO THE ORDER OF P.Y.A. \$ 4,539.65

Four thousand five hundred and thirty-nine and 65/100

PALMETTO STATE BANK

FOR Bill P...

1066

ZOBRA'S, INC.  
P.O. BOX 1587  
SUFFLESP, SC 2916

DATE 8-31-99

PAY TO THE ORDER OF Coke... \$ 99.77

Ninety nine and 77/100

PALMETTO STATE BANK

FOR Bill P...

1065 \$4,539.65 09/07/99

1066 \$99.75 09/02/99

1067

ZOBRA'S, INC.  
P.O. BOX 1587  
SUFFLESP, SC 2916

DATE 8-31-99

PAY TO THE ORDER OF Syssa \$ 322.44

Three hundred and twenty-two and 44/100

PALMETTO STATE BANK

FOR Bill P...

1068

ZOBRA'S, INC.  
P.O. BOX 1587  
SUFFLESP, SC 2916

DATE 8-1-99

PAY TO THE ORDER OF Bill Pascual... \$ 1,000.00

One thousand +

PALMETTO STATE BANK

FOR Bill P...

1067 \$322.44 09/02/99

1068 \$1,000.00 09/01/99

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307

1069

ZOBRA'S, INC.  
P.O. BOX 127 29163  
PALMETTO, SC 29110

DATE 9-1-99

PAY TO THE ORDER OF Cash \$ 300.00

Three hundred and 00/100

PALMETTO STATE BANK  
PALMETTO, S.C. 29110

1070

ZOBRA'S, INC.  
P.O. BOX 127 29163  
PALMETTO, SC 29110

DATE 9-7-99

PAY TO THE ORDER OF Perdetime Five \$ 50.06

Five

PALMETTO STATE BANK  
PALMETTO, S.C. 29110

1069 \$300.00 09/01/99

1070 \$50.06 09/07/99

1071

ZOBRA'S, INC.  
P.O. BOX 127 29163  
PALMETTO, SC 29110

DATE 9/1/99

PAY TO THE ORDER OF C & H Poultry Co. \$ 142.05

One hundred forty two and 05/100

PALMETTO STATE BANK  
PALMETTO, S.C. 29110

1072

ZOBRA'S, INC.  
P.O. BOX 127 29163  
PALMETTO, SC 29110

DATE 9-1-99

PAY TO THE ORDER OF National Distributing Co. \$ 143.70

One hundred forty three and 70/100

PALMETTO STATE BANK  
PALMETTO, S.C. 29110

1071 \$142.05 09/07/99

1072 \$143.70 09/14/99

1073

ZOBRA'S, INC.  
P.O. BOX 127 29163  
PALMETTO, SC 29110

DATE 9-2-99

PAY TO THE ORDER OF CASH \$ 143.29

One hundred forty three and 29/100

PALMETTO STATE BANK  
PALMETTO, S.C. 29110

1074

ZOBRA'S, INC.  
P.O. BOX 127 29163  
PALMETTO, SC 29110

DATE 9-4-99

PAY TO THE ORDER OF C & H Poultry \$ 64.40

Sixty four

PALMETTO STATE BANK  
PALMETTO, S.C. 29110

1073 \$143.29 09/07/99

1074 \$64.40 09/08/99

1075

ZOBRA'S, INC.  
P.O. BOX 127 29163  
PALMETTO, SC 29110

DATE 9-4-99

PAY TO THE ORDER OF East Coast Fruit Company \$ 124.60

One hundred twenty four and 60/100

PALMETTO STATE BANK  
PALMETTO, S.C. 29110

1076

ZOBRA'S, INC.  
P.O. BOX 127 29163  
PALMETTO, SC 29110

DATE 9-6-99

PAY TO THE ORDER OF PETR KRATKY \$ 173.00

One hundred and seventy three

PALMETTO STATE BANK  
PALMETTO, S.C. 29110

308

1075 \$124.60 09/09/99

-858-1076 \$173.00 09/08/99

INV. N. 8416315 1077

ZOBRA'S, INC.  
P.O. BOX 187 BOSTON 02110  
150092330 09-10-99 0791 5057 27

DATE 9-6-99

PAY TO THE ORDER OF Robin \$ 305.43

THREE HUNDRED AND FIFTEEN DOLLARS

FOR Robin

1078

ZOBRA'S, INC.  
P.O. BOX 187 BOSTON 02110

DATE 9-6-99

PAY TO THE ORDER OF Zobra's Payroll \$ 3,000.00

THREE THOUSAND DOLLARS

FOR Bill Haskel

1077 \$305.43 09/10/99

1079 \$3,000.00 09/07/99

1080

ZOBRA'S, INC.  
P.O. BOX 187 BOSTON 02110

DATE 9-7-99

PAY TO THE ORDER OF Cambiall E. Clark \$ 247.50

TWO HUNDRED FORTY SEVEN AND 50/100 DOLLARS

FOR Eden

1081

ZOBRA'S, INC.  
P.O. BOX 187 BOSTON 02110

DATE 9-7-99

PAY TO THE ORDER OF NATIONAL \$ 60.06

SIXTY AND 6/100 DOLLARS

FOR Bill Haskel

1080 \$247.50 09/10/99

1081 \$60.06 09/10/99

1082

ZOBRA'S, INC.  
P.O. BOX 187 BOSTON 02110

DATE 9-6-99

PAY TO THE ORDER OF George \$ 57.85

FIFTY SEVEN AND 85/100 DOLLARS

FOR Handwritten

1083

ZOBRA'S, INC.  
P.O. BOX 187 BOSTON 02110

DATE 9-7-99

PAY TO THE ORDER OF Greene's Acc Hardware \$ 65.42

SIXTY FIVE AND 42/100 DOLLARS

FOR Handwritten

1082 \$57.85 09/14/99

1083 \$65.42 09/10/99

1084

ZOBRA'S, INC.  
P.O. BOX 187 BOSTON 02110

DATE 9-10-99

PAY TO THE ORDER OF Savinella Martin \$ 61.60

SIXTY ONE AND 60/100 DOLLARS

FOR Handwritten

1085

ZOBRA'S, INC.  
P.O. BOX 187 BOSTON 02110

DATE 9-9-99

PAY TO THE ORDER OF Carpenter Creek Inc \$ 353.00

THREE HUNDRED AND FIFTY THREE DOLLARS

FOR Handwritten

1084 \$61.60 09/10/99

-859- 1085 \$353.00 09/14/99

309

1086

ZOBRA'S, INC.  
P.O. BOX 1887 245708222  
PALMETTO, SC 29550

DATE 9-8-99

130274800 09-18-99 0000 0000 01

PAY TO THE ORDER OF EAST COAST \$ 85.02

FOR [Redacted]

Inv. N. 170029 1087

ZOBRA'S, INC.  
P.O. BOX 1887 245708222  
PALMETTO, SC 29550

DATE 9-8-99

130274800 09-18-99 0000 0000 01

PAY TO THE ORDER OF COUNTRY CO \$ 139.21

One hundred and thirty nine and 21/100 DOLLARS

FOR [Redacted]

1086 \$85.02 09/13/99

1087 \$139.21 09/10/99

1088

ZOBRA'S, INC.  
P.O. BOX 1887 245708222  
PALMETTO, SC 29550

DATE 9-9-99

130274800 09-19-99 0000 0000 01

PAY TO THE ORDER OF Techniques \$ 60.00

Sixty DOLLARS

FOR [Redacted]

Inv. N. 5062092 1089

ZOBRA'S, INC.  
P.O. BOX 1887 245708222  
PALMETTO, SC 29550

DATE 9-9-99

130274800 09-19-99 0000 0000 01

PAY TO THE ORDER OF Ben Arnold \$ 116.00

One hundred and sixteen DOLLARS

FOR [Redacted]

1088 \$60.00 09/20/99

1089 \$116.00 09/16/99

1090

ZOBRA'S, INC.  
P.O. BOX 1887 245708222  
PALMETTO, SC 29550

DATE 9-9-99

130274800 09-19-99 0000 0000 01

PAY TO THE ORDER OF Penetration \$ 56.82

Fifty six and 82/100 DOLLARS

FOR [Redacted]

1091

ZOBRA'S, INC.  
P.O. BOX 1887 245708222  
PALMETTO, SC 29550

DATE 9-9-99

130311088 09-19-99 0000 0000 01

PAY TO THE ORDER OF East Coast \$ 137.08

One hundred thirty seven and 8/100 DOLLARS

FOR [Redacted]

1090 \$56.82 09/13/99

1091 \$137.08 09/16/99

1092

ZOBRA'S, INC.  
P.O. BOX 1887 245708222  
PALMETTO, SC 29550

Inv. N. 31492

DATE 9-9-99

130274800 09-19-99 0000 0000 01

PAY TO THE ORDER OF D.H. FARBER \$ 120.31

One hundred and twenty and 31/100 DOLLARS

FOR [Redacted]

1093

ZOBRA'S, INC.  
P.O. BOX 1887 245708222  
PALMETTO, SC 29550

DATE 9-10-99

130311088 09-19-99 0000 0000 01

PAY TO THE ORDER OF Bill \$ 1,000.00

One thousand DOLLARS

FOR [Redacted]

310

-860-

1092 \$120.31 09/16/99

1093 \$1,000.00 09/10/99

1094

ZOBRA'S, INC.  
P.O. BOX 187 24708 222  
PALMETTO, SC 29510

DATE 9-10-99

PAY TO THE ORDER OF C & D Paving Co.  
One hundred twenty three and 6/100s \$123.61

PALMETTO STATE BANK  
PALMETTO, SC 29550

1095

ZOBRA'S, INC.  
P.O. BOX 187 24708 222  
PALMETTO, SC 29510

DATE 9-10-99

PAY TO THE ORDER OF *Handwritten name*  
Seventy two and 5/100s \$72.59

PALMETTO STATE BANK  
PALMETTO, SC 29550

1094 \$123.61 09/14/99

1095 \$72.59 09/14/99

1098

ZOBRA'S, INC.  
P.O. BOX 187 24708 222  
PALMETTO, SC 29510

DATE 9-15-99

PAY TO THE ORDER OF *Sysco*  
Three hundred and twenty eight and 2/100s \$328.24

PALMETTO STATE BANK  
PALMETTO, SC 29550

1097

ZOBRA'S, INC.  
P.O. BOX 187 24708 222  
PALMETTO, SC 29510

DATE 9-10-99

PAY TO THE ORDER OF NATIONAL AT  
Two hundred and forty seven and 1/100s \$147.21

PALMETTO STATE BANK  
PALMETTO, SC 29550

1096 \$328.24 09/16/99

1097 \$147.21 09/17/99

1088

ZOBRA'S, INC.  
P.O. BOX 187 24708 222  
PALMETTO, SC 29510

DATE 9-11-99

PAY TO THE ORDER OF *Sysco*  
One hundred thirty nine and 5/100s \$139.50

PALMETTO STATE BANK  
PALMETTO, SC 29550

1099

ZOBRA'S, INC.  
P.O. BOX 187 24708 222  
PALMETTO, SC 29510

DATE 9-11-99

PAY TO THE ORDER OF EAST COAST  
Eighty seven and 1/100s \$87.09

PALMETTO STATE BANK  
PALMETTO, SC 29550

1098 \$139.50 09/20/99

1099 \$87.09 09/20/99

1100

ZOBRA'S, INC.  
P.O. BOX 187 24708 222  
PALMETTO, SC 29510

DATE 9-13-99

PAY TO THE ORDER OF EAST COAST  
Forty one and 1/100s \$41.12

PALMETTO STATE BANK  
PALMETTO, SC 29550

1101

ZOBRA'S, INC.  
P.O. BOX 187 24708 222  
PALMETTO, SC 29510

DATE 9-13-99

PAY TO THE ORDER OF *G.M.C. Fisher*  
Three hundred and fifty five and 1/100s \$355.01

PALMETTO STATE BANK  
PALMETTO, SC 29550

1100 \$41.12 09/20/99

-861- 1101 \$325.00 09/21/99

311

1103

ZOBRA'S  
ZOBRA'S, INC.  
P.O. BOX 1827 24378-2223  
BLUFFTON, SC 29910

DATE 9-14-99

PAY TO THE ORDER OF ZOBRA'S PAYROLL \$1,000.00

FOR DEPOSIT ONLY

STATE BANK  
BLUFFTON, S.C. 29910

1105

ZOBRA'S  
ZOBRA'S, INC.  
P.O. BOX 1827 24378-2223  
BLUFFTON, SC 29910

DATE 9-14-99

PAY TO THE ORDER OF Bill Passalunghas \$500.00

FOR DEPOSIT ONLY

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

1103 \$1,000.00 09/14/99

1105 \$500.00 09/14/99

1106

ZOBRA'S  
ZOBRA'S, INC.  
P.O. BOX 1827 24378-2223  
BLUFFTON, SC 29910

DATE 9-17-99

PAY TO THE ORDER OF Hargray Communications \$304.82

FOR DEPOSIT ONLY

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

1107

ZOBRA'S, INC.  
P.O. BOX 1827 24378-2223  
BLUFFTON, SC 29910

INV. N. 385042

DATE 9-17-99

PAY TO THE ORDER OF NATIONAL AT \$60.03

FOR DEPOSIT ONLY

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

1106 \$304.82 09/21/99

1107 \$60.03 09/23/99

1108

ZOBRA'S, INC.  
P.O. BOX 1827 24378-2223  
BLUFFTON, SC 29910

DATE 9-18-99

PAY TO THE ORDER OF SAVANNAH Cola-Cola Bottling Co. \$49.88

FOR DEPOSIT ONLY

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

1109

ZOBRA'S, INC.  
P.O. BOX 1827 24378-2223  
BLUFFTON, SC 29910

DATE 9-18-99

PAY TO THE ORDER OF East Coast Fruit Co. \$34.94

FOR DEPOSIT ONLY

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

1108 \$49.88 09/22/99

1109 \$34.94 09/24/99

1110

ZOBRA'S  
ZOBRA'S, INC.  
P.O. BOX 1827 24378-2223  
BLUFFTON, SC 29910

DATE 9-15-99

PAY TO THE ORDER OF Gary Prosch \$676.00

FOR DEPOSIT ONLY

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

1111

ZOBRA'S  
ZOBRA'S, INC.  
P.O. BOX 1827 24378-2223  
BLUFFTON, SC 29910

DATE 9-18-99

PAY TO THE ORDER OF Gary Prosch \$2,151.00

FOR DEPOSIT ONLY

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

312

-862-

1110 \$676.00 09/21/99

1111 \$2,151.00 09/21/99

ACN. 51 7273 009 374 1112

ZOBRA'S, INC.  
P.O. BOX 107 2478-2223  
SUFFOLK, SC 29110

120317831, 09-27-99 0761 0800 27 0-27102

DATE 9-16-99

PAY TO THE ORDER OF HOME DEPOT \$304.25

Three hundred and four + 25 DOLLARS

PALMETTO STATE BANK  
SUFFOLK, S.C. 29110

INV. N. 6013299 1113

ZOBRA'S, INC.  
P.O. BOX 107 2478-2223  
SUFFOLK, SC 29110

DATE 9-20-99

PAY TO THE ORDER OF SOUTHERN WING \$195.84

One hundred and ninety five + 84 DOLLARS

PALMETTO STATE BANK  
SUFFOLK, S.C. 29110

1112 \$304.25 09/27/99

1113 \$195.84 09/24/99

1114

ZOBRA'S, INC.  
P.O. BOX 107 2478-2223  
SUFFOLK, SC 29110

130027822, 09-24-99 0762 0813 09 0-27102

DATE 9-20-99

PAY TO THE ORDER OF East Coast \$66.76

Sixty six and 76/100 DOLLARS

PALMETTO STATE BANK  
SUFFOLK, S.C. 29110

1115

ZOBRA'S, INC.  
P.O. BOX 107 2478-2223  
SUFFOLK, SC 29110

DATE 9-20-99

PAY TO THE ORDER OF ZOBRA'S Payroll \$4,000.00

Four thousand + 00/100 DOLLARS

PALMETTO STATE BANK  
SUFFOLK, S.C. 29110

1114 \$66.76 09/24/99

1115 \$4,000.00 09/21/99

1116

ZOBRA'S, INC.  
P.O. BOX 107 2478-2223  
SUFFOLK, SC 29110

DATE 9-21-99

PAY TO THE ORDER OF Pearlstone Distributors Inc. \$80.89

Eighty dollars and 89/100 DOLLARS

PALMETTO STATE BANK  
SUFFOLK, S.C. 29110

1117

ZOBRA'S, INC.  
P.O. BOX 107 2478-2223  
SUFFOLK, SC 29110

DATE 9-21-99

PAY TO THE ORDER OF C & J. Paultry Co. \$121.77

One hundred and twenty one and 77/100 DOLLARS

PALMETTO STATE BANK  
SUFFOLK, S.C. 29110

1116 \$80.89 09/23/99

1117 \$121.77 09/23/99

INV. N. 507210531 1118

ZOBRA'S, INC.  
P.O. BOX 107 2478-2223  
SUFFOLK, SC 29110

140335176, 09-23-99 0810 0817, 27, 0-27102

DATE 9-27-99

PAY TO THE ORDER OF Sycos \$189.24

One hundred and eighty nine + 24/100 DOLLARS

PALMETTO STATE BANK  
SUFFOLK, S.C. 29110

INV. N. 381051 1119

ZOBRA'S, INC.  
P.O. BOX 107 2478-2223  
SUFFOLK, SC 29110

DATE 9-21-99

PAY TO THE ORDER OF National \$168.06

One hundred and sixty eight + 06/100 DOLLARS

PALMETTO STATE BANK  
SUFFOLK, S.C. 29110

1118 \$189.24 09/23/99

1119 \$168.06 09/27/99

-863-

313

ZORBA'S  
ZORBA'S, INC.  
PA. REG. NO. 1807 80-788-2223  
SULLYVILLE, SC 29155

INV. N. 413601 1120

DATE 9-22-99

PAY TO THE ORDER OF ZORBA'S PAVRIL

Five hundred

15500.00

PALMETTO STATE BANK

ZORBA'S  
ZORBA'S, INC.  
PA. REG. NO. 1807 80-788-2223  
SULLYVILLE, SC 29155

INV. N. 413601 1121

DATE 9-22-99

PAY TO THE ORDER OF EAST COAST

Eighty eight

98.45

PALMETTO STATE BANK

1120 \$500.00 09/22/99

1121 \$88.45 09/27/99

ZORBA'S  
ZORBA'S, INC.  
PA. REG. NO. 1807 80-788-2223  
SULLYVILLE, SC 29155

INV. N. 413990 1122

DATE 9-23-99

PAY TO THE ORDER OF EAST COAST

Sixty five

65.60

PALMETTO STATE BANK

ZORBA'S  
ZORBA'S, INC.  
PA. REG. NO. 1807 80-788-2223  
SULLYVILLE, SC 29155

INV. N. 414170 1124

DATE 9-23-99

PAY TO THE ORDER OF SYSCO

One hundred and ninety two

192.40

PALMETTO STATE BANK

1122 \$65.60 09/27/99

1124 \$192.40 09/28/99

ZORBA'S  
ZORBA'S, INC.  
PA. REG. NO. 1807 80-788-2223  
SULLYVILLE, SC 29155

INV. N. 6015715 1126

DATE 9-23-99

PAY TO THE ORDER OF Southern Wine

One hundred and fifty four

154.26

PALMETTO STATE BANK

ZORBA'S  
ZORBA'S, INC.  
PA. REG. NO. 1807 80-788-2223  
SULLYVILLE, SC 29155

INV. N. 414539 1126

DATE 9-24-99

PAY TO THE ORDER OF Advertiser Radio

One thousand one hundred and fifty

1150.00

PALMETTO STATE BANK

1125 \$154.26 09/29/99

1126 \$1,150.00 09/28/99

ZORBA'S  
ZORBA'S, INC.  
PA. REG. NO. 1807 80-788-2223  
SULLYVILLE, SC 29155

INV. N. 414422 1127

DATE 9-24-99

PAY TO THE ORDER OF EAST COAST

Forty one

41.67

PALMETTO STATE BANK

ZORBA'S  
ZORBA'S, INC.  
PA. REG. NO. 1807 80-788-2223  
SULLYVILLE, SC 29155

INV. N. 414539 1128

DATE 9-25-99

PAY TO THE ORDER OF EAST COAST

Eighty three

83.90

PALMETTO STATE BANK

314

1127 \$41.67 09/30/99

-864-

1128 \$83.90 09/30/99

DEPOSIT TICKET

PALMETTO STATE BANK  
PALMETTO, S.C. 29556

DATE: 09/01/99

CURRENCY: 323.93

COIN: 00

TOTAL ITEMS: 323.93

RECEIVED

09/01/99

323.93

ZORRA'S, INC.  
P.O. BOX 1887 843-708-2222  
BLUFFTON, SC 29910

DDA Credits \$323.93 09/01/99

DEPOSIT TICKET

PALMETTO STATE BANK  
PALMETTO, S.C. 29556

DATE: 09/02/99

CURRENCY: 424.60

COIN: 00

TOTAL ITEMS: 424.60

RECEIVED

09/02/99

424.60

ZORRA'S, INC.  
P.O. BOX 1887 843-708-2222  
BLUFFTON, SC 29910

DDA Credits \$424.60 09/02/99

DEPOSIT TICKET

PALMETTO STATE BANK  
PALMETTO, S.C. 29556

DATE: 09/03/99

CURRENCY: 531.47

COIN: 00

TOTAL ITEMS: 531.47

RECEIVED

09/03/99

531.47

ZORRA'S, INC.  
P.O. BOX 1887 843-708-2222  
BLUFFTON, SC 29910

DDA Credits \$531.47 09/03/99

DEPOSIT TICKET

PALMETTO STATE BANK  
PALMETTO, S.C. 29556

DATE: 09/07/99

CURRENCY: 209.08

COIN: 00

TOTAL ITEMS: 209.08

RECEIVED

09/07/99

209.08

ZORRA'S, INC.  
P.O. BOX 1887 843-708-2222  
BLUFFTON, SC 29910

DDA Credits \$209.08 09/07/99

DEPOSIT TICKET

PALMETTO STATE BANK  
PALMETTO, S.C. 29556

DATE: 09/07/99

CURRENCY: 311.92

COIN: 00

TOTAL ITEMS: 311.92

RECEIVED

09/07/99

311.92

ZORRA'S, INC.  
P.O. BOX 1887 843-708-2222  
BLUFFTON, SC 29910

DDA Credits \$311.92 09/07/99

DEPOSIT TICKET

PALMETTO STATE BANK  
PALMETTO, S.C. 29556

DATE: 09/08/99

CURRENCY: 358.49

COIN: 00

TOTAL ITEMS: 358.49

RECEIVED

09/08/99

358.49

ZORRA'S, INC.  
P.O. BOX 1887 843-708-2222  
BLUFFTON, SC 29910

DDA Credits \$358.49 09/08/99

DEPOSIT TICKET

PALMETTO STATE BANK  
PALMETTO, S.C. 29556

DATE: 09/08/99

CURRENCY: 500.00

COIN: 00

TOTAL ITEMS: 500.00

RECEIVED

09/08/99

500.00

ZORRA'S, INC.  
P.O. BOX 1887 843-708-2222  
BLUFFTON, SC 29910

DEPOSIT TICKET

PALMETTO STATE BANK  
PALMETTO, S.C. 29556

DATE: 09/09/99

CURRENCY: 424.34

COIN: 00

TOTAL ITEMS: 424.34

RECEIVED

09/09/99

424.34

ZORRA'S, INC.  
P.O. BOX 1887 843-708-2222  
BLUFFTON, SC 29910

DDA Credits \$424.34 09/09/99

316

DDA Credits \$500.00 09/08/99

-866

INV. N. 8420935 1130

ZOBRA'S, INC.  
P.O. BOX 187 PALMETTO SC 29553  
SULLYFOL SC 29110

140105555 09-30-99 5053 5060 27

DATE 9-27-99

PAY TO THE ORDER OF ROMA 130522455 450 4304.03 09-30-99 \$318.37

Three hundred and eight dollars and 37/100

PALMETTO STATE BANK  
SULLYFOL, S.C. 29110

1130 \$318.37 09/30/99

INV. N. 415006 1131

ZOBRA'S, INC.  
P.O. BOX 187 PALMETTO SC 29553  
SULLYFOL SC 29110

140000443 09-30-99 5004 5004 27

DATE 9-27-99

PAY TO THE ORDER OF EAST COAST 130522455 450 4304.03 09-30-99 \$47.72

Forty seven dollars and 72/100

PALMETTO STATE BANK  
SULLYFOL, S.C. 29110

1131 \$47.72 09/30/99

INV. N. 909270223 1132

ZOBRA'S, INC.  
P.O. BOX 187 PALMETTO SC 29553  
SULLYFOL SC 29110

140379957 09-29-99 0493 0804 27

DATE 9-27-99

PAY TO THE ORDER OF Sysco 130522455 450 4304.03 09-30-99 \$414.22

Four hundred and fourteen dollars and 22/100

PALMETTO STATE BANK  
SULLYFOL, S.C. 29110

1132 \$414.22 09/29/99

INV. N. 909270223 1133

ZOBRA'S, INC.  
P.O. BOX 187 PALMETTO SC 29553  
SULLYFOL SC 29110

140379957 09-29-99 0493 0804 27

DATE 9-15-99

PAY TO THE ORDER OF Gary Bensch 130522455 450 4304.03 09-30-99 \$2,561.00

Two thousand five hundred sixty one dollars and 00/100

PALMETTO STATE BANK  
SULLYFOL, S.C. 29110

1133 \$2,561.00 09/29/99

DEPOSIT TICKET

PALMETTO STATE BANK  
SAVINGS & LOAN

DATE: 9/10/99

CURRENCY	356	16
COIN		
SAVINGS	9.00	
STOCKS	29.88	
BONDS	55.00	
TOTAL		450.14

RECEIVED

SEP 10 1999

ZOBRAV, INC.  
P.O. BOX 1087 840-708-2223  
BLUFFTON, SC 29910

TOTAL ITEMS

PLEASE BY DEPOSIT ALL FUNDS  
AND PROPERLY ENDORSED  
PROPERTY OF BANK OF AMERICA

450.14

DEPOSIT TICKET

PALMETTO STATE BANK  
SAVINGS & LOAN

DATE: 9/13/99

CURRENCY	344	76
COIN		
SAVINGS		
STOCKS		
BONDS		
TOTAL		344.76

RECEIVED

SEP 13 1999

ZOBRAV, INC.  
P.O. BOX 1087 840-708-2223  
BLUFFTON, SC 29910

TOTAL ITEMS

PLEASE BY DEPOSIT ALL FUNDS  
AND PROPERLY ENDORSED  
PROPERTY OF BANK OF AMERICA

344.76

DDA Credits \$450.14 09/10/99

DDA Credits \$344.76 09/13/99

DEPOSIT TICKET

PALMETTO STATE BANK  
SAVINGS & LOAN

DATE: 9/11/99

CURRENCY	507	36
COIN		
SAVINGS		
STOCKS	29.00	
BONDS		
TOTAL		536.36

RECEIVED

SEP 11 1999

ZOBRAV, INC.  
P.O. BOX 1087 840-708-2223  
BLUFFTON, SC 29910

TOTAL ITEMS

PLEASE BY DEPOSIT ALL FUNDS  
AND PROPERLY ENDORSED  
PROPERTY OF BANK OF AMERICA

536.36

DEPOSIT TICKET

PALMETTO STATE BANK  
SAVINGS & LOAN

DATE: 9/13/99

CURRENCY	141	00
COIN		
SAVINGS		
STOCKS		
BONDS		
TOTAL		146.00

RECEIVED

SEP 13 1999

ZOBRAV, INC.  
P.O. BOX 1087 840-708-2223  
BLUFFTON, SC 29910

TOTAL ITEMS

PLEASE BY DEPOSIT ALL FUNDS  
AND PROPERLY ENDORSED  
PROPERTY OF BANK OF AMERICA

146.00

DDA Credits \$536.36 09/13/99

DDA Credits \$146.00 09/14/99

DEPOSIT TICKET

PALMETTO STATE BANK  
SAVINGS & LOAN

DATE: 9/13/99

CURRENCY	23	00
COIN		
SAVINGS		
STOCKS		
BONDS		
TOTAL		23.00

RECEIVED

SEP 13 1999

ZOBRAV, INC.  
P.O. BOX 1087 840-708-2223  
BLUFFTON, SC 29910

TOTAL ITEMS

PLEASE BY DEPOSIT ALL FUNDS  
AND PROPERLY ENDORSED  
PROPERTY OF BANK OF AMERICA

23.00

DEPOSIT TICKET

PALMETTO STATE BANK  
SAVINGS & LOAN

DATE: 9/14/99

CURRENCY	211	00
COIN		
SAVINGS		
STOCKS		
BONDS		
TOTAL		211.00

RECEIVED

SEP 14 1999

ZOBRAV, INC.  
P.O. BOX 1087 840-708-2223  
BLUFFTON, SC 29910

TOTAL ITEMS

PLEASE BY DEPOSIT ALL FUNDS  
AND PROPERLY ENDORSED  
PROPERTY OF BANK OF AMERICA

211.00

DDA Credits \$23.00 09/17/99

DDA Credits \$211.14 09/20/99

DEPOSIT TICKET

PALMETTO STATE BANK  
SAVINGS & LOAN

DATE: 9/20/99

CURRENCY	360	00
COIN	20	
SAVINGS		
STOCKS	46.81	
BONDS		
TOTAL		307.01

RECEIVED

SEP 20 1999

ZOBRAV, INC.  
P.O. BOX 1087 840-708-2223  
BLUFFTON, SC 29910

TOTAL ITEMS

PLEASE BY DEPOSIT ALL FUNDS  
AND PROPERLY ENDORSED  
PROPERTY OF BANK OF AMERICA

307.01

DEPOSIT TICKET

PALMETTO STATE BANK  
SAVINGS & LOAN

DATE: 9/20/99

CURRENCY	47	00
COIN	47	
SAVINGS		
STOCKS	238.72	
BONDS		
TOTAL		286.24

RECEIVED

SEP 20 1999

ZOBRAV, INC.  
P.O. BOX 1087 840-708-2223  
BLUFFTON, SC 29910

TOTAL ITEMS

PLEASE BY DEPOSIT ALL FUNDS  
AND PROPERLY ENDORSED  
PROPERTY OF BANK OF AMERICA

286.24

DDA Credits \$307.01 09/20/99

-867- DDA Credits \$286.24 09/21/99

317

DEPOSIT TICKET

PALMETTO STATE BANK  
RALEIGH, N.C. 27601

CURRENCY	CASH	COIN	OTHER	TOTAL
	3,000.00			3,000.00

RECEIVED  
SEP 21 1999

TOTAL ITEMS: 1

PLEASE PRINT OR TYPE ALL ITEMS AND PROPERTY ENDORSEMENTS

ZOBRA'S, INC.  
P.O. BOX 1087 840-700-0225  
RALEIGH, NC 27601

DDA Credits \$3,000.00 09/21/99

DEPOSIT TICKET

PALMETTO STATE BANK  
RALEIGH, N.C. 27601

CURRENCY	CASH	COIN	OTHER	TOTAL
64.00				64.00

RECEIVED  
SEP 22 1999

TOTAL ITEMS: 1

PLEASE PRINT OR TYPE ALL ITEMS AND PROPERTY ENDORSEMENTS

ZOBRA'S, INC.  
P.O. BOX 1087 840-700-0225  
RALEIGH, NC 27601

DDA Credits \$64.00 09/22/99

DEPOSIT TICKET

PALMETTO STATE BANK  
RALEIGH, N.C. 27601

CURRENCY	CASH	COIN	OTHER	TOTAL
900.00				900.00

RECEIVED  
SEP 22 1999

TOTAL ITEMS: 1

PLEASE PRINT OR TYPE ALL ITEMS AND PROPERTY ENDORSEMENTS

ZOBRA'S, INC.  
P.O. BOX 1087 840-700-0225  
RALEIGH, NC 27601

DDA Credits \$900.00 09/22/99

DEPOSIT TICKET

PALMETTO STATE BANK  
RALEIGH, N.C. 27601

CURRENCY	CASH	COIN	OTHER	TOTAL
112.64				112.64

RECEIVED  
SEP 22 1999

TOTAL ITEMS: 1

PLEASE PRINT OR TYPE ALL ITEMS AND PROPERTY ENDORSEMENTS

ZOBRA'S, INC.  
P.O. BOX 1087 840-700-0225  
RALEIGH, NC 27601

DDA Credits \$112.64 09/23/99

DEPOSIT TICKET

PALMETTO STATE BANK  
RALEIGH, N.C. 27601

CURRENCY	CASH	COIN	OTHER	TOTAL
20.50				20.50

RECEIVED  
SEP 24 1999

TOTAL ITEMS: 1

PLEASE PRINT OR TYPE ALL ITEMS AND PROPERTY ENDORSEMENTS

ZOBRA'S, INC.  
P.O. BOX 1087 840-700-0225  
RALEIGH, NC 27601

DDA Credits \$20.50 09/24/99

DEPOSIT TICKET

PALMETTO STATE BANK  
RALEIGH, N.C. 27601

CURRENCY	CASH	COIN	OTHER	TOTAL
112.63				112.63

RECEIVED  
SEP 27 1999

TOTAL ITEMS: 1

PLEASE PRINT OR TYPE ALL ITEMS AND PROPERTY ENDORSEMENTS

ZOBRA'S, INC.  
P.O. BOX 1087 840-700-0225  
RALEIGH, NC 27601

DDA Credits \$112.63 09/27/99

DEPOSIT TICKET

PALMETTO STATE BANK  
RALEIGH, N.C. 27601

CURRENCY	CASH	COIN	OTHER	TOTAL
351.01				351.01

RECEIVED  
SEP 27 1999

TOTAL ITEMS: 1

PLEASE PRINT OR TYPE ALL ITEMS AND PROPERTY ENDORSEMENTS

ZOBRA'S, INC.  
P.O. BOX 1087 840-700-0225  
RALEIGH, NC 27601

DDA Credits \$351.01 09/27/99

DEPOSIT TICKET

PALMETTO STATE BANK  
RALEIGH, N.C. 27601

CURRENCY	CASH	COIN	OTHER	TOTAL
447.92				447.92

RECEIVED  
SEP 28 1999

TOTAL ITEMS: 1

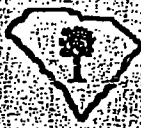
PLEASE PRINT OR TYPE ALL ITEMS AND PROPERTY ENDORSEMENTS

ZOBRA'S, INC.  
P.O. BOX 1087 840-700-0225  
RALEIGH, NC 27601

DDA Credits \$447.92 09/28/99

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-868-



# Palmetto STATE BANK

000 70 05  
DATE: 10/29/99

PAGE: [REDACTED]

HAMPTON • BEAUFORT • BLUFFTON • MEMBER FDIC



P.O. Box 219      P.O. Drawer 327      Box 158  
Beaufort, SC 29902      Bluffton, SC 29910      Hampton, SC 29924  
(803) 524-3300      (803) 757-3747      (803) 943-2671

[REDACTED]'S INC  
BILL PASSALOUKAS  
PO BOX 1667  
BLUFFTON SC 29910

30-2  
30  
78

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
BALANCE LAST STATEMENT			09/30/99	2,312.09
NOVUS SERVICES SETTLEMENT 601101079010359		61.45	10/01/99	2,373.54
AMERICAN EXPRESS SETTLEMENT 4392411500		221.81	10/01/99	2,595.35
DEPOSIT		361.00	10/01/99	2,956.35
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000033		536.60	10/01/99	3,492.95
NSF FEE CHARGE	20.00		10/01/99	3,472.95
CHECK # 1129	2,499.58		10/01/99	973.37
AMERICAN EXPRESS SETTLEMENT 4392411500		220.74	10/04/99	1,194.11
DEPOSIT		242.00	10/04/99	1,436.11
AMERICAN EXPRESS SETTLEMENT 4392411500		332.20	10/04/99	1,768.31
DEPOSIT		359.37	10/04/99	2,127.68
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000034		575.84	10/04/99	2,703.52
CHECK # 1139	130.69		10/04/99	2,572.83
CHECK # 1134	134.47		10/04/99	2,438.36
CHECK # 1137	189.16		10/04/99	2,249.20
NOVUS SERVICES SETTLEMENT 601101079010359		8.67	10/05/99	2,257.87
DEPOSIT		35.52	10/05/99	2,293.39
NOVUS SERVICES SETTLEMENT 601101079010359		135.15	10/05/99	2,428.54
AMERICAN EXPRESS SETTLEMENT 4392411500		377.31	10/05/99	2,805.85
DEPOSIT		400.00	10/05/99	3,205.85
DEPOSIT		500.00	10/05/99	3,705.85
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000036		678.26	10/05/99	4,384.11
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000035		742.93	10/05/99	5,127.04
DELUXE CHECK CHECK/ACC.	25.44		10/05/99	5,101.60
CHECK # 1138	50.05		10/05/99	5,051.55
CHECK # 1102	518.00		10/05/99	4,533.55
CHECK # 1148	600.00		10/05/99	3,933.55
CHECK # 1147	1,500.00		10/05/99	2,433.55
DEPOSIT		156.29	10/06/99	2,589.84
AMERICAN EXPRESS SETTLEMENT 4392411500		191.91	10/06/99	2,781.75
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000037		286.38	10/06/99	3,068.13
CHECK # 1136	92.28		10/06/99	2,975.85
CHECK # 1141	509.80		10/06/99	2,466.05
CHECK # 1149	700.00		10/06/99	1,766.05

\*\*\* CONTINUED \*\*\*

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-870-





# Palmetto STATE BANK

HAMPTON • BEAUFORT • BLUFFTON • MEMBER FDIC

P.O. Box 219 Beaufort, SC 29902 (803) 524-3300  
P.O. Drawer 327 Bluffton, SC 29910 (803) 767-3747  
Box 158 Hampton, SC 29924 (803) 943-2671



ZORBA'S INC

000.70.05  
DATE: 10/29/99

PAGE: 2

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
NOVUS SERVICES SETTLEMENT 601101079010359		76.32	10/07/99	1,842.57
DEPOSIT		184.91	10/07/99	2,027.48
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000038		192.25	10/07/99	2,219.73
CHECK # 1142	21.18		10/07/99	2,198.55
CHECK # 1143	51.51		10/07/99	2,147.04
CHECK # 1140	63.73		10/07/99	2,083.31
CHECK # 1145	81.65		10/07/99	2,001.66
CHECK # 1135	715.14		10/07/99	1,286.52
AMERICAN EXPRESS SETTLEMENT 4392411500		22.59	10/08/99	1,309.11
DEPOSIT		218.00	10/08/99	1,527.11
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000039		395.65	10/08/99	1,922.76
LLYNK SYSTEMS, I MTHLY CHGS LK109998 100799				
	377.08		10/08/99	1,545.68
CHECK # 1150	49.88		10/08/99	1,495.80
CHECK # 1146	112.85		10/08/99	1,382.95
CHECK # 1153	140.54		10/08/99	1,242.41
DEPOSIT		40.25	10/12/99	1,282.66
AMERICAN EXPRESS SETTLEMENT 4392411500		74.86	10/12/99	1,357.52
DEPOSIT		171.00	10/12/99	1,528.52
AMERICAN EXPRESS SETTLEMENT 4392411500		171.86	10/12/99	1,700.38
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000040		228.35	10/12/99	1,928.73
DEPOSIT		490.56	10/12/99	2,419.29
CHECK # 1078	61.56		10/12/99	2,357.73
CHECK # 1154	85.65		10/12/99	2,272.08
CHECK # 1144 ✓	119.88		10/12/99	2,152.20
CHECK # 1155	255.84		10/12/99	1,896.36
CHECK # 1152	1,500.00		10/12/99	396.36
NOVUS SERVICES SETTLEMENT 601101079010359		115.94	10/13/99	512.30
DEPOSIT		250.00	10/13/99	762.30
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000041		250.29	10/13/99	1,012.59
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000042		303.57	10/13/99	1,316.16
AMERICAN EXPRESS SETTLEMENT 4392411500		360.59	10/13/99	1,676.75
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000043		486.06	10/13/99	2,162.81
DEPOSIT		1,500.00	10/13/99	3,662.81
CHECK # 1156	37.50		10/13/99	3,625.31
CHECK # 1159	119.88		10/13/99	3,505.43
CHECK # 1151	224.17		10/13/99	3,281.26
CHECK # 1164	288.91		10/13/99	2,992.35
DEPOSIT		298.00	10/14/99	3,290.35
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000044		489.33	10/14/99	3,779.68
DEPOSIT		2,000.00	10/14/99	5,779.68
CHECK # 1157	38.46		10/14/99	5,741.22
CHECK # 1161	47.00		10/14/99	5,694.22
CHECK # 1166	49.88		10/14/99	5,644.34
CHECK # 1165	90.48		10/14/99	5,553.86

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# Palmetto STATE BANK

000 70 05

PAGE: 3

DATE: 10/29/99

HAMPTON • BEAUFORT • BLUFFTON • MEMBER FDIC

P.O. Box 219      P.O. Drawer 327      Box 158  
 Beaufort, SC 29902      Bluffton, SC 29910      Hampton, SC 29924  
 (803) 524-3300      (803) 757-3747      (803) 943-2671



ZORBA'S INC

DESCRIPTION		DATE	BALANCE
[REDACTED]			
CHECK # 1162	257.01	10/14/99	5,296.85
CHECK # 1160	2,300.00	10/14/99	3,996.85
CHECK # 1158	2,560.04	10/14/99	1,436.81
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000045	158.19	10/15/99	1,595.00
DEPOSIT	218.00	10/15/99	1,813.00
AMERICAN EXPRESS SETTLEMENT 4392411500	313.85	10/15/99	2,126.85
GOLDEN EAGLE CC DEBITS 351470 EET			
	44.29	10/15/99	2,082.56
CHECK # 1163	237.78	10/15/99	1,844.78
AMERICAN EXPRESS SETTLEMENT 4392411500	93.80	10/18/99	1,938.58
AMERICAN EXPRESS SETTLEMENT 4392411500	104.22	10/18/99	2,042.80
DEPOSIT	187.00	10/18/99	2,229.80
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000046	255.97	10/18/99	2,485.77
DEPOSIT	406.00	10/18/99	2,891.77
CHECK # 1170	28.80	10/18/99	2,862.97
CHECK # 1169	89.34	10/18/99	2,773.63
CHECK # 1171	283.81	10/18/99	2,489.82
NOVUS SERVICES SETTLEMENT 601101079010359	32.89	10/19/99	2,522.71
AMERICAN EXPRESS SETTLEMENT 4392411500	50.24	10/19/99	2,572.95
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000048	336.02	10/19/99	2,908.97
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000047	608.28	10/19/99	3,517.25
AMERICAN EXPRESS SETTLEMENT 4392411500	96.34	10/20/99	3,613.59
DEPOSIT	185.00	10/20/99	3,798.59
DEPOSIT	217.02	10/20/99	4,015.61
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000049	444.87	10/20/99	4,460.48
DEPOSIT	450.00	10/20/99	4,910.48
DEPOSIT	2,000.00	10/20/99	6,910.48
CHECK # 1175	43.25	10/20/99	6,867.23
CHECK # 1181	200.00	10/20/99	6,667.23
CHECK # 1168	201.40	10/20/99	6,465.83
CHECK # 1178	500.00	10/20/99	5,965.83
CHECK # 1179	500.00	10/20/99	5,465.83
CHECK # 1176	1,500.00	10/20/99	3,965.83
NOVUS SERVICES SETTLEMENT 601101079010359	86.09	10/21/99	4,051.92
DEPOSIT	102.00	10/21/99	4,153.92
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000050	224.32	10/21/99	4,378.24
CHECK # 1185	148.81	10/21/99	4,229.43
CHECK # 1173	463.15	10/21/99	3,766.28
CHECK # 1189	500.00	10/21/99	3,266.28
DEPOSIT	80.00	10/22/99	3,346.28
AMERICAN EXPRESS SETTLEMENT 4392411500	245.28	10/22/99	3,591.56
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000051	291.93	10/22/99	3,883.49
CHECK # 1172	81.43	10/22/99	3,802.06
CHECK # 1180	93.80	10/22/99	3,708.26
CHECK # 1184	167.92	10/22/99	3,540.34

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NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION

**Pametto STATE BANK**  
 HAMPTON • BEAUFORT • BLUFFTON • MEMBER FDIC

P.O. Box 219 Beaufort, SC 29902 (803) 524-3300  
 P.O. Drawer 327 Bluffton, SC 29910 (803) 757-3747  
 Box 158 Hampton, SC 29924 (803) 943-2671



ZORBA'S INC

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
AMERICAN EXPRESS SETTLEMENT 4392411500		189.30	10/25/99	3,729.64
AMERICAN EXPRESS SETTLEMENT 4392411500		245.85	10/25/99	3,975.49
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000052		276.19	10/25/99	4,251.68
DEPOSIT		667.85	10/25/99	4,919.53
CHECK # 1194	17.05		10/25/99	4,902.48
CHECK # 1183	19.25		10/25/99	4,883.23
CHECK # 1188	70.56		10/25/99	4,812.67
CHECK # 1177	164.15		10/25/99	4,648.52
CHECK # 1192	386.99		10/25/99	4,261.53
NOVUS SERVICES SETTLEMENT 601101079010359		30.66	10/26/99	4,292.19
NOVUS SERVICES SETTLEMENT 601101079010359		105.16	10/26/99	4,397.35
DEPOSIT		144.04	10/26/99	4,541.39
AMERICAN EXPRESS SETTLEMENT 4392411500		239.59	10/26/99	4,780.98
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000053		672.10	10/26/99	5,453.08
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000054		758.90	10/26/99	6,211.98
CHECK # 1191	32.30		10/26/99	6,179.68
CHECK # 1186	45.81		10/26/99	6,133.87
CHECK # 1187	54.21		10/26/99	6,079.66
CHECK # 1199	94.00		10/26/99	5,985.66
CHECK # 1195	424.64		10/26/99	5,561.02
CHECK # 1182	2,561.00		10/26/99	3,000.02
AMERICAN EXPRESS SETTLEMENT 4392411500		161.53	10/27/99	3,161.55
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000055		201.48	10/27/99	3,363.03
CHECK # 1198	34.75		10/27/99	3,328.28
CHECK # 1196	71.05		10/27/99	3,257.23
CHECK # 1174	250.00		10/27/99	3,007.23
DEPOSIT		100.00	10/28/99	3,107.23
DEPOSIT		115.16	10/28/99	3,222.39
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000056		221.36	10/28/99	3,443.75
CHECK # 1203	20.00		10/28/99	3,423.75
CHECK # 1202	29.62		10/28/99	3,394.13
CHECK # 1200	47.90		10/28/99	3,346.23
CHECK # 1207	74.81		10/28/99	3,271.42
CHECK # 1204	120.40		10/28/99	3,151.02
CHECK # 1197	287.37		10/28/99	2,863.65
DEPOSIT		85.99	10/29/99	2,949.64
AMERICAN EXPRESS SETTLEMENT 4392411500		108.57	10/29/99	3,058.21
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000057		369.97	10/29/99	3,428.18
CHECK # 1193	167.29		10/29/99	3,260.89
CHECK # 1201	218.71		10/29/99	3,042.18
CHECK # 1210	252.46		10/29/99	2,789.72
CHECK # 1206	325.78		10/29/99	2,463.94
CHECK # 1205	477.89		10/29/99	1,986.05
CHECK # 1190	708.07		10/29/99	1,277.98
CHECK # 1167	1,019.00		10/29/99	258.98

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# Palmetto STATE BANK

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DATE: 10/29/99

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HAMPTON • BEAUFORT • BLUFFTON • MEMBER FDIC

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ZORBA'S INC

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DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
SERVICE CHARGE	14.17		10/29/99	244.81
BALANCE THIS STATEMENT			10/29/99	244.81
TOTAL CREDITS (84)		26,625.02		
TOTAL DEBITS (83)	28,692.30			
TAX ID NUMBER	58-2470957			

### YOUR CHECKS SEQUENCED

DATE	CHECK #	AMOUNT	DATE	CHECK #	AMOUNT	DATE	CHECK #	AMOUNT
10/12	1078*	61.56	10/14	1157	38.46	10/25	1183	19.25
10/05	1102*	518.00	10/14	1158	2,560.04	10/22	1184	167.92
10/01	1129*	2,499.58	10/13	1159	119.88	10/21	1185	148.81
10/04	1134	134.47	10/14	1160	1,300.00	10/26	1186	45.81
10/07	1135	715.14	10/14	1161	47.00	10/26	1187	54.21
10/06	1136	92.28	10/14	1162	257.01	10/25	1188	70.56
10/04	1137	189.16	10/15	1163	237.78	10/21	1189	500.00
10/05	1138	50.05	10/13	1164	288.91	10/29	1190	708.07
10/04	1139	130.69	10/14	1165	90.48	10/26	1191	32.30
10/07	1140	63.73	10/14	1166	49.88	10/25	1192	386.99
10/06	1141	509.80	10/29	1167	1,019.00	10/29	1193	167.29
10/07	1142	21.18	10/20	1168	201.40	10/25	1194	17.05
10/07	1143	51.51	10/18	1169	89.34	10/26	1195	424.64
10/12	1144	119.88	10/18	1170	28.80	10/27	1196	71.05
10/07	1145	81.65	10/18	1171	283.81	10/28	1197	287.37
10/08	1146	112.85	10/22	1172	81.43	10/27	1198	34.75
10/05	1147	1,500.00	10/21	1173	463.15	10/26	1199	94.00
10/05	1148	600.00	10/27	1174	250.00	10/28	1200	47.90
10/06	1149	700.00	10/20	1175	43.25	10/29	1201	218.71
10/08	1150	49.88	10/20	1176	1,500.00	10/28	1202	29.62
10/13	1151	224.17	10/25	1177	164.15	10/28	1203	20.00
10/12	1152	1,500.00	10/20	1178	500.00	10/28	1204	120.40
10/08	1153	140.54	10/20	1179	500.00	10/29	1205	477.89
10/12	1154	85.65	10/22	1180	93.80	10/29	1206	325.78
10/12	1155	255.84	10/20	1181	200.00	10/28	1207*	74.81
10/13	1156	37.50	10/26	1182	2,561.00	10/29	1210	252.46

(\*) INDICATES A GAP IN CHECK NUMBER SEQUENCE

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NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION

244.81

ZOBRA'S, INC. 1078  
 P.O. BOX 1827 SALT SPRING ISLAND, FL 32955  
 DATE 9-7-99  
 PAY TO THE ORDER OF Southern \$ 61.56  
Sixty one and 5/100  
 PALMETTO STATE BANK  
 SALT SPRING ISLAND, FL 32955  
 FOR Bill [Signature]

ZOBRA'S, INC. 03412404 1102  
 P.O. BOX 1827 SALT SPRING ISLAND, FL 32955  
 DATE 9-13-99  
 PAY TO THE ORDER OF SI Department of Revenue \$ 518.00  
Five hundred and eighteen and 00/100  
 PALMETTO STATE BANK  
 SALT SPRING ISLAND, FL 32955  
 FOR Sales Tax Dept Bill [Signature]

1078 \$61.56 10/12/99

1102 \$518.00 10/05/99

ZOBRA'S, INC. INV. N. 5610 5615 1128  
 P.O. BOX 1827 SALT SPRING ISLAND, FL 32955  
 DATE 9-25-99  
 PAY TO THE ORDER OF Long Beach gas \$ 2,499.58  
Two thousand four hundred and ninety nine and 58/100  
 PALMETTO STATE BANK  
 SALT SPRING ISLAND, FL 32955  
 FOR Long Beach Gas Bill [Signature]

ZOBRA'S, INC. INV. N. 415718 1134  
 P.O. BOX 1827 SALT SPRING ISLAND, FL 32955  
 DATE 10-04-99  
 PAY TO THE ORDER OF East Coast \$ 134.47  
One hundred and thirty four and 47/100  
 PALMETTO STATE BANK  
 SALT SPRING ISLAND, FL 32955  
 FOR Produce Bill [Signature]

.29 \$2,499.58 10/01/99

1134 \$134.47 10/04/99

ZOBRA'S, INC. 1135  
 P.O. BOX 1827 SALT SPRING ISLAND, FL 32955  
 DATE 9-30-99  
 PAY TO THE ORDER OF SCE & G \$ 715.14  
Seven hundred and fifteen and 14/100  
 PALMETTO STATE BANK  
 SALT SPRING ISLAND, FL 32955  
 FOR Fleming Bill [Signature]

ZOBRA'S, INC. INV. N. 5066898 1136  
 P.O. BOX 1827 SALT SPRING ISLAND, FL 32955  
 DATE 9-30-99  
 PAY TO THE ORDER OF Ben Arnold \$ 92.28  
Ninety two and 28/100  
 PALMETTO STATE BANK  
 SALT SPRING ISLAND, FL 32955  
 FOR Bill [Signature]

1135 \$715.14 10/07/99

1136 \$92.28 10/06/99

ZOBRA'S, INC. INV. N. 909300313 1137  
 P.O. BOX 1827 SALT SPRING ISLAND, FL 32955  
 DATE 9-30-99  
 PAY TO THE ORDER OF SFC \$ 189.16  
One hundred and eighty nine and 16/100  
 PALMETTO STATE BANK  
 SALT SPRING ISLAND, FL 32955  
 FOR Bill [Signature]

ZOBRA'S, INC. INV. N. 398115 1138  
 P.O. BOX 1827 SALT SPRING ISLAND, FL 32955  
 DATE 9-27-99  
 PAY TO THE ORDER OF NATIONAL \$ 50.05  
Fifty and 05/100  
 PALMETTO STATE BANK  
 SALT SPRING ISLAND, FL 32955  
 FOR Bill [Signature]

1137 \$189.16 10/04/99

1138 \$50.05 10/05/99

INV. N. 766521 1138

ZOBRA'S, INC.  
P.O. BOX 1871 29168-1871  
PALMETTO, SC 29110

DATE 9-30-99

PAY TO THE ORDER OF Pearl's Fine  
One hundred and thirty 69 DOLLARS 00/100

130.69

PALMETTO STATE BANK

1139 \$130.69 10/04/99

1140

ZOBRA'S, INC.  
P.O. BOX 1871 29168-1871  
PALMETTO, SC 29110

DATE 10-1-99

PAY TO THE ORDER OF EAST COAST FRUIT CO  
Sixty three 72 DOLLARS 00/100

63.72

PALMETTO STATE BANK

1140 \$63.73 10/07/99

1141

ZOBRA'S, INC.  
P.O. BOX 1871 29168-1871  
PALMETTO, SC 29110

DATE 10-1-99

PAY TO THE ORDER OF MONARCH  
Five hundred and ninety 82 DOLLARS 00/100

509.82

PALMETTO STATE BANK

1141 \$509.80 10/06/99

1142

ZOBRA'S, INC.  
P.O. BOX 1871 29168-1871  
PALMETTO, SC 29110

DATE 10-1-99

PAY TO THE ORDER OF EAST COAST FLORICE  
Twenty one 18 DOLLARS 00/100

21.18

PALMETTO STATE BANK

1142 \$21.18 10/07/99

1143

ZOBRA'S, INC.  
P.O. BOX 1871 29168-1871  
PALMETTO, SC 29110

DATE 10-2-99

PAY TO THE ORDER OF EAST COAST FRUIT CO  
Fifty five 51 DOLLARS 00/100

51.51

PALMETTO STATE BANK

1143 \$51.51 10/07/99

INV. N. 1022 328 1144

ZOBRA'S, INC.  
P.O. BOX 1871 29168-1871  
PALMETTO, SC 29110

DATE 10-9-99

PAY TO THE ORDER OF Southern  
One hundred and nineteen 88 DOLLARS 00/100

119.88

PALMETTO STATE BANK

1144 \$119.88 10/12/99

INV. N. 917170 1145

ZOBRA'S, INC.  
P.O. BOX 1871 29168-1871  
PALMETTO, SC 29110

DATE 10-4-99

PAY TO THE ORDER OF EAST COAST  
Eighty one 65 DOLLARS 00/100

81.65

PALMETTO STATE BANK

1145 \$81.65 10/07/99

INV. N. 8422 818 1146

ZOBRA'S, INC.  
P.O. BOX 1871 29168-1871  
PALMETTO, SC 29110

DATE 10-4-99

PAY TO THE ORDER OF ROMA  
One hundred and twelve 85 DOLLARS 00/100

122.85

PALMETTO STATE BANK

1146 \$112.85 10/08/99

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1147

ZOBRA'S, INC.  
P.O. BOX 1827 64728-2828  
BLUFFTON, SC 29910

DATE 10-5-99

PAY TO THE ORDER OF ZOBRA'S PAYROLL \$1,500.00

Fifteen hundred + no DOLLARS

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

Bill Plante

1148

ZOBRA'S, INC.  
P.O. BOX 1827 64728-2828  
BLUFFTON, SC 29910

DATE 10-5-99

PAY TO THE ORDER OF ZOBRA'S PAYROLL \$600.00

Six hundred + no DOLLARS

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

Bill Plante

1147 \$1,500.00 10/05/99

1148 \$600.00 10/05/99

1149

ZOBRA'S, INC.  
P.O. BOX 1827 64728-2828  
BLUFFTON, SC 29910

DATE 10-5-99

PAY TO THE ORDER OF ZOBRA'S PAYROLL \$700.00

Seven hundred + no DOLLARS

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

Bill Plante

INV. N. 03096921160

ZOBRA'S, INC.  
P.O. BOX 1827 64728-2828  
BLUFFTON, SC 29910

DATE 10-5-99

PAY TO THE ORDER OF COCA-COLA \$49.88

Forty nine + no DOLLARS

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

Bill Plante

1149 \$700.00 10/06/99

1150 \$49.88 10/08/99

1151

ZOBRA'S, INC.  
P.O. BOX 1827 64728-2828  
BLUFFTON, SC 29910

DATE 10-5-99

PAY TO THE ORDER OF P Y R \$224.17

Two hundred and twenty four + 17/100 DOLLARS

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

Bill Plante

1152

ZOBRA'S, INC.  
P.O. BOX 1827 64728-2828  
BLUFFTON, SC 29910

DATE 10-8-99

PAY TO THE ORDER OF Bill Pussalathoe \$1,500.00

One thousand and five hundred + no DOLLARS

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

Bill Plante

1151 \$224.17 10/13/99

1152 \$1,500.00 10/12/99

1153

ZOBRA'S, INC.  
P.O. BOX 1827 64728-2828  
BLUFFTON, SC 29910

DATE 10-5-99

PAY TO THE ORDER OF Sysco \$140.54

One hundred and forty + 54/100 DOLLARS

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

Bill Plante

1154

ZOBRA'S, INC.  
P.O. BOX 1827 64728-2828  
BLUFFTON, SC 29910

DATE 10-5-99

PAY TO THE ORDER OF EAST CARPET \$85.65

Eighty five + 65/100 DOLLARS

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

Bill Plante

1153 \$140.54 10/08/99

1154 \$85.65 10/12/99

INV. N. 38922 1155

ZOBRA'S, INC.  
P.O. BOX 1187 24578-2222  
SALFORD, SC 29163

DATE 10-5-99

PAY TO THE ORDER OF NATIONAL 15255.84

Two hundred and fifty five + 88/100 DOLLARS

PALMETTO STATE BANK  
SALFORD, S.C. 29163

1155 \$255.84 10/12/99

INV. N. 1156

ZOBRA'S, INC.  
P.O. BOX 1187 24578-2222  
SALFORD, SC 29163

DATE 10-7-99

PAY TO THE ORDER OF Ben Arnold 1537.50

Thirty seven + 50/100 DOLLARS

PALMETTO STATE BANK  
SALFORD, S.C. 29163

1156 \$37.50 10/13/99

INV. N. 418169 1157

ZOBRA'S, INC.  
P.O. BOX 1187 24578-2222  
SALFORD, SC 29163

DATE 10-7-99

PAY TO THE ORDER OF EAST CALADON 1538.46

Thirty eight dollars and 46/100 DOLLARS

PALMETTO STATE BANK  
SALFORD, S.C. 29163

1157 \$38.46 10/14/99

INV. N. 1158

ZOBRA'S, INC.  
P.O. BOX 1187 24578-2222  
SALFORD, SC 29163

DATE 10-7-99

PAY TO THE ORDER OF CVA 152,560.04

Two thousand five hundred and sixty + 00/100 DOLLARS

PALMETTO STATE BANK  
SALFORD, S.C. 29163

1158 \$2,560.04 10/14/99

INV. N. 6028442 1159

ZOBRA'S, INC.  
P.O. BOX 1187 24578-2222  
SALFORD, SC 29163

DATE 10-7-99

PAY TO THE ORDER OF Southern Wine 15119.88

One hundred and nineteen + 88/100 DOLLARS

PALMETTO STATE BANK  
SALFORD, S.C. 29163

1159 \$19.88 10/13/99

INV. N. 1160

ZOBRA'S, INC.  
P.O. BOX 1187 24578-2222  
SALFORD, SC 29163

DATE 10-12-99

PAY TO THE ORDER OF ZOBRA'S 151300.00

One thousand and three hundred + 00/100 DOLLARS

PALMETTO STATE BANK  
SALFORD, S.C. 29163

1160 \$1,300.00 10/14/99

INV. N. 1161

ZOBRA'S, INC.  
P.O. BOX 1187 24578-2222  
SALFORD, SC 29163

DATE 10-8-99

PAY TO THE ORDER OF Pant Coat 140343972 10-14-99 0700 0214 1549.00

Forty nine + 00/100 DOLLARS

PALMETTO STATE BANK  
SALFORD, S.C. 29163

1161 \$47.00 10/14/99

INV. N. 1162

ZOBRA'S, INC.  
P.O. BOX 1187 24578-2222  
SALFORD, SC 29163

DATE 10-8-99

PAY TO THE ORDER OF P/M March, Inc. 15259.01

Two hundred fifty nine + 01/100 DOLLARS

PALMETTO STATE BANK  
SALFORD, S.C. 29163

1162 \$257.01 10/14/99

328

-878-

1163

ZOBRA'S, INC.  
P.O. BOX 187 240-7852  
SUFFOLK, SC 29150

110149400 10-15-99 0770 8085 27

DATE 10-11-99

PAY TO THE ORDER OF Bona \$237.78

Two hundred thirty seven and 7/100

PALMETTO STATE BANK  
SUFFOLK, S.C. 29150

1163 \$237.78 10/15/99

1164

ZOBRA'S, INC.  
P.O. BOX 187 240-7852  
SUFFOLK, SC 29150

120118722 10-13-99 0770 8085 27

DATE 10-11-99

PAY TO THE ORDER OF Types \$288.91

Two hundred eighty eight and 9/100

PALMETTO STATE BANK  
SUFFOLK, S.C. 29150

1164 \$288.91 10/13/99

1165

ZOBRA'S, INC.  
P.O. BOX 187 240-7852  
SUFFOLK, SC 29150

140343986 10-14-99 0700 0216 25

DATE 10-11-99

PAY TO THE ORDER OF best Coast \$90.48

Ninety and 48/100

PALMETTO STATE BANK  
SUFFOLK, S.C. 29150

1166

ZOBRA'S, INC.  
P.O. BOX 187 240-7852  
SUFFOLK, SC 29150

130448859 10-14-99 0401 5874 37

DATE 10-12-99

PAY TO THE ORDER OF Coca-Cola \$49.88

Forty nine

PALMETTO STATE BANK  
SUFFOLK, S.C. 29150

1165 \$90.48 10/14/99

1166 \$49.88 10/14/99

1167

ZOBRA'S, INC.  
P.O. BOX 187 240-7852  
SUFFOLK, SC 29150

03552528

DATE 10-13-99

PAY TO THE ORDER OF SC Department of Revenue \$1,019.00

One thousand and nineteen + 00/100

PALMETTO STATE BANK  
SUFFOLK, S.C. 29150

1168

ZOBRA'S, INC.  
P.O. BOX 187 240-7852  
SUFFOLK, SC 29150

140121584 10-18-99 0770 8085 27

DATE 10-13-99

PAY TO THE ORDER OF F&P \$201.40

Two hundred one and 40/100

PALMETTO STATE BANK  
SUFFOLK, S.C. 29150

1167 \$1,019.00 10/29/99

1168 \$201.40 10/20/99

1169

ZOBRA'S, INC.  
P.O. BOX 187 240-7852  
SUFFOLK, SC 29150

140392131 10-18-99 0770 8085 27

DATE 10-12-99

PAY TO THE ORDER OF EAST COAST \$89.34

Eighty nine and 34/100

PALMETTO STATE BANK  
SUFFOLK, S.C. 29150

1170

ZOBRA'S, INC.  
P.O. BOX 187 240-7852  
SUFFOLK, SC 29150

140392127 10-18-99 0770 8085 27

DATE 10-14-99

PAY TO THE ORDER OF EAST COAST \$28.80

Twenty eight and 80/100

PALMETTO STATE BANK  
SUFFOLK, S.C. 29150

1169 \$89.34 10/18/99

1170 \$28.80 10/18/99

ZOBRA'S, INC.  
P.O. BOX 187 84-708-2222  
SUFFOLK, SC 29163

INV. N. 910140345 1172

120369304 10-18-99 10-20-99

PAY TO THE ORDER OF S.Y.Sco \$ 283.81

Two hundred and eighty three and 10/100 DOLLARS

PALMETTO STATE BANK

1171 \$283.81 10/18/99.

ZOBRA'S, INC.  
P.O. BOX 187 84-708-2222  
SUFFOLK, SC 29163

INV. N. 15718 1172

DATE 10-15-99

PAY TO THE ORDER OF National \$ 81.43

Eighty one and 00/100 DOLLARS

PALMETTO STATE BANK

1172 \$81.43 10/22/99

ZOBRA'S, INC.  
P.O. BOX 187 84-708-2222  
SUFFOLK, SC 29163

INV. N. 292188 1173

DATE 10-25-99

PAY TO THE ORDER OF P.Y.A \$ 463.15

Four hundred and sixty three and 15/100 DOLLARS

PALMETTO STATE BANK

1173 \$463.15 10/21/99

ZOBRA'S, INC.  
P.O. BOX 187 84-708-2222  
SUFFOLK, SC 29163

INV. N. 1174

DATE 10-16-99

PAY TO THE ORDER OF Gill Fisher \$ 250.00

Two hundred and fifty DOLLARS

PALMETTO STATE BANK

1174 \$250.00 10/27/99

ZOBRA'S, INC.  
P.O. BOX 187 84-708-2222  
SUFFOLK, SC 29163

INV. N. 252967 1178

DATE 10-20-99

PAY TO THE ORDER OF Movso vtz \$ 43.25

Forty three and 25/100 DOLLARS

PALMETTO STATE BANK

1175 \$43.25 10/20/99

ZOBRA'S, INC.  
P.O. BOX 187 84-708-2222  
SUFFOLK, SC 29163

INV. N. 1178

DATE 10-18-99

PAY TO THE ORDER OF Zobras Prigodet \$ 1,500.00

One thousand and five hundred DOLLARS

PALMETTO STATE BANK

1176 \$1,500.00 10/20/99

ZOBRA'S, INC.  
P.O. BOX 187 84-708-2222  
SUFFOLK, SC 29163

INV. N. 8426012 1177

DATE 10-18-99

PAY TO THE ORDER OF Roma \$ 164.15

One hundred and sixty four and 15/100 DOLLARS

PALMETTO STATE BANK

1177 \$164.15 10/25/99

ZOBRA'S, INC.  
P.O. BOX 187 84-708-2222  
SUFFOLK, SC 29163

INV. N. 1178

DATE 10-13-99

PAY TO THE ORDER OF Zobras Prigodet \$ 500.00

Five hundred DOLLARS

PALMETTO STATE BANK

1178 \$500.00 10/20/99

330

ZOBRA'S, INC. 1179  
 P.O. BOX 187 24376-0187  
 SUFFOLK, SC 29162

DATE 10-19-99

PAY TO THE ORDER OF Zobra's Payroll \$5500.00  
 Five thousand +

100 DOLLARS

PALMETTO STATE BANK  
 SUFFOLK, S.C. 29162

Bill Clark

1179 \$500.00 10/20/99

ZOBRA'S, INC. 1180  
 P.O. BOX 187 24376-0187  
 SUFFOLK, SC 29162

IN.V.N. 253334

DATE 10-19-99

PAY TO THE ORDER OF MOVSOVITZ \$93.80  
 Ninety three +

100 DOLLARS

PALMETTO STATE BANK  
 SUFFOLK, S.C. 29162

Bill Clark

1180 \$93.80 10/22/99

ZOBRA'S, INC. 1181  
 P.O. BOX 187 24376-0187  
 SUFFOLK, SC 29162

DATE 10-15-99

PAY TO THE ORDER OF Zobra's Payroll \$200.00  
 Two hundred +

100 DOLLARS

PALMETTO STATE BANK  
 SUFFOLK, S.C. 29162

Bill Clark

1181 \$200.00 10/20/99

ZOBRA'S, INC. 1182  
 P.O. BOX 187 24376-0187  
 SUFFOLK, SC 29162

DATE 10-16-99

PAY TO THE ORDER OF Gary Bensch \$2,561.00  
 Two thousand five hundred and sixty one +

100 DOLLARS

PALMETTO STATE BANK  
 SUFFOLK, S.C. 29162

Bill Clark

1182 \$2,561.00 10/26/99

ZOBRA'S, INC. 1183  
 P.O. BOX 187 24376-0187  
 SUFFOLK, SC 29162

IN.V.N. 253477

DATE 10-20-99

PAY TO THE ORDER OF MOVSOVITZ \$19.25  
 Nine + 25

100 DOLLARS

PALMETTO STATE BANK  
 SUFFOLK, S.C. 29162

Bill Clark

1183 \$19.25 10/25/99

ZOBRA'S, INC. 1184  
 P.O. BOX 187 24376-0187  
 SUFFOLK, SC 29162

IN.V.N. 910200514

DATE 10-20-99

PAY TO THE ORDER OF SYCO \$167.92  
 One hundred and sixty seven + 92

100 DOLLARS

PALMETTO STATE BANK  
 SUFFOLK, S.C. 29162

Bill Clark

1184 \$167.92 10/22/99

ZOBRA'S, INC. 1185  
 P.O. BOX 187 24376-0187  
 SUFFOLK, SC 29162

DATE 10-18-99

PAY TO THE ORDER OF [unclear] \$148.81  
 One hundred and forty eight + 81

100 DOLLARS

PALMETTO STATE BANK  
 SUFFOLK, S.C. 29162

Bill Clark

1185 \$148.81 10/21/99

ZOBRA'S, INC. 1186  
 P.O. BOX 187 24376-0187  
 SUFFOLK, SC 29162

REF: T025476998

DATE 10-18-99

PAY TO THE ORDER OF [unclear] \$45.81  
 Forty five + 81

100 DOLLARS

PALMETTO STATE BANK  
 SUFFOLK, S.C. 29162

Bill Clark

1186 \$45.81 10/26/99

-881-

331

ZOBRA'S REF: 70254515098 1187  
 ZOBRA'S, INC. PALMETTO STATE BANK  
 DATE 10-26-99  
 PAY TO THE ORDER OF Island Packet \$54.21  
 Fifty four and 21/100  
 PALMETTO STATE BANK

1187 \$54.21 10/26/99

INV. N. 393165 1188  
 ZOBRA'S, INC. PALMETTO STATE BANK  
 DATE 10-26-99  
 PAY TO THE ORDER OF NATIONAL \$70.56  
 Seventy and 56/100  
 PALMETTO STATE BANK

1188 \$70.56 10/25/99

ZOBRA'S, INC. PALMETTO STATE BANK 1189  
 DATE 10-21-99  
 PAY TO THE ORDER OF Bill PASSALONKOS \$500.00  
 Five hundred and 00/100  
 PALMETTO STATE BANK

1189 \$500.00 10/21/99

ZOBRA'S, INC. PALMETTO STATE BANK 1190  
 A.C.N. 8-2100-4611-5176  
 DATE 10-25-99  
 PAY TO THE ORDER OF S.C.E.R.G. \$708.07  
 Seven hundred and eight and 07/100  
 PALMETTO STATE BANK

1190 \$708.07 10/29/99

ZOBRA'S REF: TO 3134 27098 1191  
 ZOBRA'S, INC. PALMETTO STATE BANK  
 DATE 10-26-99  
 PAY TO THE ORDER OF Island Packet \$32.30  
 Thirty two and 30/100  
 PALMETTO STATE BANK

1191 \$32.30 10/26/99

ZOBRA'S, INC. PALMETTO STATE BANK 1192  
 A.C.N. 517273809374  
 DATE 10-18-99  
 PAY TO THE ORDER OF Haine D. \$386.99  
 Three hundred and eighty six and 99/100  
 PALMETTO STATE BANK

1192 \$386.99 10/25/99

ZOBRA'S, INC. PALMETTO STATE BANK 1193  
 DATE 10-25-99  
 PAY TO THE ORDER OF Harmon \$167.29  
 One hundred and sixty seven and 29/100  
 PALMETTO STATE BANK

1193 \$167.29 10/29/99

ZOBRA'S, INC. PALMETTO STATE BANK 1194  
 DATE 10-21-99  
 PAY TO THE ORDER OF Pedelstein \$17.05  
 Seventeen and 05/100  
 PALMETTO STATE BANK

1194 \$17.05 10/25/99

332

INV. N. 05231 - 057962- 1185

ZOBRA'S, INC.  
P.O. BOX 1007 24570-0100  
SUFFOLK, SC 29163

DATE 10-22-99

PAY TO THE ORDER OF Palmetto (30314388-10-28-99 0840 0847 37) \$ 424.64

Four hundred and twenty four / 100 DOLLARS

PALMETTO STATE BANK  
SUFFOLK, SC 29163

FOR Bill Beards

1186

ZOBRA'S, INC.  
P.O. BOX 1007 24570-0100  
SUFFOLK, SC 29163

140091192 10-27-99 0750 0750 27-99

PAY TO THE ORDER OF MOVSOVITZ, OF GA. \$ 71.55

Seventy one and 5/100 DOLLARS

PALMETTO STATE BANK  
SUFFOLK, SC 29163

FOR Bill Beards

1195 \$424.64 10/26/99

1196 \$71.05 10/27/99

1187

ZOBRA'S, INC.  
P.O. BOX 1007 24570-0100  
SUFFOLK, SC 29163

DATE 10-28-99

PAY TO THE ORDER OF HONALCH, INC. \$ 287.37

Two hundred and eighty seven / 100 DOLLARS

PALMETTO STATE BANK  
SUFFOLK, SC 29163

FOR Bill Beards

INV. 254075 1188

ZOBRA'S, INC.  
P.O. BOX 1007 24570-0100  
SUFFOLK, SC 29163

140091197 10-27-99 0750 0750 27-99

PAY TO THE ORDER OF MARCO VITZ \$ 34.75

Thirty four / 100 DOLLARS

PALMETTO STATE BANK  
SUFFOLK, SC 29163

FOR Bill Beards

1197 \$287.37 10/28/99

1198 \$34.75 10/27/99

INV. N. 170991 1189

ZOBRA'S, INC.  
P.O. BOX 1007 24570-0100  
SUFFOLK, SC 29163

DATE 10-23-99

PAY TO THE ORDER OF C. R. H. POULTRY CO. \$ 94.00

Ninety four / 100 DOLLARS

PALMETTO STATE BANK  
SUFFOLK, SC 29163

FOR Bill Beards

INV. N. 254302 1200

ZOBRA'S, INC.  
P.O. BOX 1007 24570-0100  
SUFFOLK, SC 29163

DATE 10-28-99

PAY TO THE ORDER OF MOISE VITZ (150360405 10-28-99 0725 0733 27-99) \$ 47.90

Forty seven and 90 / 100 DOLLARS

PALMETTO STATE BANK  
SUFFOLK, SC 29163

FOR Bill Beards

1199 \$94.00 10/26/99

1200 \$47.90 10/28/99

AC. N. 0524963 1201

ZOBRA'S, INC.  
P.O. BOX 1007 24570-0100  
SUFFOLK, SC 29163

DATE 10-24-99

PAY TO THE ORDER OF Regullic Waste Serv. \$ 218.71

Two hundred and eighteen / 100 DOLLARS

PALMETTO STATE BANK  
SUFFOLK, SC 29163

FOR Bill Beards

AC. N. 12273701 1202

ZOBRA'S, INC.  
P.O. BOX 1007 24570-0100  
SUFFOLK, SC 29163

140178890 10-28-99 0725 0725 27-99

PAY TO THE ORDER OF PALMETTO ELECTRIC COOP. \$ 29.62

Twenty nine and 62 / 100 DOLLARS

PALMETTO STATE BANK  
SUFFOLK, SC 29163

FOR Bill Beards

1201 \$218.71 10/29/99

1202 \$29.62 10/28/99

ZOBRA'S, INC. INV. N. 254326 1203  
 PA. NOTARY REGISTERED BLUFFTON, SC 29915  
 DATE 10-25-99  
 PAY TO THE ORDER OF *Moussa, L* 150380804 10-28-99 0728 0733 27 \$ 20.00  
 DOLLARS HUNDREDS

1203 \$20.00 10/28/99

ZOBRA'S, INC. INV. N. 8427884 1204  
 PA. NOTARY REGISTERED BLUFFTON, SC 29915  
 DATE 10-25-99  
 PAY TO THE ORDER OF *R. O. M.* 12038721 10-28-99 8088 8093 27 \$ 120.40  
 DOLLARS HUNDREDS  
*One hundred and twenty and 40/100*

1204 \$120.40 10/28/99

ZOBRA'S, INC. INV. N. 10047567 1205  
 PA. NOTARY REGISTERED BLUFFTON, SC 29915  
 DATE 10-25-99  
 PAY TO THE ORDER OF *R. S. T.* 110110513 10-29-99 0411 5087 477 97 \$ 477.97  
 DOLLARS HUNDREDS  
*Four hundred and seventy seven and 97/100*

1205 \$477.89 10/29/99

ZOBRA'S, INC. INV. N. 9282764 1206  
 PA. NOTARY REGISTERED BLUFFTON, SC 29915  
 DATE 10-25-99  
 PAY TO THE ORDER OF *S. J. S.* 114612077 10-29-99 0748 0754 1879 \$ 325.78  
 DOLLARS HUNDREDS  
*Three hundred twenty five and 78/100*

1206 \$325.78 10/29/99

ZOBRA'S, INC. INV. N. 120340735 1207  
 PA. NOTARY REGISTERED BLUFFTON, SC 29915  
 DATE 10-24-99  
 PAY TO THE ORDER OF *Journal, Coca-Cola* 45527789 4846 4809 02 10-28-99 \$ 74.81  
 DOLLARS HUNDREDS  
*Seventy four and 81/100*

1207 \$74.81 10/28/99

ZOBRA'S, INC. INV. N. 910270504 1210  
 PA. NOTARY REGISTERED BLUFFTON, SC 29915  
 DATE 10-25-99  
 PAY TO THE ORDER OF *S. J. S.* 114612077 10-29-99 0748 0754 1879 \$ 252.46  
 DOLLARS HUNDREDS  
*Two hundred and fifty two and 46/100*

1210 \$252.46 10/29/99



DEPOSIT TICKET

PALMETTO STATE BANK  
PALMETTO, S.C. 29556

DATE: 10-7-99

CURRENCY	COIN	OTHER	AMOUNT
218.00			

RECEIVED

TOTAL ITEMS: 1

PLEASE SEE HOW ALL ITEMS ARE PROPERLY ENDORSED

ZOBRA'S, INC.  
P.O. BOX 1087 BAYTON, LA 70314

218.00

DDA Credits \$218.00 10/08/99

DEPOSIT TICKET

PALMETTO STATE BANK  
PALMETTO, S.C. 29556

DATE: 10-12-99

CURRENCY	COIN	OTHER	AMOUNT
40.25			

RECEIVED

TOTAL ITEMS: 1

PLEASE SEE HOW ALL ITEMS ARE PROPERLY ENDORSED

ZOBRA'S, INC.  
P.O. BOX 1087 BAYTON, LA 70314

40.25

DDA Credits \$40.25 10/12/99

DEPOSIT TICKET

PALMETTO STATE BANK  
PALMETTO, S.C. 29556

DATE: 10-12-99

CURRENCY	COIN	OTHER	AMOUNT
171.00			

RECEIVED

TOTAL ITEMS: 1

PLEASE SEE HOW ALL ITEMS ARE PROPERLY ENDORSED

ZOBRA'S, INC.  
P.O. BOX 1087 BAYTON, LA 70314

171.00

DDA Credits \$171.00 10/12/99

DEPOSIT TICKET

PALMETTO STATE BANK  
PALMETTO, S.C. 29556

DATE: 10-12-99

CURRENCY	COIN	OTHER	AMOUNT
490.56			

RECEIVED

TOTAL ITEMS: 1

PLEASE SEE HOW ALL ITEMS ARE PROPERLY ENDORSED

ZOBRA'S, INC.  
P.O. BOX 1087 BAYTON, LA 70314

490.56

DDA Credits \$490.56 10/12/99

DEPOSIT TICKET

PALMETTO STATE BANK  
PALMETTO, S.C. 29556

DATE: 10-13-99

CURRENCY	COIN	OTHER	AMOUNT
250.00			

RECEIVED

TOTAL ITEMS: 1

PLEASE SEE HOW ALL ITEMS ARE PROPERLY ENDORSED

ZOBRA'S, INC.  
P.O. BOX 1087 BAYTON, LA 70314

250.00

DDA Credits \$250.00 10/13/99

DEPOSIT TICKET

PALMETTO STATE BANK  
PALMETTO, S.C. 29556

DATE: 10-13-99

CURRENCY	COIN	OTHER	AMOUNT
1,500.00			

RECEIVED

TOTAL ITEMS: 1

PLEASE SEE HOW ALL ITEMS ARE PROPERLY ENDORSED

ZOBRA'S, INC.  
P.O. BOX 1087 BAYTON, LA 70314

1,500.00

DDA Credits \$1,500.00 10/13/99

DEPOSIT TICKET

PALMETTO STATE BANK  
PALMETTO, S.C. 29556

DATE: 10-14-99

CURRENCY	COIN	OTHER	AMOUNT
298.00			

RECEIVED

TOTAL ITEMS: 1

PLEASE SEE HOW ALL ITEMS ARE PROPERLY ENDORSED

ZOBRA'S, INC.  
P.O. BOX 1087 BAYTON, LA 70314

298.00

DDA Credits \$298.00 10/14/99

DEPOSIT TICKET

PALMETTO STATE BANK  
PALMETTO, S.C. 29556

DATE: 10-14-99

CURRENCY	COIN	OTHER	AMOUNT
2,000.00			

RECEIVED

TOTAL ITEMS: 1

PLEASE SEE HOW ALL ITEMS ARE PROPERLY ENDORSED

ZOBRA'S, INC.  
P.O. BOX 1087 BAYTON, LA 70314

2,000.00

DDA Credits \$2,000.00 10/14/99

336

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29582

DATE: 10-14-99

CURRENCY	AMOUNT	DATE	INITIALS
CASH	218.00		
CHEQUE			
TOTAL	218.00		

TOTAL ITEMS: 1

PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED

ZOBRA'S, INC.  
P.O. BOX 1807 843-708-2222  
MURPHY, NC 28758

218.00

DDA Credits \$218.00 10/15/99

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29582

DATE: 10-15-99

CURRENCY	AMOUNT	DATE	INITIALS
CASH	187.00		
CHEQUE			
TOTAL	187.00		

TOTAL ITEMS: 1

PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED

ZOBRA'S, INC.  
P.O. BOX 1807 843-708-2222  
MURPHY, NC 28758

187.00

DDA Credits \$187.00 10/18/99

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29582

DATE: 10-16-99

CURRENCY	AMOUNT	DATE	INITIALS
CASH	406.00		
CHEQUE			
TOTAL	406.00		

TOTAL ITEMS: 1

PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED

ZOBRA'S, INC.  
P.O. BOX 1807 843-708-2222  
MURPHY, NC 28758

406.00

DDA Credits \$406.00 10/18/99

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29582

DATE: 10-18-99

CURRENCY	AMOUNT	DATE	INITIALS
CASH	185.00		
CHEQUE			
TOTAL	185.00		

TOTAL ITEMS: 1

PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED

ZOBRA'S, INC.  
P.O. BOX 1807 843-708-2222  
MURPHY, NC 28758

185.00

DDA Credits \$185.00 10/20/99

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29582

DATE: 10-19-99

CURRENCY	AMOUNT	DATE	INITIALS
CASH	217.02		
CHEQUE			
TOTAL	217.02		

TOTAL ITEMS: 1

PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED

ZOBRA'S, INC.  
P.O. BOX 1807 843-708-2222  
MURPHY, NC 28758

217.02

DDA Credits \$217.02 10/20/99

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29582

DATE: 10-20-99

CURRENCY	AMOUNT	DATE	INITIALS
CASH	450.00		
CHEQUE			
TOTAL	450.00		

TOTAL ITEMS: 1

PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED

ZOBRA'S, INC.  
P.O. BOX 1807 843-708-2222  
MURPHY, NC 28758

450.00

DDA Credits \$450.00 10/20/99

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29582

DATE: 10-20-99

CURRENCY	AMOUNT	DATE	INITIALS
CASH	2,000.00		
CHEQUE			
TOTAL	2,000.00		

TOTAL ITEMS: 1

PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED

ZOBRA'S, INC.  
P.O. BOX 1807 843-708-2222  
MURPHY, NC 28758

2,000.00

DDA Credits \$2,000.00 10/20/99

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29582

DATE: 10-21-99

CURRENCY	AMOUNT	DATE	INITIALS
CASH	102.00		
CHEQUE			
TOTAL	102.00		

TOTAL ITEMS: 1

PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED

ZOBRA'S, INC.  
P.O. BOX 1807 843-708-2222  
MURPHY, NC 28758

102.00

DDA Credits \$102.00 10/21/99

DEPOSIT TICKET

PALMETTO STATE BANK  
STATE BANK  
LAFAYETTE, LA 70503

DATE: 10-21-99

CURRENCY	84.00
CASH	
OTHER	
TOTAL	84.00

RECEIVED  
OCT 24 1999

ZOBIRAN, INC.  
P.O. BOX 1807 LAFAYETTE, LA 70503

TOTAL ITEMS: 1

PLEASE PRINT ALL OTHERS AND PROPERLY ENDORSED

60.00

DDA Credits \$80.00 10/22/99

DEPOSIT TICKET

PALMETTO STATE BANK  
STATE BANK  
LAFAYETTE, LA 70503

DATE: 10-22-99

CURRENCY	80.00
CASH	
OTHER	
TOTAL	80.00

RECEIVED  
OCT 22 1999

ZOBIRAN, INC.  
P.O. BOX 1807 LAFAYETTE, LA 70503

TOTAL ITEMS: 1

PLEASE PRINT ALL OTHERS AND PROPERLY ENDORSED

144.04

DDA Credits \$144.04 10/26/99

DEPOSIT TICKET

PALMETTO STATE BANK  
STATE BANK  
LAFAYETTE, LA 70503

DATE: 10-27-99

CURRENCY	144.04
CASH	
OTHER	
TOTAL	144.04

RECEIVED  
OCT 27 1999

ZOBIRAN, INC.  
P.O. BOX 1807 LAFAYETTE, LA 70503

TOTAL ITEMS: 1

PLEASE PRINT ALL OTHERS AND PROPERLY ENDORSED

918.16

DDA Credits \$115.16 10/28/99

DEPOSIT TICKET

PALMETTO STATE BANK  
STATE BANK  
LAFAYETTE, LA 70503

DATE: 10-22-99

CURRENCY	667.85
CASH	
OTHER	
TOTAL	667.85

RECEIVED  
OCT 25 1999

ZOBIRAN, INC.  
P.O. BOX 1807 LAFAYETTE, LA 70503

TOTAL ITEMS: 1

PLEASE PRINT ALL OTHERS AND PROPERLY ENDORSED

667.85

DDA Credits \$667.85 10/25/99

DEPOSIT TICKET

PALMETTO STATE BANK  
STATE BANK  
LAFAYETTE, LA 70503

DATE: 10-27-99

CURRENCY	100.00
CASH	
OTHER	
TOTAL	100.00

RECEIVED  
OCT 28 1999

ZOBIRAN, INC.  
P.O. BOX 1807 LAFAYETTE, LA 70503

TOTAL ITEMS: 1

PLEASE PRINT ALL OTHERS AND PROPERLY ENDORSED

100.00

DDA Credits \$100.00 10/28/99

DEPOSIT TICKET

PALMETTO STATE BANK  
STATE BANK  
LAFAYETTE, LA 70503

DATE: 10-28-99

CURRENCY	85.99
CASH	
OTHER	
TOTAL	85.99

RECEIVED  
OCT 29 1999

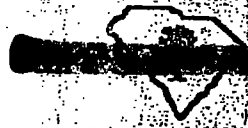
ZOBIRAN, INC.  
P.O. BOX 1807 LAFAYETTE, LA 70503

TOTAL ITEMS: 1

PLEASE PRINT ALL OTHERS AND PROPERLY ENDORSED

85.99

DDA Credits \$85.99 10/29/99



# Palmetto STATE BANK

000 70 05

PAGE: 3

DATE: 11/30/99

HAMPTON • BEAUFORT • BLUFFTON • MEMBER FDIC

P.O. Box 218      P.O. Drawer 927      Box 158  
 Beaufort, SC 29902      Bluffton, SC 29910      Hampton, SC 29924  
 (803) 524-3300      (803) 757-3747      (803) 943-2671



ZORBA'S INC

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000070		544.04	11/15/99	2,887.93
GOLDEN EAGLE CC DEBITS 351470 EET				
CHECK # 1247	44.29		11/15/99	2,843.64
CHECK # 1233	20.00		11/15/99	2,823.64
CHECK # 1249	54.21		11/15/99	2,769.43
CHECK # 1241	74.95		11/15/99	2,694.48
CHECK # 1239	105.80		11/15/99	2,588.68
CHECK # 1239	225.60		11/15/99	2,363.08
CHECK # 1246	240.58		11/15/99	2,122.50
CHECK # 1234	295.44		11/15/99	1,827.06
CHECK # 1248	330.00		11/15/99	1,497.06
NOVUS SERVICES SETTLEMENT 601101079010359		7.58	11/16/99	1,504.64
DEPOSIT		+ 292.41	11/16/99	1,797.05
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000072		311.81	11/16/99	2,108.86
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000073		465.37	11/16/99	2,574.23
CHECK # 1244	60.00		11/16/99	2,514.23
CHECK # 1242	126.00		11/16/99	2,388.23
CHECK # 1245	289.58		11/16/99	2,098.65
CHECK # 1253	592.89		11/16/99	1,505.76
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000074		91.79	11/17/99	1,597.55
DEPOSIT		+ 166.81	11/17/99	1,764.36
AMERICAN EXPRESS SETTLEMENT 4392411500		265.74	11/17/99	2,030.10
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000075		375.68	11/17/99	2,405.78
CHECK # 1256	22.55		11/17/99	2,383.23
CHECK # 1252	43.90		11/17/99	2,339.33
CHECK # 1257	75.00		11/17/99	2,264.33
CHECK # 1250	119.88		11/17/99	2,144.45
CHECK # 1260	2,000.00		11/17/99	144.45
DEPOSIT		+ 148.66	11/18/99	293.11
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000076		206.37	11/18/99	499.48
CHECK # 1261	253.42		11/18/99	246.06
CHECK # 1265	500.00		11/18/99	253.94
CHECK # 1258	33.50		11/18/99	287.44
CHECK # 1262	49.88		11/18/99	337.32
CHECK # 1259	242.35		11/18/99	579.67
AMERICAN EXPRESS SETTLEMENT 4392411500		105.34	11/19/99	474.33
DEPOSIT		+ 166.00	11/19/99	308.33
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000077		378.50	11/19/99	70.17
NSF FEE CHARGE	40.00		11/19/99	30.17
CHECK # 1254	100.21		11/19/99	70.04
AMERICAN EXPRESS SETTLEMENT 4392411500		154.83	11/22/99	84.79
AMERICAN EXPRESS SETTLEMENT 4392411500		168.56	11/22/99	253.35
DEPOSIT		+ 206.00	11/22/99	459.35
DEPOSIT		+ 305.00	11/22/99	764.35
DEPOSIT		+ 346.46	11/22/99	1,110.81

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



# Palmetto STATE BANK

000 70 05  
DATE: 11/30/99

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HAMPTON • BEAUFORT • BLUFFTON • MEMBER FDIC



P.O. Box 219      P.O. Drawer 827      Box 158  
Beaufort, SC 29902      Bluffton, SC 29910      Hampton, SC 29924  
(803) 524-3300      (803) 757-3747      (803) 943-2671

ZORBA'S INC

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000078		394.27	11/22/99	1,505.08
NSF FEE CHARGE	20.00		11/22/99	1,485.08
CHECK # 1264	42.30		11/22/99	1,442.78
CHECK # 1268	900.00		11/22/99	542.78
NOVUS SERVICES SETTLEMENT 601101079010359		20.00	11/23/99	562.78
DEPOSIT		+ 219.90	11/23/99	782.68
AMERICAN EXPRESS SETTLEMENT 4392411500		252.24	11/23/99	1,034.92
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000079		499.03	11/23/99	1,533.95
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000080		617.50	11/23/99	2,151.45
CHECK # 1276	300.00		11/23/99	1,851.45
CHECK # 1272	500.00		11/23/99	1,351.45
NOVUS SERVICES SETTLEMENT 601101079010359		23.93	11/24/99	1,375.38
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000082		100.97	11/24/99	1,476.35
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000081		157.59	11/24/99	1,633.94
AMERICAN EXPRESS SETTLEMENT 4392411500		389.75	11/24/99	2,023.69
CHECK # 1255	24.56		11/24/99	1,999.13
CHECK # 1271	30.20		11/24/99	1,968.93
CHECK # 1275	33.50		11/24/99	1,935.43
CHECK # 1267	76.50		11/24/99	1,858.93
CHECK # 1266	153.67		11/24/99	1,705.26
CHECK # 1269	331.12		11/24/99	1,374.14
CHECK # 1273	500.00		11/24/99	874.14
AMERICAN EXPRESS SETTLEMENT 4392411500		11.15	11/26/99	885.29
NOVUS SERVICES SETTLEMENT 601101079010359		31.22	11/26/99	916.51
DEPOSIT		+ 52.00	11/26/99	968.51
DEPOSIT		+ 150.34	11/26/99	1,118.85
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000083		327.32	11/26/99	1,446.17
CHECK # 1270	54.03		11/26/99	1,392.14
CHECK # 1274	250.54		11/26/99	1,141.60
DEPOSIT		+ 92.00	11/29/99	1,233.60
AMERICAN EXPRESS SETTLEMENT 4392411500		107.36	11/29/99	1,340.96
DEPOSIT		+ 122.00	11/29/99	1,462.96
AMERICAN EXPRESS SETTLEMENT 4392411500		125.71	11/29/99	1,588.67
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000084		385.04	11/29/99	1,973.71
DEPOSIT		+ 464.66	11/29/99	2,438.37
CHECK # 1277	15.75		11/29/99	2,422.62
CHECK # 1278	20.80		11/29/99	2,401.82
NOVUS SERVICES SETTLEMENT 601101079010359		35.63	11/30/99	2,437.45
AMERICAN EXPRESS SETTLEMENT 4392411500		114.63	11/30/99	2,552.08
DEPOSIT		+ 226.00	11/30/99	2,778.08
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000087		399.98	11/30/99	3,178.06
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000086		570.90	11/30/99	3,748.96
SERVICE CHARGE	16.04		11/30/99	3,732.92
BALANCE THIS STATEMENT			11/30/99	3,732.92

\* \* \* CONTINUED \* \* \*

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-890-



# Palmetto STATE BANK

HAMPTON • BEAUFORT • BLUFFTON • MEMBER FDIC

000 70 05

PAGE:

DATE: 11/30/99

P.O. Box 218      P.O. Drawer 327      Box 158  
Beaufort, SC 29902      Bluffton, SC 29910      Hampton, SC 29924  
(803) 524-3300      (803) 757-3747      (803) 943-2871



ZORBA'S INC

TOTAL CREDITS      (90)      21,007.40  
TOTAL DEBITS      (74)      17,519.29  
TAX ID NUMBER      58-2470957

### YOUR CHECKS SEQUENCED

DATE...	CHECK #.....	AMOUNT	DATE...	CHECK #.....	AMOUNT	DATE...	CHECK #.....	AMOUNT
11/01	— 1208	175.82	11/12	— 1232	15.76	11/17	— 1256	22.55
11/01	— 1209*	60.06	11/15	— 1233	54.21	11/17	— 1257	75.00
11/01	— 1211	52.25	11/15	— 1234	295.44	11/18	— 1258	33.50
11/02	— 1212	82.16	11/10	— 1235	28.30	11/18	— 1259	242.35
11/03	— 1213	200.39	11/10	— 1236	13.50	11/17	— 1260	2,000.00
			11/10	— 1237	286.33	11/18	— 1261	253.42
			11/10	— 1238				19.88
11/03	— 1215	209.38	11/15	— 1239	225.60	11/22	— 1264	42.30
11/03	— 1216	116.05	11/15	— 1240	500.00	11/18	— 1265	500.00
11/05	— 1217	107.74	11/12	— 1241	105.80	11/24	— 1266	153.67
11/03	— 1218	1,000.00	11/15	— 1242*	126.00	11/24	— 1267	76.50
11/04	— 1219	19.25	11/16	— 1244	60.00	11/22	— 1268	900.00
11/04	— 1220	88.65	11/16	— 1245	289.58	11/24	— 1269	331.12
11/04	— 1221	34.25	11/16	— 1246	240.58	11/26	— 1270	54.03
11/05	— 1222	24.00	11/15	— 1247	20.00	11/24	— 1271	30.20
11/04	— 1223	1,000.00	11/15	— 1248	330.00	11/23	— 1272	500.00
11/08	— 1224	38.75	11/15	— 1249	74.95	11/24	— 1273	500.00
11/05	— 1225	32.32	11/15	— 1250	119.88	11/26	— 1274	250.54
11/08	— 1226	241.60	11/17	— 1251	2,300.00	11/24	— 1275	33.50
11/08	— 1227	18.00	11/12	— 1252	43.90	11/23	— 1276	300.00
11/05	— 1228	200.00	11/17	— 1253	582.89	11/29	— 1277	15.75
				— 1254	100.21	11/29		20.80
11/08	— 1230	209.03	11/19	— 1255	24.56			
11/10	— 1231	212.05	11/24					

(\* ) INDICATES A GAP IN CHECK NUMBER SEQUENCE

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-891-

INV. N. 9102203871208

ZOBRA'S, INC.  
P.O. BOX 1807 80708-0180  
BLUFFTON, SC 29910

120323587 11-01-99 0724 5056 27

DATE 10-26-99

PAY TO THE ORDER OF Sysco

170078232 4225 4225 03 11-01-99 \$175.82

FOR *Bill Peadar*

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

1208 \$175.82 11/01/99

INV. N. 394239 1209

ZOBRA'S, INC.  
P.O. BOX 1807 80708-0180  
BLUFFTON, SC 29910

DATE 10-23-99

PAY TO THE ORDER OF NATIONAL

\$60.06

FOR *Bill Peadar*

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

1209 \$60.06 11/01/99

INV. N. 254615 1211

ZOBRA'S, INC.  
P.O. BOX 1807 80708-0180  
BLUFFTON, SC 29910

150148834 11-01-99 0750 0761 27

DATE 10-27-99

PAY TO THE ORDER OF MOVCO, INC

\$52.25

FOR *Bill Peadar*

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

1211 \$52.25 11/01/99

INV. N. 5073994 1212

ZOBRA'S, INC.  
P.O. BOX 1807 80708-0180  
BLUFFTON, SC 29910

DATE 10-27-99

PAY TO THE ORDER OF *Brian Arnold*

\$82.16

FOR *Bill Peadar*

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

1212 \$82.16 11/02/99

INV. N. 6043766 1213

ZOBRA'S, INC.  
P.O. BOX 1807 80708-0180  
BLUFFTON, SC 29910

DATE 10-28-99

PAY TO THE ORDER OF *Susanne Wine*

\$200.39

FOR *Bill Peadar*

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

1213 \$200.39 11/03/99

INV. N. 140284666 1214

ZOBRA'S, INC.  
P.O. BOX 1807 80708-0180  
BLUFFTON, SC 29910

140284666 11-01-99 0754 5061 27

DATE 10-27-99

PAY TO THE ORDER OF *P S T*

\$632.65

FOR *Bill Peadar*

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

1214 \$632.65 11/01/99

INV. N. 140357474 1215

ZOBRA'S, INC.  
P.O. BOX 1807 80708-0180  
BLUFFTON, SC 29910

140357474 11-03-99 0787 0784 26 94

DATE 10-29-99

PAY TO THE ORDER OF *PVA/Morachi, Inc*

\$209.36

FOR *Bill Peadar*

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

1215 \$209.36 11/03/99

INV. N. 255159 1216

ZOBRA'S, INC.  
P.O. BOX 1807 80708-0180  
BLUFFTON, SC 29910

DATE 10-29-99

PAY TO THE ORDER OF *Marsavi T2*

\$116.05

FOR *Bill Peadar*

PALMETTO STATE BANK  
BLUFFTON, S.C. 29910

1216 \$116.05 11/03/99

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1217

ZOBRA'S, INC.  
P.O. BOX 1887 PALMETTO, SC 29553

DATE 10-30-99

PAY TO THE ORDER OF SC Department of Revenue \$107.74  
One hundred and seven 74/100 DOLLARS

PALMETTO STATE BANK

1217 \$107.74 11/05/99

1218

ZOBRA'S, INC.  
P.O. BOX 1887 PALMETTO, SC 29553

DATE 10-30-99

PAY TO THE ORDER OF Zebra's pay roll \$1,000.00  
One thousand and no 100 DOLLARS

PALMETTO STATE BANK

1218 \$1,000.00 11/03/99

1219

ZOBRA'S, INC.  
P.O. BOX 1887 PALMETTO, SC 29553

DATE 11-1-99

PAY TO THE ORDER OF M.O.V.S.V.I.T. \$19.25  
Nineteen 25/100 DOLLARS

PALMETTO STATE BANK

1219 \$19.25 11/04/99

1220

ZOBRA'S, INC.  
P.O. BOX 1887 PALMETTO, SC 29553

DATE 11-04-99

PAY TO THE ORDER OF Bona \$88.65  
Eighty eight 65/100 DOLLARS

PALMETTO STATE BANK

1220 \$88.65 11/04/99

1221

ZOBRA'S, INC.  
P.O. BOX 1887 PALMETTO, SC 29553

DATE 11-2-99

PAY TO THE ORDER OF M.O.V.S.V.I.T. \$34.25  
Thirty four 25/100 DOLLARS

PALMETTO STATE BANK

1221 \$34.25 11/04/99

1222

ZOBRA'S, INC.  
P.O. BOX 1887 PALMETTO, SC 29553

DATE 11-05-99

PAY TO THE ORDER OF Palmetto Electric cooperative \$24.00  
Twenty four 00/100 DOLLARS

PALMETTO STATE BANK

1222 \$24.00 11/05/99

1223

ZOBRA'S, INC.  
P.O. BOX 1887 PALMETTO, SC 29553

DATE 11-2-99

PAY TO THE ORDER OF Zebra's payroll \$1,000.00  
One thousand and no 100 DOLLARS

PALMETTO STATE BANK

1223 \$1,000.00 11/04/99

1224

ZOBRA'S, INC.  
P.O. BOX 1887 PALMETTO, SC 29553

DATE 11-3-99

PAY TO THE ORDER OF M.O.V.S.V.I.T. \$38.75  
Thirty eight 75/100 DOLLARS

PALMETTO STATE BANK

1224 \$38.75 11/08/99

ZOBRA'S, INC. 1225  
 P.O. BOX 1167 29168-2223  
 SUFFOLK, SC 29154

DATE 11-3-99

PAY TO THE ORDER OF Pearl's Fine  
 Thirty two and 32/100 \$32.32  
 DOLLARS

FOR Bill [Signature]

PALMETTO STATE BANK  
 SUFFOLK, S.C. 29154

1225 \$32.32 11/05/99

ZOBRA'S, INC. 1226  
 P.O. BOX 1167 29168-2223  
 SUFFOLK, SC 29154

INV. N. 911050341

DATE 11-8-99

PAY TO THE ORDER OF \$4500  
 Two hundred and forty one and 60/100 \$241.60  
 DOLLARS

FOR Bill [Signature]

PALMETTO STATE BANK  
 SUFFOLK, S.C. 29154

1226 \$241.60 11/08/99

ZOBRA'S, INC. 1227  
 P.O. BOX 1167 29168-2223  
 SUFFOLK, SC 29154

INV. N. 255768

DATE 11-4-99

PAY TO THE ORDER OF Mrs. S. J. 2  
 Eighteen and 00/100 \$18.00  
 DOLLARS

FOR Bill [Signature]

PALMETTO STATE BANK  
 SUFFOLK, S.C. 29154

1227 \$18.00 11/08/99

ZOBRA'S, INC. 1228  
 P.O. BOX 1167 29168-2223  
 SUFFOLK, SC 29154

DATE 11-4-99

PAY TO THE ORDER OF Zola's Payroll  
 Two hundred and 00/100 \$200.00  
 DOLLARS

FOR Bill [Signature]

PALMETTO STATE BANK  
 SUFFOLK, S.C. 29154

1228 \$200.00 11/05/99

ZOBRA'S, INC. 1229  
 P.O. BOX 1167 29168-2223  
 SUFFOLK, SC 29154

INV. N. 256003

DATE 11-4-99

PAY TO THE ORDER OF Mrs. S. J. 2  
 Thirty nine and 00/100 \$39.00  
 DOLLARS

FOR Bill [Signature]

PALMETTO STATE BANK  
 SUFFOLK, S.C. 29154

1229 \$39.00 11/08/99

ZOBRA'S, INC. 1230  
 P.O. BOX 1167 29168-2223  
 SUFFOLK, SC 29154

DATE 11-8-99

PAY TO THE ORDER OF Joyce  
 Two hundred and nine and 03/100 \$209.03  
 DOLLARS

FOR Bill [Signature]

PALMETTO STATE BANK  
 SUFFOLK, S.C. 29154

1230 \$209.03 11/08/99

ZOBRA'S, INC. 1231  
 P.O. BOX 1167 29168-2223  
 SUFFOLK, SC 29154

07054038

DATE 11-3-99

PAY TO THE ORDER OF S.C. Department of Revenue  
 Two hundred and twelve and 05/100 \$212.05  
 DOLLARS

FOR Bill [Signature]

PALMETTO STATE BANK  
 SUFFOLK, S.C. 29154

1231 \$212.05 11/10/99

ZOBRA'S, INC. 1232  
 P.O. BOX 1167 29168-2223  
 SUFFOLK, SC 29154

AC. N. 1670

DATE 11-3-99

PAY TO THE ORDER OF Greene's Ace Hardware  
 Fifteen and 76/100 \$15.76  
 DOLLARS

FOR Bill [Signature]

PALMETTO STATE BANK  
 SUFFOLK, S.C. 29154

1232 \$15.76 11/12/99

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ZOBRA'S, INC. 1233  
 P.O. BOX 187 24702223  
 SUFFOLK, VA 23110

DATE 11-3-99

PAY TO THE ORDER OF Island Packet \$ 54.21  
 Fifty four and 21/100

PALMETTO STATE BANK  
 SUFFOLK, VA 23109

*Bill Wood*

1233 \$54.21 11/15/99

ZOBRA'S, INC. 1234  
 P.O. BOX 187 24702223  
 SUFFOLK, VA 23110

DATE 11-3-99

PAY TO THE ORDER OF Island Packet \$ 295.44  
 Two hundred and ninety five and 44/100

PALMETTO STATE BANK  
 SUFFOLK, VA 23109

*Bill Wood*

1234 \$295.44 11/15/99

ZOBRA'S, INC. 1235  
 P.O. BOX 187 24702223  
 SUFFOLK, VA 23110

INSTR. N. 256114

150161828 11-10-99 0382 11-10-99

PAY TO THE ORDER OF Maurice \$ 28.30  
 Twenty eight and 30/100

PALMETTO STATE BANK  
 SUFFOLK, VA 23109

*Bill Wood*

1235 \$28.30 11/10/99

ZOBRA'S, INC. 1236  
 P.O. BOX 187 24702223  
 SUFFOLK, VA 23110

150161827 11-10-99 0382 11-10-99

PAY TO THE ORDER OF Moravia of Georgia \$ 13.50  
 Thirteen and 50/100

PALMETTO STATE BANK  
 SUFFOLK, VA 23109

*Bill Wood*

1236 \$13.50 11/10/99

ZOBRA'S, INC. 1237  
 P.O. BOX 187 24702223  
 SUFFOLK, VA 23110

DATE 11-5-99

PAY TO THE ORDER OF PVA/Morach, Inc. \$ 286.33  
 Two hundred eighty six and 33/100

PALMETTO STATE BANK  
 SUFFOLK, VA 23109

*Bill Wood*

1237 \$286.33 11/10/99

ZOBRA'S, INC. 1238  
 P.O. BOX 187 24702223  
 SUFFOLK, VA 23110

INSTR. N. 258412

150161826 11-10-99 0382 11-10-99

PAY TO THE ORDER OF MOUSOVITZ \$ 42.35  
 Forty two and 35/100

PALMETTO STATE BANK  
 SUFFOLK, VA 23109

*Bill Wood*

1238 \$42.35 11/10/99

ZOBRA'S, INC. 1239  
 P.O. BOX 187 24702223  
 SUFFOLK, VA 23110

INSTR. N. 8431167

150292991 11-15-99 0781 0958 27

130117060 3585 4161 10 11-12-99

PAY TO THE ORDER OF R. J. ... \$ 225.60  
 Two hundred twenty five and 60/100

PALMETTO STATE BANK  
 SUFFOLK, VA 23109

*Bill Wood*

1239 \$225.60 11/15/99

ZOBRA'S, INC. 1240  
 P.O. BOX 187 24702223  
 SUFFOLK, VA 23110

DATE 11-8-99

PAY TO THE ORDER OF Bill PASSELOUIS \$ 500.00  
 Five hundred and 00/100

PALMETTO STATE BANK  
 SUFFOLK, VA 23109

*Bill Wood*

1240 \$500.00 11/12/99

INV. N. 256699 1241  
 ZOBRA'S, INC. P.O. BOX 187, SUITE 200, ELLETTSVILLE, IN 47401  
 130240421 11-15-99 0750 0798 27  
 DATE 11-9-99  
 PAY TO THE ORDER OF MOVSOVITZ \$ 105.80  
One hundred and five + 80/100 DOLLARS  
 PALMETTO STATE BANK  
 Ball Head

INV. N. 5077814 1242  
 ZOBRA'S, INC. P.O. BOX 187, SUITE 200, ELLETTSVILLE, IN 47401  
 130240421 11-15-99 0750 0798 27  
 DATE 11-9-99  
 PAY TO THE ORDER OF Arnold \$ 126.00  
One hundred and twenty six DOLLARS  
 PALMETTO STATE BANK  
 Ball Head

1241 \$105.80 11/15/99

1242 \$126.00 11/16/99

1244  
 ZOBRA'S, INC. P.O. BOX 187, SUITE 200, ELLETTSVILLE, IN 47401  
 140196861 11-15-99 0730 6080 27  
 DATE 11-8-99  
 PAY TO THE ORDER OF National Distributing Co. \$ 60.00  
Sixty and 00/100 DOLLARS  
 PALMETTO STATE BANK  
 Julie Sankubas

1245  
 ZOBRA'S, INC. P.O. BOX 187, SUITE 200, ELLETTSVILLE, IN 47401  
 130238862 11-15-99 0750 0798 27  
 DATE 11-16-99  
 PAY TO THE ORDER OF PA/Morrell \$ 289.58  
Two hundred eighty nine + 58/100 DOLLARS  
 PALMETTO STATE BANK  
 Julie Sankubas

1244 \$60.00 11/16/99

1245 \$289.58 11/16/99

1246  
 ZOBRA'S, INC. P.O. BOX 187, SUITE 200, ELLETTSVILLE, IN 47401  
 140196861 11-15-99 0730 6080 27  
 DATE 11-10-99  
 PAY TO THE ORDER OF Super \$ 240.58  
Two hundred forty and 58/100 DOLLARS  
 PALMETTO STATE BANK  
 Julie Sankubas

INV. N. 256851 1247  
 ZOBRA'S, INC. P.O. BOX 187, SUITE 200, ELLETTSVILLE, IN 47401  
 130238862 11-15-99 0750 0798 27  
 DATE 11-10-99  
 PAY TO THE ORDER OF MOVSOVITZ \$ 20.00  
Twenty DOLLARS  
 PALMETTO STATE BANK  
 Ball Head

1246 \$240.58 11/15/99

1247 \$20.00 11/15/99

1248  
 ZOBRA'S, INC. P.O. BOX 187, SUITE 200, ELLETTSVILLE, IN 47401  
 150110482 11-15-99 0751 0800 27  
 DATE 11-19-99  
 PAY TO THE ORDER OF Gail Fishner \$ 330.00  
Three hundred and thirty + 00/100 DOLLARS  
 PALMETTO STATE BANK  
 Ball Head

1249  
 ZOBRA'S, INC. P.O. BOX 187, SUITE 200, ELLETTSVILLE, IN 47401  
 130238866 11-15-99 0750 0798 27  
 DATE 11-11-99  
 PAY TO THE ORDER OF MOVSOVITZ \$ 74.95  
Seventy four + 95/100 DOLLARS  
 PALMETTO STATE BANK  
 Ball Head

348

1248 \$330.00 11/15/99

1249 \$74.95 11/15/99

ZOBRA'S, INC. 1250  
 PALMETTO STATE BANK  
 DATE 11-17-99  
 PAY TO THE ORDER OF Southern Wire  
 One hundred nineteen and 8/100 \$ 119.88  
 PALMETTO STATE BANK

ZOBRA'S, INC. 1251  
 PALMETTO STATE BANK  
 DATE 11-12-99  
 PAY TO THE ORDER OF Zobra's Payroll  
 Two thousand and three hundred and 00/100 \$ 2,300.00  
 PALMETTO STATE BANK

1250 \$119.88 11/17/99

1251 \$2,300.00 11/12/99

ZOBRA'S, INC. 1252  
 PALMETTO STATE BANK  
 DATE 11-17-99  
 PAY TO THE ORDER OF Moscowitz  
 Forty three and 90/100 \$ 43.90  
 PALMETTO STATE BANK

ZOBRA'S, INC. 1253  
 PALMETTO STATE BANK  
 DATE 11-16-99  
 PAY TO THE ORDER OF SYSCO  
 Five hundred and ninety two and 89/100 \$ 592.89  
 PALMETTO STATE BANK

1252 \$43.90 11/17/99

1253 \$592.89 11/16/99

ZOBRA'S, INC. 1254  
 PALMETTO STATE BANK  
 DATE 11-19-99  
 PAY TO THE ORDER OF NATIONAL  
 One hundred and 21/100 \$ 100.21  
 PALMETTO STATE BANK

ZOBRA'S, INC. 1255  
 PALMETTO STATE BANK  
 DATE 11-24-99  
 PAY TO THE ORDER OF Sincere  
 Twenty four and 56/100 \$ 24.56  
 PALMETTO STATE BANK

1254 \$100.21 11/19/99

1255 \$24.56 11/24/99

ZOBRA'S, INC. 1256  
 PALMETTO STATE BANK  
 DATE 11-17-99  
 PAY TO THE ORDER OF Moscowitz of Georgia  
 Twenty two and 55/100 \$ 22.55  
 PALMETTO STATE BANK

ZOBRA'S, INC. 1257  
 PALMETTO STATE BANK  
 DATE 11-17-99  
 PAY TO THE ORDER OF Sheriff's & Police Proc  
 Twenty five and 00/100 \$ 25.00  
 PALMETTO STATE BANK

1256 \$22.55 11/17/99

1257 \$25.00 11/17/99

ZOBRA'S, INC. 1258  
 P.O. BOX 187 BLUFFTON, SC 29915  
 130389168 11-18-99 0731 0734 27  
 DATE 11-18-99  
 PAY TO THE ORDER OF Mrs. Kovitz \$33.50  
 Thirty three and no/100  
 PALMETTO STATE BANK  
 BLUFFTON, S.C. 29915  
 Bill P. [Signature]

INV. N. 8433023 1259  
 ZOBRA'S, INC. 1259  
 P.O. BOX 187 BLUFFTON, SC 29915  
 130376880 11-18-99 8071 8033 27  
 DATE 11-15-99  
 PAY TO THE ORDER OF Roma \$242.35  
 Two hundred and forty two and 35/100  
 PALMETTO STATE BANK  
 BLUFFTON, S.C. 29915  
 Bill P. [Signature]

1258 \$33.50 11/18/99

1259 \$242.35 11/18/99

ZOBRA'S, INC. 1250  
 P.O. BOX 187 BLUFFTON, SC 29915  
 130401167 11-18-99 0845 8087 27  
 DATE 11-15-99  
 PAY TO THE ORDER OF Zola's Payroll \$2,000.00  
 Two thousand and no/100  
 PALMETTO STATE BANK  
 BLUFFTON, S.C. 29915  
 Bill P. [Signature]

INV. N. 1261  
 ZOBRA'S, INC. 1261  
 P.O. BOX 187 BLUFFTON, SC 29915  
 130355153 11-18-99 0784 8729 27  
 DATE 11-16-99  
 PAY TO THE ORDER OF S 45 P.O. \$253.42  
 Two hundred and fifty three and 42/100  
 PALMETTO STATE BANK  
 BLUFFTON, S.C. 29915  
 Bill P. [Signature]

1260 \$2,000.00 11/17/99

1261 \$253.42 11/18/99

INV. N. 03203366 1262  
 ZOBRA'S, INC. 1262  
 P.O. BOX 187 BLUFFTON, SC 29915  
 130401167 11-18-99 0845 8087 27  
 DATE 11-16-99  
 PAY TO THE ORDER OF Coca Cola \$49.88  
 Forty nine and 88/100  
 PALMETTO STATE BANK  
 BLUFFTON, S.C. 29915  
 Bill P. [Signature]

INV. N. 257 984 1264  
 ZOBRA'S, INC. 1264  
 P.O. BOX 187 BLUFFTON, SC 29915  
 140411288 11-22-99 0723 0797 27  
 DATE 11-17-99  
 PAY TO THE ORDER OF Mrs. Kovitz \$42.30  
 Forty two and 30/100  
 PALMETTO STATE BANK  
 BLUFFTON, S.C. 29915  
 Bill P. [Signature]

1262 \$49.88 11/18/99

1264 \$42.30 11/22/99

ZOBRA'S, INC. 1265  
 P.O. BOX 187 BLUFFTON, SC 29915  
 130401167 11-18-99 0845 8087 27  
 DATE 11-17-99  
 PAY TO THE ORDER OF Bill Passerloskas \$500.00  
 Five hundred and no/100  
 PALMETTO STATE BANK  
 BLUFFTON, S.C. 29915  
 Bill P. [Signature]

INV. N. 3463 84 1266  
 ZOBRA'S, INC. 1266  
 P.O. BOX 187 BLUFFTON, SC 29915  
 130376880 11-18-99 8071 8033 27  
 DATE 11-17-99  
 PAY TO THE ORDER OF PVA \$153.67  
 One hundred and fifty three and 67/100  
 PALMETTO STATE BANK  
 BLUFFTON, S.C. 29915  
 Bill P. [Signature]

350

1265 \$500.00 11/18/99

1266 \$153.67 11/24/99

ZOBRA'S, INC. 1267  
 P.O. BOX 187, S.W. CORNER  
 BLUFFTON, SC 29910 150297087 11-24-99 0777 0411 27  
 DATE 11-18-99  
 PAY TO THE ORDER OF MONSOVITZ \$ 76.50  
 Seven and 50/100 DOLLARS  
 PALMETTO STATE BANK  
 BLUFFTON, S.C. 29910  
 Bill Reed

1267 \$76.50 11/24/99

ZOBRA'S, INC. 1268  
 P.O. BOX 187, S.W. CORNER  
 BLUFFTON, SC 29910 150297087 11-24-99 0777 0411 27  
 DATE 11-18-99  
 PAY TO THE ORDER OF Zebra's Pasivell \$ 900.00  
 Nine hundred and 00/100 DOLLARS  
 PALMETTO STATE BANK  
 BLUFFTON, S.C. 29910  
 Bill Reed

1268 \$900.00 11/22/99

ZOBRA'S, INC. 1269  
 P.O. BOX 187, S.W. CORNER  
 BLUFFTON, SC 29910 INV. N. 91190370  
 DATE 11-19-99  
 PAY TO THE ORDER OF SYSCO \$ 331.12  
 Three hundred and thirty one and 12/100 DOLLARS  
 PALMETTO STATE BANK  
 BLUFFTON, S.C. 29910  
 Bill Reed

1269 \$331.12 11/24/99

ZOBRA'S, INC. 1270  
 P.O. BOX 187, S.W. CORNER  
 BLUFFTON, SC 29910 INV. N. 400692  
 DATE 11-19-99  
 PAY TO THE ORDER OF NATL BANK \$ 54.03  
 Fifty four and 03/100 DOLLARS  
 PALMETTO STATE BANK  
 BLUFFTON, S.C. 29910  
 Bill Reed

1270 \$54.03 11/26/99

ZOBRA'S, INC. 1271  
 P.O. BOX 187, S.W. CORNER  
 BLUFFTON, SC 29910 INV. N. 258557271  
 DATE 11-20-99  
 PAY TO THE ORDER OF MONSOVITZ \$ 30.20  
 Thirty and 20/100 DOLLARS  
 PALMETTO STATE BANK  
 BLUFFTON, S.C. 29910  
 Bill Reed

1271 \$30.20 11/24/99

ZOBRA'S, INC. 1272  
 P.O. BOX 187, S.W. CORNER  
 BLUFFTON, SC 29910 INV. N. 8434687  
 DATE 11-22-99  
 PAY TO THE ORDER OF Bili & PASSEAUROS \$ 500.00  
 Five hundred and 00/100 DOLLARS  
 PALMETTO STATE BANK  
 BLUFFTON, S.C. 29910  
 Bill Reed

1272 \$500.00 11/23/99

ZOBRA'S, INC. 1273  
 P.O. BOX 187, S.W. CORNER  
 BLUFFTON, SC 29910 INV. N. 8434687  
 DATE 11-23-99  
 PAY TO THE ORDER OF Bili PASSEAUROS \$ 500.00  
 Five hundred and 00/100 DOLLARS  
 PALMETTO STATE BANK  
 BLUFFTON, S.C. 29910  
 Bill Reed

1273 \$500.00 11/24/99

ZOBRA'S, INC. 1274  
 P.O. BOX 187, S.W. CORNER  
 BLUFFTON, SC 29910 INV. N. 8434687  
 DATE 11-26-99  
 PAY TO THE ORDER OF ROMA \$ 250.54  
 Two hundred and fifty and 54/100 DOLLARS  
 PALMETTO STATE BANK  
 BLUFFTON, S.C. 29910  
 Bill Reed

1274 \$250.54 11/26/99

ZOBRA'S, INC. 1275  
 P.O. BOX 1071 SUITE 2000  
 BLUFFTON, SC 29910 (50249881 11-24-99 0777 0411 27 11-23-99  
 DATE 11-23-99  
 PAY TO THE ORDER OF MOVSOVITZ \$33.50  
Thirty three and 50/100 DOLLARS  
 FOR Palmetto Bill Head  
 PALMETTO STATE BANK  
 BLUFFTON, S.C. 29910

ZOBRA'S, INC. 1276  
 P.O. BOX 1071 SUITE 2000  
 BLUFFTON, SC 29910 (50249881 11-24-99 0777 0411 27 11-23-99  
 DATE 11-23-99  
 PAY TO THE ORDER OF Richard Pryor \$300.00  
Three hundred and no/100 DOLLARS  
 FOR Palmetto Bill Head  
 PALMETTO STATE BANK  
 BLUFFTON, S.C. 29910

1275 \$33.50 11/24/99

1276 \$300.00 11/23/99

ZOBRA'S, INC. INV. N. 258890277  
 P.O. BOX 1071 SUITE 2000 130407304 11-29-99 0762 0703 27 11-23-99  
 BLUFFTON, SC 29910 DATE 11-23-99  
 PAY TO THE ORDER OF MOVSOVITZ \$15.75  
Fifteen and 75/100 DOLLARS  
 FOR Palmetto Bill Head  
 PALMETTO STATE BANK  
 BLUFFTON, S.C. 29910

ZOBRA'S, INC. 1278  
 P.O. BOX 1071 SUITE 2000 130407305 11-29-99 0762 0703 27 11-23-99  
 BLUFFTON, SC 29910 DATE 11-23-99  
 PAY TO THE ORDER OF Movsovitzy of Georgia \$20.80  
Twenty and 80/100 DOLLARS  
 FOR Palmetto Lucie Pausanaka  
 PALMETTO STATE BANK  
 BLUFFTON, S.C. 29910

1277 \$15.75 11/29/99

1278 \$20.80 11/29/99

DEPOSIT TICKET

PALMETTO STATE BANK  
MEMPHIS, TENN.

DATE 11-01-99

CURRENCY	COIN	TOTAL
7.00		7.00

RECEIVED

NOV 01 1999

ZORRA'S, INC.  
P.O. BOX 187 84-708-222  
MEMPHIS, TN 38110

TOTAL ITEMS

PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED.

71.00

DDA Credits \$71.00 11/01/99

DEPOSIT TICKET

PALMETTO STATE BANK  
MEMPHIS, TENN.

DATE 11-01-99

CURRENCY	COIN	TOTAL
191.13		191.13

RECEIVED

NOV 01 1999

ZORRA'S, INC.  
P.O. BOX 187 84-708-222  
MEMPHIS, TN 38110

TOTAL ITEMS

PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED.

191.13

DDA Credits \$191.13 11/01/99

DEPOSIT TICKET

PALMETTO STATE BANK  
MEMPHIS, TENN.

DATE 11-02-99

CURRENCY	COIN	TOTAL
135.00		135.00

RECEIVED

NOV 02 1999

ZORRA'S, INC.  
P.O. BOX 187 84-708-222  
MEMPHIS, TN 38110

TOTAL ITEMS

PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED.

135.00

DDA Credits \$135.00 11/02/99

DEPOSIT TICKET

PALMETTO STATE BANK  
MEMPHIS, TENN.

DATE 11-02-99

CURRENCY	COIN	TOTAL
322.49		322.49

RECEIVED

NOV 02 1999

ZORRA'S, INC.  
P.O. BOX 187 84-708-222  
MEMPHIS, TN 38110

TOTAL ITEMS

PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED.

322.49

DDA Credits \$322.49 11/03/99

DEPOSIT TICKET

PALMETTO STATE BANK  
MEMPHIS, TENN.

DATE 11-03-99

CURRENCY	COIN	TOTAL
432.03		432.03

RECEIVED

NOV 03 1999

ZORRA'S, INC.  
P.O. BOX 187 84-708-222  
MEMPHIS, TN 38110

TOTAL ITEMS

PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED.

432.03

DDA Credits \$432.03 11/04/99

DEPOSIT TICKET

PALMETTO STATE BANK  
MEMPHIS, TENN.

DATE 11-05-99

CURRENCY	COIN	TOTAL
182.00		182.00

RECEIVED

NOV 05 1999

ZORRA'S, INC.  
P.O. BOX 187 84-708-222  
MEMPHIS, TN 38110

TOTAL ITEMS

PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED.

182.00

DDA Credits \$182.00 11/05/99

DEPOSIT TICKET

PALMETTO STATE BANK  
MEMPHIS, TENN.

DATE 11-08-99

CURRENCY	COIN	TOTAL
194.00		194.00

RECEIVED

NOV 08 1999

ZORRA'S, INC.  
P.O. BOX 187 84-708-222  
MEMPHIS, TN 38110

TOTAL ITEMS

PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED.

194.00

DDA Credits \$194.00 11/08/99

DEPOSIT TICKET

PALMETTO STATE BANK  
MEMPHIS, TENN.

DATE 11-08-99

CURRENCY	COIN	TOTAL
358.00		358.00

RECEIVED

NOV 08 1999

ZORRA'S, INC.  
P.O. BOX 187 84-708-222  
MEMPHIS, TN 38110

TOTAL ITEMS

PLEASE BE SURE ALL ITEMS ARE PROPERLY ENDORSED.

358.00

DDA Credits \$358.00 11/08/99

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29106

DATE: 11-5-99

CURRENT	COIN	CASH	TOTAL
520.00			520.00

TOTAL ITEMS: 1

PLEASE PRINT NAME ALL ITEMS AND PROPERTY NUMBER

RECEIVED

ZOBRA'S, INC.  
P.O. BOX 1887 843-708-0223  
BLUFFTON, SC 29910

520.00

DDA Credits \$520.00 11/08/99

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29106

DATE: 11-8-99

CURRENT	COIN	CASH	TOTAL
162.00			162.00

TOTAL ITEMS: 1

PLEASE PRINT NAME ALL ITEMS AND PROPERTY NUMBER

RECEIVED

ZOBRA'S, INC.  
P.O. BOX 1887 843-708-0223  
BLUFFTON, SC 29910

162.00

DDA Credits \$162.00 11/09/99

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29106

DATE: 11-10-99

CURRENT	COIN	CASH	TOTAL
361.00			361.00

TOTAL ITEMS: 1

PLEASE PRINT NAME ALL ITEMS AND PROPERTY NUMBER

RECEIVED

ZOBRA'S, INC.  
P.O. BOX 1887 843-708-0223  
BLUFFTON, SC 29910

361.00

DDA Credits \$361.00 11/10/99

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29106

DATE: 11-10-99

CURRENT	COIN	CASH	TOTAL
160.00			160.00

TOTAL ITEMS: 1

PLEASE PRINT NAME ALL ITEMS AND PROPERTY NUMBER

RECEIVED

ZOBRA'S, INC.  
P.O. BOX 1887 843-708-0223  
BLUFFTON, SC 29910

160.00

DDA Credits \$160.00 11/12/99

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29106

DATE: 11-11-99

CURRENT	COIN	CASH	TOTAL
246.00	50.41	35.72	317.57

TOTAL ITEMS: 1

PLEASE PRINT NAME ALL ITEMS AND PROPERTY NUMBER

RECEIVED

ZOBRA'S, INC.  
P.O. BOX 1887 843-708-0223  
BLUFFTON, SC 29910

317.57

DDA Credits \$317.57 11/12/99

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29106

DATE: 11-14-99

CURRENT	COIN	CASH	TOTAL
194.00		22.00	216.00

TOTAL ITEMS: 1

PLEASE PRINT NAME ALL ITEMS AND PROPERTY NUMBER

RECEIVED

ZOBRA'S, INC.  
P.O. BOX 1887 843-708-0223  
BLUFFTON, SC 29910

216.00

DDA Credits \$216.00 11/15/99

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29106

DATE: 11-12-99

CURRENT	COIN	CASH	TOTAL
272.00	31.71	27.00	274.71

TOTAL ITEMS: 1

PLEASE PRINT NAME ALL ITEMS AND PROPERTY NUMBER

RECEIVED

ZOBRA'S, INC.  
P.O. BOX 1887 843-708-0223  
BLUFFTON, SC 29910

274.71

DDA Credits \$274.71 11/15/99

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29106

DATE: 11-12-99

CURRENT	COIN	CASH	TOTAL
333.00			333.00

TOTAL ITEMS: 1

PLEASE PRINT NAME ALL ITEMS AND PROPERTY NUMBER

RECEIVED

ZOBRA'S, INC.  
P.O. BOX 1887 843-708-0223  
BLUFFTON, SC 29910

333.00

DDA Credits \$333.00 11/15/99

354

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29583

DATE: 11-16-99

CURRENCY	CON	AMOUNT	DATE
		109.41	
		200.00	
TOTAL			292.41

ZOBRA'S, INC.  
P.O. BOX 1807 84708-0008  
BLUFFTON, SC 29910

292.41

DDA Credits \$292.41 11/16/99

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29583

DATE: 11-16-99

CURRENCY	CON	AMOUNT	DATE
		126.00	
		44.00	
		26.81	
TOTAL			166.81

ZOBRA'S, INC.  
P.O. BOX 1807 84708-0008  
BLUFFTON, SC 29910

166.81

DDA Credits \$166.81 11/17/99

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29583

DATE: 11-16-99

CURRENCY	CON	AMOUNT	DATE
		113.00	
		30.66	
TOTAL			143.66

ZOBRA'S, INC.  
P.O. BOX 1807 84708-0008  
BLUFFTON, SC 29910

143.66

DDA Credits \$148.66 11/18/99

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29583

DATE: 11-19-99

CURRENCY	CON	AMOUNT	DATE
		166.00	
TOTAL			166.00

ZOBRA'S, INC.  
P.O. BOX 1807 84708-0008  
BLUFFTON, SC 29910

166.00

DDA Credits \$166.00 11/19/99

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29583

DATE: 11-21-99

CURRENCY	CON	AMOUNT	DATE
		206.00	
TOTAL			206.00

ZOBRA'S, INC.  
P.O. BOX 1807 84708-0008  
BLUFFTON, SC 29910

206.00

DDA Credits \$206.00 11/22/99

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29583

DATE: 11-20-99

CURRENCY	CON	AMOUNT	DATE
		270.00	
		35.00	
TOTAL			305.00

ZOBRA'S, INC.  
P.O. BOX 1807 84708-0008  
BLUFFTON, SC 29910

305.00

DDA Credits \$305.00 11/22/99

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29583

DATE: 11-24-99

CURRENCY	CON	AMOUNT	DATE
		63.00	
		10.00	
		273.46	
TOTAL			346.46

ZOBRA'S, INC.  
P.O. BOX 1807 84708-0008  
BLUFFTON, SC 29910

346.46

DDA Credits \$346.46 11/22/99

DEPOSIT TICKET

PALMETTO STATE BANK  
Spartanburg, S.C. 29583

DATE: 11-22-99

CURRENCY	CON	AMOUNT	DATE
		116.00	
		103.90	
TOTAL			219.90

ZOBRA'S, INC.  
P.O. BOX 1807 84708-0008  
BLUFFTON, SC 29910

219.90

DDA Credits \$219.90 11/23/99

DEPOSIT TICKET

PALMETTO STATE BANK  
SOUTHVILLE, SC 29150

DATE: 11-23-99

CURRENCY	AMOUNT	DATE	REMARKS
CASH	52.00		
CD			
SAVINGS			
OTHER			
TOTAL	52.00		

RECEIVED  
NOV 26 1999

ZOBRA'S, INC.  
P.O. BOX 1847 843-700-2223  
BLUFFTON, SC 29910

52.00

THURS

DEPOSIT TICKET

PALMETTO STATE BANK  
SOUTHVILLE, SC 29150

DATE: 11-23-99

CURRENCY	AMOUNT	DATE	REMARKS
CASH	150.34		
CD			
SAVINGS			
OTHER			
TOTAL	150.34		

RECEIVED  
NOV 26 1999

ZOBRA'S, INC.  
P.O. BOX 1847 843-700-2223  
BLUFFTON, SC 29910

150.34

THURS

DDA Credits \$52.00 11/26/99

DDA Credits \$150.34 11/26/99

DEPOSIT TICKET

PALMETTO STATE BANK  
SOUTHVILLE, SC 29150

DATE: 11-28-99

CURRENCY	AMOUNT	DATE	REMARKS
CASH	92.00		
CD			
SAVINGS			
OTHER			
TOTAL	92.00		

RECEIVED  
NOV 29 1999

ZOBRA'S, INC.  
P.O. BOX 1847 843-700-2223  
BLUFFTON, SC 29910

92.00

SUN

DEPOSIT TICKET

PALMETTO STATE BANK  
SOUTHVILLE, SC 29150

DATE: 11-26-99

CURRENCY	AMOUNT	DATE	REMARKS
CASH	122.00		
CD			
SAVINGS			
OTHER			
TOTAL	122.00		

RECEIVED  
NOV 29 1999

ZOBRA'S, INC.  
P.O. BOX 1847 843-700-2223  
BLUFFTON, SC 29910

122.00

FRIDAY

DDA Credits \$92.00 11/29/99

DDA Credits \$122.00 11/29/99

DEPOSIT TICKET

PALMETTO STATE BANK  
SOUTHVILLE, SC 29150

DATE: 11-27-99

CURRENCY	AMOUNT	DATE	REMARKS
CASH	307.00		
CD	88.66		
SAVINGS	25.00		
OTHER	44.00		
TOTAL	464.66		

RECEIVED  
NOV 29 1999

ZOBRA'S, INC.  
P.O. BOX 1847 843-700-2223  
BLUFFTON, SC 29910

464.66

SAT

DEPOSIT TICKET

PALMETTO STATE BANK  
SOUTHVILLE, SC 29150

DATE: 11-29-99

CURRENCY	AMOUNT	DATE	REMARKS
CASH	226.00		
CD			
SAVINGS			
OTHER			
TOTAL	226.00		

RECEIVED  
NOV 29 1999

ZOBRA'S, INC.  
P.O. BOX 1847 843-700-2223  
BLUFFTON, SC 29910

226.00

MON

DDA Credits \$464.66 11/29/99

DDA Credits \$226.00 11/30/99

# Palmetto STATE BANK

MON • BEAUFORT • BLUFFTON • MEMBER FDIC

P.O. Box 219      P.O. Drawer 327      Box 158  
 Beaufort, SC 29902    Bluffton, SC 29910    Hampton, SC 29924  
 (803) 524-3300      (803) 757-3747      (803) 943-2671

000 70 05      PAGE: 2  
 DATE: 12/31/99      ACCOUNT: 70013010

ZORBA'S INC

BUSINESS CHECKING ACCOUNT 70013010

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
LYNK SYSTEMS, INC MTHLY CHGS LK109998 120399	299.76		12/06/99	3,018.17
CHECK # 1289	58.03		12/06/99	2,960.14
CHECK # 1297	500.00		12/06/99	2,460.14
NOVUS SERVICES SETTLEMENT [REDACTED]		14.80	12/07/99	2,474.94
AMERICAN EXPRESS SETTLEMENT [REDACTED]		106.74	12/07/99	2,581.68
NOVUS SERVICES SETTLEMENT [REDACTED]		111.23	12/07/99	2,692.91
DEPOSIT		284.00	12/07/99	2,976.91
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000093		340.53	12/07/99	3,317.44
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000094		611.38	12/07/99	3,928.82
CHECK # 1279	35.28		12/07/99	3,893.54
CHECK # 1290	90.00		12/07/99	3,803.54
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000095		53.06	12/08/99	3,856.60
AMERICAN EXPRESS SETTLEMENT [REDACTED]		66.65	12/08/99	3,923.25
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000096		161.06	12/08/99	4,084.31
CHECK # 1293	33.25		12/08/99	4,051.06
CHECK # 1296	27.20		12/08/99	4,009.86
CHECK # 1294	201.49		12/08/99	3,808.37
AMERICAN EXPRESS SETTLEMENT [REDACTED]		95.79	12/09/99	3,904.16
DEPOSIT		110.00	12/09/99	4,014.16
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000097		196.27	12/09/99	4,210.43
DEPOSIT		280.00	12/09/99	4,490.43
CHECK # 1299	66.25		12/09/99	4,424.18
CHECK # 1300	202.81		12/09/99	4,221.37
CHECK # 1298	360.20		12/09/99	3,861.17
AMERICAN EXPRESS SETTLEMENT [REDACTED]		19	12/10/99	3,877.36
DEPOSIT		142.00	12/10/99	4,020.36
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000098		282.67	12/10/99	4,303.03
CHECK # 1301	28.30		12/10/99	4,274.73
CHECK # 1263	1,121.00		12/10/99	3,153.73
AMERICAN EXPRESS SETTLEMENT [REDACTED]		72.11	12/13/99	3,225.84
NOVUS SERVICES SETTLEMENT [REDACTED]		126.53	12/13/99	3,352.37
AMERICAN EXPRESS SETTLEMENT 4 [REDACTED]		142.69	12/13/99	3,501.06
DEPOSIT		170.00	12/13/99	3,671.06
DEPOSIT		199.00	12/13/99	3,870.06
DEPOSIT		323.00	12/13/99	4,193.06
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000099		324.77	12/13/99	4,517.83
CHECK # 1304	59.75		12/13/99	4,458.08
CHECK # 1295	1,348.82		12/13/99	4,338.20
CHECK # 1303	500.00		12/13/99	3,838.20
NOVUS SERVICES SETTLEMENT [REDACTED]		42.40	12/14/99	3,880.60
AMERICAN EXPRESS SETTLEMENT [REDACTED]		149.45	12/14/99	4,072.05
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000101		372.94	12/14/99	4,444.99
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000100		378.23	12/14/99	4,823.22
CHECK # 1302	932.86		12/14/99	3,890.36

\* \* \* CONTINUED \* \* \*

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Operating

# Palmetto STATE BANK

HAMPTON • BEAUFORT • BLUFFTON • MEMBER FDIC

000 70 05  
DATE: 12/31/99

PAGE: 1  
ACCOUNT: [REDACTED]

P.O. Box 219  
Bluffton, SC 29902  
(803) 524-3300

P.O. Drawer 327  
Bluffton, SC 29910  
(803) 757-3747

Box 158  
Hampton, SC 29924  
(803) 943-2671

ZORBA'S INC  
BILL PASSALOUKAS  
PO BOX 1667  
BLUFFTON SC 29910

30-2  
29  
60

HAPPY HOLIDAYS!! FROM PALMETTO STATE BANK

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
BALANCE LAST STATEMENT			11/30/99	3,732.92
NOVUS SERVICES SETTLEMENT		23.98	12/01/99	3,756.90
AMERICAN EXPRESS SETTLEMENT		55.82	12/01/99	3,812.72
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000088		59.59	12/01/99	3,872.31
DEPOSIT		1.00	12/01/99	4,003.31
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000089		165.16	12/01/99	4,168.47
CHECK # 1282	14.75		12/01/99	4,153.72
CHECK # 1280	49.10		12/01/99	4,104.62
CHECK # 1281	71.05		12/01/99	4,033.57
CHECK # 1286	141.96		12/01/99	3,891.61
CHECK # 1283	1,000.00 (1)		12/01/99	2,891.61
NOVUS SERVICES SETTLEMENT		70.00	12/02/99	2,920.31
AMERICAN EXPRESS SETTLEMENT		120.90	12/02/99	3,041.21
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000090		166.77	12/02/99	3,207.98
DEPOSIT		314.96	12/02/99	3,522.94
CHECK # 1285	31.95		12/02/99	3,490.99
CHECK # 1284	595.58		12/02/99	2,895.41
CHECK # 1291	1,000.00 (1)		12/02/99	1,895.41
AMERICAN EXPRESS SETTLEMENT		0.48	12/03/99	1,945.89
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000091		165.27	12/03/99	2,111.16
DEPOSIT		219.45	12/03/99	2,330.61
CHECK # 1287	28.55		12/03/99	2,302.06
CHECK # 1292	58.11		12/03/99	2,243.95
CHECK # 1288	74.81		12/03/99	2,169.14
NOVUS SERVICES SETTLEMENT		84.98	12/06/99	2,254.12
AMERICAN EXPRESS SETTLEMENT		97.74	12/06/99	2,351.86
DEPOSIT		121.07	12/06/99	2,471.00
AMERICAN EXPRESS SETTLEMENT		177.00	12/06/99	2,592.57
DEPOSIT		198.00	12/06/99	2,769.57
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000092		350.36	12/06/99	2,967.57
DEPOSIT				3,317.93

\* \* \* CONTINUED \* \* \*

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# Palmetto STATE BANK

HAMPTON • BEAUFORT • BLUFFTON • MEMBER FDIC

P.O. Box 219      P.O. Drawer 327      Box 158  
 Bluffton, SC 29902      Bluffton, SC 29910      Hampton, SC 29924  
 (803) 524-3300      (803) 757-3747      (803) 943-2671

000 70 05

DATE: 12/31/99

PAGE:

ACCOUNT:

3

ZORBA'S INC

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
NOVUS SERVICES SETTLEMENT		9.33	12/15/99	3,899.69
AMERICAN EXPRESS SETTLEMENT		53.74	12/15/99	3,953.43
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000102		68.77	12/15/99	4,022.20
DEPOSIT		103.40	12/15/99	4,125.60
DEPOSIT		107.26	12/15/99	4,232.86
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000103		372.03	12/15/99	4,604.89
GOLDEN EAGLE CC DEBITS 351470 EET	44.29		12/15/99	4,560.60
CHECK # 1306	34.90		12/15/99	4,525.70
CHECK # 1309	37.20		12/15/99	4,488.50
CHECK # 1305	2,300.00		12/15/99	2,188.50
AMERICAN EXPRESS SETTLEMENT		55.58	12/16/99	2,244.08
DEPOSIT		188.86	12/16/99	2,432.94
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000104		364.77	12/16/99	2,797.11
CHECK # 1311	304.26		12/16/99	2,492.85
CHECK # 1243	2,561.00		12/16/99	68.15-
CHECK # 1310	14.45		12/16/99	82.60-
CHECK # 1314	24.94		12/16/99	107.54-
AMERICAN EXPRESS SETTLEMENT		20.69	12/17/99	86.85-
NOVUS SERVICES SETTLEMENT		7.77	12/17/99	6.32
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000105		327.74	12/17/99	327.74
DEPOSIT		378.00	12/17/99	705.74
NSF FEE CHARGE	20.00		12/17/99	685.74
CHECK # 1315	500.00		12/17/99	185.74
CHECK # 1313	57.75		12/17/99	127.99
CHECK # 1308	129.09		12/17/99	1.10-
AMERICAN EXPRESS SETTLEMENT		75.13	12/20/99	74.03
DEPOSIT		124.96	12/20/99	198.99
DEPOSIT		151.00	12/20/99	349.99
AMERICAN EXPRESS SETTLEMENT		175.47	12/20/99	525.46
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000106		243.13	12/20/99	768.59
DEPOSIT		432.60	12/20/99	1,201.19
CHECK # 1316	83.55		12/20/99	1,117.64
CHECK # 1318	1,000.00		12/20/99	117.64
NOVUS SERVICES SETTLEMENT		34.34	12/21/99	151.98
NOVUS SERVICES SETTLEMENT		68.51	12/21/99	220.49
NOVUS SERVICES SETTLEMENT		72.42	12/21/99	292.91
DEPOSIT		130.00	12/21/99	422.91
AMERICAN EXPRESS SETTLEMENT		166.66	12/21/99	589.57
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000107		264.66	12/21/99	854.23
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000108		354.64	12/21/99	1,208.87
CHECK # 1321	1,000.00		12/21/99	208.87
NOVUS SERVICES SETTLEMENT		8.68	12/22/99	217.55
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000109		125.93	12/22/99	343.48
AMERICAN EXPRESS SETTLEMENT		187.69	12/22/99	531.17

\* \* \* CONTINUED \* \* \*

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# Palmetto STATE BANK

HAMPTON • BEAUFORT • BLUFFTON • MEMBER FDIC

P.O. Box 219 P.O. Drawer 327 Box 150  
 Beaufort, SC 29902 Bluffton, SC 29910 Hampton, SC 29924  
 (853) 524-3300 (853) 757-3747 (803) 9-3-2671

000 70 05

DATE: 12/31/99

PAGE:

ACCOUNT: [REDACTED]

4

ZORBA'S INC

## BUSINESS CHECKING ACCOUNT [REDACTED]

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
DEPOSIT		243.60	12/22/99	774.77
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000110		455.60	12/22/99	1,230.37
CHECK # 1319	29.10		12/22/99	1,201.27
CHECK # 1307	72.00		12/22/99	1,129.27
CHECK # 1320	250.00		12/22/99	879.27
CHECK # 1312	285.98		12/22/99	593.29
NOVUS SERVICES SETTLEMENT [REDACTED]		41.88	12/23/99	635.17
AMERICAN EXPRESS SETTLEMENT [REDACTED]		46.95	12/23/99	682.12
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000111		509.24	12/23/99	1,191.36
DEPOSIT		533.75	12/23/99	1,725.11
CHECK # 1322	54.05		12/23/99	1,671.06
CHECK # 1323	255.71		12/23/99	1,415.35
CHECK # 1317	1,183.00		12/23/99	232.35
NOVUS SERVICES SETTLEMENT [REDACTED]		50.00	12/24/99	282.35
AMERICAN EXPRESS SETTLEMENT [REDACTED]		140.68	12/24/99	423.03
DEPOSIT		146.00	12/24/99	569.03
DEPOSIT		171.00	12/24/99	740.03
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000112		276.11	12/24/99	1,016.14
CHECK # 1324	9.88		12/24/99	966.26
AMERICAN EXPRESS SETTLEMENT [REDACTED]		22.34	12/27/99	988.90
AMERICAN EXPRESS SETTLEMENT [REDACTED]		75.71	12/27/99	1,064.61
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000113		273.42	12/27/99	1,338.03
CHECK # 1326	35.35		12/27/99	1,302.68
DEPOSIT		172.00	12/28/99	1,474.68
DEPOSIT		279.00	12/29/99	1,753.68
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000114		403.16	12/29/99	2,156.84
DEPOSIT		93.50	12/30/99	2,250.34
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000115		547.56	12/30/99	2,797.90
CHECK # 1334	19.25		12/30/99	2,778.65
CHECK # 1332	36.25		12/30/99	2,742.40
CHECK # 1333	37.50		12/30/99	2,704.90
CHECK # 1325	1,204.54		12/30/99	1,500.36
DEPOSIT		79.00	12/31/99	1,579.36
LYNK SYSTEMS, INC BNKCRD DEP LK109998 000116		190.44	12/31/99	1,769.80
AMERICAN EXPRESS SETTLEMENT [REDACTED]		253.44	12/31/99	2,023.27
CHECK # 1336	16.16		12/31/99	2,007.11
CHECK # 1328	60.00		12/31/99	1,947.11
CHECK # 1338	68.60		12/31/99	1,878.51
CHECK # 1329	119.88		12/31/99	1,758.63
CHECK # 1331	233.61		12/31/99	1,525.02
CHECK # 1327	235.48		12/31/99	1,289.54
CHECK # 1330	1,000.00		12/31/99	289.54
SERVICE CHARGE	13.97		12/31/99	278.57
BALANCE THIS STATEMENT			12/31/99	278.57

\* \* \* CONTINUED \* \* \*

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-908-



**Palmetto STATE BANK**  
 HAMPTON • BEAUFORT • BLUFFTON • MEMBER FDIC

P.O. Box 219      P.O. Drawer 327      Box 158  
 Beaufort, SC 29902    Bluffton, SC 29910    Hampton, SC 29924  
 (803) 324-2300      (803) 767-3747      (803) 943-2671

000 70 05      PAGE: 5  
 DATE: 12/31/99      ACCOUNT: [REDACTED]

ZORBA'S INC

**BUSINESS CHECKING ACCOUNT** [REDACTED]

TOTAL CREDITS (97) 17,630.31  
 TOTAL DEBITS (64) 21,084.66  
 TAX ID NUMBER 58-2470957

**YOUR CHECKS SEQUENCED**

DATE...CHECK #.....AMOUNT	DATE...CHECK #.....AMOUNT	DATE...CHECK #.....AMOUNT
12/16 -1243* 2,561.00	12/06 -1297 500.00	12/23 -1317 1,183.00
12/10 -1263* 1,121.00	12/09 -1298 360.20	12/20 -1318 1,000.00
12/07 -1279 35.28	12/09 -1299 66.25	12/22 -1319 29.10
12/01 -1280 49.10	12/09 -1300 202.81	12/22 -1320 250.00
12/01 -1281 71.05	12/10 -1301 28.30	12/21 -1321 1,000.00
12/01 -1282 14.75	12/10 -1302 93.86	12/23 -1322 05
12/01 -1283 1,000.00	12/13 -1303 500.00	12/23 -1323 255.71
12/02 -1284 595.58	12/13 -1304 59.75	12/24 -1324 49.88
12/02 -1285 31.95	12/15 -1305 2,300.00	12/30 <sup>To PR</sup> -1325 1,204.54
12/01 -1286 141.96	12/15 -1306 34.90	12/27 -1326 35.35
12/03 -1287 28.55	12/22 -1307 72.00	12/31 -1327 235.48
12/03 -1288 74.31	12/17 -1308 129.09	12/31 -1328 60.00
12/06 -1289 58.03	12/15 -1309 37.20	12/31 -1329 119.88
12/07 -1290 90.00	12/16 -1310 14.45	12/31 -1330 1,000.00
12/02 -1291 1,000.00	12/16 -1311 304.26	12/31 -1331 233.61
12/03 -1292 58.11	12/22 -1312 285.98	12/30 -1332 36.25
12/08 -1293 33.25	12/17 -1313 57.75	12/30 -1333 37.50
12/08 -1294 201.49	12/16 -1314 24.94	12/30 -1334* 19.25
12/13 -1295 119.38	12/17 -1315 500.00	12/31 -1336* 16.16
12/08 -1296 41.10	12/20 -1316 83.55	12/31 -1338 68.60

(\*) INDICATES A GAP IN CHECK NUMBER SEQUENCE

361

-909-

ZOBRA'S, INC. 1243  
 P.O. BOX 1047 34170-0470  
 PALMETTO, SC 29551

DATE 11-16-99

PAY TO THE ORDER OF Cary B... \$2,581.00  
 Two thousand five hundred and sixty one DOLLARS

PALMETTO STATE BANK  
 PALMETTO, SC 29551

FOR Bill [redacted]

1243 \$2,561.00 12/16/99

ZOBRA'S, INC. 1263  
 P.O. BOX 1047 34170-0470  
 PALMETTO, SC 29551

DATE 11-15-99

PAY TO THE ORDER OF SC Department of REVENUE \$1,121.00  
 One thousand one hundred and twenty one DOLLARS

PALMETTO STATE BANK  
 PALMETTO, SC 29551

FOR Bill [redacted]

1263 \$1,121.00 12/10/99

ZOBRA'S, INC. 1278  
 P.O. BOX 1047 34170-0470  
 PALMETTO, SC 29551

INV. N. 5021609

DATE 11-24-99

PAY TO THE ORDER OF Brian Arnold \$35.28  
 Thirty five and 28/100 DOLLARS

PALMETTO STATE BANK  
 PALMETTO, SC 29551

FOR Bill [redacted]

ZOBRA'S, INC. 1280  
 P.O. BOX 1047 34170-0470  
 PALMETTO, SC 29551

INV. N. 259274

DATE 11-21-99

PAY TO THE ORDER OF Mail \$49.10  
 Forty nine and 10/100 DOLLARS

PALMETTO STATE BANK  
 PALMETTO, SC 29551

FOR Bill [redacted]

1280 \$49.10 12/01/99

ZOBRA'S, INC. 1281  
 P.O. BOX 1047 34170-0470  
 PALMETTO, SC 29551

DATE 11-25-99

PAY TO THE ORDER OF MovsovitZ OF GA \$71.05  
 Seventy one and 5/100 DOLLARS

PALMETTO STATE BANK  
 PALMETTO, SC 29551

FOR Bill [redacted]

1281 \$71.05 12/01/99

ZOBRA'S, INC. 1282  
 P.O. BOX 1047 34170-0470  
 PALMETTO, SC 29551

DATE 11-29-99

PAY TO THE ORDER OF Monaquita of Georgia \$14.75  
 Fourteen and 75/100 DOLLARS

PALMETTO STATE BANK  
 PALMETTO, SC 29551

FOR Bill [redacted]

1282 \$14.75 12/01/99

ZOBRA'S, INC. 1283  
 P.O. BOX 1047 34170-0470  
 PALMETTO, SC 29551

DATE 11-29-99

PAY TO THE ORDER OF Zobra's Payroll \$1,000.00  
 One thousand DOLLARS

PALMETTO STATE BANK  
 PALMETTO, SC 29551

FOR Bill [redacted]

ZOBRA'S, INC. 1278  
 P.O. BOX 1047 34170-0470  
 PALMETTO, SC 29551

HC.N. 8-2100-9611-578284

DATE 11-29-99

PAY TO THE ORDER OF SCE & G \$595.58  
 Five hundred and ninety five and 58/100 DOLLARS

PALMETTO STATE BANK  
 PALMETTO, SC 29551

FOR Bill [redacted]

1278 \$595.58 12/02/99

362

1283 \$1,000.00 12/01/99

ZOBRA'S, INC. INV. N. 259715 1286  
 P.A. 801 187 20-70-202 SUFFOLK, SC 29163  
 DATE 11-24-99  
 PAY TO THE ORDER OF M. O. V. V. T. 211010378 12-02-99 0730 0953 31.95  
 Thirty one and 95/100 DOLLARS  
 PALMETTO STATE BANK  
 FOR [Redacted]

ZOBRA'S, INC. INV. N. 03235863 1285  
 P.A. 801 187 20-70-202 SUFFOLK, SC 29163  
 DATE 11-23-99  
 PAY TO THE ORDER OF Hargrove 1541.96  
 One thousand and fourty one and 96/100 DOLLARS  
 PALMETTO STATE BANK  
 FOR [Redacted]

1285 \$31.95 12/02/99

1286 \$141.96 12/01/99

ZOBRA'S, INC. INV. N. 259861 1287  
 P.A. 801 187 20-70-202 SUFFOLK, SC 29163  
 DATE 11-30-99  
 PAY TO THE ORDER OF Maysovitz 1528.55  
 One thousand five hundred and 55/100 DOLLARS  
 PALMETTO STATE BANK  
 FOR [Redacted]

ZOBRA'S, INC. INV. N. 03235863 1288  
 P.A. 801 187 20-70-202 SUFFOLK, SC 29163  
 DATE 11-30-99  
 PAY TO THE ORDER OF Cash - Cola 1574.81  
 Seven hundred and 81/100 DOLLARS  
 PALMETTO STATE BANK  
 FOR [Redacted]

1287 \$28.55 12/03/99

1288 \$74.81 12/03/99

ZOBRA'S, INC. INV. N. 402828 1289  
 P.A. 801 187 20-70-202 SUFFOLK, SC 29163  
 DATE 11-30-99  
 PAY TO THE ORDER OF NATIONAL 1558.03  
 Fifty eight and 3/100 DOLLARS  
 PALMETTO STATE BANK  
 FOR [Redacted]

ZOBRA'S, INC. INV. N. 03235863 1290  
 P.A. 801 187 20-70-202 SUFFOLK, SC 29163  
 DATE 12-1-99  
 PAY TO THE ORDER OF BEN: ARNOLD SUNBELT 1590.00  
 Ninety dollars and 00/100 DOLLARS  
 PALMETTO STATE BANK  
 FOR [Redacted]

1289 \$58.03 12/06/99

1290 \$90.00 12/07/99

ZOBRA'S, INC. INV. N. 402828 1291  
 P.A. 801 187 20-70-202 SUFFOLK, SC 29163  
 DATE 12-2-99  
 PAY TO THE ORDER OF Zebra's Personal 151,000.00  
 One thousand one hundred DOLLARS  
 PALMETTO STATE BANK  
 FOR [Redacted]

ZOBRA'S, INC. INV. N. 03235863 1292  
 P.A. 801 187 20-70-202 SUFFOLK, SC 29163  
 DATE 12-1-99  
 PAY TO THE ORDER OF [Redacted] 1558.11  
 Fifty eight and 11/100 DOLLARS  
 PALMETTO STATE BANK  
 FOR [Redacted]

1291 \$1,000.00 12/02/99

1292 \$58.11 12/03/99

ZOBRA'S, INC. INV. N. 260015 1293  
 P.O. BOX 1187 243-704-2223 ELLETTSVILLE, IN 46120  
 130033889 12-08-99 0701 0220 27  
 DATE 12-1-99  
 PAY TO THE ORDER OF MAYSON I T 2 \$ 33.25  
Thirty three and 2/100  
 PALMETTO STATE BANK  
 FOR Bill Head

1293 \$33.25 12/08/99

ZOBRA'S, INC. 1294  
 P.O. BOX 1187 243-704-2223 ELLETTSVILLE, IN 46120  
 130178336 12-08-99 8091 0738 27  
 DATE Dec. 2, 1999  
 PAY TO THE ORDER OF PYA/March, Inc. \$ 201.49  
Two hundred and one and 4/100  
 PALMETTO STATE BANK  
 FOR food products #37080 Travis Pascalek

1294 \$201.49 12/08/99

ZOBRA'S, INC. INV. N. 2609588 1298  
 P.O. BOX 1187 243-704-2223 ELLETTSVILLE, IN 46120  
 130178336 12-08-99 8091 0738 27  
 DATE 12-3-99  
 PAY TO THE ORDER OF Sam Linsen \$ 119.88  
One hundred and nineteen and 88/100  
 PALMETTO STATE BANK  
 FOR Bill Head

1295 \$119.88 12/13/99

ZOBRA'S, INC. INV. N. 260334 1296  
 P.O. BOX 1187 243-704-2223 ELLETTSVILLE, IN 46120  
 130178336 12-08-99 8091 0738 27  
 DATE 12-3-99  
 PAY TO THE ORDER OF MAYSON I T 2 \$ 41.20  
Forty one and 20/100  
 PALMETTO STATE BANK  
 FOR Bill Head

1296 \$41.20 12/08/99

ZOBRA'S, INC. 1297  
 P.O. BOX 1187 243-704-2223 ELLETTSVILLE, IN 46120  
 130382251 12-09-99 0729 4789 27  
 DATE 12-2-99  
 PAY TO THE ORDER OF Zobra's Payroll \$ 500.00  
Five hundred and no/100  
 PALMETTO STATE BANK  
 FOR Bill Head

1297 \$500.00 12/06/99

ZOBRA'S, INC. 1298  
 P.O. BOX 1187 243-704-2223 ELLETTSVILLE, IN 46120  
 130382251 12-09-99 0729 4789 27  
 DATE 12-6-99  
 PAY TO THE ORDER OF Carochee Creek \$ 360.20  
Three hundred and sixty and 20/100  
 PALMETTO STATE BANK  
 FOR Bill Head

1298 \$360.20 12/09/99

ZOBRA'S, INC. INV. N. 260622 1299  
 P.O. BOX 1187 243-704-2223 ELLETTSVILLE, IN 46120  
 130450095 12-09-99 0422 5067 27  
 DATE 12-6-99  
 PAY TO THE ORDER OF MAYSON I T 2 \$ 66.25  
Sixty six and 25/100  
 PALMETTO STATE BANK  
 FOR Bill Head

1299 \$66.25 12/09/99

ZOBRA'S, INC. 1300  
 P.O. BOX 1187 243-704-2223 ELLETTSVILLE, IN 46120  
 130450095 12-09-99 0422 5067 27  
 DATE 12-6-99  
 PAY TO THE ORDER OF Home \$ 202.81  
Two hundred and two and 8/100  
 PALMETTO STATE BANK  
 FOR food products Travis Pascalek

1300 \$202.81 12/09/99

364

1301

ZOBRA'S, INC.  
P.O. BOX 1467 247-76-2223  
PALMETTO, SC 29118

140104233 12-10-99 0720 0725 27

DATE 12/10/99

PAY TO THE ORDER OF Moravia of Georgia \$ 28.30

Twenty-eight and 30/100 DOLLARS

PALMETTO STATE BANK

1301 \$28.30 12/10/99

1302

ZOBRA'S, INC.  
P.O. BOX 1467 247-76-2223  
PALMETTO, SC 29118

120157718 12-14-99 0721 0725 92

DATE 12/14/99

PAY TO THE ORDER OF CYSCO \$ 932.86

Nine hundred and thirty-two and 86/100 DOLLARS

PALMETTO STATE BANK

1302 \$932.86 12/14/99

1303

ZOBRA'S, INC.  
P.O. BOX 1467 247-76-2223  
PALMETTO, SC 29118

120362503 12-13-99 0723 0725 97

DATE 12/13/99

PAY TO THE ORDER OF Bill PASCHONKAS \$ 500.00

Five hundred and 00/100 DOLLARS

PALMETTO STATE BANK

1303 \$500.00 12/13/99

1304

ZOBRA'S, INC.  
P.O. BOX 1467 247-76-2223  
PALMETTO, SC 29118

INV. N. 261153

120362503 12-13-99 0723 0725 97

DATE 12/13/99

PAY TO THE ORDER OF MARSH VITZ \$ 59.75

Fifty nine and 75/100 DOLLARS

PALMETTO STATE BANK

1304 \$59.75 12/13/99

1305

ZOBRA'S, INC.  
P.O. BOX 1467 247-76-2223  
PALMETTO, SC 29118

120362503 12-15-99 0723 0725 97

DATE 12/15/99

PAY TO THE ORDER OF Zodie Russell \$ 2,300.00

Two thousand and three hundred DOLLARS

PALMETTO STATE BANK

1305 \$2,300.00 12/15/99

1306

ZOBRA'S, INC.  
P.O. BOX 1467 247-76-2223  
PALMETTO, SC 29118

120362503 12-15-99 0723 0725 97

DATE 12-15-99

PAY TO THE ORDER OF MOVSOVITZ OF GA. \$ 34.90

Thirty four and 90/100 DOLLARS

PALMETTO STATE BANK

1306 \$34.90 12/15/99

1307

ZOBRA'S, INC.  
P.O. BOX 1467 247-76-2223  
PALMETTO, SC 29118

INV. N. 5095629

120362503 12-22-99 0723 0725 97

DATE 12-22-99

PAY TO THE ORDER OF Bon Arnold \$ 72.00

Seventy two DOLLARS

PALMETTO STATE BANK

1307 \$72.00 12/22/99

1308

ZOBRA'S, INC.  
P.O. BOX 1467 247-76-2223  
PALMETTO, SC 29118

INV. N. 405995

120362503 12-17-99 0723 0725 97

DATE 12/17/99

PAY TO THE ORDER OF N. T. T. T. \$ 129.09

One hundred and twenty-nine and 9/100 DOLLARS

PALMETTO STATE BANK

1308 \$129.09 12/17/99



ZOBRA'S, INC. 03758830 1317  
 P.O. BOX 1807 SUFFOLK, SC 29163  
 DATE 12-18-99  
 PAY TO THE ORDER OF SC Department of Revenue \$1,183.00  
 Five hundred and hundred and eighty three DOLLARS  
 PALMETTO STATE BANK  
 FOR [Redacted] Bill [Redacted]

ZOBRA'S, INC. 1318  
 P.O. BOX 1807 SUFFOLK, SC 29163  
 DATE 12-17-99  
 PAY TO THE ORDER OF ZOBRA'S PAYROLL \$1,000.00  
 One thousand and no DOLLARS  
 PALMETTO STATE BANK  
 FOR [Redacted] Bill [Redacted]

1317 \$1,183.00 12/23/99

1318 \$1,000.00 12/20/99

ZOBRA'S, INC. 1319  
 P.O. BOX 1807 SUFFOLK, SC 29163  
 DATE 12-22-99  
 PAY TO THE ORDER OF Missouri of Georgia \$29.10  
 Twenty-nine and 10/100 DOLLARS  
 PALMETTO STATE BANK  
 FOR [Redacted] Bill [Redacted]

ZOBRA'S, INC. 1320  
 P.O. BOX 1807 SUFFOLK, SC 29163  
 DATE 12-22-99  
 PAY TO THE ORDER OF Bill Fisher \$250.00  
 Two hundred and fifty and no DOLLARS  
 PALMETTO STATE BANK  
 FOR [Redacted] Bill [Redacted]

1319 \$29.10 12/22/99

1320 \$250.00 12/22/99

ZOBRA'S, INC. 1321  
 P.O. BOX 1807 SUFFOLK, SC 29163  
 DATE 12-19-99  
 PAY TO THE ORDER OF ZOBRA'S Payroll \$1,000.00  
 One thousand and no DOLLARS  
 PALMETTO STATE BANK  
 FOR [Redacted] Bill [Redacted]

ZOBRA'S, INC. 1322  
 P.O. BOX 1807 SUFFOLK, SC 29163  
 DATE 12-23-99  
 PAY TO THE ORDER OF Missouri \$54.05  
 Fifty four and 5/100 DOLLARS  
 PALMETTO STATE BANK  
 FOR [Redacted] Bill [Redacted]

1321 \$1,000.00 12/21/99

1322 \$54.05 12/23/99

ZOBRA'S, INC. 1323  
 P.O. BOX 1807 SUFFOLK, SC 29163  
 DATE 12-23-99  
 PAY TO THE ORDER OF [Redacted] \$255.71  
 Two hundred and fifty five and 71/100 DOLLARS  
 PALMETTO STATE BANK  
 FOR [Redacted] Bill [Redacted]

ZOBRA'S, INC. 1324  
 P.O. BOX 1807 SUFFOLK, SC 29163  
 DATE 12-21-99  
 PAY TO THE ORDER OF [Redacted] \$45.88  
 Forty five and 88/100 DOLLARS  
 PALMETTO STATE BANK  
 FOR [Redacted] Bill [Redacted]

1323 \$255.71 12/23/99

1324 \$45.88 12/24/99

-915-

367

[REDACTED]

February 17, 2000

[REDACTED]

PO Box 716  
Bluffton, SC 29910

Dear Bill,

The following subsidiary ledgers of the equity accounts of Zorba's, Inc. were compiled from information given to me by the shareholder's and do not represent any opinion on the fairness of the accounts by Gill Fisher, expressed or implied.

Also enclosed please find the compilation of the dally sales of Zorba's, Inc. from the first day of operations to December 31, 1999.

[REDACTED]

If we can locate Zorba's, Inc. bank statements and payroll cards for Oct, Nov, and Dec of 1999, I can complete the Federal and State income tax returns for Zorba's and the year ending December 31, 1999. It is important that the corporate tax returns get filed on time because Zorba's has a S Corp loss that will pass through as a deduction to the shareholders on their personal income tax returns.

There will be a fee for my services and I suppose this should be paid by both shareholder's. My fee's are based upon time and cost and may vary with the difficulty of the engagement, however, I can estimate that the fee will be around \$ 650.00

As I informed you on the phone today, my computer had a major malfunction and some of the [REDACTED] has been distorted. Several of the [REDACTED] and the fourth quarter Payroll Tax Reports including taxes due need to be corrected.

If you need anything, please do not hesitate to ask.

Best regards,

Gill Fisher

[REDACTED]

PLAINTIFF'S  
Exhibit

#30

-916-

9:28 AM

04/21/09

Accrual Basis

**Zorbas, Inc.**  
**Balance Sheet**  
As of December 31, 1999

Dec 31, 99

ASSETS	
Current Assets	
Checking/Savings	
Cash - Palmetto State Bank	-1,400.23
Cash - Payroll Account	1,108.84
Cash - Petty cash	408.61
Total Checking/Savings	408.61
Other Current Assets	
Inventory	
Food	643.35
Total Inventory	643.35
Total Other Current Assets	643.35
Total Current Assets	1,051.96
Fixed Assets	
Accumulated depreciation	-10,827.84
Equipment	32,063.47
Furniture and fixtures	18,689.83
Leasehold improvements	69,037.51
Total Fixed Assets	8,962.97
Other Assets	
Deposits	5,270.00
Start Up Expnese	476.00
Total Other Assets	5,746.00
<b>TOTAL ASSETS</b>	<b>115,760.93</b>
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
Accounts Payable - Rent	2,561.00
Total Accounts Payable	2,561.00
Other Current Liabilities	
Payroll Liabilities	2,381.32
Sales Tax Payable	1,067.00
Total Other Current Liabilities	3,448.32
Total Current Liabilities	6,009.32
Long Term Liabilities	
N/P Shareholders - Bench	79,101.09
N/P Shareholders - Bill	57,319.50
Total Long Term Liabilities	136,420.59
Total Liabilities	142,429.91
Equity	
Capital Stock	2,000.00
Opening Bal Equity	-1,055.35
Net Income	-27,613.63
Total Equity	-26,668.98
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>115,760.93</b>

**PLAINTIFF'S  
EXHIBIT**

# 31

Register: Cash - Palmetto State Bank

From 01/01/1999 through 12/31/1999

Sorted by: Date, Type, Number/Ref

Date	Number	Payee	Account	Memo	Payment	C	Deposit	Balance
05/18/1999			N/P Shareholders - Bill	Deposit		X	2,000.00	2,000.00
05/20/1999	1	Hale and Hale, PA	Professional Fees:Leg...		400.00	X		1,600.00
05/27/1999	2	Home Depot	Furniture and fixtures	Misc lights	41.58	X		1,558.42
06/01/1999	3	RM Meto Security	Equipment	Security system	157.94	X		1,400.48
06/17/1999	4	SC Dept of Revenue	Licenses and Permits	Beer and wine l...	200.00	X		1,200.48
06/17/1999	5	Savanah Metal	Equipment	Can't read check	1,100.00	X		100.48
06/22/1999		Palmetto Bank	Office Supplies	Checks printed	82.98	X		17.50
06/23/1999			N/P Shareholders - Bill	Deposit		X	1,000.00	1,017.50
06/24/1999	6	LYNA	Equipment	Credit card ma...	78.00	X		939.50
06/25/1999		Savanah Metal	Equipment	Hood	300.00	X		639.50
06/29/1999			N/P Shareholders - Bill	Deposit		X	2,000.00	2,639.50
06/30/1999		Palmetto Bank	Bank Service Charges	Serv charge	2.51	X		2,636.99
07/02/1999		Savanah Metal	Equipment	Hood	1,700.00	X		936.99
07/02/1999		SC Electric and Gas	Deposits	Deposit on elec...	500.00	X		436.99
07/12/1999		Island Packet	Advertising		65.01	X		371.98
07/12/1999	1001	Home Depot	Furniture and fixtures	Trim	223.81	X		148.17
07/12/1999	1002	Grayco	Miscellaneous	Caulk	22.75	X		125.42
07/14/1999			N/P Shareholders - Bill	Deposit		X	1,000.00	1,125.42
07/20/1999		Palmetto Bank	Office Supplies	Print cks	26.87	X		1,098.55
07/21/1999	1003	DH Fraser Co	Furniture and fixtures	Shelf	75.00	X		1,023.55
07/23/1999	1004	Home Depot	Leasehold improvements	Sheet rock	38.08	X		985.47
07/23/1999	1005	Home Depot	Equipment	Plum fittings	42.51	X		942.96
07/26/1999	1006	Home Depot	Leasehold improvements	Plywood	115.89	X		827.07
07/27/1999	1007	SC Dept of Revenue	Licenses and Permits	Beer and wine l...	400.00	X		427.07
07/27/1999	1008	Cambell Electric	Equipment	Electric	315.00	X		112.07
07/30/1999			N/P Shareholders - Bill	Deposit		X	2,200.00	2,312.07
07/30/1999		Palmetto Bank	Bank Service Charges	Serv chg	3.58	X		2,308.49
07/30/1999	1009	Cambell Electric	Equipment	Electric	720.00	X		1,588.49
08/05/1999	1010	Coca-Cola	Cost of sales:Beverage		201.25	X		1,387.24
08/06/1999	1011	Cambell Electric	Equipment	Electric	73.00	X		1,314.24
08/09/1999	1012	Island Packet	Advertising		250.00	X		1,064.24
08/09/1999	1013		Uncategorized Expenses	VOID:		X		1,064.24
08/11/1999	1014	Pearlstine Distributers	Cost of sales:Beverage	CGS	129.82	X		934.42
08/11/1999	1015	National Distributing	Cost of sales:Beverage	CGS	62.80	X		871.62
08/11/1999	1016	John Hurst	Leasehold improvements		150.00	X		721.62
08/12/1999	1017	CJ Seafood	Cost of sales:Food	CGS	251.22	X		470.40
08/12/1999	1018	American	Cost of sales:Food		251.22	X		219.18
08/12/1999	006		N/P Shareholders - Bill			X	3,000.00	3,219.18
08/13/1999	1019	John P Nicolai	Contract labor	Misc labor bef...	300.00	X		2,919.18
08/15/1999	1020	Walmart	Restaurant supplies	?	264.81	X		2,654.37

Register: Cash - Palmetto State Bank

From 01/01/1999 through 12/31/1999

Sorted by: Date, Type, Number/Ref

Date	Number	Payee	Account	Memo	Payment	C	Deposit	Balance
08/16/1999	1021	Roma Grocery	Cost of sales:Food	CGS	257.27	X		2,397.10
08/16/1999	1022	Sysco	Equipment		708.00	X		1,689.10
08/17/1999	1023	Clyde Sherrod	Repairs		20.00	X		1,669.10
08/17/1999	1024	DHEC	Licenses and Permits		60.00	X		1,609.10
08/17/1999	1025		Uncategorized Expenses	VOID:		X		1,609.10
08/17/1999	1026	Coca-Cola	Cost of sales:Beverage		125.56	X		1,483.54
08/18/1999	1027	National Distributing	Cost of sales:Beverage	CGS	259.03	X		1,224.51
08/18/1999	1028	Sysco	Equipment		920.78	X		303.73
08/18/1999	1029	Sysco	Cost of sales:Food	CGS?	1,043.80	X		-740.07
08/18/1999	1030	FRS	Equipment		84.58	X		-824.65
08/18/1999	1031	Peter Krafky	Leasehold improvements	Home depot rei...	64.48	X		-889.13
08/18/1999	007		N/P Shareholders - Bill			X	3,000.00	2,110.87
08/19/1999	1032	Publix	Cost of sales:Food	CGS	119.65	X		1,991.22
08/19/1999	1033	Pearlstone Distributers	Cost of sales:Beverage	CGS	95.72	X		1,895.50
08/19/1999	1034	John P Nicolai	Contract labor	Misc labor bef...	300.00	X		1,595.50
08/19/1999	1035	Cambell Electric	Leasehold improvements	Electric	150.00	X		1,445.50
08/19/1999	1036	Sysco	Cost of sales:Food		112.68	X		1,332.82
08/19/1999	1037	Kitchen Collection	Equipment	Chopper	95.40	X		1,237.42
08/20/1999	1038	Palmetto State Bank	Cash - Petty cash	Petty cash	200.00	X		1,037.42
08/20/1999	1039	Southern Wine	Cost of sales:Beverage	CGS	730.47	X		306.95
08/20/1999	1040	Rays Tools	Equipment		1,497.08	X		-1,190.13
08/20/1999	1041	Sysco	Cost of sales:Food		387.04	X		-1,577.17
08/20/1999	1042	Gill Fisher	Professional Fees:Acco...		150.00	X		-1,727.17
08/20/1999	008		N/P Shareholders - Bill			X	2,000.00	272.83
08/21/1999	1043	CH Poultry	Cost of sales:Food		100.00	X		172.83
08/21/1999	1044	Movsovit	Cost of sales:Food	CGS	116.30	X		56.53
08/24/1999	1045	Sams Club	Cost of sales:Food	CGS	110.54	X		-54.01
08/24/1999	1046	Roma Grocery	Cost of sales:Food	CGS	125.62	X		-179.63
08/24/1999	1047	Roma Grocery	Cost of sales:Food	CGS	212.58	X		-392.21
08/24/1999	1048	Palmetto State Bank	Cash - Petty cash	Petty cash	200.00	X		-592.21
08/25/1999	1049	Sysco	Cost of sales:Food		505.65	X		-1,097.86
08/25/1999	1050	Sysco	Cost of sales:Food		138.71	X		-1,236.57
08/25/1999	1051	Coca-Cola	Cost of sales:Beverage		95.00	X		-1,331.57
08/25/1999	1052	Pearlstone Distributers	Cost of sales:Beverage	CGS	31.92	X		-1,363.49
08/25/1999	1053	John P Nicolai	Contract labor	Misc labor bef...	650.00	X		-2,013.49
08/25/1999	1054	Bonnie L Nicolai	Contract labor		100.00	X		-2,113.49
08/25/1999	1055	National Distributing	Cost of sales:Beverage	CGS	60.02	X		-2,173.51
08/25/1999	1056	CJ Seafood	Cost of sales:Food	CGS	124.50	X		-2,298.01
08/26/1999	1057	Movsovit	Cost of sales:Food	CGS	117.77	X		-2,415.78
08/26/1999	1058	John P Nicolai	Cost of sales:Food	Reimb - Winn ...	50.00	X		-2,465.78

Register: Cash - Palmetto State Bank

From 01/01/1999 through 12/31/1999

Sorted by: Date, Type, Number/Ref

Date	Number	Payee	Account	Memo	Payment	C	Deposit	Balance
08/26/1999	1059	Sysco	Cost of sales:Food		369.80	X		-2,835.58
08/26/1999	1060	SC Electric & Gas	Utilities:Gas and Electric		201.14	X		-3,036.72
08/27/1999	1061	Southern Wine	Cost of sales:Beverage	CGS	80.60	X		-3,117.32
08/28/1999	1062	East Coast Fruit	Cost of sales:Food		144.20	X		-3,261.52
08/28/1999	1063		Uncategorized Expenses	VOID:		X		-3,261.52
08/30/1999	1064	Roma Grocery	Cost of sales:Food	CGS	306.43	X		-3,567.95
08/30/1999	1065	PYA	Cost of sales:Food		4,539.65	X		-8,107.60
08/31/1999			Bank Service Charges	Service Charge	11.12	X		-8,118.72
08/31/1999	1066	Coca-Cola	Cost of sales:Beverage		99.75	X		-8,218.47
08/31/1999	005		Sales	Tips	745.52	X		-8,963.99
08/31/1999	002		Sales	Cash deposit		X	4,064.35	-4,899.64
08/31/1999	003		Sales	C Card Trans		X	5,960.33	1,060.69
09/01/1999	1067	Sysco	Cost of sales:Food		322.44	X		738.25
09/01/1999	1068	Bill Passalucas	N/P Shareholders - Bill	Reimb for inve...	1,000.00	X		-261.75
09/01/1999	1069	Zorbas	Cash - Petty cash	Petty cash	300.00	X		-561.75
09/01/1999	1070	Pearlstine Distributers	Cost of sales:Beverage	CGS	50.06	X		-611.81
09/01/1999	1071	CH Poultry	Cost of sales:Food		142.05	X		-753.86
09/01/1999	1072	National Distributing	Cost of sales:Beverage	CGS	143.70	X		-897.56
09/02/1999	1073	Sysco	Cost of sales:Food		143.29	X		-1,040.85
09/08/1999			N/P Shareholders - Bill	Deposit		X	500.00	-540.85
09/09/1999	1074	CH Poultry	Cost of sales:Food		64.40	X		-605.25
09/09/1999	1075	East Coast Fruit	Cost of sales:Food		124.60	X		-729.85
09/09/1999	1076	Peter Kraffy	Leasehold improvements	Home depot rei...	173.00	X		-902.85
09/09/1999	1077	Roma Grocery	Cost of sales:Food	CGS	305.43	X		-1,208.28
09/09/1999	1078	Southern Wine	Cost of sales:Beverage	CGS	61.56	X		-1,269.84
09/09/1999	1079	Zorbas	Cash - Payroll Account	Transfer to Pay...	3,000.00	X		-4,269.84
09/09/1999	1080	Cambell Electric	Leasehold improvements	Electric	247.50	X		-4,517.34
09/09/1999	1081	National Distributing	Cost of sales:Beverage	CGS	60.06	X		-4,577.40
09/09/1999	1082	Grayco	Miscellaneous	Hardware	57.85	X		-4,635.25
09/09/1999	1083	Greens Hardware	Miscellaneous	Hardware	65.42	X		-4,700.67
09/09/1999	1084	Savanah Morning Ne...	Advertising		61.60	X		-4,762.27
09/09/1999	1085	Carochee Creek	Advertising	Brochures and ...	353.00	X		-5,115.27
09/09/1999	1086	East Coast Fruit	Cost of sales:Food		85.02	X		-5,200.29
09/09/1999	1087	CH Poultry	Cost of sales:Food		139.21	X		-5,339.50
09/09/1999	1088	Techniques	Miscellaneous		60.00	X		-5,399.50
09/09/1999	1089	Ben Arnold	Cost of sales:Beverage		116.00	X		-5,515.50
09/09/1999	1090	Pearlstine Distributers	Cost of sales:Beverage	CGS	556.82	X		-6,072.32
09/09/1999	1091	East Coast Fruit	Cost of sales:Food		137.08	X		-6,209.40
09/09/1999	1092	Fraser	Equipment	Stainless steel	120.31	X		-6,329.71
09/10/1999	1093	Bill Passalucas	N/P Shareholders - Bill	Reimb for inve...	1,000.00	X		-7,329.71

## Zorbas, Inc.

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Date	Number	Payee	Account	Memo	Payment	C	Deposit	Balance
09/10/1999	1094	CH Poultry	Cost of sales:Food		123.61	X		-7,453.32
09/10/1999	1095	Piggly Wiggly	Cost of sales:Food		72.53	X		-7,525.85
09/10/1999	1096	Sysco	Cost of sales:Food		328.24	X		-7,854.09
09/10/1999	1097	National Distributing	Cost of sales:Beverage	CGS	147.21	X		-8,001.30
09/11/1999	1098	CJ Seafood	Cost of sales:Food	CGS	139.50	X		-8,140.80
09/11/1999	1099	East Coast Fruit	Cost of sales:Food		87.09	X		-8,227.89
09/13/1999	1100	East Coast Fruit	Cost of sales:Food		41.12	X		-8,269.01
09/13/1999	1101	Gill Fisher	Professional Fees:Acco...		325.00	X		-8,594.01
09/13/1999	1102	SC Tax Commission	Taxes:State		518.00	X		-9,112.01
09/14/1999	1103	Zorbas	Cash - Payroll Account	Transfer to Pay...	1,000.00	X		-10,112.01
09/14/1999	1104		Uncategorized Expenses	VOID:		X		-10,112.01
09/14/1999	1105	Bill Passalucas	N/P Shareholders - Bill	Reimb for inve...	500.00	X		-10,612.01
09/15/1999	1110	Gary Bensch	Rent		676.00	X		-11,288.01
09/15/1999	1133	Gary Bensch	Rent		2,561.00	X		-13,849.01
09/17/1999	1106	Hargray	Telephone	Trelephone	304.82	X		-14,153.83
09/17/1999	1107	National Distributing	Cost of sales:Beverage	CGS	60.03	X		-14,213.86
09/17/1999	1108	Coca-Cola	Cost of sales:Beverage		49.88	X		-14,263.74
09/17/1999	1109	East Coast Fruit	Cost of sales:Food		34.94	X		-14,298.68
09/17/1999	1111	Gary Bensch	Insurance		2,151.00	X		-16,449.68
09/17/1999	1112	Home Depot	Leasehold improvements		304.25	X		-16,753.93
09/20/1999	1113	Southern Wine	Cost of sales:Beverage	CGS	195.84	X		-16,949.77
09/20/1999	1114	East Coast Fruit	Cost of sales:Food		66.76	X		-17,016.53
09/20/1999	1115	Zorbas	Cash - Payroll Account	Transfer to Pay...	4,000.00	X		-21,016.53
09/20/1999	1116	Pearlstine Distributers	Cost of sales:Beverage	CGS	80.89	X		-21,097.42
09/20/1999	1117	CH Poultry	Cost of sales:Food		121.77	X		-21,219.19
09/21/1999			N/P Shareholders - Bill	Deposit		X	3,000.00	-18,219.19
09/21/1999	1118	Sysco	Cost of sales:Food		189.24	X		-18,408.43
09/21/1999	1119	National Distributing	Cost of sales:Beverage	CGS	168.06	X		-18,576.49
09/22/1999			N/P Shareholders - Bill	Deposit		X	900.00	-17,676.49
09/22/1999		Palmetto State Bank	Bank Service Charges		155.44	X		-17,831.93
09/22/1999		Palmetto State Bank	Bank Service Charges		44.29	X		-17,876.22
09/22/1999	1120	Zorbas	Cash - Payroll Account	Transfer to Pay...	500.00	X		-18,376.22
09/22/1999	1121	East Coast Fruit	Cost of sales:Food		88.45	X		-18,464.67
09/22/1999	1122	East Coast Fruit	Cost of sales:Food		65.60	X		-18,530.27
09/22/1999	1123		Uncategorized Expenses	VOID:		X		-18,530.27
09/23/1999	1125	Southern Wine	Cost of sales:Beverage	CGS	154.26	X		-18,684.53
09/24/1999	1124	Sysco	Cost of sales:Food		192.40	X		-18,876.93
09/24/1999	1126	Adventure	Advertising		1,150.00	X		-20,026.93
09/24/1999	1127	East Coast Fruit	Cost of sales:Food		41.67	X		-20,068.60
09/25/1999	1128	East Coast Fruit	Cost of sales:Food		83.90	X		-20,152.50

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09/25/1999	1129	Peoples Groc	Cost of sales:Food		2,499.58	X		-22,652.08
09/28/1999	1130	Roma Grocery	Cost of sales:Food	CGS	318.37	X		-22,970.45
09/28/1999	1131	East Coast Fruit	Cost of sales:Food		47.72	X		-23,018.17
09/28/1999	1132	Sysco	Cost of sales:Food		414.22	X		-23,432.39
09/29/1999	1134	East Coast Fruit	Cost of sales:Food		134.47	X		-23,566.86
09/29/1999	1135	National Distributing	Cost of sales:Beverage	CGS	715.14	X		-24,282.00
09/30/1999		Palmetto State Bank	Bank Service Charges	NSF chg	20.00	X		-24,302.00
09/30/1999		Palmetto State Bank	Bank Service Charges	Check chg	11.98	X		-24,313.98
09/30/1999		Palmetto State Bank	Bank Service Charges		5.89	X		-24,319.87
09/30/1999	1136	Ben Arnold	Cost of sales:Beverage		92.28	X		-24,412.15
09/30/1999	1137	Sysco	Cost of sales:Food		189.16	X		-24,601.31
09/30/1999	1138	National Distributing	Cost of sales:Beverage	CGS	50.05	X		-24,651.36
09/30/1999	1139	Pearlstone Distributers	Cost of sales:Beverage	CGS	130.69	X		-24,782.05
09/30/1999	13		Sales	Tips	2,334.57	X		-27,116.62
09/30/1999			Sales	Balance Adjust...		X	2,505.59	-24,611.03
09/30/1999	9		Sales	Total Cash - Sept		X	6,167.51	-18,443.52
09/30/1999	10		Sales	Total C Cards -...		X	16,613.59	-1,829.93
10/01/1999	1140	East Coast Fruit	Cost of sales:Food		63.73	X		-1,893.66
10/01/1999	1141	Monarch	Cost of sales:Food		509.80	X		-2,403.46
10/01/1999	1142	East Coast Fruit	Cost of sales:Food		21.18	X		-2,424.64
10/01/1999	1143	East Coast Fruit	Cost of sales:Food		51.51	X		-2,476.15
10/04/1999	1144	Southern Wine	Cost of sales:Beverage	CGS	119.88	X		-2,596.03
10/04/1999	1145	East Coast Fruit	Cost of sales:Food		81.65	X		-2,677.68
10/04/1999	1146	Roma Grocery	Cost of sales:Food	CGS	112.85	X		-2,790.53
10/05/1999	1147	Zorbas	Cash - Payroll Account	Transfer to Pay...	1,500.00	X		-4,290.53
10/05/1999	1148	Zorbas	Cash - Payroll Account	Transfer to Pay...	600.00	X		-4,890.53
10/05/1999	1149	Zorbas	Cash - Payroll Account	Transfer to Pay...	700.00	X		-5,590.53
10/05/1999	1150	Coca-Cola	Cost of sales:Beverage		49.88	X		-5,640.41
10/05/1999	1151	PYA	Cost of sales:Food		224.17	X		-5,864.58
10/06/1999	1152	Bill Passalucas	N/P Shareholders - Bill	Reimb for inve...	1,500.00	X		-7,364.58
10/06/1999	1153	Sysco	Cost of sales:Food		140.54	X		-7,505.12
10/06/1999	1154	East Coast Fruit	Cost of sales:Food		85.65	X		-7,590.77
10/06/1999	1155	National Distributing	Cost of sales:Beverage	CGS	255.84	X		-7,846.61
10/07/1999	1156	Ben Arnold	Cost of sales:Beverage		37.50	X		-7,884.11
10/07/1999	1157	East Coast Fruit	Cost of sales:Food		38.46	X		-7,922.57
10/07/1999	1158	PYA	Cost of sales:Food		2,560.04	X		-10,482.61
10/07/1999	1159	Southern Wine	Cost of sales:Beverage	CGS	119.88	X		-10,602.49
10/12/1999	1160	Zorbas	Cash - Payroll Account	Transfer to Pay...	1,300.00	X		-11,902.49
10/12/1999	1161	East Coast Fruit	Cost of sales:Food		47.00	X		-11,949.49
10/12/1999	1162	PYA	Cost of sales:Food		257.01	X		-12,206.50

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10/12/1999	1163	Roma Grocery	Cost of sales:Food	CGS	237.78	X		-12,444.28
10/12/1999	1164	Sysco	Cost of sales:Food		288.91	X		-12,733.19
10/12/1999	1165	East Coast Fruit	Cost of sales:Food		90.48	X		-12,823.67
10/12/1999	1166	Coca-Cola	Cost of sales:Beverage		49.88	X		-12,873.55
10/13/1999	1167	SC Department of Re...	Taxes:State		1,019.00	X		-13,892.55
10/13/1999	1168	FPP Exstingisher	Equipment		201.40	X		-14,093.95
10/13/1999	1169	East Coast Fruit	Cost of sales:Food		89.34	X		-14,183.29
10/13/1999	1170	East Coast Fruit	Cost of sales:Food		28.80	X		-14,212.09
10/14/1999	1171	Sysco	Cost of sales:Food		283.81	X		-14,495.90
10/15/1999	1172	National Distributing	Cost of sales:Beverage	CGS	81.43	X		-14,577.33
10/15/1999	1182	Gary Bensch	Rent		2,151.00	X		-16,728.33
10/15/1999	1195	Peoples Groc	Cost of sales:Food		424.64	X		-17,152.97
10/15/1999	1196	Movsovit	Cost of sales:Food	CGS	71.05	X		-17,224.02
10/15/1999	1197	Monarch	Cost of sales:Food		287.37	X		-17,511.39
10/16/1999	1173	PYA	Cost of sales:Food		463.15	X		-17,974.54
10/16/1999	1174	Gill Fisher	Professional Fees:Acco...		250.00	X		-18,224.54
10/16/1999	1175	Movsovit	Cost of sales:Food	CGS	43.25	X		-18,267.79
10/18/1999	1176	Zorbas	Cash - Payroll Account	Transfer to Pay...	1,500.00	X		-19,767.79
10/18/1999	1177	Roma Grocery	Cost of sales:Food	CGS	164.15	X		-19,931.94
10/18/1999	1192	Home Depot	Leasehold improvements		386.99	X		-20,318.93
10/18/1999	1193	Hargray	Telephone	Trelephone	167.29	X		-20,486.22
10/19/1999	1178	Zorbas	Cash - Payroll Account	Transfer to Pay...	500.00	X		-20,986.22
10/19/1999	1179	Zorbas	Cash - Payroll Account	Transfer to Pay...	500.00	X		-21,486.22
10/19/1999	1180	Movsovit	Cost of sales:Food	CGS	93.80	X		-21,580.02
10/19/1999	1181	Zorbas	Cash - Payroll Account	Transfer to Pay...	200.00	X		-21,780.02
10/20/1999	1183	Movsovit	Cost of sales:Food	CGS	19.25	X		-21,799.27
10/20/1999	1184	Sysco	Cost of sales:Food		167.92	X		-21,967.19
10/20/1999	1185	Hargray	Telephone	Trelephone	148.81	X		-22,116.00
10/20/1999	1186	Island Packet	Advertising		45.81	X		-22,161.81
10/20/1999	1187	Island Packet	Advertising		54.21	X		-22,216.02
10/20/1999	1188	National Distributing	Cost of sales:Beverage	CGS	70.56	X		-22,286.58
10/20/1999	1191	Island Packet	Advertising		32.30	X		-22,318.88
10/21/1999	1189	Bill Passalucas	N/P Shareholders - Bill	Reimb for inve...	500.00	X		-22,818.88
10/21/1999	1194	Pearlstine Distributers	Cost of sales:Beverage	CGS	17.05	X		-22,835.93
10/23/1999	1198	Movsovit	Cost of sales:Food	CGS	34.75	X		-22,870.68
10/23/1999	1199	CH Poultry	Cost of sales:Food		94.00	X		-22,964.68
10/23/1999	1200	Movsovit	Cost of sales:Food	CGS	47.90	X		-23,012.58
10/23/1999	1201	Republic Waist	Utilities		218.71	X		-23,231.29
10/23/1999	1202	Palmetto Electric	Telephone		29.62	X		-23,260.91
10/25/1999	1190	SC Electric & Gas	Utilities:Gas and Electric		708.07	X		-23,968.98

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10/25/1999	1203	Movsovitz	Cost of sales:Food	CGS	20.00	X		-23,988.98
10/25/1999	1204	Roma Grocery	Cost of sales:Food	CGS	120.40	X		-24,109.38
10/25/1999	1205	RSI	Restaurant supplies		477.89	X		-24,587.27
10/26/1999	1206	Sysco	Cost of sales:Food		325.78	X		-24,913.05
10/26/1999	1207	Coca-Cola	Cost of sales:Beverage		74.81	X		-24,987.86
10/26/1999	1208	Sysco	Cost of sales:Food		175.82	X		-25,163.68
10/26/1999	1209	National Distributing	Cost of sales:Beverage	CGS	60.06	X		-25,223.74
10/27/1999	1210	Sysco	Cost of sales:Food		252.46	X		-25,476.20
10/27/1999	1211	Movsovitz	Cost of sales:Food	CGS	52.25	X		-25,528.45
10/27/1999	1212	Ben Arnold	Cost of sales:Beverage		82.16	X		-25,610.61
10/27/1999	1213	Southern Wine	Cost of sales:Beverage	CGS	200.39	X		-25,811.00
10/27/1999	1214	RSI	Restaurant supplies		632.65	X		-26,443.65
10/27/1999	1215	PYA	Cost of sales:Food		209.36	X		-26,653.01
10/30/1999	1216	Movsovitz	Cost of sales:Food	CGS	116.05	X		-26,769.06
10/30/1999	1217	SC Department of Re...	Taxes:State		107.74	X		-26,876.80
10/30/1999	1218	Zorbas	Cash - Payroll Account	Transfer to Pay...	1,000.00	X		-27,876.80
10/30/1999	1219	Movsovitz	Cost of sales:Food		19.25	X		-27,896.05
10/31/1999			-split-	Deposit		X	6,400.00	-21,496.05
10/31/1999			Sales	Balance Adjust...		X	1,462.53	-20,033.52
10/31/1999	12		Sales	Total cash - Oct		X	5,326.80	-14,706.72
10/31/1999	13		Sales	Total C Card - ...		X	14,295.80	-410.92
11/01/1999	1220	Roma Grocery	Cost of sales:Food	CGS	88.65	X		-499.57
11/01/1999	1293	Pearlstine Distributers	Cost of sales:Beverage	CGS	33.25	X		-532.82
11/02/1999	1221	Movsovitz	Cost of sales:Food	CGS	34.25	X		-567.07
11/02/1999	1222	Palmetto Electric	Utilities:Gas and Electric		24.00	X		-591.07
11/02/1999	1223	Zorbas	Cash - Payroll Account	Transfer to Pay...	1,000.00	X		-1,591.07
11/02/1999	1224	Movsovitz	Cost of sales:Food	CGS	38.75	X		-1,629.82
11/02/1999	1294	PYA	Cost of sales:Food		201.49	X		-1,831.31
11/03/1999	1225	Pearlstine Distributers	Cost of sales:Beverage	CGS	32.32	X		-1,863.63
11/03/1999	1226	Sysco	Cost of sales:Food	CGS	241.60	X		-2,105.23
11/04/1999	1227	Movsovitz	Cost of sales:Food	CGS	18.00	X		-2,123.23
11/04/1999	1228	Zorba's Payroll Acco...	Cash - Payroll Account	Transfer to Pay...	200.00	X		-2,323.23
11/04/1999	1229	Movsovitz	Cost of sales:Food	CGS	39.00	X		-2,362.23
11/04/1999	1230	Sysco	Cost of sales:Food	CGS	209.03	X		-2,571.26
11/04/1999	1231	SC Department of Re...	-split-		212.05	X		-2,783.31
11/04/1999	1232	Ace Hardware	Repairs:Building Repairs	Repairs	15.76	X		-2,799.07
11/04/1999	1233	Island Packet	Advertising		54.21	X		-2,853.28
11/04/1999	1234	Island Packet	Advertising		295.44	X		-3,148.72
11/05/1999	1235	Movsovitz	Cost of sales:Food	CGS	28.30	X		-3,177.02
11/05/1999	1236	Movsovitz	Cost of sales:Food	CGS	13.50	X		-3,190.52

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11/05/1999	1237	PYA	Cost of sales:Food		286.33	X		-3,476.85
11/06/1999	1238	Movsovit	Cost of sales:Food	CGS	42.35	X		-3,519.20
11/06/1999	1239	Roma Grocery	Cost of sales:Food	CGS	225.60	X		-3,744.80
11/08/1999	1240	Bill Passalucas	N/P Shareholders - Bill	Reimb for inve...	500.00	X		-4,244.80
11/08/1999	1241	Movsovit	Cost of sales:Food	CGS	105.80	X		-4,350.60
11/09/1999	1242	Ben Arnold	Cost of sales:Beverage		126.00	X		-4,476.60
11/09/1999	1243	Gary Bensch	Rent		2,561.00	X		-7,037.60
11/09/1999	1244	National Distributing	Cost of sales:Beverage	CGS	60.00	X		-7,097.60
11/09/1999	1245	PYA	Cost of sales:Food		289.58	X		-7,387.18
11/09/1999	1261	Sysco	Cost of sales:Food	CGS	253.42	X		-7,640.60
11/10/1999	1247	Movsovit	Cost of sales:Food	CGS	20.00	X		-7,660.60
11/10/1999	1248	Gill Fisher	Professional Fees:Acco...		330.00	X		-7,990.60
11/11/1999	1246	Sysco	Cost of sales:Food	CGS	240.58	X		-8,231.18
11/11/1999	1249	Movsovit	Cost of sales:Food	CGS	74.95	X		-8,306.13
11/11/1999	1250	Southern Wine	Cost of sales:Beverage	CGS	119.88	X		-8,426.01
11/12/1999	1251	Zorba's Payroll Acco...	Cash - Payroll Account	Transfer to Pay...	2,300.00	X		-10,726.01
11/12/1999	1252	Movsovit	Cost of sales:Food	CGS	43.90	X		-10,769.91
11/12/1999	1253	Sysco	Cost of sales:Food	CGS	592.89	X		-11,362.80
11/12/1999	1254	National Distributing	Cost of sales:Beverage	CGS	100.21	X		-11,463.01
11/12/1999	1255	Southern Wine	Cost of sales:Beverage	CGS	24.56	X		-11,487.57
11/13/1999	1256	Movsovit	Cost of sales:Food	CGS	22.56	X		-11,510.13
11/13/1999	1257	Sherrif's Fund	Contributions		75.00	X		-11,585.13
11/15/1999	1258	Movsovit	Cost of sales:Food	CGS	33.50	X		-11,618.63
11/15/1999	1259	Roma Grocery	Cost of sales:Food	CGS	242.35	X		-11,860.98
11/15/1999	1260	Zorba's Payroll Acco...	Cash - Payroll Account	Transfer to Pay...	2,000.00	X		-13,860.98
11/16/1999	1262	Coca-Cola	Cost of sales:Beverage		49.88	X		-13,910.86
11/16/1999	1263	SC Department of Re...	Taxes:State	Sales Tax	1,121.00	X		-15,031.86
11/17/1999	1264	Movsovit	Cost of sales:Food	CGS	42.30	X		-15,074.16
11/17/1999	1265	Bill Passalucas	N/P Shareholders - Bill	Reimb for inve...	500.00	X		-15,574.16
11/17/1999	1266	PYA	Cost of sales:Food		153.67	X		-15,727.83
11/19/1999	1267	National Distributing	Cost of sales:Beverage	CGS	76.50	X		-15,804.33
11/19/1999	1268	Zorba's Payroll Acco...	Cash - Payroll Account	Transfer	900.00	X		-16,704.33
11/19/1999	1269	Sysco	Cost of sales:Food	CGS	311.12	X		-17,015.45
11/19/1999	1270	National Distributing	Cost of sales:Beverage	CGS	54.03	X		-17,069.48
11/20/1999	1271	Movsovit	Cost of sales:Food	CGS	30.20	X		-17,099.68
11/22/1999	1272	Bill Passalucas	N/P Shareholders - Bill	Reimb for inve...	500.00	X		-17,599.68
11/23/1999	1273	Bill Passalucas	N/P Shareholders - Bill	Reimb for inve...	500.00	X		-18,099.68
11/23/1999	1274	Roma Grocery	Cost of sales:Food	CGS	250.54	X		-18,350.22
11/23/1999	1275	Movsovit	Cost of sales:Food	CGS	33.50	X		-18,383.72
11/23/1999	1276	Zorba's Payroll Acco...	Cash - Payroll Account	Transfer to Pay...	300.00	X		-18,683.72

Register: Cash - Palmetto State Bank

From 01/01/1999 through 12/31/1999

Sorted by: Date, Type, Number/Ref

Date	Number	Payee	Account	Memo	Payment	C	Deposit	Balance
11/23/1999	1277	Movsovit	Cost of sales:Food	CGS	15.75	X		-18,699.47
11/23/1999	1278	Movsovit	Cost of sales:Food	CGS	20.80	X		-18,720.27
11/24/1999	1279	Ben Arnold	Cost of sales:Beverage		35.28	X		-18,755.55
11/26/1999	1280	Movsovit	Cost of sales:Food	CGS	49.10	X		-18,804.65
11/27/1999	1281	Movsovit	Cost of sales:Food	CGS	71.05	X		-18,875.70
11/27/1999	1282	Movsovit	Cost of sales:Food	CGS	14.75	X		-18,890.45
11/29/1999	1283	Zorba's Payroll Acco...	Cash - Payroll Account	Transfer to Pay...	1,000.00	X		-19,890.45
11/29/1999	1284	SC Electric & Gas	Utilities:Gas and Electric		595.58	X		-20,486.03
11/29/1999	1285	Movsovit	Cost of sales:Food	CGS	31.95	X		-20,517.98
11/29/1999	1286	Hargray	Telephone	Trelephone	134.25	X		-20,652.23
11/30/1999	1287	Movsovit	Cost of sales:Food	CGS	28.55	X		-20,680.78
11/30/1999	1288	Coca-Cola	Cost of sales:Beverage		74.81	X		-20,755.59
11/30/1999			Cash Ballance Difference	Balance Adjust...	1,594.25	X		-22,349.84
11/30/1999	18		Sales	Nove c cards a...		X	20,130.70	-2,219.14
12/01/1999	1289	National Distributing	Cost of sales:Beverage	CGS	58.03	X		-2,277.17
12/01/1999	1290	Ben Arnold	Cost of sales:Beverage	CGS	90.00	X		-2,367.17
12/02/1999	1291	Zorba's Payroll Acco...	Cash - Payroll Account	Transfer to Pay...	1,000.00	X		-3,367.17
12/02/1999	1292	Pearlstine Distributers	Cost of sales:Beverage	CGS	58.11	X		-3,425.28
12/02/1999	1293	Movsovit	Cost of sales:Food	CGS	33.25	X		-3,458.53
12/03/1999	1295	Southern Wine	Cost of sales:Beverage	CGS	119.88	X		-3,578.41
12/03/1999	1296	Movsovit	Cost of sales:Food	CGS	41.20	X		-3,619.61
12/03/1999	1297	Zorba's Payroll Acco...	Cash - Payroll Account	Transfer to Pay...	500.00	X		-4,119.61
12/06/1999		Movsovit	Cost of sales:Food	CGS	66.25			-4,185.86
12/06/1999	1298	Camoochube Creek	Cost of sales:Beverage		360.20	X		-4,546.06
12/06/1999	1299	Movsovit	Cost of sales:Food	CGS	66.25	X		-4,612.31
12/06/1999	1300	Roma Grocery	Cost of sales:Food	CGS	202.81	X		-4,815.12
12/07/1999	1301	Movsovit	Cost of sales:Food	CGS	28.30	X		-4,843.42
12/09/1999	1302	Sysco	Cost of sales:Food	CGS	932.86	X		-5,776.28
12/10/1999	1303	Bill Passalucas	N/P Shareholders - Bill	Reimb for inve...	500.00	X		-6,276.28
12/10/1999	1304	Movsovit	Cost of sales:Food	CGS	59.75	X		-6,336.03
12/10/1999	1305	Zorba's Payroll Acco...	Cash - Payroll Account	Transfer to Pay...	2,300.00	X		-8,636.03
12/10/1999	1306	Movsovit	Cost of sales:Food	CGS	34.90	X		-8,670.93
12/10/1999	1307	Ben Arnold	Cost of sales:Beverage		72.00	X		-8,742.93
12/10/1999	1308	National Distributing	Cost of sales:Beverage	CGS	129.09	X		-8,872.02
12/10/1999	1309	Movsovit	Cost of sales:Food	CGS	37.20	X		-8,909.22
12/13/1999	1310	Movsovit	Cost of sales:Food	CGS	14.45	X		-8,923.67
12/13/1999	1311	Roma Grocery	Cost of sales:Food	CGS	304.26	X		-9,227.93
12/13/1999	1312	Techniques	Miscellaneous		285.98	X		-9,513.91
12/14/1999	1313	Movsovit	Cost of sales:Food	CGS	57.75	X		-9,571.66
12/14/1999	1314	Coca-Cola	Cost of sales:Beverage		24.94	X		-9,596.60

Register: Cash - Palmetto State Bank

From 01/01/1999 through 12/31/1999

Sorted by: Date, Type, Number/Ref

Date	Number	Payee	Account	Memo	Payment	C	Deposit	Balance
12/15/1999	1315	Bill Passalucas	N/P Shareholders - Bill	Reimb for inve...	500.00	X		-10,096.60
12/16/1999	1316	Movsovit	Cost of sales:Food	CGS	83.55	X		-10,180.15
12/16/1999	1317	SC Department of Re...	Taxes:State	Sales Tax	1,183.00	X		-11,363.15
12/17/1999	1318	Zorba's Payroll Acco...	Cash - Payroll Account	Transfer to Pay...	1,000.00	X		-12,363.15
12/17/1999	1319	Movsovit	Cost of sales:Food	CGS	29.10	X		-12,392.25
12/19/1999	1320	Gill Fisher	Professional Fees:Acco...		250.00	X		-12,642.25
12/19/1999	1321	Zorba's Payroll Acco...	Cash - Payroll Account	Transfer to Pay...	1,000.00	X		-13,642.25
12/19/1999	1322	Movsovit	Cost of sales:Food	CGS	29.10	X		-13,671.35
12/19/1999	1323	Roma Grocery	Cost of sales:Food	CGS	255.71	X		-13,927.06
12/21/1999	1324	Coca-Cola	Cost of sales:Beverage		49.88	X		-13,976.94
12/21/1999	1325	Sysco	Cost of sales:Food	CGS	1,204.54	X		-15,181.48
12/22/1999	1326	Movsovit	Cost of sales:Food	CGS	35.35	X		-15,216.83
12/23/1999	1327	Roma Grocery	Cost of sales:Food	CGS	235.48	X		-15,452.31
12/23/1999	1328	National Distributing	Cost of sales:Beverage	CGS	60.00	X		-15,512.31
12/24/1999	1329	Southern Wine	Cost of sales:Beverage	CGS	119.88	X		-15,632.19
12/24/1999	1330	Bill Passalucas	N/P Shareholders - Bill	Reimb for inve...	1,000.00	X		-16,632.19
12/24/1999	1331	Roma Grocery	Cost of sales:Food	CGS	233.61	X		-16,865.80
12/24/1999	1332	Movsovit	Cost of sales:Food	CGS	36.25	X		-16,902.05
12/28/1999	1333	Movsovit	Cost of sales:Food	CGS	37.50	X		-16,939.55
12/28/1999	1334	Movsovit	Cost of sales:Food	CGS	19.25	X		-16,958.80
12/28/1999	1335	Peoples Groc	Cost of sales:Food		796.65			-17,755.45
12/29/1999	1336	Pearlstone Distributers	Cost of sales:Beverage	CGS	16.16	X		-17,771.61
12/29/1999	1337	Zorba's Payroll Acco...	Cash - Payroll Account	Transfer to Pay...	1,000.00			-18,771.61
12/29/1999	1338	Movsovit	Cost of sales:Food	CGS	68.60	X		-18,840.21
12/29/1999	1339	CH Poultry	Cost of sales:Food		44.00			-18,884.21
12/31/1999			Bank Service Charges	Service Charge	10.97	X		-18,895.18
12/31/1999			Opening Bal Equity	Balance Adjust...	1,055.35	X		-19,950.53
12/31/1999	24		Sales			X	18,322.20	-1,628.33
12/31/1999	25		Sales	To record the o...		X	228.10	-1,400.23

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04/21/09

## Zorbas, Inc. Employee Earnings Summary January through December 1999

	Reported ...	Salary	Hourly wa...	Federal Withh...	Medica...	Social Security ...	Federal Unem...	Medicar...	Social Security ...	SC - Withh...
Alicia M Compton	0.00	0.00	1,867.28	-168.00	-27.08	-115.77	14.94	27.08	115.77	-62.93
Amy N Hacshbarger	0.00	0.00	592.50	-5.00	-8.59	-36.74	4.74	8.59	36.74	-4.60
April L Boyd	0.00	0.00	41.25	0.00	-0.60	-2.56	0.33	0.60	2.56	0.00
Bonnie L Nicolai	0.00	1,300.00	0.00	-81.00	-18.85	-80.60	10.40	18.85	80.60	-43.48
Bradford A Hunter	830.88	0.00	1,179.64	-2.00	-29.15	-124.66	16.09	29.15	124.66	-9.72
Carlos L Williams	0.00	0.00	184.00	0.00	-2.67	-11.41	1.47	2.67	11.41	0.00
Casey A Middleton	0.00	0.00	66.00	0.00	-0.96	-4.09	0.53	0.96	4.09	0.00
Christy Ferry	12.00	0.00	65.00	0.00	-1.12	-4.77	0.62	1.12	4.77	0.00
Constance G Julian	478.51	0.00	899.50	-64.00	-19.98	-85.44	11.02	19.98	85.44	-24.84
Debbie Frazier	0.00	0.00	1,316.26	-5.00	-19.09	-81.61	10.53	19.09	81.61	-4.03
Erika L Phipps	0.00	0.00	115.50	-1.00	-1.67	-7.16	0.92	1.67	7.16	-2.63
Harriet McQuarters	148.75	0.00	302.50	0.00	-6.54	-27.98	3.61	6.54	27.98	0.00
Jennifer N Hebert	0.00	0.00	229.50	0.00	-3.33	-14.23	1.84	3.33	14.23	-4.87
Jeri L Halton	0.00	0.00	735.01	-61.00	-10.66	-45.57	5.88	10.66	45.57	-23.75
John B Brown	0.00	0.00	1,061.25	-13.00	0.00	0.00	0.00	0.00	0.00	0.00
John Ledbetter	0.00	0.00	551.25	-15.00	-7.99	-34.18	4.41	7.99	34.18	-7.47
John P Nicolai	0.00	2,350.00	0.00	-197.00	-34.08	-145.70	18.80	34.08	145.70	-129.00
Karen M Hebert	470.25	0.00	1,133.39	0.00	-23.25	-99.42	12.83	23.25	99.42	-21.39
Laurie Bowers	500.00	0.00	676.25	-50.00	-17.06	-72.93	9.41	17.06	72.93	-18.91
Leonard A Williams	0.00	0.00	195.00	0.00	-2.83	-12.09	1.56	2.83	12.09	-1.59
Mathew Frazer	0.00	0.00	123.75	-2.00	-1.79	-7.67	0.99	1.79	7.67	-2.88
Michelle Anderson	0.00	0.00	155.63	0.00	-2.26	-9.65	1.25	2.26	9.65	-3.12
Nicholas Eleftherion	0.00	9,100.00	0.00	-1,169.00	-131.95	-564.20	56.00	131.95	564.20	-449.47
Stephonie A Lockler	356.00	0.00	555.13	0.00	-13.22	-56.49	7.29	13.22	56.49	0.00
Tammy Lane	643.00	0.00	451.89	0.00	-15.88	-67.88	8.76	15.88	67.88	0.00
Venus Williams	0.00	0.00	2,836.88	0.00	-41.13	-175.89	22.70	41.13	175.89	-0.72
<b>TOTAL</b>	<b>3,439.39</b>	<b>*****</b>	<b>15,334.36</b>	<b>-1,833.00</b>	<b>-441.73</b>	<b>-1,888.69</b>	<b>226.92</b>	<b>441.73</b>	<b>1,888.69</b>	<b>-815.40</b>

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**DEFENDANT'S  
EXHIBIT**

# 117

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04/21/09

**Zorbas, Inc.**  
**Employee Earnings Summary**  
 January through December 1999

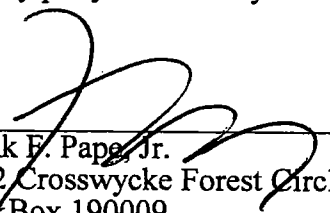
	<u>SC - Unemploy...</u>	<u>SC - Contingen...</u>	<u>Tips Recl...</u>	<u>TOTAL</u>
Alicia M Compton	0.00	0.00	0.00	1,651.29
Amy N Hacshbarger	0.00	0.00	0.00	587.64
April L Boyd	0.00	0.00	0.00	41.58
Bonnie L Nicolai	0.00	0.00	0.00	1,185.92
Bradford A Hunter	0.00	0.00	-830.88	1,184.01
Carlos L Williams	0.00	0.00	0.00	185.47
Casey A Middleton	0.00	0.00	0.00	66.53
Christy Ferry	0.00	0.00	-12.00	65.62
Constance G Julian	0.00	0.83	-478.51	822.51
Debbie Frazier	0.00	0.00	0.00	1,317.76
Erika L Phipps	0.00	0.00	0.00	112.79
Harriet McQuarters	0.00	0.00	-148.75	306.11
Jennifer N Hebert	0.00	0.00	0.00	226.47
Jeri L Halton	0.00	0.00	0.00	656.14
John B Brown	0.00	0.00	0.00	1,048.25
John Ledbetter	0.00	0.00	0.00	533.19
John P Nicolai	0.00	0.00	0.00	2,042.80
Karen M Hebert	0.00	0.00	-470.25	1,124.83
Laurie Bowers	0.00	0.00	-500.00	616.75
Leonard A Williams	0.00	0.00	0.00	194.97
Mathew Frazer	0.00	0.00	0.00	119.86
Michelle Anderson	0.00	0.00	0.00	153.76
Nicholas Eleftherion	0.00	0.00	0.00	7,537.53
Stephonie A Lockler	0.00	0.00	-356.00	562.42
Tammy Lane	0.00	0.00	-643.00	460.65
Venus Williams	0.00	0.00	0.00	2,858.86
<b>TOTAL</b>	<b>0.00</b>	<b>0.83</b>	<b>-3,439.39</b>	<b>25,663.71</b>

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CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Supplemental Record on Appeal contains all material proposed to be included by any party and not any other material in compliance with Rule 210 (g) of the SCACR.

February 4, 2011



Frank F. Papa, Jr.  
2952 Crosswycke Forest Circle  
P.O. Box 190009  
Atlanta, Georgia 31119  
1-404-846-0228  
Appellants' Attorney

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

**RECEIVED**

NOV 01 2012

APPEAL FROM BEAUFORT COUNTY

Court of Common Pleas

**S.C. Supreme Court**

Marvin Dukes, III, Master in Equity

Opinion No. 2012-UP-274 (S.C. Ct. App. filed May 2, 2012)

Appellate Case Tracking No. 2012-212-958

Bill P. Passaloukas and Susie H. Passaloukas,  
Individually and as Shareholders Derivatively  
On Behalf of Zorba's, Inc.,.....Petitioners,

v.

Cynthia Bensch, Gary Bensch, Towne Center, LLC  
and Zorba's, Inc.

Of whom Cynthia Bensch and  
Gary Bensch are .....Respondents.

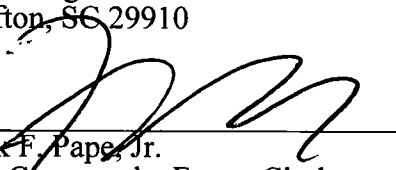
CERTIFICATE OF MAILING

The undersigned hereby certifies that on October 31, 2012, he served a copy of the Appendix upon Respondents Cynthia M. Bensch and Gary M. Bensch by depositing a true and accurate copy thereof in the United States mails, sufficient postage prepaid, and addressed as follows:

Cynthia M. Bensch  
29 Martingale West  
Bluffton, SC 29910

Gary M. Bensch  
29 Martingale West  
Bluffton, SC 29910

October 31, 2012

  
\_\_\_\_\_  
Frank F. Pape, Jr.  
2952 Crosswycke Forest Circle  
P.O. Box 190009  
Atlanta, Georgia 31119  
1-404-846-0228  
Petitioners' Attorney